

ZONING BOARD OF APPEALS

THOMAS BRADY, CHAIRMAN
PATRICK J. MULVEHILL
PHILIP W. RILEY
JOHN R. PERRY
SCOTT MURPHY



April 6, 2021

Minutes

**Present: Thomas Brady, Chairman
Philip W. Riley
Scott Murphy
Mary Kate Daly
Paul Eysie, Alternate**

Please note the April 6, 2021 hearing was held remotely using GoToMeeting software. The virtual Zoning Board of Appeals meeting was conducted remotely pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L.c. 30A & 18, and the Governor's March 15th Executive Order imposing strict limitations on the number of people that may gather in one place. Although no in-person attendance of members of the public occurred, the town of Norwood made every effort to ensure the public can access the proceedings in real-time via technological means.

The meeting was called to order by Chairman Thomas Brady.

Mr. Brady welcomed Ms. Daly to the Board.

7:00 PM Case #21-03 1369 Providence Highway (Used Car Facility and Open Lot Storage)

Sitting on the hearing were Thomas Brady, Philip W. Riley, Scott Murphy, Mary Kate Daly and Paul Eysie.

Mr. Brady read the legal notice into the record.

The applicant requests a special permit under Section 3.0d (1) H2 of the zoning bylaw to allow for the establishment of a used car facility that will sell pre-owned vehicles as well as auto repair and service with a special permit required for storage of the used vehicles with vehicle repair to be performed indoors.

Mr. Almeda, legal counsel for the applicant, presented to the Board a request for a continuance for one month. The request was submitted on March 22, 2021 to the Board.

Mr. Brady asked if the continuance requested was for this matter.

Mr. Murphy replied that the Board did receive that request to continue.

Motion:

Motion: Mr. Murphy made a motion for continuance. Mr. Riley seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.

7:15 PM Case #21-04 – 10 Morrill Road (Addition)

Mr. Brady read the legal notice into the record.

The applicant requests a special permit under the Section 5.4 and 5.4.1 the zoning bylaw to allow the addition of a 32.4 foot by 16 foot dormer for the second floor of the existing structure. The height of the dormer shall be no greater than 8 feet giving a finished roof height of 20.6 feet together with such other relief that the ZBA may deem appropriate.

Mr. Alex Glushchenko, homeowner and applicant, introduced the proposal as an addition to the single family residence to contain another bedroom and an office. The existing home is a ranch and the proposal will not change the existing footprint.

Mr. Murphy reported that he looked at the premises and the building height for the new dormer addition is within compliance.

Mr. Riley reported that he also looked at the residence and he had no comments or issues.

Ms. Daly agreed with Mr. Murphy and also has no questions.

Mr. Eysie said that he supported the proposal.

Mr. Brady also supported the proposal.

There were no questions from the public.

Motion:

Mr. Murphy made a motion to close the hearing. Mr. Riley seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.

Mr. Murphy made a motion to approve the application. Mr. Riley seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.

Approval of Meeting Minutes – March 2, 2021

Mr. Murphy made a motion to approve the minutes for March 2, 2021. Ms. Daly seconded the motion. A Roll Call Vote of 5 to 0 was taken and the motion passed.

7:30 PM Case # 21-05 – 13 East Hoyle Street (Sign)

Mr. Brady read the legal notice into the record.

The applicant requests a special permit under Chapter 6.2 of the zoning bylaw to allow a 3 foot by 2.6 foot double faced free standing sign to be attached the preexisting non-conforming structure together with such other permit and relief as may be necessary. This applicant also requests a variance under the General Laws of the Commonwealth if required a 3 foot by 2.6 foot double faced free standing sign that can be erected and attached to the preexisting non-conforming pole structure together with other permit for relief as required.

Mr. Richard Staiti, attorney for the applicant, presented the proposal to construct a sign in the business district near Norwood Hospital. He reported that proper notice was sent to all of the abutters and the hearing is consistent with the executive orders for the ongoing pandemic, there was also a publication in the Norwood Record and an affidavit was sent to Mr. Collins.

