



# TOWN OF SWAMPSCOTT

## ZONING BOARD OF APPEALS

ELIHU THOMSON ADMINISTRATION BUILDING  
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

### MEMBERS

MARC KORNITSKY, ESQ., CHAIR  
DANIEL DOHERTY, ESQ., VICE CHAIR  
BRADLEY CROFT  
ANTHONY PAPROCKI  
ANDREW ROSE

### ASSOCIATE MEMBERS

HARRY PASS, ESQ.  
HEATHER ROMAN

## SEPTEMBER 21, 2016 MEETING MINUTES

**Time:** 7:00 – 8:05 PM  
**Location:** Swampscott Senior Center, 200 Essex Street (rear)  
**Members Present:** M. Kornitsky, A. Rose, A. Paprocki, H. Roman  
**Members Absent:** H. Pass, D. Doherty, B. Croft  
**Others Present:** Pete Kane (Director of Community Development), Ken Shutzer (attorney), Chris Drucas (attorney), Manuel Bettencourt (Building Inspector), Michael Callahan (attorney), Denine Ribicandria (applicant), John Niakaros (applicant representative), Mr. & Mrs. Varvounis (residents), Patricia Cashman (applicant), Syed Ramim (applicant), John D'Agostino (applicant), Veronica Hobson (architect)

Meeting called to order at 7:15 PM by Chairman Kornitsky.

Chairman Kornitsky explained to audience present that there would only be four (4) members present at the hearing and explained that if any Petitioners would like to continue their hearing to the next meeting (October 26) they can.

### MEETING MINUTES

The Board reviewed the minutes from the August 16, 2016 hearing. There were no comments.

**MOTION:** by M. Kornitsky to approve minutes, and seconded by H. Roman, the August minutes were unanimously approved.

### ZONING RELIEF PETITIONS

**PETITION 16-10** (326-330 PARADISE ROAD): Application of CROWN POINTE CONDOMINIUM TRUST seeking at appeal of the determination of the Inspector of Buildings related to the issuance of the final Certificate of Use and Occupancy as it pertains to the installation of a "greenbelt" at Hanover Vinnin Square. Map 34, Lot 111. *Continued from the August hearing.*

Before Petition 16-10 was opened, M. Kornitsky and Kenneth Shutzer (attorney) discussed the Board attendance at the current meeting, to which Mr. Shutzer waved his right to appeal and wished to move forward with the hearing. A. Rose stated he would not vote on a petition that he had not heard the entirety of. Further discussion by the Board with Mr. Shutzer lead to a condition being made that there would be a vote on Petition 16-10 by the four Board members

present, on the contingency that A. Rose would listen to the tape for the previous hearings and then certify with M. Kornitsky that he had.

Both parties agreed through settlement to settle the appeal by the Building Inspector, both parties submitted proposed draft decisions. M. Kornitsky stated that he understood that all work had been completed by Hanover and that Crown Pointe is satisfied.

MOTION : by M. Kornitsky to approve the finding that the decision would be approved at a later date, based on the contingency that A. Rose would listen to the previous hearings audio files regarding Petition 16-10, seconded by A. Paprocki, unanimously agreed.

Both Mr. Shutzer and Attorney Callahan thanked the Board and A. Rose.

**PETITION 16-15 (18 CONNELLY AVENUE):** Application of DENINE RIBICANDRIA seeking a use special permit to construct a new detached garage with dimensions of 32 feet by 48 feet. Map 9, Lot 510. *Continued from the August hearing.*

M. Kornitsky asked John Niakaros (representing the Petitioner, contractor and engaged to Ms. Ribicandria) if they would like to continue the hearing to the next meeting (due to the Board's attendance) or move forward with the hearing. Mr. Niakaros responded that they would like to move forward with the hearing at the current meeting rather than continue.

Mr. Niakaros began by stating that they had spoken to the neighbors about what is proposed and that the neighbors are "ok" with the plan. He then showed the Board the revised plans to which M. Kornitsky asked if the neighbors had seen, the abutters (Varvouis family) replied they had not.

The proposed plans show a proposal to build a 32 x 36 foot, three-bay garage which the petitioner is seeking special permit to do. M. Kornitsky mentioned that the proposed plan for a 36-foot deep garage bay would be very deep. Mr. Niakaros mentioned that these plans have amended lengths and depths which are 12 feet shorter than the previous plans. A. Rose mentioned that the space still seemed large.

Discussion was opened up to the Varvounis family who voiced concern over if the new garage would bring with it large trucks again that used to park at the space. The abutters mentioned that they would settle with the new dimensions for the garage if the space does not become a commercial yard again. M. Kornitsky stated that he would put the condition that no commercial use of space into the decision. The abutters stated that as of recently there had been no noise and that they wish it to stay that way.

