



**MINUTES OF THE ZONING BOARD OF APPEALS
ANDOVER, MASSACHUSETTS
Virtual Meeting Broadcast by:
Andover TV, Comcast Channel 22, Verizon Channel 45
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June 18, 2020**

Participating remotely via Webex were: Elizabeth Oltman, Chair; Carol McDonough, Clerk; Kathy Faulk, Dan Casper and Lisa Rechisky, Members; David Guerette and Ellen Keller, Associate Members; Barbara Burke, Zoning Administrative Secretary.

The meeting opened at 6:36 p.m. Chair Oltman gave an overview of the meeting procedure and provided the call-in number and email address for anyone to submit comments, questions or concerns during the hearings.

The following cases requested to be withdrawn without prejudice and were dealt with collectively.

Petition Numbers: Z-20-65, Z-20-70, Z-20-71, Z-20-74, Z-20-75

Premises Affected: 34 Park St, 207 N. Main St, 8 Main St, 89 Main St, 4-16 Post Office Ave

Petitioner: Sal's 34 Park, LLC; Grassfields; Pazzo Pizza, Smythe & Dove Steak; Musgrove LLC

Relief requested: Special Permit under Art. VIII, §3.1.3.F. to temporarily place outdoor tables & chairs

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

Keller made a motion to allow the withdrawals without prejudice. McDonough seconded the motion & the Board voted unanimously by roll call to allow the withdrawals without prejudice:

Casper – yes Faulk – yes Guerette – yes Rechisky – yes Keller – yes McDonough – yes
Oltman – yes

Petition Number: Z-20-39

Premises Affected: 145 Abbot Street

Petitioner: Girl Scouts of Eastern Massachusetts

Relief requested: Special Permit &/or variance under Art. VIII, §5.2.8.1.b to erect a 6 sq. ft. 6' high free-standing sign that exceeds the maximum allowed area & height

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

This is a continued deliberation to review and vote on the draft decision. Faulk suggested adding 'deny the variance as moot' to the Action Taken. There being no opposition or further discussion, Faulk made a motion to approve the draft decision with the addition of the words 'deny the variance as moot'. Casper seconded the motion and the Board voted unanimously by roll call in the following manner:

Faulk – yes Casper – yes McDonough – yes Rechisky – yes Guerette – yes Keller – yes
Oltman – yes

Petition Number: Z-20-43

Premises Affected: 10 Boston Road

Petitioner: O'Leary

Relief requested: variances from Art. VIII, §§4.1.2 * 4.2.2 to construct a 2nd story addition that won't meet the minimum front setback & a rear addition that will render the garage non-conforming

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

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This is a continued deliberation to review and vote on the draft decision. There being no discussion or changes to the draft decision, McDonough made a motion to approve the decision as written. Casper seconded the motion and the Board voted to approve the variance with conditions by roll call in the following manner:
Faulk – yes Rechisky – yes Keller – yes Guerette – yes Oltman – yes

Petition Number: Z-20-55

Premises Affected: 375 S. Main Street

Petitioner: Fergus / Machold

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

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

This is a continued deliberation to review and vote on a draft decision. There being no changes to the decision, Faulk made a motion to approve the decision as drafted. Casper seconded the motion and the Board voted unanimously by roll call in the following manner: Faulk – yes Rechisky – yes Keller – yes
Guerette – yes Oltman - yes

Petition Number: Z-20-57

Premises Affected: 18 Elm Street

Petitioner: Ingalls / Palmers Restaurant

Relief requested: Special Permit under Art. VIII, §3.1.3.F.8 to create outdoor dining

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

This is a continued deliberation to review and vote on a draft decision. Rechisky questioned the application since the Select Board had approved outdoor dining for the restaurants in town, but is fine with this application as long as it is not more restrictive than the Select Board's approval. Oltman explained that the other restaurants are placing seating on public property, whereas Palmer's is not. There being no changes to the decision as drafted, Keller made a motion to approve the special permit with conditions. Faulk seconded the motion and the Board voted by roll call in the following manner: Casper – yes Guerette – yes Rechisky – yes
McDonough – yes Oltman – yes.

