



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

Stoneham Board of Appeals Minutes
Thursday, August 22, 2024
Town Hall Hearing Room
6:00 PM

Members of the Board present: Chair Tobin Shulman, Vice Chair Robert Saltzman, R. Michael Dufour, Eric Rubin, Kevin McLaughlin and Associate Member William Sullivan who would sit in as a full member on 72 Central Street.

Also present: Town Clerk Maria Sagarino acting as Clerk to the Board of Appeals, Attorney Charles Houghton, Ian Gasco-Wiggin of JM Corcoran Company, Conservation Co-Chairs Domenick Cimina, Jess Gerke, Ellen McBride, Richard Jackson, Rich Kirby (remotely), Frank Petrillo and many residents of Emerald Court and Franklin Street and Richard Curro.

The meeting was called to order at 6:01 PM by Chair Tobin Shulman. Mr. McLaughlin led the Pledge of Allegiance. Mr. Shulman introduced the Board and explained procedure for the public hearings.

The Board confirmed September 26, 2024, October 24, 2024 and November 21, 2024 as their next three meeting dates.

Mr. Shulman invited Ian Gasco-Wiggin of JM Corcoran Company to give an update on the project at the former Weiss Farm site. He asked Mr. Gasco-Wiggin to focus on the pump station. Mr. Gasco-Wiggin explained that the pump currently is set to kick on at 160.0 and will turn off when it reaches 159.5. They are still planning on having a replacement pump that will be stored on site. They heard what the Board said last time and planned to have something in place to keep the water moving so that it will not freeze. Once Mr. Gasco-Wiggin believes the Board is satisfied with their suggestions, they will take it to DEP and have them approve the amendments to the permit.

Mr. Saltzman asked about the backup pump and how long it would take to replace the other one should there be a failure. Mr. Gasco-Wiggin stated that if the pump fails there is a temporary pump that is dropped in immediately. It's not the exact same capacity but close. There would be a two hour window to respond and get the backup pump installed. Mr. Dufour asked why there second pump couldn't already be installed next to the first pump. Mr. Gasco-Wiggin explained that there isn't enough space in the existing chamber. Mr. Dufour questioned the backup should the pump fail during a heavy rain situation. Mr. Sullivan asked if they could get something bigger than a 62. Mr. Gasco-Wiggin said he would speak with the contractor about increasing the temporary pump capacity.

Mr. Sullivan asked if a light could be installed on the cabinet with an emergency phone number posted. Mr. Gasco-Wiggin stated they could post a number to call in an emergency. Mr. Sullivan pointed out that he has been requesting it and still has yet to see it posted. Mr. Saltzman asked if there is any device installed which would alert people on site to a problem without them actually eyeballing the problem. Mr. Gasco-Wiggin stated that there are sensors that send alerts for the power level, high water alerts and low water alerts. Mr. Saltzman asked what those alerts looked like. Mr. Gasco-Wiggin stated that they are by text and email to our team now and a maintenance team that will be on site later after the property is built.

Mr. Gasco-Wiggin asked if there were any other questions about the pump. Mr. Shulman noticed that the Town's wetland scientist expert Richard Kirby had remoted in and he asked if Mr. Kirby was satisfied with the way the pump levels were currently set at. Mr. Kirby stated that most of the pump operation is engineering. The temperature of the pump and when it is replaced and the logistics for operation and maintenance. Mr. Shulman asked if he agreed that the elevations were appropriate and accurately set. Mr. Kirby explained that this is a unique situation. He mentioned that the wetland boundary was different in 2013 when the pump stopped working. Since the pump stopped working the water levels have increased and the land has been more saturated. The boundary has moved farther out than what is legally shown on the original plan. The cat tail plants have grown very aggressively. Some trees have died from flooding. With the pump now functioning the water levels should return to what they were before the pump stopped working and you should hopefully see the cat tails replaced by shrubs and trees. He continued to say there appears to be enough ground water at 159.5. It doesn't appear that there is a pathway to draining the wetland.

Mr. Saltzman asked if it is currently set where it should be. Mr. Kirby doesn't believe he can answer yes or no without any historical data from when the pump was working and after it had stopped working. He did acknowledge that there has been a more diverse plant community and the wetland has been better off with the pump not working.

