



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

October 22, 2015 –Scalley, Business Meeting

Present

Cynthia Maxwell, Chairman

Jay Prager, Member

Robert Cadle, Member

Mark Mulligan, Member

Alison Manugian, Member

Bruce Easom, Associate Member

Berta Erickson, Associate Member

Not Present

A quorum was attained. The meeting was called to order at 7:05 pm.

Meeting Minutes

Scalley Special Permit

Chairman Maxwell convened the hearing by reading the legal notice.

No abutters were present. George Barringer, Planning Board and Michelle Collette, Town Planner, were present.

The Chairman read two memos from PB and BOH into the record.

Don Black, agent for applicant, said the structure was built in 1930 or 31 as a camp but has been used year round recently. He said there is a relatively new Title V compliant septic system and a well providing water. He said the Scalleys have contracted to purchase the property with the understanding that they could raze the existing dwelling and reconstruct with a new enclosed concrete foundation, close to the outline of the existing dwelling. He said it would remain a two bedroom, noting that a second floor will be added and a single car garage constructed.

Member Mulligan asked for clarification about whether this is new construction, which the applicant said it was, and about year round use, which was represented as until April of this year. He asked about frontage, which according to Mr. Black is on a paper road easement and is about 65 feet.

Mr. Black said the septic system is approved for a two bedroom but according to the Assessors map, it is a three-bedroom dwelling.

Member Prager asked about setbacks because they are not shown on the drawing.

Mr. Scalley said the dwelling would probably be 16 feet on either side from the side boundary.

Member Prager said he wants to know specific numbers.

Mr. Black said the dwelling conforms to the side setback requirement of 15 feet.

Mr. Scalley said the new dwelling would be more conforming.

Member Manugian asked whether there is a statute of limitations regarding requiring a seasonal conversion permit if the dwelling has been used year round for some years.

Mr. Black said the BI told him it would be a special permit process rather than a variance.

Discussion ensued regarding the BOH process and a site walk with Mr. Black and Mr. Grossman regarding the well, which was described by Mr. Grossman as to “how not to do a well”. Mr. Black also explained why putting a well on abutting properties would not work.

Member Mulligan asked whether the existing well could be brought into compliance.

Mr. Black felt there were several ways to make it happen, with some work.

Member Cadle asked what the tenants were drinking.

Mr. black said water from that well.

Member Mulligan asked whether there has been a formal determination of the drinkability of the water.

Mr. Black said there has been no testing done.

Discussion ensued regarding what was actually wrong with the well. Mr. Black felt that it was just unsightly, rather than undrinkable.

Member Prager said he did a drive by and couldn't really see the property because the frontage is on a paper road. He also said he feels all issues raised by the PB and the BOH are legit and he wants to know whether they need a variance or just a special permit.

Discussion ensued regarding whether a reconstruction of this nature would qualify for a special permit.

Member Manugian said she felt that a lot of these issues would fall under a seasonal conversion special permit, if required.

Mrs. Collette said the applicant's representation that this is a paper street should also be pursued because it is not necessarily a paper street and thus there may be no frontage, noting that the burden of proof is on the applicant. She said that if it is a paper street there is a process under the zoning bylaw that defines how frontage is obtained, including meeting with the PB and head of DPW re: access issues and adequacy. She said there is also a critical question as to whether this is new construction or the alteration of an existing structure, noting that if it is not a paper street, this lot has no legal access. She said the BOH questions are not going to be easily resolved and in the interest of the purchasers, the town needs to make sure the lot is in fact habitable.

Mr. Black said there are homes in the neighborhood that have been embellished and he wondered what process they followed to complete the work.

Member Prager said that since the dwelling exists and hasn't been abandoned, what does frontage have to do with it.

Mrs. Collette said to provide safe access.

Member Prager asked whether using the exact footprint would alleviate the frontage issue.

Mrs. Collette said yes.

Member Manugian said that as she reads the bylaw, this sort of alteration is allowed.

Mr. Black said that if they took the existing dwelling and built it out and improved it, they would have to prove safe drinking water through a test and no other questions would be asked after that.

Discussion ensued regarding what the seasonal conversion bylaw means and whether a conversion permit is needed here.

Mr. Scalley said the neighbors would testify that someone lived there year round and that they are in favor of the proposal because the existing dwelling is an eyesore.

Discussion ensued regarding how to determine whether a dwelling is lawfully seasonal or not and how to determine whether a special permit for seasonal conversion is required.

Mr. Black said that if they went today to the house, the board would see that it is set up for all year round living.

Member Prager said he is not asking for a conversion because the dwelling will be torn down.

Member Manugian said she can't approve a dwelling that is possibly not habitable.

Discussion ensued regarding how to determine habitability.

Mr. Black said part of BOH requirements is Title V approval, which they have.

Member Cadle said the number of bedrooms seem to be a Title V concern but the memo from the BOH addresses concerns about increasing square footage.

Mr. Scalley said the proposed garage makes the increase seem greater.

Discussion ensued regarding the ramifications of the BOH limiting height and square footage.

Mr. Black said he didn't know about the height/square footage limitation.

Mrs. Collette suggested there is more information available from 2006 that may help the Board.

Discussion ensued regarding what information is required before a continuation. Of primary concern is getting BOH issues resolved before closing the ZBA hearing.

Member Manugian made a motion to continue the hearing until the BOH issues have been resolved.

Member Cadle asked whether there is a Cons. Comm. issue.

Member Easom said there has been a meeting and no order of conditions has been drafted yet but the applicant appears willing to address all Cons. Comm. concerns.

The hearing was continued to December 9th at 7 PM. The motion was seconded and passed unanimously.

Other business

Discussion ensued regarding topics to raise at the meeting with the BOS, PB, BOH, BI and Town Counsel.

Minutes and Bills

Minutes from 8/5, 8/31 and 6/17 were approved. The motion was seconded and passed unanimously.

One Groton Herald bill was signed.

Member Manugian made a motion to adjourn at 8:30 pm. The motion was seconded and all voted aye.

Approved 11/18/15.