



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

Stoneham Board of Appeals Minutes
Thursday, September 26, 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.

Also present: Town Clerk Maria Sagarino acting as Clerk to the Board of Appeals, Attorney Charles Houghton, Ian Gasco-Wiggin of JM Corcoran Company, DPW Director Brett Gonsalves, Frank Petrillo, Jim Castellano and several residents of Emerald Court.

The meeting was called to order by Vice Chair Robert Saltzman at 6:08 PM as the Chair was running late. Mr. McLaughlin led the Pledge of Allegiance. Mr. Saltzman introduced the Board and explained they may take items on the agenda out of order as some people weren't yet present. Mr. Sullivan would sit in on the meeting until Mr. Shulman arrived.

Mr. Rubin made a motion to approve the minutes for July 25, 2024 and August 22, 2024. Mr. McLaughlin seconded the motion. All members present voted in favor 5-0 for the minutes of July 25, 2024. Four members voted in favor of approving the minutes for August 22, 2024 with 1 abstention.

With Mr. Gasco-Wiggin running late and Attorney Houghton not yet present, Mr. Saltzman decided to move up the public hearing for 23 Rustic Road and explained the procedure for the public hearing. Seeing that the petitioner for 23 Rustic hadn't yet arrived, Mr. Saltzman took a brief recess at 6:13 PM.

Mr. Shulman arrived at 6:34 PM and brought the meeting back to order. The first item was a discussion for the approval of an insubstantial change for Weiss Farm Apartments related to the pump amendments approved by DEP. Mr. Shulman invited the DPW Director, Brett Gonsalves, to speak on the matter. Mr. Gonsalves explained that he had read through some old reports from Griffin Engineering which explained the onsite drainage infiltration. He could only find one report about the pump.

Mr. Saltzman asked Mr. Gonsalves if he could tell the Board where we are now in terms of the pump. We can't go back and Mr. Saltzman wondered if it would make sense to engage Bob Griffin to take a look now. Mr. Gonsalves conceded that it wouldn't be a bad idea to have someone who has performed work in the past take a look. He often does that in his everyday environment at Public Works.

Mr. Shulman invited Mr. Gasco-Wiggin of John M. Corcoran and Company to describe the insubstantial change approval being requested. Mr. Gasco-Wiggin reminded the Board that they are seeking approval of an insubstantial change that was requested at the Board's August 22nd meeting. He stated that DEP had approved the amended pump float levels for the pump station.

Mr. Saltzman believed it would be good to seek additional time to review. He believes a professional should review for the Board. The pumps levels seem reasonable but even more so because DEP signed off on them. Mr. Saltzman added that it is best if they get it right the first time. He thinks that having Mr. Griffin go over this for the Board would be in everyone's best interest. Mr. Gasco-Wiggin asked if there was any further information he could provide or conversation to be had. Mr. Sullivan stated that he appreciated the emergency number being added to the pump station as he had previously requested, but added that he would like a permanent plaque rather than the temporary paper sign hung up there now.

Mr. McLaughlin appreciated the bubbler effect added so that the water around the pump would keep moving during the winter months to prevent the pump from freezing. Mr. Shulman added that everything appears to be in line.

Mr. Saltzman made a motion to approach the Town for funding to hire Bob Griffin to study the site and review the plan put before the Board. Mr. McLaughlin seconded the motion. All members voted in favor 5-0 including Mr. Sullivan who sat in for Mr. Rubin who has been recused on the Weis Farm matter.

Mr. Gasco-Wiggin thanked the Board and stated that they were about to receive an approval from the Executive Office of Housing and Livable Communities. Mr. Sullivan asked if that was for the funding. Mr. Gasco-Wiggin stated that it would be for the change of funding under MGL Chapter 40B. They are seeking the change because the process they are in right now through Mass Housing has funding constraints. He added that changing to the LIP process allows them more options.

Mr. Shulman moved to the first public hearing of the evening for 147 Franklin Street. This public hearing had been continued from the August 22, 2024 meeting to allow the Board to make a site visit on September 10, 2024.

Mr. Shulman invited Mr. Houghton to speak for his client. Mr. Houghton refreshed the Board's memory as to what had transpired at the August meeting. He described the plan before the Board shows two parking spaces per unit with two additional spaces for visitors. There are 14 spaces and the bylaw requires 10. He describes the setbacks with the closest point to the lot line being on Mr. Joyce's side at 39.5 feet. There is 42 feet in the back. He reminded the Board that this property had been split zoned in Residence A & Residence B and Town Meeting changed it to Residence B. The existing house has a stone foundation making it unable to add to or salvage. They will try to save the trees that they are able to. They had proposed arborvitaes for screening instead of fencing. Mr. Houghton continued to say that they realized people weren't keen on the barn look of the front, so they are doing away with that and will go for something like Mr. Petrillo did at 22 Wright Street which was white with black accents. Mr. Houghton believes it will be an improvement to the area.

