



**MINUTES OF THE ZONING BOARD OF APPEALS
ANDOVER, MASSACHUSETTS**

**Conference Room A, 3rd Floor, Town Office, 36 Bartlet Street, Andover, MA 01810
November 5, 2015**

The meeting opened at 7:02 p.m.

Present were: David W. Brown, Chair; Neil Magenheim, Clerk; Carol C. McDonough, Kate Bargnesi & Elizabeth Oltman, Members; Lisa Rechisky, & Tara Wilson, Associate Members.

Brown gave an overview of the Zoning Board procedure and announced that Member Bargnesi will resign from the Board due to a move out of town. Due to the opening on the Board, there is a call for applications to fill the vacancy.

Petition Number: Z-15-57

Premises Affected: 503 S. Main St.

Petitioner: Primrose

Relief requested: variances §6.6.2.1.c & 5.2.8.1.b to construct a daycare that exceeds 3,000 sf & a sign that exceeds the maximum allowed area & height

Members sitting: Brown, Magenheim, McDonough, Bargnesi, Rechisky,

This is a continued deliberation based on the draft decision that Brown sent to the Board last night. Brown noted that he relied on the Walker decision for Next Generation Child Care also on South Main Street. There being no changes proposed to the draft decision, McDonough made a motion to approve the decision as drafted. Bargnesi seconded the motion & the Board voted 5-0 to approve the draft decision.

Approval of Minutes of 10/1/15:

Brown noted that he made revisions on 11/4/15. McDonough made a correction for hearing Z-15-105 regarding 20 William Street (Riiff / Schenk): in the first sentence should read “in” and in the 4th line “alternations will not”, not “note”. Magenheim noted that throughout the minutes, it should read “**5-0** vote to waive view”, “... vote to close”, not “9-0” Magenheim also noted that for the Primrose hearing (Z-15-57) regarding the pine boughs overhanging the driveway, it should read ‘removal of overhanging pine branches’. There being no other corrections to the minutes of 10/1/15, McDonough made a motion to approve the minutes as corrected. Magenheim seconded the motion and the Board voted 7-0 to approve the minutes of 10/1/15 as amended.

Petition Number: Z-15-104

Premises Affected: 29 Central St

Petitioner: Parish of Christ Church

Relief requested: variance from Art. VIII, §5.2.8.1.a &/or special permit under Art. VIII, §5.2.8.1.b to erect a free-standing sign that will exceed the maximum sign area

Members sitting: Brown, Magenheim, McDonough, Oltman, Wilson (for Bargnesi)

Alternates: Rechisky

Christian Huntress, Warden of Christ Church, represented the petition to replace an existing, free-standing sign erected approximately 30 years ago with a larger free-standing double-sided sign. The variance

request from Section 5.2.8.1.a (up to 2 sq. ft. area) &/or special permit request under Section 5.2.8.b (up to 6 sq. ft. area) is because the sign would exceed the maximum allowed area of 2 sq. ft. at 19.80 sq. ft. It would be located perpendicular to the street in the grassy area of the semi-circular driveway. The existing single-sided sign is 17.88 sq. ft. in area. The proposed sign height is 12.5' to top of post, 7' to bottom of sign, due to the obstruction of cars parked on-street. The Board discussed visibility with Huntress noting the wide expanse of the church frontage requiring increased visibility from a greater distance. The Board noted that other commercial signs in the vicinity were similar. The proposed sign would be lit externally from the ground up if the Church chooses to install additional lighting. The proposed setback for the sign is 5' from sidewalk. Huntress explained that a plot plan does not exist and is challenging to produce to the age of the church and length of ownership (approximately 1835). External illumination will be mounted in the landscaping and lit from dusk to 11 pm / 12 am. Huntress expressed the church's willingness to comply with restrictions regarding lighting and the height of the sign (no less than 6-6 1/2'). McDonough made a motion to waive a site view & close the public hearing. Wilson seconded the motion & the Board voted (5-0) to waive the site view & close the hearing. The Board then deliberated the matter.

