



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

**Conference Room A, 3rd Floor, Town Office, 36 Bartlet Street, Andover, MA 01810  
January 2, 2020**

Present were: Elizabeth Oltman, Chair; Carol McDonough, Clerk; Kathy Faulk, Lisa Rechisky, and Daniel Casper, Members; Denise Bordonaro, David Guerette, Michael Novaria and Ellen Keller, Associate Members.

The meeting opened at 6:30 p.m.

**Petition Number: Z-19-154**

**Premises Affected: 41 Central Street**

**Petitioner: South Church**

**Relief requested: variance from Art. VIII, §5.2.8.1.B to erect a double-sided freestanding sign that will exceed the maximum allowed area**

**Members Sitting: Oltman, McDonough, Faulk, Bordonaro**

**Alternates: Novaria, Keller**

The applicant submitted a request to continue the public hearing without discussion to the February meeting in order to prepare plans. McDonough made a motion to continue the hearing to the February meeting. Faulk seconded the motion & the Board voted unanimously to continue the hearing to February.

**Petition Number: Z-19-118**

**Premises Affected: 64 Summer Street**

**Petitioner: Ratte**

**Relief requested: Party Aggrieved &/or for (a) special permits under Art. VIII, §3.3.5 &/or §3.3.7 to raze & construct a 2-family dwelling that is greater in volume than the existing 2-family dwelling**

**Members Sitting: Oltman, McDonough, Casper, Rechisky, Faulk**

This is a continued deliberation to review the draft decision, findings and conditions. Casper pointed out that on page 2, the word 'affect' should be 'effect'. There being no other changes, Casper made a motion to approve the draft decision as amended. McDonough seconded the motion & the Board voted unanimously to approved the draft decision as amended.

**Petition Number: Z-19-140 & Z-19-155**

**Premises Affected: 161 Lowell Street**

**Petitioner: Bukowski**

**Relief requested: variance from Art. VIII, §4.2.2 to erect an accessory structure in the front yard area.**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Keller**

**Alternates: Novaria**

This is a continued deliberation to review and vote on the draft decision, findings and conditions. There being no discussion, Keller made a motion to approve the decision as drafted. Casper seconded the motion & the Board voted unanimously to approve the decision as drafted.

**Petition Number: Z-19-151**

**Premises Affected: 19 Wolcott Ave**

**Petitioner: Martin / Sansone**

**Relief requested: special permit under Art. VIII, §3.3.5 &/or a variance from Art. VIII, §4.1.2 to construct a deck that will not meet the minimum yard depth requirements**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Novaria**

**Alternates: Keller**

This is a continued deliberation to review and vote on the draft decision, findings and conditions. Bordonaro noted that the space for the Registry Certificate number should be removed from the first page. There being no discussion, Novaria made a motion to approve the decision as amended. Casper seconded the motion & the Board voted unanimously to approve the decision as amended.

**Petition Number: Z-19-152**

**Premises Affected: 7 Pettingell Ave**

**Petitioner: Smith / Meyers**

**Relief requested: variance from Art. VIII, §8.1.6.5 to construct a single family dwelling within 50' of a water body &/or a watercourse within the Watershed Protection Overlay District**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Bordonaro**

**Alternates: Keller, Novaria**

This is a continued deliberation to review and vote on the draft decision, findings and conditions. Bordonaro suggested adding the date 11/21/19 to the first page. There being no other discussion, Bordonaro made a motion to approve the decision as amended. McDonough seconded the motion & the Board voted unanimously to approve the decision as amended.

**Petition Number: Z-19-153**

**Premises Affected: 14 Evergreen Lane**

**Petitioner: Grady**

**Relief requested: variance from Art. VIII, §4.2.2 to erect an accessory structure in the front yard area.**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Novaria**

**Alternates: Keller**

This is a continued deliberation to review and vote on the draft decision, findings and conditions. Associate Member Keller noted that she was present as an alternate for the case. Her name will be added to the decision as the alternate. Bordonaro pointed out that the decision should reflect that Associate Member Novaria sat in place of Member Rechisky. The decision will be amended to reflect Novaria's participation. There being no other discussion, Keller made a motion to approve the decision as amended. Casper seconded the motion & the Board voted unanimously to approve the decision as amended.

