

Town of North Andover  
ZONING BOARD OF APPEALS

13 May 14

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



Associate Member  
*Michael P. Liporto*  
*Deney Morganthal*  
*Doug Ludgin*  
Zoning Enforcement Officer  
*Gerald A. Brown*

**DRAFT MINUTES**  
**Tuesday, April 8, 2014 at 7:30 PM**  
**Senior Center 120R Main Street, North Andover, Massachusetts**

**Members present:** Albert Manzi III Esq., D. Paul Koch Jr and Allan Cuscia  
**Associate Member:** Michael Liporto, Doug Ludgin and Deney Morganthal  
**Excused absence:** Ellen McIntyre, and Richard Byers

**Pledge of Allegiance**

Manzi called the regular meeting to order at 7:33

**Acceptance of Minutes March 11, 2014**

Cuscia made the motion to approve the Minutes

Koch second the motion.

Those voting in favor to approve the minutes were Koch, Cuscia, Morganthal and Ludgin.

4-0

Manzi stated that since Byers and McIntyre are not at tonight's meeting, and if they have anything to add or correct on the March 11<sup>th</sup> Minutes they can have that opportunity at the next meeting.

**Committee Reports**

**Merrimack Valley Planning Commission and Committee Housing Partnership**

Manzi stated that we will skip this since Byers and McIntyre are not at tonight's meeting to give their reports.

**Discussion**

**Orchard Village Street Acceptance**

Atty. Donald Borenstein who represents Bob Messina, the principle for the Orchard Village project walked up to the podium and stated that we are here tonight to ask for street acceptance at Empire Drive (Orchard Village) as a public Way, for which the ZBA is authorized to act instead of the Planning Board pursuant of the Comprehensive Permit.

Borenstein spoke to the Board Members (especially some of the new members) and gave them a brief history on the Orchard Village property. Borenstein stated that Orchard Village is off of Turnpike Street. There are 32 single family homes and 8 of these homes are affordable homes under the Comprehensive Permit. Borenstein stated that the project has been complete for several months now. Borenstein also mentioned the water pump station has been accepted.

Borenstein is requesting to the Board that they recommend to the Selectmen street acceptance on this project, before it goes to Town Meeting.

Borenstein stated they built the road according to Town specifications.

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Manzi stated that he spoke to Tom Urbelis and Carol Hajjar (Town Counsel), regarding the Street Acceptance, and that Urbelis & Hajjar have been working on the final forms for street acceptance along with Borenstein.

Borenstein stated that he was very proud to be part of this project with Bob Messina (Project Manager). Bob Messina is modest, and stated that Messina was the one responsible for a very successful project. Manzi and Cuscia agreed that Orchard Village is a very nice subdivision.

Manzi asked Borenstein if they are going in front of Conservation tomorrow.  
Borenstein said yes.

Cuscia asked Borenstein of Lot 34 and asked of why it was deeded to the Town. Borenstein explained to Cuscia that lot is actually the Road itself, and Borenstein spoke of another lot on the property designated for a pumping station.

Manzi stated he recommends that a favorable action be made by the Board regarding Street acceptance.

Ludgin made a motion to approve/acceptance of the roadway for review on street acceptance at Orchard Village subject to the final review of the Conservation Commission and Town Counsel.

Cuscia second the motion

All in favor Ludgin, Cuscia, Koch, Manzi and Liporto

5-0

Manzi stated next on the agenda is the new public hearings

With that being said Koch opened up the first public hearing for 45 Windkist Farm Road.

**New Public Hearing**

**A Variance, Zoning District R-2, Stephen Costa and Quentara Johnson, 45 Windkist Farm Road (Map 109 Parcel 49)**

Petitioner is requesting to construct a shed of 192 square feet.

Stephen Costa, the applicant walked up to the podium and was requesting a shed on his property but needs 2 Variances.

A Variance is required for a Side and Rear Setbacks in an R-2 Zoning District (Table 2 of the Zoning Bylaws). Proposed side setback requested is 18 feet; proposed rear yard setback requested is 19 feet, 30 feet is needed and required for both setbacks.

Costa stated that because of the topography of the land, wetlands, sloping land, and the pool, it does not give them many options on where to place the shed.

Costa stated that it is outside of the 100 foot buffer zone. The board reviewed the pictures and plans that were submitted into their packets.

Manzi asked Costa if the pool is already in. Costa stated that the pool is in, but it is not completed as of yet.

