



TOWN OF
STONEHAM
MASSACHUSETTS
Town Hall
35 Central Street
Stoneham, Massachusetts 02180
BOARD OF APPEALS
781-279-2695

Stoneham Board of Appeals Minutes
Thursday, January 26, 2023
Town Hall Hearing Room
6:00 PM

Members of the Board present: R. Michael Dufour, Vice Chairman Robert Saltzman, Chairman Tobin Shulman, Eric Rubin, Kevin McLaughlin and Associate Members Mark Russell and William Sullivan.

Also present: Town Clerk Maria Sagarino acting as Clerk to the Board of Appeals, Attorney Charles Houghton, petitioners Tony Coward and Amy Mondello, Hugh Le and Frank Walsh.

The meeting was called to order at 6:04 PM. Chairman Tobin Shulman opened the meeting by making introductions and explaining the procedure for the public hearings.

The Board discussed upcoming meeting dates. The next three meetings would be held on February 16, 2023, March 23, 2023 and April 27, 2023.

The Chair moved on to approval of minutes.

Mr. Saltzman made a motion to approve the Executive Session Minutes from the December 5, 2022 meeting with the Conservation Commission and not to release to the public. Mr. Sullivan seconded. A roll call vote was taken. Mr. Sullivan, Mr. McLaughlin, Mr. Saltzman and Mr. Shulman voted in favor having been present at the meeting.

Mr. Saltzman made a motion to approve the Executive Session Minutes from December 12, 2022 and not to release to the public which was seconded by Mr. Dufour. A roll call vote was taken. Mr. Sullivan, Mr. McLaughlin, Mr. Saltzman, Mr. Dufour and Mr. Shulman were in favor.

Mr. McLaughlin made a motion to approve the regular meeting minutes from December 15, 2022 which was seconded by Mr. Sullivan. A roll call vote was taken. Mr. Sullivan, Mr. Russell, Mr. McLaughlin and Mr. Dufour voted in favor having been present at that meeting.

The Board began talking about the Zoning Bylaw Review Committee and which ZBA member would sit on committee. They decided to table the discussion until after the public hearings.

Attorney Houghton appeared seeking a six month extension for variances granted to 371 Main Street. Mr. Saltzman made a motion to grant the extension which was seconded by Mr. McLaughlin. A roll call vote was taken. All members present voted in favor (5-0).

Attorney Houghton appeared seeking a six month extension for variances granted to 53 Washington Street and 0 Washington Court. 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 (5-0).

Mr. Shulman introduced the first public hearing for 3 Hillside Rd, this public hearing had been continued from November 17, 2022 and December 15, 2022. The legal notice had previously been read into the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing in the Hearing Room, Town Hall on THURSDAY EVENING, November 17, 2022 at 6:00 p.m., to hear all persons interested in the petition by Michael J. O’Sullivan of 3 Hillside Rd., Stoneham, MA for a variance to renovate the existing building at 3 Hillside Road, Stoneham, Massachusetts to construct a 1,736 square foot addition on his existing two family non-conforming dwelling. Petitioner is requesting variances of Section 5.2.1 Dimensional Requirements – The required side setback in Residence A is 10 feet. The proposed addition is 8 feet from the property line. The required front setback in Residence A is 20 feet. The proposed front stair landing is 13 feet from the front property line. Petitioner is also requesting a variance of Section 5.3.5.3 Projections - Stairs are subject to a maximum allowable extension of no greater than half the setback. Half the front setback is 10 feet. The proposed stairs are 8 feet from the property line. Lastly, Petitioner is requesting a special permit pursuant to Section 6.2.2 Nonconforming Uses – The Board of Appeals may grant a Section 6 Special Permit for a non-substantial extension of use. Here, the nonconforming use is the existing two family. A plan filed with the petition by P.J.F. & Associates dated August 8, 2022, revised September 9, 2022, entitled “Plot Plan of Land in Stoneham, MA,” dated August 8, 2022, as Revised September 9 & 12, 2022, and prepared by PJF & Associates, which shows the proposed addition and setback dimensions. Plan may be seen daily except Friday afternoon in the Town Clerk’s office.”

