

Town of North Andover
ZONING BOARD OF APPEALS

APPROVED
Oct 13, 15

Albert P. Manzi III, Esq. Chairman
Ellen P. McIntyre, Vice-Chairman
D. Paul Koch Jr. Esq.
Allan Cuscia
Doug Ludgin



Associate Member
Deney Morganthal
Nathan J. Weinreich
Alexandria A. Jacobs Esq.
Zoning Enforcement Officer
Gerald A. Brown

DRAFT MINUTES

Tuesday, September 8, 2015 at 7:30 PM

Town Hall 120 Main Street, North Andover, Massachusetts

Members present: Albert P. Manzi, Ellen McIntyre, Allan Cuscia, D. Paul Koch Jr and Doug Ludgin
Associate Member: Deney Morganthal, Nathan Weinreich and Alexandria A. Jacobs
Also in attendance: Community and Economic Development Director, Eric Kfoury

Pledge of Allegiance

Manzi called the regular meeting to order at 7:38

Acceptance of Minutes August 11, 2015

McIntyre made a motion to approve

Cuscia second the motion

Those voting in favor to approve the minutes were McIntyre, Koch, Cuscia, Ludgin and Morganthal

Committee Reports

Housing Partnership Committee

McIntyre had nothing to report on the Housing Partnership.

Manzi recused himself from the discussion for the 40B Comprehensive Permit for Berry Street- **Declaration of Restrictions**. Manzi turned the gavel over to McIntyre.

Discussion

Berry Street-Declaration of Restrictions

Eric Kfoury spoke to the Board on the Comprehensive Permit regarding the Berry Street project and some of the conditions from his office.

Condition 1 Kfoury reviewed the final plans for the project and determined that they are in conformance with the most recent correspondence referenced in the Decision.

Condition 9 Architecture Kfoury reviewed and approved exterior building materials to be used including clapboard, shingles, stones and vinyl siding. The building materials are in conformance to the plans.

Condition 10 Open Space and Landscaping Kfoury reviewed and approved the exact boundaries of the Declaration of Restrictions prohibiting additional buildings and impervious surface but allowing passive recreation on open spaces on the remainder of the site.

Kfoury also spoke of the surety bond in an amount set by the Town's Engineer as well as the Conservation Administrator. Kfoury stated that this is required in Condition 22(f) of the ZBA Decision. Kfoury felt the amount set was acceptable (total Performance Bond Cost \$1,803,819).

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A letter of written notification of review and approval was signed and submitted from Eric Kfoury to McIntyre and also for the Board to see. The letter was dated September 8, 2015, also a revised Declaration of Restrictions revised August 17 2015 was submitted to the Board for review.

McIntyre stated this is just a discussion in order for them to go forward. They need to come to us every step of the way for the Board to review. McIntyre asked if the Board had any questions. The Board agreed with what was in front of them. Kfoury assured the Board he will make sure what is in front of him will be filed and recorded properly.

McIntyre passed the gavel back to Manzi

Sewer Pump Station-located at 146 Main Street

Attorney Peter Kutrubes stated that he is representing Gregory Smith applicant for this matter at 146 Main Street. Manzi stated that this is just a discussion and not considered a hearing. Manzi also disclosed that years ago both he and the applicant, Smith did work for each other. There was no conflict of interest. Manzi asked Kutrubes if he felt that this would be a problem, Kutrubes responded no. Manzi stated in order to go forward with this petition of an aggrieved party, a letter of authority to notify the association instead of all members of each unit is needed and an enforcement letter from the Building Inspector.

Manzi stated that we will not take any evidence on this until the actual hearing.

With that being said Kutrubes signed the waive continuation form and gave it to the Zoning Assistant

New Public Hearing

**Special Permit Zoning District R-4. Jose Resendes 33-35 Third Street (Map 30 Parcel 21)
Petition 20015-005**

A Special Permit for the R-4 Zoning District is needed, applicant is requesting to convert the existing 2-family into a 4-family.

Manzi stated at the last meeting on August 11th the applicant asked to continue the hearing until September 8th. The meeting was opened but no evidence was taken in.

