

Rockport Board of Appeals  
April 30, 2013, 2013  
7:00 P.M.  
Rockport Public Library  
17 School Street, Rockport, MA

- 1) Call to order at 7:00 P.M. Members present John N. Rees (Chairing), Tacy D. San Antonio, Joyce Fossa, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg and Michael Bace, Frederick Frithsen arrived at 7:20 P.M. and Alan Battistelli arrived at 7:25.
- 2) IT Initiative Review Goal: Computerize the application and hearing process
  - a) Viewed the Kent Appeal from computer and presented on the large library screen through the available projector.
    - i) Method seems to work well.
    - ii) Board members need iPads so that paper files can be lessened.
    - iii) Need Server space (and what else?)
    - iv) Display method will allow meetings to be more organized and less chaotic as the paper shuffling and folder swaps would be eliminated.
  - b) Discussion: Should Board require electronic application from all applicants or just from professional applicants (lawyers, architects, builders)? Suggestion was made that the Gloucester system should be looked at more closely.
  - c) Monty Hitschler, Town of Rockport Technology Director, stated that the Town is working on providing the structure necessary for implementation of many of the requests that the Board has made but doesn't know when they will be completed.
- 3) Architect Jonathan Weaver ZW Architects LLC, 59 Park Street, Beverly, MA 01915 asked for a finding of fact since on 7 September 1995, the Board of Appeals granted a variance on the property at 157-159 Granite Street.
  - a) The owner's plan to raise the roof of an existing detached garage by 2 feet.
  - b) This falls well within their rights except for the variance on this property that is subject to certain conditions including the following: "No other structure may be built on this lot, nor may any existing structure be enlarged, without prior written approval of this Board".
  - c) A motion was made by Lars-Eric Wiberg and seconded by Peter Bergholtz to allow the Chairman John N. Rees to write a letter allowing these changes. It passed unanimously with John N. Rees, Tacy D. San Antonio, Joyce Fossa, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Frederick Frithsen, Alan Battistelli and Michael Bace voting.
- 4) Hearing of Joseph P. Toomey for a variance and/or special permit to construct a screened porch addition to the non-conforming, dwelling at 3 Irvana Road, Rockport.
  - a) Opened 7:30 P.M. Closed 7:40 P.M.
  - b) Members of the Board sitting are Peter Bergholtz (Presiding), Charles W. Christopher, Tacy San Antonio, John N. Rees and Alan Battistelli.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs. New updated plans were submitted and stamped in by the Chairman, John N. Rees.
    - i) The owner Joseph Toomey, 122 Claflin Street, Belmont, MA stated that the house at 3 Irvana Road, Rockport is a small summer home and submitted more photos showing this.
    - ii) He also submitted letters written by Nick Gonsalo and Clifford Hayes of 1 Irvana Road in support of the petitioner's request.
    - iii) The hardships of the property are:
      - (1) It is a tiny cottage with no kitchen table or dining area inside.