The Board agreed that a 7' sign is safer & more visible due to high traffic & the sidewalk. The Board discussed whether relief could be granted under a special permit or a variance. Brown noted that since the proposed sign would exceed the 6 sq. ft. maximum area, a variance would be appropriate. Oltman made a motion to grant a variance from Section 5.2.8.1.a to allow the installation of the proposed sign with the conditions that it be installed in substantial conformance with the plans & dimensions show in the plans and that the lighting shall be external and to deny the requested special permits as moot. McDonough seconded the motion and the Board voted (5-0) to grant the variance with conditions and to deny the special permits as moot. Brown will write the decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Drawing entitled "Christ Church, Conceptual Signage Details," prepared by Huntress Associates, Inc., dated June 12, 2015.
- Letter from Christian C. Huntress to David W. Brown, dated September 4, 2015.
- Two "Google Street View" photographs showing the front of Christ Church.

Petition Number: Z-15-120

Premises Affected: 55 Gray Road

Petitioner: Kudirka / Viola

Relief requested: variances from Art. VIII, §4.1.2 &/or 4.2.2 to construct a detached garage that will not meet the front or side yard depth requirements

Members sitting: Brown, Magenheim, McDonough, Oltman, Rechisky

Alternate: Wilson

Engineer Jack Sullivan was present with the petitioners for variances to construct a detached garage in the front yard area that will not meet the minimum front or side yard depth requirements. The proposed, detached 2-car garage would be 24'x28'. Due to the Skug River bisecting the conforming lot, the garage would be built within the 100' buffer zone. Petitioners have obtained Conservation Commission approval already. A hardship exists related to the topography of the lot (the river, wetlands, 10' change in grade) & a septic system, both restricting the placement of a garage. The 1967 'deck style' house has no basement or attic. The lot was created in 1965. The garage will have loft space for storage, but will be unheated. A rain garden will mitigate run-off. While only one tree will be removed to construct the garage, seven will be planted. The proposed side setback will be

15.4', which would be conforming if it were attached to the house. The rear wall of the garage is proposed to be 50' from the front lot line. Petitioners have spoken with neighbors. The Board asked how close the nearest neighbor is and if there are other structures in the vicinity as close to the street as the proposed garage. The nearest neighbor is far, but the distance is unknown. It is impossible to see them with full foliage. It is uncertain if there are other structures as close to the street. Oltman requested to see the landscape plan. There being no other questions or comments from the Board or the public, McDonough made a motion to waive a site view & close the public hearing. Magenheim seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate.

Oltman noted the substantial topographical hardship that would warrant granting a variance. Oltman made a motion to grant variances from 4.1.2 & 4.2.2 based on the topographical / soil conditions. The proposed detached garage will not be a detriment to the neighborhood. Magenheim / Brown suggested that the variances be granted with the conditions that the garage is constructed in substantial conformance with the plot plan & drawings submitted. Magenheim made a motion to grant the variances with the aforementioned conditions. McDonough seconded the motion & the Board voted (5-0) to grant the variances with conditions. Oltman will write the decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Plot Plan of Land, prepared by Sullivan Engineering Group, LLC, dated October 5, 2015
- Architectural Plans for Kudirka Residence, dated October 2, 2015

Approval of Minutes of 7/7/11, 9/8/11, 10/6/11, 9/9/10, and 8/5/10

McDonough made a motion to approve the minutes. Oltman seconded the motion & the Board voted to approve the minutes.

Discussion Items

Zoning Board Procedures to be discussed in detail at the meeting of 12-3-15. Brown noted that a quorum for routine business / administrative matters is a minimum of three (3) members requiring three affirmative votes. A minimum of four (4) members are required to act on appeals/petitions to the Board and for elections. Four (4) affirmative votes are required.

The Board discussed application guidelines, specifically related to the requirement of a certified plot plan and the possibility of a waiver submitted by the applicant.

There being no other business of the Board, Bargnesi made a motion to adjourn the meeting. Magenheim seconded the motion and the Board voted unanimously (7-0) to adjourn the meeting at 8:44 p.m.

Respectfully submitted,
Barbara Burke
Administrative Secretary