



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

**Conference Room A, 3rd Floor, Town Office, 36 Bartlet Street, Andover, MA 01810
March 7, 2019**

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

The meeting opened at 6:32 p.m. Oltman gave a procedural overview.

Petition Number: Z-19-11

Premises Affected: 143 Abbot Street

Petitioner: Girls Scouts of Eastern MA

Relief requested: variance from Art. VIII, §3.1.3.C.6 to operate a retail sales establishment

Members Sitting: Oltman, McDonough, Casper, Faulk, Bordonaro, Faulk, Corrigan, Novaria

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

Rechisky arrived at the meeting at 6:38.

Petition Number: Z-19-20

Premises Affected: 125 Bailey Road

Petitioner: AJM Construction, LLC

Relief requested: Modification of Decisions Z-18-105 & Z-18-131

Members Sitting: Oltman, McDonough, Casper, Faulk, Bordonaro, Faulk, Corrigan, Novaria

The Board received a request to continue the public hearing without opening to the April meeting. Faulk made a motion to continue the hearing without opening to April. Bordonaro seconded the motion the Board voted unanimously to continue the hearing without opening to April.

Petition Number: Z-18-154

Premises Affected: 67 Walnut Ave

Petitioner: SAI Builders, LLC

Relief requested: special permit under Art. VIII, §3.3.5 &/or for a variance from Art. VIII, §4.1.2 to raze an existing dwelling & to construct a new dwelling on a lot that lacks the minimum required area and frontage

Members Sitting: Oltman, McDonough, Casper, Corrigan

This is a continued deliberation meeting. It was noted that Keller's name should be removed from members voting. There being no other changes to the draft, Casper made a motion to approve the written decision with amendments. Corrigan seconded the motion and the Board voted (4-0) to approve the written decision as amended.

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Petition Number: Z-19-7

Premises Affected: 18 Chester Street

Petitioner: MacLean

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

Members Sitting: Oltman, Faulk, Casper, Bordonaro, Corrigan

This is a deliberation meeting to vote on the draft findings and conditions. Faulk noted that she is listed as “Acting Chari”, which should read “Acting Chair” on page 3. There being no other changes to the draft decision, Corrigan made a motion to approve the decision as amended. Bordonaro seconded the motion & the Board voted unanimously to approve the draft decision as amended.

Petition Number: Z-19-8

Premises Affected: 5 Avella Circle

Petitioner: Saindon

Relief requested: special permit under Art. VIII, §3.1.3.F.4 to create a family dwelling unit within the existing detached garage

Members Sitting: Oltman, Faulk, Casper, Bordonaro, Novaria

This is a deliberation meeting to vote on the draft findings and conditions. There being no changes to the draft decision, Novaria 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-19-9

Premises Affected: 69 Maple Ave

Petitioner: Lamontagne

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 side yard depth requirement

Members Sitting: Oltman, Casper, Faulk, Corrigan, Novaria

This is a deliberation meeting to vote on the draft findings and conditions. Casper suggested addition to the end of the decision that the variance was denied as moot. Faulk pointed out that it is stated on page 4. There being no changes to the draft, Faulk made a motion to approve it as written. Casper seconded the motion & the Board voted unanimously to approve the draft as written.

Petition Number: Z-19-10

Premises Affected: 28 Salem Street

Petitioner: Trustees of Phillips Academy

Relief requested: special permit under Art. VIII, §3.3.5 &/or for variances from Art. VIII, §§4.1.2, 3.1.3.A.4.b, 4.1.2 &/or 7.6.3 to construct a 2-family dwelling on a lot that lacks the minimum frontage

Members Sitting: Oltman, Casper, Bordonaro, Corrigan, Novaria

This is a deliberation meeting to vote on the draft decision Bordonaro pointed out that in paragraph 3 at the end, change the reference to a garage expansion which needs to be removed. Casper suggested adding to the vote that the variance as moot. Oltman pointed out that the language states that the variance is denied as not applicable. Corrigan noted that the date of the decision must be updated. There being no other changes, Bordonaro made a motion to approve the draft as amended. Casper seconded the motion & the Board voted unanimously to approve the decision as amended.

Petition Number: Z-19-12

Premises Affected: 1 Hartigan Court

Petitioner: Joyner

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 side yard depth requirement

Members Sitting: Oltman, Casper, Faulk, Corrigan, Novaria

This is a deliberation meeting to vote on the draft findings and conditions as discussed in deliberation on 2/7/19. There being no changes, Casper made a motion to approve the draft decision as written. Corrigan seconded the motion & the Board voted unanimously to approve the draft decision.

