



Town of Danvers  
**Planning Board**

Danvers Town Hall  
One Sylvan Street  
Danvers, MA 01923  
www.danvers.govoffice.com

Planning Board Members:

Aaron Henry, Chairman  
Kristine Cheetham  
Margaret Zilinsky  
William Prentiss  
James Sears

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**Daniel J. Toomey Hearing Room**

**October 23, 2012**

**7:00 p.m.**

**MINUTES**

Chairman Aaron Henry called the meeting to order at 7:00 p.m. Planning Board members Aaron Henry, Kristine Cheetham and William Prentiss were present. Planner Kate Day was also present.

**STAFF BRIEFING**

Day informed the Board that the Dayton Street property had been conveyed to new owners and was now operating as a dental office. The containers that were on the property have been removed.

Day stated that she is working with Hyundai regarding the bus stop on Commonwealth Avenue. She was told that National Grid will not put a bus stop on their property, and they need to contact the mall management regarding this issue. There is progress being made now that they are communicating with the appropriate parties.

Day informed the Board that she contacted the owner of the Hobart Street automotive yard which is being used for the retail sale of used cars. The owner assured her that the landscaping would be completed. Cheetham stated that she saw landscaping work being done on the site.

Day said that the Planning Board is down one member since Zilinsky is in California until the end of the year. Day has checked with potential applicants, and she does not feel that a large project will be coming before the Board during this time.

**FORM A**

**3 Valley Road. Approval Not Required.** Request by Robert D. Connors, Trustee of 9 Valley Road Trust for endorsement of Form A plan to divide the premises into two lots in the Residential – III zoning district. (Assessor's Map 6, Lot 5). (*Approval Not Required Action Date: November 1, 2012*).

Anne Grant, from Glovsky & Glovsky, appeared before the Board on behalf of the Applicant, 9 Valley Road Trust, who is looking to divide the property into two conforming lots, allowing the owner to remain in the home. This property is part of Connors Farm. She informed the Board that they appeared before the Zoning Board of Appeals for a variance for the common driveway, a copy of which was

submitted with the ANR application. Grant informed the Board that both lots conform to zoning and have 100 feet of frontage on Valley Road.

Henry informed the Board that staff recommended endorsing this plan.

**MOTION:** Prentiss read the Certificate of Action and moved to find that Planning Board approval is not required to divide the property located at 3 Valley Road into two lots. Cheetham seconded the motion. The motion passed by a unanimous vote.

## **PUBLIC HEARINGS**

**2 Winthrop Street.** Request for Site Plan Approval pursuant to Section 4 of the Zoning Bylaw submitted by Attorney Michael Landers on behalf of Stacie E. Moore for property located in the RII Zone District. The applicant proposes to construct an approximately 41' x 22' two story addition on the Poplar Street side of the residence. (Assessor's Map 25, Lot 76) (*SPA action date: November 6, 2012*).

Attorney Michael Landers appeared before the Board on behalf of the applicant, Stacie E. Moore. Landers addressed the Board stating this was a relatively simple addition to an existing three family dwelling. The applicant received a variance and finding from the Zoning Board of Appeals. The variance was required due to the setback on Poplar Street, and the finding was required since the increase of square footage would increase the non-conformity of the lot.

Landers told the Board that the applicant has two young children and lives on the first floor of the dwelling. She is looking to expand her apartment to add an additional bedroom to her apartment to allow each child to have their own bedroom. The second floor of the dwelling will house the mother, and the third floor unit would have no change. Landers stated this is a very basic site plan with very few changes to the present site. They tried to provide some additional landscaping, parking and snow storage. The parking shown on the plan shows enough space for five different vehicles; three in the garage and two in the driveway. There is the ability to have an additional three spots. Landers stated the snow area is impervious. Landers explained that the applicant uses a portable fence between the home and garage which can be removed to allow for additional snow storage in this area.

Cheetham asked about the specs for the flood light near the garage area inquiring if it was a motion-activated light. Landers replied it was and would light for 15-16 seconds. There will be a switch that would allow it to be put on or off continuously. She stated she had no concern regarding the waivers requested.