**Petition Number: Z-19-156**

**Premises Affected: 145 High Plain Road**

**Petitioner: Aalerud**

**Relief requested: variance from Art. VIII, §5.2.8.1.B to erect a double-sided freestanding sign that will exceed the maximum allowed area**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Bordonaro**

**Alternates: Novaria, Keller**

This is a continued deliberation to review and vote on the draft decision, findings and conditions. Bordonaro corrected the date on page 2 from 12/28/19 to 12/28/17. Bordonaro asked if the Board can extend a lapsed special permit. Oltman informed the Board that she had discussed this with Town Counsel who found no case

law either way Town Counsel suggested to limit any extension to no more than 2 years. Bordonaro pointed out that the current request was filed prior to the expiration date of the most recent special permit (12/28/19) and suggested a 12 month extension. The Board agreed that a 2-year extension is acceptable. There being no other amendments, Faulk made a motion to approve the decision as amended. McDonough seconded the motion and the Board voted unanimously to approve the draft decision as amended.

**Petition Number: Z-19-157**

**Premises Affected: 57 Andover Street**

**Petitioner: Williams**

**Relief requested: Special Permit under Art., VIII, §3.1.3.F.4 to create a Family Dwelling Unit**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Keller**

**Alternates: Novaria, Bordonaro**

This is a continued deliberation to review and vote on the draft decision, findings and conditions. Novaria noted that the names of the Members voting need to be included. There being no discussion, Casper made a motion to approve the decision as amended. McDonough seconded the motion & the Board voted unanimously to approve the decision as amended.

**Petition Number: Z-19-160**

**Premises Affected: 9 Smithshire Estates**

**Petitioner: Smithson**

**Relief requested: a variance from Art. VIII, §4.2.4 to construct a pool cabana that will not meet the minimum side yard depth requirement**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Rechisky**

**Alternates: Novaria, Bordonaro, Keller, Guerette**

Beth Smithson represented herself & her husband in their request to erect a pool cabana that will not meet the minimum side setback. The pool was installed in the 1980's by a prior owner. The proposed cabana will be mostly open with a small, enclosed storage area. They also propose to relocate the pool equipment to the corner of the lot. The house was built in 1957. The Board discussed possible alternate locations to maintain a 15' side setback. Mrs. Smithson noted that the pool equipment is currently 3' from the fence and will remain with substantially the same setback. They have not spoken with the abutter, but Mrs. Smithson agreed that she can. The Board discussed whether or not the 15' side setback applies to pool equipment. Casper suggested that under Section 4.2.2 the Board might consider it an accessory building rather than a recreational structure and therefore would apply to the shed and cabana. Faulk noted that without the pool, it would conform at 5' from the rear & side lot lines. Rechisky questioned if the equipment must be a minimum 10' from the rear lot line. Oltman noted that if the Board considers the cabana/shed an accessory structure, it would comply in the proposed location, but the pool equipment would have to be moved, or obtain a variance to comply with a 25' side setback and 10' rear setback. Doug Cummings, 67 High St., questioned how a structure for recreational purposes be a shed or accessory building. Oltman suggested that the Board continue the public hearing so that the petitioner can change the plans and consult with the Inspector of Buildings. If he agrees, then the petitioner can withdraw the application. If the Inspector of Buildings does not agree, then the petitioner can redo the plans based on tonight's discussion. Rechisky made a motion to continue the public hearing to February. McDonough seconded the motion and the Board voted unanimously to continue the hearing to the February meeting.