Discussion regarding the proposed construction continued and M. Kornitsky asked if the proposed access point on the side of the garage extends onto the abutter's property. Mr. Niakaros responded that it did not and then showed their property in comparison to the neighbor. A. Rose asked if large trucks were going to and from the property since the last hearing to which the abutters replied there have not been any. A. Rose continued to ask about how trucks had been getting onto the property, as the street entrance to the lot looked small. Mr. Niakaros mentioned that trucks were entering from Connelly Avenue and continuing to the back. The abutters mentioned that there was only one large truck that they had seen on the property.

The Board discussed the type of Dimensional Relief to grant, if the Board decided on granting.

The Petitioner asked if a 24 foot x 32 foot space would be allowed., M. Kornitsky mentioned that he would check on that. M. Kornitsky then explained to the audience present, Section 2.3.3.2 of the Zoning Bylaws, dimensional requirements and regulations for accessory buildings and structures. The Board then asked Peter Kane (Director of Community Development) to help explain the bylaw. P. Kane explained that the bylaws are specific that an accessory garage cannot fit more than three vehicles. P. Kane mentioned that the current proposed plan makes the garage look large enough to fit a fourth vehicle into it. M. Kornitsky asked P. Kane if a Special Permit could be issued to allow for a garage large enough for four vehicles. P. Kane explained that the bylaw limits garages to three vehicles and that there is no language to grant relief for a larger garage via a Special Permit. P. Kane mentioned that if there was to be a wall placed in the garage that would impede the ability to park four cars in the garage it would be acceptable. Mr. Niakaros responded that a wall will be placed in the garage, and A. Rose mentioned that if the wall was placed down the middle of the garage from front to back then it would impede the ability to fit the fourth vehicle in the garage. M. Kornitsky asked if the dimensional relief would still be needed if the Petitioner was to put in the wall. The Board discussed this question as well as the previous Special Permit asked by the Petitioner. The Board then stated that it would make a finding on the new proposed plan, that if a wall is put in place. A. Rose stated that Section 2.3.3.2 of the Town Zoning Bylaws that there must be a dimensional decision limiting a fourth vehicle in any garage. A. Rose continued to state that volume of space can be however big, yet as long as a fourth vehicle cannot fit. The Board decided the volume of the proposed garage stating it is acceptable, and used the facts of the proposed garage and addition of the wall down the middle to determine only three vehicles could fit in the garage.

M. Kornitsky opened the discussion up to the audience. Mrs. Varvounis mentioned that a condition be added stating no commercial use on the property. M. Kornitsky added this finding on representation that no commercial uses.

**MOTION** : by A. Paprocki to approve with condition..., seconded by M. Kornitsky, unanimously agreed.

The Board then stamped the plans and the Petitioner and abutters thanked the Board.

**PETITION 16-16** (9 KING'S BEACH TERRACE) Application of Heidi Smyth seeking a dimensional special permit and a special permit (nonconforming/structure) to add a second floor bedroom and bathroom (19'x22') over existing flat single-story portion of structure, within side yard setback, and move deck over existing garage, within side yard setback on a non-conforming structure. *Continued from August hearing.*

Attorney Drucas, representing Ms. Smyth, filed a Request for Continuation and asked to move the hearing to the next Zoning Board of Appeals meeting (October 26).

**MOTION**: by M. Kornitsky to accept the continuation request, seconded by H. Roman, unanimously agreed.

**PETITION 16-20** (96 & 96A PURITAN ROAD): Application of C. PATRICIA CASHMAN seeking a special permit (nonconforming use/structure) and appeal of determination of the Inspector of Buildings to allow for two residential units at 96 Puritan Rd and three residential units at 96A Puritan Rd. Map 21, Lot 24. *Continued from the August hearing.*

Attorney Shutzer was there on behalf of his client, Ms. Cashman, the Petitioner.

Due to the number of Board members present Attorney Shutzer filed a Request for Continuation. Attorney Shutzer asked if there would be assurance that members present at this meeting would be in attendance at the next meeting as well. Board members in attendance assured they would be there for the next meeting (October 26) and M. Kornitsky mentioned he expects to have five members at the next meeting.

MOTION : by Marc Kornitsky to accept continuation request, unanimously approved.

**PETITION 16-24** (148 HUMPHREY STREET): Application of SYED RAMIM c/o Kenneth Shutzer, seeking special permit (parking and loading requirement reduction) to reduce required off-street parking to zero in relation to the opening and operation of a Russell Convenience store with an approximate gross floor area of 801 sf.