Prentiss realizes that everyone living at the property right now does not have cars, but he has a concern with parking in the future. There is additional space between the garage and impervious lawn.

Landers stated there would be enough space for four cars if they piggybacked the cars. Landers stated there was enough area on the plan that they could have shown 9-10 spaces for parking.

Prentiss is concerned that this is a high-traffic area with Poplar Street and a dense area to have cars pulling out onto the street. He has no issue if the applicant is willing to reserve 1-2 spots on the grass area. Landers stated that it is not a grass area; it is actually paved.

Prentiss stated he is concerned with multiple families living at this property in the future. Other than this issue, he has no issues with the waivers.

Henry addressed the Board inquiring whether they should make the decision explicit to state the number of parking spaces be based upon the number of bedrooms. He asked if there should be screening near the Miller property. Landers pointed out that there is a parking spot on the Miller property, and there actually may be a question regarding the location of the lot line. Landers stated they would prefer some language that would allow for an approval now, and if they need additional spaces, they would come back before the Board.

**MOTION:** Prentiss moved to close the public hearing for 2 Winthrop Street. Cheetham seconded the motion. The motion passed by unanimous vote.

Henry wants to make it very clear that the number of parking spaces is based upon the number of bedrooms at the property. They are approving a plan with six parking spaces with two spaces in reserve.

Day read the condition to be set forth on the Certificate of Action.

**MOTION:** Henry read the Certificate of Action and moved to approve the Site Plan for 2 Winthrop Street. Prentiss seconded the motion. The motion passed by unanimous vote.

**8 Southside Road.** Request for a Major Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Ralph A. Cotter, Trustee of Cotter Realty Trust for property located in the Route 114B Zone District. The applicant proposes to construct a single story garage to store vehicles and other materials and tools used in the steel fabrication business conducted on the site. (Assessor's Map 40, Lots 84) (*SPA action date: November 23, 2012*)

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Cotter Realty Trust. The applicant has been the operator of a stainless steel fabrication company at this site. They are seeking a modification to allow the construction of a 24-foot by 48-foot garage to store company vehicles and materials. There will be no heat in this building. It is simply to serve as a garage. McCann stated that zoning relief was received from the Zoning Board of Appeals, and they were requested by an abutter to provide screening between the properties. McCann showed the screening on the plan. She stated that there is an existing building that has existing parking with an existing driveway. The applicant feels this is the most logical place to put the building. McCann stated that this is a very clean site that is kept up very well with a lot of greenspace. McCann told the Board that Peter Ogren from Hayes Engineering, Inc. and Harry Samolchuk from Connelly Brothers were here this evening as well.

Ogren addressed the Board stating there were not a lot of intricacies with the plan. He stated there is an infiltration trench at the back of the building. He pointed out that they had already gone before the Conservation Commission where they requested a four-inch drain be added to the garage floor since it is an industrial garage. The floor drain has an ejector pump.

Samolchuk described the materials that would be used for the building. The exterior walls would be ribbed metal panels. There will be a clear panel on the back of the building to allow light into the building. Samolchuk stated there will be four 10' x 10' overhead doors at the front of the building. The slab of the building will have two floor drains which will go to an oil water separator prior to going into the catch basin.

Prentiss asked if the garage took up any of the original parking spaces, and Ogren responded no. Ogren pointed out on the plan that this was originally grass space and was the natural place to put the garage.

Prentiss inquired who owned the parcel to the south and asked if it was part of Mass Highway. Ogren stated the land was not owned by Mass Highway and was owned by Dempsey.

Cheetham asked if there was proposed lighting on the garage, and was told there will be no lighting.

Prentiss asked what was going to be stored in the garage, and McCann responded it would house company vehicles and materials.

Gene Dempsey, 86 Centre Street, inquired what the overall height of the building was going to be? Samolchuk stated the height of the building would be 16 feet 8 inches, and the low side would be 14 feet 8 inches. Dempsey stated they now see security lights on the present building, and he wanted to confirm there would be no additional lighting on the garage. Samolchuk confirmed there would be no additional lighting.

