



Town of Danvers Zoning Board of Appeals

1 Sylvan Street, Danvers, Massachusetts 01923 | p: 978-777-0001

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Zoning Board of Appeals

Members:

John Boughner, Chair
Kenneth Scholes, Clerk
Rebecca Kilborn
Jeffery Sauer
Kenneth Jarvinen
Corinne Doherty
Katie Hislop, Alternate

February 27, 2023 7:00 p.m. ZBA MEETING MINUTES

Board members present: John Boughner; Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, Corinne Doherty.

Staff present: Georgia Pendergast and Brian Szekely

John Boughner called the meeting to order at approximately 7:00 p.m.

John Boughner briefed the public on the proceedings of the evening.

CONTINUED ITEMS

42-44 SUMMER STREET (R-II) Request for a Special Permit in accordance with Section 30, and for a Finding in accordance with Section 3.10 of the Danvers Zoning Bylaw, to allow the expansion of an existing grandfathered nursing home/ memory care facility use to accommodate thirty additional nursing beds. **Request made by Danvers MC Owner, LLC and Gambrel LLC (22-4987).**

Kenneth Scholes read in the request for a Special Permit in accordance with Section 30, and for a Finding in accordance with Section 3.10 of the Danvers Zoning Bylaw, to allow the expansion of an existing grandfathered nursing home/ memory care facility use to accommodate thirty additional nursing beds. Request made by Danvers MC Owner, LLC and Gambrel LLC (22-4987).

Mr. Boughner recused himself from this case. Corinne Doherty served as acting chair for this case.

Kenneth Scholes read in 3 letters from abutting neighbors. Letters can be found in the Land Use and Community Services Department.

Nancy McCann on behalf of the owners. Ms. McCann stated they are requesting a finding for alterations of the existing facility. Ms. McCann provided a brief timeline of the process and where they are currently now. Nancy McCann gave a presentation on the new change with no increase in beds just adding on a single floor addition for the existing property.

Jeffrey Sauer had no questions.

Kenneth Scholes asked why the finding is needed.

Nancy McCann stated it is non-conforming use and they are for profit.

Ken Jarvinen asked why the extra space is needed.

Brendan Mallon spoke about the changes. They are looking to change the shared units and turning them into single units. No common spaces and no additional staff are needed.

Corinne Doherty asked the following questions below.

How many shared units do you have now?

How long do you expect the construction to take?

What process would be next if this board grants the finding?

Brendan Mallon/Nancy McCann replied I believe at this time we have 40 singles and seven or eight doubles. Mr. Mallon stated maybe three to six months. It would depend on the market conditions. Site plan review by the planning board.

Corinne Doherty opened for Public Comment.

Jen Lovell of 43 Summer Street is against any expansion to this property.

Marianne Owen of 36 Summer Street not in favor of the expansion to this property.

Bill Bradstreet of 18 Essex Street not in favor of the expansion to this property.

Anthony Brogner of 17 Seneca Drive not in favor of the expansion to this property.

Andrea Sears of 7 Colby Road voiced her concerns on the trash.

Corinne Doherty closed the public comment and started deliberations.

Jeffery Sauer would vote no.

Kenneth Scholes would vote no.

Ken Jarvinen would be a yes.

Corinne Doherty would vote no.

Nancy McCann would like to withdraw this application at this time.

Jeffery Sauer motioned to withdraw this application and was seconded by Kenneth Scholes.

Jeffrey Sauer, Kenneth Scholes and Corinne Doherty were all in favor and Ken Jarvinen opposed.

48 CRANE BROOK DRIVE (HCZ): Request for a Use Variance from Table 1 of the Danvers Zoning Bylaw to allow the use of the existing property to change from extended stay hotel to multi-family rental apartment. Request for a Dimensional Variance from Section 10 of the Danvers Zoning Bylaw to allow a reduction in the number of required parking spaces for the proposed multi-family use. **Request made by PEG Boston Danvers Property, LLC (22-4992).**

Kenneth Scholes read in the request for a Use Variance from Table 1 of the Danvers Zoning Bylaw to allow the use of the existing property to change from extended stay hotel to multi-family rental apartment.

Request for a Dimensional Variance from Section 10 of the Danvers Zoning Bylaw to allow a reduction in the number of required parking spaces for the proposed multi-family use. Request made by PEG Boston Danvers Property, LLC (22-4992).

Nancy McCann on behalf of the applicant gave a brief update on process and the changes they have made since their last presentation. Ms. McCann stated we originally had 96 units and have brought it down to 88 units and how we did that was removing a building. We are now able to provide 1 parking space per bedroom plus we will have an additional 35 spaces.

Phil Olmstead provided a presentation on a revised parking analysis. The Presentation can be found in the Land and Planning Use Department.

Nancy McCann noted that PEG will enforce parking requirements and terminate leases when needed. Not all units they will rent to will have a car. We will be providing 11 affordable units. Ms. McCann read a letter of support from the Affordable Housing Trust. A letter can be found in the Land Use and Community Services Department.

