

Zoning Board of Appeals
February 6, 2024
Norwood Senior Center
Hybrid Meeting Minutes

PRESENT

Michael Sheehan, Chair
Mary Kate Daly, Clerk
Shannon Greenwell
Rachel Churchill
Al Porro
Daniel D'Isidoro, Associate Member

Sarah Dixon, Town Planner

CALL TO ORDER

The meeting was called to order at 7:00 P.M.

PUBLIC HEARINGS

Case 23-46 & Case 23-47, 842 Boston Providence Hwy -Variance/Special Permit

Cathy Brown, 40 Orchard Street, Haverhill, presented on behalf of the applicants, Clay Subaru. They were requesting relief under §6.2.61B, to install a new electronic message sign, in combination with a pylon header sign, sized over 50 square feet. The existing sign was an 84 by 168 square foot pylon sign. Ms. Brown detailed the sizing of the new signs, and noted that she had requested additional square footage as she wanted to be fully covered by anything over 50 square feet. The topography on the site should not be an issue, and the new signage would not be detrimental to the neighborhood. Ms. Brown also noted that the electronic message sign was on par with other dealerships in the vicinity, and they wanted Clay Subaru to have the same competitive edge in advertising.

Mr. Porro was curious what other dealerships near Clay Subaru had electronic messaging signs. Ms. Brown explained that both Madden Ford and Norwood Auto Sales and Service had electronic messaging signs. She also noted that the sign for Lunchbox Deli, which was located across the street from Clay Subaru, had a 154 square foot sign, and Clay Subaru was requesting a smaller sign at 77.58 square feet. Mr. Porro was concerned about an electronic messaging sign distracting drivers on busy Route 1, noting that similar requests were denied in the past.

Acknowledging she had heard Mr. Porro's concern, Ms. Churchill wondered if there was a way the Board could regulate the rate of change of the electronic sign. Ms. Dixon cautioned against the Board limiting the change of the electronic sign without speaking to Town Counsel first, as there were strict regulations on municipalities and restricting content. Ms. Churchill was also curious about the overall design of the new sign. Ms. Brown explained that they planned to install panels to hide the three pylon poles.

Ms. Greenwell was curious how the panel casings over the pylon poles would affect circulation and visibility on the lot. Ms. Brown explained that the covers were being proposed for aesthetic purposes, and were not meant to obstruct the lot. Ms. Brown also clarified for Ms. Greenwell that the height of the pylons were remaining the same, but the width and height of the sign would be smaller.

Ms. Daly clarified with Ms. Brown that the proposed sign would be a permanent sign to replace Clay Subaru banners that covered the signage of a previous business.

Mr. Sheehan noted that there were already five Clay Subaru signs on the property. While the application called for Clay having the same competitive edge as neighboring dealerships, Mr. Sheehan pointed out that most of them only had one sign on their property. Ms. Brown stated that Clay Subaru was willing to eliminate one of the signs on the property, and the business logo sign was by right. Mr. Sheehan explained that he would be able to get on board with the electronic messaging sign if all other signage was removed from the property.

Eleanor Brady, 28 Hillcrest Road, was concerned about the lighting and height of the Clay Subaru sign, as she explained that the sign for Newbury Comics was very bright and visible from her home. Ms. Brown explained that the height of the sign was remaining the same, and would not be as high as the Newbury Comics/Lunchbox Deli sign.

Oscar Liddoni, 842 Boston Providence Highway, who was the General Manager of Clay Subaru, explained that he was not planning to change the messaging on the electronic sign frequently. Clay Subaru was not at a stopping point on Route 1. They were looking to advertise services like rental cars, job openings, and community events on the electronic sign.

Mr. Sheehan suggested working with the Norwood Planning Board to eliminate some of the existing signage on the property for the electronic sign. He acknowledged that some of the signs may have to be displayed under franchisee rules, which Mr. Liddoni would look into. Mr. Sheehan also pointed out that the applicants had the option to withdraw the request without prejudice.

