



Town of Danvers Zoning Board of Appeals

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Zoning Board of Appeals

Members:

John Boughner, Chair
Kenneth Scholes, Clerk
Jeffery Sauer
Kenneth Jarvinen
Corinne Doherty

October 16, 2023 7:00 p.m. ZBA MEETING MINUTES

Board members present: John Boughner, Kenneth Scholes, Ken Jarvinen, Jeff Sauer, Corinne Doherty (present remotely)

Staff present: Brian Szekely, Planning Director

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

Motion to accept minutes from 9/25/2023 made by Ken Scholes. Seconded by Jeff Sauer. In favor: 5. Opposed: 0. Minutes approved.

CONTINUED ITEMS

6 South Liberty Street (R-2): Request a Special Permit under Section 9.3 of the Zoning Bylaw to store outdoor containers for longer than 180 consecutive days on a residentially-zoned parcel. Relief is also sought for Performance Standards in Section 9.3.C, 1, 2, and 3 that cannot be met by the proposal. **Request made by Cesar Guerrero (23-5036)**

Ken Scholes read aloud application for 6 South Liberty Street docket 23-5036.

Mr. Boughner-applicant not present; updated material not provided; 5 board members not in favor at prior meeting.

Staff-board cannot dismiss application and propose conditions. Vote to approve, approve with conditions, deny or continue. Can deny with conditions of timeline to remove trailers.

Mr. Boughner-will not continue.

Mr. Jarvinen-propose 3 month timeline.

Ms. Doherty-agree-90 days. Wait to see if applicant arrives? Cannot withdraw. Need to vote or continue. If voting now, against it.

Mr. Boughner-no new materials. 60-90 days to remove trailer.

Mr. Scholes-propose end of the year.

Motion to deny application for 6 South Liberty Street docket 23-5036 with condition that trailer is removed within 75 days – the end of 2023 calendar year. In favor: 5. Opposed: 0.

Staff-motion is to deny application and for storage trailer to be removed, without penalty, by January 1st and penalty may start after that date.

REGULAR ITEMS

4 Hanson Road (R2): Request a Variance under Table 2 of the Danvers Zoning Bylaw to allow the expansion of an existing single family home into the right side setback, and to request a Special Permit from Section 9.2 to create an internal Extended Family Living Area (EFLA) larger than 750 square ft. **Request made by Justin LeDuc c/o Michael Bean (23-5039)**

Ken Scholes read aloud application for 4 Hanson Road docket 23-5039.

Michael Bean-presented on behalf of applicant. Reviewed existing conditions; proposal to put ELFA above garage. Noted where stairways and access points would be.

Mr. Sauer-side setback encroachment from external stairway?

Michael Bean-yes.

Mr. Scholes-internal common area between EFLA and house?

Michael Bean-in breezeway, door to garage where laundry will be as shared space.

Mr. Jarvinen-EFLA entrance?

Michael Bean-noted entrances on plan.

Ms. Doherty-no questions.

Mr. Boughner-internal floorplan-do not see common area/laundry room. Access to EFLA will be up the stairs on the exterior? EFLA access to laundry room? Unregistered mobile home on property.

Michael Bean-noted on plan where laundry area will be. Access to EFLA up exterior stairs. Breezeway has front and rear entrance. Come downstairs and into breezeway. Would have to go outside.

Len LeDuc (4 Hanson Road property owner)-mobile home registered and insured; plate not on it. Not a permanent structure.

Mr. Boughner- way to connect second floor internally?

Michael Bean-stairway internal takes up too much room from living space.

Mr. Sauer-more apartment than EFLA; need internal stairway or room. This is an apartment. Not in favor.

Mr. Scholes-okay with project.

Mr. Jarvinen-concern with elderly parents using stairs. Not in favor.

Ms. Doherty-would be no with current plans. Oversized EFLA. Suggest to rework stairs.

Mr. Boughner-you do not have the votes. Do not know who EFLA would be for. Rework for internal stairs. Would vote no. Can continue. Will need revisions Tuesday prior to continuance date.

Michael Bean-continue October 30, 2023.

Motion to continue 4 Hanson Road docket 23-5039 to October 30, 2023 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

156 Hobart Street (R2): Request a Special Permit from Section 9.2 to create a detached Extended Family Living Area (EFLA) larger than 750 square ft. Request made by Tracey Hope-Ross (23-5040)

Ken Scholes read aloud application for 156 Hobart Street docket 23-5040.

Tracey Hope-Ross (156 Hobart Street)-reviewed application submitted and request for oversized detached EFLA for parents. Lois Morrison (mother) also present.

