

**Andover Zoning Board of Appeals**

**Minutes of July 11, 2024**

**Memorial Hall Library, The Hall, 2<sup>nd</sup> Floor**

**2 North Main Street, Andover, MA**

Members Present: Oltman, Faulk, McDonough, Keller, Lopez, and Wellikoff

Also present: Chris Clemente, Inspector of Buildings

**Request to Continue**

**Z-24-29 225 Highland Road**

**Petitioner: Balasubramanina & Mohands**

McDonough made a motion to continue to August 1, 2024. Faulk seconded the motion and the Board voted unanimously to continue to August 1, 2024.

**Z-24-202 Andover Street**

**Petitioner: Burke**

Wellikoff made a motion to continue to August 1, 2024. McDonough seconded the motion and the Board voted unanimously to continue to August 1, 2024.

**Z-24-40 31 Porter Road**

**Petitioner: 31 Porter Road LLC**

McDonough made a motion to continue to August 1, 2024. Lopez seconded the motion and the Board voted unanimously to continue to August 1, 2024.

**Continued Hearing & Deliberation**

**Z-24-20 261 South Main Street**

**Petitioner: Finneran**

Lopez made a motion to approve withdrawal without prejudice. Faulk seconded the motion and the Board voted unanimously to approve.

**Z-24-22 43 High Street**

**Petitioner: Stevenson, Salameh, Rodriguez**

**Members Participating: Faulk, Oltman, Keller, Lopez**

This was continued to obtain an opinion from Town Counsel regarding the appeal filed. The building permit was issued December 19, 2023, and construction began. Correspondence from abutters was received March 20, 2024, and an appeal was filed on May 9, 2024. This was an untimely appeal of the building permit. Discussion followed regarding the next action.

Mary Beth Nason, 55 High Street, asked the Board to take a vote regarding the lateness of the appeal.

Lopez made a motion to close the public hearing. Wellikoff seconded the motion and the Board unanimously voted to close the public hearing.

Keller made a motion to dismiss due to the lateness of the appeal. Lopez seconded the motion and the Board voted unanimously to dismiss due to the lateness of the appeal.

**New Public Hearing & Deliberation**

**Z-24-34 10 Bateson Drive**

**Petitioner: Tamasanis**

**Members Participating: Faulk, McDonough, Oltman, Keller, Wellikoff**

The petitioner informed the Board that the pergola to the inground pool was previously approved by the Board, however it has been shifted. The setback from the pool edge remains the same and it is now 34 feet from the street.

This will be a new variance, not a modification of Z-23-96.

Faulk made a motion to waive the viewing and close the public hearing. McDonough seconded the motion.

Keller made a motion to approve the Variance from Art. III, sec.4,2,4 as discussed. Lopez seconded the motion and the Board voted unanimously to approve the requested relief. Keller will draft the decision.

**Z-24-30 1 Cormiers Way**

**Petitioner: Crowley**

**Members Participating: Faulk, McDonough, Oltman, Keller, Lopez**

The lot has 3 front yards and abuts more than one Way with the house facing Cormiers Way. The proposed pool will be located off the existing deck.

Russell Stott presented the project. A retaining wall will be included making it difficult to move the pool to meet the requirements.

Keller made a motion to waive the viewing and close the public hearing. Lopez seconded the motion.

Lopez made a motion to approve the Variance from Art. VIII, secs 4.1.3.2, 4.1.2 and 4.2.4 and to construct the pool in substantial compliance with the plans provided. Keller seconded the motion and the Board voted unanimously to grant the relief. Lopez to write the decision.

**Z-24-41 125 Haverhill Street**  
**Petitioner: Rokx Services, LLC**

**Members Participating: Faulk, Oltman, McDonough, Keller, Wellikoff**

The petitioner did not appear for the hearing.

Kurt Keffersten, an abutter, informed the Board that he owns Dufton Road Extension and the side setback to his property line is 7.5 feet. His property is being utilized during construction. The Building Inspector will assist with moving the construction materials off of his property.

Continued to August 1, 2024.

**Z-24-38 140 Haverhill Street**  
**Petitioner: Medico 140, LLC**

**Members Participating: Faulk, McDonough, Oltman, Lopez and Wellikoff**

Ben Osgood presented the changes to the Board, including the construction of a 19,000 sq. ft. building instead of a 39,000 sq. ft. building. This will be a medical office building with no overnight care or emergency services. The parking on High Street will remain and some parking will be moved.

Paula Renzi, 135 Haverhill Street, asked how the 300' buffer is a hardship. The lot was a medical office building prior to the by-law.

Nick Brown, 149 Haverhill Street, asked if there would be any changes to the lighting plan approved. The Planning Board will condition the lighting plan for this change.

Dennis Richards, 129 Haverhill Street, informed the Board he did not receive notice of the hearing. MGL dictates the service of notice.

Faulk made a motion to waive the viewing and close the public hearing. Lopez seconded the motion.