Mr. Staiti also represented to the Board that he submitted to the Board drawings of the sign prepared by Sign Center of Norwood, plot plan, and the prior decision that has a bearing on this case. He also made a correction to his memo which is the sign will be 6.6 inches, but it will be black and white and not illuminated, it will also be slightly smaller 36 by 30.

Mr. Staiti also stated that Board of Appeals has granted special permit decisions for signage in this area. He cited Case Number 93-26. He stated that the sign pole has been at this location for 30 years and asserted that the petitioners' request should be grandfathered in due to the pandemic and the governor's executive order.

Mr. Staiti also noted that the purpose of the sign is to advertise. There will be no adverse environmental effect, no digging up of any ground, and it doesn't have an effect on water or sewer or any other utilities.

Mr. Staiti also noted that there was an abutter who had a concern. He stated that he met with the abutter and is open to installation of a directory or any kind of additional signage as needed at their own expense to make sure that there is no traffic flowing to the wrong parcel.

Mr. Eysie asked if Dr. Gordon was still in the building. Najib Ayoub, the petitioner and representative of Jana Realty, replied that he was not.

Mr. Eysie asked who owns the building, the petitioner responded Jana Realty.

Mr. Eysie asked if the petitioner was going to come back before the Board for more signage after the building is completely occupied. Mr. Ayoub responded there is only one occupant, Dr. Swartz.

Mr. Eysie asked why the building inspector sent the petitioner to the Zoning Board. Mr. Staiti responded that there was a delay due to the pandemic, and Mr. Walsh told the petitioner that he needed to seek a special permit from the Zoning Board.

Ms. Daly asked to clarify the order of the permit history, including absence of the existing sign and lack of denial from the building department; Mr. Staiti confirmed the sequence of events.

Mr. Murphy asked Mr. Staiti what permit expired. Mr. Staiti responded that his client was told by the building department that he must seek relief from the Zoning Board.

Mr. Murphy stated it is not clear where the property line is. He noted that Mr. Flaherty indicates the sign is about six inches from his property line, and he noted that the opinion from 1993 indicates that it is set back about seven feet from the side line. He asked that post was moved closer to Mr. Flaherty's property.

Mr. Staiti replied that the Board previously allowed the placement to continue as long as the sign was turned a certain direction.

Mr. Murphy responded that the sign location is not in compliance with the decision and could interfere with the neighbor's property.

Mr. Staiti stated that the petitioner would prefer not to relocate the sign due to expense but would install additional directional signage to mitigate the issue.

Mr. Riley stated that the sign location is not in compliance. He further asked what form of relief was being sought and then read Section 6.2 of the Bylaw.

Mr. Staiti stated that he feels that regulation does not apply.

Mr. Riley stated that the Board has no authority to issue the permit and the language is pretty clear under 6.2. With respect to a variance, he stated that he doesn't see a justification for a variance.

Mr. Staiti responded that it qualifies as a preexisting sign and falls under Section 5.0. He stated that a variance is required under 5.3.

Mr. Riley asked what possible justification is there for a variance.

Mr. Staiti stated he has been using 5.2 and he has never seen an argument regarding topography.

Mr. John Al-Jamal of Jana Realty stated that the sign was vandalized.

Mr. Brady asked when the sign was vandalized.

Mr. Staiti responded that he did say that in his memo that the sign was vandalized and needs to be addressed.

Mr. Riley spoke to the lapse of use involved in this case.

Mr. Staiti stated that the governor issued an executive order allowing delay in permit expiration due to the pandemic; the permit was originally issued in 1993.

Mr. Riley said the location of the pole remains noncompliant with the 1993 decision.

Mr. Brady opened the hearing to the public for comment.

Mr. Brady stated that he did receive a letter from Mr. Flaherty and described the neighbor's discontent with the location of the current sign due to encroachment on his lot and misdirection of traffic flow.

There were no other comments from the public.

Mr. Ayoub added that the sign has been there since 1993 Dr. Grodon said he called the Zoning Board and was told that the sign is fine. Patients are having trouble finding the office.

Mr. Staiti stated that he would hope the Board would not deny this permit and take it under advisement. He also stated that they are willing to work with the Board.