Corinne Doherty asked the applicant if a property manager will be on site and they will be monitoring the parking situation.

Nancy McCann stated yes to both questions.

Ken Jarvinen does this have to go to site approval for parking?

Nancy McCann stated we were directed by the former planning director when we filed this application that we should be requesting a parking variance which we have that this board is acting upon so you are granting both the use variance as well as a parking variance in accordance with the analysis that we've presented.

Brian Szekely stated he would consider this a change of Use as it's a different type of residential use, they could have potentially different requirements or services and will also require them to go to the planning board.

John Boughner asked how parking enforcement will be handled for guests.

Nancy McCann stated we will have guest parking spaces.

John Boughner opened to public comments.

Mr. Bradstreet asked the board with the removal of one building would they be able to increase the existing buildings sizes to increase the units and what board would they have to go to.

John Boughner stated they would have to come before us.

John Paul Andrews director of real estate development for Costco Wholesale. Mr. Andrews has met with the PEG team and has voiced their concerns. We still have concerns regarding the parking and traffic along with snow storage.

Nancy McCann stated traffic generation circulation is a site plan review matter and that will be reviewed by the planning board and as is snow storage and the planning board has a general condition that requires the owner of any property that's a commercial property if you have snow using up your parking spaces you have to remove it from the site that's a general condition of site plan approval.

Corinne Doherty would not be in favor.

Ken Jarvinen would approve this.

Kenneth Scholes would approve this.

Jeffery Sauer would approve this.

John Boughner I would approve this.

Jeffery Sauer move that we issue a use variance from table one of the Danvers Zoning Bylaw to allow the multi-family use in the highway corridor zone where it is otherwise prohibited, the hardship is the site's soil conditions shape and location of existing buildings on the site this condition does not affect other properties or structures in the same zoning district and a literal enforcement of the zoning bylaw would involve substantial hardship to the applicant and granting this variance will not create a substantial detriment to the public good and will not nullify or derogate from the intent and purpose of the zoning bylaw and we're adding the condition that the applicant will provide 11 affordable units 12.5 percent of the 88 units proposed at fifty percent AMI.

Kenneth Scholes seconded the motion.

John Boughner; Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, all in favor Corinne Doherty opposed.

Jeffery Sauer move to issue a dimensional variance from section 10 of the Danvers Zoning Bylaw to allow 123 parking spaces for this multi-family use where 176 parking spaces are required the hardship is the site's soil conditions shape and location of existing buildings this condition does not affect other properties or structures in the same zoning district a literal enforcement of the zoning bylaw would involve substantial hardship to the applicant and granting this variance will not create a substantial detriment to the public good and will not nullify or derogate from the intent and purpose of the zoning bylaw.

Kenneth Scholes seconded the motion.

John Boughner; Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, all in favor Corinne Doherty opposed.

REGULAR ITEMS

36 CONANT STREET (R-D): Request for a Finding in accordance with Section 3.11.B.1 of the Danvers Zoning Bylaw to allow the alteration and expansion of a legally pre-existing non-conforming building by adding a new story to the building, to be no closer to the side lot line than what presently exists. **Request made by Jodie and Steven Gennodie (23-5009)**

Kenneth Scholes read in the request for a Finding in accordance with Section 3.11.B.1 of the Danvers Zoning Bylaw to allow the alteration and expansion of a legally pre-existing non-conforming building by adding a new story to the building, to be no closer to the side lot line than what presently exists. Request made by Jodie and Steven Gennodie (23-5009)

Nancy McCann on behalf of the applicant presented their request of adding a new story to the building. No change in the number of units. No change to number of bedrooms. No change in the parking requirements and fully compliant. No dumpster located outside.

Richard Boceili of 61 High Street the properties architect showed plans of what the applicant has submitted. A copy of the submitted renderings can be found in the Land Use and Community Services Department. The only change to the rendering is per the Fire Departments request no parking arms.

Jeffery Sauer asked what are the specific dimensional deficiencies that cause this to be non-conforming for the original building?

Nancy McCann replied front setback is 29 feet instead of 40 and the side setback is 12 feet instead of 30.

Ken Jarvinen asked the applicant if the laundry will be downstairs?

Nancy McCann stated each unit will have laundry.

Corinne Doherty what has happened with the property since purchased back in December of 2021 and if approved when would construction start.

The applicant stated they had been in the process with the various boards. They had talks about increasing the number of units but after speaking with neighbors they have not. Construction would start as soon as it is approved.

John Boughner asked the applicant about the size of the units.

Richard Boceili stated they are pretty equal about 1,000 square feet and the three bedroom is 1,500 square feet.

John Boughner opened to Public Comment.

Tim Curtin of 35 Conant Street asked for a condition with the addition of the third floor to limit to only 4 units total with 9 bedrooms maxed.

Elaine Waleco of 41 Central Ave voiced concerns on parking/traffic for Central Ave.

Dan Albania of 26 Central Ave asked where the trash barrels will be and asked to clarify if a bedroom would be in the basement.

