

## ZONING BOARD OF APPEALS

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



DIRECTOR OF  
COMMUNITY DEVELOPMENT  
Sarah Dixon

ASSISTANT DIRECTOR OF  
COMMUNITY DEVELOPMENT  
Holly Jones

Zoning Board of Appeals  
October 10, 2023  
Hybrid Meeting Minutes

### **PRESENT**

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

Holly Jones, Assistant Town Planner

### **CALL TO ORDER**

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

### **PUBLIC HEARINGS**

#### ***Case 23-29, 940-958 Bos Prov Highway- Appeal of the Building Commissioner's Decision***

Brian Almeida, 1350 Main Street, Walpole, presented on behalf of the applicant. The applicant was seeking to open an Urgent Care facility within 100 feet of Route One. Zoning bylaws on Route One restricted certain facilities from operating within 100 feet of the Route One right of way line. The applicant was appealing the determination that the Urgent Care use fell under a medical lab use. Mr. Almeida explained that an Urgent Care had a variety of other uses that an Urgent Care fell under. He believed they met the requirement for retail visibility, as an Urgent Care mainly relied on walk-in services. He noted §3.1.5.F.1 of the bylaw which pertained to the care of a person. Mr. Sheehan elaborated on the full language of the bylaw, which pertained mostly to a person's household goods. Mr. Almeida also pointed out §3.1.5.I.10, which he believed was another use an Urgent Care could fall under.

Mr. Sheehan explained that although an Urgent Care could be categorized under other uses, that was not what the Board was voting on. Mr. Almeida noted that Footnote 12 intended to keep the ground area 100 feet from Route One clear for retail oriented business, and they were advocating that the Urgent Care was a retail oriented business.

Mr. Porro wondered what was currently in the storefront that the Urgent Care was planned for. Mr. Almeida explained that it was currently empty. Ms. Jones added that it was a new building, with the other side occupied by Taco Bell.

Ms. Churchill asked Mr. Almeida to speak to the accessory use of the facility. She noted that the wording of the bylaw seemed to point toward a medical clinic inside of a retail store, for example the CVS "Minute Clinic". Ms. Churchill and Mr. Almeida discussed the language of the bylaws pertaining to medical uses.

Gary Pelletier, Building Commissioner, spoke to the decision for denying the building permit. He explained that while the use was allowed, the building was not 100 feet from Route One. He also pointed out that it was a pre-existing non-conforming building, and he believed the applicant should have the opportunity to seek relief from the Zoning Board for the 100 feet requirement.

Ms. Churchill asked Mr. Pelletier if he looked to the professional use of words when approving or denying building permits, or was he just going by regular vernacular, specifically looking at the word "admitted" used in the application. Mr. Pelletier explained his take on the word "admitted" in the application, which can have various meanings in the medical world.

Attorney Jeff Ugino, 30 Walpole Street, wished to speak on the matter. He represented the potential tenant of the Urgent Care space, and explained the operations of the Urgent Care, and asked the Board to consider the use.

The Board and Mr. Almeida discussed exactly what was being voted on, and if relief for the dimensional setback could be given, or if the applicant would need to return to the Board for relief.

The Board discussed their wishes on the matter. Mr. Porro did not believe they should override the decision of the Building Commissioner. Ms. Churchill, Ms. Greenwell, and Ms. Daly all had reason, based on the allowed use, to vote to override the Building Commissioner's decision. Mr. Sheehan also had a hard time finding reason to overturn the decision. Mr. Sheehan's concern was this zoning change was recently approved by the planning board and town meeting. He felt we should adhere to the wishes of those elected officials or at the very least ask the planning board for guidance regarding footnote 12 Mr. Almeida wondered if the hearing could be continued in order for him to prepare for a variance based on the dimensional setbacks of the building. Mr. Sheehan added the applicant was able to withdraw without prejudice.

**MOTION** to continue the public hearing to the December 5, 2023 meeting, 7:00 P.M. at the Norwood Senior Center, made by Rachel Churchill. Seconded by Mary Kate Daly.

