

Town of North Andover
ZONING BOARD OF APPEALS

Approved
Aug 14,
2012

Albert P. Manzi III, Esq. Chairman
Ellen P. McIntyre, Vice-Chairman
Richard J. Byers, Esq. Clerk
D. Paul Koch Jr. Esq.



Associate Member
Michael P. Liporto
Tyler Speck
Zoning Enforcement Officer
Gerald A. Brown

DRAFT MINUTES
Tuesday, June 19, 2012 at 7:30 PM
Senior Center 120R Main Street, North Andover, Massachusetts

Members present: Ellen McIntyre, Richard Byers, Paul Koch
Associate Member: Michael Liporto and Tyler Speck
Also in attendance: Zoning Enforcement Officer: Gerald Brown
Excused absence: Albert Manzi III, Esq.

The Chairman, Albert Manzi, is attending a Planning Board Meeting tonight. In his absence Ellen McIntyre will be the Acting Chairman for tonight's meeting.

McIntyre called the meeting to order at 7:34.

McIntyre stated that we have a five (5)-member board, so all of the board members present tonight will be voting.

Pledge of Allegiance

Acceptance of Minutes for May 1, 2012

Byers made the motion to approve the May 1, 2012 Minutes

Koch Second the motion.

Those voting in favor to approve the minutes were McIntyre, Byers, Koch, Liporto and Speck.

5-0

Committee Report Housing Partnership Report

McIntyre stated that she did not have anything new to report since the committee did not meet.

Continued Public Hearing

A Special Permit in an R-4 Zoning District, applicant Gene Espinola, 41 Second Street (Map 30, Parcel 35)

Atty. Domenic Scalise walked over to the podium stating that he is here on behalf of his client, Gene Espinola.

Scalise summarized to the Board his applicant's request. He also stated at the last meeting the abutters expressed many concerns regarding the parking in the area.

Scalise stated that his client worked on addressing this issue and he will present it at tonight's meeting. Scalise submitted four (4) alternative plans to the members of the board regarding parking, labeled A, B, C and D prepared by Andover Consultants. Alternative plans A through C dated May 10th 2012 and alternative plan D was dated June 19th, 2012.

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McIntyre expressed concerns that this new information (regarding the parking) was not submitted to the Board ahead of time, for the members to review before tonight's meeting. McIntyre stated that she will allow it only if the Board members agreed to this newly submitted material, regarding alternative parking. The Board agreed to look at this newly submitted material. The engineer for the applicant, William McLeod discussed each of the parking alternatives to the Board in detail.

McLeod also stated that these parking spots are dedicated spots for each unit. McIntyre asked if a landscaping plan had been done. With that being said, Scalise submitted copies of the landscape plan to each Board member. The landscape plan was prepared by Weinmayr/Jay Associates, INC., Landscape Architects, dated June 6, 2012.

Koch asked questions regarding the landscape plan that was in front of him, regarding what trees and shrubs on the plan presently existed and which ones were proposed. Byers asked if this existing property was a single family home, Byers also asked about the stack parking and if it was legal. McLeod responded back to these questions; it was a single family home at one time and he also thought that stack parking was legal.

Byers stated that he thought he made it clear at the last meeting, that he thought that this project should be reduced in size, even if it meant fewer units.

Byers stating that by reducing the units, parking may not be an issue at all.

Liporto thought that parking on the side seemed to be the best solution from all the versions they showed, since it opened up the front, but Liporto understood that some may have different opinions on this.

Koch asked various questions regarding a proposed three (3) unit, a proposed two (2) units and also tandem parking.

McIntyre stated that she prefers the parking on the side rather than backing out onto a busy street.

McLeod responded to McIntyre's statement, stating that by placing the parking on the side it would not take away any of the on street parking in the area, because they would not need curb-cuts in the front of the units.

Scalise stated that maybe they could continue this hearing till the next meeting and go back to the table and look into reducing the amount of units.

McIntyre wanted to remind the Board that these are 3 bedroom units, and that there is a strong possibility there may be at least three (3) cars for each of these units.

McIntyre asked if the board had any further questions or concerns.

The applicant's lawyer and engineer talked of other alternatives for this project to the Board, such as the amount of units and parking concerns.

McIntyre asked if the abutters wanted to voice their concerns on this project.

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Catherine Raadmae, of 45 Second Street (owned a single family home) walked over to the podium and wanted to only see a two (2) Family unit on this lot. She felt that this area was already much too crowded for anything more. She also had concerned for what would be in the back of their units, such as the landscaping.

John McDuffie, of 22 Maple Avenue agreed with Catherine Raadmae because it was too congested. McDuffie stated that it is an old established neighborhood and reiterated that it should only be a two (2) family. He also had his concerns on parking, especially if it was going to be a three (3) bedroom home, which may mean, even more cars per unit.

