

Rockport Board of Appeals
October 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, , Charles W. Christopher, John N. Rees, Tacy D. San Antonio and Michael Bace. Frederick Frithsen and Lars-Erik Wiberg are absent
- 2) Hearing of Christian Jones for a special permit and/ or variance to demolish an existing non-conforming dwelling and to construct a new dwelling on the same footprint at 3 Clark Avenue, Rockport.
 - A) Opened 7:04 P.M. Closed 7:30 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, John N. Rees, Michael Bace and Tacy San Antonio.
 - C) Materials presented: photos, general plan, site plan, floor plan, and elevations.
 - D) Christian Jones' 5 Clark Avenue.
 - a) 3 Clark Avenue is set in back and they wish to demolish it.
 - b) Thought that the extension of the previous Board decision ran until September 25, 2015 but discovered when he applied for building permit that the previous decision had expired.
 - c) The application is for the same plan that was previously approved by the Board with the Board's recommendation included.
 - d) Has a contractor lined up and is ready to get started.
 - e) No exterior work has been done to date just moved items out of the house.
 - f) The plan presented includes plans that the Board asked for in its previous decision.
 - E) Alan Battistelli requested any hardships as the roof deck needs a variance.
 - F) Mr. Jones stated that the sloped land was a hardship.
 - G) The height of the building appeared to be fine looking at the average grade.
 - H) A special permit is needed for the structure but a variance is needed for the roof deck.
 - I) Blocking a neighbor's view is not a hardship.
 - J) Mr. Jones stated that decisions should be based on what is good for the neighborhood.
 - K) Charles W. Christopher asked to look at the site plan again and suggested that there is room to move the house.
 - L) No audience participation.
- 3) Hearing of Marshall Aines for a special permit and/or variance to renovate an existing non-conforming two family dwelling at 30 School Street, Rockport.
 - A) Opened 7:30 P.M. Closed 7:45 P.M.
 - B) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio, John N. Rees and Michael Bace.
 - C) Materials presented: photos, site plan, floor plan, and elevations.
 - D) William Ellwell, 19 Wallace Road, Rockport represented the petitioner.
 - a) Fixing this house started with a leak repair on roof, then a bathroom overhaul and now a complete gut and remodel.

- b) They are changing the volume but not the footprint.
 - c) Increasing the roof to 29 feet raising it by 3.5 feet.
 - d) It had a nonconforming stairway that needs height to conform.
 - e) Making a one story section to 2 story section.
 - f) Want to increase rear shed dormer to full legal dormer.
- E) Alan Battistelli asked if there were any footprint changes. The answer was that it all conforms as the first floor stayed in the footprint but the floors above changed. The new deck is conforming. The roof is taller by 3.5 feet.
- F) Tacy San Antonio asked if the addition of the mudroom and deck are new and the answer was yes.
- G) Peter Bergholtz commented that there is no change in use just intensification.
- H) No audience participation..
- 4) Approval of minutes: September 30, 2015.
- A) Peter Bergholtz moved to accept the minutes as presented and Charles W. Christopher seconded.
- B) The motion to approve passed unanimously with Alan Battistelli, Peter Bergholtz, , Charles W. Christopher, John N. Rees, Tacy D. San Antonio and Michael Bace voting.
- 5) Old Business discussion of Hearings
- A) Christian Jones
- a) Michael Bace could see no hardship for a variance for the roof deck.
 - b) Tacy San Antonio remarked that he does not meet requirements for a variance.
 - c) John N. Rees moved to approve the requested special permit and variance. The motion did not receive a second.
 - d) Tacy San Antonio moved to approve the special permit but to deny the variance. It did not receive a second.
 - e) Tacy San Antonio made a motion to deny without prejudice and Michael Bace seconded.
 - f) Alan Battistelli was not sure this is needed as the Board could pass the plans with one feature removed.
 - g) Tacy San Antonio withdrew her motion.
 - h) Tacy San Antonio made a motion to approve the special permit for the building with the roof deck removed and deny a variance for the proposed roof deck, subject to a new set of plans reflecting this decision.
 - Michael Bace seconded.
 - Charles W. Christopher wanted it noted that the applicant did not supply a hardship to justify a variance.
 - The motion passed unanimously with Alan Battistelli, Charles W. Christopher, John N. Rees, Michael Bace and Tacy San Antonio voting.
- B) Marshall Aines
- a) Michael Bace made a motion to approve the request and Tacy San Antonio seconded.
 - b) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Tacy San Antonio, John N. Rees and Michael Bace voting.
- 6) New Business
- A) Discussion of proposed revisions to the Application for Zoning Relief Section 6.
- a) Peter Bergholtz moved to accept the presented changes (see attached sheet A) and John N. Rees seconded.
 - b) It passed unanimously with Alan Battistelli, Peter Bergholtz, , Charles W. Christopher, John N. Rees, Tacy D. San Antonio and Michael Bace voting.
- B) Discussion of expiration dates in regard to 40A and extensions

- a) Extensions will be 6 months on variances and 1 year for special permits as per the law.
- b) Decisions last up to 2 years for special permits and variances for 1 year.
- c) Every decision must include 1 year to act on it from the date the decision is filed.
- C) Discussion of the Board of Appeals decision writing protocol
 - a) Peter Bergholtz moved to accept the decision writing protocol as presented (see attached sheet B) and Michael Bace seconded.
 - b) It passed unanimously with Alan Battistelli, Peter Bergholtz, , Charles W. Christopher, John N. Rees, Tacy D. San Antonio and Michael Bace voting.
- D) The secretary Helen Barnett was assigned to speak to the IT department about using the Town cloud for posting applications and plans for the public to view.
- E) Discussion of recommended changes to the Rockport Zoning Bylaws
 - a) The Board needs to work on zoning bylaw changes.
 - b) Members should start listing concerns that should be worked on.
 - c) Some possible concerns are:
 - Setbacks for animals on property
 - Restaurants that are take-out
 - Definition of inns versus apartments
 - Fences and living fences
- F) Update on the letter sent to Attorney General about Article Q that was passed at last town meeting. The letter was sent. Charles W. Christopher asked that a copy of the letter be attached to the minutes (see attached letter).
- 7) Next Possible Meeting December 2, 2015
- 8) Motion to adjourn made by Charles W. Christopher and seconded by Peter Bergholtz Passed unanimously with Alan Battistelli, Peter Bergholtz, , Charles W. Christopher, John N. Rees, Tacy D. San Antonio and Michael Bace voting.
Adjournment at 8:48 P.M.