



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

December 9, 2015 – Scalley, Scampini, Bargoot, 8 Flavell

Present

Cynthia Maxwell, Chairman

Robert Cadle, Member

Mark Mulligan, Member

Jay Prager, Member

Bruce Easom, Associate Member

Berta Erickson, Associate Member

Not Present

Alison Manugian, Member

A quorum was attained. The meeting was called to order at 7:00 pm.

Meeting Minutes

Scalley Special Permit

Chairman Maxwell reconvened the hearing.

Mr. Black, contractor, requested a continuation to the next meeting in January, which has yet to be scheduled. Chairman Maxwell read the request into the record.

Member Mulligan made a motion to grant a continuation to January 27th as requested by the applicant. The motion was seconded and passed unanimously.

Scampini Accessory Apartment Special Permit

Chairman Maxwell convened the hearing by reading the legal notice. She also read a memo in support from the PB.

No abutters were present.

The Scampinis were not present. The board discussed whether to proceed without the presence of the applicants.

Discussion ensued regarding what is planned and whether the proposal meets the criteria of the bylaw.

Member Cadle asked for some additional clarification, if possible, from other board members.

Member Prager said he felt there are no non-conformities, nor are any created.

Mrs. Collette said she is not speaking on behalf of the applicant, but noted that she has had several meetings with the building department and she understands the bylaw and what needs to make the apartment conforming. She said it is a flexible development lot that was created in the 1980's as a single family and thus could have an accessory apartment but not be a two family. She said she has a permit to winterize the porch but understood that she needed a permit from the ZBA to convert an accessory apartment.

Member Prager made a motion to approve with the contingency that the apartment meets all criteria outlined in the accessory apartment bylaw, including being limited to less than 800 square feet and provide an additional parking space.

The motion was seconded and denied by a motion of three to two.

Mrs. Collette said the daughter has serious health issues and thus may be why the applicant is not here.

Discussion ensued regarding how to proceed. Members Easom and Cadle both said they would not vote in favor without the applicant present to answer questions.

Member Prager made a motion to rescind the vote, which was seconded and passed unanimously.

Member Cadle make a motion to continue deliberations until after other business was attended to. Member Easom seconded and the motion passed unanimously.

Bargoot Special Permit

Chairman Maxwell convened the hearing by reading the legal notice. She then read memos from the PB, BOH and Conservation Commission into the record.

No abutters were present.

Ronald Bargoot, father of the applicant was present and introduced his son's girlfriend, noting that his son was unable to be present due to job commitments. He said he grew up there, his son grew up there and his son wants to raise his kids there. He said the pitch of the roof is very low and one can't stand up in the attic space, noting that the roof has suffered severe ice and snow damage over the years. He said last winter was

brutal and they couldn't keep up with shoveling snow off the roof and thus it is in bad shape. He said they want to take the roof off and replace it with a gambrel that increases the pitch, reduces ice dams, and will create more storage space. He said the house has no closets, etc.

The applicant said they have a storage unit now and it is expensive.

Member Prager said it seems like a lot of work is being done there now.

Mr. Bargoot said he didn't know about the work until recently.

Member Prager said the lot seems very small.

Mr. Bargoot said his son owns three abutting lots.

Member Prager said he is confused about what is planned, noting that it seems like a single story foundation on stilts. He said he couldn't tell anything from the drawings.

Mr. Bargoot said he had nothing to do with the application, but noted that his son had to take down walls because of severe rot. He said the house is going to be narrower because the 18-inch overhangs will be reduced to 12 inches. He said no additions are being added and no rooms are being added or taken away, noting that the downstairs porch is just a porch and will remain as such.

Member Prager asked whether the porch would be turned into living space in the future.

Mr. Bargoot said no, that they are just trying to fix the damage. He said they couldn't get a mortgage to fix the damage because the property lines were messed up until 2009, noting that they are now resolved. He said the neighbor's house burned down, which is how they acquired additional lots, although they are on separate deeds.

Member Prager asked whether the lots have merged.

Discussion ensued regarding whether the lots have merged for zoning purposes and whether septic, etc., could be put there.

Member Prager asked whether they have been to any other boards.

Mr. Bargoot said no, noting that he thought this was the first step.

Discussion ensued regarding whether raising the roof would make taller the dwelling than abutting properties.

Mr. Bargoot said the roofline is way below abutting properties, which will be just 22 feet with a gambrel style.

Member Cadle said it would be significantly higher than the existing height.

Mr. Bargoot said nine or ten feet higher, but there will be no windows and no living space.

Member Prager said the drawing shows roof to be 30.5 feet above grade.

Mr. Bargoot said it depends on which end it is measured from.

Member Mulligan asked about any Title V inspections.

Mr. Bargoot said nothing is required and nothing has been done.

Discussion ensued regarding why the BOH is requiring Title V certification.

Mrs. Collette said the BI couldn't do anything when the roof height is being raised without a permit from the ZBA, pursuant to the Goldhirsch case of some years ago. She said when a building permit is applied for, an FOI is submitted and this raises issues with the BOH.

Discussion ensued regarding what BOH jurisdiction is and what triggers a review.