Mr. Saltzman asked about controlling the size. He reminded Mr. Houghton that the main objections the Board heard were about the size and number of units. Mr. Houghton indicated that the units are 22 feet wide. Mr. Saltzman stated that six units in that location are a lot. Would there be any movement to the number? Mr. Houghton reminded the Board that when Town Meeting was asked to rezone the property it was presented as 6 units and Town Meeting was okay with that number.

Mr. Shulman noted that if you were to remove one unit that it should be the one near the back of the lot. He added that Franklin Street and the High School driveway side are less likely to object to the unit in the front. In reducing the size, it would give an opportunity to reduce the number of variances. He believed that there would be two less variances necessary.

Mr. Saltzman that it wouldn't be bad as is but ending at the fifth unit.

Mr. Houghton asked for a few minutes to speak with his client.

The Board tabled 147 Franklin Street for the moment and moved to 23 Rustic Road at 6:57 PM. Mr. Saltzman had read the legal notice into the record earlier in the meeting when they believed they would be taking up the matter. It was read as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing Thursday, September 26, 2024 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application by Gregory DiPietro, 23 Rustic Road, Stoneham, Massachusetts to construct a portico over the front stairs at 23 Rustic Road. The petitioner is requesting a variance of the Stoneham Town Code, Chapter 15, Section 5.2.1 Dimensional Requirements. The minimum front setback in the Residence A District is 20 feet. The proposed setback for the front stairs and portico are less than 20 feet. A plot plan of 23 Rustic Road prepared by Scott M. Cerrato Professional Land Surveyor dated April 10, 2024 may be seen daily except Friday afternoon in the Town Clerk's Office.”

Mr. DiPietro was invited to speak and explained to the Board that he was seeking a variance to a portico over the existing front steps. He added that he just wants to add a covering over the front steps but the steps are beyond the front setback. He also explained to the Board that there is ledge behind his house which caused it to be built closer to the street. He mentioned that 18 Rustic Road was granted a variance for a portico and also had the hardship of the ledge forcing the house to be built closer to the street.

Mr. Shulman asked about the site plan showing a change to the stairs. Mr. DiPietro indicated that they were turning them 90 degrees to go away from the stairs. Mr. Saltzman asked if the portico was just going over the top step. Mr. DiPietro stated that yes. He intended to build over the landing at the top of the stairs.

Mr. Sullivan questioned what the setback actually is. Mr. Saltzman stated that they should look to give him up to 3 feet. Mr. Shulman worded it as no closer than 17 feet from the street.

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

Mr. Saltzman indicated that the ledge causes a hardship by pushing the dwelling closer to the road. The shape of the lot is a problem. He added that it doesn't derogate from the intent of the bylaw and would serve the public good. He made a motion to grant the relief with the condition that it be no closer than 17 feet from the road. Mr. Rubin seconded the motion. A roll call vote was taken. All members voted in favor 5-0.

At 7:07 PM the Board moved back to 147 Franklin Street. Mr. Houghton stated that Mr. Petrillo agreed to take one unit away in which case the units would be about 25 feet and change wider than the 22 feet shown on the plan. Mr. Shulman agreed that if you reduce by 22 it would increase the unit by 3 feet.

Mr. Saltzman reiterates that there would be a reduction of one unit which would be offset by adding three feet per unit.

At this point Mr. Shulman opened the meeting up to the public. Steven Joyce of 6 Emerald Court expressed that he is happy with the arrangement. He would like to see 4 units but is pragmatic. He agreed with leaving the parking as is.

Mr. Shulman asked about screening preferences as to arborvitaes or fences. Mr. Joyce indicated that his wife does not like fences. Mr. Shulman suggested they speak to the developer about their wishes. Mr. Saltzman added that the Board usually suggests arborvitaes for screening from lights. Mr. Joyce stated that he has no problem with arborvitaes.

Pam Swallow of 14 Emerald Court asked if there would be trash barrels. She was worried about the barrels sitting out all day on trash day. She added that it's a short distance from the 147 Franklin Street driveway to the school driveway.

Mr. Dufour explained that with a small dumpster there would be private pick up and no barrels left out curbside. Mr. Shulman asked their thoughts on a dumpster. Mr. Rubin stated that dumpster pick up isn't quiet. Mr. Joyce worried that barrels would be out all day.

Rao Vishal from 10 Emerald Court questioned the screening that would be provided in front on the west side and the coverage on the south side as well as the screening for the dumpster. He believes the dumpster would smell and bring mice. He also had concerns about traffic.

