



**MINUTES OF THE ZONING BOARD OF APPEALS
ANDOVER, MASSACHUSETTS
Virtual Meeting Broadcast by:
Andover TV, Comcast Channel 22, Verizon Channel 45
and online at: www.andovertv.org
July 2, 2020**

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

The meeting opened at 6:32 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.

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, Faulk, Keller, Guerette

This is a continued deliberation meeting to review and vote on a draft decision. There being no changes to the draft decision, Casper made a motion to approve the decision as drafted. McDonough seconded the motion and the Board voted unanimously by roll call in the following manner:

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

Petition Number: Z-20-79

Premises Affected: 13 Dufton Road

Petitioner: McGee

Relief requested: special permit from Art. VIII, §3.3.5 &/or for a variance from Art. VIII, §4.1.2 construct an addition that will not meet minimum front or rear setback requirements.

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

Joseph & Sandra McGee, owners, represented themselves. Their contractor, Craig Tetreault, also participated remotely. They wish to replace part of the existing house with a slightly larger addition that will not meet the minimum front or rear yard depth requirements. Mr. Tetreault explained that the section of house to be replaced is falling away from the house. The new addition will be reconfigured and it will be 1' larger. The original house was built in 1926. The existing left elevation shows the garage with family room above it is too low now and the garage will be eliminated. Administrative Secretary Barbara Burke read two emails of support into the record. There were no further questions or comments from the Board and no member of the public called or emailed to participate. The Board discussed whether or not to view the property. Casper made a motion to waive a site view and to close the public hearing. McDonough seconded the motion and the Board voted unanimously by roll call in the following manner:

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

The Board then proceeded to deliberate. In deliberation. Oltman suggested that due to the age of the house a special permit would be appropriate. Casper made a motion to approve a special permit with conditions that the addition shall be constructed in substantial conformity with the plans and to deny the variance as moot. Faulk seconded the motion and the Board voted unanimously by roll call in the following manner:

July 2, 2020

Guerette – yes Keller – yes Casper – yes McDonough – yes Faulk – yes Oltman – yes
Casper volunteered to draft the decision. The Board then voted unanimously by roll call to continue deliberation for the purpose of drafting a decision in the following manner:

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

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

- Certified Plot Plan dated April 9, 2020, revised 06-19-20 prepared John Abagis & Associates, P.L.S.
- Plans and elevations dated December 6, 2018 prepared by W.A. Hurley and Associates

Petition Number: Z-20-86

Premises Affected: 233 Lowell Street

Petitioner: Andover Animal Hospital

Relief requested: Modification of Decision(s) #321 (as amended by nos. 405, 1082, 1723, 16-59 and 19-57)

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

Attorney Mark Johnson represented Diane Tower, of Andover Animal Hospital, and Scott Crawford of United Veterinary Care, both of whom participated remotely. Also present was Attorney Kathleen Heyer of Johnson & Borenstein. Member Faulk disclosed that she has been a customer of the Andover Animal Hospital but feels that she can be impartial. There were no objections to her participation. Johnson gave an overview of the business history stating that Diane Tower now wishes to sell the business to an unrelated party. The business was started by her father, Dr. Lindsey. The current request is to modify condition #9 of Decision 321 to remove the restriction requiring Andover Animal Hospital to control the business. Additionally, Condition #10 restricted the assignment of the hospital to her heirs. The request is to remove the restrictions so that the business, not the property, can be sold to an unrelated party. United Veterinary Care (UVC) is an existing business with presence across the Eastern United States. Diane Tower will have an ownership interest in UVC and will run the hospital. Diane Lindsey Tower, of 227 Lowell Street, expressed her desire to sell the business now that she has a buyer. UVC is #1 in New England in customer service and #53 in the U.S. She reviewed her family's business history in town and how she wants to continue her father's legacy without rebranding it. Dr. Crawford shares the same vision and values as the Lindsey family and the business will remain a part of the Lindsey family. She will continue to reside at 227 Lowell Street and her daughter also lives adjacent to the veterinary hospital. Scott Crawford of UVC presented his background informing the Board that he has known Diane Tower for 10 years. The Board inquired as to other UVC locations, whether or not the purchase is of the business alone or a partnership, the terms of the sale, and the hours of operation. Crawford reviewed the area UVC affiliates and emphasized that it is a business-only purchase with a 15 year lease. The veterinary hospital will not be operated 24 hours per day. Heather Lauten, an abutter on Lowell St. asked for more details about UVC specifically its structure, since it is a recently formed firm. Crawford noted that UVC is owned by a bank finance partner, not a venture capital firm, to help with the purchase of the hospital. The firm was officially formed on 6/3/20. 16 of the 33 hospital were his hospitals. The non-corporate consolidator started the group to prevent the retailization of veterinary hospitals. The legacy and reputation of the hospital will be protected in this way. Tower added that UVC has a great reputation and is well respected. The existing doctors and employees are onboard and want to buy in and take-over in order to carry on the business. Crawford explained that part of the company's core philosophy and values is to empower the employees at the local level to be a part of the company. The Board discussed the intent of earlier conditions in prior decisions to maintain the business as family-run having only one owner making decisions. The Board noted the importance of protecting the neighborhood if the use is allowed to condition with new versions of conditions 9 & 10. One option would be to require UVC to return to the ZBA for permission if they wanted to sell sometime in the future and that a certain percentage of the stock would have to be owned by someone local connected to the practice. Tower informed the Board that a local medical director will be making decisions. The local director & team function to balance the financial & operational decisions according to Crawford. The Board discussed the hours of operation to ensure that they will not be 24/7. There is an existing condition related to hours of operation that can be kept as is, unchanged.