Ms. Doherty-exterior stairs? Access via internal stairs in garage or external?

Tracey Hope-Ross-reviewed location of stairs and doors.

Lois Morrison-stairs are not an issue for us.

Mr. Boughner-Special Permit goes with property and is deed restricted.

Mr. Jarvinen-location of shared space?

Staff-no shared space-detached structure. Detached structures cannot offer shared space.

Mr. Scholes-no questions.

Mr. Sauer-no questions.

Mr. Boughner-all interior work? Setback encroachment? Garage conforming with setbacks?

Tracey Hope-Ross-all interior; may change windows to accommodate walls; deck being built on rear. No setback encroachment. Purchased October 2022.

Staff-garage conforms with setbacks.

Ms. Doherty-does not meet requirements for EFLAs. Too big; lends itself to separate apartment. Plans not defined. Two bedrooms too much. Would not vote for this as presented.

Mr. Jarvinen-second story and stairs challenge as people age. Lack of common area. Would not vote for this.

Mr. Boughner-clarification that detached does not require shared space.

Mr. Scholes-completely detached. Would vote no.

Mr. Sauer-detached and too big. Could become illegal apartment. Would vote no.

Mr. Boughner-in agreement with board. Would want this at 750 sf. Second floor EFLAs may not be used as intended. Do not have votes. Continue, withdraw or board votes.

Tracey Hope-Ross-the space is 1,000 sf on second floor. Any way to rework this that would make board more comfortable? Is problem being detached?

Mr. Boughner-we've allowed detached prior; second floor challenge. Two bedroom-could take out bedroom to reduce square footage.

Tracey Hope-Ross-continue to October 30, 2023.

Motion to continue 156 Hobart Street docket 23-5040 to October 30, 2023 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

99 Dayton Street (R3): Request a Special Permit to operate a Major Home Occupation, and to Appeal fines levied by the Zoning Enforcement Officer for operating a major home occupation and the parking of trucks and trailers on site. **Request made by Michael Jones. (23-5041)**

Ken Scholes read aloud application for 99 Dayton Street docket 23-5041.

Michael Jones (99 Dayton Street)-clarification of Major Home Occupation?

Mr. Boughner-request is Special Permit; Major Home Occupation determination between applicant and Planning Staff. Definition in bylaws.

Staff-Special Permit request falls under performance standards-more than one commercial vehicle and more than one trailer on site.

Michael Jones-definition of major home occupation and what trucks and trailers are used for do not match up. All company work done off site and trucks are parked at site overnight.

Mr. Boughner-Planning Department requiring special permit for vehicles.

Staff-work is not happening on site; this is just about vehicles.

Michael Jones-moved into home in April 2022; applied for permit to extend driveway to have trucks and trailers at the property. Outlined history of parking at the property.

Mr. Boughner-board does not have jurisdiction over street parking. Driveway for vehicles does not provide exemption from bylaw regarding vehicle amount on property. How many vehicles and trailers? Anything else stored on site? Appeals for fines-why should fines be overturned?

Michael Jones-seeking permission to have vehicles and trailers parked there. Two Ford F250s; two trailers. Four commercial license plates; no other storage on site. Fines-met with town hall staff multiple times; challenges with online system. Noted staff interactions.

Mr. Boughner-Town tries to avoid fines and work with applicants; may be based on time elapsed.

Staff-first violation letter April 27, 2023; May, June and July 2023 letters were sent to apply to ZBA or remove trucks and trailers to have one vehicle and one trailer. Application received September 15, 2023.

Mr. Boughner-Town sent notifications; challenge to overturn fines.

Michael Jones-went to Town Hall multiple times; did not receive proper information. Was told to do process online-did not work. Did not intentionally avoid this.

Mr. Sauer-store vehicles at another site? Best outcome for board is to not have to sell your equipment and to find a location where they can be stored. Respect neighbor rights to a clean nice neighborhood.

Michael Jones-intend to sell a trailer; keep two trucks and one trailer. Can remove commercial tags and put personal ones on. Efforts made to shelter equipment.

Mr. Boughner-bylaw says one trailer; one truck. Asking for, and have, more than allowed.

Mr. Scholes-Whitney Cramer present and owner of property? If one truck and one trailer on property, park other truck elsewhere?

Whitney Cramer-own 99 Dayton Street; okay with what is on property.

Michael Jones-neighbor called police when truck was parked on street-said truck was an obstruction. Could park on Putnam Street.

Mr. Jarvinen-limited parking on Dayton. Prefer trucks and trailers be on the property.

