



Town of Danvers Zoning Board of Appeals

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

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Zoning Board of Appeals

Members:

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

September 25, 2023 7:00 p.m. ZBA MEETING MINUTES

Board members present: John Boughner, Kenneth Scholes, Ken Jarvinen, Corinne Doherty, Jeff Sauer.

Staff present: Brian Szekely, Planning Director

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

Motion to accept minutes from 4/10/2023; 5/08/2023; 9/11/2023 made by Ken Scholes.
Seconded by Jeff Sauer. In favor: 5. Opposed: 0. Minutes approved.

CONTINUED ITEMS

58 Burley Street (R-II): *Request a Special Permit under Section 9.2 to build an Extended Family Living Area (EFLA) that will be located in a detached structure and greater than 750 sf (867 sf proposed). Request made by Jason Comeau & Michelle Russell c/o James DiBurro (23-5034)-Applicant request to withdraw.*

Ken Scholes read aloud application for 58 Burley Street docket 23-5034. Email received from Mr. DiBurro dated 9/12/2023 requesting to withdraw without prejudice.

Motion to withdraw application for 58 Burley Street docket 23-5034 made by Jeff Sauer.
Seconded by Ken Scholes. In favor: 5. Opposed: 0.

REGULAR ITEMS

6 South Liberty Street (R-2): *Request a Special Permit under Section 9.3 of the Zoning Bylaw to store outdoor containers for longer than 180 consecutive days on a residentially-zoned parcel. Relief is also sought for Performance Standards in Section 9.3.C, 1, 2, and 3 that cannot be met by the proposal. Request made by Cesar Guerrero (23-5036)*

Ken Scholes read aloud application for 6 South Liberty Street docket 23-5036.

Mr. Boughner-staff to please provide background of application.

Staff-application is result of enforcement order starting December 2022 for operation of contractors' yard and storage of trucks, trailers and equipment in residential zone. Storage containers remain; enforcement letters have been provided (dates of letters read aloud). Three

finest of \$300 each have been levied. Satisfied with overall progress at site. Application has indeterminate amount of time for storage which needs to be discussed.

Mr. Boughner-application seeking variance and special permit-accurate? One, the other or both?

Vanessa Guerrero-daughter of applicant Cesar Guerrero, who is also present. Vanessa translating and speaking on behalf of Cesar, whose primary language is Spanish. Seeking both. Applicant resides at 6 South Liberty. Would like to have 4 parking spaces next to home.

Mr. Boughner-request is to keep storage trailer on property.

Vanessa Guerrero-storage trailer and would like to add 4 parking spaces.

Mr. Boughner-did not receive drawing or map to indicate requests. Did not know about parking request until now; here to talk about trailer and storage on the lot.

Vanessa Guerrero-would drawing or size of area help?

Mr. Boughner-typically received ahead of time to allow board time to review. Suggest requesting to continue to gather necessary information. Would need to know how long storage container is needed. Would not be open ended.

Vanessa Guerrero-would like on site permanently for as long as Cesar is living there. Business across the street sometimes uses our property for customers to park.

Mr. Boughner-no timeline on trailer and 4 parking spots?

Vanessa Guerrero-yes.

Mr. Sauer-what would 4 parking spaces be used for? When would vehicles be parked and when would they be not present? Regular vehicles or trucks and construction?

Vanessa Guerrero-overnight parking; go to work in AM. Small trucks; no construction equipment.

Mr. Scholes-one trailer? What's in it?

Vanessa Guerrero-one trailer-the one currently there. Storing items for when family retires (5-10 years) and moves back to Dominican Republic; pack their things and go.

Mr. Jarvinen-parking spaces-business or residential use? For people who live there?

Vanessa Guerrero-not a business. Requesting 4 spaces for friends or acquaintances that need spaces-Cesar would let them use the spaces but they do not live there.

Ms. Doherty-do you live in house next door? Two lots with one vacant? Size of trailer? People who use spaces will drop car off then walk?

Vanessa Guerrero-all one property. Trailer is about 40'. Spaces are not for people who live in the house on the property.

Mr. Boughner-seeing lots 1, 2, 3 on map-lot 1 different address? All considered 6 South Liberty?

Staff-noted parcel on map presented. 1.6 acres all 6 South Liberty.

Mr. Boughner-date of property purchase? How long has trailer been there? Was trailer on site at time of purchase or did Cesar bring it? Camper and construction debris on site-plan to clean up?

Vanessa Guerrero-purchased 2004. Trailers on site for long period of time. Farmstand across street sold part of land to Cesar and trailer was on there at that time. Bought land and trailer was on it. Camper not on property.

