



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

Stoneham Board of Appeals Minutes
Thursday, May 18, 2023
Town Hall Hearing Room
6:00 PM

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

Also present: Town Clerk Maria Sagarino acting as Clerk to the Board of Appeals, Attorney Charles Houghton, Attorney William Heney and many residents from the 26 Broadway neighborhood.

The meeting was called to order at 6:05 PM. Chairman Tobin Shulman opened the meeting by making introductions and explaining the procedure for the public hearings.

With many residents present for the public hearing concerning 26 Broadway, Mr. Saltzman made a motion to push the housekeeping items at the beginning of the agenda to the end of the meeting which was seconded by Mr. Rubin. All members present voted in favor 5-0.

The Chair moved directly to the first public hearing of the night. Mr. Shulman indicated that Mr. Dufour had been caught up on the matter under the Mullin Rule and would sit and Associate member Bill Sullivan would continue to sit on the matter.

The public hearing for 26 Broadway had previously been continued from March 15, 2023 and April 27, 2023 with a site visit on May 8, 2023. The Chair had read the legal notice into the record on April 27, 2023 as follows: "You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing THURSDAY EVENING, March 23, 2023 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application by Lynn Homes, LLC, 105 Salem Street, Suite B, Malden, MA to convert the existing structure to accommodate more than one (1) dwelling unit at 26 Broadway, Stoneham, Massachusetts. Petitioner is requesting a variance of: Section 4.2.3 This use requires a variance granted by the Board of Appeals. The use of the converted portion of the structure was originally to be used as an indoor tennis court but has been used for storage in recent years A plan filed with the petition by Benchmark Survey, dated, February 27, 2023, entitled, "Plan of Land 26 Broadway Stoneham, MA" shows the proposed three-family dwelling. Plan may be seen mornings except Fridays in the Board of Appeals office and daily except Friday afternoon in the Town Clerk's Office."

Mr. Shulman invited Attorney Charles Houghton to speak on behalf of his client. Mr. Houghton began by explaining that he and his client understood what the neighbors had to say at the last meeting. It was clear that they did not want the proposed multifamily unit in their neighborhood. Mr. Houghton explained that it's a 40' x 110' structure and they are limited in what they can do with it. They have decided that it would be reasonable to subdivide and create two single families. Each lot would be 15-20,000 square feet. It would require some variances. They believe that might fit the neighborhood better. They aren't out to hurt the neighborhood. It

would have plenty of parking. They need to do something with the structure. So they have decided to continue and work something out in the meantime.

Mr. Shulman asked for clarification. Is the thought to withdraw or just continue? Mr. Houghton thought they might continue and at the same time they'd re-advertise with the new application seeking variances for frontage and side setback. It would allow for two single families which would be more fitting in the neighborhood. They'd design with the abutters in mind. They would also stipulate to not divide any further.

Mr. Sullivan asked why he wouldn't just withdraw. Why continue? Mr. Houghton thought that they'd still have that to fall back on if they were to get a no for the new application, but he continued to say that he had no problem withdrawing. In that case, Mr. Sullivan stated that you'd just go through with this hearing now. The other application would be a substantial change so you'd have no problem doing it after the fact. Mr. Houghton stated that he can withdraw if the Board would feel better about it.

Mr. Shulman reminded Mr. Houghton that a withdrawal without prejudice would allow him to apply at a later date with the same application if necessary. Mr. Shulman asked the Board if they had any thoughts on the withdrawal versus continuing this hearing. Mr. Saltzman believed the withdrawal would be the better way to go. Mr. Houghton indicated that he was fine with withdrawing. Mr. Shulman thought there was no sense in continuing with this hearing if there is another proposal coming. Mr. Saltzman believed it best not to go back and forth with the abutters on this if there was another proposal coming. Mr. Houghton agreed and asked to withdraw without prejudice.

Mr. Saltzman made a motion to grant the withdrawal without prejudice. Mr. McLaughlin seconded the motion. All members sitting on the matter voted in favor 5-0 (Sullivan, McLaughlin, Saltzman, Dufour, Shulman).