Petition Number: Z-20-58

Premises Affected: 24 River Street

Petitioner: Heritage Builders

Relief requested: for special permits under Art. VIII, §3.3.5 &/or 3.3.7 &/or for a variance from Art. VIII, §4.1.2 to construct a single family dwelling that will not meet the minimum front yard depth requirement.

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

This is a continued deliberation for the purpose of reviewing and voting on the draft decision. There being no changes and with the Administrative Secretary's verification of comments made during the meeting, McDonough made a motion to grant a special permit under Section 3.3.5 with the standard conditions for the reconstruction and a variance from Section 4.1.2 for the front setback and lot size, condition to BVHDC approval. Keller seconded the motion and the Board voted to grant the special permit and variance by roll call in the following manner:

Keller – yes Faulk – yes Guerette – yes Rechisky – yes McDonough – yes Oltman – yes

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Petition Number: Z-20-42

Premises Affected: 275 S. Main Street

Petitioner: Joshua Kelly

Relief requested: Special Permit under Art. VIII, §7.9 to move an historic house from 1 Judson Rd onto the lot

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

The Board received a request from Mr. Troiano, 40 Hidden Road, to re-open the public hearing due to the challenges of public participation in virtual meetings. He has issues that he would like the Board to address. Keller asked if the applicant and abutters are aware of this request. Oltman stated that she is only aware that the applicant and one abutter are aware of the request. Keller questioned the legality of re-opening a public hearing without proper notification. Oltman asked for a motion to re-open the public hearing. There being none, the request to re-open the public hearing failed. The Board then entered into continue deliberation for the purpose of reviewing and voting on the draft decision.

Oltman voiced uncertainty over the condition related to the plan, but left it in to be safe. Casper agreed that keeping it is a good idea. There being no other discussion or changes to the draft decision, Casper made the motion to approve the draft decision as written. McDonough seconded the motion and the Board voted to approve the Dimensional Special Permit for Historic Preservation with conditions by roll call in the following manner:

Faulk – yes Rechisky – yes Guerette – yes Keller – yes Casper – yes McDonough – yes
Oltman – yes

Casper brought up a ‘housekeeping’ issue regarding the expiration of some members’ terms at the end of June. Oltman informed the Board that those members’ whose terms are due to expire at the end of June 2020 have been extended until the Select Board takes actions. Oltman also announced that Associate Member Bordonaro has chosen not to seek renewal of her term.

Petition Number: Z-20-63

Premises Affected: 96 Woburn Street

Petitioner: Cappiello

Relief requested: Special Permit under Art. VIII, §7.9 to move an historic house onto the adjacent lot

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

Attorney Kathryn Morin represented James Cappiello, owner, who was also participating virtually. Attorney Morin explained that there are 2 lots, #96 Woburn being the larger of the two. It contains the historic Stickney House which is on the Andover Historic Building Survey. The proposal is to remove the ‘newer’ additions and to move the original house 120-130’ to the adjoining, smaller lot, also owned by Mr. Cappiello. Morin noted that the brick chimney will be disassembled and rebuilt once the house has been moved. No Approval Not Required (ANR) plan is necessary since no lot line changes are proposed. The land is registered with the Land Court. There was a prior ZBA decision that was never exercised. Although there are wetlands towards the rear of the lots, there will be no earth disturbance within Conservation Commission’ jurisdiction. The currently vacant lot does not comply with zoning dimensional requirements, but the lot with the existing house is compliant. Once the house is moved to the smaller lot, it will comply with bylaw requirements. No police detail is necessary since the house will not be moved on the road. They are requesting a waiver for approval of the route to move the house because it will not go onto the roadway. Oltman asked if Morin is comfortable that all IDR comments shall be addressed. Morin is comfortable that they will be addressed. Morin pointed out that the structural engineer’s letter is included in the packet and a final report will be done once the historic house is moved and on the new foundation. They will add arbor vitae along the border with #92 Woburn Street. The proposal will not be detrimental to the town or the neighborhood as it will continue to be a single family dwelling. Further, the preservation restriction process will protect it in perpetuity. The Board discussed that #96 Woburn St is the Parent Parcel and it will not be divided. Therefore, the condition concerning the creation of a