Roll Call Vote:

Al Porro: **No**  
Shannon Greenwell: **Yes**  
Rachel Churchill: **Yes**  
Mary Kate Daly: **Yes**  
Michael Sheehan: **No**

**Result 3-2-0 (Motion Passed)**

**Case 23-28, 33 St Paul Avenue- Special Permit**

Elvin Esmurria, 346 Country Street, Fall River, presented on behalf of the homeowner. Mr. Esmurria explained that they were looking to add a second floor addition to the pre-existing non conforming home. The home was currently 846 square feet, with 550 additional square feet proposed for the addition. Mr. Sheehan noted a letter from the Building Commissioner supporting the addition.

Ms. Daly noted that she was supportive of the addition given the small square footage of the existing home. Ms. Churchill was also supportive, noting that the setbacks were not encroaching on anything. Ms. Greenwell spoke in support as well, adding that the footprint of the home was not changing with a second story addition. Mr. Porro added that the addition would be an improvement to the home.

Susan Moulton, 39 St Paul Avenue, was concerned about the surveying of the property. Mr. Sheehan provided the certified plot plan from August 2023. Ms. Moulton believed the markings on the survey were incorrect as the nail pins were not in the right spots. Mr. Esmurria stated that he had all reason to believe the survey was correct as it was done by professionals.

Cassandra Sosa, 33 St Paul Avenue, confirmed that while the nail pins were in strange spots, there were also stakes placed on the property line, and the plot plan coincided with the stakes on the property.

**MOTION I** to close the public hearing made by Mary Kate Daly. Seconded by Al Porro.

Roll Call Vote:

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

**Result: 5-0-0 (Motion Passed)**

**MOTION II** to approve the special permit, as presented, to allow for the increased non-conformity of the existing structure, made by Shannon Greenwell. Seconded by Mary Kate Daly.

Roll Call Vote:

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

**Result: 5-0-0 (Motion Passed)**

***Case 23-30, 28 Eisenhower Road- Special Permit***

Shoumik Ghosh, 28 Eisenhower Road, presented. He was seeking setback relief for a proposed addition to his home, which would increase side setbacks. As his family grew, he was looking to stay in Norwood, and an addition to his existing home would be the best option. Mr. Sheehan noted a letter from the Building Commissioner, who was in support of the Board granting a special permit for the proposed addition.

Ms. Daly questioned the square footage of the proposed addition, which Mr. Ghosh confirmed was 900 square feet.

Ms. Churchill noted that the existing non-conformities related to lot width, which was not changing. She wondered if consideration was given to keep the addition within the existing setback. Mr. Ghosh stated that as a two car garage was proposed as part of the addition, going outside of the existing setback was the only way to have a functional garage.

**MOTION I** to close the public hearing made by Mary Kate Daly. Seconded by Shannon Greenwell.

Roll Call Vote:

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

**Result 5-0-0 (Motion Passed)**

**MOTION II** to approve the special permit, as presented, made by Mary Kate Daly. Seconded by Shannon Greenwell.

Roll Call Vote:

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

**Result 5-0-0 (Motion Passed)**

***Case 23-33, 23 Hawthorne Street- Special Permit***

Christopher Kirby, 83 Bond Street, presented on behalf of the applicant. The applicant was looking to add a single story addition with a deck to the rear of their home. The proposed addition would increase the 25% of existing living area allowed. The existing square footage of the home was 936, with 1,400 square feet proposed for the addition, making the increase 49.6%. Mr. Sheehan acknowledged a letter from the Building Commissioner, who was in support of the addition, but noted the increase at 44%. Mr. Sheehan questioned why there was a difference in percentages and square footage; Mr. Kirby explained that there were plans to add a covered wheelchair lift to the home, which may not have been included in the Building Commissioner's numbers.