Mr. Shulman indicated that he would like to see the position of the Board before submitting any requests for amendments to DEP. He stated that in a perfect world there would be two 250 gallon pumps sitting side by side. Mr. Dufour indicated that he is satisfied knowing there is an alarm which will alert them to problems. Mr. Shulman added that the emergency number must be added immediately. Mr. Gasco-Wiggin agreed that it would be. In that case, Mr. Shulman indicated the Board would have no problem with the insubstantial changes with the condition of putting the emergency number on the pump station.

Mr. Shulman invited Domenick Cimina the Co-Chair of the Conservation Commission to speak. He cautioned the Board against accepting the elevation of the float. He explained that at 160 the abutting property owned by Mr. Wantman at 20 Gerald Road is affected. It's 6" below the tennis court. They had an initial concern that the wetland was being drained but Rich Kirby has said that it is not the case. Mr. Cimina added that part of the permit has to go before DEP and he doesn't want to see the levels set such that they cause Mr. Wantman to flood.

Mr. Saltzman stated that would be going to DEP for approval. He added that if Mr. Kirby is doing the best he can given that his area of expertise is limited to the wetlands, perhaps somebody else should take a look for the engineering.

Mr. Shulman added that Bob Griffin [the original engineering consultant on the project during the 40B application process] may have historical data. Mr. Cimina thinks that setting the elevation with no study is dangerous. He added that we have not looked at it for what it might do to Mr. Wantman's property. He explained also that there is 160.3 gravity across Franklin Street before it reaches 160.5. Mr. Cimina also mentioned that the Commission tried to tell DEP that the wetland was altered but DEP responded that it was for the better.

Mr. Saltzman asked Mr. Cimina what he thinks they should do that they aren't doing right now. Mr. Cimina just wants to be careful because the Town doesn't have anything from our own professional.

Mr. Sullivan asked what the pump level DEP has it set at. Mr. Cimina responded that it's 159.5 to go on and off at 160.5 which were the levels determined ten years ago. Mr. Saltzman added that Mr. Griffin went over everything for Conservation and may have some reports from that time period. Mr. Cimina also let the Board know that there is another issue with a large stockpile on the property that should be addressed.

Mr. Shulman recognized Mr. Wantman of 20 Gerald Road and allowed a few minutes of comment. Mr. Wantman stated that he's flooded today and has been for a number of days. He suggested that the proponent hold off on setting the pump float levels until the Conservation Commission and Board of Appeals can look at his property.

At this time Mr. Shulman believed that the Board had received a satisfactory update.

Mr. Shulman moved on to the public hearing for 72 Central Street which began on May 23, 2024 and was continued to June 20, 2024 and July 25, 2024. There was also a site visit on June 14th. Associate Member Bill Sullivan sat in on this hearing in place of the Chair so Mr. Shulman turned the gavel over to Vice Chair Saltzman.

Mr. Saltzman invited Eric Lomis of 4 Highcliff Terrace to speak on the matter in Attorney Jim Juliano's absence. Mr. Lomis introduced himself as a member of the 72 Central Street LLC and explained that Attorney Juliano who is representing them had to attend another meeting in Woburn. He explained that they were hoping to continue the matter in order to present new plans as early as next week. Mr. Lomis continued to explain that Attorney Juliano had been representing a prospective buyer who had backed out and was now representing 72 Central Street LLC.

Mr. Saltzman told Mr. Lomis that after the last meeting, Mr. Juliano was told that there would be no more continuations and the Board expected the entity to move forward. Mr. Saltzman stated that Mr. Lomis might be a new face but he is the same entity. The application was made by 72 Central Street LLC, the owners of the property. He also expressed his displeasure that for the first time in all of his years on the Board there was such confusion surrounding the identity of the applicant.

Mr. Sullivan recommended that the application be withdrawn without prejudice and a new application be submitted to move forward.

Mr. Sullivan made a motion to accept the application be withdrawn without prejudice which Mr. McLaughlin seconded. A roll call vote was taken. All members voted in favor 5-0.

