



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

**Conference Room A, 3rd Floor, Town Office, 36 Bartlet Street, Andover, MA 01810
March 3, 2016**

The meeting opened at 7:05 p.m.

Present were: David W. Brown, Chair; Neil Magenheim, Clerk; Elizabeth Oltman, Member; Kathy Faulk, Associate Member.

Brown gave an overview of the Zoning Board procedure. He explained that only 4 members are available tonight and asked if the applicants would agree to being heard by a 4-member board. Each applicant agreed.

Petition Number: Z-16-9

Premises Affected: 23 Arundel Street

Petitioner: McCumber

Relief requested: variances §§4.1.2 &/or 4.2.2 to remove an existing shed & replace with a larger shed in the front yard that will not meet the minimum required front setback

Members sitting: Brown, Magenheim, Oltman, Faulk

Bob and Leslie McCumber represented themselves in their request to replace an existing, 10'x8' non-conforming shed in the front yard area with a 10'x14' shed that will not meet the minimum front yard setback (existing and proposed front setback is 19.91'). The lot is on the corner of Balmoral St. and Arundel St. in the SRA district with a house built in approximately 1923. It has no attic, therefore the shed is used for storage. The McCumbers have owned the house for 30 years and purchased it from long-time owners who also had a shed in the same location. The lot is located at the dead end of Balmoral Street, which is screened by tall arbor vitae, and bordered to the rear by the train tracks. Due to the small lot size, advancing age and health conditions of Mr. and Mrs. McCumber, they argued that a literal enforcement of the bylaw would be a hardship to them. No abutters appeared at the hearing, but a letter of support from the Birtles, of 24 Arundel Street, was submitted. The Board asked for some clarification on the location of the new shed, to determine that it would not be any closer to the front lot line along Balmoral Street than the existing shed. Brown informed the Board that he viewed the property individually and met Mr. McCumber in his yard by chance while he was taking photographs for the hearing, which he submitted for the record. Brown brought the plot plan errors to McCumber's attention. McCumber agreed that the only change in the shed location is that the new shed would extend further toward the train tracks at the rear of the lot. The Board discussed alternate locations for a larger shed. McCumber pointed out that a tree would prevent alternate locations at a greater front setback. Due to snow sliding off of the slate roof, if the shed were closer to the house, the risk of damage would increase. The Board agreed that the larger shed in the same location wouldn't have a negative impact on the neighborhood. The Board discussed the front yard setback application to corner lots. Faulk argued that it doesn't apply to lots in existence prior to the bylaw. There being no other questions or comments from the Board or public, Magenheim made a motion to waive the site view and to close the public hearing. Oltman seconded the motion and the Board voted (4-0) to waive the site view and close the hearing. The Board then proceeded to deliberate.

The Board discussed the definitions of front, side and rear yard as defined in Section 10 of the bylaw. Magenheim made a motion to approve a variance from §4.2.2 for the location of the shed and to deny the requested variance from §4.1.2 as moot. Oltman seconded the motion. Brown volunteered to write the draft

decision. Magenheim then made a motion to continue the deliberation to 4/7/16 to review and vote on the draft approval. Faulk seconded the motion and the Board voted (4-0) to continue deliberation to 4/7/16.

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

- Certified Plot Plan for 23 Arundel Street, prepared by Merrimack Engineering Services, dated February 3, 2016.
- Catalog photograph and description of “Victorian Cottage with Shed Dormer” utility shed (undated).
- Email from Karen Herman, Chair, Andover Preservation Commission, dated February 4, 2016, waiving formal review of shed replacement by Preservation Commission.
- Letter to David W. Brown, Chair, Board of Appeals from Bill & Judy Birtles, 24 Arundel St. in support of petition (undated).
- Photographs of 23 Arundel Street, taken by David Brown on March 3, 2016.

Petition Number: Z-16-10

Premises Affected: 9 Chapman Ave

Petitioner: Bositis

Relief requested: special permit under Art. VIII, § 3.3.5 &/or variance §4.1.2 to construct additions/alterations that won't meet minimum side or rear setback requirements

Members sitting: Brown, Magenheim, Oltman, Faulk

Julie Johnson, architect, was present with Julie Bositis. Johnson gave an overview of the project. The house, built in 1830, is located on a very narrow lot. The proposed porch will not conform to the side setback, but won't be any closer to the side lot line than the closest point of the existing house. The rear overhang will not meet the minimum rear yard setback. The project has been reviewed by Preservation Commission. Brown noted that the house slightly is askew on the lot. Petitioners have spoken with the abutter. The direct abutter most impacted by the proposal was in support. There being no other questions or comments from the Board or the public, Oltman made a motion to waive a site view and to close the public hearing. Faulk seconded the motion and the Board voted (4-0) to waive the view and close the hearing. The Board then proceeded to deliberate.

Oltman, Faulk and Magenheim agreed that relief could be granted in the form of a special permit under Art. VIII, §3.3.5. Brown agreed that a special permit is appropriate with the usual findings that the house is a pre-existing, non-conforming structure and that the proposed additions / alterations will not increase the non-conforming nature of the structure. The lot lacks frontage on a public way and the proposal will not be detrimental to the neighborhood or Town. Brown suggested that the usual conditions of substantial conformance with the plot plan and plans submitted be attached to the decision. Oltman made a motion to approve a special permit with the aforementioned conditions and to deny the variance from §4.1.2 as moot. Magenheim seconded the motion and the Board voted (4-0) to approve a special permit with conditions. Faulk made a motion to continue the deliberation for the purpose of reviewing and voting on the draft decision until 4/7/16. Oltman seconded the motion and the Board voted (4-0) to continue the deliberation to 4/7/16. Oltman will draft the decision.

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

- Certified Plot Plan for 9 Chapman Avenue, prepared by Merrimack Engineering Services, dated February 4, 2016.

- Architectural Plans for 9 Chapman Avenue, 11 pages, prepared by J. Johnson Architecture, dated February 2, 2016.

Approval of Minutes of 2/4/16:

Brown noted that he made revisions that were submitted by email. Oltman made a motion to approve the minutes of 2/4/16 as revised by Brown. Magenheim seconded the motion and the Board voted (4-0) to approve the minutes as revised.

Discussion Items:

Revised ZBA Rules & Regulations – Brown informed the Board that the Rules & Regulations were filed with the Town Clerk and are in effect. He will revise the General Requirements for filing to appear before the ZBA to ensure that the form is in accordance with the Rules & Regulations.

There being no other business of the Board, Magenheim made a motion to adjourn the meeting. Oltman seconded the motion and the Board voted unanimously (4-0) to adjourn the meeting at 7:57 p.m.

Respectfully submitted,
Barbara Burke
Administrative Secretary