



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

**The Hall, 2nd Floor, Memorial Hall Library, 2 N. Main St., Andover
January 5, 2023**

Participating were: Elizabeth Oltman, Chair; Kathy Faulk, Acting Clerk; Ellen Keller, Member; Michael Novaria, David Guerette, Daniel Lopez, and Ralph Arabian, Associate Members.

The meeting opened at 6:30 p.m.

**Petition Number: Z-19-33 & Z-21-128
Premises Affected: 429 South Main Street
Petitioners: Andover Village Associates
Clerical Amendment
Members Sitting: Oltman, Keller, Faulk, Guerette, Novaria
Alternates: Lopez, Arabian**

The clerical amendment is to correct the decision number referenced in both decisions as the decision being amended. Keller made a motion to correct the decision number referenced as being amended. Guerette seconded the motion and the Board voted unanimously to correct the decision number in both decisions.

**Petition Number: Z-22-76
Premises Affected: 140 Haverhill Street
Petitioners: Medico 140 LLC
Technical Amendment
Members Sitting: Oltman, Keller, Faulk, Guerette, Novaria
Alternates: Lopez, Arabian**

Oltman explained that this technical amendment is to correct the name of the members voting. Keller made a motion to approve the technical amendment. Guerette seconded the motion and the Board voted unanimously to approve the technical amendment.

**Petition Number: Z-22-130
Premises Affected: 57 Harold Parker Road
Petitioners: Previte
Relief requested: Party Aggrieved for review of a decision made by the Building Inspector
Members Sitting: Oltman, Faulk, Keller, Lopez, Novaria**

Matthew & Valerie Previte represented themselves. Matt Previte gave an overview of what they've done to improve the property since they purchased it in 2005. He explained to the Board that they do not believe that they are in violation of the Zoning Bylaw. They believe that a neighbor complained about them in retaliation to a complaint that the Prevites themselves filed against a neighbor. They have a ¾ ton pick-up truck that they use for transportation to/from work. They also have an enclosed trailer for personal use. It is not motorized and not a commercial vehicle. The bobcat tractor they believe is allowed. The three vehicles are used on their property for personal use, not commercial use and have their company name on them. Mr. Previte argued that there is no definition of a commercial motor vehicle, and no plates exist for the trailer or bobcat. Further, there are similar

pick-up trucks on other properties in town. Inspector of Buildings Chris Clemente agreed with Mr. Previte in part. Clemente informed the Board that he issued multiple violations on 55, 57, 62, 59, 71 Harold Parker Rd. Most have come into compliance, except #55 and #57. #55 is in the process of complying. Further, the Previte's GMC pick-up truck is registered as commercial according to Andover Police Dept. Section 3.2.1 defines commercial motor vehicle parking on residential properties. The Board discussed that the pick-up truck is registered as commercial, but the other vehicles are not registered. Clemente reviewed the specific criteria in the bylaw for people to follow in order to comply. The Board discussed commercial-type vehicles and how the other vehicles may be considered commercial. Vicka Corey, 55 Harold Parker Rd, informed the Board that she has not contacted the Town regarding the 57 Harold Parker Rd. Oltman reiterated that in accordance with the bylaw, the preferred resolution is to remove or garage the vehicles. Clemente added that they can apply for a special permit as well. Mr. Previte asked the Board to grant a special permit. Oltman explained that they must apply for one in order for the Board to grant them one. Novaria outlined the corrective action that they can take: park the pick-up truck in a garage and remove their company name from the two trailers. The Prevites argued that there are no violations and neither the trailers nor the bobcat are vehicles. Clemente confirmed for the Board that if the vehicles didn't have the Prevites company name on them, it would be ok. With the company name, they can apply for a special permit. Oltman reminded the Board that what they need to determine is if they agree with the Building Inspector's determination that there is a violation of the zoning bylaw. Vicka Corey reiterated that they never called the Town & they are working with Chris to rectify their violations. There being no further discussion, Novaria made a motion to waive a site view & to close the public hearing. Guerette seconded the motion and the Board voted unanimously to waive the site view & close the public hearing. The Board then proceeded to deliberate. In deliberation, the Board discussed whether or not to uphold the Inspector of Building's decision and how the owners can comply with the bylaw relatively easily or apply for a special permit. Keller made a motion to uphold the decision of the Building Inspector. Faulk seconded the motion and the Board voted unanimously to uphold the decision of the Building Inspector. Keller volunteered to draft the decision.

