

Rockport Board of Appeals
February 26, 2013
7:30 P.M.
Rockport Public Library
17 School Street, Rockport, MA

- 1) Call to Order at 7:30 P.M. Members present John N. Rees (Chairing), Alan Battistelli, Charles W. Christopher, Peter Bergholtz (attended Selectman's Meeting and arrived about 8:45 P.M.), Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa. Tacy D. San Antonio absent.
- 2) 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) Opened 7:31 P.M. Closed: Continued
 - 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, floor plan, elevations and photographs.
 - d) Attorney William Quinn, 27 Congress Street, Salem, represented the petitioners.
 - i) Son-in-law and daughter live on the premises.
 - ii) Owned since 1951.
 - iii) Lot has a drop off to Mill Brook and wet area so the buildable area is small.
 - iv) An addition was completed and petitioners have come to the Board because the Building Inspector considers that construction illegal. The Building Inspectors reasons:
 - (1) Plans were changed without approval of the Board and more expansive steps were added such that the deck was enlarged.
 - (2) Although a landing and steps to it may be up to 48 inches, the landing constructed is larger than 48 inches..
 - v) Want an OK for existing construction. Asking for a variance because the soil and conditions of the lot make it difficult to build.
 - vi) Andrew Garfield received deficiency letter from the Board but thought all issues had been satisfied.
 - vii)Hearing will be continued.
 - e) Audience participation.
 - i) Jacqueline Mallen, 6 King Street Court, Rockport, stated that the property they had built on was hers.
 - ii) Fence does not mark the property line according to her Title Company.
 - iii) Steps are against the fence and the steps are not needed as they have three other ways into the house.
 - iv) Ms. Mallen indicated that she "is taking them to court and will not back off no matter how they harass her".
 - f) Attorney Quinn stated:
 - i) that according to certified property plot plan the Hogans own everything to the fence.
 - ii) He added that there has been no harassment.
 - g) Board members set a site visit for April 23, 2013 at 10:00 A.M.

- 3) Hearing of Jacob Silversin and Mary Jane Kornacki for a special permit and/or variance to replace an existing three- level deck on their non-conforming dwelling at 163 Granite Street, Rockport.
 - a) Opened 8:05 P.M. Closed 8:18 P.M.
 - b) Members of the Board sitting are Michael Bace (presiding), Charles W. Christopher, Lars-Erik Wiberg, Alan Battistelli and Joyce Fossa.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Mary Jane Kornacki, 103 Avon Hill, Cambridge, owns all three units of house at 163 Granite Street, Rockport.
 - i) Each Unit has a large deck.
 - ii) Northern side non-conforming.
 - iii) Asking permission to take down the three decks and rebuild them.
 - iv) Concerned with huge heavy decks pulling away from building and that the railings on top not high enough.
 - v) New decks will be smaller and no closer to set back coming in 8 inches from side and going out to back 1 foot 3 inches more or deeper.
 - e) Hildy Feuerbach, 15 Pigeon Hill Street, Rockport, feels it will be an improvement since the proposed decks will open up the view from Granite Street.
- 4) Hearing of Walter Dean for a special permit and/or variance to establish a food take-out service in the first level of an existing Residential and Retail, multi-use structure in the non-conforming building at 46 Bearskin Neck, Rockport.
 - a) Opened 8:19 P.M. Closed 9:00 P.M.
 - b) Members of the Board sitting are Lars-Erik Wiberg (presiding), John N. Rees, Charles W. Christopher, Frederick Frithsen and Michael Bace.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Walter Dean 46 Bearskin Neck, Rockport, and Dana Hatch, 61 Pigeon Hill, Rockport, want to start Key Lime Pie take out business.
 - i) Tentative floor plans for a few tables to sit at and counter.
 - ii) Lars-Erik Wiberg stated that a pure take-out business doesn't exist in bylaws.
 - iii) Board has to be careful about business use and dimensions.
 - iv) If you put in tables does restroom and parking become an issue?
 - v) Lars-Erik Wiberg feels it would need a variance.
 - vi) Alan Battistelli (non-sitting) stated that it meets requirements of a bakery since they are preparing pies on site. Is it a bakery or restaurant that are found in the bylaws page 17 section 8D?
 - vii) Frederick Frithsen feels that the plans are not sufficient to make a decision.
 - e) Audience participation.
 - i) Denise Atwood, 48 Bearskin Neck, Rockport, is concerned:
 - (1) that there is a lot of people and traffic in the area.
 - (2) with the plans for egress on Cove Ct., Doyle Cove Rd. and Bearskin Neck.
 - (3) with the square footage being insufficient for bylaw requirements. Does the split usage meet the requirements?
 - (4) Could Cove Street exit be an emergency exit only?
 - ii) Janet Bejourias, 48 Bearskin Neck Unit 3, Rockport, questioned the enclosed area on Doyles Road for trash behind high fence.
 - iii) Charles W. Christopher questioned if co-owners splitting off sections made square footage a problem.
- 5) Open session