Mr. Shulman indicated that there would be screening on the south side of the lot. Mr. Houghton agreed and indicated that it could be arborvitaes or wood fence. Mr. Dufour asked what height the arborvitaes should be to screen the lights. Mr. Joyce thought that 10-12 feet or higher. Mr. Petrillo stated that 10-12 would be pretty accessible and not a problem to plant.

Jim Swallow of 14 Emerald Court stated that at the last meeting a landscape plan was mentioned. Mr. Petrillo explained that Mr. Joyce was up in the air about what he wanted. So a plan wasn't put together.

Mr. Vishal asked about the period of construction and how they might mitigate the dust. Mr. Petrillo explained that they would put up 6 feet of fencing for screening during construction.

Mr. Vishal asked if there would be night work. Mr. Petrillo stated there would not be night work and the Board stated so as well.

With no further comment, Mr. Saltzman made a motion to close the public hearing which was seconded by Mr. McLaughlin. All members voted in favor 5-0.

Mr. Dufour made a motion to grant the relief with the conditions that there be 10-12 foot high arborvitaes or fencing on the west and south sides. There should be a dumpster with the location agreed upon by site plan. There will be a reduction of 1 unit to 5 units with a 32 foot rear setback. Mr. Rubin seconded the motion. A roll call vote was taken. All members voted in favor 5-0.

Mr. Shulman moved on to 32 Summer Street. He stated that Mr. Dufour would be recusing himself on this matter and Mr. Sullivan would sit in. 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, September 26, 2024 at 6:00 p.m. to hear all persons interested in the application by Armor Development LLC with an address at 296 Shawsheen Avenue, Wilmington, MA 01887, to grant variances at 32 Summer Street, Stoneham, Massachusetts as follows: Section 5.2.1 Dimensional Requirements – The minimum lot size required for four (4) units in Residence B district is 14,500 square feet. The lot size for the proposed is 13,105 square feet; Section 5.2.1 Dimensional Requirements – The minimum front setback in Residence B for three or more units is 30 feet. The proposed front setback is 22.9 feet; Section 5.2.1 Dimensional Requirements – the minimum side setback in Residence B for three or more units is 30 feet. The proposed side setback along 32 Summer Street is 20.2 feet; Section 5.2.1 Dimensional Requirements The minimum side setback in Residence B for three or more units is 30 feet. The proposed side setback along 9-11 Walnut is 24.7 feet; Section 5.2.1 Dimensional Requirements – The minimum frontage in Residence B for three or more units is 150 feet. The proposed frontage is 134.21 feet along Summer Street; Section 5.2.1 Dimensional Requirements – The maximum percent coverage in Residence B is 20%. The percent coverage is 25%. A plan filed with the petition by Benchmark Survey dated August 12, 2024, entitled "Plan of Land Showing Proposed Townhouses 32 Summer Street Stoneham, Mass." shows the proposed townhouses. Plan may be seen daily except Friday afternoon in the Town Clerk's Office."

Mr. Houghton appeared before the Board on behalf of his client Jim Castellano. He explained the history of the property. In 1933 the Town rezoned the corner to allow for a gas station. In 1969 the Zoning Board of Appeals added additional area and in again in 1983 so that it could become an ambulance building. He went to Town Meeting to rezone to Residence B hoping to make something that fits better in the neighborhood because right now it is an ambulance building in a residential neighborhood. He continued to say they would like to build something similar to what replaced Dairy Dome. He said that the entrance to the units would be in the rear. The setbacks are good for the zone. There would be parking inside and landscaping of the corner. Right now it's all asphalt with no landscaping. They aren't looking for a variance on height. Mr. Houghton mentioned that Mr. O'Connor, the abutter in the rear is in favor of the project. If they were to tear down they would have to find a retail use. He added that this will be condos not rentals.

Mr. Sullivan asked if the units would be two bedrooms and what would be in the basement. Mr. Castellano stated they would be two bedrooms and most likely a gym or office space in the basement. Mr. Sullivan reminded him that with a closet it is considered a bedroom. Mr. Castellano stated it's allowed in some communities.

Mr. Shulman opened the meeting up to the public. He read an email from Barbara Murphy of 30 Summer Street into the record. Ms. Murphy expressed concerns about the size. She believed four units was oversized for the neighborhood and wasn't happy about the setbacks. Mr. Castellano told the Board that the existing building is pulled back. Mr. Houghton added that the proposed is 20.2 feet to the closest lot line and 23.2 in the rear.

Mr. Saltzman asked what the Town Meeting vote was. Mr. Houghton stated that it was unanimous. Mr. Sullivan clarified that Town Meeting was to change the zoning.

