



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

**Select Board Conference Room, 3rd Floor, Town Offices, 36 Bartlet Street, Andover
February 3, 2022**

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

The meeting opened at 6:30 p.m. Chair Oltman gave an overview of the meeting procedure.

Petition Number: Z-21-159

Premises Affected: 39 Morton Street

Petitioner: Finegold

Relief requested: Special Permit under Art. VIII, §3.3.5 &/or for Variances from Art. VIII, §3.3.4 &/or §4.1.2 to construct a covered porch that won't meet the minimum side yard depth requirement.

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

The Board received a request to withdraw the petition. Keller made a motion to allow the withdrawal without prejudice. Novaria seconded the motion and the Board voted unanimously to allow the withdrawal without prejudice.

Petition Number: Z-21-153

Premises Affected: 1323 South Street

Petitioner: Forever Endeavor

Relief requested: Party Aggrieved for review of a decision made by the Inspector of Buildings &/or for a Special Permit under Art. VIII, §3.1.3.C.23 to conduct a Contractor's Yard

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

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

Petition Number: Z-21-155

Premises Affected: 29 Andover Street

Relief requested: Variance from Art. VIII, §4.1.2 to construct an addition that won't meet the minimum rear yard depth requirement

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

This is a continued deliberation meeting to review & vote on the draft decision. Keller noted that on page 4 the decision refers to a proposed garage. It should state 'garage expansion.' Arabian made a motion to approve the draft decision as amended. Guerette seconded the motion and the Board voted unanimously to approve the draft decision as amended.

Petition Number: Z-21-160

Premises Affected: 80 Andover Street

Petitioner: Cellco d/b/a Verizon

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Relief requested: Special Permit under Art. VIII, §§6.1 &/or 9.4 to install roof mounted wireless communication facilities with radio equipment on-grade

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

This is a continued deliberation. Novaria brought up a question he had related to the Letter of Authorization and the name of the owner. Oltman read the email chain regarding ownership from the petitioner's representative Carl Gehring. Novaria explained that Bear MT is the lessee, essentially. There being no changes to the draft decision, Novaria 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-21-173

Premises Affected: 17 Messina Drive

Petitioner: Finnegan

Relief requested: Variance from Art. VIII, §4.2.4 to install an in ground swimming pool that won't meet the minimum side yard depth requirement

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

This is a continued deliberation to review & vote on the draft decision. There being no changes to the draft decision, Faulk made a motion to accept the decision as drafted. Keller seconded the motion & the Board voted unanimously to accept the decision as drafted.

Petition Number: Z-21-175

Premises Affected: 9 Berkeley Lane

Petitioner: Shea

Relief requested: Variance from Art. VIII, §4.2.4 to install a pool house that won't meet the minimum side yard depth requirement

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

This is a continued deliberation to review & vote on the draft decision. There being no changes to the draft decision, Arabian made a motion to accept the decision as drafted. Keller seconded the motion & the Board voted unanimously to accept the decision as drafted.

Petition Number: Z-21-176

Premises Affected: 30 Lincoln Circle West

Petitioners: The Elinor J. Bromberg Irrevocable Trust

Relief requested: Variance from Art. VIII, §4.1.2 &/or a Special Permit under Art. VIII, §3.3.5 to increase the lot area & allow an existing pool to be 7.28' from the side lot line

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

This is a continued deliberation to review & vote on the draft decision. There being no changes to the draft decision, Arabian made a motion to accept the decision as drafted. Faulk seconded the motion & the Board voted unanimously to accept the decision as drafted.

Petition Number: Z-21-177

Premises Affected: 1 Lillian Terrace

Petitioners: Arthur & Kimberly Kudla

Relief requested: Variance from Art. VIII, §4.1.2 &/or a Special Permit under Art. VIII, §3.3.5 to decrease the lot area

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

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This is a continued deliberation to review & vote on the draft decision. There being no changes to the draft decision, Keller made a motion to accept the decision as drafted. Lopez seconded the motion & the Board voted unanimously to accept the decision as drafted.

Petition Number: Z-21-178

Premises Affected: 17 Lincoln Street

Petitioners: Bardetti

Relief requested: Variance from Art. VIII, §4.1.2 &/or a Special Permit under Art. VIII, §3.3.5 to construct a front porch that won't meet the minimum front yard depth requirement

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

This is a continued deliberation to review & vote on the draft decision. There being no changes to the draft decision, Keller made a motion to accept the decision as drafted. Faulk seconded the motion & the Board voted unanimously to accept the decision as drafted.

Petition Number: Z-21-181

Premises Affected: 83 Walnut Ave

Petitioners: Champion

Relief requested: Variance from Art. VIII, §4.1.2 &/or a Special Permit under Art. VIII, §3.3.5 to construct additions & alterations that won't meet the minimum front yard depth requirement

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

Shannon & Bill Champion represented themselves & presented their proposal to add onto the 2nd story of their home, as well as an extension of the 1st floor with a front portico. Their lot is on the corner of Lockway Rd & Walnut Ave, thereby subject to two front setbacks. They work from home in their non-conforming house. The Board discussed the existing setbacks on Lockway (15') and Walnut (35') and the proposed front setbacks (11.3 3/4' on Lockway and 27' on Walnut). The house was built in 1952. There was no one present from the public to question or comment on the application. The Board having no more questions, Faulk made a motion to waive a site view & to close the public hearing. Arabian seconded the motion and the Board voted unanimously to waive the site view & close the hearing. In deliberation the Board agreed that the front setback requirement at the time the house was constructed was 30'. Keller made a motion to approve a special permit under Art. VIII, Section 3.3.5 with conditions & to deny the variance from Section 4.1.2 as moot and to continue the deliberation for the purpose of drafting a decision. Guerette seconded the motion & the Board voted unanimously to approve the special permit with conditions, deny the variance as moot and continue the deliberation.