**Petition Number: Z-19-164**

**Premises Affected: 7 Yale Road**

**Petitioner: Nash**

**Relief requested: Special Permit under Art. VIII, §3.3.5 &/or for a variance from Art. VIII, §4.1.2 to construct an addition that will not meet the minimum front yard depth requirement**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Rechisky**

**Alternates: Novaria, Bordonaro, Keller, Guerette**

Meredith & Joe Nash represented themselves. Due to their growing family, they wish to expand their 2-bedroom house which is located on a corner lot. Mrs. Nash submitted an analysis of the neighborhood by house size and bedroom count. They argue that the hardship is having a corner lot, otherwise the addition would conform. They will keep the existing garage and remove the existing storage shed. They agreed to this as a condition of approval. Mrs. Nash pointed out that 4 letters of support had been submitted. Oltman read into the record the addresses for those letters: 5, 8 & 9 Yale Road, 64 Princeton Ave. There being no other questions or comments from the Board or the public, Faulk made a motion to waive a site view and to close the public hearing. McDonough seconded the motion & the Board voted unanimously to waive a site view and close the hearing. The Board then proceeded to deliberate. The Board agreed that a special permit is appropriate and that the variance is moot. Rechisky made a motion to approve the special permit with the usual conditions under Section 3.3.5 & to deny the variance from Section 4.1.2 as moot with the added condition to remove the existing wood shed as shown on the certified plot plan. McDonough seconded the motion & the Board voted unanimously to grant the special permit with conditions & to deny the variance as moot. Casper made a motion to continue deliberation at the regular monthly meeting in February. Faulk/Bordonaro seconded the motion & the Board voted unanimously to continue deliberation to February. Rechisky volunteered to draft the decision.

**Petition Number: Z-19-165**

**Premises Affected: 3 Gray Road**

**Petitioner: Urquhart**

**Relief requested: Dimensional Special Permit for Historic Preservation under Art. VIII, §7.9 to subdivide a lot with an historic dwelling on it**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Rechisky**

**Alternates: Novaria, Bordonaro, Keller, Guerette**

Mark Johnson, Esq., represented Kathy Urquhart, who was also present. Johnson reviewed the proposed site plan, Preservation Commission letter of support and gave a brief overview of the history of the house (the former Holt School). No changes are proposed for the historic house. They emailed the Massachusetts Historic Commission, but have received no response yet. A draft preservation restriction is in the packet & is the last one approved by MA Historic. Johnson reminded the Board that if the application is approved, the State has to approve the restriction, then the Board, then the State, then the Select Board, then the State, then it will be recorded. The new house on Lot 2 will be conforming & there are no wetlands in the area. Oltman pointed out that the Preservation Commission's review of the new house is required per Section 7.9.4.11 and is a standard condition. Johnson noted his client's agreement to such a condition. Bordonaro asked Johnson to explain how this proposal meets the requirement of Section 7.9.5.1 & 3 the 'necessity to protect the historic structure or demolition will result'. Johnson explained that the lot is large and the house can be demolished, but this process is Preservation Commission's tool to obtain preservation restrictions on such structures to prevent demolition. The Board discussed the zoning area on the plan and the location of septic systems. Faulk emphasized that a proper sanitary disposal system is a required finding. Johnson agreed to a condition requiring it. Faulk questioned the ownership, as it appears that there are 3 owners and no written consent was submitted with the application. Johnson explained that Ms. Urquhart, her brother and sister are the owners. He will obtain & submit written consent from all 3. Casper & Bordonaro asked for the location of the new house. Johnson suggested that a condition of approval that the new house conform to zoning is acceptable. Faulk reminded Johnson that the zoning bylaw contemplates the dimensional requirements. Oltman noted that for the Bailey Rd

