



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, ESQ.
ANTHONY PAPROCKI
ANDREW ROSE

ASSOCIATE MEMBERS
RON LANDEN
HEATHER ROMAN

SEPTEMBER 17, 2019 MEETING MINUTES

Time: 7:03 p.m. – 8:37 p.m.
Location: Swampscott High School, 200 Essex Street, Rm B129
Members Present: Marc Kornitsky (Chair), Daniel Doherty (Vice Chair), Anthony Paprocki, Heather Roman, Andy Rose
Members Absent: Bradley Croft, Ron Landen
Others Present: Jimmy Rodriguez (Petitioner), Chris Drucas (Attorney), Christine Morrow (Petitioner), Bob McCann (Attorney), Nick Mennino, Ken Shuzter (Attorney), Jocelyn Campbell (Attorney), Erin McGinn (Resident), Sanford Kurtz (Resident), Jonathan Dubow (Petitioner), Erin Singh (Petitioner), Teghpal Singh (Petitioner), Ralph Balducci (Petitioner), Dorothy Foley (Petitioner), David Pollina (Resident), Molly O'Connell (Planner)

Chairman of the Board, M. Kornitsky called the meeting to order at 7:03 p.m.

MOTION: A. Rose to approve meeting minutes from August 6, 2019. Seconded by D. Doherty; unanimously approved.

ZONING RELIEF PETITIONS

PETITION 19-3

172 BURRILL STREET

Continued to October 29th hearing.

PETITION 19-23

555 Essex Street

Petition 19-23 by STOP & SHOP, seeking a sign special permit for installation of 1(one) double faced and two (2) single faced directional signs, and eight (8) parking signs for on-line pick up parking area located at 555 ESSEX STREET. (Map 17, Lot 9).

A. Rose recused himself from the proceedings on this petition.

Chris Drucas, attorney, and Christine Morrow, from the sign company, were present to represent the petition. The proposal is to add directional and parking signage which supports a new online ordering and pick-up service offered by Stop & Shop. There are no changes to the building or parking lot other than the signage. Eight (8) parking spaces have been identified as pick-up spaces. The signs are similar in size and mounting to handicap parking signs. There will be a phone number on the sign for customers to call when they park, which will alert an employee to bring the order out to the car.

M. Kornitsky asked if the spaces will be numbered. Mr. Drucas replied yes, but they will be two spaces further away from the building than what is indicated on the map, as the two closest spaces are handicap spaces. They are also requesting directional signs.

M. Kornitsky commented on the directional signs – trying to distinguish between the directional nature and whether or not it is advertising. He and the applicant clarified how the signs are meant to direct drivers to the parking area.

M. Kornitsky asked if the program is already in existence at other stores. Ms. Morrow confirmed that about 100 stores are operating the program.

Mr. Drucas noted that this is in the B-3 zoning district, which requires a site plan special permit for signage. The Building Inspector was not comfortable issuing a sign permit because of the by-law, and rather than render an opinion the applicant decided to submit an application under Section 3.2.2.4. and complying with 5.4.0.0. The service is an important adjunct to dealing with competitors and would provide a service to the community. Additionally, the request is not in violation of the special permit standards.

There was no public comment.

The Board discussed the possibility of a sunset clause on the first outside sign (located closest to Essex Street).

MOTION: M. Kornitsky to approve Petition 19-23 with signage design shown, with the last sign closest to Essex Street to be sunset in one year with a Zoning Board review in September 2020, and with the location of parking spots to be moved two spots away from the store as indicated by counsel due to existing handicap parking spots. Seconded by A. Paprocki; approved 4-0 (A. Rose abstaining).

PETITION 19-24

35 LITTLES POINT RD

Petition 19-24 by CC WHITE COURT, LLC-seeking an amendment to existing special permit, dimensional special permit (nonconforming use/structure), special permit (independent living facility) , special permit (variation to floor plain/wetland protection overlay district), special permit (inclusionary housing), special permit (wireless communication facility), to increase the number of residential units from eighteen (18) to twenty (20). Property located at 35 LITTLES POINT ROAD. (Map 36, Lot 61-0).