Mr. Shulman invited Attorney Charles Houghton to speak on behalf of his client Michael O’Sullivan. Mr. Houghton began by explaining that the Board had asked about the grades in the back at the last meeting. He had Surveyor Paul Fennochio draw up a plan for the Board which showed the grades. He also brought pictures from Google Maps so that the Board could see the different slopes in the back. He explained that the front is up high and the road is up high. The highest point is where the garage is. The addition is in the back. The proposed is a two story addition not to exceed the height of the highest peak of the house which is 182. He mentioned that the other concern the Board had at the previous meeting was for the neighbor in the back to not be looking at a cement wall. Mr. Houghton spoke to the Building Commissioner. She said they had to have an eight inch reveal or footing, but after that they could do wood and they would stipulate to that and maybe put some windows on the first level to make it look more like a house. He then brought the Board’s attention to the picture showing the side of the house. He explained that the fence shown is about four feet into the lot. If he were to move it onto the property line it would be in the neighbor’s driveway which is partially on his client’s property.

Mr. Houghton continued to say the hardship is obviously the slope of the land. His client is trying to add an addition that is the least impactful to the neighborhood. They need two feet to make the garage a 24 foot garage and a couple of feet in the front to have an entrance out front.

Mr. Shulman asked Mr. Houghton to repeat what he said about the peak. The surveyor showed the height as the highest point on the house but not to what our bylaw is. He said from the ground it’s about 25 feet and if you measured to the bylaw it’s about 20 feet.

Mr. Houghton mentioned the sewer easement out back. The whole west side of town is in there. Mr. Shulman asked if it was the dashed line. Mr. Houghton said it was.

Mr. Rubin asked about the sewer line. It's in from the fence and a lot closer to the back of the house. Mr. Houghton stated that the sewer is not shown on the plan. It's probably in the middle. Mr. Shulman pointed out a manhole shown on the plan in the middle of the easement. Mr. Houghton explained that the addition is at least 22.5 feet away and 30 feet in most places because of the angle.

Mr. Shulman asked about the front stair landing. In the notice it stated that the front stair landing is thirteen feet from the front property line. He asked if that is what Mr. Houghton was talking about with the split entry being on the outside instead of inside as it is now. Mr. Houghton reminded the Board that on stairs you measure half. Mr. Houghton mentioned that there is an eight foot measurement there too. He further explained that encroachment on the stairs under the bylaw only counts half.

Mr. McLaughlin asked where the driveway will go. Mr. Houghton indicate that it would be on the left where the existing shed is shown. He stated that the shed would be going. The porch on pilings in the back will also be removed. The addition will be encompassing that area.

Mr. Saltzman asked Mr. Houghton to go over which trees are staying and which are going. Mr. Houghton responded that the two trees in the front. The conifer, maybe spruce tree and the reddish maple type tree will both be removed. The overhead wires are currently going through the tree. The tree is also in front of where the driveway is. It needs to be removed.

Mr. Shulman opened the meeting up to the public. Ellen McBride, 30 Butler Ave, asked if the trees were Town trees. Mr. Houghton stated that they are not. Ms. McBride just has a request that they replace the private trees somewhere else on the property. Mr. Houghton stated that his client plans on landscaping.

Mr. Dufour made a motion to close the public hearing which was seconded by Mr. McLaughlin. All members present voted in favor (5-0).

Mr. McLaughlin does mention to the Board that he did his homework. Mr. Houghton addressed their concerns from the last meeting.

Mr. Rubin agreed. He mentioned that at the last meeting the neighbor in back objected and had a concern about being stuck looking at a concrete wall. Mr. Rubin was happy to see that that was addressed with the wood and the windows Mr. Houghton had mentioned.

