



T O W N O F
S T O N E H A M
M A S S A C H U S E T T S
Town Hall
35 Central Street
Stoneham, Massachusetts 02180
BOARD OF APPEALS
781-279-2695

Stoneham Board of Appeals Minutes
Thursday, March 3, 2022
Town Hall Hearing Room
6:00 PM

Members of the Board present at the meeting: R. Michael Dufour, Vice Chairman Robert Saltzman, Chairman Tobin Shulman, Kevin McLaughlin and Associate Member Mark Russell (Mr. Russell sat in for Mr. Rubin in his absence).

Also present: Attorney Mark Vaughan, Architect James Yi, Attorney Charles Houghton, Shane Manfred, abutters of 109 Elm Street-Patricia Kelly, Priscilla Gottwald, John Sabbagh and James McKinnon.

The meeting was brought to order by Chairman Tobin Shulman at 6:10 PM. Mr. Shulman began the meeting by introducing the board members and associate members present and setting out the procedure to be followed and instructions for the public hearings.

The members confirmed the next meeting date as April 28, 2022.

First order of business is approval of minutes. Mr. Saltzman made a motion to accept the minutes dated January 27, 2022 which was seconded by Mr. McLaughlin. Roll call vote taken with all members present voting in favor.

Next, Attorney Houghton requested a six month extension on a variance granted to 25 Skyewood Drive. Mr. McLaughlin made a motion to grant the extension which was seconded by Mr. Saltzman. A roll call vote was taken. All members present voted in favor.

Mr. Houghton requested a six month extension on variance granted to 26 Emery Court. Mr. Saltzman made a motion to grant the extension which was seconded by Mr. Dufour. A roll call vote was taken. All members present voted in favor.

The first public hearing began with the Chairman reading the legal notice into the record:

“You are hereby notified that the Stoneham Zoning Board of Appeals will hold a Public Hearing **Thursday, March 3, 2022** at 6:00 P.M. in the Hearing Room of the Town Hall, 35 Central Street, to hear all persons interested in the petition of **Northern Bank and Trust Company** for a variance from the Stoneham Town Code Chapter 15, Zoning Bylaw, Section 5.2.1, Front Yard Setback and Footnote 4 as it relates to a Side Yard Setback, concerning property located at **240 Main Street, Stoneham, MA**. The Applicant requests a variance related to an existing pergola setback violation from the Front Yard Requirement of 20’ (19.9’ proposed) and the Side Yard setback requirement of 15’ (7.58’ proposed). A copy of the application materials and plans may be seen during business

hours at the Town Hall in the Board of Appeals office in the mornings except Fridays, and in the Town Clerk's office daily except Friday afternoon."

The Chair invited Attorney Mark Vaughan to speak on the matter. Mr. Vaughan reminds the Board that they had most recently had this matter before them last October. The property has historically been used as a bank but had been vacant for years. They had sought a variance for the pergola due to a footnote in table 5.2.1 of the bylaws that requires a higher setback from the street. The pergola structure when manufactured was slightly different than what was shown on the plans. As originally proposed it was 10' x 25' in size, but what was put in with the posts measured 10' 9" x 22' although the area was less, it put it happened to be 9" closer on that side setback. The Building Commissioner felt the appropriate thing to do was to bring it back for a modification on the variance to reflect that altered dimension. It's already up. You see that it blends in. Cheryl's interpretation is to measure from the street to lot line. We are still 18' away from the traveled way. We apologize for how it deviated slightly from what was on the plans. Mr. Vaughan mentions that they did add the decorative boulders and stones as requested by Mr. McLaughlin at the previous meeting.

Mr. Shulman entertains questions from the Board. Mr. McLaughlin asks about the 9". Mr. Shulman responds that it is 9" closer to the traveled way on William Street. Mr. McLaughlin said that the rocks make up for it and that they came out excellent. Mr. Dufour asks if the pergola was a prefab that was bigger when it came in. Architect James Yi answers that the pergola is custom made as 10' x 25'. It's usually manufactured in Europe. They used Boston pergola, a local company to install but it's still made in a shop outside of Massachusetts. During the shop drawing review the details of how it's attached to the building changed. We ordered a design of 10' but when the civil engineers measured from the curbside it was 8" further.

Mr. Dufour made a motion to close the public hearing which was seconded by Mr. Saltzman. All members present voted in favor.

Mr. McLaughlin made a motion for 9" that we should give them the same as the last time [October 28]. Mr. Russell seconded the motion. A roll call vote was taken. All members present voted in favor.

