

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
September 12, 2023
Hybrid Meeting Minutes

PRESENT

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

Sarah Dixon, Town Planner

CALL TO ORDER

The meeting was called to order at 7:00 PM

PUBLIC HEARINGS

Case 23-02, 973 University Avenue (Continued from 8/1/23)

Rachel Churchill was not sitting on this case.

Dan Bailey, 100 Summer Street, Boston, presented on behalf of the applicants. They were looking to extend an existing special permit. This hearing had been pending since February, as the applicants were waiting on a peer review to be finished. UAVE has been operating earth removal under the existing special permit since March 2021. They had constructed a road, which was one of the conditions of the special permit, and were working on removing large rocks used for the construction of the road, as well as continuing earth removal. Mr. Bailey noted two peer review letters (the latest dated June 2023), completed by Tetra Tech, which had been presented to the Board.

Mr. Bailey explained to the Board that per their wishes during the last hearing, UAVE had reached out to M.S. Walker by letter, a neighboring business in Canton with whom there had been a landscaping dispute with. Per Mr. Bailey, M.S. Walker had not responded to that letter. He stated that UAVE was ready to work with M.S. Walker to complete the tree restoration they had requested. Mr. Bailey also noted the Conservation Commission's previous letter pertaining to slopes on the property. He stated that the Conservation Commission's jurisdiction was limited to 100 feet from any wetland area, and the only wetlands on the site contained slopes of 2:1 or less. He also noted that they had a certificate of compliance from the Conservation Commission from a few years ago.

Mr. Sheehan provided a letter from Tetra Tech, dated September 5, 2023, which Mr. Bailey stated he did not receive.

Luke Fabri, consultant, 14 Hubon Street, Salem, presented on behalf of UAVE. He explained the volumes of material that had been removed since it was purchased by UAVE in 2013, and discussed the timeline of work since the special permit was granted in 2021. Mr. Fabri stated that as of May 2023, 423,000 tons of material were left on the site. He also explained the remaining work needed to be done on the site in order to make it buildable. Upon extension of the special permit, UAVE would be working with Norwood Hospital to provide them material for their project. Mr. Fabri also detailed the areas of the plan, including the testing locations on the site that were not included in a previous plan and had been requested by the Board.

The Board requested to hear the peer review prior to asking questions of the applicants.

Matt Moyer, a representative of Tetra Tech, 100 Nickerson Road, Marlborough, went over the peer reviews done on the site. He stated that they [Tetra Tech] believed UAVE had done a thorough job in multiple areas. He stated they were concerned about the mention of finished sand and gravel in the developable area on the plans provided at the meeting, and that they would prefer to see the area loomed and seeded, as there was no timeline for development on the property. Mr. Moyer mentioned in regards to the Board prior condition of a 20 foot vegetative buffer around the north and western boundaries of the property, given UAVE's proposal of shrubs and trees, he believed it was reasonable for the Board to consider relief on that condition on the area of the property where the sheathing wall was installed due to slumping. He also recommended two conditions to the Board in regards to future imported materials and status plan.

Mr. Porro wondered whether Mr. Moyer had a timeline on when this project would be completed. Mr. Moyer stated that while they had not drafted a timeline, in his professional opinion, a one year extension would be reasonable. He stated that the applicant requested a five year extension, and with the conditions he previously suggested, that would be reasonable.

Mr. Sheehan asked Mr. Fabri, in his professional opinion, what the timeframe on the project was. Mr. Fabri believed four years would be reasonable. Mr. Fabri also spoke to the recommended condition on importing stone. He explained that other companies pay to have their stone crushed on site and then take it out.

Ms. Greenwell questioned where the project would be at the end of the potential four year timeline, namely if the 4.4 acres originally stated would be ready for development. Mr. Fabri stated that the site would be developable after four years. Ms. Greenwell then wondered about the rock material coming in and being processed. Mr. Fabri explained the process when other material comes in from other companies. Joe Federico, owner of UAVE, 973 University Avenue, further detailed the process of blending materials, explaining how they had worked with the contractor for the Norwood Hospital to get their material up to specification.

Ms. Daly wondered about progress on the site over the past months. Mr. Fabri stated that since they had been allowed to continue work, 80% of the rock originally brought in had been removed, and progress had been moving along. Mr. Federico added that they had sold a lot of material to nearby ongoing projects.

