



Town of Danvers Zoning Board of Appeals

1 Sylvan Street, Danvers, Massachusetts 01923 | p: 978-777-0001

www.danversma.gov

Zoning Board of Appeals

Members:

John Boughner, Chair
Kenneth Scholes, Clerk
Jeffery Sauer
Kenneth Jarvinen
Corinne Doherty
Katie Hislop, Alternate

April 24, 2023 7:00 p.m. ZBA MEETING MINUTES

Board members present: John Boughner; Jeffery Sauer, Kenneth Scholes, Ken Jarvinen, and Corinne Doherty (present remotely). Absent: Katie Hislop

Staff present: Brian Szekely

John Boughner called the meeting to order at approximately 7:00 p.m.

REGULAR ITEMS

10 MERRILL ST (R-1): Request for a Special Permit in accordance with Section 30.2.D of the Danvers Zoning Bylaw to convert a 2-family dwelling into 3 rental units by adding a new unit over an existing garage. **Request made by Craig Stropkay (23-5016)**

Ken Scholes read aloud application for 10 Merrill Street docket 23-5016.

Joe Bettencourt (Architect-JMB Design Studio-14 North Central Street, Peabody)-presented on behalf of applicant. Presented existing conditions and proposed plan to accommodate 3 units. Will use existing footprint; structural upgrades will take place. Plan to raise roof of garage; new porch at driveway entrance; floorplan presented.

Mr. Sauer-no questions.

Mr. Scholes-please review ingress and egress of new unit. New windows on garage? 6 cars in driveway?

Joe Bettencourt-noted ingress and egress on plans presented to access proposed new unit above garage. Common stairwell for second floor units. Will have at least two windows but will work with board if something different is preferred. 3 spaces in driveway and 3 in garage. Client will determine how spaces will be divided.

Mr. Jarvinen-garage doors-challenge with accessing third garage space-enough room?

Joe Bettencourt-porch expands closer to front of house as opposed to towards garage. Location of garage doors will not change and works as it exists.

Ms. Doherty-existing garage-functioning? Use both garage bays and the one to the left?

Joe Bettencourt-yes-garage being used.

Priscilla Bolanos-Salas (remote-owner-10 Merrill Street)-use all 3 garages currently.

Ms. Doherty-two units currently? Rented or owner occupied? Will it remain owner occupied?

Joe Bettencourt-yes-two units. Lower level owner occupied. Will remain.

Mr. Boughner-separate utilities? Tree over garage-does it need to come down? 3 garage spots-one with each unit and 3 cars in driveway? Number of bedrooms in new unit?

Priscilla Bolanos-Salas-separate utilities per unit. Two electric and separate oil tanks. That parking plan is correct.

Joe Bettencourt-if tree needs to come down or be trimmed, will do so. Two bedrooms.

Mr. Boughner-driveway seems tight for 3 units.

Mr. Sauer-57' of frontage where 80' required. Does not have side setback-preexisting nonconforming?

Staff-correct.

Mr. Scholes-zoned R-I. Does not need to be owner occupied.

Barbara Carbone (3 Merrill Street)-dead end street-parking will be an issue; multi-families in area are already a challenge. Tree may not be on their property. Not in favor.

Mr. Boughner-bylaw requires 6 spaces for this property and they are providing what is required.

Kristie Hardin (12 Merrill Street)-garage space they rent out to someone who does not live there. Cars cannot be in driveway if someone needs to access garage. Privacy concerns. Not in favor.

Joe Bettencourt-parking is tight. Can remove windows to respect privacy.

Dave Selsky (11 Merrill Street)-concern if property not owner occupied, owner will not know what is happening at property.

Jean Griffith (15 Merrill Street)-concern regarding snow. Not in favor.

Ms. Doherty-homeowner to address garage-are they used for cars or another purpose? Presented as if all 3 are used for cars.

Priscilla Bolanos-Salas-currently not used as garages for cars. Currently rent out space. Would change if we have tenants who will use the garage. We have not had issues parking in driveway. We would not rent garage anymore.