Attorney Shutzer stated that he is prepared to move forward and his client, Mr. Syed Ramim, in attendance as well. M. Kornitsky asked Mr. Shutzer if relief being sought is only for off-street parking. Mr. Shutzer responded saying that is correct.

Mr. Shutzer explained the original plan indicated 700 sf, but turned into 800+ sf which triggered one more spot being needed. Mr. Shutzer then went on to explain that there is only 375 sf of actual retail space. The back of the building is for storage, common spaces, an area for steps, and an inaccessible area.

M. Kornitsky asked audience present for questions, which none were asked.

M. Kornitsky asked if the proposed sign will fit where the existing sign is. Mr. Shutzer responded yes, and that he had provided the sign specifications to the Building Department. Mr. Shutzer went on to say that he would wait to seek sign approval until after receiving the relief. Mr. Shutzer went on to mention that the sign maker would be the one seeking the sign approval from the Building Inspector's office. Mr. Shutzer then stated that the sign is conforming which would not need relief.

M. Kornitsky stated that a condition would be made that any window signage must conform.

MOTION: by H. Roman to approve the requested parking relief, reducing number of required off street parking to zero with condition..., seconded by A. Rose, unanimously approved.

Mr. Shutzer stated he would draw up the draft decision and email it to H. Roman to accept and file with the Town Clerk.

**PETITION 16-25** (15 PHILLIPS BEACH AVENUE) – Application of JOHN & KRISTIN D'AGOSTINO seeking a site plan special permit and special permit (nonconforming use/structure) to demolish and replace an existing house with new 3,209 sf residence on a nonconforming lot with new structure conforming to all current zoning setbacks and requirements. Map 35 Lot 97.

Mr. D'Agostino (Petitioner) and Veronica Hobson (Architect) were present for the hearing.

The Petitioner is seeking a special permit to remove from the current foundation on the property a single family dwelling, and construct a 2-story single family dwelling on top of the existing fieldstone foundation. Both Mr.

D'Agostino and Ms. Hobson explained that the new construction would sit on less than the required lot area, but still conform to all other dimensional requirements. Both continued to explain that Zoning Bylaw 5.4.2.3 stated that any new construction of a single or two family home over 3,000 sf requires a site plan special permit, which is why petitioner Mr. D'Agostino was present at the hearing. Ms. Hobson then went on to mention that the Planning Board had given favorable recommendation for these construction plans.

Ms. Hobson went on to show maps of the existing structure and describe the current property and single-family dwelling. Currently, as explained and shown, the single-family dwelling is 1,900(+) sf. There have been previous construction on the dwelling to build additions on the rear of the house and the right (from street) side of the dwelling. Ms. Hobson continued to explain that the proposed plans call for removing the single car garage as well as the addition, but preserve the fieldstone foundation. As for the wall transition, Ms. Hobson explained it would be preserved and used as a retaining wall, which would be needed due to the current property's very intense grade. The new two-story dwelling would be 3,209 sf with few additions on all sides of the home. A new, 2-car garage would be located on the left side of the house and slightly forward of the foundation. Access from the garage to the house would be through a mudroom (built on the existing foundation) and then lead up to the first floor. The first floor of the new home would have a dining room, kitchen, study, support spaces, TV room, and a screened porch on the left rear of the home. The porch will have a 12-inch step down to the backyard. The second floor will have a full master suite with three additional bedrooms and a pull-down attic for storage and mechanical housings as needed. The second floor will also have a full bath.

Ms. Hobson went on to show the proposed exterior plans for the home, which consisted of low roofs, and single story elements in the front lower portion, all done to lower the profile of the house. Materials consistent in the neighboring houses will be used and that the intent is for the home fit well on the site and blend in and look consistent with the neighborhood.

Mr. D'Agostino went on to show the proposed landscaping plan for the property. The existing stone driveway will be kept pervious as requested by the Planning Board. It was also mentioned that the back patio will be pervious. There was also discussion of the exposure of the basement due to the intense grade on the property. Mr. D'Agostino explained there would be terracing and plantings done to work with the flat grade and steep grade in areas. Mr. D'Agostino stated that there would be no new curb side-cuts on the road, and that the home would have the same appearance (from the road) as before.

Mr. D'Agostino explained and showed on the proposed landscape plans that for the new patio a tree currently on the property will be removed, but that all other large trees on the property will be kept.

Mr. D'Agostino explained that he had spoken to the neighbors and showed them the proposed plans and that they were fine with it.

The Board had no additional questions.

Motion to close the site plan special permit hearing, A. Rose seconded.

MOTION: by A. Rose to approve plans submitted with condition pervious areas stay pervious, seconded by A. Paprocki, unanimously approved.

Hearing closed at 8:05pm.

Andrew Levin

Assistant Town Planner