Mr. Shulman moved to the next public hearing and read the legal notice for 30 Hillside Avenue into the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing on Thursday, May 18, 2023 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application by Leonard P. Stanieich Jr and Maureen Stanieich, as Trustees of the L & M Stanieich Family Revocable Trust of 2021, 30 Hillside Avenue, Stoneham to construct a 16.3' x 48.1' single story addition at 30 Hillside Avenue. The petitioners are requesting variances from the Stoneham Town Code, Chapter 15, Section 5.2.1 Dimensional Requirements – The required side setback in Residence A is 10 feet. The proposed side setback is 9.1 feet. The maximum percent lot coverage in Residence A is 30%. The proposed percent coverage is 35.5%. A plot plan for 30 Hillside Avenue prepared by Matthew Lowry, Professional Land Surveyor for RJ O'Connell Associates, Inc. dated March 30, 2023 may be seen daily except Friday afternoon in the Town Clerk's Office.”

Mr. Stanieich appeared to explain the relief he is requesting. He only has 7300 square feet which is a problem when adding an addition. He would like to take down the garage and move forward and build a new one with a room behind it towards the back yard. By doing that he will end up

covering about 35% of his lot. He also wants to build the addition in a way to match the other side of his house which cause him to be close on the side setback.

Mr. Shulman asked about the addition. Mr. Stanieich stated that the addition would turn an L shaped ranch into a U shape with a 12' x 16' room at the back. Mr. Shulman questioned the side setback being 9.1' at the front but 9.2' at the back probably caused by an angle on the lot line. Mr. Shulman asked for clarification that the purpose would be a single car garage, a slightly enlarges kitchen space, bathroom and family room. Mr. Stanieich agreed and explained that they were looking for the living space to be on one floor as they get older.

Mr. McLaughlin asked if it was a single story addition. Mr. Stanieich responded that it is and that there will be storage under the back room and in the middle, not where the garage is.

Mr. Saltzman asked what the lot coverage is now. Mr. Stanieich stated that it is 29.6%

Mr. Dufour asked whether the current structure has a second floor. Mr. Stanieich stated that it is a single story with a full basement. Mr. Shulman stated that sheet A2 shows the elevation.

Mr. Saltzman asked Mr. Stanieich if he was correct that at 74 feet, the lot is narrow which causes the hardship for which he needs to seek relief. Mr. Stanieich agreed that was the case.

Mr. Shulman opened the hearing up to the public. With no members of the public present to speak, Mr. McLaughlin made a motion to close the public hearing which was seconded by Mr. Saltzman. All members present voted in favor 5-0.

Mr. Rubin made a motion to grant the relief. Mr. Stanieich has a hardship due to the size and shape of his lot. It doesn't derogate from the intent of the bylaw and it would serve the public good. Mr. Saltzman seconded the motion. A roll call vote was taken. All members present voted in favor 5-0.

Mr. Shulman moved to the final public hearing of the evening. He read the legal notice for 466A Main Street into the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing on Thursday, May 18, 2023 at 6:00 p.m. in the Hearing Room, Town Hall, 35 Central Street, Stoneham to hear all persons interested in the application by Xuyen Kim Ho of Nancy Nails Spa Inc, tenant at 466A Main Street, Stoneham, Massachusetts to appeal the decision of the Building Commissioner denying the request to add micro blading use at 466A Main Street, Stoneham, Massachusetts. In the denial letter, the Building Commissioner cites Stoneham Town Code, Chapter 15 Section 4.5 - Business District - Body Art is NOT an allowed use in the Business District. Body Art, as defined in Chapter 15, Section 2.1.7, is only allowed in the Commercial III District. The applicant contends that micro blading is not considered Body Art. The applicant requests that the Board of Appeals determine that the use of micro blading is an allowed use at the above mentioned location. A copy of the application may be seen daily except Friday afternoon in the Office of the Town Clerk.”

Lisa Newhook appeared on behalf of the petitioner, Xuyen Kim Ho of Nancy Nails Spa Inc. She explained that they have had a lot of clients ask about microblading and it's something they'd

like to offer. It is mainly sought for medical reasons by people who do not have hair on their face. Ms. Newhook explained that it is temporary. It doesn't stay on the skin. If they want something permanent, they'd be referred to a tattoo artist. The service they could provide will only last maybe up to a year. Mr. Saltzman asked if there was anything that they could do permanently. Ms. Newhook said that what they would provide is only temporary. Ms. Newhook added that they do not have the machines that would go into the skin for permanent tattooing.

Mr. Shulman opened the hearing up to the public. Kathy Bardell from 48 Pleasant Street reiterated that the process is temporary and added that the salon was the cleanest one in Town.

