

Zoning Board of Appeals
Scott Murphy, Chair
Mary Kate Daly
Shannon Greenwell
Al Porro
Michael Sheehan



**Director of Community
Planning and Economic
Development**
Paul Halkiotis, AICP

Assistant Planner
Sarah Dixon Bouchard

September 7, 2021

Minutes

Present: Scott Murphy, Chair
Mary Kate Daly
Shannon Greenwell
Al Porro
Michael Sheehan

Call to Order: The virtual meeting was called to order at approximately 7:00 p.m. by the Chairman, Mr. Scott Murphy.

Public Hearings:

Case #21-03 1369 Providence Highway (continued from 5/4/21, 6/1/21 7/6/2021, 8/3/2021)

Representing the applicant, Mr. Brian Almeida introduced a request for withdrawal without prejudice. He noted that the new zoning bylaws would require the project to be reviewed by the Planning Board.

Motion:

Ms. Daly made a motion to accept the withdrawal without prejudice. Ms. Greenwell seconded the motion. Roll call vote, all in favor.

Case # 21-20 54 East Cross Street

Mr. Murphy read the legal notice into the record.

Ms. Juliana Shkuti, applicant and homeowner, introduced a proposal for a residential addition. The Shkutis are new to Norwood, wish to remain in town, but have a need to expand their current residence. The addition would provide extra space for their family of four and allow other family members to stay over. She said the addition would provide an increased market value to their home and the neighborhood. Ms. Greenwell asked if the addition would be taller than the current second story. Ms. Shkuti replied that the architect designed it in a way not to encroach into the setbacks and instead built it slightly higher. Mr. Sheehan noted that the

renderings were not to scale and inquired about the current height and the proposed height increase. Ms. Shkuti replied that it would not be more than 2' higher than the current height. Mr. Sheehan suggested that a condition of approval could state that the addition not exceed 2' from the highest point of the present structure.

Ms. Daly referred to Sheet S2 on the building section and felt it indicated that it was less than 2'. Mr. Porro asked what the total additional square footage of addition is. Mr. Sheehan stated it was 336 addition square feet. Mr. Porro asked about the marked attic space on page H2/heating plan and asked about the proposed use and accessibility. Ms. Shkuti replied that it is an entry door to the attic space from the existing bedroom #3 and the attic is unfinished.

The Chair opened the hearing for public comment. Hearing none, the Board moved to a motion.

Motion I:

Ms. Greenwell made a motion to close the hearing. Ms. Daly seconded the motion. Roll call vote, all in favor.

Motion II:

Mr. Sheehan made a motion to approve the applicant's application as presented with the caveat that the addition does not exceed the highest level of the present structure by more than two feet. Ms. Greenwell seconded the motion. Roll call vote, all in favor.

Case #21-21, 59 Varwood Avenue

Mr. Murphy read the legal notice into the record.

The applicant, Mr. Christopher Keane, introduced the owners, Mr. and Mrs. Edmund and Ivy Young. He stated the proposed project would double the size of the current cape-style home going from 955 square feet to approximately 1,900 square feet. He noted that neighbors at 42 and 48 Varwood had already been granted relief. He said the Lot is nonconforming and that the Youngs were longtime residents and would like to remain in their Norwood home so they are asking for relief from the Board.

Ms. Greenwell commented that, except for the deck, it was remaining in the same footprint and since other houses on the street have already done similar work then it would not be out of character for the neighborhood. Ms. Daly had no questions or comments. Mr. Porro asked if the second story was larger than the existing footprint. Mr. Keane replied it would be following the existing footprint of the house but, for aesthetics, there would be small bump-out; 1 foot going up to the second level, 8 square feet across. Mr. Sheehan asked about the highest elevation of the proposed structure. Mr. Keane stated the height would not exceed 24 feet at any given point. Mr. Murphy said it was consistent with the neighborhood and had no issue.

The Chair opened the hearing for public comment. Hearing none, the Board moved to a motion.

Motion I:

Ms. Daly made a motion to close the public hearing. Ms. Greenwell seconded the motion. Roll call vote, all in favor.

Motion II:

Ms. Daly made a motion to approve the Special Permit as presented. Ms. Greenwell seconded the motion. Roll call vote, all in favor.