Manzi commented on the amount of the abutters, since they were all here for this hearing, and Manzi wanted them to all know how these hearings work.

Jack Sullivan, representing the applicant walked up to the podium. Sullivan spoke of the request for the Special Permit to convert the existing 2 family to a 4 family in the R-4 zoning District. Sullivan spoke of the homes in this area and also of the multi dwelling units. Sullivan also stated that this lot is an oversized lot. He spoke of how this home is in need of repair and maintenance. This proposal will allow the owner to invest money into the renovation of the house and site improvements. There will be no visible change to the building or footprint, except for potential window replacements and siding. The owner Resendes purchased this property October 2014.

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The parking will be increased by 4 and both entrances have adequate sight distance from the intersection to allow for safe vehicle and pedestrian movements. Sullivan stated that the owner is adding an additional 4 parking spots making it a total of 8 and these parking spots will conform to Town standards size. The owner will also add a fire suppression system for the building (sprinkler and fire alarms).

Cuscia asked of the old barn, Sullivan stated that is staying and will be used as a two car garage.

Manzi asked of the parking, Sullivan responded that there will be 2 internal parking spots (in the old barn) and 6 on the pavements 9' x 18'.

Sullivan stated that the lot conforms to zoning but reminded the Board that it is a preexisting non-conforming structure.

Sullivan stated that Resendes will bring this structure up to code.

Sullivan stated that he could have a drainage plan to go along with this project if needed. The only visible change would be parking.

Koch asked if any bushes or trees would be lost. Sullivan said no.

McIntyre expressed her concerns with one of the parking spots since it was near a set of stairs.

Koch questioned on the parking that McIntyre spoke of and asked if this could be a problem, as far as an emergency egress. Sullivan responded not that he knows of.

Sullivan spoke of where snow could be stockpiled and also the trash situation.

Sullivan expressed that he is willing to listen to everyone's concerns and if needed make changes.

The Architect for this project, Caitlin Paddle spoke of how the building exists today and the proposed changes. As it stands now it is a 2 family and they are requesting a 4 family. Paddle stated that the attic will be used for living space and she also pointed out on the plan where the internal stairs will be located along with each unit and egress.

Koch pointed out that this building will increase by an addition bedroom. It presently is 6 bedrooms and will go to 7 bedrooms.

Manzi asked if the 2 units are occupied now, Sullivan stated they are both occupied.

Jacobs asked of the existing attic and if it is occupied now. Sullivan responded that it is just attic space.

Koch asked of the kitchens, Paddle stated some will be brand new and some kitchens will be remodeled.

Koch asked of the exterior work. Paddle responded that some of the siding that is rotted will be replaced, along with some windows.

Jacobs asked if there were 4 units in the area, the audience stated that most are single or 2 units.

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Manzi stated we can open this up to public now.

Attorney Andrew Caffrey Jr. first walked to the podium and stated that he is representing JoAnn Cavallaro of 12 Milton Street and Helen Mooradkanian of 54 Third Street.

Caffrey stated that these changes will come at the expense of the neighborhood. Caffrey spoke of the neighborhood and the types of homes in the area. Caffrey stated that the biggest problem is the compatibility of the neighborhood. Caffrey stated that since this property is not owner occupied and it is not maintained as other homes in the area are.

Attorney Caffrey submitted a hand written request to the Zoning Assistant to speak on behalf of these 2 abutters.

John Lyons, 65 Third Street walked up to the podium and stated that this proposed project would impact traffic. Lyons spoke of how this property is neglected. Lyons asked Sullivan of the old barn that will be used as a garage. Sullivan stated that the doors will most likely need to be replaced. Lyons submitted a photo of the old barn/garage to the Board so they could see the exact condition of this structure. Lyons also submitted two pictures of the lot for the Board to view.

Joseph Cavallaro, 12 Milton Street had his concerns with this house being brought up to today's current building, plumbing and electrical codes. Manzi explained to Cavallaro and the public what the Board's role is and also what the Building, Plumbing and Electrical Inspectors roles are. These inspectors enforce the codes and they will never give out a permit if it is not up to code.

