

Present were: Anderson (Chair); McDonough (Clerk); Brown (Member); Baime, Boness and Matey (Associate Members).

The meeting opened at 7 p.m.

Petition No.: 3859

Premises affected: 84 Maple Ave

Petitioner: O'Brien

Members: Anderson, Brown, Baime, Boness, Matey

There was a request to continue the hearing without opening to 1/7/10. McDonough made a motion to continue without opening to 1/7/10. Baime seconded the motion & the Board voted unanimously to continue to 1/7/10.

Petition No.: 3803

Premises affected: 0 & 86 River St., 15R Charlotte Dr

Petitioner: Taylor Cove

Members: Anderson, McDonough, Brown, Baime

This is for the rescheduling of the continued public hearing prior to the 1/1/10 180-day deadline. Attorney Don Borenstein agreed to an extension beyond the 6 months until the end of January / beginning of February. Anderson asked the Board for two possible dates. It appears that 1/28/10 there will be 4 members available. Anderson moved to continue the hearing to 1/5/10 on the provision that Member Batchelder is available to vote on the 1/5/10 date. If not, then the Board can continue to 1/7/10 for scheduling only. Anderson made a motion to continue to 1/5/10. Borenstein asked for a subcommittee to discuss the site plan layout. Anderson agreed on the condition that the discussion will not be binding and be conducted in an open public session that will be posted. It will not be a technical meeting or part of the hearing. No evidence will be taken or binding. The meeting shall be set up through the zoning administrative secretary. McDonough made a motion to continue until 1/5/10 or 1/7/10. Brown seconded the motion. The Board agreed to continue the hearing without discussion until 1/5/10 at 7 pm, or 1/7/10 if Batchelder is not available on 1/5/10. Borenstein agreed to submit an extension letter until 2/1/10.

Petition No.: 3861

Premises affected: 15 Locke St

Petitioner: MRBS LLC

Members: Anderson, McDonough, Brown, Matey

This is for scheduling purposes only. Anderson gave an overview of the vote to deny the request as Party Aggrieved & modification to the previous variance, and the applicant's option to conform to previously approved plans or the option to appeal the denial. Raphael Brickman, buyer of 15 Locke St., agreed to use the Bramhall plans dated 11/18/09. Anderson explained that since the approved plans were not followed, Brickman needs an affirmative action from the Board. Anderson asked for potential dates to conclude the hearing. Brown made a motion to continue the hearing to 12/21/10 at 7 pm, location to be determined. Matey seconded the motion & the Board voted (4-0) to continue the hearing to 12/21/10 at 7 pm. The location, once determined, will be posted on the website. Anderson suggested that Board members who voted 'no' to talk with Town Counsel regarding the options. Johnson agreed.

Petition No.: 3864

Premises affected: 10 Bailey Rd

Petitioner: Butt

Members: Anderson, McDonough, Brown, Boness, Matey

This is a continued public hearing. Attorney Mark Johnson submitted a landscape plan for the proposed house on behalf of the petitioner. He noted that the abutter will choose the buffer (fence or evergreen). The choice must be made within 3 months after the foundation goes in. Brown suggested that the abutter be referred to by address rather than by name. Johnson submitted a draft approval. Brown made a motion to close the public hearing & to deliberate the case at the end of the meeting. McDonough seconded the motion. The Board voted (5-0) to close the hearing & deliberate at the end of the meeting.

Attorney Johnson submitted a letter regarding 33 High Street noting that he is listed as the representative, but Mr. Ahern will be present.

Petition No.: 3868

Premises affected: 8 North St

Petitioner: Stevens

Members: Anderson, McDonough, Brown, Boness, Matey, Jeton, Baime

Lincoln Stevens, owner, represented his request for a variance from 4.1.2 &/or for a special permit under 3.3.5 to construct new uncovered stairs that will not meet the front setback. The proposed stairs will be 4'x4', although the plan shows 6'x6'. Stevens confirmed that the proposed stairs will be 4'x4'. There being no questions or comments from the Board or the public, Brown made a motion to waive the site view & close the public hearing. McDonough seconded the motion & the Board voted unanimously to waive the view & close the hearing. McDonough & Matey sat off the deliberation. The Board then deliberated.

The house was built in 1945 when the minimum front setback was 30' & conformed at the time it was constructed. Since the change in the bylaw, the proposal qualifies for a special permit under 3.3.5. Brown made a motion to approve the special permit under 3.3.5 & to deny the variance from 4.1.2 as moot. Anderson added the condition that the plot plan shall be corrected & amended the motion. Jeton seconded the amended motion & the Board voted (5-0) to grant the special permit with the condition that the plot plan shall be corrected prior to issuance of the building permit. Baime will write the decision.

Petition No.: 3869

Premises affected: 199-209 N. Main St

Petitioner: Guys of Andover

Members: Anderson, McDonough, Brown, Boness, Matey, Jeton, Baime

David Mackwell, of Kelly Engineering, represented the applicants request for a special permit for the restaurant use, a variance from 5.1.4 to reduce the total required parking spaces for the entire plaza. The parcel contains 17.3 acres and 4 buildings. The existing Grassfield's restaurant is expanding by 2,000 sq. ft. Because the use predates the bylaw requirements, a special permit is required. The use is in character with the plaza & is not detrimental. There is an analysis of off street parking in the packet: 584 spaces required, 560 exist on site. A variance is requested for a reduction. The hardship is the shape of the lot, the slope at the rear and the riverfront minimizing the area that can be used for parking. The Board discussed the varied uses & business hours, which allows for flexible use of the spaces, as well as the repaving & repainting of the spaces. The comingled parking spaces have always been & will always be shared amongst tenants / customers. The Board noted that the restaurant use predates the bylaw change in 1988 from General Business to Mixed Use district that now prohibits restaurants. Anderson asked for a plan depicting the current & future parking assurances. Anderson suggested that the petitioner seek a list of conditions from the Planning Board for parking. Several residents commented on the parking situation and whether the variance would run with the land or the tenant. The variance runs with the land. There being no other questions or comments from the Board or the public, McDonough made a motion to continue the public hearing to 1/7/10. Boness seconded the motion & the Board voted unanimously (7-0) to continue the hearing to 1/7/10.

