

Selectmen's Conference Room, 3rd Floor, Town Offices, 36 Bartlet Street, Andover

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown (Members); Baime (Associate Members)

The meeting opened at 7:00 p.m.

Petition No.: 3882

Premises affected: 43 River Rd

Petitioner: T-Mobile

Members: McDonough, Brown, Jeton, Baime

Anderson recused himself from this vote. There was a request to continue the hearing to 6/3/10. The Board voted (4-0) to continue the hearing to 6/3/10.

Petition No.: 3869

Premises affected: 199-209 N. Main St

Petitioner: Guys of Andover, LLC

Members: Anderson, Jeton, Brown, Baime

There was a request to continue the hearing without discussion to 6/3/10. The Board voted (4-0) to continue the hearing to 6/3/10.

Petition No.: 3884

Premises affected: 216 Beacon St.

Petitioner: Loder

Members: Anderson, McDonough, Jeton, Brown, Baime

Lelani Loder presented her requested for a Variance from § 4.1.2 &/or for a special permit under § 3.3.7 to raze the existing single family dwelling & build a new single family dwelling that will not conform to the minimum front setback requirement on a lot that lacks the minimum required area & frontage. The 65 yr old home needs substantial repairs, including significant structural modifications to the roof system. After reviewing the cost of repairs, she determined that a more prudent investment would be to replace the structure. The house, constructed in 1945, conformed to the dimensional requirements of the Zoning Bylaw at that time. The lot area is 13,450 sq. ft. where 30,000 sq. ft. are required & the lot's frontage is 99' where 150' are required. The proposal is to replace the one story, 864 sq. ft. home with a two story 2200 sq. ft. home with a garage underneath. The location of the existing septic system precludes placement of the new house further to the rear of the lot, thus the location of the proposed dwelling would encroach into the front yard setback by 6'. The existing garage would be demolished & the driveway would be relocated, improving sight lines on Beacon Street & improving safety conditions. Total impermeable area on the lot would be reduced from 1450 sq. ft. to 1292 sq. ft. The neighbors from 1 Swan Lane asked about the height of the proposed structure & raised no objections. Loder stated that she had contacted other neighbors, all of whom expressed support for the petition. No one else was present to speak on the petition. The Board voted to waive the view, closed the public hearing & proceeded to deliberate.

The Board found that the existing condition of the house & the current location of the driveway warranted demolition & replacement. Further, soils on the lot dictate the location of the septic system, defining a reduced building envelope on the lot. The minor encroachment into the front setback was reasonable & could be granted by variance. The Board voted (5-0) to grant a variance from Article VIII, § 4.1.2 with the condition that construction be in substantial compliance with the plans submitted with the applications & the plot plan drawn by Pennoni Associates Inc, for 216 Beacon Street, dated April 9, 2010. The Board voted 5-0 to deny the request for a special permit under Article VIII, Section 3.3.7 as moot.

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Petition No.: 3881
Premises affected: 8 High St
Petitioner: Enterprise Bank
Members: Anderson, McDonough, Jeton, Brown, Baime

There was a request to withdraw without prejudice. The Board voted unanimously to allow the withdrawal without prejudice.

Petition No.: 3883
Premises affected: 33 High St
Petitioner: Ahern
Members: Anderson, McDonough, Jeton, Brown, Baime

There was a request to continue the hearing without discussion to 6/3/10. The Board voted unanimously to continue the hearing to 6/3/10.

Discussion Item: CHAPA update & Transfer of Regulatory Agreement – Wild Rose Estates

The Board discussed the affordable housing update from CHAPA as well as a transfer in the Regulatory Agreement for the 40B known as Wild Rose Estates due to a recent transfer of ownership.

Petition No.: 3885
Premises affected: 32 Sagamore Dr
Petitioner: Gravius
Members: Anderson, McDonough, Jeton, Brown, Baime

Attorney Mark B. Johnson represented the Applicant's request for a variance from Article VIII, §4.1.2 (lot area) to allow a lot line adjustment to resolve the encroachment of the house & driveway from an abutting lot onto the premises. The parcel of land at 32 Sagamore Dr (Lot 41) which at the time the Applicant purchased it in 1985, the plot plan did not show any encroachments. The Applicant recently placed the property on the market & entered into a Purchase & Sale Agreement, at which time it was discovered that a portion of the house & the driveway of the abutting lot at 37 Sheridan Rd (Lot 42) encroaches onto the Applicant's lot, due to a surveying error made approximately 40 years ago when the houses were built. To resolve the encroachment, a variance is sought to allow a lot line adjustment with 37 Sheridan Rd, as shown on Plan filed with the Application. The lot line adjustment would transfer 2441 sq. ft. of land from Lot 41 to Lot 42, leaving the house on Lot 42 with a 17.9' setback to the adjusted lot line. In turn, 540 sq. ft. of land along the Sheridan Rd frontage would be transferred from Lot 42 to Lot 41, leaving the Applicant's lot non-conforming as to area with 41,903 sq feet. The lot will remain conforming as to all other setbacks. As a result of this transfer, Lot 42 would meet all dimensional requirements of the Zoning Bylaw. No one else spoke at the hearing either for or against the petition. The Board voted to waive a site view, closed the public hearing & proceeded to deliberate.