**MOTION I** to close the public hearing made by Shannon Greenwell. Seconded by Mary Kate Daly.

Roll Call Vote:

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

**Result: 5-0-0 (Motion Passed)**

**MOTION II** to approve the special permit as presented, for both the 49% increase in living space, and increasing lot coverage to 27%, made by Shannon Greenwell. Seconded by Al Porro.

Roll Call Vote:

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

**Result 5-0-0 (Motion Passed)**

***Case 23-31, 169 Lane Drive- Variance***

Warlen De Almeida, 169 Lane Drive, presented. He had a shed on his property that did not meet setback requirements, and was seeking a variance to make the shed legal. Mr. De Almeida stated that he could not move the shed forward 10 feet to be in compliance as it would be very close to a driveway he shared with his neighbor. He added that keeping the shed where it was in the back of the yard would not bother anyone, as train tracks were located behind him.

Mr. Sheehan questioned if there was a building permit pulled to build the shed. Mr. De Almeida explained that he was not aware he needed a building permit

Ms. Greenwell asked Mr. De Almeida to speak to the landscape of his property. Mr. De Almeida stated that there was a hill on the property where water from the neighborhood tended to pass through. He noted that the current location of the shed was the only flat surface on the property that he was able to place it.

Ms. Churchill noted that it was a very large shed, and wondered why they needed such a large structure. Mr. De Almeida pointed out that he had three children, and the shed stored a lot of their outdoor equipment, as well as supplies for Mr. De Almeida's business. He also added that the reason he was unaware he needed a building permit was he did not have the background of being a homeowner.

Ms. Daly questioned what the hardship aspect of the variance was for Mr. De Almeida. He stated that both the shape of the land and topography on his property, including the steep slope, railroad, and shared driveway created hardship.

Mr. Sheehan believed that the applicant could move the shed 10 feet forwards without having an issue. He also noted a letter from the Building Commissioner, who stated that he had no comment.

Helen Costello, 165 Lane Drive, stated that she did not have an objection to the shed.

Jim Barss, 57 Wood Drive, pointed out that when the property was purchased by Mr. De Almeida, it was in disarray, but he thought that Mr. De Almeida had done a great job with repairing it. He believed the shed would be an asset to the property.

Mark Joseph, 58 Stratford Road, also thought Mr. De Almeida had done a great job at fixing and maintaining a home that was once in disrepair. He added that Mr. De Almeida was a great asset to their neighborhood, and did a lot to help others.

Nadine De Almeida, 169 Lane Drive, spoke to the issue with moving the shed forward and the shared driveway with Ms. Costello at 165 Lane Drive. She explained that if the shed was moved forward, they would not be able to get their three vehicles out of the driveway.

**MOTION I** to close the public hearing made by Al Porro. Seconded by Shannon Greenwell.

Roll Call Vote:

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

**Result 5-0-0 (Motion Passed)**

**MOTION II** to approve the variance, as presented, under §4.1, noting that the shed was to be used for storage only, and removing the other existing shed behind it, made by Shannon Greenwell. Seconded by Mary Kate Daly.

Roll Call Vote:

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

**Result: 5-0-0 (Motion Passed)**

#### **OTHER BUSINESS**

**MOTION I** to approve the minutes of the July 25, 2023 meeting, as presented, made by Shannon Greenwell. Seconded by Al Porro.

Roll Call Vote:

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

**Result 5-0-0 (Motion Passed)**

**MOTION II** to approve the minutes of the August 1, 2023 meeting, as presented, made by Rachel Churchill. Seconded by Shannon Greenwell.

Roll Call Vote:

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

**Result 4-0-1 (Motion Passed)**

#### **ADJOURNMENT**

**MOTION** to adjourn the meeting made by Mary Kate Daly. Seconded by Rachel Churchill.

Roll Call Vote:

Al Porro: Yes  
Shannon Greenwell: Yes  
Rachel Churchill: Yes

Mary Kate Daly: Yes  
Michael Sheehan: Yes

**Result 5-0-0 (Motion Passed)**

The meeting was adjourned at 8:36 P.M.

Minutes respectfully submitted by Emily Manning