

Zoning Board of Appeals
February 27, 2024
Norwood Senior Center
Hybrid Meeting Minutes

PRESENT

Michael Sheehan, Chair
Mary Kate Daly, Clerk
Shannon Greenwell
Al Porro
Rachel Churchill

Holly Jones, Assistant Town Planner

CALL TO ORDER

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

PUBLIC HEARINGS

Case 24-05, 55 Plantation Circle- Variance

Mr. Sheehan read a letter from Mark Ryan, DPW Director and Town Engineer, who requested the pool be removed from the easement due to a drainpipe in the area that needed to remain accessible. Mr. Sheehan noted that the applicant had the option to withdraw the application without prejudice and return at another time with a new plan, as the Board was not comfortable approving the request based on the letter from Mr. Ryan.

Daniel Johnston, owner of Ambassador Pools, 1020 Turnpike Street, Canton, presented on behalf of the applicant. He stated that they would like to withdraw the application without prejudice and return with a plan with a new location off of the easement that would be satisfactory to the DPW.

Ms. Churchill noted that if the pool needed to be moved, it may be best for the applicant to relocate the pool without requiring zoning relief, as they would need to meet all the requirements for a Variance.

Mr. Porro concurred with Mr. Ryan's letter. He was also concerned with the fact that building permits were not pulled. Mr. Johnston acknowledged that his company had made a mistake. He also stated that prior to Gary Pelletier's hiring as Building Commissioner, Norwood had a policy of the homeowner pulling the building permits. Mr. Pelletier responded that he could not speak to what his predecessors had required for permitting in the past, but as long as he had been a building official, certified plot plans were required at permitting.

The applicant asked the Board to withdraw the application without prejudice.

MOTION to allow the applicant to withdraw without prejudice 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Result: 5-0-0 (Motion Passed) *The application was withdrawn without prejudice*

Case 24-04, 121 Walpole Street- Variance

Bob Randall, 121 Walpole Street, presented. Daniel Johnston, owner of Ambassador Pools, 1020 Turnpike Street, Canton, explained that the pool was installed over 2 years ago, and while zoning bylaws

required 30 feet between the lot line, the pool was about 3 ½ feet too close. They did not account for the sidewalk being part of the property when determining the location of the pool. They were seeking relief due to the shape of the property. Mr. Randall added that he was not trying to get around the zoning bylaws when they installed the pools, and that they did pull the proper permits at the time. Mr. Johnston pointed out that he was unsure if the building permit was ever processed, but it was dropped off per his records.

Mr. Pelletier, Building Commissioner, explained that zoning compliance was one of the first things taken into account when building permits were received. He clarified the setback requirements for pools per the Zoning Bylaws. He also noted that a pool permit was not issued for this property, and that the Building Department did not have record of an application. If an application had been submitted, upon review the applicants would have been advised to change the location of the pool or seek a Variance from the Zoning Board. Mr. Porro was curious on the status of the building permit, as well as any fees or fines for the applicant. Mr. Pelletier explained that a permit had not been issued because the pool did not meet zoning requirements. Penalties had not been finalized as they were working to get the pool properly permitted, and compliant with the provisions of the Bylaw.

Ms. Churchill questioned what made this lot unique to meet the requirements of a Variance. Mr. Johnston stated that because the lot was not a perfect rectangle, the angles of the lot made it not possible for the pool to be placed within the setback requirements. Ms. Churchill further questioned if there was a unique nature to the topography of the lot that would prohibit the pool from being shifted to the center of the lot. Mr. Johnston stated that upon taking measurements, in order for the pool to be compliant with the Bylaw, it would need to be moved almost into the driveway.

Ms. Greenwell was curious how Mr. Johnston communicated interactions with the Town, as far as permitting and interactions with the Town, with his customers. He noted that it was different in every single town, but the client in this case expected a building permit to be issued. He was not aware that a certified plot plan was required at the time as he stated there was a document on the Town website stating that those were not required for pools.

Ms. Daly clarified how the applicant met the requirements for a Variance.

Mr. Pelletier suggested that a surveyor work to relocate the pool within the side setback requirement and see if it still does not meet the lot line setback requirements before the Board voted on the matter. He also stated that further documentation from the applicant could be provided detailing why the pool can or cannot be placed compliantly.

Mr. Sheehan and Mr. Johnston discussed ways that the pool could be moved to meet the side setback requirements.