McDonough made a motion to approve the Variance from Art. VIII, sec.4.1.2 and deny Special Permit under Art. VIII sec. 4.1.4.3b as moot which supersedes prior ZBA decision. Wellikoff seconded the motion and the Board unanimously to grant the relief. Oltman to draft the decision.

**Z-24-36 128 Lovejoy Road**

**Petitioner: Serafina**

**Members Participating: Faulk, McDonough, Oltman, Keller, Lopez**

The Petitioner informed the Board that the frame of the portico over the front stairs, not past the existing stairs. Keller asked for an updated plot plan with the drawing of the portico and all structures on the site. Oltman responded that the portico is 48". A new plot plan would not impact the decision. McDonough asked for an As-Built Plan to be provided.

Wellikoff made a motion to waive the viewing and close the public hearing. Lopez seconded the motion.

Faulk made a motion to approve the Variance Art. VIII, sec. 4.1.2 and deny the Special Permit as moot with an As-Built Plan to be provided and the portico not to be constructed closer than 26' to the property line. Lopez seconded the motion and the Board voted unanimously to grant the relief. Faulk to write the decision.

**Z-24-32 24 Olde Berry Road**

**Petitioner: Rane**

**Members Participating: Faulk, McDonough, Oltman, Keller, Wellikoff**

The existing deck was damaged during the storm and the proposal is to build a sunroom with a smaller deck. The setback will be 19.6' feet from the rear property line. This would make is a new non-conformity.

Ken, 17 Olde Berry Road, supports the project.

Keller made a motion to waive the viewing and close the public hearing. Lopez seconded the motion.

Keller made a motion to approve the Variance to Art. VIII sec. 4.1.2 based on the shape of the lot with an As-Built Plan provided and deny Variance to Art. VIII, sec 3.3.5 as moot. Lopez seconded the motion and the Board voted unanimously to gran the relief. Wellikoff to write the decision.

**Z-24-33 23 Pasho Street**

**Petitioner: Tanklefsky**

**Members Participating: Faulk, McDonough, Oltman, Keller, Lopez**

The petitioner reviewed the project which consists of a new side entrance and 10'x9'x6' addition to the existing home with a farmer's porch. The is a pre-existing non-conforming narrow lot.

William Stewart, 26 Pasho Street, supports the project.

Keller made a motion to waive the viewing and close the public hearing. Wellikoff seconded the motion.

Wellikoff made a motion to approve the Special Permit under Art. VIII sec. 3.3.5.2 due to the preexisting non-conforming lot and deny the Variance under Art. VIII, sec. 4.1.2 as moot as discussed. Lopez seconded the motion and the Board voted unanimously to grant the relief. McDonough to write the decision.

**Z-24-34 26 Pasho Street**

**Petitioner: Stewart**

**Members Participating: Faulk, McDonough, Oltman, Keller, Lopez, Wellikoff**

A previous Special Permit was approved for the addition with a condition that the outbuilding be demolished. The petitioner would like to construct a smaller addition and have the outbuilding remain in place. Oltman added that since no work has been done on the Special Permit issued, this is considered a new application. The addition would provide additional living space on the first floor and the outbuilding has been renovated and used as an office space and possibly for in-laws to reside in the future. This is officially a 2-family lot.

Keller made a motion to waive the viewing and close the public hearing. Lopez seconded the motion.

Wellikoff made a motion to approve the Special Permit under Art. VIII, sec. 3.3.5 and deny the Variance under Art. VIII, sec. 4.1.2 and modification request as moot as discussed. Keller seconded the motion and the Board voted unanimously to grant the relief. Keller to write the decision.

**Z-24-35 55 Rocky Hill Road**

**Petitioner: McCabe**

**Members Participating: Faulk, Oltman, McDonough, Keller, Lopez**

The proposed garage with living space above will encroach into the rear setback. The lot is an L shaped lot with the house constructed in such a place that the garage cannot be located elsewhere. This is a new non-conformity.

Keller made a motion to waive the viewing and close the public hearing. Lopez seconded the motion.

Keller made a motion to approve the Variance under Art. VIII, sec. 4.1.2 and deny the Special Permit under Art. VIII, sec. 3.3.5 as moot as discussed. Lopez seconded the motion and the Board voted unanimously to grant the relief. Lopez will write the decision.

**Z-24-31 6 Rogers Brook East**

**Petitioner: Trerotola**

**Members Participating: Faulk, McDonough, Oltman, Keller, Wellikoff**

Attorney Mark Johnson, representing the petitioner, presented the project to the Board. Both lots are owned by the petitioners. One lot is pre-existing, non-conforming. Attorney Johnson reviewed the revised property lines and construction of a house at 0 Chestnut Street. He reviewed the options available to construct the new house and the setbacks. The relief requested was reviewed for the options. Many emails have been received regarding concerns with drainage and in support of the project. Attorney Johnson shared an email received from DPW. He reviewed the drainage mitigation proposed.