Michael Jones-plan to get rid of second trailer; may get another later on.

Mr. Jarvinen-would vote for 2 trucks and 2 trailers.

Mr. Boughner-take two trucks and two trailers as a condition?

Michael Jones-yes.

Mr. Jarvinen-would try to work with fines.

Staff-if board grants something related to enforcement order, fines are erased. If board votes against, fines are enforced. Site is clean. Allowed to have one truck and one trailer; having two truck and two trailers is why we are here.

Ms. Doherty-are all vehicles commercial? Saw more than two trucks at the property. Do employees drive to house and leave personal vehicle on street?

Staff-4 total vehicles.

Mr. Boughner-not debating commercial plates. Issue is amount of vehicles.

Whitney Cramer-there are two other cars.

Michael Jones-those cars are residential. Employees drive vehicles when necessary. Employees park along side of Putnam Street.

Ms. Doherty-residence has trucks, trailers; employees park on street. Too many vehicles.

Michael Jones-many vehicles park on Putnam Street.

Mr. Boughner-one of the trailers does not have valid plate. Would take condition of no more than two trucks and two trailers - hard to enforce. Option to rent parking area? Noted abutter concerns.

Michael Jones-just renewed – have not put sticker on it yet. Challenge with business is timing and preparation before getting to client.

Whitney Cramer-two employees. If parking area off site, employee would have to drive to that site.

Mr. Boughner-asking for major home occupation – for home to function as a business in a residential zone.

Whitney Cramer-rent a residential spot from a neighbor?

Mr. Boughner-not allowed per bylaws. Here because of commercial vehicles.

Staff-would be applying for special permit for home occupation; business is not being run out of the home. Just vehicles and trailers.

Allen Cole (102 Dayton Street)-against special permit.

Mitch Abbatessa (4 Putnam Lane)-Residential zone. Should not run business in residential. If approved, next buyer could run different type of business. Clarify owner vs applicant? Do not want commercial business in residential.

Mr. Boughner-future owners would need to come before board if they wanted to change anything. This stays with the owner. If sold, special permit would cease to exist.

Staff-applicant and owner do not need to be the same. Special Permit would be issued to applicant for specific vehicles for specific business. Specific to property and business.

Hank Farrell (7 Putnam Lane)-against permit. Applicant informed that more than one truck and trailer not allowed. One truck, one trailer and debris on site for over a year. Concern with employee parking on Putnam Lane.

Gail Osgood (98 Dayton Street; own 100 and 100R Dayton)-noted concerns on Dayton Street with other neighbors. Two pickup trucks barely visible from street; problems began when vehicles were on the street. Would allow employees to park on personal property. Support this application.

Ms. Doherty-to Staff-if granted, could applicant open office in the home?

Staff-Special permit is for two trucks and two trailers on site for TripleACleanOuts. Any changes would need to come back for modification.

Mr. Sauer-not in favor. Not appropriate for neighborhood.

Mr. Scholes-getting rid of a trailer and can park trucks on street. Would not grant this; there is a solution.

Mr. Jarvinen-vote yes with condition of two trailers and two trucks. Parking on street worse.

Ms. Doherty-would vote no. Rule is one truck, one trailer.

Mr. Boughner-do not have the votes-need supermajority of 4/5 votes. Would be okay with two trucks and two trailers; can park on street. Would vote yes. We can vote and deny; you can withdraw without prejudice; can ask for continuance. Do not see means to overturn fines. Total of fines?

Staff-\$300 per violation per day. Three letters so \$900 as opposed to count of days. Applicant said if denied, he will park on the street which he can do. Enough space on the site.

Mr. Sauer-parking in driveway better than street. Would vote yes.

Mr. Scholes-still vote no.

Ms. Doherty-still vote no.

Michael Jones-abutter issue with parking on Putnam Street.

Mr. Boughner-what would you like to do?

Michael Jones-continue to November 13.

Staff-will not toll fines during this time.

Motion to continue 99 Dayton Street docket 23-5041 to November 13, 2023 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

10 Autumn Street (R3): *Request a Finding under Section 3.11 and 3.12 of the Danvers Zoning Bylaw to expand an existing deck into the side setback where a pre-existing nonconforming house is already situated on the lot. Request made by Michael Feener. (23-5042)*

Ken Scholes read aloud application for 10 Autumn Street docket 23-5042.

Michael Feener-reviewed scope of project to replace and expand rear deck. Garage has 7' setback; deck will be 12' setback. Abutter letter in favor.

