

Memorial Hall, Memorial Hall Library, Elm Square

Present were: Anderson (Chair); Brown (Acting Clerk); Batchelder (Member); Baime, Ranalli & Matey (Associate Members)

The meeting opened at 7:05 p.m.

Petition No.: 3876
Premises affected: 39 & 47 High Plain Rd
Petitioner: Gibson

There was a request to continue the hearing to 8/5/10. Brown made a motion to continue to 8/5/10. Batchelder seconded the motion & the Board voted (5-0) to continue the hearing to 8/5/10.

Petition No.: 3886
Premises affected: 5 Arrowood Lane
Petitioner: Chen / Zhao

There was a request to continue the hearing to 8/5/10. Brown made a motion to continue to 8/5/10. Batchelder seconded the motion & the Board voted (5-0) to continue the hearing to 8/5/10.

Petition No.: 3869
Premises affected: 199-209 N. Main St.
Petitioner: Guys of Andover, LLC

There was a request to continue the hearing to 8/5/10. Brown made a motion to continue to 8/5/10. Batchelder seconded the motion & the Board voted (5-0) to continue the hearing to 8/5/10.

Petition No.: 3890
Premises affected: 46 York St
Petitioner: Griffith Family RT
Members: Anderson, Brown, Batchelder, Ranalli, Matey
Alternate: Baime

William E. Medinger, Architect, appeared before the Board on behalf of the Petitioners. Elizabeth A. Guilbeault, Trustee was also present. The house is situated 18.5' from York Street, 16.0' from the southerly lot line and 15.6' from the northerly lot line. The lot itself is 63' wide and 120' deep. The proposal consists of an 18' wide by 8' deep, one-story extension on the rear of the house & converting the existing projecting entryway on the north side of the house to a breakfast nook. A new entry from the driveway would be created, as well as adding a "Porte Cochere", a covered entrance and vehicle parking area that would measure 12' wide by 27' deep; 4' from the house and connected by a roof leading to the new entryway. The new structure would be located 3' from the northerly property line and approximately 51' from the street line. Hardship is related to the narrow shape of the lot, which precludes any addition to either side of the house within the building area allowed under the Bylaw, and the elevation of the rear yard and the presence of ledge prohibit any construction to the rear of the property. The petitioner contends that the proposed modifications will not alter the current use or be substantially more detrimental to the current use and character of the neighborhood. The proposed Porte Cochere would increase the nonconformance of the property relative to the required setbacks. The Board voted to waive a formal site view and then voted to close the public hearing. The Chair

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designated Ms. Baime to sit as an alternate for the remainder of the proceedings. The Board then proceeded to deliberate the case.

After some deliberation, members of the Board determined that it would be beneficial to have an opportunity to view the premises. Accordingly, the Board voted to re-open & continue the public hearing to 7/22/10, to allow members to individually view the property and surrounding neighborhood.

Petition No.: 3893
Premises affected: 10-12 Main St
Petitioner: Andover Mexican Restaurant, Inc.
Members: Anderson, Brown, Ranalli, Baime, Matey

Pablo Naranja, principal of Andover Mexican Restaurant, Inc. d/b/a "Casa Blanca" (the "Applicant"), is seeking a special permit to allow take-out service for Casa Blanca. The take-out service is proposed to offer a similar, though more limited menu. The Applicant anticipates that the majority of business for the take-out service would come from employees of surrounding businesses and would increase total receipts by ten to twenty percent. No members of the public came forward to speak in opposition or support of the petition. The Board voted to waive a viewing of the premises and to close the public hearing. The Board then proceeded to deliberate the proposal. The Chair designated Ms. Jeton and Ms. Batchelder to sit as alternates for this case.

In deliberation, the Board discussed the impact of the additional service on the downtown area. The Board unanimously voted to grant a special permit with the condition that the hours of the take-out service run parallel to the existing hours of the sit-down service. The Board unanimously agreed that approval of this special permit, with the stated condition, will not tend to impair the status of the neighborhood and that the permission will be in harmony with the general purpose and intent of the regulations of the zoning By-Laws. Members voting FOR the decision: Anderson, Brown, Ranalli, Baime, Matey. Ranalli will write the decision.

Petition No.: 3894
Premises affected: 4 Arcadia Rd
Petitioner: Pierce
Members: Anderson, Batchelder, Baime, Matey

Ranalli & Brown recused themselves from the hearing. Mr. Pierce presented the petition on his own behalf and agreed to be heard by a 4-member board. The petitioner requests a special permit under Art. VIII, §3.3.1.3.F.4 to allow the continued existence of a Family Dwelling Unit at 4 Arcadia Way. A special permit was granted in Decision #3210 to construct a living space for his mother-in-law. The original Special Permit expired in 2007. A recent home appraisal showed the original permit had expired. His mother-in-law wishes to continue to live in the Family Dwelling unit, therefore a new special permit is required. No one else spoke at the hearing regarding the petition. The Board waived the view, closed the public hearing and deliberated immediately.