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Ludgin asked Costa to point out some specifics on the location of the shed on the site plan submitted by Costa. Manzi asked Costa why that location, Costa stated because of the sloping of the land.

Manzi also asked of structures on the neighbor's property, along with the amount of relief that the applicant is requesting.

Liporto responded to Manzi that the relief would be 11 feet on one side and 12 feet on the other side, Costa agreed.

Koch asked Costa if any abutters had any concerns with the shed. Costa said he talked to the direct abutters and they had no concerns.

Liporto wondered if a Variance was needed for the size of the shed.

Manzi asked the Zoning Assistant if there were any letters that came into the office from any abutters, regarding this petition. The Zoning Assistant responded that no letters were submitted.

Manzi asked the applicant if he had anything to add. Costa said no.

Manzi asked if any neighbors were here for or against it. No one responded.

Manzi then asked if the Board had any additional comments or questions.

Manzi asked the Board if we should close the public hearing.

Cuscia made a motion to close the hearing for 45 Windkist Farm Road.

Morganthal second the motion to close the Hearing.

All in favor, to close the public hearing were Cuscia, Koch, Manzi, Liporto, and Morganthal

Cuscia made a motion to Grant the Variance for the shed at 45 Windkist Farm Road. Two variances are required for side and rear setbacks in an R-2 Zoning District. A side set back of 18 feet on the northerly border (provided is 12 feet) and a rear set back is 19 feet on the southerly border (provided is 11 feet) to erect a shed of 192 square feet. Cuscia referenced all the plans and maps in front of him.

Liporto second the motion

All in favor to Grant the Variance for the shed: Manzi, Koch, Cuscia, Liporto, and Morganthal

5-0

Manzi moved onto the next public hearing

Koch opened up the next new public Hearing for 142 Boston Street.

**Special Permit, Zoning District R-2, Keith and Stacie Steeves 142 Boston Street (Map 107.B Parcel 36)**

The Steeves are requesting a **Special Permit** from **4.121.17** of the Zoning bylaw to maintain an existing Family Suite in the R-2 Zoning District.

Applicant, Stacie Steeves walked up to the podium, (along with her father Mr. Doane) and was requesting to the Board a Family Suite in the R-2 Zoning District. Steeves spoke of when they purchased the home and how she,

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and her husband along with her parents, the Doane's purchased the home 10 years ago. Steeves stated that at the time it was represented to them from the real estate agent as a single family home with 2 Family Suites (on each end). At the time the Steeves & Doane's were not aware of the rules of a Family Suite, and also were not aware that when a new owner takes over the property, that the Special Permit for the Family suite goes away and they would have to re-apply. Steeves was also not aware that only 1 Family Suite was allowed per single family home. Steeves stated that one family suite was in 1983 and the second was sometime around 1992. Steeves wanted to keep her single family house as is, along with the 2 Family Suites.

Steeves spoke of the history of her home and how at one point her parents (the Doane's) lived in one of the family suites and their grandmother lived in the other. The Doane's recently purchased a home somewhere in New Hampshire and they no longer use the family suite, but they do stay over occasionally at 142 Boston Street. Steeves went on to say that there are a total of 5 bedrooms in the entire house.

Steeves stated that a cousin of hers had fallen into difficult times and is now living in one of the family suites along with a young child. Steeves then went on to say that the other family suite is occupied by her niece who just got out of the military, and needed to get on her feet.

She spoke of how the Building Department informed her that they had received concerns from the neighbors regarding the 2 Family Suites, and also the amount of cars and people living on the property.

Cuscia asked how many kitchens. Steeves responded 1 main kitchen and 2 kitchenettes.

Manzi stated that it is 5 bedrooms and 3 bathrooms. Manzi asked Steeves if they are taxed as a single family home. Steeves said yes.

Manzi explained to the Steeves' and Mr. Doane what the Bylaws say regarding a Family Suite.

Manzi asked Steeves what are you looking for. Steeves responded that she wanted the house to remain as is.

Morganthal asked if the Family Suites all connect from the inside. Steeves stated yes they do.

Manzi asked of how many meters at this home. Steeves stated one and went on to say that they have 1 system, 1 boiler, and 1 water heater.

Manzi wanted to open this up to the abutters.