Petition Number: Z-22-6

Premises Affected: 82 Pine Street

Petitioners: Welch

Relief requested: Variance from Art. VIII, §4.1.2 &/or a Special Permit under Art. VIII, §3.3.5 to construct additions & alterations that won't meet the minimum front or rear yard depth requirements

Members Sitting: Oltman, Faulk, Keller, Guerette, Rechisky

Attorney Mark Johnson represented Mr. & Mrs. Welch, who were also present. They wish to construct additions & alterations resulting in a final square footage of 1660 square feet (total interior) and a 464 square foot garage. The final impervious pavement will be slightly under 500 square feet. Johnson pointed out that the existing house, located on a corner lot, is smaller than other houses in the neighborhood. Several letters of support were read into the record from 78 and 89 Pine St. A letter of concern related to drainage was submitted by 104, 108 and 112 Pine Street. The Board inquired about the elevation and slope of the lot. Maureen Herald of Norse Environmental informed the Board that she flagged the wetlands and the proposed additions are in the depression of the lot. The Board noted that based on the plan submitted to them, the entire lot is within the

buffer zone. Herald explained that there are exemptions for houses built prior to 1/1/1999. The applicants have filed under the Wetland Protection Act to obtain an Order of Conditions and a permit. The Board asked about the drainage issues and any proposed mitigation. Herald explained that the 464 square feet of impervious area will be mitigated with an underground filtration system. It is uncertain who owns the drainage pipe that crosses the lot. It is uncertain whether the rear addition nearest the drainage pipe will be on slab or have a foundation. The existing house has a basement. The proposed additions were designed to accommodate an 'age in place' single level home. The Welches have attempted to speak with the nearest abutter on Lucerne Drive but have not been able to make contact with them. Peter Morris of 112 Pine Street voiced concern about drainage and the lack of an infiltration system on the plan. He asked to see the drainage details prior to approval noting that the wetland is primarily on 104 Pine St.; Morris feels the proposal would be detrimental to the neighborhood. Attorney Johnson argued that the applicants are not responsible for solving neighborhood drainage problems, but they will go to the Conservation Commission to deal with their own lot, as well as comply with the Conservation Commission decision and conditions. There was some discussion regarding a foundation or frost wall, as well as stormwater. Chair Oltman noted that Conservation Commission will deal with stormwater. It is unknown how close the addition can be constructed to the drainage pipe. Keller argued that there is a slope issue & that there is value in considering the potential detriment to the neighborhood. The Board agreed that they can add a condition in their decision, if approved, that the Conservation Commission must also approve it. Rechisky reminded the Board that in the recent application for 112 Pine Street, there were drainage considerations. Johnson informed the Board that the applicants are willing to accept a condition that they will repair the pipe if it is damaged. Yet they have no intent to build over the pipe. The proposed rear addition will create a new non-conformity with a 14.3' setback (existing setback is 32'). The existing front setbacks are 29.7' on Pine Street & 17.9' on Lucerne Drive. The Board requested more information regarding the underground drainage pipe and the proposed infiltration system, as well as all impervious surfaces on the lot and whether the rear addition will be on a foundation or frost wall. Faulk made a motion to continue the hearing for the purpose of obtaining the requested information. Guerette seconded the motion and the Board voted unanimously to continue the hearing to the next regular meeting.

Petition Number: Z-22-5

Premises Affected: 10 Beech Circle

Petitioners: Paskal

Relief requested: Variance from Art. VIII, §4.1.2 &/or a Special Permit under Art. VIII, §3.3.5 to construct additions & alterations that won't meet the minimum front yard depth requirement

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

Attorney Mark Johnson represented the applicants, who were also present. Ben Paskal reviewed the proposed additions to their existing house, including a second story. The proposed right side setback is 15.64'. The proposed front setback is 25'. Chair Oltman reviewed the emails and letters of support received from several abutters & neighbors. Ben Paskal explained that a Cape Cod berm made from asphalt will be installed along the driveway next to #12 Beech Circle. Lisa Robinton, 13 Beech Circle, voiced objection over the 2nd story addition on the elevated lot being too large for the neighborhood. Tim Ladd of 13 Beech Circle, voiced objection based on the historical significance of the neighborhood related to Smythe & Dove. Ruihua Yin of 12 Beech Circle shared the same concerns as Lisa & Todd, particularly regarding people being priced out of the neighborhood. The Board discussed the proposed height of the house. It will be approximately 20' high. The Board noted that it will be under the maximum height restriction and that the height is measured from grade. There being no other questions or comments from the Board or the public, Guerette made a motion to waive a site view and to close the public hearing. Keller seconded the motion and the Board voted unanimously to waive a site view and close the hearing. In deliberation, the Board noted that the proposed additions/alterations encroach minimally into the front setback. Keller commented that without a title restriction, an owner can develop the lot as they design. Oltman commented that due to the increase in the volume of the house, she feels that a special permit is appropriate. Keller made a motion to approve a special permit under 3.3.5 with the standard conditions and to

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deny the variance from 4.1.2 as moot. Rechisky seconded the motion and the Board unanimously to grant the special permit with conditions and to deny the variance as moot. Oltman volunteered to draft the decision.

Oltman informed the Board that there are no discussion items.

There being no other business, Keller made a motion to adjourn the meeting. Arabian seconded the motion and the Board voted unanimously to adjourn the meeting at 8:10 p.m.

Respectfully submitted,
Barbara Burke, Zoning Administrative Secretary