Cavallaro asked the Board to respectfully reject this project.

Ruth Ann Mooradkanian, 54 Third Street spoke of the Character, Integrity, heart and also the feeling of safety in the neighborhood. She asked that the board not approve this project in order to preserve the integrity of the neighborhood and of North Andover.

Richard Kaufman, 233 Main Street stated that his father-in law owns the 2-family that he lives in. His Father-in law lives in one unit and he lives in the other unit (this is an owner occupied 2 family). Kaufman stated that his father-in law knows that he is here tonight speaking on his behalf. Kaufmann stated that it is more manageable to maintain a 2-family rather than a 4-family. It will ruin the integrity of the area. Kaufman did not have a good sense that this property would be managed properly.

Kathleen Szyska, Chairman of the Historical Board in North Andover, stated that this home is from 1863 and is on the Massachusetts Historical Registry. She stated to the Board that this house is a historic part of the town. This house is considered a "sidewalk site" and urged the Board that any decision made should take into consideration the landscape, history and view. She stated to the Board she would really like to keep the property intact, but Szyska knows that there are no laws to prevent the owner to do what he proposes to do. Szyska requested, and hoped, that the Board can protect the integrity of this home.

Manzi stated that they have the right to condition decisions to assure certain things are done.

Ludgin was surprised to hear from Szyska that she wanted to keep the house intact. Szyska explained herself further that she knows that this home needs help, and needs to be improved; she just wanted to make sure the character remained intact. Szyska spoke of guidelines to improve but still preserve the integrity and historic value

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of a home such as this house and others like it. Szyska spoke of certain materials that can and cannot be used. Szyska also reiterated the importance of the landscape.

Joseph Venuti 19 Milton Street spoke of the decision made on this project could set precedence for the future. Venuti also spoke of his concerns with safety and traffic.

Manzi reminded everyone that each applicant/hearing is taken on its own merits.

Jason Davis 40 Third Street asked that the Board deny this project.

Francis Kirkpatrick 45 Third Street lives at this address with his wife, Kathleen. Kirkpatrick submitted a picture of the lot and wanted the Board to know that he agrees with his neighbors.

Manzi asked Sullivan if he wanted to speak and address any of these issues.

Sullivan stated that he appreciates all the input from the abutters and Board and will try to provide the neighborhood with a different look on landscape. He knows he can't make everyone happy, but he will do his best to address these issues.

Manzi stated that Sullivan should talk over these issues with his client and to also show this project fitting in with the character and composition of the neighborhood. Manzi also wanted Sullivan to explain how the voting works with his client.

Cuscia stated that the biggest problem is turning this 2- family into a 4-family.

Kathleen Mulcahy, 57 Third Street suggested to the owner to go up on the rent on the 2 units and that will lead the way to make improvements.

One abutter stated that he can't manage a 2 family now so how will he be able to manage a 4 family.

Cuscia moved to close the meeting

McIntyre second.

All in favor to close Cuscia

Not in favor to close Manzi, McIntyre, Koch and Ludgin

1-4 denied closing the meeting

Koch felt that it was premature to close the hearing.

Manzi agreed with Koch and suggested that they sign a continuance.

Koch moved to continue till October 13, 2015

McIntyre second to continue till October 13, 2015

All in favor to continue Manzi, McIntyre, Koch and Ludgin

Not in favor to continue Cuscia

4-1 approved to continue

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Sullivan agreed with the continuance, and had Resendes, the owner and applicant sign the continuation form.

Miscellaneous Correspondence

Two letters were submitted together, one was from DeMoura Smith LLP (Sharna D. Favuzza, Esq., regarding 1401 Basswood Circle dated August 4, 2015 the other letter included was a letter of intent, dated July 31, 2015 from Erin Vasseur (Mcloud).

Three letters from CHAPA all from Elizabeth Palma-Diaz two dated August 21st, 2015 and one dated August 19th 2015.

Adjournment: 9:48

Ludgin made a motion to adjourn the meeting.

McIntyre second the motion

All were in favor to adjourn the meeting: Manzi, McIntyre, Koch, Cuscia, and Ludgin