David Fournier, also of 45 second street stated 2 units and 2 garages would be much nicer for this area.

McIntyre suggested to the applicant, that they should entertain garages into their project.

Lisa Loosigan, of 42 Second Street stated that she shares the same concerns that have been spoken by the other abutters here tonight. She was concerned with the growing congestion in the neighborhood. She also stated that this project should be downsized with the parking in the back, with or without garages in the back of the units.

Byers voted to continue this public hearing till August 14th, 2012

Koch second the motion

Those voting in favor to continue this hearing for 41 Second Street were McIntyre, Byers, Koch, Liporto and Speck.

5-0; all were in favor.

Scalise signed a Continuation Waive Form for 41 Second Street and returned the form back to the Zoning Assistant.

McIntyre stated that we will go a New Public Hearing, also stating that the Board does have the authority to go out of order.

New Public Hearings

Special permit R-3 Zoning District, Kathleen Reynolds, 96 Chestnut Street (Map60.A, Parcel 11)

Steven Reynolds, of 96 Chestnut Street walked over to the podium stating that they are requesting a Family Suite for their disabled son who is living with them.

Reynolds stated that because they are adding a kitchen (stove) this would make it a Family Suite.

McIntyre asked if the Board had any questions on this project or if any abutters were present tonight for or against.

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Byers made a motion to grant the Special Permit to allow for a Family Suite from sections 4.121.17 of the Zoning Bylaws in the R-3 Zoning District at 96 Chestnut Street. Byers also referenced all the plans, maps and associated dates in front of him and also who prepared these plans.

Koch second the motion to grant the Special Permit for the Family Suite.

Those voting in favor of the Family Suite were McIntyre, Byers, Koch, Liporto and Speck.

All were in favor; 5-0.

With that being said McIntyre moved onto another new public hearing.

Special Permit and Variance, R-1 Zoning District, Donna Taylor, 59 Bonny Lane (Map 62, Parcel 56)

Jay Salem, President of Sunspaces, from Middleton Ma, walked over to the podium stating that he is speaking on behalf of the Taylors; they own the property at 59 Bonny Lane. He stated that his clients would like to install an addition of a Sunroom to their home.

McIntyre wanted to hear from the owner of the property, allowing permission for Salem to speak on behalf of the Taylors. Donna Taylor owner of the property at 59 Bonny Lane walked over to the podium stating that she is permitting Mr. Salem to speak on her behalf.

Salem stated that this is a much smaller footprint than the deck they now have, but are planning on taking it down to be replaced with a sunroom. This sunroom will have glass, a roof and sonotubes installed.

Salem also spoke of going in front of the Planning Board, and that he received a "Notice of Decision Watershed Special Permit-Waiver", from them.

The board asked various questions such as setbacks, patios and if this structure was year round with air conditioning and heat. Salem stated it is a 4-Season Sunroom.

McIntyre asked if any abutters were here for or against this proposed project.

Richard Aghoian, of 47 Bonny Lane walked up to the Podium stating that he was in favor of this project and felt the Taylors would enjoy it.

A non abutter, Anne Saragnese who lived on 105 Bonny Lane was also in favor of the sunroom.

Byers made a motion to Grant for the Special Permit from Section 9, Non Conforming uses and Section 9.1, 9.2 and 9.2.1 to allow for the sunroom addition. Byers also referenced all the plans, maps and associated dates in front of him and also who prepared these plans and a brochure, Techno Metal Post (foundations for porches). Byers made the motion along with the condition that the "Notice of Decision Watershed Special Permit-Waiver", from the Planning Board be submitted into the file for 59 Bonny Lane.

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Koch second the motion to Grant the Special Permit.

Those voting in favor to Grant the Special Permit for 59 Bonny Lane to install a sunroom were McIntyre, Byers, Koch, Liporto and Speck.

All were in favor, 5-0.

Byers made a motion to Grant a Variance under Table 2 of the Bylaws to allow relief for the sunroom, for the left side set back of 10.5 feet to construct the addition of the sunroom in the R-1 Zoning District. Byers also referenced all of the plans, maps and associated dates in front of him and also who prepared these plans and a brochure, Techno Metal Post (foundations for porches).

With the condition that a copy of the "Notice of Decision Watershed Special Permit-Waiver", from the Planning Board be submitted into the file for 59 Bonny Lane

Koch second the motion to Grant the Variance

Those voting in favor to Grant the Variance to allow relief for 59 Bonny Lane to install a sunroom were McIntyre, Byers, Koch, Liporto and Speck.

All were in favor; 5-0.