Mr. Boughner-zoned residential-unusual request for permanent trailer. Is resident in R-II allowed to add parking if they have the land?

Staff-paving is not an issue. Issue is if use is as contractors' yard or if spaces are rented out for larger vehicles. More information needed.

Mr. Boughner-lot looks like a contractors' yard. Board looks to make things more in compliance.

Mr. Scholes-why is trailer needed indefinitely if plan is to move to Dominican?

Vanessa Guerrero-Cesar does not know when he is planning to retire and move.

Ms. Doherty-you bought land in front than recently purchased vacant lot from business across the street? How long has trailer been there? Trailer purchased 4 years ago for storage?

Vanessa Guerrero-when purchased home, purchased whole lot. Trailer purchased 4 years ago.

Bill Bradstreet (Town Meeting Member Precinct 1)-concern regarding use on the property and length of time for trailer to be on property. Not in favor.

Joanne Ragucci (Town Meeting Member Precinct 2)-concern around 4 parking spaces and what spaces will be utilized for. Not in favor of storage on site.

Staff-noted email received from Andrea Daley that she is not in favor of this petition.

Mr. Sauer-do not have enough information about vehicles in parking spaces. “No” on a variance for the trailer. Possibly open to short term temporary regarding special permit; will hold for more information but probably no. Would like to see a continuance.

Mr. Scholes-not voting on parking spaces. Not on application so has nothing to do with this. Trailer not common for storage. Asking to store things for free. Trailer does not belong in this zone. Would vote no.

Mr. Jarvinen-parking spaces-do not have enough information. Trailer-need a time limit. Indefinite time is not feasible.

Ms. Doherty-“no” on the variance. Special Permit-would grant if for a few months and trailer would be removed from property. Do not have information on parking spaces so would be “no” on that.

Mr. Boughner-do not have the votes. Bought lot that came with a trailer and you are using it; lot is residential but looks commercial. Granting 4 parking spots would continue contractors’ lot. Would not agree to open ended trailer storage. Need established timeline. Would vote no. You can ask for continuance to present something new to board.

Vanessa Guerrero-would like to ask for a continuance.

Mr. Boughner-next meeting is October 16. If you have new plans or timeline, submit Tuesday prior to October 16.

Motion to continue 6 South Liberty Street docket 23-5036 to October 16 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

24 Berry Street (R-1): Request a Variance to allow the installation of a pool that will be located closer to the front property line than permitted as of right. Request made by Michelle and Thomas Evans c/o Nancy McCann, Esq. (23-5037)

Ken Scholes read aloud application for 24 Berry Street docket 23-5037.

Attorney Nancy McCann-presented on behalf of applicant. Michelle Evans also present. Reviewed prior application from 2021 for a pool. Board feedback in 2021-pool too large and in an inappropriate location; application was withdrawn. Noted existing conditions of property; tree removal allows pool to be relocated; pool size reduced to 12’ x 22’ = 264sf; behind stockade fence. No change to streetscape. Variance requested for setback relief. Letter of support from 20 Berry Street and 16 Hunt Street.

Mr. Boughner-setback to edge of pool or to coping deck? What determines size of coping?

Attorney McCann-setback to coping deck. Coping is edge of the pool structure.

Ms. Doherty-no questions.

Mr. Jarvinen-location of easement?

Attorney McCann-noted easement.

Mr. Scholes-no questions.

Mr. Sauer-no questions.

Mr. Boughner-changes noted from 2021 today – location and size of pool.

Attorney McCann-prior pool size 14' x 36'.

Henry Gagnon (22 Chase Street)-walk past property each day. Support installation of pool.

Bill Bradstreet (Town Meeting Member Precinct 1)-condition that fence remain and keep as stockade and not chain link.

Mr. Boughner-Steve Barnham (20 Berry Street) and David Butler (16 Hunt Street) submitted letters in favor. Condition of stockade fence around pool?

Attorney McCann-yes to condition.

Ms. Doherty-applicant complied with requests. Would vote yes.

Mr. Jarvinen-would vote yes.

Mr. Scholes-vote yes. Thank you for downsizing and moving. Abutter impacted is in favor.

Mr. Sauer-setback in place to maintain streetscape. Do not like stockade fence. Pool allows structure close to sidewalk; since plan modified and abutters in favor, would vote yes, but note that front setback is being taken away.

Mr. Boughner-property attractive. There is a lot on the property. Accepting condition of stockade fence; not more detrimental.

Motion to issue variance for 24 Berry Street docket 23-5037 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0. Motion carries.

