

The Hall, 2<sup>nd</sup> Floor, Memorial Hall Library, 2 N. Main St., Elm Sq., Andover

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The meeting opened at 7:00 p.m.

Present were: Anderson (Chair); Brown (Acting Clerk); Magenheim, Bargnesi & Oltman (Associate Members)

Petition No.: 4045

Premises affected: 6 Robinswood Way

Petitioner: O'Connell

Present were: Anderson (Chair); Brown (Acting Clerk); Magenheim, Bargnesi & Oltman (Associate Members)

Attorney Bob Lavoie represented the petitioners. Also present was Steve Erikson, Norse Environmental. The proposal is to replace a sports court within the WPOD. They have started the process with Conservation Commission. Changes have been made to the plan based on their input: the court is closer to the house & further from wetlands on the revised plan. They expect an Order of Conditions at the 8/6/13 Conservation meeting. The zoning relief requested is from the 50' setback from a water course within the WPOD. The court will have infiltration trenches to treat run off, a 1% slope to divert water into the trenches that will slowly discharge it into the ground. Lavoie agreed to the Board's suggested condition of approval including compliance with all Conservation Commission conditions. Erikson gave an overview of the plan which included the perennial stream that is considered riverfront; added plantings to increase infiltration; and the setbacks to the wetlands - 50' on westerly side & 29' on easterly side (where the variance is needed). Erikson noted that the house was built prior to Andover's wetland Bylaw and the State Act does not have minimum setbacks. The Board discussed maintenance & whether the owner's will be provided with a maintenance plan to ensure the stone trenches function properly. Erikson argued that none is needed due to the maintenance fabric & sediment helping filter run-off. Erikson agreed to create a maintenance schedule and have Conservation Commission put it in the Order of Conditions. Lavoie stated the hardship as the size of the lot and the location of wetlands leaving no alternative location for the court without zoning relief. The Board waived a site view. Bargnesi made a motion to close the public hearing. Brown seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Brown made a motion to grant a variance from the requirements of Art. VIII, Section 8.1.6.5 to remove the existing impervious play surface and to build a new one with the hardship relating to the size, shape, topography of the lot and the location of the wetlands and resource areas with the condition that the court is built in conformance with the site plan prepared by LJR Engineering Inc. received on 7/25/13 and that the conditions issued with Conservation Commission's Order of Conditions are met. Anderson amended the motion to include that the maintenance plan and schedule presented to Conservation Commission offered by the applicant will be submitted to the ZBA. Brown further amended the motion to include that the conditions imposed by the Conservation Commission's Order of Conditions, to the extent they differ, they will supersede the ZBA's conditions and to add to the findings that the intent and purpose of the bylaw is to protect the public drinking water supply. Anderson included that the Order of Conditions will also protect the WPOD. With the motion moved and amended, the Board voted (5-0) to approve the variance with conditions. Brown will write the decision. Brown then made a motion to deny the special permit as not applicable. Magenheim seconded the motion and the Board voted (5-0) to deny the special permit as not applicable. Attorney Lavoie agreed to help draft the decision.

#### INFORMAL INFORMATIONAL SESSION

Attorney Michael Rosen, representing Dundee Red Spring Road LLC, made a presentation on the historic mill complex along the Shawsheen River, which is zoned residential, while the remainder of Dundee Park is zoned IG. Historically it has been used as a manufacturing facility until a few months ago. The current owner would like to get the Board's sense on possibly using the building for offices and other mixed uses, such as in Dundee Park. It is currently vacant. There is no prior zoning relief on this property as it predates zoning & has always been used for manufacturing. Rosen argued that relief under Section 3.3.2 can modify or amend the pre-existing non-conforming use as long as it is not more detrimental. It will likely be a multi-tenant building. He emphasized that they do not want to abandon the pre-existing non-conforming use status. They will propose 10 uses in their formal request for a special permit, and then find tenants, so that it will not be necessary to appear before the ZBA

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repeatedly with changes in tenancy. The Board discussed parking requirements and traffic concerns. Rosen assured the Board that his client would have to go through the Planning process, which would deal with those concerns. The possibility of residential use in the building is not completely out of the question. The Board reminded Rosen that this is an informal discussion and nothing is etched in stone. They will have to file a formal application with the ZBA in order for the Board to consider the request.

Appointment of Interim Chair

Oltman made a motion to appoint David Brown as Interim Chair. Magenheim seconded the motion and the Board voted (5-0) to appoint David Brown as interim chair. Anderson suggested that the Board should vote for a Chair & Clerk in September.

There being no other business, Brown made a motion to adjourn the hearing. Magenheim seconded the motion & the Board voted (5-0) to adjourn the meeting.