Petition Number: Z-22-109

Premises Affected: 3000 Minuteman Road

Petitioners: ARE-MA Region No. 93, LLC

Relief requested: variance from Art. VIII, §5.1.9 to allow a reduction in the number of required parking spaces & not require a Reserve Parking Area &/or for an extension & modification of Z-21-150 & Z-21-151

Members Sitting: Oltman, Faulk, Keller, Novaria, Lopez

This is a continued deliberation to vote on the draft decision. Chair Oltman explained to the Board that due to a prior issue with the wording of the agenda, it was necessary to continue the deliberation without discussion to tonight's meeting. Novaria noted that the vote date needs to be changed to reflect today's date. Lopez made a motion to approve the decision as drafted. Keller seconded the motion and the Board voted unanimously to approve the decision as drafted.

Petition Number: Z-22-134

Premises Affected: 8 Fraser Drive

Petitioners: Day

Relief requested: Variance from Art. VIII, §4.2.4 to construct a recreational building in the front yard area

Members Sitting: Oltman, McDonough, Faulk, Keller, Lopez

Attorney Mark Johnson represented the petitioners, who were present along with their Architect Rob Bramhall. Johnson gave an overview of the property and the project noting that they have filed an application with the Conservation Commission. They will request for the ZBA hearing to be continued in order to start their hearing with Conservation. Johnson pointed out that the lot is at the end of a cul-de-sac and the lot to the left is owned

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by the HOA. There is a utility easement on the lot that they can't build on. The existing house is setback 53' from the front lot line. The proposed structure will be setback 79', a portion of which is in the front yard area. The septic system is under the driveway and extensive wetlands are on/near the lot. Bramhall reviewed the architectural design of the project, which he stated would be blocked from the street by trees. The Board asked how big the building will be and its proposed use. Tim & Monique Day explained the reason for the building – to create a space for their 4 children who are heavily involved in sports. Architect Bramhall was unsure of the square footage of the proposed building but noted that it will have a half basketball court, a garage and a gathering space. It will be two stories with a loft in the middle. There will be no kitchen or cooking facility, but it will have a fridge and a sink. It will also have 1.5 bathrooms and a golf simulator. The building will be for personal use only. The Days have spoken with their neighbors. They voiced their support. Andrew Bamburg, 19 Boutwell Rd, spoke in support. Chair Oltman directed the Board to drive by individually to view the property prior to the next meeting. McDonough made a motion to continue the public hearing to February 2, 2023. Keller seconded the motion and the Board voted unanimously to continue the hearing.

Discussion Item

Chair Oltman announced that at this time they will not discuss the recodification of the bylaw as posted on the agenda.

Minutes of 8/5/21

There being no changes to the draft minutes for 8/5/21, Keller made a motion to approve them as drafted. Guerette seconded the motion and the Board voted unanimously to approve the minutes of 8/5/21.

Minutes of 12/8/22

There being no changes to the draft minutes for 12/8/22, Lopez made a motion to approve them as drafted. Guerette seconded the motion and the Board voted unanimously to approve the minutes of 12/8/22.

Annual Election of Chair & Clerk

Chair Oltman informed the Board that Member Rechisky agreed to the Board holding elections in her absence. Keller nominated Oltman for Chair. Oltman accepted the nomination. Guerette seconded the motion and the Board voted unanimously to re-elect Oltman as Chair.

Oltman nominated McDonough as Clerk. McDonough accepted the nomination. Novaria made a motion to elect McDonough as Clerk. Arabian seconded the motion and the Board voted unanimously to re-elect McDonough as Clerk.

There being no other business, McDonough made a motion to adjourn the meeting. Guerette seconded the motion and the Board voted unanimously to adjourn the meeting at 7:30 p.m.

Keller then made a motion to go into executive session for confidential communications with Town Counsel and pursuant to Purpose 3 to discuss strategy with respect to litigation regarding 140 Haverhill Street and litigation regarding 1323 South Street and that the Chair declare that an open session may have a detrimental effect on the litigation positions of the Town and not to return to open session.

Respectfully submitted,
Barbara Burke, Zoning Administrative Secretary