- (2) It is on a narrow lot with wetlands and a septic system that leaves only one area for a screened porch.
- (3) It is consistent with the neighborhood.
- iv) Peter Bergholtz suggested that this is a new non-conformity the Gale Decision does not apply making this a request for a variance.
- v) Alan Battistelli noticed that the plans had a gray area that is an existing permeable deck that is already within the setback so the Gale Decision would apply making this a Special permit.
- d) There was no audience participation.
- 5) Hearing of James and Carmen Beaton for a special permit and/or variance to construct additions to the one and one half story non-conforming dwelling at 43 Granite Street, Rockport. Opened 7:40 P.M. and was continued to the May Meeting of the Board.
- 6) Approval of Minutes February 26, 2013
  - a) Peter Bergholtz moved to approve the minutes as presented and Frederick Frithsen seconded.
  - b) The motion passed unanimously with John N. Rees, Tacy D. San Antonio, Joyce Fossa, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Frederick Frithsen, Alan Battistelli and Michael Bace voting.
- 7) New Business
  - a) Discussion: Deficiency letter - Error reduction
    - i) Charles W. Christopher stated that the importance of accuracy has to be emphasized, as these are legal issues.
    - ii) John N. Rees suggested that the Board review how other communities handle this problem.
    - iii) Peter Bergholtz suggested that the Board review the rules of procedure.
    - iv) The Board has a right not to hear a case if deficiencies are not remedied.
    - v) The Board needs complete plans in order to understand petitions and make decisions.
  - b) Alert: Forthcoming appeals of building permit issuance will be handled like any other application with a legal notice published and sent to abutters.
- 8) Hearing of Squire Family Trust for a special permit /or variance to convert a first floor professional office to a third dwelling unit in the existing, two-dwelling, non-conforming building at 8 Summit Avenue, Rockport.
  - a) Opened 7:50 P.M. Closed 8:14 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and John N. Rees.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Architect Jonathan Weaver of 237 Granite Street, Rockport represented the Squire Family Trust and Scott & Eliza Lucas.
    - i) The building was previously granted space for a dentist's office, which they now wish to convert to a residence.
    - ii) It will include some internal reconfiguration within the same footprint.
    - iii) The use will be less intense.
    - iv) Charles W. Christopher brought up the fact that this size lot might not meet the lot size requirements for a three family units.
    - v) In 1964 it was a 2 family residence and hasn't been used as a dentist office in over two years.
    - vi) Mrs. Squires submitted that this was a reversion and not a conversion since it was previously a three family residence.
  - e) Two letters were submitted in opposition to this request from neighbors.
  - f) Audience participation:

- i) Justin Marshall, 10 Summit Avenue:
    - (1) Considers a three family residence a commercial venture, as the owners will not be living onsite.
    - (2) It adds additional water and sewage to the Town.
    - (3) Changes the character of the neighborhood.
    - (4) Is in opposition to this petition.
  - ii) George Walima, 12A Summit Avenue believes that this would make it a commercial property that must meet commercial standards. If it were a three family residence without the owner in residence it would bring the neighborhood down.
  - iii) Scott Lucas of 57 High Street stated:
    - (1) That converting it to a three family residence will beautify the area.
    - (2) It was a three family residence previously so they would be reconverting it.
    - (3) There would be a lessening of traffic.
    - (4) It would create housing for Rockport.
  - iv) Alan Battistelli asked Jonathan Weaver if there were any other three family units in the area and was answered there were none.
  - v) Jonathan Weaver stated that:
    - (1) This will stay as a residential building not a commercial building.
    - (2) All drainage issues will be resolved.
    - (3) It will be a modestly priced residence.
    - (4) Per bedroom will have less impact on neighborhood than a dentist office.
  - vi) Tacy San Antonio stated that there were 2 parking spaces 16X20 and one exists from a previous decision. Presently there is a cut in the curb.
  - vii) Gia Squires suggested that the Walima residence might be a three family.
  - viii) Justin Marshall stated that the new owners might not keep the property.
  - ix) Tom Powers 7A Summit Avenue is concerned with traffic and parking conditions so is against this petition.
- 9) Hearing of G. Stewart and Beth Ann Renner for a variance and/or special permit to replace an existing and non-conforming, one and one half-story dwelling and unattached garage with a two and one half story dwelling with attached garage at 49 Granite Street, Rockport.
- a) Opened 8:15 P.M. Closed 9:11 P.M.
  - b) Members of the Board sitting are Tacy San Antonio (presiding), Peter Bergholtz, Lars-Erik Wiberg, Joyce Fossa and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Attorney Robert Coakley, 64 Middle Street, Gloucester, MA 01930 and Architects of Treehouse Design 31 Poole's Lane, Rockport, MA 01966 represented the petitioners.
    - i) Asking for a Special Permit to raze a single family home with a 2 car detached garage and build a less non-conforming home and attached garage. A fire destroyed the previous building.
    - ii) The present configuration has existed since 1906 with the house and garage right on Granite Street which makes it dangerous for pedestrians and traffic
    - iii) The architects were asked to fix this dangerous configuration. They did so by pulling the house and garage back from the road so that it is similar to the other houses in the area.
    - iv) Presented a signed Petition showing that most of the abutters are in favor of their request.
    - v) The basement of the present home extends under the sidewalk and they would fill this in as part of the construction.
    - vi) Surveys are accurate and the new structure will be no closer to sidelines but in reality will be pulled back from sides.