A. Rose recused himself from this Petition, as he was a part of the applicant team.

A. Rose, Robert McCann, attorney, and Nick Mennino were present for the petition. The project was approved by the Board in 2015 and the original decision was for 18 units. They are looking to increase to 20 units. No changes are being proposed to the landscaping, site plan, or external portions of the building. It is a reconfiguration of the interior only.

There were no questions from the Board.

Erin McGinn, 1 Littles Point Lane, asked if the two new units would be owner occupied. Mr. McCann replied yes, and renting will be expressly prohibited in the condominium documents. M. Kornitsky noted that the project would still be subject to the limitations placed from the earlier decision, which included that the units must be owner occupied.

Dr. Sanford Kurtz, 44 Littles Point Road, stated that he was in favor of the original project and appreciates the relationship with the developer so far. However, he does not support the amendment. Littles Point Road is very narrow

and the entrance to White Court is on a blind turn. The traffic is being increased by 100% as there are 18 existing houses and 18 new units.

M. Kornitsky noted the prior use was a school, which was part of the original analysis in terms of parking and traffic impacts. Dr. Kurtz responded that the school was a nuisance, but it had regular hours from 8 am to 4 pm and no weekends.

Nick Mennino, 13 Supreme Court and part of the project team, appreciates Dr. Kurtz's original support. This amendment does not change the 60 parking spaces, which allows 3 spaces per unit. Littles Point Road is narrow and not in the greatest shape, and the intent is to do reconstruction work along a portion of the road.

Dr. Kurtz stated that regardless, the traffic is being increased which will be a significant issue for the neighborhood.

Mr. Rose stated that he does not believe that is the correct analysis. Eighteen units of residential housing is determinably less impact than the prior school use, and these 18 units will also generate less traffic than 18 new single family homes.

Mr. McCann reiterated that the request only alters the number of units and should not have an impact on Littles Point Road.

Dr. Kurtz repeated that he does not feel that there is a compelling reason to support the amendment.

H. Roman asked if the increase in units affects the affordable housing payment in lieu. Mr. Rose responded no, the payment is based one 1 per 10 units, so there is no increase.

MOTION: M. Kornitsky to find that the special permit criteria (Section 5.3.2.0) has been met and that the benefits of the proposal outweigh the adverse impacts, including: social, economic, or community needs which are served by the proposal (5.3.2.1); traffic flow and safety is met, given sufficient parking on site (5.3.2.2); adequacy of the utilities and neighborhood character, as there is no change in the structure (5.3.2.3); no additional impact on the natural environment (5.3.2.5); additional tax base will be realized (5.3.2.6); and to approval a special permit to amend earlier relief to permit the number of units to increase to 20, and all other conditions on the project from earlier decision shall apply. Seconded by H. Roman; approved 4-0 (A. Rose abstaining).

PETITION 19-25

161 BURRILL STREET

Petition 19-25 by JIMMY RODRIGUEZ, seeking special permit for parking relief for a proposed coffee shop, located at 161 BURRILL STREET. (Map 3, Lot 108). Mr. Rodriguez was present to represent the Petition. He gave a brief description of the proposal, which is a grab and go coffee shop. He is requesting parking relief as there is no parking on site. He plans on 12 seats maximum, which would require 3 parking spaces. The previous business was a groomer, who also received parking relief from the ZBA.

M. Kornitsky asked about plans for food on premise. Mr. Rodriguez responded that nothing will be cooked on premise. Any food will be prepackaged to go.

M. Kornitsky asked about staff and if it includes Mr. Rodriguez; he replied yes, he and his family will staff the business.

M. Kornitsky noted that the prior use had relief for 2 parking spaces, however that has been out of business for a couple of years.

M. Kornitsky asked about the hours of operation. Mr. Rodriguez noted that he would like to start at 5:30 a.m.

M. Kornitsky noted that the street is resident permit parking only from 6 am to 10 am on both sides of the street. He asked the petitioner where he and staff planned to park. Mr. Rodriguez responded that he is a nearby resident, and his staff would be himself, his wife, and perhaps his mother and cousin, and all would walk to work.