new lot, with a new structure does not require Preservation Commission review. Attorney Morin agreed. The Board discussed the historic house is in danger of demolition if the Dimensional Special Permit for Historic Preservation is not granted. Oltman noted that the Preservation Commission is in favor of the proposal as demonstrated in a memo from the Chair. Faulk asked Morin to address the issue of why the lots have not been merged. Morin clarified that the lots have not been merged for title purposes, but for zoning purposes they have merged. Casper inquired if there is any impact being Registered Land. Faulk since there are no new lot lines, a new plan can't be registered. Without a site plan for #96, it is uncertain how far to the right of the house the lot line is located. Faulk asked if they considered moving the lot line to keep the house in situ. Morin explained that there is insufficient frontage and therefore it is infeasible to move the lot line. The smaller existing lot, which is undersized, has insufficient frontage. The lot at #94 is the host lot & therefore less lot frontage is required. Casper directed the Board's attention to Section 7.9.4.9 which states, in part, that an existing non-conforming lot that becomes a Host Lot without subdivision need not meet requirements 1-3, but must comply with 4 & 5. Rechisky asked for clarification on what part of the historic house is being saved. Morin referred to the structural engineer's letter that shows what is original, what was expansion as well as what will be moved to the adjacent lot. Morin stated that the house will be moved intact, except for the chimney. The garage will be moved separately. Oltman provided the telephone number and email for the public to use if they wish to contact the Board with any questions for comments. Casper asked Mr. Cappiello if he spoke with the abutters. Cappiello confirmed that he spoke with the Fees, who were concerned about privacy. He will work with them to ensure that they feel that their privacy is maintained. He is unsure who the rear abutter is and has not spoken with them. Their house is not visible from his house. There being no phone calls or emails from the public, the Board agreed to waive a site visit. Faulk made a motion to waive a site visit and to close the public hearing. McDonough seconded the motion & the Board voted unanimously by roll call in the following manner to waive the site visit & close the public hearing:

Casper – yes Faulk – yes Keller – yes Guerette – yes Rechisky – yes McDonough – yes
Oltman – yes

The Board then proceeded to deliberate. Oltman suggested the following conditions / references: receipt of a formal request for a waiver from the route for relocation, the IDR comments must be addressed, as well as the planting of arbor vitae along #92. Oltman reiterated that since #96 is not a new lot, there is no need for Preservation Commission approval. Faulk made a motion to approve the special permit with conditions and a waiver from the route requirement. Casper seconded the motion and the Board voted unanimously by roll call in the following manner:

Faulk – yes Casper – yes Rechisky – yes Guerette – yes Keller – yes McDonough – yes
Oltman – yes

Oltman noted that the regular board members are the sitting members. Oltman volunteered to draft the decision.

Casper made a motion to continue deliberation to the July 2, 2020 meeting. McDonough seconded the motion and the Board voted unanimously to continue deliberation to 7/2/20.

Documents and materials were received by the Board and considered at the public hearing:

- Plan entitled "Site Plan – 94 Woburn Street" prepared by Andover Consultants, Inc., dated March 18, 2020
- Addendum to the Zoning Board of Appeals Application for Dimensional Special Permit – Historic Preservation Description of Proposed Project 94 Woburn Street
- General Property Data for 96 Woburn Street
- Assessors Map 120 showing 94 and 96 Woburn Street
- Letter from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals, dated May 14, 2020, including associated historical information on the Elizabeth and Charles Stickney House
- Letter from Charles C. Brown, PE, of GNCB Consulting Engineers, P.C., regarding the condition of the existing 96 Woburn Street structure, dated February 7, 2020
- Zoning Board of Appeals Decision 4053

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- Quitclaim Deed for transfer of 96 Woburn Street, dated June 19, 2011 and recorded at Essex North Land Court as Certificate Number 16985
- Interdepartmental Department Review Memorandum, dated June 16, 2020

Rechisky asked if it is acceptable to call-in from out of state. The Administrative Secretary will verify with Town Counsel if call-in participation must be from within MA.

There being no other business of the Board, McDonough made a motion to adjourn the meeting. Casper seconded the motion and the Board voted unanimously to adjourn the meeting at 7:25 pm.

Respectfully submitted,
Barbara Burke, Zoning Administrative Secretary