- vii) The new house will be two feet shorter than measured at the height of the street elevation.
  - viii) If a Variance is needed for the lot coverage it is a historic home snuggled up to the retaining wall and will have only a modest increase of 211 feet in coverage. The lot has a number of hardships and would not be detrimental to the neighborhood.
  - e) Peter Bergholtz stated that the lot coverage increase can be granted with a Special Permit and a Variance is not required.
  - f) Ryan McCarther of Treehouse Design stated that they
    - i) Tried to design a modest 2,000-foot home.
    - ii) Took cues from the present house.
    - iii) Set house in line with the neighbors.
    - iv) Designed a safer driveway.
    - v) Used a colonial profile to preserve a bit of the historical essence.
    - vi) Tried to tone down the garages appearance.
    - vii) Joyce Fossa asked what was over the garage and he said there were bedrooms.
  - g) Audience
    - i) Neighbors Gaetano & Rosemarie Cerundolo, 60 Beach Street had many issues with the proposed construction and felt it would be detrimental to the neighborhood. Their objections were outlined in a letter that they submitted to the Board, which was stamped in.
    - ii) Phyllis Cook, 49 Granite Street, also disagreed with granting this petition. She submitted her issues in a letter to the Board.
    - iii) David and Stephanie Rosio, 58 Beach Street, spoke against granting this petition. They were concerned with the height of the structure and drainage issues.
  - h) Tim Thurman and Ryan McCarther of Treehouse design spoke to some of the concerns that had been brought up.
    - i) They will work with the DPW to get positive results in solving the existing drainage issues.
    - ii) The front will be filled and sloped down to the back. They will stone fill so that it will not wash down to abutters.
- 10) Hearing of Christian and Marni Jones for a variance and/or special permit to replace the non-conforming dwelling at 3 Clark Avenue, Rockport.
- a) Opened 9:14 P.M. At 9:16 it was postponed until after the next hearing so that applicants could make some corrections on their plans.
  - b) Members of the Board sitting are Charles W. Christopher (presiding), John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace. They all voted to allow applicants time to adjust their plans.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
- 11) Hearing of Kelly Hochsprung for a special permit and/or variance to add a shed dormer to the one and one half story, non-conforming dwelling at 54 High Street, Rockport.
- a) Opened 9:16 P.M. Closed 9:27 P.M.
  - b) Members of the Board sitting are John N. Rees (presiding), Lars-Erik Wiberg, Joyce Fossa, Frederick Frithsen and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Kelly Hochsprung the co-owner of property is asking to build a shed dormer to put in proper stairs that will be safer to use. She has already fallen twice on the stairs. To repair the stairs she needs more headroom. She does not plan to increase the height of the house or increase its footprint. A Special Permit is needed to construct the shed dormer.
  - e) Scott Lucas 57 High Street had no objection to this petition.
- 12) At 9:27 P.M. the hearing of Christian and Marni Jones was continued.

