

Rockport Board of Appeals
May 28, 2015
7:00 P.M.
Rockport Public Library
The Brenner Room
17 School Street, Rockport, MA

- 1) Call to order at 7:00 P.M. Members present Alan Battistelli (Chairing), Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio and Joyce Fossa. John N. Rees arrived at 7:24.
- 2) Hearing of Robert T. Duda Jr. and Nancy E. Duda for a special permit and/or variance to raze an existing single family dwelling and a shed and to construct a new single family dwelling on a lot that is smaller than the required minimum at 18 Smith Road, Rockport.
 - A) Opened 7:03 P.M. Closed 7:16 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Joyce Fossa.
 - C) Materials presented: photos, general plan, site plan, floor plan, and elevations.
 - D) Nancy & Bob Duda of 18 Smith Road represented themselves.
 - a) Their plan is to raze the current house on the property and replace it with a 3 bedroom Cape Cod style home.
 - b) The lot is non-conforming as it is only 9,270 square feet.
 - c) Presented pictures of the current structure on the property
 - d) Plans are for a first floor master suite as this is required due to handicap.
 - e) Even though the new structure is larger than the present structure it stays within the 20% lot coverage required by law.
 - f) The front setback is non-conforming and Alan Battistelli asked the applicant if the house as planned could be set back one foot to make it conforming.
 - g) The applicant said that would be no problem and would submit the new plan showing this to the Town Clerk.
 - E) Audience
 - a) Bill Elwell, 19 Wallace Road, fully supports the petitioner's plans.
 - b) Paul Fuhs 16 Smith Road is also in support of plans.
- 3) Hearing Petition of James Farnham for a special permit and/or variance to endorse a newly constructed dormer that is in conflict with the Zoning Bylaw at 25-27 High Street, Rockport.
 - A) Opened 7:16 P.M. Tabled at 7:35 Reopened 7:49 and at 8:18 P.M. it was continued to the June meeting.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Lars-Erik Wiberg, Joyce Fossa, Frederick Frithsen and Michael Bace.
 - C) Materials presented: photos, general plan, site plan, floor plan, and elevations.
 - D) James Farnham the owner represented himself.
 - a) Previously was given permission to build a shed dormer on the home which he purchased and is renovating.
 - b) The dormer was fine except that it didn't allow easy access to a planned roof deck so he raised the height of the dormer which would still be only 28 feet 4 inches from average grade.
 - c) This dormer however is higher than the original roof line. It rises above the ridgeline of the roof it is coming from.

- d) The building inspector told him to cease building as this was in violation of the building codes.
 - e) Alan Battistelli stated that he believed that this is an addition and not a dormer.
 - f) Michael Bace stated that he thinks this is another story and that a third story was created.
 - E) From the audience John Kasten, 31 High Street, voiced his concern that the building should follow the building codes and fit into the neighborhood. Access to a roof deck does not hinder quality of life and is not a hardship.
 - F) The hearing was then postponed and would be continued after the next scheduled hearing.
- 4) Hearing of Steve Dennehy for a special permit and/or variance to construct a 6 foot by 6 foot addition to an existing non-conforming dwelling at 8 Green Street, Rockport
- A) Opened 7:35 P.M. Closed 7:49 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, Tacy San Antonio, Frederick Frithsen and Michael Bace.
 - C) Materials presented: Materials presented: photos, site plan and floor plan.
 - D) The petitioner was represented by contractor John Buckner, 84 Magnolia Ave. Gloucester.
 - a) Proposal is for a 6 foot by 6 foot one story addition that will be 7 feet from the property line.
 - b) Alan Battistelli and Charles W. Christopher noted that a great deal of needed information was missing from the application including dimensions, deed number, heights and elevations.
 - c) Charles W. Christopher stated that an entire new form must be submitted with all the missing data to town hall by Monday June 1, 2015 by 4:00 P.M.
- 5) Continue the hearing of James Farnham
- A) The Board had a number of questions that need to be answered before a decision can be made.
 - a) Is the dormer non-conforming?
 - b) Is it within the setbacks and if so how far in?
 - c) Is it a pop up dormer of 180 square feet with the second floor about 753 square feet?
 - d) How much of the new structure is in the setbacks? Setback and dimensions are needed.
 - B) Michael Bace considered this as third floor and can a Special Permit be given for a third floor or does it need a Variance?
 - C) Lars-Erik Wiberg stated that it is expanding a non-conformity within the legal height limit.
 - D) More measurements are needed.
 - E) Continued to June meeting.
- 6) Vote to accept the withdrawal, without prejudice, requested by Carl E. Gardner for his application for property located at 5 Granite Street.
- A) Michael Bace made a motion to send a letter to the applicant accepting his withdrawal without prejudice.
 - B) Tacy San Antonio seconded and it passed unanimously with Peter Bergholtz, Tacy San Antonio, Lars-Erik Wiberg, Joyce Fossa and Michael Bace voting.
- 7) Approval of Minutes March 31, 2015
- A) Charles W. Christopher moved to accept the minutes as presented with a correction of one misspelled name.

- B) Lars-Erik Wiberg seconded and it passed unanimously with Alan Battistelli, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio, Joyce Fossa and John N. Rees.
- 8) Discussion of Hearings
- A) Duda
 - a) The Board discussed whether a special permit was even needed as the new structure as revised will be completely conforming.
 - b) The lot is non-conforming but the new structure is not.
 - c) The non-conforming lot is not changing.
 - d) It is a buildable house lot and they are not creating any new non-conformity.
 - e) The Board's permission is not needed to raze a house.
 - f) The Board will submit these questions to Town Counsel and ask for an opinion.
 - g) Peter Bergholtz made a motion to approve the Special Permit if Town Counsel's opinion comes back that it is necessary. Charles W. Christopher seconded and it passed unanimously with Alan Battistelli , Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Joyce Fossa voting.
 - B) Farnham continued to June meeting of the Board.
 - C) Dennehy
 - a) A new application and accurate measurements are needed.
 - b) Pending the arrival of sufficient measurements and application into Town Hall on June 1, 2015 Charles W. Christopher moved to approve the petition. (The requested material was delivered to town hall and recorded as scheduled)
 - c) Michael Bace seconded and it passed unanimously with Alan Battistelli, Charles W. Christopher, Tacy San Antonio, Frederick Frithsen and Michael Bace voting.
- 9) Old Business: Schedule of meetings. The Board is now scheduled to meet the last Wednesday of each month.
- 10) New Business: Officers for Calendar Year 2015/16
- A) Peter Bergholtz made a motion to continue the terms of the present officers for another year.
 - a) Chair: Alan Battistelli
 - b) Vice Chair: Charles Christopher
 - c) Clerk: Tacy San Antonio
 - B) John N. Rees seconded and it passed unanimously with Peter Bergholtz, John N. Rees, Tacy San Antonio, Alan Battistelli and Charles W. Christopher voting.
 - C) Joyce Fossa will be leaving the Board as an associate member and at the next meeting there will be a discussion of any possible replacements.
- 11) Next Possible Meeting June 24, 2015
- 12) Motion to adjourn made by Peter Bergholtz and seconded by Michael Bace. The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Michael Bace, Charles W. Christopher, Tacy D. San Antonio, Joyce Fossa and John N. Rees voting. Adjournment at 9:04 P.M.