McIntyre moved onto another New Public Hearing.

Special Permit and Variance R-4 Zoning District, Allen E. Cusica, 22 Upland Street (Map 67, Parcel 69)

Atty. Scalise is representing his client, Allen E. Cusica. His Client would like to raze the existing two (2) family structures along with the garages and proposes to construct a new two (2)-family. He stated his client needs a Variance and a Special Permit.

Scalise showed pictures of the existing home, showing the driveway and garages as well.

Scalise submitted a map that he received from the Assessors' Office showing the multi family homes in the area. Scalise stated that the multi-family homes were highlighted in pink.

Scalise went on to say that as of right now that these two (2) homes are very close to one another. The proposed plan will not have the homes as close. The new structure will allow for more room than what exist today.

Scalise stated that his client is requesting a Special Permit for a two (2) family and a Variance for side setbacks.

McIntyre asked why they are tearing it down; Scalise stated that it is the age of the structure, plus it sits way back on the lot and is very close to another house.

Brown stated it is very unsafe to have these structures so close to one another as they are today, and it would be a win-win situation for the neighborhood and much safer too.

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Scalise stated the proposed structure would be 61 feet from the lot line.

The Board talked of the gross living space, parking, the shared driveway, the look of the proposed home, the neighborhood, the shape of the lot and the easements.

Scalise mentioned that it is a long narrow lot and that this structure fits nicely on the lot as it is proposed.

Scalise also mentioned to the board that an abutter, Mr. Finocchario, of 15 Furber Avenue stated to Scalise verbally, that he thought this proposed construction was a good project, and was in favor of it. Mr. Finocchario gave permission for Scalise to report that verbally back to the Board.

McIntyre pointed out to Scalise that the next time she would prefer to have that in writing.

McIntyre asked the Board if anyone had any further questions or comments.

McIntyre asked if any abutters were here for or against the project.

George Robertson, of 95 High Street stated that he has lived in his home for 14 years and is also familiar with the area. At one time his home was owned by his grandmother then his aunt owned it. Robertson ended up buying it from his aunt. Robertson stated that he always thought that this property on 22 Upland Street was a single family home and not a two (2) family home.

Robertson felt that this structure should come down; He agreed that the homes were too close to one another and felt that it is a fire hazard.

Robertson was also very concerned, since this existing structure was close to his own house. He wanted to know what precautions would be taken when the structures on this property are razed.

Robertson also had concerns with his privacy.

He also stated that the size of the home they are proposing will make the yard very small. He also talked of the 3 foot retaining wall.

Robertson was in full favor of the Special Permit to build a Two Family but was against the Variance.

He also thought that this should be a much smaller structure.

The Baez's, of 99 High Street had concerns with a deed from 1958 and the easement that linked them in with this property on 22 Upland Street.

They purchased the property on 99 High Street over 18 months ago and it was never clear to them from their lawyer on their rights to the garage on the 22 Upland Street lot. They showed the Board how their deed mentioned their rights to this garage along with the easements (gas electric and sewerage) at 22 Upland Street. Baez stated that this deed was filed in 1958 stating that they have access to one of the garage stalls.

The Baez's both were in favor of tearing down the house but had great concerns with regards to their deed, and needed to have legal counsel for this issue.

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Byers stated that they cannot interrupt the easement.
McIntyre thought the easement was for the use of the garage.

Koch suggested that this hearing should be continued so more could be found out on the deed of the property owners on 99 High Street, The Baez's.

McIntyre asked if any Board members or abutter had any other concerns or would like to speak.

Byers made a motion to continue to the next meeting August 14th, 2012

Koch second the motion to continue.

Those voting in favor to continue the Hearing for 22 Upland Street were McIntyre, Byers, Koch, Liporto and Speck.

All were in favor to continue this Hearing; 5-0.

Scalise signed a Continuation Waive Form for 22 Upland Street and returned it back over to the Zoning Assistant.

McIntyre moved on to the last New Public Hearing.

Special Permit and Variance R-4 Zoning District, Joseph G. Levis, 82 Saunders Street (Map 40, Parcel 9)

Scalise walked over to the podium again and stated that he is speaking on behalf of Joseph Levis, his client.

Levis is requesting a Special permit to construct a new two (2) family home. Scalise also stated that a Variance is needed as well, since it exceeds over 50% of what is required (the increase is 1,436 square feet).

Levis wants to raze the single family home along with the garages that sit on the lot.

Scalise passed around a map he had received at the assessors' office showing all the multi-family homes in the area. Scalise pointed out to the board that the multi family homes on the map were colored in pink.

Scalise also passed around a picture of the property as it exist today.

Scalise stated the property is now owned by the applicant, Joseph Levis, since the transfer of ownership had just recently taken place.