98 Newbury Street (HCZ): Request a Finding from Section 3.10.B of the Danvers Zoning Bylaw to allow the expansion of an existing mobile home park to provide 35 new mobile homes on site, where 98 currently exist. The site is 7.09 acres and located in the Highway Corridor zone. Request made by Temar Properties, LLC, c/o Nancy McCann, Esq. (23-5038)

Ken Scholes read aloud application for 98 Newbury Street docket 23-5038.

Mr. Boughner-noted receipt of letter that there are not 98 mobile homes currently existing; there are 72 mobile homes currently at site.

Attorney Nancy McCann-this is correct. Presented on behalf of applicant. Also present Steve Tedesco (Temar Properties); Michael Dodge (Property Manager); Will Schkuta (Project Engineer). Noted existing conditions and history of the property; pre-existing con-conforming. Reviewed changes to property since applicant purchased in 2010. New homes in compliance with setback requirements. Noted size and layout of each new home. Existing and proposed in packets provided.

Will Schkuta (Morin-Cameron Group-Project Engineer)-reviewed area where new homes will be placed; noted access road to Centre Street will be for emergency only; stormwater management not designed yet. Wetland will remain undeveloped.

Attorney McCann-requesting finding per application submitted. Use as mobile home park is not being altered. Access and egress remain via Route 1. If granted, will go to Planning Board for Site Plan Review. Residents will own homes at average price \$199,000. Pad rental \$410/month-water and sewer, trash removal, snow plowing. Presented to Danvers Affordable Housing Trust – voted to send letter of support to Zoning Board of Appeals. Gardner Trask (DAHT) present.

Mr. Boughner-access road-purpose? Gate or jersey barrier to prevent someone from driving down?

Will Schkuta-gravel road for sewer project. Will remain but will be emergency access.

Attorney McCann-would come up during Site Plan Review if gate is needed. Would work with fire department regarding type of gate.

Mr. Sauer-parking area 12' wide-no parking side by side? Is Temar co-op or for profit?

Attorney McCann-tandem parking. Not a co-op.

Mr. Scholes-1950s – certain number of mobile homes could be placed in property? Then they kept expanding? No number on docket for how many homes there can be.

Attorney McCann-park started in 1940s-predated zoning. Expansion to extent allowed may have taken place. Once it became nonconforming use, site has come before board to expand. Going from 72 to 107.

Mr. Jarvinen-access road – utilities set back from that? Do existing trailers on property meet setbacks?

Michael Dodge-Pump Station – overgrowth around it that contractor is coming to clear out.

Attorney McCann-existing homes do not meet setbacks. Proposal meets setbacks. New mobile homes will not be visible from Route 1.

Ms. Doherty-purchase 35 homes and then people can purchase or lease? Can people purchase and then rent homes out? Can someone put their existing home for sale or can they remove it and someone can buy a new one for that pad? Value of older homes? To planning department – mobile homes do not count towards affordability and hurt us – how many permitted with prior application at different mobile home park?

Attorney McCann-not purchased in advance. Homeowner goes to bank to finance home and it is then brought to site.

Michael Dodge-used to be 3 landlords. Down to one. Working towards all owner occupied. In process of removing older ones and bringing in new homes. Owners are entitled to sell if they would like. Older homes value -range \$20,000-\$40,000. New is \$80,000-\$85,000 from manufacturer – all through HUD code.

Staff-granted 12 homes with prior application at different mobile home park.

Ms. Doherty-47 new mobile homes if approved.

Staff-counts towards denominator for total housing units. Town above 10% based on other decisions board has made.

Attorney McCann-attempts have been made to have legislation change to have mobile homes count as affordable housing.

Mr. Boughner-density on lot 16 units/acre? Units/acre on other properties? Snow storage? Would like to know before this goes to Planning Board. Three or four entrances from Route 1?

Attorney McCann-density 15 units/acre. 460 Newbury Street – 2 acre site – 16 units/acre. 103 Newbury Street – 2.5 acre site and 11.25 units/acre. Snow storage will be reviewed at Site Plan. Space on property for snow storage; site plan requires it be removed if it cannot be stored. Will have designated place for snow.

Will Schkuta-Three active entrances. Not adding a fourth.

Mr. Boughner-landscaping for Planning Board-addresses new area only, correct? Street signs in poor shape. Homeowners may like something more aesthetically pleasing. Limitations for what owners can park on their sites?

Attorney McCann-existing area has had new landscaping put in. Site Plan will focus on new area.

Michael Dodge-litigation ongoing regarding property so cannot discuss. Addressing unregistered vehicles.

