



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

**Conference Room A, 3rd Floor, Town Office, 36 Bartlet Street, Andover, MA 01810  
March 5, 2020**

Present were: Elizabeth Oltman, Chair; Carol McDonough, Clerk; Kathy Faulk, and Lisa Rechisky, Members; David Guerette and Ellen Keller, Associate Members.

The meeting opened at 6:30 p.m.

**Petition Number: Z-20-10 and Z-20-25**

**Premises Affected: 18 William Street**

**Petitioner: Arzeno**

**Relief requested: variances from Art. VIII, §§4.1.2 &/or 7.9.4.3 and for a Dimensional Special Permit for Historic Preservation under Art. VIII, § 7.9 to subdivide a lot & to move the existing garage to a location that will not meet the minimum yard depth requirements. –and- variances from Art. VIII, §§ 4.1.2, 4.2.2 for the continued existence of a non-conforming detached garage**

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

**Alternate: Guerette**

The Board received a request to continue the public hearing without discussion to the April 2, 2020 meeting. McDonough made a motion to continue the hearing without discussion to the 4/2/20 meeting. Faulk seconded the motion & the Board voted unanimously to continue the hearing without discussion to the 4/2/20 meeting.

**Petition Number: Z-20-29**

**Premises Affected: 5 Tucker Road**

**Petitioner: SAI Builders, LLC**

**Relief requested: determination that the lot is buildable or for a variance from Art. VIII, § 4.1.2 (a) to construct a single family home on a lot that lacks the minimum contiguous upland area**

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

**Alternate: Guerette**

The Board received a request to withdraw without prejudice. McDonough made a motion to allow the withdrawal without prejudice. Faulk seconded the motion and the Board voted unanimously to allow the withdrawal without prejudice.

**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, Rechisky, Guerette**

The Board received a request to continue the public hearing without discussion to the April 2, 2020 meeting. McDonough made a motion to continue the hearing without discussion. Faulk seconded the motion & the Board voted unanimously to continue the hearing without discussion to the next regular monthly meeting.

**Petition Number: Z-20-8**

**Premises Affected: 15 Westwind Rd**

**Petitioner: Oppenheim**

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

**Members Sitting: Oltman, McDonough, Novaria, Rechisky, Guerette**

This is a continued deliberation. There being no changes to the decision as drafted,

**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, Keller**

This is a continued deliberation to vote on the draft decision.

**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, Rechisky**

**Alternates: Guerette**

This is a continued deliberation to vote on the decision as drafted.

**Petition Number: Z-20-24**

**Premises Affected: 7 High Plain Road**

**Petitioner: Olson**

**Relief requested: special permit under Art. VIII, §3.1.3.F.4 to continue using a Family Dwelling Unit approved in Decision #3442**

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

**Alternates: Keller**

Alex Olson represented himself & his wife in their request for an extension of Decision #3442 to continue the use of an existing Family Dwelling Unit in the house that they bought. Oltman explained that the last special permit is not transferable upon sale & therefore not applicable. The Board must issue a new one specific to the new occupants. Mr. Olson stated that his parents, Margo & Charles Olson, occupy the unit. Oltman added that the special permit is valid for 5 years and must be renewed as long as his parents continue to occupy the unit. Faulk made a motion to waive a site view and to close the public hearing. Keller seconded the motion and the Board waived a site view & closed the public hearing. The Board then proceeded to deliberate. In deliberation the Board voted to grant the special permit with the usual condition. Rechisky volunteered to draft the decision.

**Petition Number: Z-20-23**

**Premises Affected: 141 Elm Street**

**Petitioner: CSH Andover**

**Relief requested: special permits under Art. VIII, §§5.2.8 & 9.4 to erect a free-standing sign that will exceed 2 sq. ft.**