Mr. Brady asked Mr. Staiti how far he is willing to move the sign.

Mr. Staiti stated we could move it two or three feet away and not take away from the parking space, and he also stated that they would post a directory sign.

Mr. Brady responded that the petitioner could ask for a continuance to arrive at an agreement.

Mr. Murphy agreed with Mr. Riley that the location is not in compliance.

Ms. Daly responded that the 1993 decision on page 2 stated that the sign was a change in location.

Mr. Staiti stated that if the Board would feel more comfortable in granting the special permit if the sign was moved 5feet from the property line, the petitioner could submit a new plan showing that relocation.

Mr. Murphy suggested a continuance.

Mr. Eysie suggested relocation of the sign to the other side.

Mr. Ayoub disputed the feasibility of that relocation due to visibility and loss of potential parking.

Mr. Staiti submitted a verbal request for continuance to allow the petitioner to submit a revised plan showing the sign 5 feet from the lot line.

Motion:

Mr. Murphy made a motion to continue until April 20, 2021. Ms. Daly seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.

7:45 PM Case # 21-06 – 595 Neponset Street (Addition)

Mr. Brady read the legal notice into the record.

This applicant requests a special permit under Section 5.4 and 5.4.4 of the Zoning Bylaw to allow for a two story addition with a crawl space. The proposed addition will increase the square footage by 1,513 square feet for a total of 3,355 square feet.

Alan and Erin Kennedy, applicants and homeowners, introduced the proposal to construct an addition to their single family home to allow for more space for their family. Mr. Kennedy

informed the Board that they have four children and they are looking to put on a family room and two bedrooms.

There were no questions or comments from the Board.

Mr. Murphy stated that the proposal was consistent with the neighborhood.

Ms. Daly stated that the proposal was consistent with the dimensional requirements considered and approved by the Board for other projects.

Mr. Eysie stated that he supported the project. Mr. Brady agreed.

There were no questions from the public.

Motion:

Mr. Murphy made a motion to close the hearing. Ms. Daly seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.

Mr. Murphy made a motion to approve the application. Ms. Daly seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.

Other Business

Mr. Brady informed the Board that he would like to make a statement regarding personnel matters.

Attorney David DeLuca, Town Counsel, advised the Chairman that confidentiality of personnel matters, particularly to identifying individuals, must be practiced.

Mr. Brady thanked Mr. DeLuca. He asserted that confidentiality regarding the personnel matter was not being practiced by other elected officials in the Town.

Mr. DeLuca requested that confidentiality be practiced with regard to personnel matters.

Mr. Brady began to read a statement regarding the personnel matter in question.

Mr. Collins informed the Board that upon the advice of Town Counsel he has been requested to mute Mr. Brady.

Mr. Brady and Mr. Mulvehill objected to the use of the mute feature.

Mr. DeLuca stated that Mr. Brady's comments on personnel matters must be strictly confidential and confirmed that he advised Mr. Collins to mute those comments that do not comply with the necessary confidentiality. He stated that Mr. Brady may proceed but cautioned that it is not appropriate to discuss individuals or allegations relative to personnel matters in public session.

Mr. Brady disagreed and stated that his first amendment rights should supersede Mr. DeLuca's rationale. He completed his statement and submitted his resignation from the Board, effective at the close of the meeting.

Mr. Murphy stated that he wished Mr. Brady would reconsider, given his contributions to the Board.

Mr. DeLuca spoke on behalf of the Board of Selectmen in his appreciation of Mr. Brady's service.

Mr. Murphy stated that the Board would need to designate another chair.

Mr. Riley informed the Board that he submitted to the Selectmen a letter indicating that his term had expired, and he will not be seeking a re-appointment to the Board.

Mr. Brady thanked Mr. Riley for his record of service to the Board and Town.

Mr. Staiti, Mr. Mulvehill, Mr. DeLuca, and Mr. Eysie thanked the departing Board members for their service.

Motion:

Mr. Riley made a motion to adjourn. Ms. Daly seconded the motion. A Roll Call Vote of 5 to 0. Motion passed.