Petition Number: Z-19-23

Premises Affected: 118 Rattlesnake Hill Road

Petitioner: Maier / Parteleno

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 or rear setbacks

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

John Maier & Cecile Parteleno represented themselves. Mr. Maier reviewed the proposed garage & mudroom addition that will not meet the minimum front or rear setback. The lot is triangular in shape and overlooks Foster's Pond. The addition will be constructed on the westerly side of the house, where the existing kitchen is located, for ease of access. Maier noted that the other, pond side of the house is lower as the lot slopes towards the pond. The addition will be designed to work with the roof lines. They have spoken to abutters & none expressed any issues. The garage will not block the abutters' view of the pond. The Board discussed if there is an alternative location or to bring the addition in line with the house to minimize encroachment. Maier explained that bringing the garage further toward the street would impose on the streetscape. There being no other questions or concerns from the public or the Board, McDonough made a motion to waive a site view & to close the public hearing. Rechisky seconded the motion & the Board voted unanimously to waive the site view & close the hearing. The Board then proceeded to deliberate. In deliberation the Board agreed that due to the shape & topography of the lot, as well as the increase in non-conformity, relief can be granted by variance. Casper made a motion to grant a variance with the standard conditions that the addition shall be constructed in substantial conformance with the drawings and plot plan submitted and to deny the special permit as moot. McDonough seconded the motion & the Board voted (5-0) to grant the variance with conditions & to deny the special permit as moot. McDonough made a motion to continue deliberation to April for the purpose of drafting a decision. Casper seconded the motion & the Board voted unanimously to continue deliberation to April. McDonough volunteered to draft the decision.

Petition Number: Z-18-135

Premises Affected: 290 Lowell Street

Petitioner: O'Brien Homes

Relief requested: vote on preservation restriction

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

Attorney Mark Johnson represented O'Brien Homes and gave the Board an update on the Massachusetts Historic Commission (MHC) process. The MHC's recent letter states that the preservation restriction meets the requirements but is subject to photos of the house once it has been moved and is on a foundation. Karen Herman, Chair of the Andover Preservation Commission, will take the photos. Johnson is requesting that the Board approve the form for the preservation restrictions so they can go back to the state only once more. The house has been moved but is not on a foundation yet. They expect the foundation & placement to occur within the next few weeks. Karen Herma was present and voiced support on behalf of the Preservation Commission. Kevin O'Brien, of O'Brien Homes, also spoke in support. There being no other questions or concerns raised by the public or the Board, Casper made a motion to approve the preservation restriction with the condition that the

photographs will be taken. Faulk seconded the motion & the Board voted unanimously to approve the preservation restriction with the condition that the photographs be taken.

Approval of Minutes

Minutes of 2/7/19 - There being no changes to the draft minutes, Corrigan made a motion to approve the minutes as drafted. Novaria seconded the motion & the Board voted unanimously to approve the minutes as drafted.

Casper recused himself from the following hearing and left the remainder of the meeting.