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

**Alternates: Guerette**

Attorney John Smolak, of Smolak & Vaughn, represented the petitioner. He gave an overview of the property, a 9-acre assisted living facility set back from the street. The operators of Stonehill have had many visitors & vendors inform them that it is challenging to find the site without first passing by. Smolak noted that the bylaw allows a free-standing sign up to 6 sq. ft. in area and a maximum of 4' tall by special permit. The proposed sign is 5.83 sq. ft. in area and 45" tall. It will be illuminated by ground-mounted LEDs. The proposed location is 48' easterly of the main drive, which is to the left of the main drive). It is setback from the street so as not to obstruct site lines, similar to the 2018 sign decision for the sign at EPIC on Lowell Street). The proposed sign in the proposed location will increase visibility & vehicular safety. The Board discussed the proposed setback (5' setback off of Elm Street), the existing sign (a wall-mounted sign on one side of the entrance drive) and the hours of illumination (proposed dawn to dusk, on a programmable photo-cell timer). Oltman noted that the lights must be off by 9-10 pm. Penny Ristuccia, of Elm St., spoke in opposition stating that the sign is too large. Andrew Gordon, 15 Pine St., spoke in opposition stating that the overall height from street level to the top of the sign is over 6' and that the bylaw prohibits illumination between 9 pm and 7 am in residential neighborhoods unless it is open to the public. Attorney Smolak reiterated that the sign height is 42" and it will be externally illuminated. Further, they are amenable to extinguishing the sign's illumination at 9 pm. Marc Fournier, 144 Elm St., spoke in opposition stating that the facility is very large & visible. Mr. Gordon questioned an existing sandwich board sign. Jennifer Hasting, of North Bridge Companies, confirmed that the sandwich board sign is permitted as a temporary annual sign that is removed daily. Attorney Smolak reminded the Board that the proposed sign is smaller than the approved sign at EPIC. Faulk inquired if another wall mounted sign could be installed. Smolak argued that it is too small to be easily noticed since it is limited to 2 sq. ft. Oltman asked if visitors turn into the correct driveway. Carla Rossi, Executive Director at Stone Hill informed the Board that visitors pass the site frequently. The proposed sign will be visible over the wall that runs along the entire site frontage. McDonough made a motion to waive a site view & to close the public hearing. Rechisky seconded the motion and the Board voted unanimously to waive a site view & close the public hearing. The Board then proceeded to deliberate. In deliberation Chair Oltman reminded the Board that the request is for a special permit, not a variance, and that the bylaw requires that in no case shall the sign exceed 6 sq. ft. Keller voiced her support of the request noting the sensitive history of the site, none of which is before the Board tonight. Keller feels that it is a significantly sized facility with a reasonable request for a sign on a major thoroughfare. Oltman agreed adding that the speed limit is 35-40 mph. Keller noted the need for the sign, although she'd rather see it shorter, or built into the wall, and that she wants to adhere to the more restrictive illumination hours. Rechisky pointed out that the sign needs to be above the wall in order to be visible above the snow and wall. If it was inset in the wall, snow would cover it up and the lighting would be closer to the street. Oltman noted that the sign is 2' above grade. Rechisky feels that the proposed sign is appropriate and that the illumination needs to respect that it is in a residential neighborhood. McDonough agreed; it is an allowed facility and it is important to curtail the sign's illumination to minimize overspill. Rechisky & McDonough suggested that the lighting be very focused as a condition of approval so it won't create a traffic hazard. Oltman & Keller agreed that the sign is modest in color and design. There being no other discussion, Keller made a motion to approve the special permit with conditions per Section 5.2.5.2 + 3 regarding spill-over light and hours of illumination. McDonough seconded the motion and the Board voted unanimously to approve the special permit with conditions. McDonough made a motion to continue deliberation to the next regular meeting for the purpose of drafting a decision. Rechisky seconded the motion and the Board voted unanimously to continue deliberation to the April meeting. Keller volunteered to draft a decision.

**Minutes**

Minutes of 1/2/20: There being no changes to the draft minutes of 1/2/20, Faulk made a motion to approve the minutes of as drafted. McDonough seconded the motion and the Board voted unanimously to approve the minutes of 1/2/20.

The Board deferred the minutes of 2/6/20 until the next meeting.

Faulk recused herself from the following cases and left the remainder of the meeting.

**Petition Numbers: Z-20-26 & Z-20-28**

**Premises Affected: 2 High Plain Road and 8 Beacon Street**

**Petitioners: Page and Zhang/Wei**

**Relief requested: special permits under Art. VIII, §§5.2.8 & 9.4 to erect a free-standing sign that will exceed 2 sq. ft.**

**Members Sitting: Oltman, McDonough, Rechisky, Keller, Guerette**

Attorney Mark Johnson represented Ms. Page of 2 High Plain Road. Also present was Attorney Tom Looney on behalf of Zhang / Wei of 8 Beacon Street. The Board agreed to hear the cases simultaneously since they directly impact and involve each other. Johnson explained the request for a variance to change the lot line between the two subject properties. Both lots are and will remain non-conforming as to area. Page purchased in 2003. Zhang/Wei had a survey done, at which time they discovered that Page was using their land. A 1936 plan shows a dotted line, thereby confusing which lot line prevails. The area in question is to be conveyed to Page, per plan dated 8/22/19, consisting of 1,279 sq. ft. of area. Attorney Looney confirmed that his clients are in agreement adding that the difference in non-conforming area is +/- 6%. Johnson also requested a variance for the frontage, even though there is no change to the frontage of either lot. There being no other questions or comments from the Board or the public, Keller made a motion to waive a site view and to close the public hearing. McDonough seconded the motion and the Board voted unanimously to waive a site view and to close the public hearing. The Board then proceeded to deliberate the matter. Rechisky made a motion to approve both requested variances referencing the plan dated 8/22/19. Keller seconded the motion and the Board voted unanimously to grant the variances with the condition that the lot line change is done in conformance with the plan dated 8/22/19. Keller made a motion to continue deliberation to the April meeting for the purpose of drafting a decision. Rechisky seconded the motion and the Board voted unanimously to continue deliberation to the April meeting.

There being no other business of the Board, Keller made a motion to adjourn the meeting. Guerette seconded the motion and the Board voted unanimously to adjourn the meeting at 7:40 pm.

Respectfully submitted,  
Barbara Burke, Zoning Administrative Secretary