Mr. Rubin made a motion to grant the relief. The shape of the lot is a hardship. It doesn't derogate from the intent of the bylaw and serves the public good. Mr. Saltzman seconded the motion. A roll call vote was taken. All members present voted in favor 5-0 (McLaughlin, Rubin, Saltzman, Dufour, Shulman). [Note: Mr. McLaughlin had missed the public hearing on November 17, 2022 but under the Mullins Rule he watched a video of the meeting and read the meeting before this evening's continuation].

Mr. Shulman introduced the second public hearing which was continued from the December 15, 2022 meeting. He then read the legal notice into the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing Thursday evening, December 15, 2022 at 6:00 p.m. in the Hearing Room, Stoneham Town Hall to hear all persons interested in the application by Anthony J. Coward and Amy M. Mondello 78-80 Elm Street, Stoneham, Massachusetts for variances to subdivide the existing lot into two lots - Lots A & B and to construct a new single family dwelling on lot B. Lot A will require a variance of Stoneham Town Code Chapter 15, Section 5.2.1 Dimensional Requirements - The minimum frontage and width requirement in Residence B is 75 feet. The proposed frontage is 61 feet. The minimum side setback in Residence B is 10 feet. The proposed side lot line is 5.3 feet. Lot B will require a variance of Stoneham Town Code Chapter 15, Section 5.2.1 Dimensional Requirements - The minimum frontage and width requirement in Residence B is 75 feet. The proposed is 60 feet. A plot plan prepared by Benchmark Survey for 78-80 Elm Street, Stoneham, Massachusetts dated November 28, 2022 may be seen daily except Friday afternoon in the Office of the Town Clerk.”

Mr. Dufour recused himself as he is an abutter but took a seat in the audience because he is an abutter. Mr. Shulman Asked Mr. Russell to sit in on the hearing.

Petitioner Amy Mondello was invited to speak. Ms. Mondello made a statement regarding her being a lifelong resident in Stoneham, a teacher in Stoneham and a mother to young children. She continued to speak to about the renovations that they have done to their house and all of the time and money it has taken. She mentions how happy the neighbors are with the changes. They want to add value to their land. They want to help set up their children's futures. Tony Coward added to what his wife said. He explained that the property they had purchased had two parcels - one and two. He spoke to the abatement he received on the one parcel that hadn't been built on until the Assessor combined the two parcels into one bill for tax purposes in 2012. He too speaks to the renovations that they have done and talks about what they would like to do. He explains that they need three variances to build another single family home on the second lot. The single family home will be 1,920 square feet in line with the neighborhood. It will not any substantial detriment to the public good.

Mr. McLaughlin asked if this property had been up before the Board before. Mr. Shulman didn't recall. The clerk explained that she could not find anything in the Board of Appeals files but that

the Town Clerk files had an application signed by Attorney Houghton in 2007 with nothing else in the folder, not even a plan. It appeared that those people were trying to build some townhouses. Mr. Coward added that when they purchased the property, he was told that the previous owner had wanted to knock down the house and build two townhouses but the neighbors on both sides were completely opposed. He ended up putting tenants in the house that completely destroyed the house.

Mr. Saltzman asked what the height of the new house would be. Mr. Coward stated that it is 27 feet and showed them where it was shown on the elevations that he had provided to the Board. Mr. Shulman asked if the subdivision proposed follows exactly the old parcel lines and Mr. Coward responded that it does.

Mr. Shulman opened the meeting up to the public. He began by reading three letters in support from Brian Tague, 82 Elm Street, Alex & Janet Blanchard, 81 Elm Street and Jamie & Paul Canney, 76 Elm Street.

Marcia Wengen, 56 Washington St asked about the elevations. She wanted to know why the first page looked a little different than the next page showing two garage type doors. Mr. Coward stated that they are garage doors and that seemed to be the only place to put the garages due to the topography. He has a driveway with the existing house. Ms. Wengen asked about the drop in the back that goes into Sweetwater Brook. She asked about the foundation.

Jeffrey Mondello from 8 Landers Road spoke in support of the project that his daughter and her husband are proposing.

Brian Tague, 82 Elm Street also spoke in support of the project. The construction will be 70 feet from his property, there will be plenty of buffer and he is in support of his neighbors.