Petition No.: 3866
Premises affected: 33 High St
Petitioner: Ahern
Members: Anderson, McDonough, Brown, Boness, Matey, Jeton, Baime

Doug Ahern, applicant requesting a dimensional special permit for historic preservation, summarized the recent history of the property: house from 120 Salem Street was moved to 33 High Street, however the Salem Street house has been removed). His proposal is to construct a new house on the footprint that was previously approved in 2008. He has been discussing the project with Preservation Commission. The existing barn will remain & be renovated for parking. The existing house has three units. Debra Day-Cummings, 67 High St., opposed the proposal stating that it does not fit the intent of the bylaw. She submitted a petition to deny the application. Resident at 20 High Street also submitted a letter of opposition. Doug Cummings, 67 High St., commented on the level of plan detail, water concerns in the neighborhood & run-off mitigation. Meg Bennett, 9 Maple Ct., voiced opposition. Justin St. James, 21 High St., opposed the project. Member Matey disclosed that he had done work for St. James. No one opposed his participation in the hearing. Michael Turmel, 7 Maple Ct., voiced opposition. He asked the Board to conduct a site view. Scott Stucker, 23 High St., voiced opposition. Karen Hermann, Preservation Commission Chair, outlined the Commission's concerns & the ultimate goal of preserving the character of the neighborhood & to prevent the demolition of the historic structure. There will be a follow-up meeting on 12/8/10 to discuss a preservation restriction. Cindy Rayner, owner of 33 High St., informed the Board that she is trying to prevent demolition & informed the Board of why the 120 Salem Street house is no longer there. The Board discussed the status of the existing house as a 3-family and the current proposal to further develop the lot. Ahern voiced his flexibility to compromise. The Board discussed the options for developing the property & suggested that they could either vote tonight or continue in order to give the applicant time to speak with neighbors. Ahern requested a continuance. Anderson requested an extension of time for the Board to act until end of March. McDonough made a motion to continue the hearing to 2/4/10. Anderson outlined three options: construct a single family dwelling on a new lot at rear, add to the existing house or enlarge the barn & convert into a dwelling unit. McDonough made a motion to continue the hearing to the February 2010 meeting. Brown seconded the motion & the Board voted (7-0) to continue to February.

Petition No.: 3864
Premises affected: 10 Bailey Rd
Petitioner: Butt
Members: Anderson, McDonough, Brown, Baime, Boness, Matey

The Board deliberated the case. Anderson noted the hardship related to the soil conditions, shape & topography (wetlands). The Board discussed the change in wetlands, how the construction of the house may exacerbate wetland & beaver issues and whether or not the house is appropriate for the lot / in keeping with the neighborhood. It conformed to the contiguous upland requirement at the time the lot was laid out. Matey sat off the remainder of the deliberation. Brown made a motion to approve the variance with the condition that screening shall be installed (either fence or vegetation as chosen by the abutter) within three months of notification to abutter that the foundation has been installed. There was no second to the motion. Brown made a motion to deny the variance because the statutory criteria for a variance have not been met. Boness seconded the motion & the Board voted (3-2) to deny the variance. Brown & Anderson voted against denying the variance. McDonough will write the decision.

Approval of Minutes

Minutes of 10/5/09 – Boness made a motion to approve the minutes of 10/5/09. Baime seconded the motion & the Board voted unanimously to approve the minutes of 10/5/09.

Minutes of 9/3/09 will be approved at the next meeting.

Anderson recused himself from the remainder of the meeting.

Petition No.: 3867

Premises affected: 149R Haggetts Pond Rd

Petitioner: Clearwire

Members: McDonough, Baime, Brown, Jeton, Boness, Matey

Jeton served as Acting Chair for the public hearing.

Eric Dahl, representative for Clearwire, was present to request a special permit for collocation of antennas on an existing 427' guyed tower. Applicant wants to install 4-2.5' dishes, 3-48" panels at 200', plus a radio equipment cabinet will be placed in the existing building at the base of the tower. The Board discussed coverage gaps, the type of technology (4G), the need for the structural analysis to be done to Rev. F, the unacceptable comparative analysis, the lack of photo simulations, and the inaccurate plans. Baime made a motion to close the public hearing. Matey seconded the motion & the Board voted (6-0) to close the hearing. Brown sat off the deliberation. The Board deliberated.

Baime made a motion to approve the special permit with conditions:

1. A signed / sealed structural analysis proving that the loading is suitable must be submitted.
2. A sketch of where the dishes / panels will be located on the tower.

Jeton seconded the motion & the Board voted (5-0) to grant the special permit with conditions. Boness will write the decision.

Petition No.: 3865

Premises affected: 220 Andover St

Petitioner: T-Mobile

Members: McDonough, Baime, Brown, Jeton, Boness, Matey

There was a request to continue the public hearing without opening to 1/7/10. Boness made a motion to continue the hearing without opening to 1/7/10. Matey seconded the motion & the Board voted unanimously to continue to 1/7/10.

There being no other business of the Board, the meeting adjourned at 10:10 p.m.