The Board finds that due to a surveying error made approximately 40 yrs ago, the driveway & a portion of the house on the property known as 37 Sheridan Rd is actually located on the Applicant's lot. The Board finds that a literal enforcement of the Zoning Bylaw would result in a hardship in that it is probable that neither property could be sold with clear title, as a result of an error made in the original subdivision plan & the layout of the original houses. The cost to have the encroaching house & driveway removed or relocated would be prohibitive. The Board finds that the proposed property line adjustment is a reasonable solution to the problem & that the requested relief can be granted without derogating from the intent & purpose of the Bylaw. Based upon these findings, the Board voted unanimously to grant a variance from the requirements of Article VIII, §4.1.2 to allow the reduction of the lot area of the property at 32

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Sagamore Dr to 41,903 sq. ft. in accordance with the "Plan of Land in Andover, Mass. known as 32 Sagamore Road and 37 Sheridan Road," prepared by Bradford Engineering, with a last revision date of 5/7/10, which Plan will be recorded at the Registry of Deeds. This will allow the parcel shown as Lot 42A to be part of the new Lot 41 & the parcel shown as Lot 41A to be part of the new lot 42 so that the property having an address of 32 Sagamore Dr will be as shown as Lot 41 on the Plan. McDonough will write the decision.

Petition No.: 3886

Premises affected: 5 Arrowood Ln

Petitioner: Chen / Zhao

Members: Anderson, McDonough, Jeton, Brown, Baime

Attorney Mark Johnson represented the request for a variance from Article VIII, §3.3.5 &/or special permit under Article VIII, §3.3.7 to raze an existing single family dwelling & construct a new dwelling on a lot that lacks the current minimum required area & frontage. The lot contains a 2,115 sq. ft. single family home constructed in 1964 on a lot created by a 1962 cluster subdivision plan (Farrwood Forest). Petitioners seek to demolish the existing house & construct a new, larger house. A memo from the Inspector of Buildings, Kaija Gilmore, dated 2/1/10 was submitted, stating her belief that the applicant would not need to file an application for relief from the zoning requirements. She described the lot as meeting the bylaw requirements at the time of subdivision. This is the 3rd petition from these owners regarding this same property. A November 2007 petition for a similar proposal was withdrawn without prejudice. A January 2008 petition was also withdrawn without prejudice when it became clear after a public hearing and property view that the majority of the board's membership viewed the petition unfavorably. In this current petition, the property owners again seek to demolish the existing structure & replace it with one substantially larger. The proposed house would consist of 4,128 sq. ft. of living space on two stories, as well as a walk-out basement. The new dwelling would be situated 55' from the front lot line and 30.5' from the side lot lines. Attorney Jason A. Panos, representing Johannes Weiss and Angelika Amon, direct abutters at 3 Arrowood Lane, submitted a memo & spoke in opposition. Panos noted that in a letter dated 9/16/09, the Inspector of Buildings stated that, "...it is my conclusion now as it was in 2007 that the Applicant is required to seek relief from the Zoning Board of Appeals under the Andover Zoning Bylaw." Panos further argued that the lot is a legally existing, non-conforming lot & that a proposal to raze the existing house & replace it with a substantially larger one constitutes substantial increases in the non-conforming nature of the structure & thus requires zoning relief, and finally that the proposed dwelling would be substantially more detrimental than the existing non-conforming structure to the neighborhood. Several residents of the immediate neighborhood spoke in opposition to the proposal, centering on the existing character of the neighborhood as modestly sized homes constructed in the 1960's in a wooded setting with views to the adjacent pond. The Petitioner agreed to meet with neighbors & consider potential changes to the proposal. The public hearing was therefore unanimously continued to 6/3/10.

Petition No.: 3879

Premises affected: 150, 168, 172 Holt Rd

Petitioner: Marshall / St. Pierre

Members: Anderson, McDonough, Jeton, Brown, Baime

There was a request to continue without discussion to 6/3/10. The Board voted unanimously to continue to 6/3/10.

Petition No.: 3888

Premises affected: 84 Maple Ave

Petitioner: O'Brien

Members: Anderson, McDonough, Jeton, Brown, Baime

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This is a repetitive petition / determination of substantial difference. There was a request to withdraw without prejudice. The Board voted unanimously to withdraw the petition without prejudice.

There being no other business of the Board, the Board voted unanimously to adjourn the meeting.