

MINUTES OF THE BOARD OF APPEALS  
TOWN OF ANDOVER, MASSACHUSETTS

Memorial Hall Library, Elm Sq., Andover

February 1, 2007

**APPROVED 3-1-07**

There were present: Anderson - Chair, McDonough - Clerk, Batchelder & Brown. Meeting opened at 7:08 p.m. Bevacqua arrived at 7:15 p.m.

PETITION NO.: 3680  
PETITIONER: Maihiot  
PREMISES AFFECTED: 38 Wild Rose Dr.

Mr. Maihiot represented himself & his wife in their request to renew a special permit for a family dwelling unit approved in Decision No. 3179. He & his wife occupy the unit while their daughter occupies the main house. None of the circumstances have changed. McDonough made a motion to close the hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. Batchelder made a motion to extend the special permit for a period of 5 years. McDonough seconded the motion & the Board voted (5-0) to extend the special permit. McDonough will write the decision.

PETITION NO.: 3681  
PETITIONER: Zimmerman  
PREMISES AFFECTED: 9 Carisbrooke St.

A representative from Black Dog Builders spoke on behalf of the Zimmerman's request to construct a roof over the existing front stairs. The roof will be 4'7"x6' which includes an 8-12" overhang beyond the edge of the bottom step. The roof will be 10'6" high. The existing front setback is 26'. The overhang will encroach into this less than 12". Anderson asked for the hardship. The lot slopes up from the street & weather protection is a major concern. The Black Dog representative showed photos of abutting properties with similar overhangs. The Board waived a site view. McDonough made a motion to close the public hearing. Brown seconded the motion & the Board voted (5-0) to close the hearing. Brown pointed out that the house was built in 1923, thus predating zoning making the house pre-existing, non-conforming & eligible for a special permit. Batchelder agreed. Brown made a motion to make a finding that it is a pre-existing, non-conforming structure & that the proposed roof will not create a new non-conformity. The Board voted 4-1-0 (Anderson abstained) to approve the special permit. Brown will write the decision.

PETITION NO.: 3682  
PETITIONER: Yamamoto  
PREMISES AFFECTED: 129 Summer St.

Gwen Yamamoto represented herself & her husband in their request to construct additions & alterations that will not meet setback requirements. The proposed side & rear additions will be approximately 700-800 sq. ft. total, doubling the size of the house. The proposed farmer's porch on the front will not be closer than the neighbors' porches (approx. 20'). Brown showed the Board photos that he had taken of the house. McDonough asked if the lot slopes. Mrs. Yamamoto stated that the lot is level. Batchelder asked about the newer plot plan that depicts different dimensions. Yamamoto stated that the newer plan depicts the proposed dimensions. Brown asked why the entire addition couldn't be at the rear. Yamamoto stated that it would affect excavation for the proposed garage & impede the neighbor's land. Proposed excavation would be 10', which Builder Mike Diodati stated wouldn't affect run-off. Dick Morrissey, immediate abutter, commented that the

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area is full of ledge & asked if blasting occurred, what assurance would they have if there were damage to their house. Anderson commented that the presence of ledge might constitute a hardship. It is possible to do a pre-blast survey. Jane Morrissey, direct abutter, asked about a time limitation on blasting complaints. Anderson stated that there is a 3-year statute of limitations & asked the Morrissey's if they are in favor or opposed to the project. Mrs. Morrissey stated that she is only concerned about the close setback of the additions, but not the porch. Donna Kwolik, abutter across the street, voiced concern about blasting & the effect on the water table and water in their basements. Jeff Calibury, 134 Summer St., voiced concern with the proposed setbacks, density, open air space, safety issues, proposed excavation, & run-off. He argued that a rear addition could conform to all setbacks. The Board waived a site view. Mr. Beder voiced the similar concerns. Mrs. Yamamoto asked if they would need zoning relief if the entire addition were in the rear. Anderson stated that because the lot is undersized the Inspectors would have to make a determination depending on the exact proposal. McDonough made a motion to close the public hearing without a site view. Batchelder seconded the motion & the Board voted (5-0) to close the hearing without a site view. The Board voted 0-5 denying the application. Batchelder will write the decision.

PETITION NO.: 3676

PETITIONER: Soltes

PREMISES AFFECTED: 16 Arundel St.

This is a continued public hearing. Mr. Soltes represented himself & his wife. He explained to the Board that they had some cost estimates & based on these, they no longer want to build the originally proposed breezeway to the garage. They simply want to rebuild existing rear stairs to the exact same dimensions & enclose them. Anderson stated that the legal ad is sufficient to proceed. McDonough made a motion to continue to the March meeting in order to receive the appropriate documentation for the revised proposal. Anderson noted that the Board hadn't reopened the hearing yet. Batchelder pointed out that section 4.1.3.2.b may apply & therefore they may not need zoning relief. Anderson advised Mr. Soltes to present the revised proposal to the Building Inspector to get a determination on whether they need zoning relief. Soltes requested an extension to the March meeting. Anderson made a motion to continue the hearing to the March 1, 2007 meeting. Batchelder seconded the motion & the Board voted (5-0) to continue the hearing to the March meeting.

Brown then made a motion to approve the minutes of the January 4, 2007 meeting. Batchelder seconded the motion & the Board voted (5-0) to approve the January 4, 2007 minutes.

Brown made a motion to recommend that Town Meeting adopt M.G.L. Ch. 39 Section 23D. Batchelder seconded the motion & the Board voted (5-0) to recommend that Town Meeting adopt M.G.L. Ch. 39 Section 23D.

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