Dan Wolfe said he is not surprised that the BOH responded that way but this is clearly a necessary maintenance issue. He said the BOH at any time has the right to require a Title V inspection but will likely let well enough alone if they understand the scope of the project, along with the Cons. Comm.

Mr. Bargoot said there would be no excavation either.

Member Easom noted that they are not increasing floor space.

Member Mulligan suggested conditioning that if the BOH and Cons. Comm. want a review, they can request/demand one.

Chairman Maxwell felt that they didn't know what was planned and will be satisfied when the boards find out exactly what the proposal is.

Member Cadle said he felt that Mr. Grossman didn't know about the ownership of abutting lots in making his statement about well/septic setback location.

Mr. Bargoot said it is six lots and there is more than 50 feet.

Member Easom made a motion to grant a special permit for Kyle Bargoot, 2 Alder Road for the proposed increase in roof height for the purposes of reducing snow loads on the roof, and is contingent on there

being no increase in square footage of living space as a result of the increase in roof height, as well as BOH and Cons. Comm. review. The motion was seconded and passed unanimously.

8 Flavell Road Special Permit

Chairman Maxwell reconvened the hearing.

Neil Gorman, Ross Ass. and owner Mr. Laforriere were present. Mr. Gorman presented a plan showing all of the existing conditions on the site and went over the history briefly. He said the proposed dwelling has a slightly larger footprint but is no nearer to the front property line and meets side and rear setback requirements. He said the existing dwelling is 600 square feet and the new is 40 x 23 or 920 square feet. He said they would tie in to the new septic system built this year, noting that the permit extension act allowed for the system to be constructed with the intent to get the property up to code to sell. He said the property is not currently on the market but has been shown recently by realtors.

Discussion ensued regarding the use issue, which involved decommissioning the well, building a septic system, paying taxes, water and electric bills.

Mr. Gorman said the property is not abandoned and improvements have been made that should be construed as use. He then submitted electric bills.

Chairman Maxwell read street listings into the record that show the dwelling as a residential use up to 2014, along with tax records.

Mr. Gorman said his client and the owner could cite use and activity on the site, which was used as a residence up until he purchased it. He said it was shut down for safety reasons and he focused first on the septic system.

Member Cadle asked whether it was purchased as an investment.

Mr. Laforriere said yes, noting that he could do the septic because of the permit extension act. He said the dwelling would remain a 2 bedroom, which is conditioned in a deed by the BOH.

Member Mulligan said that the use argument seems to be related to wanting to improve the dwelling.

Member Cadle said it has to have been used as a residence within the last two years, noting that it seems the use is working to fix and improve the property to make it habitable.

Member Cadle asked when the septic system was finished.

Mr. Gorman said the final septic plan is dated 9/22/15.

Member Cadle said he is not going to get into the esoteric use issue but there seems to be a lot of activity on the site.

Member Easom, using GELD bills, said use is brought back to 2013, with no kw hours used at all for the past two years. He said average homes use 500 or so kw/hrs per month so this was not used as residence and the document should not have been presented as an indication of use.

Mr. Laformiere said that it shows everything has been paid, etc.

Member Erickson asked why Ryan Kelly is listed on the street listing.

Dan Wolfe said that he is the last renter, noting that he agrees that use is not a cut and dry issue. He said the property was actually bought by three different people to try to make the dwelling habitable. He said that because use is not well defined in the bylaws, they are trying to show intent that the property should remain a residential dwelling. He said he thinks this is a clear cut case of intent to use, and under benefit to the neighborhood, etc, this is a clear benefit.

Mrs. Collette said no concerns have been expressed by other boards, noting that she commends the applicant for improving the septic before getting a permit from the ZBA. She said it is a common sense/fairness issue, asking how is this different from someone moving cross-country while trying to sell their house. She said this is indicative of attempts to improve the property and complying with all town requirements.

Mr. Gorman said a town official has been out multiple times to oversee work done on the site, stressing that the activity was done with coordination with the town.

Member Prager said he is interested in non-conformities and uses and cited a document that gives snapshots of the issue/s, which dwells on intent.

Member Cadle thinks there has been sufficient activity to justify a permit.

Member Cadle made a motion to grant the applicant's request for a special permit to construct a new dwelling at 8 Flavell Road, pursuant to plans submitted with the application and the condition that it is limited to two bedrooms and under the following findings.

- 1) Economic: removing dilapidated dwelling;
- 2) No impact on traffic;
- 3) Improvement because of a Title V compliant septic system and town water;
- 4) Character of the neighborhood will be improved;
- 5) The project is better for the environment;
- 6) Fiscal impact will be positive.

Member Erickson seconded the motion , which passed four to one.

Scampini Accessory Apartment Special Permit

Discussion ensued regarding how to proceed with no applicants present.

Further discussion ensued.

Member Cadle made a motion to continue to January 27th. The motion was seconded and passed four to one.

Other business

Minutes and Bills

One Groton Herald bill was signed.

Member Prager made a motion to adjourn at 8:45 pm. The motion was seconded and all voted aye.

Approved 2/24/16