

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
August 1, 2023
Hybrid Meeting Minutes

PRESENT

Michael Sheehan, Chair
Shannon Greenwell
Al Porro
Rachel Churchill
Paul Eysie

Sarah Dixon, Town Planner

CALL TO ORDER

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

PUBLIC HEARINGS

Case 23-02, 973 University Avenue (continued from 6/6/23)

The applicant submitted a letter requesting a continuance to the next meeting.

MOTION to continue the public hearing to the September 12, 2023 meeting, 7:00 P.M. at the Norwood Senior Center, made by Shannon Greenwell. Seconded by Al Porro.

Roll Call Vote:

Al Porro: **Yes**
Rachel Churchill: **Abstained**
Shannon Greenwell: **Yes**
Paul Eysie: **Yes**
Michael Sheehan: **Yes**

Result: 4-0-1 (Motion Passed)

Case 23-09, 241 Pleasant Street (continued from 6/6/23)

Attorney David Hern, 30 Walpole Street, presented on behalf of the applicant. The applicant was seeking a variance to put an addition on the existing home at 241 Pleasant Street, which was a historic home in Town. The two brick sides of the home make it unique, and in the previous hearing concerns were raised over one of the brick sides being hidden. Revised plans had been submitted prior to this hearing. The proposed addition would be placed partly along the rear wall of the existing home, overlapping by about 12 feet. Attorney Hern stated that the applicant had gone over the new plans with Building Commissioner Gary Pelletier, who stated that the proposed addition would comply with the building code. Attorney Hern stressed the *Kairis v. City of Cambridge* case, where a variance relating directly to the structure was granted and upheld in Supreme Court. Attorney Hern also stated that updating the existing home would be beneficial to the neighborhood.

Mr. Eysie wondered if the proposed addition would mimic the style of the existing home. He believed that by having the addition mimic the existing home, which was unique and historical, it would make more sense to the neighborhood, as well as keep the historical nature alive.

Mr. Sheehan read out a letter from the Norwood Historical Commission stating they believe the variance should be denied.

Nancy Cordopatri, 251 Pleasant Street, expressed concerns over water on the property at 241 Pleasant Street, which she claimed drained toward her property. She believed that properly grating the soil and continuing an existing retaining wall would alleviate the issue.

Attorney Hern asked if the letter from Judith Howard of the Historical Commission as he believed the letter contained numerous errors. The letter had stated the applicant had done nothing with the home for eleven years. He touched upon the common goal between the applicant and the Historical Commission, where both parties wanted to see the existing home updated and preserved. Mr. Sheehan stated that the letter from the Historical Commission could not be struck as it was public record, and Attorney Hern's statements cleared up any errors that may have been made.

Mr. Sheehan and Attorney Hern discussed what the Board would potentially be voting on. Ms. Dixon explained that the hearing was advertised under §3.1.5.A.3, reflecting the original application submitted. After review, the Building Commissioner recommended relief under §4.1.2.1. Ms. Dixon recommended the Board vote on both.

Ms. Churchill expressed concerns over the financial hardship owing to the unique nature of the structure. She also referenced the 2012 Norwood Zoning Appeals Decision relating to the same property, where the variance was denied due to the voluntary transfer of square footage that transformed the site from a two-family dwelling, by right, to a single-family lot. The existing structure at 241 Pleasant Street was previously a two-family dwelling, but part of the home was demolished and subsequently turned into a single-family dwelling. She stressed her concern over granting the variance given the past self-infliction of harm (in relation to the state of the property) by the applicant, and also when the Norwood Zoning Board had previously denied a similar variance request in regard to the square footage.

Attorney Hern noted the issue the home had with square footage regarding needing a variance to make it a two family, and also stated that the part of the dwelling previously demolished was sitting directly on ground and rotting and had to be removed as a matter of public safety. Had that not been removed, there would not be an issue with being over the required 50%. He also pointed out that in 2019, the Zoning Board issued relief on the same variance request. Attorney Hern then wondered if Ms. Churchill was struggling with granting the variance in regard to the structure itself or hardship aspect.