Mr. Eysie asked for clarification on the first condition Mr. Moyer had recommended to the Board. Mr. Moyer explained that the purpose of the condition was to prevent the site from becoming a material processing facility, which was not allowable under Norwood Zoning Bylaws. The applicant would still be able to sell material to other projects under the recommended condition. Mr. Bailey added that while processing was not allowed under the current zoning bylaws, when they originally requested the special permit in 2021, bylaws did not prohibit processing, therefore the crushing prohibition would not apply. Mr. Eysie stated that Town Counsel would have to review Mr. Bailey's statement.

Ms. Dixon pointed out that the applicants were requesting a special permit extension, as well as a change in final conditions approved by both the Zoning Board and Conservation Commission. If approved, the applicant would need to return to the Conservation Commission to ask for an amendment on the conditions.

In relation to the plans provided, Mr. Sheehan wondered where exactly there would be seeding. Mr. Fabri explained using a graphic of the plan where the slopes would be seeded, and detailed other proposed landscaping on the site.

Mr. Sheehan opened discussion for the Board, with the opportunity for the applicants to respond should they need to.

Mr. Eysie asked Mr. Moyer if he needed more time to review the details of the plan as he had just reviewed the document that day. Mr. Moyer stated that his only concern was the lack of information on how the applicants would construct the 1:1 slopes on the site.

Mr. Porro stated he would feel more comfortable if the Board continued the public hearing to allow more time for review and to seek the advice of Town Counsel on certain issues.

Ms. Greenwell questioned the differences between Town review and the peer review done while considering the two plans from 2021 and September 2023. Mr. Moyer explained his review process, mentioning it was done without a zoning perspective.

Mr. Sheehan suggested that the Board grant a one year extension for the project, which would expire in January. He noted that would allow enough time for plan review, and the applicants could return for a final decision on the property in January.

Ms. Dixon explained that given the amount of Zoning applications they were receiving, if the project were continued to a future meeting, that would allow time for more review, as well as the ability to modify the plan being approved, rather than approve a one year extension to have them return to the Board shortly thereafter.

MOTION to continue the public hearing to the December 5, 2023 meeting, 7:00 P.M. at the Norwood Senior Center, made by Shannon Greenwell. Seconded by Paul Eysie.

Roll Call Vote:

Paul Eysie: Yes

Mary Kate Daly: Yes

Shannon Greenwell: Yes

Al Porro: Yes

Michael Sheehan: Yes

Result: 5-0-0 (Motion Approved)

Case 23-09, 241 Pleasant Street (Continued from 8/1/23)

Mary Kate Daly was not present at the previous hearing for this case. She had reviewed all previous meeting recordings, and signed a Mullen Rule Waiver to sit during the hearing.

Al Porro was not voting on this case.

David Hern, 30 Walpole Street, presented on behalf of the applicant. He discussed ongoing themes from the previous hearing, notably pointing out that the structure at 241 Pleasant Street was an old and unique home. It was the only home in Norwood with two brick end walls, which would remain intact given the variance was approved. He stressed the requirements for a variance, and the ways the structure and property met those requirements. Mr. Hern especially stressed the hardship surrounding the structure.

Ms. Churchill brought into question, given Mr. Hern's previous statements, the fact that the structure being an historic home in need of repair was the basis of the variance, and she did not believe that alone was an appropriate precedent to set. Mr. Hern brought up that under the statute, circumstances relating to the structure, and affecting the structure, are not necessarily related to the zoning of the area. He expressed that the applicant was affected by the enforcement of the bylaw, which limited the size of an addition he could put on the existing structure.

Ms. Churchill further wondered, assuming all conditions of the variance were met, how the Board would bypass the fact that the lot became smaller by the applicant's own actions moving a portion of the subject lot the addition to the applicant's abutting lot under common ownership in order to increase the size of the abutting condo development. She cited a previous Zoning Board decision from 2012 regarding the same property where the application to increase the size of the home was denied for that reason. Mr. Hern stated that at that time, the home was much larger than it was currently. There was previously an addition on the home that was removed due to safety reasons. Edward Musto, applicant, 36 Blue Hill Avenue, Westwood, explained the timeframe for removing the addition after the 2012 Zoning Board decision.

Nancy Cordopatri, 251 Pleasant Street, explained how she and Mr. Musto were working together to fix the pitching from his property onto hers. Rather than constructing a retaining wall, Mr. Musto wished to place a galley, and also replace and repair a shared fence.