Mr. Shulman took back the gavel and moved on to the public hearing for 147 Franklin 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, August 22, 2024 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application by A & F Realty Partners LLC, Frank Petrillo, Manager, with an address of 31 Main Street, North Reading, MA 01864, to demolish the existing single-family dwelling and garage and to construct a six unit town house style building at 147 Franklin Street, Stoneham, Massachusetts. Petitioner is seeking a variance of the following Sections: 5.2.1 Dimensional Requirements Notes (3), (5), (6), and (7). The proposal shows the existing lot of 18,455 square feet in violation of the required lot size of 19,500 square feet. 5.2.1. Dimensional Requirements – Front Setback. The required front setback in Residence B for three or more units is 30 feet, the proposed is 21 feet. 5.2.1 Dimensional Requirements – Side Setback - The required side setback in Residence B for three or more units is 30 feet. The proposed side setback is 17 feet on the left side. 5.2.1 Dimensional Requirements – Rear Setback. The required rear setback in Residence B for three or more units is 30 feet. The proposed rear setback is 25 feet. 5.2.1 Dimensional Requirements – Frontage and Lot Width - The required frontage and lot width in Residence B for three or more units is 150 feet, the existing frontage and lot width is 100 feet. 5.2.1 Dimensional Requirements - The maximum lot coverage in Residence B is 20%. The proposed lot coverage is 25.7%. In addition, the petitioner is requesting a variance of Section 6.3.4.2 (3) Layout – The required aisle width in Residence B is 24 feet in case of two-way traffic. The proposed aisle width is 21.5 feet and Section 6.3.4.2(4) prohibits the passage over any other parking space to access a parking space. The plan shows proposed tandem parking for spaces numbered 1, 3, 5, 7, 9 and 11 in front of the garage of each unit which requires the moving of one car to exit the space. Section 6.3.5.2 Lighting and Screening – abutting property to the parking lot must be protected from headlight glare. The proposed parking lot does not have any protection from headlight glare. Section 6.5.2.4 Screening and Landscaping – a four-foot strip of landscaping is required whenever setbacks are required. The proposed does not meet this requirement in all areas required. A plan filed with the petition by P.J.F. and Associates entitled “Site Plan of Land of 147 Franklin Street, Stoneham, MA.” dated May 8, 2024, shows the proposed building and associated parking. Plan may be seen daily except Friday afternoon in the Town Clerk’s office”.

Mr. Shulman invited Attorney Houghton to speak on behalf of his client Frank Petrillo. Mr. Houghton gave the Board a portion of the Assessors Map which shows the parcel. It had previously been split zoned as Residence A and Residence B. It was rezoned to all Residence B at the Annual Town Meeting in May. For the rezoning, they appeared before the Planning Board to seek a favorable recommendation for the new zoning, it was explained to the Finance & Advisory Board for the favorable recommendation and then the article was approved by the Attorney General’s Office. The parcel is now completely in the Residence B District. His client is seeking to build six townhouses, laying them out in a straight line from the street.

Mr. Houghton describes the property which sits adjacent to the High School driveway. Without setback variances the property is useless.

Mr. Saltzman asked how people would exit the property onto Franklin Street. Mr. Houghton responded that the existing curb cut doesn't change. Mr. Saltzman thought it must be a tough place to take a left. Mr. Houghton believes that Franklin Street is what it is at this point. He continued to say that this project would bring in an extra \$50,000 in tax dollars. They are hoping to build \$750,000 town house condos that are more affordable for the first time homebuyer. Mr. Houghton continued to tell the Board that the house was built in 1881 and is not new. They cannot salvage the house in developing the site as it sits six feet off the property line.

Mr. Saltzman asked how many bedrooms each townhouse would have. Mr. Petrillo responded that they would be three bedrooms.

Mr. Houghton spoke about the parking. There would be one garage for each unit and a driveway space in front to park tandem. There are ten spaces required but they have 14 on the plan. There would be four extra spaces with two being for visitors.

Mr. Houghton doesn't believe it derogates from the intent of the bylaw or is a detriment to the public good. He mentioned that Town Meeting understood the project for which the rezoning was being requested and voted in favor of the rezone.

Mr. Houghton stated that the property is a difficult site shape wise but it works for townhouses. He mentioned that they are willing to put up a fence or plant arborvitaes to spruce up the area for the neighbors.

Mr. Saltzman asked about the lighting and screening. Mr. Houghton explained that there is a grade difference of about 3-4 feet and said it would be up to the neighbors. Would they want a fence or plantings? Mr. Petrillo added that the driveway is at elevation with a three foot wall.

