

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

The meeting opened at 7:00 p.m.

Petition No.: 3890

Premises affected: 46 York St

Petitioner: Griffith Family RT

Members: Anderson, Brown, Batchelder, Ranalli, Matey

This is a continued public hearing. Board members who viewed the property noted that they did not see attached garages or carports on any other house in the vicinity. There are some detached garages in rear yards on York St that may be closer than 5' to the lot line. Generally the houses are all similarly close to the street; there are some with side porches that may be as little as 10' from the side property line. There was no additional testimony at the continued hearing. The Board closed the hearing & proceeded to deliberate.

The house was constructed circa 1920, before the adoption of the Bylaw in 1936. The premises don't conform to the current dimensional requirements of the IA District with respect to minimum front & side yard depth, which are 50' & 40' respectively. Therefore the house is a lawfully pre-existing, nonconforming structure as defined in §10 of the Bylaw & the proposed rear addition & proposed roof over the relocated north side entry (but not the Porte Cochere) will extend the nonconforming nature of the structure within the required setback area. With respect to the proposal for the Porte Cochere, the Board finds that it would create a new nonconformity substantially closer to the lot line than the existing nonconforming portion of the house. In consideration of the criteria in §9.4.2, the Board finds that the proposed rear extension & the proposed north side entry, steps & roof, being modest & consistent with the neighborhood, will not be substantially more detrimental to the character of the neighborhood and town and are in harmony with the general intent and purpose of the Zoning Bylaw. The Board voted unanimously to grant a Special Permit under Article VIII, §3.3.5 to allow these additions, with the conditions that: the additions shall be constructed in substantial conformity with the submitted plans and documents as described above & the additions shall be located at least 15' from the side lot lines. The Board finds that the petitioner has not demonstrated the requisite hardship to allow a Variance for the Porte Cochere & that the proximity of the proposed structure to the northerly lot line would derogate from the intent & purpose of the Bylaw. The Board voted unanimously to deny the requested Variance. Brown will write the decision.

Petition No.: 3895

Premises affected: 1 Shaw Dr

Petitioner: Schwartz

Members: Anderson, Batchelder, Brown, Baime, Matey

On 7/22/10, Acting Town Manager Steven Bucuzzo issued memo in support of the 1 Shaw Drive Project. The memo gave the background of the acquisition of the Pearson House & the 1 Shaw Drive parcel indicating that the general plan "represents a multiple win for the Town, as it: removes the structure to make way for the new municipal parking lot; preserves a historical house within Andover; avoids the expenditure for demolition; and keeps the house on the tax rolls." While the Town's administration "cannot speak for the specific site plans before" the Board of Appeals, both the Selectmen and the Manager's office have expressed general support for the project. Many neighbors testified & signed a petition against the project for a variety of reasons including but not limited to the following: excessive size of the proposed house relative to abutting homes & lots and that the lot was designated as undevelopable 'common land' & should be kept as such. After hearing two nights of testimony from the Applicants' representatives & concerned neighbors, & after conducting a view of the premises, abutting properties, abutting streets, & the nearby subdivision, 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.

In referring the question to Town Counsel, the Board noted that the special development subdivision plan was approved and recorded in the Registry, & that the designation as “common land” is readily apparent on the face of the subdivision plan. At the same time, the “common land” at 1 Shaw Drive was never conveyed to either a homeowner’s association or to the Town of Andover, subject to any express restrictions. Rather, several years after the subdivision was created, the Town took 1 Shaw Drive for taxes & held it as such for several decades until its disposition in 2010. The Board continued the hearing to 8/5/10.

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