**MOTION:** Cheetham moved to close the public hearing for 8 Southside Road. Prentiss seconded the motion. The motion passed by unanimous vote.

**MOTION:** Cheetham read the Certificate of Action and moved to approve the Site Plan for 8 Southside Road. Prentiss seconded the motion. The motion passed by unanimous vote.

## **OTHER BUSINESS**

**74 Elm Street.** Request for a Minor Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Sabatini Development LLC for property located in the C-1 Zone District. The applicant is requesting the following modifications to the approved Site Plan:

1) Change the handicapped ramp material from concrete to metal. 2) Remove deteriorated chain link fence along east side line; eliminate proposed wooden fence along east side, per abutter's preference. 3) Remove deteriorated fence along front half of westerly sideline. 4) Replace rather than repair wood fence on back half of westerly sideline. 5) Modify landscaping materials as shown on plan. (Assessor's Map 51, Lots 257) (*SPA action date: December 7, 2012* )

Day informed the Board that she had made attempts to contact abutter, Sharon Pollock, via e-mail and telephone informing her of the discussion this evening.

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Sabatini Development, LLC. David Sabatini from Sabatini Development, LLC and Michael Page from Griffin Engineering were present as well. Construction proceeded for a multi-use building for residential and commercial use. McCann stated they were before the Board for five modifications to the original Site Plan. Three of the five relate to fencing. One is for change of landscaping materials while another is for the change in material for the handicapped ramp.

McCann addressed the Board regarding the fence along the easterly lot line indicating they had received a letter from the abutter, Northeast Community Bank, located at 66 Elm Street, requesting that a wooden fence not be installed along the property line. McCann indicated that the bank has parallel parking along the lot line, and if a fence went up, the customers would not be able to open their car doors. McCann read the letter from Northeast Community Bank making this request.

Page went over the change of fencing with the Board. At the time of approval of the site plan, they were required to repair the existing fence. They would like to remove the bad part of the wooden fence and not replace it to allow a more open feeling. They will put up a stockade fence along the remaining westerly side and along the back of the property.

Page went over the landscaping changes with the Board. The plants displayed on the plan in white are the ones that have been installed, and the plants displayed on the plan in red are the ones to be installed. They originally showed five shrubs along the handicapped ramp and would like to replace these with eight arborvitaes. They were going to relocate the Japanese Maple tree and have decided to leave it where it is located. Page stated they are also proposing to plant three additional pear trees. He indicated to the Board that one tree will not be installed because it would be too cluttered with all the other plantings near the Japanese Maple.

McCann stated the final change is the change in material of the handicapped ramp. They were to be concrete and are proposing metal ramps at the front and rear of the building. The location and size of the ramps have not changed, only the material. McCann pointed out the comment from the building inspector indicating the ramps in place are not compliant with code since they do not have the proper footings for frost protection. She stated that if they could provide footings, the ramp would be compliant. A proposal for the cost of the footings was provided by Griffin Engineering, Inc. with plan details attached. This change would make it compliant with code and the change in materials should be approved.

Henry stated that the site looks great. As a Board member, he does not like being in the situation of having one thing presented for Site Plan Approval and changing things at the end. He is not happy with the handicapped ramp at the front of the building. He stated that they are in an uncomfortable situation to condone it, and he does not like being in this situation.

Prentiss stated he has no problems with the fencing since the abutters have no issues. He is fine with the plantings. He was surprised when he saw that what was being presented tonight was already completed.

When he saw the ramp, he thought it was a temporary ramp. He feels the applicant is looking for forgiveness rather than looking for approval. He understands the footings will improve the ramp. He asked if there were any comments from the ADA? They once commented on situations of the locations for parking spots and ramps and he was surprised they did not comment. He noted that Maloney feels this is compliant with code.

Cheetham stated she did not like the arborvitaes since they would block the building. She would like to see smaller shrubs.

Henry agreed that he did not like the look either. He stated that they were trying to hide what they had done.