Mr. Sauer-noted concerns from board and from abutters. Would be more detrimental. Would vote no.

Mr. Scholes-parking concerns; snow concerns. Would vote no.

Mr. Jarvinen-concerned about parking but could be addressed. Would want condition of garages emptied and not rented. Concerned about snow removal. In favor with conditions.

Ms. Doherty-more detrimental. Do not like that homeowner was not forthcoming/truthful about garages. Would vote no.

Mr. Boughner-do not have the votes. You can withdraw without prejudice; if we vote and you are denied, cannot come back for 2 years.

Joe Bettencourt-please review options with clients.

Mr. Boughner-you do not have the votes for a Special Permit (requires 4-1 vote). If we vote, you will be denied, and you would not be able to reapply for two years. If you withdraw without prejudice, you just withdraw. Or ask for continuance and modify to try to get the votes.

Priscilla Bolanos-Salas-we would like to withdraw without prejudice.

Motion to dismiss 10 Merrill Street docket 23-5016 without prejudice made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

18 CABOT ROAD (R-II): Request for a Finding under Section 3.11.A.1 and 3.11.A.2 of the Danvers Zoning Bylaw to allow an extension of an existing non-conforming single-family dwelling with respect to a side yard setback where 15' is required and 7.9' is requested. Request made by Abbie Ellis of Savoie Nolan Architects, LLC (23-5017)

Ken Scholes read aloud application for 18 Cabot Road docket 23-5017.

Abbie Ellis (Savoie Nolan Architects)-presenting on behalf of applicant. Present remotely is property owner James Daly. Present is owner's son in law, JD, who lives in the home with his

wife and applicant. Presented existing conditions and plans for one story addition on the property. Noted other properties in the area that have similar additions.

Mr. Boughner-full renovation or just addition? Not an in-law or EFLA?

Abbie Ellis-just addition; not in-law or EFLA. Presented photos of neighbors with similar additions.

Ms. Doherty-total addition 23' x 28'?

Abbie Ellis-correct.

Mr. Jarvinen-no questions.

Mr. Scholes-no questions.

Mr. Sauer-no questions.

Mr. Boughner-no questions. Public comment? No public comments.

Ms. Doherty-would vote for this.

Mr. Jarvinen-would vote for this.

Mr. Scholes-would vote for this.

Mr. Sauer-would vote for this.

Mr. Boughner-would vote for this.

Motion to grant finding for 18 Cabot Road docket 23-5017 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0. Motion carries.

43-45 DAYTON STREET (HCZ): Request a Finding under Section 3.10.C.1. of the Danvers Zoning Bylaw to substitute the current non-conforming residential Use of 2-single family homes on two lots, to a single lot with a 4-story thirty-two (32) unit multifamily building. Request made by Jill Elmstrom Mann (23-5018)

Ken Scholes read aloud application for 43-45 Dayton Street docket 23-5018.

Mr. Boughner-Planning Director to provide clarity around what is being requested please.

Staff-reviewed history of properties and the development of the area. With zoning change, the residential use is not allowed at the addresses on the application. Applicant is proposing a different residential use which is not allowed. Would be approved via a Finding.

Mr. Boughner-applicant exchanging one non-conforming use for another. By-right options are available to applicant.

Attorney Jill Elmstrom Mann-presenting on behalf of applicant. Also present Tim, Tim and Tyler Procopio (principles); Chris Sparages (civil engineer-Williams & Sparages); Andrew Jones and Peter Sandorse (Phoenix Architects). Reviewed history of property and current zoning requirements as well as existing conditions. Combining lots reduces nonconformity. Noted property on aerial view and surrounding properties. Discussed options that would be allowed by right. Reviewed amenities that new residential building would offer and layout of parking, traffic flow, and dimensions. Noted the rationale for why applicants believe property will not be more detrimental. Intended to be for professionals; not conducive to children. Will offer affordable housing; handicapped accessible. Fire truck can drive around site.