Mr. Saltzman asked if there is any issue with the High School. An abutter Mr. Joyce stated that the property is 90 feet from the High School.

Mr. Rubin asked if the project idea of six townhouses was presented to Town Meeting. Mr. Houghton stated that he had explained the proposed project while asking Town Meeting to rezone the property.

Mr. Saltzman asked if it was possible to have a rendering that showed the front instead of the side angle they were seeing it from.

Mr. Shulman recognized Steven Joyce of 6 Emerald Court. Mr. Joyce spoke about the lot size of 18,900 square feet. He compared the 14 units on Pomeworth built on a 49,000 square foot lot to this. This lot is 60% smaller. He spoke about the previous owner's lights glaring into his house and this would be at least 12 cars in the driveway. Mr. Saltzman agreed that they would see all the cars coming in at night.

Mr. Saltzman asked Mr. Joyce if he would like to see a smaller project. Mr. Joyce responded yes. He would like one or two. Even four but six is too many.

Andrea Formasi of 146 Franklin Street loved her former neighbor but the blue house is ugly. She acknowledged that what is being proposed is more attractive. She also added that she likes trees for screening not vinyl fencing. She stated that six is too many and asked if they would be willing to compromise on a number that fits better even though she understands that they want to make money. She also mentions that there are a lot of people that would have loved the house as is.

Pam Swallow of 14 Emerald Court has lived there for 67 years. They have gone from looking at cows to looking at 2 schools. She describes the noise, dirt and dust they have put up with for the past three summers as the new High School was being built. She understands that 147 needs to be changed but feels that they are being squished and squeezed. They need breathing room. She also mentions the lights from the cars going in to her living room as cars entered the driveway. She stated that whatever goes there, they want privacy. Mrs. Swallow also mentions getting into and out of their street is horrible. Adding six units would be suffocating. She mentions that the three units built at 137-139 Franklin Street are nice.

Marcia Wengen asked as a resident interested in preservation if the Historical Commission or Historical Society might look at the house before it is razed. Mr. Petrillo stated that would be possible.

Mr. Houghton explained that they are trying to avoid building million dollar condos. With six units they will make them smaller and more affordable for buyers. He continued to say that the existing house has had it. They would like to work with the abutters.

Steve Doucet of 150 Franklin Street was surprised at the number of variances requested. He stated that maybe the project is too big for the lot.

Jim Swallow of 14 Emerald Court also had concerns that he building was too big for the space. He described the number of vehicles on Franklin Street being already exacerbated by the development at Weiss Farm and this is the only access to Melrose.

Mr. Saltzman asked about the height. Mr. Petrillo said it's under the thirty feet allowed. Mr. Saltzman asked if Mr. Petrillo would be agreeable to a site visit. He agreed and asked if the Board at least liked what they saw for the design. Mr. Saltzman stated that beauty is in the eye of the beholder. Mr. Dufour didn't care for what he saw. Mr. Shulman believed that the issue was less about what it looks like and more about the size. Mr. Petrillo explained that this property is on Franklin Street not Emerald Court.

The resident at 9 Emerald Court expresses the same concerns as the others. This is a significant size with the rectangular shape and he doesn't want to see a precedent set. Mr. Shulman explained that the Board does not set precedent. They only act on the matter before them.

Dolly Wilson of 181 Central Street, Chair of the Historical Commission asked what would fit on the lot without needing variances. Mr. Houghton explained that a single family would fit but the

bylaw is not drafted to make sense because it requires 150 feet of frontage which no lot would comply with. Residence A District allows 30% lot coverage but Residence B is only 20% and there is a thirty foot setback all the way around. There would be no lots in Stoneham that would comply. All this zoning was put in place in 1985. He added that in this case, if you take off one unit, you only lose one variance.

Mr. Houghton stated that the look is less than volume. Mr. Rubin said the sixth unit is not going to make it look better. He believes they should have some compassion for the neighborhood.

Mr. Shulman believes that a site visit would be beneficial. He asked for a motion to continue and to schedule a time for the site visit.

The Board agreed on a site visit on Tuesday, September 10th at 5PM.

Mr. Saltzman made a motion to continue the public hearing to September 26, 2024 at 6PM in the Town Hall Hearing Room with a site visit at 5PM on September 10th. Mr. Dufour seconded the motion. A roll call vote was taken. All members voted in favor 5-0.