Mr. Pelletier commented that the pool was 28' by 26', and the 28' was where relief was needed. He mentioned moving the pool 90 degrees which may bring it into compliance, making a Variance and return to the Board unnecessary if they could also provide a certified plot plan.

Mr. Sheehan and Mr. Johnston discussed ways to move forward with the matter. Ms. Greenwell was curious if the applicant chose to go to a vote, what would happen if there was a negative result. Mr. Pelletier explained that the pool was already in violation for not being permitted, and the result would be removal if the Board voted negatively. He stressed he believed the applicant should have a surveyor work to either rotate or completely move the pool to be in compliance with the Bylaw. Ms. Greenwell commented that if a new plot plan were to be presented to the Board, it would be helpful to see other markers such as the driveway displayed in the plan.

Suzanne Randall, 121 Walpole Street, asked the Board to consider the impact of leaving the pool where it was. She was concerned about having to rip up her backyard to redo the pool and noted that it was causing a significant impact to her family. Ms. Churchill responded that while she understood how Mrs. Randall felt, the Board was constrained by State statute in which they had authority to grant Variances.

Mrs. Randall stressed that moving the pool would cause a significant impact to her family, and the fact that the pool was already in the ground. Mr. Sheehan stated that while he sympathized with the Randalls, there was no entitlement to a Variance. He explained that the applicant's hardships did not meet the requirements for a Variance as established by the courts, and the Board was bound by those rules. The pool was built without a permit and in violation of Zoning Bylaws.

The applicant asked the Board to withdraw the application without prejudice.

MOTION to allow the applicant to withdraw without prejudice made by Shannon Greenwell. 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) *The application was withdrawn without prejudice*

Case 24-02, 16 Day Street- Special Permit

David Hern, 30 Walpole Street, presented on behalf of the applicant. The property at 16 Day Street was an older two-family home. The applicant had recently purchased the property and was looking to renovate both the interior and exterior of the home. The home currently contained an attic, which the applicant was looking to convert into a third story apartment unit, requiring a change of use from a two-family to a multi-family. The three units would be around 1,300 square feet. Regardless of the home being located in the Central Business District, multi-family use was typically only allowed by Special Permit. The property and structure were also pre-existing non-conforming. Mr. Hern noted that there would be no footprint changes to the structure, and the addition of the third apartment unit would not be detrimental to the neighborhood.

Mr. Hern added that they were also seeking relief for parking on the property. Zoning Bylaws stated that dwellings with two or more bedrooms required three parking spaces on the property. This would require the property to have nine parking spaces. Mr. Hern argued that oftentimes tenants in two-family or multi-family dwellings only had one car or none at all, and this property was located close to public transportation and within walking distance to many different businesses. Mr. Hern noted that there was an area in the back of the property that they could easily make six parking spaces while also keeping the grass intact.

After being asked his thoughts by Mr. Sheehan, Mr. Pelletier believed that on-street parking could be credited under §6 of the Zoning Bylaw. Mr. Hern believed that on-street parking in the Central Business District did not apply to residential use.

Ms. Daly clarified with Mr. Hern that the attic was not currently permitted for residential use. She further clarified that the height of the structure at 34 feet would not be changing. Ms. Daly was also curious how many bedrooms each apartment would contain. Mr. Hern explained that the two units currently had two bedrooms, but after renovation they could have three. Ms. Daly then clarified with Mr. Hern that the applicant was seeking general relief for parking on the property.

Ms. Greenwell agreed that nine parking spaces was too many for that particular area. She was curious what the street parking situation was in the area. Mr. Sheehan stated that there were no signs in that area restricting parking, however they would have to abide by the winter street parking ban from November 15-April 1. There was also a public parking lot on Day Street, and a resident could purchase a permit to park overnight in that lot if needed. Mr. Hern added that having residents park on the street was not ideal, especially during the winter months. Mr. Pelletier added that the lot at the Norwood Post Office also had public parking if needed.

Mr. Sheehan questioned the proposed six parking spots in the back of the property. Mr. Hern explained that there was open space next to the house for parking. The grass would remain, however may be squared off somewhat. He believed six spots could be created without disrupting the grass. Mr. Sheehan was concerned about flooding on the property and wanted to see as much grass remain as possible.

Kate Allendorf, 8 Day Street, stated that there had been a considerable amount of construction going on at the property, and the noise was having an impact on both the neighborhood and the road. However, she was happy to see the property being renovated. She was concerned about exhaust fumes from vehicles affecting neighboring properties.