Paul Canney, 76 Elm Street also spoke in support. Everything they have done to their property so far has been in good taste and conforms to the neighborhood.

Mr. Shulman asked about the current driveway. Mr. Coward is planning on doing away with the wrap around driveway. They will be putting in a patio in the back of the existing house.

Ellen McBride, 30 Butler Ave, Co-Chair of the Conservation Commission, explains that because Sweetwater Brook is behind the house as part of the Building Permit process, a sign off from Conservation is required. Ms. McBride then asked about the tax abatement. Can the Town recoup any of the abated taxes? Mr. Coward is currently paying taxes for the entire property as the two parcels were combined by the Assessor.

Mr. Saltzman made a motion to close the public hearing which was seconded by Mr. Rubin. All members voted in favor (5-0).

Mr. Saltzman stated that he likes the plan. It's a nice house which will more than suit the neighborhood. He believes that there are four variances. There is a topography issue and the width of the lot that constitutes the hardship. It doesn't derogate from the intent of the bylaw and it serves the public good. He moved to grant the relief which was seconded by Mr. Rubin. A

roll call vote was taken. All members present voted in favor 5-0 (Russell, McLaughlin, Rubin, Saltzman, Shulman).

Mr. Shulman introduced the next public hearing for 8 Charles Street and read the legal notice into the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing Thursday evening, January 26, 2023 at 6:00 p.m. in the Hearing Room, Town Hall, 35 Central Street to hear all persons interested in the application by Hugh Le and Susan Le, 8 Charles Street, Stoneham, Massachusetts to construct a porch on the front of the home at 8 Charles Street which requires a variance of Stoneham Town Code Chapter 15, Section 5.2.1 Dimensional Requirements. The required front setback in Residence A is 20 feet. The proposed addition is 12.9 feet from the property line. A plot plan of 8 Charles Street, Stoneham, MA by Patrick Roseingrave, Professional Land Surveyor dated November 30, 2022 may be seen daily except Friday afternoon in the Office of the Town Clerk.”

Hugh Lee appeared to speak on behalf of his application. He explained that he is seeking a variance to construct the roof overhang on the front of the house to mitigate future water damage. There is wood trim rotting away. The previous owner had put up makeshift metal flashing to try to correct the problem. He would also like protection for his family on the front porch because his daughter is often outside waiting for the school bus. He also added that it will create better curb appeal which would be positive for Charles Street.

Mr. McLaughlin asked if he was just putting the roof over the front door. Mr. Le said that was correct. Mr. McLaughlin asked if he'd be putting columns. Mr. Lee stated that there would be supporting metal brackets on the side. Mr. Le showed the Board some pictures of the front of his house.

Mr. Shulman opened the hearing to the public. With no members of the public present, Mr. Saltzman made a motion to close the public hearing which was seconded by Mr. McLaughlin. All members present voted in favor.

Mr. Rubin made a motion to grant the relief. Obviously based upon the issue with the setback, it will do justice for the petitioner. It doesn't derogate from the intent of the bylaw and serves the public good. Mr. Dufour seconded. A roll call vote was taken. All members present voted in favor 5-0 (McLaughlin, Rubin, Saltzman, Dufour, Shulman).

Mr. Shulman introduced the final public hearing of the evening for 71 Elm Street and read the legal notice into the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing THURSDAY EVENING, January 26, 2023 at 6:00 p.m. in the Hearing Room, Town Hall, 35 Central Street to hear all persons interested in the application by Francis J. Walsh Trustee for Elm Street Realty Trust, 71 Elm Street, Stoneham, Massachusetts to erect a 10' x 12' shed at 71 Elm Street, Stoneham, Massachusetts. Petitioner is requesting a variance of Stoneham Town Code, Chapter 15, Section 4.2.2.2 (c). One accessory building is allowed per lot subject to

Section 4.2.2.2 (c) restrictions 1-4. The proposed shed is the second accessory building on the property. A Plot Plan of 71 Elm Street, Stoneham, MA by Edward J. Farrell, Professional Land Surveyor dated November 14, 2022 may be seen daily except Friday afternoon in the Town Clerk's Office.”