The second public hearing was a continuation of 109 Elm Street which began on January 27, 2022 with a site visit on February 17, 2022.

The legal notice had previously been read into the record when the public hearing started:

"You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing THURSDAY EVENING, January 27, 2022 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application by ADMANFRED LLC OF 12 Wickham Road, Winchester, Massachusetts for the conversion of the existing dwelling at 109 Elm Street, Stoneham, Massachusetts to accommodate an additional dwelling unit. Section 4.2.3.1 requires a variance and Section 4.2.3.1 (b) requires a variance of lot size for a two-family dwelling in Residence A. The required lot size is 20,000 square feet and the proposed lot size is 16,142 square feet. The proposed

two-unit dwelling is also in violation of Section 4.2.3.1 (e) (3) which requires that the addition must be in the rear or side yard and not be visible from the street and not be more than ten (10) percent of the original floor area. The proposed two-story addition is visible from the street and is in excess of ten (10) percent of the original floor area. Additionally, the required side setback in Residence A is 10 feet and the proposed setback is 3.4 feet and the required front setback in Residence A is 20 feet and the proposed front setback is 18.2 feet. A plan filed with the petition by Benchmark Survey dated December 29, 2021 entitled “Plan of Land Showing Proposed Addition 109 Elm Street, Stoneham, MA” shows the proposed two-family. Plan may be seen mornings except Fridays in the Board of Appeals office and daily except Friday afternoon in the Town Clerk’s Office.”

The Chair invited Mr. Houghton to give an update on the matter. Mr. Houghton states that after the site visit, he and his client had a meeting with Patricia Kelly and her attorney Steven Cicatelli. He reminds that Board that they were given a letter from Mr. Cicatelli. They did reach an agreement and she is now in support of the petition. Mr. Houghton looked at the abutters list. He gives the Board a copy of the abutters list and a map of the parcels. He mentions that several addresses are two family homes so this is not out of character for the neighborhood and would fit right in. Mr. Saltzman asks how many houses are two families in the immediate spot. Mr. Houghton responds that there are three. Mr. McLaughlin asks about the house on the corner of Duncklee. Mr. Houghton responds that the house is also a two family. Mr. Houghton continues that the site visit was clear that the property needs a ton of work, more than 30% of the value needs to be rehabbed to bring it up to code. It is not being torn down. They can save the façade. They got a request from Historical Commission Co-Chair to add corbels.

Mr. Shulman asks for questions from the Board.

In looking at the letter submitted from Attorney Cicatelli dated March 1st Mr. Saltzman comments that it looks good. It is good that people have sat down and put their differences to rest. He does point out, however, that he would not be in favor of that part of the paragraph with item number three stating “said condition shall not be subject to amendment in any future decision of the Board”. He points out that in the years that follow there will be wiser Boards than this one that will be cleaning up after us for decades. He thinks this is disagreement with form and not substance. The only way it could wind up in front of the Board is if Mr. Houghton’s client was looking to put something on the property. Mr. Houghton states that his client is agreeable to this language which prohibits him from doing this. He is going to sell and he will be long gone. Mr. Saltzman states that he can agree to prohibit himself from doing so but we are not prepared for anyone to prohibit us from doing it. Mr. Houghton agrees and says he doesn’t think you can. Mr. Saltzman believes the language to be too broad and we have to fix it without really disturbing what’s been agreed to.

The Chair will open the meeting up to the public but first he reads a letter from Sheila Ryan McKinnon, 110 Elm Street which was received March 3, 2022 the record along with a petition signed by neighbors to 109 Elm Street listing eight reasons that they are not in support of the project.

Priscilla Gottwald, 106 Elm Street makes her arguments against the project. She reads from a statement that she prepared giving the history of what she believes to have gone on with this property since November 2021. The summary of her comments and argument against the project for the Board not to approve the variances was as follows:

1. Residential A is designated for one-family dwellings.
2. The 17,415 square foot lot is not big enough to accommodate a two-family.
3. The proposed reduction of 1,273 square feet of this lot, reducing Manfred's square footage to 16,142, is even less big enough for a two-family.
4. The proposed structure does not fit in with neighborhood multifamily dwellings, which do not look like multifamily dwellings. The plan will be doubly visible on the corner lot of Elm and Penny Lane. It is not hidden in the rear or side as the bylaws set forth.
5. The plan does not meet the setbacks as set forth in the bylaws.
6. Above all, this is a shady deal between Manfred and Kelly. Unethical and unfair.