Case #22-22, 973 University Avenue

Mr. Murphy read the legal notice into the record.

Representing the applicant, Mr. Daniel Bailey, presented a request for an extension of the 180-day completion requirement established in condition #7 of the previously approved Special Permit. He reviewed the history of the case, the UAVE earth removal operation at 973 University Ave, and the adjacent property that was affected by the activity. They submitted a stamped plan from an engineer for restoring/repairing the 100 square foot affected area as well as the construction of an access road needed to complete the required restoration. He explained that Condition #7 required that the work be completed within 180-days of the permit certification by the Town Clerk and stated the deadline was August 21, 2021. Mr. Bailey said they reached out to the Board on August 6th to request an extension. He said that a significant amount of work had been done and requested an amendment from the original 3 month extension to 6 months, claiming that the work is best completed in the winter for site condition reasons and also owing to the fact that the owner runs a paving/construction business which is very busy during the fall months.

Mr. Luke Fabbri, provided an update of the site work. He explained that 6.1 square feet of land had collapsed and continues to erode. He said they have been building a rock roadway to that point, which is 65' above base of the floor of excavation. Material has been brought in; blasted rock and a ramp necessary to safely build the retaining wall shown on the plans. The road is now tall enough to begin work but needs to be extended further for more equipment. He described several issues including needing a platform and repairs to the bulldozer, Mr. Bailey said they have received permission to access the affected property, that fencing still surrounds the entire property, and no trespassers have been encountered (fall protection). He also said they have kept up with the quarterly stormwater pollution prevention plan inspections and recordings, are in compliance with Conservation, and have recorded the Certificate of Compliance for the Order of Conditions with the Registry of Deeds, as well as keeping the Attorney General informed. Mr. Murphy said letters were submitted from BOS and Mr. Ryan of the DPW. He reminded Mr. Fabbri that a report to the ZBA would be needed at the one year mark. Mr. Fabbri replied that no other material had been removed from the site. He said there were discussions with Mr. Walker (the owner of the affected abutting property) about a land swap but that it would not be going forward at this time.

Mr. Murphy reminded the applicant that the Board was here to discuss Special Permit Condition #7 and asked Mr. Bailey if the previous request for an extension was made prematurely as there was plenty of time. He said the Board appreciates the timely request that they submitted again in August, asked if he was aware of the issues back in the spring and if that's why he made the early request. Mr. Fabbri acknowledged that they were concerned about it because of being delayed for multiple months in their attempts to address the BOS concerns. He added that there was a cease and desist (C&D) order on the property thus delaying work. Mr. Murphy asked if the C&D prevented excavation/earth removal or compliance with the ZBA's condition. Mr. Fabbri replied that it prevented any work at all on the property. He explained that the 65' high ramp took a lot of material and time to construct. Mr. Murphy acknowledged that it was a lot of work but noted it was to make repairs due to their own actions.

Mr. Murphy discussed the August 6th letter which cited rain, equipment, and access issues as the primary reasons for the delay in work completion. Mr. Murphy added that the access issue/permission from the abutting property owner was no longer a factor. Mr. Bailey acknowledged that it was no longer a factor as Mr. Fabbri has obtained access permission since that letter was submitted.

Mr. Bailey elaborated that they were in the process of complying with Conservation at the time and getting permission from the Building Inspector to continue work. Mr. Murphy said the condition was no longer moot (which it would have been without permission, since the Condition required it), since access has now been granted. Mr. Murphy asked and Mr. Bailey confirmed that the current reasons for the extension request was for more time to finish building the road and to finish the work due to the delays caused by the C&D and equipment breakdowns. Mr. Bailey stated that prior to having Mr. Walker's permission to access the abutting property; that Mr. Fabbri started the work onsite, despite the risk that it would be for nothing if permission was not granted. He said Mr. Fabbri wanted to show the ZBA a good faith effort.

Mr. Murphy said the Board wants the property fixed and with the permission currently granted he wanted to know how long it would take to finish the work.

Mr. Fabbri said the current platform is inadequate and a bigger platform is needed, the equipment there now needs to be repaired and getting parts are also an issue. He estimated a couple of months for the grading along the slope and putting the steel structure but added that they still need to cut terraces into the embankment to stabilize it which would be several months of work.