Ms. Brown requested to withdraw the application without prejudice. The applicants would discuss potential solutions, and Mr. Liddoni would reach out to find out about rules under the franchise.

MOTION to allow the applicant to withdraw the applications without prejudice made by Mary Kate Daly. Seconded by Shannon Greenwell.

Roll Call Vote:

Al Porro: **Yes**

Rachel Churchill: **Yes**

Shannon Greenwell: **Yes**

Mary Kate Daly: **Yes**

Michael Sheehan: **Yes**

Result: 5-0-0 (Motion Passed)

Case 24-01, Shaw St (6-4C-44) -Variance & Appeal of Building Commissioner decision

David Hern, 30 Walpole Street, presented on behalf of the applicant, Bruno Colantuoni. The parcel, which was previously vacant, was around 10,000 square feet, was created in March of 2022 when the Planning Board issued an Approval Not Required. It had recently been assigned 7 Shaw Street. Mr. Colantuoni was currently building a home on the parcel and had run into issues with the Building Commissioner in regards to the construction, who had issued a stop work order over the summer. The stop work order noted issues regarding proper permits being pulled on the property, conformity in regard to the building permit that was pulled, and the placement of the home on the lot. Mr. Hern stated that the home was 18.4 feet away from the street, where 20 feet would be required. The home would have conformed to the height restriction, however, two dormers were added during construction that were not included on the original plans for the home. The clients were not made aware that the dormers would create a zoning issue. Mr. Hern explained that there were also issues regarding electrical work that was done on the home, as it was not watertight. The new contractor was told by the Electrical Inspector that all electrical work would need to be removed from the home. The clients were not aware of the issues going on and that proper permits had not been pulled.

Mr. Hern believed that the setback issue could be resolved under the §4.1.2.2 provision for allowing setback averaging. No building was required to be setback from the street, no more than the average of the two houses on either side. The home at 3 Shaw street was 11.5 feet back from the street, and the other home was 35 feet back, making the home at 7 Shaw Street conforming under the setback averaging provision. Mr. Hern explained that if setback averaging was used, it was supposed to be claimed in the building permit, which the previous builder did not do. He noted that the applicant and new contractor would do what they needed to amend the building permit to match what was actually on the ground. In regard to the height of the building, if there were no dormers added to the home as reflected in the original plans and building permit, there would be no height issue. He noted that the height of the foundation had also been raised from what was proposed in the plans, and the sloped lot now essentially contained a walk-out basement. Mr. Hern asked that the Board take into effect the hardship of the applicants in regards to the dormers, as the lot was sloped, and the difficulty in removing dormers from a finished roof. As his clients had informed him, Mr. Hern reiterated that they were not aware of any issues with permitting or zoning, and the violations had occurred during construction. He acknowledged that the property owner did take responsibility for all issues that had taken place.

Gary Pelletier, Building Commissioner, presented. He stated that the original building permit applied for did not call for side gables, the height did meet restriction requirements, and the home was permitted to meet setback requirements for the district. The stop work order was issued due to electrical, plumbing, and HVAC work being done in the home without permits, and the dormers were added to the home without amending the building permit and without approval from the Building Department. Mr. Pelletier acknowledged that the issues on the property were at no fault of the property owner, but the previous contractor. He stated that he had met with the property owners and Mr. Hern to discuss the property and found that variance relief for the dormers would be the best course of action. He also believed that the setback averaging provision was something that should be brought before the Board, as it had not been seen in new construction before.

Mr. Porro asked Mr. Pelletier if the 18-foot setback had added any additional square footage to the home from the original set of plans. Mr. Pelletier explained that he believed that the foundation had not been staked before construction, resulting in the home being improperly placed on the lot.

Mr. Hern believed that the setback should be allowed under §4.1.2.2 without relief and not granted by the Board as recommended by Mr. Pelletier, but they had applied for setback relief under the variance.

Mr. Porro wondered if the previous contractor was licensed in Massachusetts. Mr. Pelletier explained that the previous contractor had provided a licensed construction supervisor that was alleged to have worked for him, but that person had reached out to Mr. Pelletier and pulled out of the construction project, which was another reason for the stop work order.