Ms. Churchill offered that her main concern was the substantiation of a substantial hardship, which she agreed could be financial in nature. She stated that there needed to be a connection owing to the unique historical nature of the home. She added that while she saw the demolition as a creation of hardship, although it was probably the best decision at the time, the applicant had five years post demolition to rebuild the structure by right. The dwelling resumed occupancy with the smaller square footage as a single family, which Ms. Churchill herself believed showed a lack of financial hardship. She also had a hard time with past plans which called for covering one of the brick sides of the home, which made it unique. Although new plans submitted did include both brick sides being visible, she believed the previous plans showed a lack of the applicant owing to the unique historical nature of the existing structure.

Attorney Hern and Ms. Churchill had a lengthy discussion over the 2019 variance and other issues relating to the structure that were done in the past. Attorney Hern stressed the hardship to the applicant.

Mr. Sheehan noted the Board's efforts made to save the home at 241 Pleasant Street, as the applicant by right could demolish it. He stated that he believed the applicant had worked in the right direction to add an addition to the home in a way that maintained its unique, historical nature.

Ms. Greenwell stated that she had previously had the same concerns as Ms. Churchill, which Attorney Hern's responses had helped clear up for her.

The Board discussed their wishes on the matter. Ms. Churchill was still struggling with her impending decision and was not sure if the Board had the authority to grant the requested variance.

Mr. Eysie expressed that he would like to continue the public hearing to the next meeting. He respected Ms. Churchill's opinion and recognized the need for four votes to approve a variance. He wished for Mary Kate Daly, who was not present at the meeting, to view the recording of the public hearing, so she could absorb the information that was given, and make an informed decision. He also stated that he wanted Mr. Musto, the applicant, and Ms. Cordopatri to define the location and height of the retaining wall between their properties.

Ms. Churchill stated that she also needed time to digest the information relayed during the public hearing in order to make an informed decision. She noted that it may be helpful to have another member sit in on this hearing if she was not able to get past her concerns. She also raised the question to Ms. Dixon on whether it could be part of their Master Plan to grant special permit authority to historical structures.

MOTION to continue the public hearing to the September 12, 2023rd meeting, 7:00 P.M. at the Norwood Senior Center, made by Paul Eysie. Seconded by Rachel Churchill.

Roll Call Vote:

Paul Eysie: **Yes**

Shannon Greenwell: **Yes**

Rachel Churchill: **Yes**

Michael Sheehan: **Yes**

Result: 4-0-0 (Motion Passed)

Ms. Dixon clarified that this continuance was to afford Board members additional time to review the facts and testimony that had been presented to them, and also to allow Mary Kate Daly to participate via the Mullin Rule at the next hearing.

Case 23-14, 761 Washington Street- Special Permit

David Hern, 30 Walpole Street, presented on behalf of the applicant, Endo Care Rental LLC. The building at 761 Washington Street was previously a house, which was built in 1922 according to the Norwood Assessors Database. The previous owners went to the Norwood Zoning Board in 1978 to request the conversion of the house to be used as an office for the practice of medicine or dentists who were not occupants of the building. The Zoning Board at that time permitted the special permit to allow it to be used for medical and dental purposes. There was a third floor apartment in the building, which had been continuously occupied since the 1980's, according to the Norwood Street List records.

Attorney Hern stated that over the past few months, the Building Commissioner became aware of work that was done in the apartment, for which there were no building permits pulled, and a Notice of Violation was sent to the LLC. In addition to the unpermitted work that was done, the Building Commissioner pointed out that there was no legal authority to have an apartment in the building. Attorney Hern had met with the Building Commissioner, Gary Pelletier, who stated that his inspectors did not find any safety violations with the work that was done in the apartment, and instructed the applicants to request relief from the Zoning Board for the use of the residential apartment, which was a continuance of non-conforming use, and the rest of the work would be between the applicants and the Building Department. Attorney Hern stated that Dr. Bissada, one of the members of the LLC and a dentist in the building, was informed by his contractor that building permits were not required for the work that was done.