Attorney Houghton asks if Mrs. Gottwald owns the property at 106 Elm Street. She responds yes. He states that it is in Residence A and then asks her if it is a two family. It is and he responds that his client has a similar sized lot. He believes it to be self-serving for her to say it does not fit into the neighborhood. Mrs. Gottwald believes it will not look like the other homes. It will look like two big condos.

Mr. Shulman stops the back and forth. James McKinnon, 110 Elm Street who lives across the street is not in favor. It looks like a duplex and that's not the neighborhood which is over 100 years old. He believes they can do something that is a single family. He mentions a house on Penny Lane that just sold for over \$800,000 without the land this house has.

Patricia Kelly, 10 Penny Lane is now in favor. She responds to why she was flipping to support the project after she hadn't beforehand. She believed there was going to be a six car garage and that there was a drainage issue. She now knows it will not have a six car garage and that the drainage will be addressed.

John Sabbagh, 111 Elm Street asks about the part of the house that is closest to his property. He wants to know if it will be removed. Mr. Houghton answers that the rear room that encroaches on Mr. Sabbagh's property will be removed. Mr. Shulman clarifies that the main body of the house that is there today will still be there but the single story structure bumped out off of the back will be removed. Mr. Sabbagh also wanted to know if they are going to remove a tree that is on the property line. Mr. Shulman states that the Board is only dealing with the proposed structures and the variances requested. The developer, Shane Manfred states that he has already cleared trees and trimmed branches. He even removed one tree that he realized later was not his because of a fence and a deal with a previous owner. He has removed the fence as requested by the neighbor but the posts will have to wait until the ground thaws.

Marcia Wengen, 56 Washington St, Speaking as a preservationist thanks Attorney Houghton and the developer for retaining the façade of the house. She submits some pictures she printed of some of the neighboring homes. On the north side there are four houses and three on the south that look the same as 109 Elm Street. She asks that they be entered into the record. Ms. Wengen feels the house is a decent compromise.

Priscilla Gottwald asks if Marcia Wengen has seen the rendering of the new structure. She has and there is some discussion about the pictures again. After a conversation with Ms. Wengen the developer had changed the façade of the house to accommodate her comments but they did not have time to produce a new rendering. Mr. Dufour tries to clarify that they are changing the facade from a farmhouse style to more of a New England style. The siding will no longer run up and down.

Mr. Saltzman made a motion to close the public hearing which was seconded by Mr. Russell. All members present voted in favor.

Mr. Saltzman is happy that there was a compromise. The Board had the benefit of the site visit but the abutters didn't get to see the inside. If they were able to see they might have been more understanding. It's going to be a compromise not a restoration of what was there. There has been an effort made. They have addressed the concerns of the immediate abutter.

Mr. Saltzman makes a motion to grant the relief recognizing the hardship of the current structure. It is very much an economic hardship. It does not derogate from the intent of the bylaw given that there are other two family houses in the neighborhood that appear to be less than 20,000 square feet as well. The project serves the public good. He adds the conditions: The façade made to duplicate the existing façade. Including the understanding they have come to with the abutters that they retain the 20 foot easement, conveyance of the parcel, drainage analysis and Mr. Saltzman would amend number three that the petitioner and his assigns will not propose any additional structures to be erected on the property other than those that are on the plan. Mr. McLaughlin seconded the motion. A roll call vote was taken. All members present voted in favor.

Mr. Saltzman made a motion to adjourn which was seconded by Mr. McLaughlin. A roll call vote was taken. All members present voted in favor.

Meeting adjourned at 7:03 PM.

Documents and other exhibits used by the Board of Appeals during this meeting to be made part of the official record but not attached to these minutes:

A plan filed with the petition by Benchmark Survey dated December 29, 2021 entitled "Plan of Land Showing Proposed Addition 109 Elm Street, Stoneham, MA"

Application packet and plans submitted for 240 Main Street.

Letter from Attorney Steven Cicatelli Re: 109 Elm Street dated and received March 1, 2022.

Abutters list and portion of the Assessor's map showing 109 Elm Street and the neighboring parcels.

Letter from Sheila Ryan McKinnon, 110 Elm Street dated and received March 3, 2022.

Photos of homes neighboring 109 Elm Street submitted by Marcia Wengen.

Respectfully submitted:

Maria Sagarino
Town Clerk