Mr. Boughner-MassDOT buy in? Town Engineer involved or not?

Attorney Mann-property in state highway layout. Need to go to MassDOT to get entrances approved. Driveway openings would be through MassDOT.

Mr. Sauer-why 32 units?

Attorney Mann-economically necessary for ROI to be worth it.

Mr. Scholes-lots lines-does lot infringe on pine tree between 45 and 47? Rear lot line-back to fence? What will happen to trees on plan?

Chris Sparages-tree completely on 47 or a little on both. Rear goes to fence. Reviewed grading plan and landscaping plan proposed. Will save trees as we are able.

Mr. Jarvinen-where will mechanical equipment be?

Andrew Jones (Phoenix Architects)-utility areas outside balconies. Condensers and go on roof and will be blocked from street. None will be visible from the street.

Ms. Doherty-relationship between 43 Dayton Street, LLC and 45 Dayton Street, LLC? How will this be managed? Who will manage once completed? Additional permitting? Can construction begin before MassDOT approval? Estimate timeframe to construct?

Attorney Mann-will enter into one agreement to build then combine and transfer to new entity. If approved will become one new entity. Once full occupancy, will hire management company to manage. Will need MassDOT approval-may take 6 months. Will need site plan approval

from Planning Board. Need stormwater management approval. Wait till all permits in hand to start. 12-18 months once all approvals in place.

Ms. Doherty-affordable units-meeting with AHT-will that set parameters for affordability?
Preference to existing Danvers residents who qualify?

Attorney Mann-reviewed bylaw requirements for AHT and will be discussed with AHT to determine which units will be allocated affordable. Can do preference for Danvers residents as condition.

Mr. Boughner-unregistered vehicles at 43 Dayton; construction equipment. Is this a business?
Permitted to run a business?

Tim Procopio-temporarily living at 43 Dayton while home under renovation. Previous owner ran business out of house; intend to use it as storage for our business as contractors.

Staff-cannot be a contractor's yard. Would need to see property to assess.

Mr. Boughner-review entrance and exit of property.

Attorney Mann-reviewed traffic flow to manage distance from route 1 safely.

Mr. Scholes-read aloud letter from Elaine Clark (163 Hobart Street) in opposition to project.
Staff provided explanation of height restrictions and that building height proposed is allowed.
Letter from Ted Blake (11 Anna Drive) in opposition to project.

Mr. Boughner-public comments. Note that this application is a Finding. Cannot deny an application based on water or schools.

Staff-email read aloud from Sean Dunn (13 Anna Drive) in opposition to project.

Mary Ellen Simpson (147 Dayton Street)-47 Dayton Street should have a buffer zone. Noted traffic and safety concerns if project approved.

Mitch Abbatessa (4 Putnam Lane)-traffic study-when was it done? Time of year? Noted school traffic on Dayton Street. Expressed concern regarding environmental impact of new appliances all running in 32 units. Stormwater runoff and mitigation concerns voiced. Putnam Lane pump station repair will not take into consideration the 32 units. School overcrowding concern.

Mr. Boughner-currently no stormwater management and if this moves forward, stormwater management will be required. Pump station repair will take into consideration project if project is approved. Attorney Mann how many kids do you anticipate this adding?

Attorney Mann-zero kids. Complex not welcoming to children. Traffic study conducted when school was in session.

Chris Sparages-traffic counts done Thursday, February 16, 2023-Saturday, February 18, 2023. During peak hours 7AM-9AM and 4PM-6PM. Saturday included 11AM-2PM. Expected 12 additional trips during AM and PM peak hours. Subject to Town's stormwater bylaws and DEP stormwater regulations.

Mr. Boughner-connections to public utilities?

Chris Sparages-reviewed typical pump station repair scope; will be doing testing for utilities. Public water and sewer on Dayton Street.

Rob Prentiss (177 Dayton Street)-project more detrimental to existing conditions. Dayton Street has minimal sidewalks. Where will overflow parking be? Is parking assigned? Dayton Street has become a cut through. Passive aggressive threat to accept project or get storage unit.