The petitioner reviewed the history of both properties for the Board and drainage history of the lot.

Jennifer Wang, Rogers Brook East, supports the project with the variance.

Luigi Spagnuolo, 12 Rogers Brook West, spoke regarding his concern with water coming from Rogers Brook East and reviewed the history of flooding on this property.

Mary Dudek, 212 Chestnut Street, spoke regarding drainage infiltration for the new lot and does not support the cul-de-sac.

Paul Shea, 4 Rogers Brook West, is concerned with water issues and flooding. Rogers Brook East is on a hill and the water runs downhill onto Rogers Brook West.

Abigail Harris, 268 Highland Road, supports the project.

Brian Lemke, 5 Rogers Brook West, spoke against the project for the risk of drainage issues.

Sean Norton, 8 Rogers Brook East, supports the variance with the smaller footprint.

Mo Hwa Wang, 3 Rogers Brook East, supports the variance.

Oltman stated that a site visit is necessary to understand the topography of the area.

Faulk added that a topography plan would be beneficial and an engineer's statement regarding the drainage and mitigation.

The site visit was scheduled for July 20, 2024, at 8:30am.

Wellikoff made a motion to continue to August 1, 2024. Faulk seconded the motion and the Board voted unanimously to continue.

**Z-24-39 6 Shepley Street**  
**Petitioner: Retelle**

**Members Participating: Faulk, McDonough, Oltman, Keller, Lopez**

The attached garage is in disrepair and will be torn down and create a family dwelling unit for his mother-in-law. The family dwelling unit will be in compliance with zoning setbacks. Three standard conditions of a family dwelling unit were reviewed by Oltman.

Keller made a motion to waive the viewing and close the public hearing. Faulk seconded the motion.

Keller made a motion to approve the Special Permit under Art. VIII, sec. 3.13.F.4. Lopez seconded the motion and the Board voted unanimously to grant the relief. Keller will write the decision.

**Z-24-37 8 Waverly Road**  
**Petitioner: Rosenbaum**

**Members Participating: Faulk, McDonough, Oltman, Keller, Wellikoff**

The Petitioner would like to build a portico over the front stairs, extend the stairs and landing to encroach into the front yard setback by 2 feet. The overhand from the second floor causes water to freeze on the landing and is dangerous in the winter. The lot is long and narrow with the house in the front of the lot. This would be a new non-conformity.

Lopez made a motion to waive the viewing and close the public hearing. Keller seconded the motion.

Keller made a motion to approve the Variance under Art. VIII, sec. 4.1.2 and deny the Special Permit as moot as discussed. Faulk seconded the motion and the Board voted unanimously to grant the relief. McDonough will write the decision.

### **Continued Deliberations**

**Z-24-17 5 Alison Way**  
**Petitioner: Katie Greer**

**Members Participating: Faulk, Oltman, Keller, Lopez**

Keller made a motion to accept the draft decision as written. Faulk seconded the motion and the Board voted unanimously to accept the draft decision as written.

**Z-24-21 8 Lincoln Street**  
**Petitioner: Shevlin**

**Members Participating: Faulk, Oltman, Keller, Lopez**

Lopez made a motion to accept the draft decision as written. Keller seconded the motion and the Board voted unanimously to accept the draft decision as written.

**Z-24-25 3 Cuba Street**  
**Petitioner: Bossons**

**Members Participating: Oltman, Faulk, Keller, Lopez**

Lopez made a motion to accept the draft decision as written. Wellikoff seconded the motion and the Board voted unanimously to accept the draft decision as written.

**Z-24-26 36 Boston Road**  
**Petitioner: Tosiavelon**

**Members Participating: Oltman, Faulk, Guerette**

Lopez made a motion to accept the decision as written. Wellikoff seconded the motion and the Board voted unanimously to accept the draft decision as written.

**Z-24-27 46 Sunset Rock Road**  
**Petitioner: Messinger**

**Members Participating: Faulk, Oltman, Keller, Guerette**

Wellikoff made a motion to accept the decision as written. Lopez seconded the motion and the Board voted unanimously to accept the draft decision as written.

**Z-24-23 4 Hillcrest Road**  
**Petitioner: Lazovich & Marchand**

**Members Participating: Faulk, Oltman, Keller, Guerette**

Keller made a motion to accept the decision as written. Lopez seconded the motion and the Board voted unanimously to accept the draft decision as written.

**Discussion Item(s)/Other Business**

**Approval of Minutes: May 9, 2024, and June 6, 2024.**

Lopez made a motion to approve the Minutes of May 9, 2024. Faulk seconded the motion and the Board voted 5-0-1 to approve with Keller abstaining.

Lopez made a motion to approve the Minutes of June 6, 2024. Wellikoff seconded the motion and the Board voted 5-0-1 to approve with McDonough abstaining.

**Lopez made a motion to adjourn the meeting. McDonough seconded the motion. The Board voted unanimously to adjourn at 9:40pm.**