Kim Hazarvartian, of 160 Boston Street walked up to the podium and stated that he lives in the home at 160 Boston Street with his wife and two sons. He spoke of the history of the Steeves home long before the Steeves purchased it, up until today. Hazarvartian spoke of the 2 owners prior to the Steeves owning the home and the additions made. Hazarvartian stated he has lived in this neighborhood for many years. He stated that he does not have any issue with the Steeves or anyone else who lived in that house. Hazarvartian stated that he feels that there is no added traffic, or noise coming from this home. He also had his own house appraised, and it had not lost any

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value. Hazavartian stated to the Board that he is in favor of the Steeves and that they should let the house stay as is.

Mr. Rossi, of 175 Sullivan Street stated that he could not ask for better neighbors, and he is also in favor.

Peter Raduiski, of 145 Boston Street stated that they are very nice neighbors, but he had a problem with the different families that are living at the home and occupying the 2 –family suites. Raduiski stated that the Steeves are not going along with the rules of a family suite.

Raduiski spoke of when the problems started to evolve, he noticed tiki torches, tents and more cars parked on the property. Raduiski felt this property has now become a 3-family.

Raduiski stated that he is not here to cause any trouble, but he is the spokesperson for the neighbors who do not want to see a 3-family in the neighborhood.

Arthur Vaughan of 124 Boston Street stated that he does not have any neighbor problems. Vaughan also went on to say that he does not see anything with red flags and has no knowledge of who is living at 142 Boston Street. Vaughan went on to say that as neighbors we should all strive for tolerance. The property at 142 Boston Street does not hurt the value of his property, and he has no problems at all with the Steeves. Vaughan stated that he does not object to the petition and is in favor of the Steeves

Joe Sergi, of 135 Boston Street stated that he is directly across the street from the Steeves. The Doane's and Steeves' family are all wonderful people. Sergi stated that once the Doane's moved out that is when it became problematic and feels that it is now a detriment to the neighborhood. It has become a 3 family home and now does not conform to the Town's By-laws.

Steeves returned back to the podium and reiterated that she was not aware of the Bylaws regarding a family suite. Steeves also went on to say that she wants to keep her house as is, a single family with 2 family suites.

Manzi asked how many bedrooms in the house. Steeves answered 5 bedrooms. Steeves went on to say that they all eat dinner together as a family (those that are living in the Family Suites).

Manzi asked the Board if they had any questions.

Manzi asked Steeves of the family suites, kitchenettes, bedrooms and bathrooms. Steeves responded back to Manzi and stated that there are 3 bedrooms in the single family and a bedroom in each family suite, 1 main kitchen and a kitchenette in each suite and 3 bathrooms.

Manzi stated that he has a letter dated April 2, 2014 submitted by Susan Sawyer; Public Health Director for the Town of North Andover the letter stated that the septic system is properly sized for the 5-bedroom home.

Steeves stated that she comes from a large family and she has always tried to help family members out when needed.

Koch asked Steeves who is living in the Family Suite now. Steeves responded saying a cousin and her niece.

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Manzi asked are they renting these suites, Steeves stated no she pays the mortgage along with her parents.

Steeves states that she wants to keep her home as is, with the 2-family suites.

Manzi stated he heard a lot of testimony tonight, but he would like to take more time to research this. The Board agreed with Manzi.

Raduiski walked back to the podium and stated that he does not want to cause any trouble with the Steeves' or the Doane's. Raduiski stated that the bottom line here is that he does not want 3-separate units at 142 Boston Street. Raduiski stated that he even went to The Building Department and asked that they drop the \$300.00 a day fine that the Building Department had penalized the Steeves with.

Manzi stated that if they remove the kitchens that these people can all live there.

Mr. Doane, walked up to the podium and wanted to publicly apologize to his neighbors, and was very sorry if they have been offended.

Cuscia made a motion to continue the hearing for 142 Boston Street until May 13<sup>th</sup>.

Morganthal second the motion.

All in favor to continue the hearing Manzi, Koch, Cuscia, Liporto, and Morganthal

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Manzi asked The Steeves to sign a Time Waiver Form, to continue the meeting till May 13<sup>th</sup>.

**Miscellaneous Correspondence** The annual report for the Merrimack Valley Planning Commission (MVPC) Annual Report for 2013 was submitted into the Board's packet. Manzi stated that Rick Byers is the Chairman for this Commission. He urged the Board to read it, stating that there is a lot of good information in this report.

**Adjournment: 8:52**

Morganthal made a motion to adjourn.

Koch second the motion

All were in favor to adjourn the meeting; Manzi, Koch, Cuscia, Liporto, Morganthal and Ludgin.