Mr. Shulman moved on to the final public hearing of the evening 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, August 22, 2024 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application made by Richard & Elaine Curro, 11 East Street, Stoneham, Massachusetts to construct roofs over the front entry at the newly appointed two family currently under construction at 17 Emerson Street (formerly 11 Fuller Street) in Stoneham. The petitioner is requesting a variance from the Stoneham Town Code Chapter 15, Section 6.2.6 (a) which states the structure may be reconstructed if it is only as great in volume and area as the original. On October 26, 2023, the Board of Appeals issued a decision in favor of the reconstruction with a maximum percent coverage of 30%. The proposed structure is 31.85%. A plot plan filed with the petition prepared by P.J.F and Associates dated July 9, 2024 may be seen daily except Friday afternoon in the Office of the Town Clerk”.

Richard Curro appeared before the Board to describe the requested relief. He said that was building porches with covered overhangs and in most communities the overhang aren't part of the coverage so he would have been at 29.94 under the allowed 30%. He stated that the Building Commissioner calculates the overhang as part of the coverage bringing him just over the 30%. He said that when you don't put the roofs on it, it looks like a deck in the backyard and doesn't allow for protection from rain and snow.

Mr. Saltzman asked about the variance that was granted by the Board that conditioned him to stay within 30%. He reminds Mr. Curro that he then came back a few months ago about the candeliver that he wanted to do. The Building Commissioner had calculated that to be over the 30% allowed and the Board deferred to her at which time the Board communicated again that the variance granted allowed 30% lot coverage. The decision stated 30%.

Mr. Curro argued that he had improved all of the setbacks and the only variance was for lot coverage and overhang is never calculated in lot coverage.

Mr. Saltzman again states that it was 30% in the decision. He explains to Mr. Curro that what is now before them is a hardship that is self-created. It doesn't matter that they don't count the overhang elsewhere. The reality in Stoneham is that we do count it.

Mr. Dufour thinks the overhang makes the entry look more appealing and provides coverage from rain. He added that it isn't any bigger than the deck. It's not increasing the actual footprint but covering the footprint.

Mr. Shulman agreed with the aesthetic but there is some frustration that the Board limited the coverage and it was ignored.

Mr. Curro doesn't understand if the little porch is already there why adding a cover is a problem if it doesn't increase the footprint.

Mr. Saltzman again reminds him that the decision limited him to 30%.

Linda Leis an abutter on Emerson Street wrote a letter to the Board in support. Building Commissioner Cheryl Noble wrote an email stating that the overhangs were already built knowing it exceeded the coverage.

Seeing no other comment from the public, Mr. Saltzman made a motion to close the public hearing which was seconded by Mr. Dufour. All members voted in favor 5-0.

Mr. Saltzman stated that the Board filed a decision. Mr. Curro is asking for a variance from the variance. It is a hardship created by the petitioner. For this reason he is having difficulty.

Mr. Shulman believed that what happened was a mistake. If it needed to be 16.05 and the As Built comes back as 16.08, the Board chalks it up to a mistake. It is de minimus.

Mr. Saltzman wonders if this would be considered de minimus.

Mr. Rubin acknowledged that the footprint doesn't change with the overhang.

Mr. Saltzman explained that the existing footprint was 20.6% of the lot. Going from 20.6 to 30% was generous so we restricted the requested 36 to 30%. Now we are at 30.1%.

Mr. Rubin doesn't see the harm in covering an existing porch within the allowed coverage. Mr. Dufour agrees that it should be accepted as an insignificant change. It's a small ask. He made a motion to approve which was seconded by Mr. Rubin. A roll call vote was taken. Mr. Dufour, Mr. Rubin and Mr. Shulman voted in favor. Mr. Saltzman and Mr. McLaughlin voted against. The petition was denied.

Mr. Saltzman made a motion to adjourn which was seconded by Mr. Rubin and Mr. Dufour. All members voted in favor 5-0.

The meeting adjourned at 8:10PM.

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 of 72 Central Street by Boston Survey dated January 26, 2024

A plot plan of 17 Emerson Street formerly 11 Fuller Street prepared by P.J.F and Associates dated July 9, 2024

A plan by P.J.F. and Associates entitled "Site Plan of Land of 147 Franklin Street, Stoneham, MA." dated May 8, 2024