David Pollina, 12 Porter Place, spoke in opposition to the request. The old grooming business did not open until 10 a.m., after permit restrictions were over. This business would be adding to the traffic and parking difficulties on the street, which are already exacerbated because of the daycare (site is located across the street and about two houses down).

After some discussion, the Board concluded that the petitioner would need to file an amendment to the application to include the hours of operation in the request, since the proposed hours are to open before 7:00 a.m., and a plot plan. This item will be scheduled after the daycare item at the next meeting.

MOTION: Petition is continued to October 29th.

PETITION 19-26

99 GALE RD

Petition 19-26 by JONATHAN & RACHELLE DUBOW seeking a dimensional special permit to build a covered entry porch located at 99 GALE ROAD. (Map 36, Lot 15). Mr. Dubow was present to represent the petition. The front door the owner's use is actually on Rockledge Road. They have recently done interior renovations on the house and are looking to put an exterior landing with a covered overhang. They met with the abutter across the street about the petition.

There was no public comment.

MOTION: A. Rose to approve Petition 19-26 for the relief requested (dimensional special permit) to be built in accordance with the plans submitted. Seconded by D. Doherty; unanimously approved.

PETITION 19-17

404 HUMPHREY ST

Petition 19-17 by RAFFAELE'S HAIR SALON seeking a sign special permit and site plan special permit to replace awning sign. Property located at 404 HUMPHREY STREET (Map 19, Lots 116). Ralph Balducci was present to represent the petition.

There was no public comment.

MOTION: A. Paprocki to approve Petition 19-17 for the replacement of an awning for 404 Humphrey Street to comply with the plans as filed. Seconded by D. Doherty; unanimously approved.

PETITION 19-20

17 CROSMAN AVE

Petition 19-20 by ERIN SINGH & TEGHPAL SINGH seeking dimensional special permit, special permit (nonconforming use/structure), and site plan special permit for an addition to expand the existing kitchen, addition of a family room on

the first floor, expansion of the current bathroom, addition of a back deck, demolition of existing two-car garage to replace with one-car garage. Property located at 17 CROSMAN AVENUE. (Map 27, Lot 66).

Erin and Teghpal Singh were present and gave a brief overview of the application. Updated plans were submitted recently to revise the addition from 20 feet to 16 feet. The addition provides an additional bedroom, expands a bathroom, and adds a family room. Additionally they are demolishing the existing two car garage and replacing with a one-car garage. The Planning Board had asked about placement for the planned a/c unit, however the petitioner has decided not to install an a/c unit. The petitioner's also provided additional letters of support from neighbors.

There was no public comment.

MOTION: A. Rose to approve Petition 19-20 for the requested relief (dimensional special permit, special permit (nonconforming use/structure), and site plan special permit) provided all work is done in accordance with the new plans submitted and incorporating comments of the Planning Board. Seconded by A. Paprocki; unanimously approved.

PETITION 19-12

2 SMITH LANE

Petition 19-12 by DOROTHY FOLEY seeking dimensional special permit, special permit (nonconforming use/structure), and site plan special permit for construction of new single-family home. Property located at 2 SMITH LANE. (Map 7633, Lot 21-60).

A. Rose recused himself from the hearing.

M. Kornitsky noted that there were only four members, and so the applicant has the choice of continuing to a time when there are 5 members present. Or if the applicant chooses to continue with the hearing, they would be allowed to withdraw without prejudice if members appear to be in dissent of the request.

Mr. Shutzer, attorney for the Callahan's (abutter), stated that he objected to holding the hearing as new information was filed that he did not receive in a timely manner, which is a procedural issue. He asked that this item be continued in the issue of fairness, as the abutter has had no chance to prepare a response to the updated filing.

Ms. Campbell, attorney for the Petitioner, said that the revision was filed the prior Thursday and the changes that were made were in response to the abutter's objections from the last meeting. She also noted that the abutter had engaged Hayes Engineering to file a response, which she was not notified of. She did provide a copy of the filing to Mr. Shutzer this week.

M. Kornitsky stated he had some concerns about process, which were reiterated by other members of the Board.

The applicant chose to continue.

MOTION: Continue to October 29th.

Adjourn: 8:37 p.m.

Molly O'Connell
Senior Planner