Ms. Daly wondered Ms. Churchill's thoughts on possibly granting the variance. Ms. Churchill explained that she was still struggling to find the connection between the structure and the unique nature aspect. Although she was on board with the applicant meeting the requirements to show a unique structure, she struggled with the fact that the main point of the application was that it was an historic, unique home, particularly noting the brick ends, however the original application (which had since been revised) called for interfering with the brick ends of the home.

Mr. Eysie expressed that he did not wish to see the Town lose a unique historical home. He added that previous Board's had approved other requests from the applicant.

Mr. Sheehan noted a letter received from Judith Howard at the Norwood Historical Commission, listing nine homes in Rhode Island described as "stone enders"; the same style as the home at 241 Pleasant Street. Mr. Sheehan supported granting the variance.

Mr. Sheehan also noted a letter from the Building Commissioner, Gary Pelletier, recommending that the Board was voting on both a special permit and a variance.

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

Roll Call Vote:

Paul Eysie: Yes
Mary Kate Daly: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Approved)

Prior to voting on the special permit, Ms. Greenwell wondered if Ms. Cordopatri's requests would be a condition of the motion, or handled privately between herself and Mr. Musto. Ms. Dixon explained that the Board could make that a condition of their motion. Mr. Sheehan requested a memo from Mr. Hern regarding the statement to fix the area between the two properties. Mr. Sheehan stated that a memo of understanding between the neighbors would be referenced in the Board's decision.

Ms. Churchill wondered what would happen if the Board were to approve the special permit, but not the variance. Mr. Sheehan explained that the applicant would be able to expand the property under the special permit, but it would not be a two-family home.

MOTION II to reopen the public hearing made by Paul Eysie. Seconded by Mary Kate Daly.

Roll Call Vote:

Paul Eysie: Yes
Mary Kate Daly: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Approved)

Mr. Hern questioned the fact that the application was for a special permit, as well as a variance, citing the bylaws for special permits. He believed the Building Commissioner would not grant the special permit under the statues. Ms. Dixon stated Mr. Pelletier's recommendation was for the Board to also grant a special permit to proceed with the project.

MOTION III to close the public hearing made by Mary Kate Daly. Seconded by Paul Eysie.

Roll Call Vote:

Paul Eysie: Yes
Mary Kate Daly: Yes
Rachel Churchill: Yes
Shannon Greenwell: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Approved)

MOTION IV to approve the variance made by Paul Eysie. Seconded by Mary Kate Daly.

Roll Call Vote:

Shannon Greenwell: Yes
Rachel Churchill: No
Paul Eysie: Yes
Mary Kate Daly: Yes
Michael Sheehan: Yes

Result: 4-1-0 (Motion Approved)

MOTION V to approve the special permit for the expansion of the existing structure beyond 25 feet made by Paul Eysie. Seconded by Mary Kate Daly.

Roll Call Vote:

Shannon Greenwell: Yes
Rachel Churchill: Yes
Paul Eysie: Yes
Mary Kate Daly: Yes
Michael Sheehan: Yes

Result: 5-0-0 (Motion Approved)

Case 23-03, 41 Railroad Ave- Special Permit approval remanded by Norfolk County Superior Court

David Hern, 30 Walpole Street, presented on behalf of the applicant, Kathleen Yazbak. The special permit was previously approved by the Board, however an appeal was taken to Superior Court by the owner of a neighboring property. An agreement was reached between the parties, which allowed the applicant to proceed with a scaled-back addition to the home. Mr. Hern provided a survey done on the property, dated June 30, 2023, detailing the new addition, which was set back further from the previously approved addition, moves the previously proposed porch from the front to the side of the home, and scales back the proposed deck. The new proposed addition conformed to setback requirements. The newly provided plans were noted for the record.

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 Approved)

MOTION II to approve the special permit, as associated with the updated plan on May 30, 2023, as well as the new survey on June 30, 2023 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 Approved)

Case 23-26, 707 Neponset Street- Special Permit

David Hern, 30 Walpole Street, presented on behalf of the applicant, Norwood Gulf. The applicant was looking to extend a non-conforming use. The gasoline and vehicle service station was located in the single-residence zoning district, but has been used for commercial purposes for many years. The applicant had made recent improvements to the property, which were approved by the Zoning Board and the Planning Board. The applicant was looking to add a 763 square foot addition to the rear of the existing building, which was proposed to be a waiting room space for customers, as well as additional office space for the staff. There was presently no indoor waiting area for customers getting their vehicles serviced. Mr. Hern believed the addition would enhance the property, especially for customers, and noted that the addition would not be necessarily visible from the street.