Attorney Mann-assigned spaces. Designated guest spots.

Chris Bagarella (6 West Street)-can firetruck navigate with cars parked in lot? Enough room for fire truck to stay away from fire while treating fire?

Chris Sparages-one way circulation of traffic. Ran Town's ladder truck through program and plan designed to accommodate truck.

Mr. Boughner-fire has been addressed. Next comment.

Joyce Combe (73 Dayton Street)-would other structures need same approvals? Read aloud letter from Sally Kearns (208 Centre Street) voicing concerns.

Mr. Boughner-note tied to structures; tied to use. Permitted use in highway corridor would not come before ZBA. School vacation was after traffic study was done.

Staff-would have to go in front of Planning Board for site plan review and stormwater process. Site Plan cannot be denied for things other than health or safety. Applicant is here for use. Height limit is 55'.

Charlene Potter (56 Dayton Street)-feel threatened with construction or storage unit. Understand what is and is not allowed. Concerns: traffic, safety, water. How do residents voice traffic concerns? Noted past examples of accidents. Pedestrian concerns. Appreciate modifications that developer has made. Would like sidewalks. There will be kids at property. Water concerns.

Mr. Boughner-traffic studies can be objective. Board understands that traffic is concern and this is place to share concerns. Cannot deny a project based on water.

Kim Casella (91 Dayton Street)-wildlife concerns-where will wildlife go? Sewer concerns. Traffic and safety concerns. Not in favor.

Mr. Boughner-Town and developer will address sewer if project goes through.

Joyce Combe (73 Dayton Street)-possible to delay vote tonight so board can visit site?

Mr. Boughner-site visit is possible. May not be prepared to vote tonight. Attorney Mann-take sidewalk as condition? Move dumpster?

Attorney Mann-sidewalk already on plan. Dumpster location is to match with SOFI dumpster location.

Lori Pyburn (30 Putman Lane)-agree with concerns. Developers are smirking and not taking this seriously.

Mr. Boughner-what matters is what is presented to ZBA.

Cathy Arno (75 Dayton Street)-can hear trash being picked up at 6AM. Dumpster moved will help. No kids-cannot rent or lease apartment with stipulation of no kids. Parking concerns.

Mr. Boughner-trash pick up not permitted prior to 7AM. Enforceable action with police. Do not anticipate kids but cannot deny based on kids. Snow storage-where?

Attorney Mann-ability to go up to 64 spaces.

Chris Sparages-noted areas on plan where the spots would go; eliminate some green space. Noted where snow storage would be on plan.

Mitch Abbatessa (4 Putnam Lane)-when were test holes dug at site? What type of soil was found?

Chris Sparages-holes excavated within past 30 days. Logged by DEP approved soil evaluator. No groundwater observed. Type A or B soil.

Mr. Boughner-public hearing closed. Attorney Mann-any follow up?

Attorney Mann-site visit welcome. Board comments.

Ms. Doherty-no additional questions.

Mr. Boughner-no additional questions from board.

Mr. Sauer-two houses less detrimental than 32 units. Other potentially more detrimental could go there. Opposed to project-ignoring residential dimensional and density requirements. Will not vote for this.

Mr. Scholes-do not want use change. Would like property to remain residential, but scale this project back. Would vote no.

Mr. Jarvinen-traffic concerns; too tall; too big. Would not vote for this.

Ms. Doherty-too big. Would say no to this design. Would vote no.

Mr. Boughner-area is already challenging. Traffic component challenge. Do not want large commercial building. Would vote no. Too large. Do not have votes. What would you like to do?

Attorney Mann-we would like to continue to May 8, 2023 meeting.

Mr. Boughner-would need revised plans by May 2, 2023.

Motion to continue 43-45 Dayton Street docket 23-5018 to May 8, 2023 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

Motion to adjourn made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0. Meeting adjourned at 9:45PM.