and Central St cases, the Board did not see the new houses' locations during the hearings or deliberations. Casper voiced his concern for future variance requests due to the shape of the lot. The Board did not feel it was necessary to conduct a site view. Rechisky suggested obtaining more information on the septic system. Bordonaro suggested placing a condition that an approved septic system must be installed. There was no IDR for this proposal. There being no other questions, comments or discussion from the Board or the public, McDonough made a motion to waive the site view and to close the public hearing. Faulk seconded the motion & the Board voted unanimously to waive the site view & to close the public hearing. The Board then proceeded to deliberate. In deliberation Casper felt that a condition restricting the new house from getting a variance in the future is appropriate. Oltman reiterated the conditions discussed during the hearing: the septic system must be approved for both houses, consent from the other owners must be received by the Board, the house on Lot 2 must comply with zoning and will not be eligible for future variances, and the Preservation Commission must approve the new house. Rechisky voiced her favor for preserving older homes, but is concerned that the historic house being kept on a small lot. She feels that it is misaligned with the zoning bylaw. A small lot seems out of context and proportion. Rechisky stated her preference for most of the Gray Road frontage to be kept with the existing house. Rechisky made a motion to re-open the public hearing to hear Attorney Johnson's comments. Casper seconded the motion & the Board voted unanimously to re-open the hearing to hear from Johnson. Johnson informed the Board that historically, the bylaw had the existing house on the larger lot and the newer house on the smaller lot. But Town Meeting flipped this. He suggested the Zoning Bylaw Review Committee can reexamine this and could present it as a bylaw amendment at Town Meeting. Rechisky prefers that the lots be more equally sized & questioned the need for the new lot to contain 46,000 sq. ft. of area. Johnson was unsure as to why the engineer configured the lots as proposed. Casper suggested that it is due to the frontage. Rechisky made a motion to close the public hearing. Casper seconded the motion & the Board voted unanimously to close the public hearing. The Board then deliberated. Oltman summarized that the Board seems to be in favor of granting the Dimensional Special Permit for Historic Preservation (DSPHP) with the 4 additional conditions as discussed tonight. McDonough made a motion to approve the DSPHP with the 4 additional conditions discussed tonight. Casper seconded the motion & the Board voted unanimously to approve the special permit with conditions. Keller made a motion to continue deliberation to the next month's meeting to draft the decision. Faulk seconded the motion & the Board voted unanimously to continue the deliberation. Oltman volunteered to draft the decision.

**Petition Number: Z-19-166**

**Premises Affected: 27 Main Street**

**Petitioner: Touchdown**

**Relief requested: variances from Art. VIII, §§5.2.5, 5.2.6 & 5.2.9 to erect a freestanding, externally illuminated sign that exceeds the maximum allowed area within 200' of a residential district**

**Members Sitting: Oltman, McDonough, Faulk, Casper, Rechisky**

**Alternates: Novaria, Bordonaro, Keller, Guerette**

Attorney Mark Johnson represented the applicant, Paul Kneeland of Touchdown LLC, who was also present. The requested variances are for free-standing, internally illuminated replacement sign that would exceed the maximum allowed sign area. It would replace the existing sign at the Central Street entrance to 27 Main Street's parking lot & is within 200' of residential structures. Johnson submitted DRB's minutes & confirmed that the Board received the DRB's letter. He noted that they met twice with DRB, which voiced concern over the height & additional lettering. They changed the LED lights to both sides & top/bottom of the sign. DRB recommended approval. Ted Jarvis, of Spectrum Marketing, reviewed the sign support structure & illumination (aluminum cabinet with 24 volt LED light bars). Illumination will be external. The current revision (5) of 124" is approved by DRB on plan date 12/31/19. The pedestal base will increase from 24" to 36" to accommodate more tenant signs. The sign will be located at the driveway on Central St. There will be no signage on Chestnut St. Rechisky asked if LED are the current industry standard. Jarvis confirmed that they are since they are a clearer & brighter light. Light shed is controlled to decrease light pollution. Andy Rouse, 5 Cattle Crossing, asked for the proposed sign area. It will be 48.6 sq. ft. Oltman noted that the area excludes the 8" that is not