Mr. Eysie noted that the building does appear to be a residential building from the outside. Mr. Eysie also clarified with Attorney Hern that the apartment was on the third floor of the building, and the rest of it was to remain as dental or medical offices. Mr. Eysie also wondered about the total square footage of the building, which had a habitable living area of 4,654 square feet.

Ms. Greenwell questioned if there was a dedicated parking space for the apartment, which there was.

Ms. Churchill pointed out that the apartment was in continuous use for over 10 years without notice of violation. Attorney Hern stated that permitted uses were exempt from the statute of limitations.

MOTION I to close the public hearing by Shannon Greenwell. Seconded by Paul Eysie.

Roll Call Vote:

Paul Eysie: Yes
Shannon Greenwell: Yes
Rachel Churchill: Yes
Al Porro: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

MOTION II to approve the special permit, as presented, made by Paul Eysie. Seconded by Al Porro.

MOTION II AMENDED to include the "Tenant Parking Only" sign remain in the parking area, and the basement be used for storage or commercial use, no residential use.

Roll Call Vote:

Al Porro: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Paul Eysie: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

Case 23-23, 460 Pleasant St- Special Permit

Giovani Petry, 18 Grant Street, Marlborough, builder on the project, presented. The applicants were looking to add a small addition to a pre-existing, non-conforming structure. The proposed

addition would be around 672 square feet and would be placed toward the back of the house, but some of the addition may be viewed from the left side of the house.

Mr. Sheehan read out a letter from the Building Commissioner, supporting the special permit for the property.

Mr. Porro questioned what the amount over 25% would be. The proposed addition would add an additional 47% of non-conformity.

Mr. Sheehan asked Mr. Petry exactly what the proposed addition would include. Mr. Petry stated the addition would include bedrooms, as well as a small deck.

MOTION I to close the public hearing made by Shannon Greenwell. Seconded by Paul Eysie.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Paul Eysie: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

MOTION II to approve the special permit, as presented, made by Paul Eysie. Seconded by Shannon Greenwell.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Paul Eysie: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

Case 23-24, 9 Phillips Avenue- Special Permit

Lenny Gillis, 280 Hillside Avenue, Needham, builder on the project, presented on behalf of the applicants. They were proposing a single-story addition on the rear of the existing home, which would include a small porch. The existing first floor was 691 square feet, and they were proposing to add an additional 540 square feet. The proposed addition would be used for a master suite, as well as a family room area.

Mr. Sheehan wondered about a basement with the proposed addition. Mr. Gillis stated that the basement in the existing home only had a 6-foot ceiling height, and he was looking into adding another foot to make it a full basement, however there was a question on whether or not there was ledge there.

Mr. Porro questioned if there was any water in the basement given the possibility of ledge. Mr. Gillis stated that the applicants had not had any water in the basement.

Mr. Sheehan read out a letter from the Building Commissioner, dated July 18, 2023, supporting the special permit for the property.

Elizabeth Lynch, 13 Phillips Avenue, stated that she was concerned about water runoff coming from the property at 9 Phillips Avenue. She also stated that there was ledge on her property. She was concerned over the potential future impacts from the potential building on the property.

Mr. Gillis stated he would put in a dry well on the property to control water runoff from the new addition.

MOTION I to close the public hearing made by Shannon Greenwell. Seconded by Paul Eysie.

Roll Call Vote:

Paul Eysie: Yes

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

MOTION II to approve the special permit, as presented, with the condition of addressing the water runoff, made by Shannon Greenwell. Seconded by Rachel Churchill.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Paul Eysie: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

ADJOURNMENT

MOTION to adjourn the meeting made by Al Porro. Seconded by Rachel Churchill.

Roll Call Vote:

Al Porro: Yes

Rachel Churchill: Yes

Shannon Greenwell: Yes

Paul Eysie: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Passed)

The meeting was adjourned at 8:52 P.M.

Minutes respectfully submitted by Emily Manning