McCann stated she does not disagree, and they are agreeable to lower plants to soften the look of the ramp.

McCann pointed out to the Board that there was no discussion during Site Plan Approval regarding the material to be used for the handicapped ramp. The applicant went to the supplier, and this is what was available. She feels that arborvitaes or some type of screening would be appropriate.

Day stated that maybe the applicant would be willing to echo the landscaping across the street at the Booras property located at 35 Elm Street, which has perennial grasses and rhododendrons.

Sabatini addressed the Board indicating the ramp would only be twenty-seven inches in height. He agreed to plant something that would not exceed 27 inches.

Day stated she would be willing to work with him to select plant choices.

Henry stated he is fine with the fence not being erected along the bank property and asked about the difference in the grade. McCann told him there was no grade change at all. It is flat.

McCann indicated that there are two upcoming closings on commercial units, and she would like these closings to be able to take place. She would like to propose that they be allowed to obtain occupancy permits for the commercial units and then do the work on the handicapped ramps for the residential units. She is requesting the Certificate of Occupancies for the commercial units not be held up.

Prentiss asked how long it will take to complete the footings on the handicapped ramp. Sabatini responded that it will take approximately 3-4 days, at most 5 working days. He has a residential closing as well.

McCann proposed while Sabatini is completing the work for the footings and working with Day regarding the landscape plan, the Certificate of Occupancy for commercial units could be issued.

**MOTION:** Prentiss moved to find the hearing was a Minor Modification to Site Plan for 74 Elm Street. Cheetham seconded the motion. The motion passed by unanimous vote.

**MOTION:** Cheetham read the Certificate of Action and moved to approve the Minor Modification to Site Plan for 74 Elm Street. Prentiss seconded the motion. The motion passed by unanimous vote.

**77 High Street.** Request for Minor Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Bohler Engineering on behalf of McDonald's USA, LLC for property located in the Industrial I Zone District. The applicant proposes to construct an on-site sidewalk that will provide pedestrian access between the restaurant and the public sidewalk along High Street. (Assessor's Map 51, Lots 307 & 308) (*SPA action date: October 26, 2012*).

Jim Cranston from Bohler Engineering presented copies of the plan to the Board showing McDonald's proposal to provide an ADA accessible route from High Street. He pointed out the concerns for not putting the access route where the Board requested.

Cranston stated that he went to the site, and the grade does not accommodate putting the walkway where the Board requested. He indicated their client did pursue the landlord, and he indicated that the landlord is not willing to do this because the exit sign and two lane exit would be very tight.

Cranston indicated that this is the proposal that they want to go forward with to address the town's concern.

Cheetham stated that she did not agree with this access to the property since it crosses the drive-through where people are getting their food.

Prentiss addressed the Board stating that they have a site that they cannot change. He stated that this application was done at the request of staff, and this is the only proposal in front of us. If there is no other option, he would vote in favor of the proposal. It would not solve the access problem or the issues brought to light by the audience.

Henry stated that this access improves pedestrian access entering the site from the south. They want to send a message to the landlord that access to the site is problematic. The town could improve the crossing with a curb cut. He felt it was commendable that the client entertained the Town's request. He would take the incremental improvement in order to telegraph access to this site in the future.

Cheetham's intent is to take care of teenagers and pedestrians and felt they are in harm's way. She feels the solution is the bigger site.

Prentiss stated that until the larger site comes before them, they cannot do anything.

A discussion ensued among the Board regarding the site.

Henry agreed with Cheetham that there is a huge issue with regard to the entire site.

He asked if the Board would agree to draft a letter to the landlord to tell him that when the time comes, the property issues will be addressed.

Cheetham asked if the ball started rolling with the owner of the site or McDonald's?

Henry wants to extend the concerns to the landlord regarding this site. This way he will know what is going on.

Day stated that there will be change of use coming before the Board in the future, and this will give them the opportunity to solve the problem.

Henry stated he would still like to draft a letter to the owner.