- a) Alan Battistelli, 57 Phillips Avenue, Rockport, submitted a letter requesting a review of plans for 30 Mount Pleasant Street, Rockport.
 - i) The Historical Commission requested that changes to the roof pitch be altered from the pitch submitted in the plans accepted by the Board in their January 14, 2013 decision.
 - ii) Since the change was so slight he asked that the Board accept the modifications.
 - b) Frederick Frithsen moved that the Board accept the modifications. Lars-Erik Wiberg seconded and it passed unanimously with John N. Rees, Charles W. Christopher, Lars-Erik Wiberg, Michael Bace and Frederick Frithsen voting.
 - c) Charles W. Christopher will write a letter accepting the modifications and send it to applicant.
- 6) Discussion of Petitions
- a) John E. and Mary Louise Hogan was continued.
 - b) Jacob Silversin and Mary Jane Kornacki
 - i) Alan Battistelli moved to approve the request and Lars-Erik Wiberg seconded.
 - ii) It passed unanimously with Michael Bace, Charles W. Christopher, Lars-Erik Wiberg, Alan Battistelli and Joyce Fossa voting.
 - c) Walter Dean
 - i) Discussion of
 - (1) change of use.
 - (2) opening on Cove Court.
 - (3) square footage.
 - (4) remaining faithful to bylaws.
 - (5) area where business is located.
 - ii) Michael Bace made a motion to approve as a bakery and John N. Rees seconded. Michael Bace withdrew motion and John N. Rees withdrew his second.
 - iii) John N. Rees made a motion to ask applicant for clarification of proposed area to be used for the business. Lars-Erik Wiberg seconded. It passed unanimously with Lars-Erik Wiberg, John N. Rees, Charles W. Christopher, Frederick Frithsen and Michael Bace voting.
 - iv) Michael Bace was asked to write the letter to the applicants.
- 7) Approval of Minutes
- a) Alan Battistelli moved to approve the Minutes of January 29, 2013 as presented. Charles W. Christopher seconded.
 - b) Passed unanimously with John N. Rees, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace and Joyce Fossa voting.
- 8) Old Business: Information Technology Exploration: Submitted request to IT Department asking for:
- a) Scanning applications and submitted documentation and plans.
 - b) Board members would like to access the digitized files from home.
 - c) The Board needs the ability to store digitized files on a Town server or Cloud.
 - d) Equipment necessary to present digitized files at public meetings so that both the Board and audience can view plans.
 - e) iPads so that members of the Board may access and use stored plans and applications.
- 9) New Business: Peter Bergholtz reported on the Tool Company Presentation made at the Selectman's meeting that he had attended earlier this night.
- a) The plans propose 15 family residences lots.
 - b) The park area has become a walkway.
 - c) The Machine Shop will be office, retail space and area to catch ferry to Rockport Harbor. It will also have one residence.

- d) There will be a covenant as to how any residence can be constructed.
- e) Looking to modify the Chapter 91 license without requesting a new license.
- f) Will have 31 public parking places.

10) Next Possible Meeting March 26, 2013

11) Adjournment:

- a) Frederick Frithsen moved to adjourn. Seconded by John N. Rees.
- b) Passed unanimously with John N. Rees, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace, Frederick Frithsen and Joyce Fossa voting.
- c) Meeting adjourned at 9:51 P.M.