The Board determined that the request for a special permit to continue the existence of the Family Dwelling Unit meets the definition and conditions outlined in the By-law. The Board further determines that the granting of a special permit for a period of five years is allowed under the By-law. The Special Permit may be renewed after the five period as long as the conditions outlined in the By-law remain at the premises. The Board voted 4-0 to grant a special permit. Batchelder will write the decision.

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Petition No.: 3895

Premises affected: 1 Shaw Dr

Petitioner: Schwartz

Members: Anderson, Batchelder, Brown, Baime, Ranalli, Matey

Peter & Shirley Schwarz, Attorney Mark Johnson & Architect Rob Bramhall presented the proposal to relocate, preserve & construct additions to the historic Pearson house on a lot that does not meet minimum dimensional requirements. The house is currently situated at 16 Pearson Street, Andover. One Shaw Drive was laid out in a special development subdivision plan approved by the Andover Planning Board in 1961 & recorded as Plan No. 4342 of 1961. The parcel at 1 Shaw Drive was designated as "common land" on the approved subdivision plan. The parcel at 1 Shaw Drive was taken by the Town for non-payment of taxes by an Instrument of Taking dated August 19, 1968 & conveyed to the Town by Treasurer's Deed dated November 17, 1972. On March 10, 2010, the Andover Tax Possession Custodian conducted a public auction at which 1 Shaw Drive was sold. In the Notice for the public auction, the Town designated 1 Shaw Drive as having been "identified as [a] prospect for the location of [a] small single-family home for purposes of either affordable housing or historical preservation, subject to zoning approval." The Applicants were the successful bidders at the public auction & acquired 1 Shaw Drive "as is" without any warranties or representations by the Town of Andover. The parcel at 1 Shaw Drive is a substandard lot under the current Andover Zoning Bylaw. It has 24,643 square feet of area and fronts on two streets, Chatham Road & Shaw Drive. The proposed front setback is 35'. To the rear of the relocated house, additional living space, a 2.5 bay garage, and a deck are proposed. The structure will be setback 35' to Shaw Drive & 30' to the rear lot line. The parcel is triangular in shape & fronts on two streets, so that the third line of the triangle is considered a rear lot line.) The completed structure will contain approximately 3,300 sq. ft., including the garage. Karen Herman of the Andover Preservation Commission testified that the Pearson House dates from the first quarter of the 19th century & is a simple farm house with historic significance. The Pearson House qualifies for historic preservation under Article VIII, § 7.9 & under the requirements of the Massachusetts Historical Commission. The Andover Preservation Commission is in favor of the proposal. Dozens of neighbors attended the public hearing to testify & submitted a signed petition in opposition for a variety of reasons: size of proposed house & designation of the lot as common land. The Board referred to Town Counsel the legal issue of whether or not the designation of 1 Shaw Drive as "common land" on the 1961 special development subdivision constituted a legal restriction on any future development on that property. The Board scheduled the site view for 7/22/10 at 7 pm, to be followed by a continued public hearing in order to receive Town Counsel's input regarding the legal question.

Petition No.: 3896

Premises affected: 434 South Main St

Petitioner: Ahern

Members: Anderson, Batchelder, Brown, Baime, Ranalli, Matey

Attorney Mark B. Johnson represented the petitioner, Douglas Ahern, the prospective purchaser of the property. Ahern is seeking a Special Permit under §3.3.7 to demolish the existing house & replace it with a dwelling greater in volume & area, and a Variance to allow a front setback of 30', where 50' is required in the SRC district. At that time the ANR plan approved by the Planning Board on August 17, 1954, the lot & house conformed to the then-current dimensional requirements. The property has not been held in common ownership with any other parcels since it was conveyed to the original purchasers on August 26, 1954. The existing house is a one-story ranch-style dwelling & is located approximately 25' from the street line at its nearest point. There is an existing detached one-car garage on the northerly side of the property, set back 15' from the side lot line & 29' from the street line. Mr. Ahern proposes to retain the

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garage, installing new siding & garage door. The proposed dwelling would be 2½ stories, 28' wide by 36' deep, with a 6' deep porch across the front. Overall the finished floor area would be approximately 2600 sq. ft. The proposed front setback is 30' and 30' from the southerly side lot line. Robert Schneider, 432 South Main St., expressed concern over the proposed setbacks & mass of the proposed house relative to its neighbors. No one else appeared to speak either for or against the petition. To help determine the legally-allowed & appropriate front setback, the Board asked Mr. Johnson to provide information regarding the project's potential compliance with §4.1.3.d, which allows a principal structure to extend as near a way as the average setback of other buildings within 200' of the proposed structure. The Board voted unanimously to continue the public hearing to its regularly-scheduled meeting on 8/5/10.

Discussion Item: Anderson gave the Board an update from CHAPA

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