Mr. Murphy said the 6-month extension would be it to the one year mark which would require a full report on everything that has been done with the entire project.

Mr. Porro inquired about the broken excavation equipment. Mr. Fabbri said the bulldozer was used for leveling stone. Mr. Porro asks what brand machine it was and asked about other alternatives such as renting another machine in order to get the work done rather than delaying it further. There was a back and forth on the validity of the machine repair as a cause for the delay and other options. Mr. Fabbri said it was only one of the reasons and noted that there had been a lot of work already done to bring the road back up to the embankment. He stated that over the course of 6 years of earth removal an 80-foot drop was created which was brought back up to level in a matter of months. Mr. Sheehan said he did not understand why a bulldozer rental wasn't an option. He expressed concerned that the UAVE owner, Mr. Joe Federico, had other priorities. He emphasized that this it is a top priority for the Town and that BOS, DPW, Conservation and the AG that are all involved. He said he would consider a 90-day extension from today and they could come back before the Board at that time. He added that he did not support the 180-day extension just because it's convenient to the owner so he could finish another job. Mr. Sheehan said he also wasn't sure how the neighbor's felt since the public hearing notice advertized the request as a 90-day extension not 180. He did acknowledge that 70% of the work had been done and they were working on it until the bulldozer broke down. Mr. Bailey said he was willing to accept a 90-day condition and if they are not done by then, they will come back before the Board again.

Ms. Daley said with 30% of work still remaining, that she was trying to understand the length of time and its nexus to the extension. Mr. Fabbri responded that with 10K-20K yards of fill to stabilize the platform remaining, they must use 4 yards in a bucket loader since the road won't support a truck and also said due to the steepness of the hill, the further you go up the more difficult and time consuming it is. He estimated at working 5 days a week, that it would take at

least 6-8 weeks to finish the prep work and sheet pile driving should take 7-10 days. He said prep work takes most of the time and that fill is brought in daily.

Ms. Daley asked if the remaining 30% is truly reflective of the time extension request. Mr. Fabbri said the bottom was easy and fast but now it gets slower as the road gets higher. Ms. Daly asked if 90-days was still a reasonable estimate. Mr. Fabbri replied that it depends on when the extension starts, today or from the august expiration date. Ms. Greenwell said she was open to 90-days from today's meeting and commented that the rationale for 180-day extension was not compelling. Ms. Bouchard read the Selectmen's September 3rd's letter into record that was given to Mr. Murphy.

The Chair opened the hearing for public comment. Hearing none, the Board moved to a motion.

Motion I:

Mr. Sheehan made a motion to close the public hearing. Ms. Greenwell seconded the motion. Roll call vote, 4-1; Mr. Porro was a nay vote.

Mr. Sheehan noted that 90 days from today would be December 7th.

Motion II: Mr. Sheehan made a motion to extend Special Condition 7 to December 7, 2021. Ms. Greenwell seconded the motion. Roll call vote, 4-1; Mr. Porro was a nay vote.

Mr. Murphy reminded the applicant that he is required to report back to the Board in February with a report/update on the total project completion.

Approval of Meeting Minutes – August 3, 2021 -passed over/no Minutes

Administrative Updates

Mr. Murphy asked about meeting spaces. Ms. Bouchard updated the Board and acknowledged that virtual meetings are not ideal. Mr. Murphy expressed that the continued lack of space is unacceptable and not a good way to conduct business. He felt a hybrid option would be better. Ms. Bouchard expressed concern about reliability of access with the hybrid option.

Ms. Daley said she appreciates flexibility in recent meetings and sees benefits of accessibility for virtual. Ms. Greenwell said she participated in a hybrid once and expressed the importance of being able to see Board members and the applicants. She noted the importance of having documents ahead of time or having people come with hard copies. Ms. Bouchard discussed possible rules and regulations to address a deadline for document submittal. Mr. Porro stated that the deadline for documents should be at the time of application.

Adjournment

Motion:

Mr. Sheehan made a motion to adjourn. Ms. Greenwell seconded the motion. Roll call vote, all in favor.

The meeting adjourned at approximately 8:22 p.m.

The next scheduled meeting will be held virtually on October 12, 202.