July 2, 2020

The Board discussed the inevitability of a change in ownership as evidenced by the many ZBA decisions noting that the current request is not to expand the business, but to maintain control of the business. The ZBA will maintain oversight of any expansion. If UVC looks to sell to a larger corporation, they would have to return to the Board. Johnson stated for the record that there are no other requests to change any other conditions in any prior decisions. McDonough suggested that the new decision should reiterate each condition explicitly. Keller voiced her preference to not get involved in business decisions, but appreciates the prior ZBA members' intentions & wants to ensure general operational controls are still in place. The Board considered whether to remove conditions #9 & #10 or to revise them along with all prior conditions. The main focus is what business is there, is it well run and what impact does it have on the neighborhood. The Board reiterated that the decision will remove conditions #9 & #10 while reiterating the other existing conditions. Johnson, Tower and Crawford were in agreement. Casper suggested that counsel could submit a document containing the existing conditions. Johnson agreed. The Board agreed to keep the hearing open so that they can receive Johnson's document, which should be received prior to the meeting. Casper volunteered to draft the decision. There being no other comments or questions from the Board or the public, Keller made a motion to continue the hearing to the August meeting. Casper seconded the motion & the Board voted unanimously by roll call in the following manner:

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

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

- Addendum to Petition of Andover Animal Hospital, Inc.
- Plan of Land at 225-237 Lowell Street, Andover, MA dated February 16, 2004 prepared by John Abagis & Associates, PLS
- Letter of Authorization dated June 5, 2020 from LLJ Realty Associates, LP
- Letter from Diane Tower regarding the qualification of Scott Crawford, DVM and UVC to operate the veterinary clinic
- Quitclaim Deed, Book155575, Page 223
- Confirmatory Quitclaim Deed, Book 14616, Page 32
- Past decisions of the ZBA regarding the practice and the property (321, 405, 1082, 1723, Z-16-59, Z-19-57,
- Email in opposition to the Petition received from Charles Urban, a non-abutting neighbor.

Petition Number: Z-20-10, Z-20-25, Z-20-83

Premises Affected: 18 William Street

Petitioner: Arzeno

Relief requested: Special Permit under Article VIII, §7.9, Variance from Article VIII, §4.1.2 and/or 7.9.4.3, Article VIII, §4.1.2 and 4.2.2 and Variance from Article VIII, §7.9.4.4

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

Attorney Mark Johnson represented the petitioners, who also participated remotely, along with project engineer, Steve Stapinski. Johnson gave an overview of the project to date, with the first public hearing opening in February for a Dimensional Special Permit for Historic Preservation. It was the belief that Sherbourne Street was a public street with a 60' width, wider than the usual 40'. It will be built out per Planning Board requirements. The lot meets all other requirements. Stapinski gave an overview of the historic house urging the Board to approve the requested relief. Oltman and Administrative Secretary Burke read into the record multiple emails received from the public in opposition to the project. The Board discussed how much of Sherbourne Street would be paved, the rear abutter's concern with blockage of access to their lot and Preservation Commission review. The Board agreed that they would like to see the property and decided to conduct a site view at 10 am on 7/18/20. McDonough and Guerette stated that they may view the property independently. There being no other questions or comments from the Board or the public, Keller made a motion to continue the

July 2, 2020

public hearing to the 7/18/20 site view at 10 am and further to the 8/6/20 regular meeting. McDonough seconded the motion and the Board voted unanimously by roll call in the following manner:

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

Oltman asked Keller to listen to the February meeting in order to participate in the continued hearing. Keller agreed. Faulk asked for an extension. Johnson agreed to grant an extension until 8/15/20.

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