Staff-read aloud abutter letter from 8 Autumn Street.

Ms. Doherty-no questions.

Mr. Jarvinen-no questions.

Mr. Scholes-no questions.

Mr. Sauer-noted existing conditions and new plans. No questions.

Mr. Boughner-how long have you owned the property? Aware of prior variance for addition on right side home?

Michael Feener-2016. Prior variance lapsed and previous owner sold before acting on it.

Ms. Doherty-vote yes.

Mr. Jarvinen-vote yes.

Mr. Scholes-yes.

Mr. Sauer-yes.

Mr. Boughner-yes.

Motion to grant finding for 10 Autumn Street docket 23-5042 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

3 Tibbetts Ave (R2): *Request a Finding under Section 3.11.B.2 of the Danvers Zoning Bylaw, to replace an existing non-conforming garage on a non-conforming lot. Request made by Margaret Kelley c/o Robert Griffin . (23-5043)*

Ken Scholes read aloud application for 3 Tibbetts Avenue docket 23-5043.

Robert Griffin (Griffin Engineering)-presented on behalf of applicant. Noted existing conditions and proposal to replace garage. Reviewed changes in setbacks and new position of garage. Signatures provided from abutters in favor of project.

Mr. Scholes read aloud letter received in favor of project from abutters with last names: Coulson (1 Tibbetts); McMahon (5 Tibbetts); Lang (2 Tibbetts).

Mr. Boughner-visited property; note need for new garage.

Mr. Sauer-no questions.

Mr. Scholes-no questions.

Mr. Jarvinen-cupola ornamental? Size? Light?

Robert Griffin-ornamental. Roughly 4' wide; designed by architect.

Ms. Doherty-garage height 26'? Height of home?

Robert Griffin-cupola not part of height per zoning bylaw. Height of garage 17.6'; with cupola 26'. Home more than 20' and under 30'. Garage smaller than primary structure.

Mr. Boughner-garage door out rear too?

Robert Griffin-correct.

Mr. Sauer-will vote for this.

Mr. Scholes-Vote yes.

Mr. Jarvinen-yes.

Ms. Doherty-yes. Garage to compliment house.

Mr. Boughner-squaring up garage works with property.

Motion to issue finding for 3 Tibbetts Avenue docket 23-5043 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

425 Newbury Street (11): Request a Variance from Section 37 to replace pre-existing non-conforming signage with new branding but the same size lettering. Also, two additional canopy signs are proposed where currently the site has none. Request made by PMG Northeast LLC/Nouria Energy c/o NH Signs (23-5044)

Ken Scholes read aloud application for 425 Newbury Street docket 23-5044.

Grant Michael (New Hampshire Signs)-owner not present. Noted existing conditions; branding change from Gulf to Nouria. Existing variance requires coming before board for any changes. Canopy signs will be new; will increase visibility.

Mr. Boughner-change all signs and add new?

Grant Michael-asking for two canopy signs that equal 32'.

Staff-all items that are not canopy signs are changing from Gulf to Nouria only. New are two canopy signs-one allowed by right and one by variance. Square footage requirements met.

Ms. Doherty-canopy already in place and you are putting signage on them? Pylon-maintenance needed?

Grant Michael-correct. Canopy same; brand change. Painting has been done to address pylon.

Mr. Boughner-condition to ensure pylon sign painted?

Grant Michael-yes will accept condition.

Mr. Jarvinen-one canopy or two?

Grant Michael-one canopy with signs facing north and south.

Mr. Scholes-review existing conditions and images being presented. Variance in place.

Mr. Sauer-existing canopy staying and being rebranded?

Grant Michael-correct.

Mr. Boughner-accepting condition, rebranding at same square footage and adding canopy sign. Lighting changes?

Grant Michael-part of sign will toggle.

Mr. Boughner-bylaw requires static sign.

Staff-would require variance for flashing sign. Was not applied for so cannot be given or conditioned at this hearing.

Bill Bradstreet (Town Meeting Member precinct 1)-lighting restrictions? Outside audio?

Mr. Boughner-24/7 gas station so lights will be on. No outside audio.

Ms. Doherty-will vote for this.

Mr. Jarvinen-will vote for this.

Mr. Scholes-will vote for this.

Mr. Sauer-will vote for this.

Mr. Boughner-will vote for this.

Motion to issue a variance for 425 Newbury Street docket 23-5044 with condition of keeping high rise pylon sign painted made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

Motion to adjourn made by Ken Scholes. Seconded by Jeff Sauer. All in favor. Meeting adjourned at 9:00PM.