signage & the sign is atop a 2' pedestal. Johnson noted the dimensions: 56"x100" (38.9 sq. ft.). There will be 16 tenant panels on both sides. Rouse voiced concern that the proposed sign is too large & 3 times what is allowed in the GB district. Further, free-standing directory signs aren't allowed. Hardships stemming from prior cases are irrelevant & no hardship exists here since there is no evidence that the lot shape relates to the size of the proposed sign. The Rogers Brook culvert mentioned in the application does not influence the hardship. John McArdle, one among a family of owners of 20 Central St, voiced his support explaining that since the new development of the lot, traffic entering #20 Central Street's exit has created a safety issue. He feels the sign is necessary to alert drivers of 27 Main Street's entryway. The Board discussed whether all tenant spaces can be accessed from Central Street. Paul Kneeland, manager of Touchdown, explained that all tenants can park in the Central Street lot & that it serves multiple addresses along Main Street. Further, the proposed sign can accommodate future tenant changes. Jen Tietjian, 2 Chestnut St., voiced concern over the character & suitability of the sign in the surrounding neighborhood. The current bylaw allowances compared to the proposed sign, it is 4 times the maximum allowed sign area. She added that the lighting should be regulated. The Board discussed restrictions on illumination until 9pm, or until the last establishment closes. Johnson informed the Board of the plan to extinguish illumination at 10 pm, unless a tenant closes later. The sign lighting is on a timer. Mrs. Tietjian commented that the existing sign is entirely visible & the proposed sign is 2' taller, which is excessive. Kurt Hellauer, 6 Chestnut St., asked the Board to consider the reason why the zoning bylaw restricts signage near residential districts and to look at the required findings. The hardship is self-created, it is not a culvert covered by a parking lot. Johnson argued that the existing building in the General Business district has had one tenant, maybe 2, for many years. The project has Planning Board approval & is being developed in accordance with the approval. It is a large site and a large parking lot. Signage is necessary to direct people onto the site. The hardship relates to the large lot and building with a change in use consistent with the Master Plan. The increase in the number of tenants requires increased safe circulation onto/on/off of the site. The proposed sign helps to provide safe direction. Jarvis added that proper signage is crucial for people to find the way safely. Doug Cummings, 67 High St., asked for the number of tenants prior to the existing use. Johnson stated that there were 6, with only one on the upper floor. Cummings commented that the building has always been a multi-tenant building since the 1960's and that the currently proposed sign is not appropriate since there is no hardship. McArdle commented that his family has owned 20 Central St since 1956 and never had traffic or parking issues until now. The sign is necessary & the development is positive. The Board discussed the necessity of proper signage to facilitate safe traffic flow, the location of the lot and building in the center of downtown, the size of the proposed sign & whether or not drivers will be able to find the building without it as proposed, & the benefit to the economic development in accordance with the Master Plan. Aimee Hellauer, 6 Chestnut St., voiced her opposition to the proposed sign, which is 4 times the maximum allowed under the bylaw. She pointed out that the purpose of Section 5.2.1 is to preserve the historical ambiance. She is concerned with site line with the already congested traffic. Deborah Cummings, 67 High St., an abutter to the downtown district, suggested that the sign can announce the address, rather than all tenant names. Mr. Rouse explained to the Board that a sign of such size is allowed only in the Industrial Districts. Casper summarized that the bylaw allows 12 sq. ft. and the existing sign is 24 sq. ft. Casper asked how it was allowed. Johnson was unsure how long the existing sign has been installed and how it was allowed. Casper feels that 24 sf is appropriate. Faulk asked if the sign could be decreased by 12" (the proposal is for a 62" panel atop a 24" base). She suggested that the base size could be reduced. Novaria asked if the tenants' leases include sign space. Mr. Kneeland stated that he just wants to put in the sign for the largest building in downtown. He pointed out that there is already a parking attendant & #61 Main Street will be developed. Mr. Cummings suggested a sign designated 'parking for 27 Main Street'. Kneeland argued that the parking lot is for 27, 45 & 61 Main St. Cummings argued that 3 things on one sign is less than 16, voicing anxiety over excessive signage. Mrs. Tietjian agreed. Johnson argued that the ZBA can grant variances and in this case the size of the building, the prominence of the building and the increased number of businesses and vehicles using the lot and the need for safety warrants the size of the sign. DRB reviewed it & the applicant changed the proposal based on their concerns & recommendations. Mr. Rouse felt that the conditions to be met for a variance have not been presented or discussed. The Board discussed options to minimizing the size, whether the number of signs would change if the number of tenants increased, the common use of GPS, whether the site has a complex name, & the possibility of restricting the Chestnut St