Petition Number: Z-19-24

Premises Affected: 161 + 163 Andover Street

Petitioner: Town of Andover

Relief requested: vote on preservation restriction

Members Sitting: Oltman, McDonough, Faulk, Rechisky

Also present: Thomas Urbelis, Town Counsel

Attorney Mark Johnson was present as a member of the Permanent Town Building Advisory Committee. He requested a delay in the hearing so that the architect could be present. The Board took a short break and reconvened at 7:20 p.m. Also present were Rick Feldman, of the Permanent Town Building Advisory Committee; Chris Logan, project architect; Andrew Flanagan, Town Manager; and Janet Nicosia, Director of Facilities. Johnson requested that the Board make a finding that the variance for the front setback is not necessary due to the proposed structure meeting the average setback of structures within 200' of the property, per Section 4.1.3.2.d in Article VIII (Andover Zoning Bylaw). The proposed rear setback is 10', where 30' is required. Therefore a variance is required for the rear setback only. Logan gave an overview of the project, noting that the site plan shows a 10.4' and 10.5' rear setback. Due to the existing high water table and soil conditions, no basement will be constructed. In order to store equipment and minimize the footprint as much as possible, the massing requires the encroachment into the rear setback to accommodate equipment storage, public space, the staff dormitory, a fitness room, the kitchen, and administrative office. At the intersection of Andover Street and Clark Road, there will be a public green space. The lot is wedge shaped, further restricting siting of the building on the lot. The proposed fire station will have clapboards with masonry clad bays to fit within the context of the neighborhood's architectural styles. The overall proposed height is 43.3'. The Board questioned the height of the existing house and whether or not any other public meetings have been held regarding the fire station. Logan will obtain the height of the house to provide to the Board. Town Manager Andrew Flanagan informed the Board that the Ballardvale Historic District Commission has had 3-4 meetings regarding the project after Town Meeting vote. Prior to that vote, 31-32 meetings were held. Flanagan explained that the existing fire station is 128 years old with only one bay which needs to be modernized to serve the Town today and into the future. Logan reviewed the use of space in the proposed fire station: 1st floor – training room (used by Fire Dept personnel & the public), a fitness room, the lobby (run by shift commander), 2 bathrooms, and a 3-bay apparatus room, gear storage, and decontamination / changing facility. 2nd floor – residential dormitory room, dining/kitchen/day room, space for course work, laundry, bathroom, & janitorial closet. The station can fit 7 employees, but is currently staffed by 3. With an increase of equipment, more personnel is necessary. The Board then opened the public hearing for public comments & questions.

Joanna Reck, Chair of the Ballardvale Historic District Commission, cited the height of the nearest buildings, which ranged from 16'10" to 34'9" to the ridge. Amy Jessup, rear abutter at 5 Clark Rd., voiced her approval for the fire station and her concern for it overpowering her house. Chris Huntress, Ballardvale resident at 17 Tewksbury St., a current Selectman and former BVHDC member (9 yrs.) emphasized the importance of the fire station noting that they have worked with Context Architects to minimize the overall size. Huntress voiced his support noting that the design work with BVHDC continues. Logan noted that the revised plans incorporating

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BVHDC feedback have been submitted, including decreased roof mass, changing the gable, decreasing the louvre size, removal of the exterior rear door to the west elevation, changing the windows, and decreasing the porch size. Corrigan asked if it is possible to reduce the residential portion of the building's height without losing interior space. Logan explained that the roof pitch can be changed, but part of the mechanical system is in the roof area. Reck noted that the drawings depict a 44' height arguing that this is a premature filing. Johnson pointed out that the request from the ZBA is not related to design. It is only for the rear setback. If that is granted, then they can move forward with design modifications. If the location of the building changes, they will maintain a 10' rear setback. Johnson reminded the Board that the old station housed horses, the need is to construct a modern station on a challenging lot. Logan added that the footprint & massing are dictated by the lot size and shape, which is challenging to design a fully functioning station. Corrigan suggested that part of the analysis should consider setback and height since a 10' setback of a 20' tall structure is vastly different than a 40' tall structure at 10'. The Board requested that they look at reducing the roofline. Faulk noted that they are required to consider the design in relation to whether or not it's detrimental to the neighborhood or public good. The Board discussed whether or not a basement is an option since the existing station has one. Flanagan explained that the existing basement is wet now. Logan informed the Board of the high water table with Clark Brook across the street. Perry Raffy, resident at Center Street, suggested a decreased footprint & height, noting that the kitchen & dining area is large and there is no need for an administrative office. There will be a company office in the station. Rechisky asked for an explanation of the space in the current design. Flanagan pointed out that the public process included space requirements for the future; two bays will be occupied & Town Meeting approved a 3rd bay). Furthermore, the NFPA standards for bays are 14' wide by 14' high. The Board inquired if the storage & decon. space at the rear can be moved and if the station will be staffed at full capacity. It will be staffed at full capacity. Oltman reiterated the hardship related to the shape of the lot and the high water table. Johnson requested to continue the hearing to the April meeting. The Board referred to Inspector of Building Chris Clemente's memo regarding the average front yard setback. Clemente deferred to Fire Chief Mansfield to address concerns over the space and rear setback. Karen Herman, Preservation Commission Chair, spoke in support of BVHDC's concerns about design adding that it is critical to fit the village. Amy Jessup, 5 Clark Rd, spoke in favor of the fire station urging that it conform to the historic district so it won't overshadow her house. Oltman pointed out a 35' maximum height under the zoning bylaw. Clemente informed the Board that there is an exception for public buildings in Section 4.1.3. Rechicky made a motion to continue the public hearing to 4/4/19. McDonough seconded the motion & the Board voted unanimously to continue the hearing to 4/4/19.

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 8:07 pm.

Respectfully submitted,
Barbara Burke, Zoning Administrative Secretary