Cheetham stated that they are still not in compliance with the original plan. She would like to see the trees planted as set forth on the original plan to replace the roof.

Henry stated that the trees not being planted are an existing code issue.

Cheetham stated they reluctantly agreed that McDonald's did not need to remove the roof and agreed that instead they would plant trees.

Henry stated that they cannot condition a denial, and Cheetham stated they can enforce an existing site plan.

Henry requested that this issue be conveyed to the building inspector's office

Cheetham stated that they have the authority to enforce an existing plan.

Henry wanted the fact that this site was short on trees conveyed to the building inspector's office.

John Boehner, 3 Bay View Avenue. He appreciated the fact that the engineering company looked into the sidewalk issue, but he is still unclear why the sidewalk cannot be put where the pavers are now. Boehner asked if the sidewalk goes in on the south side of the lot, can a non-ADA compliant sidewalk be put in through the mulch? Do all sidewalks have to be ADA compliant ?

Cheetham stated that the need is to provide an ADA compliant access into the building, so they are meeting the ADA codes without the sidewalk.

Boehner is still not clear why the sidewalk cannot go through the mulch area.

Cranston stated that the stones were put into the mulch.

Boehner said these pavers were put into the mulch because of his concerns.

Prentiss is concerned about the landscaping.

Cheetham stated pavers were put into the mulch because people were going through the landscaping anyways.

Cranston stated that based on their engineering and from a liability point, this is not a good location. They felt that what they presented was the safest location since it is the shortest crossing. Most pedestrian traffic comes from the north, but this is not a bad way to enter the site. Maybe they could put up a fence to stop people from cutting through the landscaping.

Boehner asked if an additional barrel can be put in this area. He stated he checked into the hours of operation, and the selectmen cannot control hours of operation of an establishment if they are not serving alcohol. He asked if the trees could be added? He encouraged the Board not to approve this plan, but if it is approved, he would like to please ask for barrels and trees. He said McDonald's has a history of submitting plans, and then doing what they want.

Henry addressed Cheetham to see if she changed her mind.

Prentiss asked the applicant if he would be amendable to put a barrel out at the location of the new sidewalk and a post-and-rail fence be erected to deter people from cutting through the landscaping.

Cheetham stated she was going to vote against it.

Cranston stated the conditions can be set forth, and he can present them to McDonald's. They will either do it or not.

Day recommended a sign directing the pedestrians to the walkway. Cheetham said there is a visibility problem with the traffic that would block the sign.

Prentiss is not a fan of the sign. He feels a fence would be enough of a deterrent.

Henry asked Cranston if he wanted to withdraw, and he replied no.

**MOTION:** Prentiss read the Certificate of Action and moved to approve the Minor Modification to Site Plan for 77 High Street. Henry seconded the motion. Cheetham opposed. The motion failed.

Henry asked the Board if it was appropriate to send the landlord a letter.

Boehner inquired if the Board would ask Maloney to be sure the trees are planted. He was assured the Board would make the request.

**Hanson Road Extension.** Request by Sergio Coviello, Manager of Shelby, LLC, for release of performance guarantee for completed site improvements for the Definitive Subdivision known as Hanson Road Extension. (Assessors Map 45).

**MOTION:** Cheetham moved to continue the request for Release of Performance Guarantee to Site Plan for Hanson Road Extension. Prentiss seconded the motion. The motion passed by unanimous vote.

Al Allain, 22 Mt. Carmel Road, questioned the Board to see if they were looking into other Industrial 1 areas in town.

Henry responded they would look into it, but it is not on this year's agenda. They need to get to it at some point especially for the downtown area. He stated the center is the next logical place to go, and this area will be on the radar screen in the near future.

## **MINUTES**

September 25, 2012

**MOTION:** Cheetham moved to approve minutes. Prentis seconded the motion. The motion passed by unanimous vote.

## **ADJOURNMENT**

**MOTION:** Prentiss moved to adjourn. Henry seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 8:45 p.m.

Respectfully submitted:

Francine T. Butler

The Planning Board approved these minutes on November 27, 2012.