Ms. Churchill sympathized with the applicants for the issues that had come up with their build. She was concerned about the home not being built to the original plan. She questioned the height of the building as it related to the variance, noting that sloping lots were common in that area. Mr. Hern believed that the sloping exacerbated the height issue, explaining that a walk-out basement was needed during the build due to the sloping of the lot. He added that without the addition of the dormers, the original height that was approved by the Building Department met requirements, and they were only seeking variance relief for the height as to save money and not remove the dormers from the finished roof. Ms. Churchill was still unsure of the appropriate relief for the property. Mr. Hern acknowledged Ms. Churchill's concerns.

Ms. Greenwell echoed the concerns of Ms. Churchill, stating that the hardship of the variance was that the building was not constructed to code. Ms. Greenwell was also concerned about the setback averaging under §4.1.2.2. Ms. Daly clarified with Mr. Hern that it was the fault of the previous builder that the home was placed in the incorrect spot.

Mr. Pelletier explained that on the notion of §4.1.2.2, he would have referred the building permit applicant to the Board for approval, as he believed it was not within his authority to approve without the Board's discretion. He added that he would have also denied a permit amendment for the dormers if that were brought to his attention, as it was a clear violation of the Zoning Bylaws.

Patricia Brosseau, 13 Shaw Street, lived next door to the property being built. She explained that she and her husband had no issues with water on their property in the past, until a storm in January when water had built up on the side of her property where the home was being built. She understood that there was supposed to be French drains on either side of the property, but she had not seen those built. She added that she was concerned about the height of the home and wished to see the dormers removed from the roof.

Paul Giampa, 3 Shaw Street, stated that he wished to see the project move along. In response to Ms. Brosseau's comment on the French drains, Mr. Hern explained that the property owners were under the impression that their previous contractor was going to install them before the stop work order was issued.

Ms. Churchill was curious if the property was not built to conformity, but did meet all of the zoning requirements, would the property owners have had to only pay a penalty under §10.1.7. Mr. Pelletier explained that they would have had to amend their building permit and have that approved by the Building Department, and a Certificate of Occupancy would not have been issued until the property matched either the original plans or the amended plans permitted. There would also be a penalty for violations under the Massachusetts Building Code.

Mr. Sheehan clarified with Ms. Dixon that the appeal from the applicants was in regards to the front setback and the Board was voting to either uphold or overturn the decision of the Building Commissioner. The group discussed their wishes on the matter of the setback. Mr. Sheehan was curious about a topography report for the lot which had not been presented. Frank Colantuoni, 127 Frontier Drive, Pelham, NH, the new contractor, explained that the difference between the front and rear of the property was around 3 feet 6 inches. Mr. Sheehan also clarified with Mr. Pelletier that if the dormers were removed, the height would conform to the height requirements. Mr. Porro stated that he believed the dormers should be removed. Ms. Churchill, Ms. Greenwell and Ms. Daley did not believe that the dormers met the requirements of a variance.

Mr. Hern stated that he agreed with Ms. Dixon's recommendation that the Board could take the setback and the dormers as two separate matters. He also stressed the setback provision in §4.1.2.2, and the fact that the applicants were looking to fix the issues with the property. Ms. Churchill, Mr. Sheehan, and Mr. Hern touched upon new plans being submitted for the construction to accurately reflect the property as it was. Mr. Pelletier explained that he had a certified plan for the foundation as it stood, and if it was accepted by the Board, he would not need a new plan submitted reflecting the foundation and location of the home. Ms. Churchill and Mr. Hern also discussed the

implications of withdrawing the application without prejudice, and also a negative decision being made. The group discussed their wishes on moving to a vote.

MOTION I to close the public hearing made by Al Porro. Seconded by Rachel Churchill.

Roll Call Vote:

Al Porro: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Mary Kate Daly: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

MOTION II to override the decision of the Building Commissioner made by Rachel Churchill. Seconded by Mary Kate Daly.