January 2, 2020

driveway to entry-only. Johnson reminded the Board that not all customers will be repeat customers familiar with the area. There is no complex name that could be put on the sign and that TD bank changed the Chestnut Street driveway to two-way. The Board did not feel that a site view was necessary. There being no other questions or comments from the Board or the public, Faulk made a motion to waive a site view and to close the public hearing. Casper seconded the motion & the Board voted unanimously to waive a site view & to close the public hearing. The Board then proceeded to deliberate. In deliberation several Board Members felt that the proposed sign is too big & will obstruct the view of vehicles. Others felt that the design & size are appropriate for the site recognizing the pressure that it puts on the neighborhood. Still others suggested that the existing sign could be maintained and that the building could be branded and displayed on the existing sign structure. Some felt that there is no hardship related to the shape of the lot or the brook. Casper reminded the Board that they can't restrict sign content, but perhaps the applicant can put a directory sign on the building. Keller pointed out that Olde Andover Village does not have a directory sign, but rather individual attached signs. She added that the Economic Development Committee received feedback that signage in town is atrocious. Guerette emphasized that the signage needs to indicate that the parking lot is for the buildings on Main St. Rechisky commented that while the lot is on the edge of two zoning districts and until now has been underutilized, signage is needed to increase safety. But the size of the proposed sign may be difficult to decrease. She is ok with the existing sign, but concerned with the proposed sign. McDonough & Rechisky acknowledge that TD has some say. Novaria pointed out that it is challenging to get major retailers to change once the proposal has gotten this far. He acknowledged that Chestnut Street is very busy & a clear sign is necessary, but he is unsure if all tenants' names need to be on the sign. He reiterated that the ZBA can't regulate content. Faulk feels the proposed sign is too big, partly because it abuts a residential area. She suggested that the abutting bank property may need better signage. Bordonaro agreed with Faulk. Guerette asked if the property is technically 3 separate buildings, suggesting that each building could have its own sign, up to 12 sq. ft. in area, but 3 separate signs may be worse than one large sign. Oltman feels that the proposed sign contains too much information for one sign. She summarized that it seems the Board is not in favor and asked if the Board wishes to re-open the public hearing so that the applicant can redesign the sign & come back to the Board. Oltman affirmed that a sign is necessary, but to read the amount of information on the proposed sign while driving is impractical. McDonough added that a sign is informational, not advertising. McDonough & Rechisky felt that a sign on Central Street for Main Street buildings is confusing. Oltman asked if there is a motion to re-open the public hearing. McDonough made a motion to re-open the public hearing to continue it so that the applicant can redesign the proposed sign. Rechisky seconded the motion & the Board voted unanimously to reopen the public hearing so the applicant can redesign the sign. Johnson agreed that his client will look at alternative designs and come back. There being no other questions or comments from the Board or the public, McDonough made a motion to continue the hearing to the February meeting. Bordonaro seconded the motion & the Board voted unanimously to continue the hearing to February.

### **Annual Elections**

Keller nominated Oltman for Chair. Casper suggested that Oltman be made Chair by acclamation. The Board unanimously agreed to elect Oltman Chair.

Novaria nominated McDonough for Clerk. The Board unanimously agreed by acclamation to elect McDonough Clerk.

There being no other business of the Board, Rechisky made a motion to adjourn the meeting. Bordonaro seconded the motion and the Board voted unanimously to adjourn the meeting at 8:40 pm.

Respectfully submitted,  
Barbara Burke, Zoning Administrative Secretary