McIntyre asked if anyone lives in this home; Levis stated no, the home is unoccupied.

Scalise stated that the structure meets all of the setbacks, but only needs a Variance because the structure proposed is greater than the 50% coverage allowed.

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McIntyre asked the Board if they had any questions.

Scalise submitted two (2) letters from abutters that were in favor of the proposed project. One was from Russ Hertrich (dated June 12, 2012), for property located on Main Street. He stated in his letter that this new project will be a vast improvement to the neighborhood and has been long over due. The other letter was from George Schruender (dated June 12, 2012), for property located at 75 Saunders Street. Schruender also felt that this proposed project will bring up the value of the area. Schruender also stated that he has known Joseph Levis for over 25 years and that he is a quality builder and also a resident of North Andover.

McIntyre asked if anyone was for or against the project.

William (Bill) Whittaker stated his mom still lives at 73 Saunders Street. He walked over to the podium to address the Board stating that getting rid of the garages will spruce up the area favorably and he is in favor of this project, he was concerned with the size, but thought it was still a favorable project.

Paul and Joan Denton, of 72 Saunders Street walked over to the podium to address the Board stating their concerns. They both felt this structure was up to high and also thought it would add extra traffic to the area. Paul Denton stated that his home along with 3 houses to the left drop off in the back. Denton had concerns with the proposed height of the structure, and they felt they would loose some of their privacy.

Liporto had a question regarding the grading of the land and the drop off in the back.

Brown stated that he understood what the Denton's were saying, since he drove by the property in question noting the significant drop off in the back, and how it may effect those abutters.

Scalise walked back to the podium and stated that Joseph Levis is a quality builder and has built many quality homes in the Merrimack Valley and has razed many homes that were in need of improvement, and replaced them with a high efficiency home. Levis is a very reputable builder.

Joseph Levis walked over to the podium and gave the Board an idea of the type of work he does around the Merrimack Valley

Levis stated the home they are proposing to build is the same type of home that they have successfully built at least ten (10) times and are highly efficient. Levis also stated that his son is his partner. Levis wanted the Board to know that they love to find the worst house on the street and turn it into a desirable home.

McIntyre stated that she has no more questions or concerns to add and asked the board or the abutters if they had any concerns.

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Levis was more than willing to try and meet some of the needs of the Denton's and would sit and talk with them to try and satisfy them.

McIntyre advised the Denton's that they should be sure before they agree to this.

The Denton's seemed to be satisfied with what Levis proposed to do.

McIntyre entertained to close the hearing.

Byers made a motion to close the hearing
Koch second the motion.

Those voting in favor to close this hearing were; McIntyre, Byers, Koch, Liporto and Speck.
All were in favor, 5-0.

Byers made a motion to Grant the Special Permit from Section 9 Pre-existing Non-conforming Structures or uses, Sections 4.122 and 4.122.14.B, and Section 4.122.14.D of the Zoning bylaw within an R-4 District to raze a single family home and to construct a new two family dwelling. Byers also referenced all the plans, maps and associated dates in front of him and also who prepared these plans.

Koch second the motion to Grant a Special Permit.

Those voting in favor to Grant the Special Permit were; McIntyre, Byers, Koch, Liporto and Speck.
All were in favor, 5-0.

Byers made a motion to Grant a Variance from Section 4.122.14.B.a to exceed the structure to 65%
Byers also referenced all the plans, maps and associated dates in front of him and also who prepared these plans.

Koch second the motion to Grant the Variance.

Those voting in favor to Grant the Special Variance were; McIntyre, Byers, Koch, Liporto and Speck.
All were in favor, 5-0.

Miscellaneous Correspondence

The May/June correspondence were also included in the Board's packets and discussed briefly.

"MVPC'S (Spring 2012) Annual Regional Planning Day", it was time stamped May 2, 2012.

Four letters from **"CHAPA"** were also included in the Boards' packets; dated May 2, 2012, May 8, 2012, and 2 letters dated May 29, 2012.

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Two letters received from Curt Bellavance and addressed to CHAPA regarding the “**Right of First Refusal**” dated May 8th, 2012 and June 6th 2012 were also included in the Board’s packages and discussed.

A letter re-submitted into the Board’s packets regarding “**Wireless Facilities**” received from Tom Urbelis, dated February 27, 2012 was re-discussed again. This same letter was discussed back in the March 2012 ZBA Meeting.

All correspondences were discussed by the Board.

Byers made a motion to adjourn
Koch Second the motion

Those voting in favor to adjourn, Ellen McIntyre, Richard Byers, Paul Koch JR, Michael Liporto and Tyler Speck.

All were in favor, 5-0.

Adjournment: 9:37