With no further public comment, Mr. McLaughlin made a motion to close the public hearing which was seconded by Mr. Saltzman. All members voted in favor 5-0.

Mr. Sullivan thought that the units were small, with parking inside. It will look good in the neighborhood and they tried to maintain the setbacks. Mr. Rubin agreed that they made the right call in centering the units on the lot. Mr. Saltzman added that it is much better than what is there.

Mr. Sullivan made a motion to accept as proposed. It is a better use of the lot. It doesn't derogate from the intent of the bylaw. The size of the lot creates a hardship. It's zoned Residence B District. The alternative would be two single family homes. Mr. Saltzman seconded the motion. A roll call vote was taken. All members voted in favor 5-0.

Mr. Shulman indicated Mr. Dufour would rejoin the Board. He moved to 467-469 Main Street and read the legal notice in the record as follows:

“You are hereby notified that the Stoneham Board of Appeals will hold a Public Hearing THURSDAY EVENING, September 26, 2024 at 6:00 p.m. in the Hearing Room, Town Hall to hear all persons interested in the application by Mitrano Family LLC, Bruno Mitrano, Manager, with an address of 291 Main Street, Stoneham, Massachusetts to add a third unit at the premises at 467-469 Main Street, Stoneham, Massachusetts. Petitioner is seeking a variance of Section 6.3.3 as the number of required parking spaces is 10 spaces and the proposed has only 3 parking spaces provided. A variance of Section 6.4.2(3) Layout is also requested as the required aisle width for two-way traffic is 24 feet. The existing and proposed driveway is 8 feet wide. A plan filed with the petition by Benchmark Survey, dated, August 12, 2024, entitled, “Plan of Land 467-469 Main Street, Stoneham, Mass.” shows the existing building and proposed parking. Plan may be seen daily except Friday afternoon in the Town Clerk's Office.”

Mr. Houghton appeared before the Board and explained that his client purchased the property ten years ago under the assumption there were three units. The first floor tenant recently went to the Building Department for a permit to renovate the first floor commercial space. The Building Commissioner brought to their attention that the third unit was not permitted. The third unit was empty at the time. Mr. Houghton told his client not to rent it and that they would take care of the unit's zoning problems. Mr. Houghton further explained that in his research he found that it was before the Planning Board many years ago and two units were approved. In 1999 zoning changed

and an overlay allowed for 5 units everywhere in the overlay. With that in mind this would have to also go to the Planning Board and Site Plan.

Mr. Houghton continued to explain that there are 3 legal parking places which would allow for 1 space per unit with parking on street for the commercial space. The first floor is commercial and there are two residential units on the second floor and 1 residential unit on the third floor. It is impossible to make any more parking.

Mr. Houghton had showed the Board the real estate listing advertised when his client bought the property. Mr. Shulman questioned where the 7 spaces were that the listing referenced. Mr. Houghton stated maybe they were counting a garage in the basement.

Mr. Shulman asked if there were three meters. Mr. Houghton responded that there are four. He believes there were two commercial meters and two residential initially.

Mr. Rubin asked why they were seeking a building permit. Mr. Houghton responded that the first floor commercial tenant was looking to renovate their space. The Building Commissioner wouldn't allow work until the application was made to the Board for the variance. Mr. Houghton added that the unit has been there for at least thirty years without parking being an issue.

Mr. Shulman opened the meeting to the public. He read an email into the record from Susan Nadworny, owner of 34 Warren Street. She stated that there is not enough space on the lot to allow another apartment without adequate parking. Mr. Houghton believes that Ms. Nadworthy thought another unit was being built. He doesn't believe she realized it was to make an existing unit legal.

Jim Castellano, owner of 471 Main Street said in the 6-7 years he'd owned his property, he has seen the same tenants and parking was not a problem. There have been no issues. The owner of Royal Roast Beef at 475 Main Street indicated the same. He has owned the property for 35 years and never had a problem.

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

Mr. Rubin made a motion to grant the relief. He stated that this is a correction of a problem. The unit exists and the owner is fixing an issue he was recently made aware of. Mr. Saltzman added that he is legitimizing the unit and seconded the motion. A roll call vote was taken. All members voted in favor 5-0.

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

The meeting adjourned at 8:03 PM.

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

A plot plan of 23 Rustic Road prepared by Scott M. Cerrato Professional Land Surveyor dated April 10, 2024

A plan filed by Benchmark Survey dated August 12, 2024, entitled “Plan of Land Showing Proposed Townhouses 32 Summer Street Stoneham, Mass.”

A plan by Benchmark Survey, dated, August 12, 2024, entitled, “Plan of Land 467-469 Main Street, Stoneham, Mass.”