Roll Call Vote:

Al Porro: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Mary Kate Daly: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

MOTION III to deny the variance related to the height of the structure made by Shannon Greenwell. Seconded by Rachel Churchill.

Roll Call Vote:

Al Porro: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Mary Kate Daly: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

Case 24-06, 1223 Washington Street -Comprehensive Permit

David Hern, 30 Walpole Street, presented on behalf of the applicants. They were requesting a comprehensive permit for the property at 1223 Washington Street. They had been before the Board in December of 2022, where they were requesting to build a 3 story, 12-unit building. After hearing from the Board and neighbors during that hearing, they had scaled back the design to an 8-unit plan, with 25% of the units being affordable. The one ADA accessible unit on the first floor would be one of the affordable units. The Board had approved a special permit with respect to use for the property and the width of the parking lot in December 2022, but could not get over the variance relief in respect to density and floor area ratio. The applicants had changed their request from 12 units to 8 units to ease density concerns. Mr. Hern added that they had gone to the Board of Selectmen, who voted to support the request. The request was also submitted to the Massachusetts Executive Office for Housing and Livable Services, who provided a Project Eligibility Letter to the applicants. Mr. Hern also discussed the requirements for a comprehensive permit. He added that the applicants had been working with the Town to satisfy compliance in all areas. Matt MacDonald, 1401 Boston Providence Highway, added that he appreciated working with the Town.

Ms. Greenwell asked Mr. MacDonald to address compliance related to a staircase displayed in the footprint of the building. He explained that the staircase was discussed with an architect who believed the staircase conformed to building code, but Mr. MacDonald would speak with Town officials to make certain. Ms. Greenwell also clarified with Ms. Dixon that the Project Eligibility Letter from the State covered the Board in regards to the applicant's compliance with the requirements for the project.

Ms. Churchill questioned which specific trees around the property belonged to the property owners. Mr. Hern stated that they were working with a landscape architect to figure that out. They planned to install fencing and plantings around the property once they were aware of the property lines. Ms. Greenwell also wondered if water runoff and water retention were being considered. Mr. Hern explained that they would be working with a project engineer, Mark

Ryan, Norwood DPW Director, and other Town officials for stormwater issues. He noted that they should have clear answers for the issues being brought up on March 5. Ms. Dixon added that the technical details related to the development of the lot was typically handled under Site Plan Review by the Planning Board, which cannot take place until the permit is approved by the Zoning Board. The Zoning Board would remain up to date on details pertaining to the lot.

Ms. Daly clarified that the building would remain the same as was presented in December 2022, except for changes due to the smaller number of units.

Mr. Sheehan referenced the letter sent to the Board by Gary Pelletier, Building Commissioner, in regards to this project. Ms. Dixon noted the recommendations she made to the Board and the applicants.

Helen Donohue, 1027 Washington Street, property owner at 1223 Washington Street, responded to questions and comments made by Board members during the hearing.

MOTION to continue the public hearing to the March 5, 2024 meeting, 7:00 P.M. at the Norwood Senior Center and Google Meet, made by Al Porro. Seconded by Mary Kate Daly.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Mary Kate Daly: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

OTHER BUSINESS

Meeting Minutes- 12/5/2023 & 1/2/2024

MOTION I to approve the minutes of December 5, 2023 meeting made by Shannon Greenwell. Seconded by Al Porro.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Mary Kate Daly: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

MOTION II to approve the minutes of the January 2, 2024 meeting, as amended, made by Shannon Greenwell. Seconded by Rachel Churchill.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Mary Kate Daly: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

There was a second meeting for the month to handle volume scheduled on February 27, 2024, 7:00 P.M. at the Norwood Senior Center.

ADJOURNMENT

MOTION to adjourn the meeting made by Mary Kate Daly. Seconded by Shannon Greenwell.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Mary Kate Daly: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

The meeting was adjourned at 9:21 P.M.

Minutes respectfully submitted by Emily Manning