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

Mr. Dufour commented that this keeps coming up and the bylaw needs to be changed. He stated that this is not a permanent tattoo. It is a temporary service. He made a motion to overrule the decision of the Building Commissioner in this matter. Mr. Rubin seconded the motion. A roll call vote was taken. All members present voted in favor 5-0 (McLaughlin, Rubin, Saltzman, Dufour, Shulman).

At the conclusion of the final public hearing, the Chair went back to the beginning of the agenda. The Board had not reorganized at their last meeting with two members missing. Mr. Saltzman nominated Mr. Shulman as Chair which was seconded by Mr. Rubin. Mr. Shulman accepted with the condition that Mr. Saltzman be nominated as Vice Chair which was seconded by Mr. McLaughlin. Mr. Rubin stated that they both do a wonderful job. A roll call vote was taken. All members voted in favor 4-0 with Mr. Shulman abstaining.

For next meeting dates after June 22, 2023, Mr. Saltzman thought they should wait and see if they could combine July and August into one meeting. So the Board chose to hold off on scheduling meeting dates past June 22, 2023.

Mr. Saltzman made motion to approve the minutes from April 27, 2023 which was seconded by Mr. McLaughlin. All members present voted in favor 4-0 (McLaughlin, Rubin, Saltzman, Shulman) with Mr. Dufour abstaining.

The Board had previously granted a variance at 42 Pond Street which allowed storage on the second floor of a detached garage. The Building Commissioner had requested the Board of Appeals' opinion on allowing the storage to be finished. Ms. Sagarino explained to the Board that the homeowner had given the Building Commissioner drawings that stated the storage would be left unfinished. He then put up sheet rock and added heating and cooling. Ms. Noble just wanted the Board to weigh in as to whether that was acceptable. Mr. McLaughlin stated that it didn't change the footprint. He doesn't see it as a big deal. Mr. Saltzman added that there isn't a kitchen. Mr. Shulman asked if there was a bathroom or plumbing. Ms. Sagarino stated that the homeowner indicated that he had insulated, put up sheet rock and planned on storing parts for his wife's T-Bird up there. Mr. Sullivan added that he finished it off like regular space. Mr. Rubin doesn't believe that the Board cared whether the storage allowed was finished or unfinished. Mr. Shulman added that he doesn't personally have a problem with it.

Mr. Saltzman made a motion to allow it as finished storage with nothing further added. Mr. Dufour seconded the motion. All members present voted in favor 5-0.

The final order of business was the discussion clarifying the 2000 square foot condition in the 17 Philips Rd decision. The Building Commissioner would like the Board's opinion as to whether the basement can be finished. Mr. Dufour recused himself from this discussion but did point out that he had made the motion at the original meeting and his thought process with the condition was that the house be that size. He continued to say that he wasn't thinking of finishing the basement or not finishing the basement. It didn't matter as long as the footprint stayed the same.

Mr. Shulman's recollection was that they were filling in this lot. Mr. Houghton added that they were trying to add a house that would fit with the neighborhood and nobody really thought about whether the basement would be finished. Mr. Shulman agreed. He believed the context of the discussion was of fitting the house on the street. Mr. Sullivan wanted the actual structure to be that size. He didn't want to see them blowing it up later, adding dormers and additions. As far as Mr. Shulman is concerned, they can go seven stories underground as long as it still looks like a nice little cape on the street. Mr. Rubin stated that it's not getting any bigger. Mr. Shulman added that it's not changing the character of the neighborhood or what was presented to the Board.

Mr. Rubin made a motion to accept the basement as finished which was seconded by Mr. McLaughlin. A roll call vote was taken. All members present for the original vote voted in favor 4-0 (Sullivan, McLaughlin, Rubin, Shulman). Mr. Saltzman had recused himself originally and Mr. Dufour had recused himself for this discussion.

A motion to adjourn was made by Mr. Rubin and seconded by Mr. McLaughlin. The meeting adjourned at 6:47PM.

Respectfully submitted:

Maria Sagarino
Town Clerk

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, February 27, 2023, entitled, "Plan of Land 26 Broadway Stoneham, MA" and a revised plan dated April 27, 2023.

A plot plan for 30 Hillside Avenue prepared by Matthew Lowry, Professional Land Surveyor for RJ O'Connell Associates, Inc. dated March 30, 2023.

Architectural plans of 30 Hillside Avenue by MJ Tavares Architects dated April 8, 2023.