Frank Walsh was invited to speak on behalf of his petition. He owns 71 Elm Street which is pretty much a double lot as you can see on the plot plan. He was unaware that you couldn't have a second shed with a two family. He just got over a year of renovation after having a bad tenant. He bought a second 8' x 10' shed for his new tenant because the second unit doesn't have access to the basement. He uses the existing shed for the snow blower. He went to get a permit and found out that the second shed was not allowed. Mr. Walsh submitted a phot of his neighbor's property with two sheds. He also has photos showing the two sheds he wants on his property.

Mr. Dufour mentioned that the former occupants had everything they owned out in the driveway. It looked like a dump before they had a shed.

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

Mr. McLaughlin mentioned that this might be a bylaw we can fix with the bylaw review committee. You should be able to have two sheds with a two family house.

Mr. Saltzman agreed saying he never thought that a two family couldn't have a second shed.

Mr. Rubin made a motion to grant the relief for the shed. He stated that the shape of the lot is clearly an issue. It doesn't derogate from the intent of the bylaw. Mr. Saltzman seconded the motion. A roll call vote was taken. All members present voted in favor 5-0 (McLaughlin, Rubin, Saltzman, Dufour, Shulman).

Before adjourning from regular session the Board brought back the subject of the Zoning Bylaw Review Committee. Mr. Rubin doesn't have time. Mr. Saltzman just served his time negotiating Weiss Farm on behalf of the Board.

Ms. Wengen asked the Board not to put off choosing a Bylaw Review Committee member. Mr. Saltzman stated that he is just finishing up a major assignment tonight. Mr. Rubin reminds Mr. Shulman that he is an architect and this is his world. Mr. Shulman also doesn't have the time. Mr. Saltzman nominated Mr. Shulman to sit on the committee. Mr. Shulman agreed to be the designee. A roll call vote was taken. All members voted in favor.

Mr. McLaughlin made a motion to go into executive session for Weiss Farm and not to return to regular session. [To discuss strategy with respect to all pending litigation where an open meeting may have a detrimental effect on the bargaining or litigating position of the Town and the chair so declares; pursuant to M.G.L. c. 30A, sec. 21(a)(3) to wit: Weiss Farm (Stoneham Board of Appeals v. Housing Appeals Committee, et al)]. A roll call vote was taken. All members present voted in favor (Sullivan, Russell, McLaughlin, Saltzman, Dufour, Shulman).

The regular meeting adjourned at 7:13 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 by P.J.F. & Associates dated August 8, 2022, revised September 9, 2022, entitled “Plot Plan of Land in Stoneham, MA,” dated August 8, 2022, as Revised September 9 & 12, 2022, and prepared by PJF & Associates for 3 Hillside Road.

Board of Appeals decision dated May 26, 1977.

A copy of Assessor’s Map 18 showing the neighborhood for 3 Hillside Road.

Proposed first floor plan for 3 Hillside Road.

A letter from Jonathan and Michelle Huntley 10 Hillside Road received November 16, 2022

A letter from Holly Hung and Adam Peczalski 9 Glen Road received November 17, 2022.

A copy of an email from Heidi Smalley 10 Glen Road received November 17, 2022.

A plot plan prepared by Benchmark Survey for 78-80 Elm Street, Stoneham, Massachusetts dated November 28, 2022

Letters of support for 78-80 Elm Street from residents at 76 Elm Street, 81 Elm Street and 82 Elm Street

A plot plan of 8 Charles Street, Stoneham, MA by Patrick Roseingrave, Professional Land Surveyor dated November 30, 2022

Pictures taken of the front of 8 Charles Street

A Plot Plan of 71 Elm Street, Stoneham, MA by Edward J. Farrell, Professional Land Surveyor dated November 14, 2022

Pictures of the property at 71 Elm Street

Respectfully submitted:

Maria Sagarino
Town Clerk