Brian Palmateer, 18 Ridge Road, expressed concern for the ongoings on the property, notably lack of privacy to the surrounding neighbors as a fence had not been installed, and vehicles sitting in the parking lot for multiple weeks. He questioned if the special permit in question impacts the previously approved special permit for parking lot expansion. Mr. Hern explained that the proposed addition would not enhance business, but make it more comfortable for customers. William Ajjouri, 707 Neponset Street, explained that they had been overwhelmed with business over the summer, adding to the amount of vehicles sitting in the parking lot. Mr. Ajjouri added that they also serviced vehicles from a dealership on Route 1, which sometimes resulted in vehicles with no plates on the lot. Mr. Palmateer seemed to believe that the lot was becoming a used car lot due to the amount of vehicles with no plates. Mr. Ajjouri explained that sometimes it takes multiple weeks to receive the parts needed to fix vehicles.

Mr. Sheehan pointed out an issue with lights on the property. Mr. Porro also expressed concern for the lighting on the property. Mr. Hern stated that there would be shading over the lights so that they point into the parking lot.

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 Approved)

MOTION II to approve the special permit, as presented, and represented in the layout, 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 Approved)

Case 23-27, 84 Morse Street- Special Permit

Brian Almeida, 1350 Main Street, Walpole, presented on behalf of the applicant, David Spiegel. The applicant was seeking a special permit to convert an existing building in the manufacturing district into a motor vehicle service operation. The property was set up for 700 lots of open lot storage, which it had not been recently used for besides a few lots. Mr. Almeida stated that all motor vehicle services would take place inside of the existing building, so there would be no environmental concerns.

Mr. Porro expressed concern for the project based on past approvals by other Town boards. David Spiegel, 84 Morse Street, explained that they were not questioning previous approvals from the Planning Board and Conservation Commission, but were complying in trying to better utilize the interior of the building. Mr. Porro then questioned if they were changing the properties use. Mr. Spiegel added that they were not changing the use, but adding an additional use for vehicle service. He also stated that while the existing building was around 90,000 square feet, about 25% would be used for vehicle service.

Ms. Greenwell clarified that Building 2 from the 2016 Zoning Board Decision was the building requesting an additional use. Ms. Greenwell also cleared up with Mr. Spiegel that the exterior of the building would not be changed if granted approval.

Ms. Churchill wondered what the current use of the facility was. Mr. Spiegel explained that part of the building was used as an IT function for car dealerships in Norwood and other towns, as well as parts distribution.

Mr. Sheehan was concerned with the combined uses on the property, as it was a narrow driving area. He also questioned ongoing work on the property, which Mr. Spiegel explained that they had an active building permit for repairs. Mr. Porro questioned if the vehicles potentially being repaired on site would come from Mr. Spiegel's dealerships, or if they would be accepting customers. Mr. Spiegel stated they would only be servicing vehicles from his dealerships.

Ms. Churchill questioned if previous conditions by the Conservation Commission and Planning Board would still apply if the Board granted approval, which they would as stated by Mr. Sheehan.

Mr. Porro commented that he was opposed to making the changes on this property due to traffic issues in the area, as well as open lot storage. Mr. Spiegel pointed out that they were not ending the outdoor storage of vehicles, but to enhance usage of the indoor space by adding vehicle repair. Mr. Spiegel further added that the vehicle repair was not for retail, and should not impact traffic.

Mr. Sheehan added that he would like to see a condition for 25% indoor use permitted for vehicle repair; he did not wish to see a huge vehicle repair shop, as he had knowledge of those operations getting out of hand in other towns.

MOTION I to close the public hearing 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 Approved)

MOTION II to approve the special permit under §3.1.5.H.2 , with the condition that the use be limited to 22,500 square feet, or 25% of the building, made by Mary Kate Daly. Seconded by Shannon Greenwell.

Roll Call Vote:

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

Result: 5-0-0 (Motion Approved)

Case 23-25, 61 Endicott Street, Hometown Arcade (Continued from 7/25/23)

Mr. Sheehan read a letter from new counsel for Hometown Arcade requesting a continuance.

MOTION to continue the public hearing to the November 14, 2023 meeting, 7:00 P.M. at the Norwood Senior Center, made by Shannon Greenwell. Seconded by Mary Kate Daly.

Roll Call Vote:

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

Result: 4-1-0 (Motion Approved)

ADJOURNMENT

MOTION to adjourn the meeting 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 Approved)

The meeting was adjourned at 10:00 P.M.

Minutes respectfully submitted by Emily Manning