Steven Gennodie stated the trash cans would be out back there's a sidewalk behind the building. The fitness would be residents only. There is only one bedroom downstairs to make one unit a 3 bedroom.

Lenny Marshall of 35 Central Ave voiced concern on the placement of the trash barrels and hoping they can be covered.

Dave Chisholm of 42 Central Ave voiced concern of traffic.

Colleen Hugo of 40 Central Ave asked/ voiced concern with visitor parking.

Mr. Bradstreet stated he would like to see a confined area for the trash.

Kyle Gillis of 29 Central Ave expressed concerns of the views from third floor and traffic concerns.

Judy Obinski of 40 Central Ave expressed concerns on traffic.

Homeowner of 25 Central Ave expressed concerns on trash.

John Boughner closed public comments.

Jeffery Sauer would approve with the condition of 4 units and max 9 bedrooms.

Kenneth Scholes would approve.

Ken Jarvinen would approve.

Corinne Doherty would approve.

John Boughner would approve.

Jeffery Sauer moves to Grant the finding in accordance with Section 3.11.B.1 of the Danvers zoning bylaw to allow a one-story expansion of the pre-existing non-conforming building as shown on the plans submitted by the applicant as it will not be substantially more detrimental than one than what presently exists with the condition that there's a maximum of four units and a total of nine bedrooms.

Kenneth Scholes seconded the motion.

John Boughner; Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, Corinne Doherty all in favor.

67 PURCHASE STREET (R-II): Request for a Dimensional Variance from Table 2 of the Danvers Zoning Bylaw to allow a recently constructed garage to remain in place with a rear setback of 3.5' where 5' was approved via variance and a side setback of 3.2' where 3.7' was approved via variance. **Request made by Paul and Gladys DiFranco (23-5010)**

Kenneth Scholes read in the request for a Dimensional Variance from Table 2 of the Danvers Zoning Bylaw to allow a recently constructed garage to remain in place with a rear setback of 3.5' where 5' was approved via variance and a side setback of 3.2' where 3.7' was approved via variance. Request made by Paul and Gladys DiFranco (23-5010)

Paul DiFranco presented and update on why he has returned to the board. Mr. DiFranco stated he is looking for a rear setback of 3.5 and a side setback of 3.2.

John Boughner opened to public comment and no comments were made.

Corinne Doherty I will vote for this.

Ken Jarvinen I will vote for this.

Kenneth Scholes I will vote for this.

Jeffery Sauer will not be voting for this.

John Boughner will not be voting for this.

Jeffrey Sauer changed his vote to I will vote for this.

Kenneth Scholes moved to issue the dimensional variance from table two of the Danvers Zoning bylaw to allow reconstructed garage to remain in place with a rare setback of 3.5 feet where eight feet is required and with a side setback of 3.2 feet where 8 feet is required the hardship is the site's shape and topography the condition does not affect other properties and structures in the same zoning District a little literal enforcement of the zoning bylaw would involve substantial hardship to the applicant granting this variance will not create a substantial detriment to the public good and will not nullify or derogate from the intent and purpose of the zoning bylaw.

Ken Jarvinen seconded the motion.

Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, Corinne Doherty all in favor. John Boughner opposed.

144 PINE STREET (I-1): Elevation Foods, Inc. will provide an informal update on their corrective plan of action, as required by the enforcement order that was issued to the property in October of 2022, for the illegal outdoor storage operations that have been occurring on the property. **Representation made by Brian Calkins.**

Kenneth Scholes read in the Elevation Foods, Inc. will provide an informal update on their corrective plan of action, as required by the enforcement order that was issued to the property in October of 2022, for the illegal outdoor storage operations that have been occurring on the property. Representation made by Brian Calkins.

Brian Calkins is the plant manager I've been with elevation foods for just a little over a year so I wasn't aware of any prior history until the violation occurred at the time of the violation there were four outside storage units being used I have since eliminated two by doing multiple things we have hired a driver to help shuttle product between our facility and off-site facility furthermore I've been working with the other plant that is part of the main group elevation down in Tennessee over the last six weeks to allow them to take some pressure off our facility so to be less reliant on outside storage for the remaining two units one has been switched to electrical to help alleviate the sound with plans to switch the second of the remaining to electrical also we also have plans in place and I brought a preliminary drawing to fence the two remaining units. We've done multiple cleanups of the wheelchair area right along the side of the building we met with a facility to address any noise concern with the team.

John Boughner expressed his concerns and shared what the board had voted and approved in the past.

Brian Calkins stated he was working with Planning and will be submitting a new application.

Jeffery Sauer and John Boughner expressed frustration.

Brian Calkins stated we recognized the limits of our building, and we want to do what is right.

Bill Bradstreet spoke about including Rice Street for the abutters list for the upcoming application.

John Boughner stated he looks forward to seeing the application come in.

ADJOURNMENT

Kenneth Scholes motioned to close the meeting. Jeffery Sauer seconded. All were in favor and the motion passed unanimously.

The meeting adjourned.