- a) William Ruhl of Ruhl Walker Architects, 60 K Street, Boston, MA 02127 represented the petitioners.
    - i) They are placing the house so that it doesn't disturb their neighbors view.
    - ii) The new house is slightly larger than the present structure.
    - iii) Trying to reduce the height with a flat roof and a roof deck.
    - iv) It will be a two-bedroom two-bathroom house.
    - v) Setback encroachment got longer so there is an increase.
  - b) The Board informed Mr. Ruhl that the Rockport Zoning Bylaws do not allow decks above the highest living level and it would need a Variance so what hardship would justify a Variance.
  - c) Audience
    - i) Mike Moran, 9 Clark Avenue, spoke against the project because he was concerned with the height of the structure.
    - ii) Bill Joyce, 1 Clark Avenue, stated that the Jones have improved the property and supports their plans.
  - d) Mr. Ruhl asked for a continuance until the May Meeting of the Board in order to change the plans so that a Variance would not be necessary.
  - e) The Board unanimously moved to allow the continuance with Charles W. Christopher, John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace voting.
- 13) Hearing of John E. and Mary Louise Hogan for a special permit and/or variance to modify previously approved plans to enlarge their non-conforming, single-family dwelling by changing the shape and position of the access stairs to the approved deck at 4 King Street Court, Rockport.
- a) Continued at 9:50 P.M. Closed 10:02 P.M.
  - b) Members of the Board sitting are Charles W. Christopher (Presiding), Joyce Fossa, John N. Rees, Alan Battistelli and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) The Board made a site visit.
  - e) Updated plans were submitted.
  - f) Plans were beyond what was previously authorized.
  - g) The issue is the extended deck, which was never authorized by the Board.
  - h) Alan Battistelli stated that the fact that the deck has already been built does not affect the Boards decision.
  - i) The deck went far beyond what is allowed.
  - j) Joyce Fossa stated that the deck should be removed.
  - k) One and one-half feet should be removed from the stairs.
  - l) Attorney William Quinn, 27 Congress Street, Salem MA representing the petitioners asked for relief to keep what is already constructed because:
    - i) Their hardship is the size of the lot and quality of the soil.
    - ii) It is not detrimental to the neighborhood.
    - iii) No further encroachment on the setbacks.
    - iv) No actual harm has been committed.
- 14) Discussion of Petitions
- a) Dean & Hatch
    - i) Lars-Erik Wiberg concerned with setting precedent if you mix the commercial footage of the first floor with the residential footage of the second floor in order to achieve the required 400 Square feet.
    - ii) Michael Bace made a motion to allow the Special Permit for the proposed business with the prep work being done on the second floor and John N. Rees seconded.

- iii) Motion passed unanimously with Lars-Erik Wiberg, John N. Rees, Charles W. Christopher, Frederick Frithsen and Michael Bace voting.
  - b) Joseph P. Toomey
    - i) The screened porch extending off the deck is no closer to the lot line.
    - ii) Tacy San Antonio made a motion to approve and Alan Battistelli seconded.
    - iii) The motion passed unanimously with Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, John N. Rees and Alan Battistelli voting.
  - c) James and Carmen Beaton continued to the May Meeting.
  - d) Squire Family Trust
    - i) Peter Bergholtz moved to refuse the request and John N. Rees seconded.
    - ii) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and John N. Rees voting.
  - e) G. Stewart and Beth Ann Renner
    - i) Peter Bergholtz made a motion to grant two special permits. One permit for the increase in lot coverage and one for reconstruction in a new configuration. Lars-Erik Wiberg seconded.
    - ii) The motion passed unanimously with Tacy San Antonio, Peter Bergholtz, Lars-Erik Wiberg, Joyce Fossa and Frederick Frithsen voting.
  - f) Christian and Marni Jones hearing was continued to the May Meeting.
  - g) Kelly Hochsprung
    - i) Lars-Erik Wiberg moved to approve the Special Permit and Michael Bace seconded.
    - ii) The motion passed unanimously with John N. Rees, Lars-Erik Wiberg, Joyce Fossa, Frederick Frithsen and Michael Bace voting.
  - h) John E. and Mary Louise Hogan
    - i) Charles W. Christopher moved to deny the request for a Special Permit. John N. Rees seconded.
    - ii) The motion passed unanimously with Charles W. Christopher, Joyce Fossa, John N. Rees, Alan Battistelli and Frederick Frithsen voting.
- 15) Next Possible Meeting May 28, 2013
- 16) John N. Rees made a motion to adjourn and Frederick Frithsen seconded. The motion passed unanimously with John N. Rees, Tacy D. San Antonio, Joyce Fossa, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Frederick Frithsen, Alan Battistelli and Michael Bace voting. Adjournment at 11:26 P.M.