Ms. Greenwell was curious if the applicant, who was a landlord, believed the rental market could handle one parking spot per unit. Hongfang Yang, 28 Goethe Street, West Roxbury, stated that in her experience, tenants usually do not have more than one car.

MOTION I to close the public hearing made by Shannon Greenwell. 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)

Ms. Greenwell wondered how the Board would grant relief for the parking. Mr. Hern believed that a minimum number of spots should be determined by the Board so that number could be provided when seeking building permits. Mr. Pelletier brought up a similar case on Savin Ave. that was brought to the Board in 2023, where they determined that six parking spots would be allowed for three apartment units, and also required pervious surface for parking to avoid asphaltting the entire lot.

Mr. Sheehan noted that the Board was voting on Special Permits under §3.1.5, §5.4.4, and §6.1.2. He believed this was a great use for the property. He added that he would condition the motion for the grass areas to remain in the front, left, and rear of the house up to the side setback, as shown on the plan. The Board discussed conditioning pervious surface for paving, but Mr. Sheehan believed it should be conditioned that no further paving take place on the property.

MOTION II to approve the three Special Permits, as presented, with the conditions of no expansion of the asphalt area, no grass area to be disturbed per the plan, and a minimum of six parking spaces confined to the paved area, made by Shannon Greenwell. 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)

Case 24- 03, 19 Central Street- Special Permit

David Hern, 30 Walpole Street, presented on behalf of the applicant. The property was adjacent to the property at 16 Day Street. It sat on a pre-existing non-conforming lot. The property has been used as a mixed-use building for many years, with commercial use on the first floor and two residential apartments on the second floor. There had not been tenants in the office space for some time. The applicant was looking to convert the first-floor office space into two separate residential units. They were proposing

eliminating the mixed-use, making the building entirely residential use, which would require relief by Special Permit. Mr. Hern argued that there was more of a demand for convenient office space than office space. He also added that the applicant was not planning to make any changes to the exterior of the building. In terms of the parking on site, Mr. Hern explained that with four two-bedroom apartments, twelve parking spaces would be required, however he believed they could comfortably create eight parking spaces in the paved area of the lot. He noted that the number of cars in the downtown area is typically less than in neighborhoods, which was discussed in detail during the previous hearing.

Mr. Sheehan asked Mr. Pelletier for any comments on the matter. He explained that he had discussed the application in great detail with Mr. Hern and supported the request.

Ms. Churchill was curious how long the first floor had been vacant of any commercial occupants. Hongfang Yang, 28 Goethe Street, West Roxbury, explained that the previous owners told her it had been vacant for over two years. Ms. Churchill also clarified with Mr. Hern that there would be two parking spaces per unit, which she believed made sense.

Ms. Greenwell was curious if they reduced the number of parking spaces, could green space or landscaping be added to the lot. Ms. Yang explained that she would try her best to add some greenery to the lot. Ms. Greenwell also wondered if the two second floor apartments would be renovated at all. Ms. Yang explained that she was focusing on the first floor at the time but hoped to do upgrades to the second floor in the future.

Mr. Sheehan stated that in the final plans, he would like to see the lot either re-sealed or repainted, and the parking to be striped. He also wondered if a ninth parking spot could be added due to the fact that tenants may have guests. Mr. Hern argued that there was a public parking lot across the street, however they would look to add a ninth spot. Mr. Sheehan also asked the applicant to consider construction trucks using the parking lot at 19 Central Street while doing work on both lots to alleviate the neighborhood.

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 approve the Special Permit, as presented, under §3.1.5 for multi-family use for four units, §5.3.2 to increase non-conformity in an area that does not have sufficient space, and §6.1.12 for parking relief, made by Shannon Greenwell. *Mr. Sheehan conditioned the motion to include that in the final plans, the parking lot either be re-sealed or repainted, and the parking striped, with a minimum of eight parking spaces.* 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)

MEETING MINUTES

MOTION to approve the meeting minutes of January 3, 2023 made by Al Porro. Seconded by Shannon Greenwell.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Mary Kate Daly: Yes

Michael Sheehan: Abstained

Result: 4-0-1 (Motion Passed)

ADJOURNMENT

MOTION to adjourn the meeting 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)

The meeting was adjourned at 8:53 P.M.

Minutes respectfully submitted by Emily Manning