Mr. Boughner-dumpsters in old or new area? Landscaping improvement? Current stormwater management? Will new proposed tie in with old? How can we help existing area?

Attorney McCann-no dumpsters. Trash removed by trash company. Landscaping and stormwater management improvement as required by Site Plan. Engineer will review.

Will Schkuta-currently no stormwater management.

Attorney McCann-entire site will be reviewed for stormwater management. New area will have to meet current requirements.

Mr. Sauer-to staff-will Planning require upgrade to old area?

Staff-would not be Planning; would be stormwater regulations that would drive design.

Will Schkuta-full site will comply. Will work with engineering department.

Mr. Boughner-mobile homes replaced-how many of existing have been replaced in 5-10 years? Why 35 new? Reduce to 32 and add more open space?

Michael Dodge-less than ten have been replaced.

Attorney McCann-35 fits on site; need for units; improvement to site; works financially. Will discuss reducing with applicant.

Jane Thornell (182 Centre Street)-noted location of residence in relation to mobile home park. Noted discussion on social media. Concern with abutting properties losing value. Toured other mobile home parks; noted properties that were well cared for. Observed that at 98 Newbury, vehicles parked everywhere; lots of debris; concern with emergency vehicle access. Elaborated upon areas of concern at 98 Newbury Street. Would like to know how many of existing are occupied.

Gardner Trask (Chairman-Danvers Affordable Housing Trust)-September 20 meeting-Trust voted unanimously to send letter of support for this project. Opportunity for affordable home ownership. Difference between affordable and low income. Reviewed what is considered affordable in Danvers per state regulations. Based on 2020 census, Town satisfies state 40B mandate. Town will remain over 10% for next ten years. Not concerned that these homes will affect 40B threshold. No empirical data showing that mobile home park decreases value of abutting homes.

Kamran Zarrineh (manager-168 Centre Street, LLC)-mobile home getting closer to abutters. Concerns with cars and access via Centre Street and noise. Concern with not being able to find

tenants for owned abutting property which will mean unable to make payments. Long waits to merge onto Route 1 from Centre Street; adding more cars to already busy area. Would like plan that all are happy with. Against current plan.

Mr. Boughner-not here to decide road-would be at Planning Board.

Andrea Costa (191 Centre Street)-access road blocked by barrels; anticipate more use of access road. Concern with wildlife being displaced; traffic concern. Too many units proposed. Not in favor.

Melissa Miller (184 Centre Street)-park not up to par with others. Losing safety and privacy; noise concerns. Do not want to look at trailers from backyard. Reduce number proposed. Concern with property value. Not in favor.

Sandra Kesting (188 Centre Street)-do not believe trailers meet setback requirements for wetlands-too close to conservation. Access road is not new service road-concern people will use this access road. Noise concerns with 35 new mobile homes. Will bring past year police log to Planning Board meeting to note incidents at the property. Concern with property management. Will new units pump through sewer line to Centre Street? Not in favor.

Bill Bradstreet (Town Meeting Member Precinct 1)-concern with loss of green space. Disappointed that trailers are not counted as affordable housing.

Susan Berry (189 Centre Street)-Major concerns with wetlands being invaded-water pattern has changed. Wildlife driven away. Access road concern that it will be used for residents/non-emergency vehicles. Concern with water supply. Who do concerns get directed to? Not in favor.

Mr. Boughner-we are not permitted to deny application based on needs of water. Staff who handles this?

Staff-can sit with person to discuss; cannot deny based on water.

Joanne Ragucci (Town Meeting Member Precinct 2)-existing density of park? Seven abutters present. Owner present. 35 units work for owner but not for current residents. Not in favor. Existing should be improved before expansion permitted.

Michael (present remotely-inaudible last name and address)-understand rationale behind expansion; noted units that are of concern with proximity to property line.

Attorney McCann-no data that shows decrease in property value with mobile home park. Expansion is reasonable expectation. Emergency vehicles can access property. Proposing emergency access only at access road and will discuss at Site Plan. Proximity and noise concerns at 168 Centre Street which is a medical building; minimal impact. Wetlands setbacks-if units are within Conservation Commission jurisdiction, would go to Conservation

Commission. Wildlife and greenspace-property does not exceed impervious surface requirements. Pump station will serve new units. Current density is 10 units/acre. Five vacancies of existing 72 units. Emergency access road is part of the property.

Mr. Boughner-gate on access road as condition?

Attorney McCann-yes.

Ms. Doherty-can we mandate a gate? Would that defeat purpose of emergency access?

Staff-key fob would be an option that emergency services have. Could not be condition in decision, but could be recommendation for Planning Board to consider.

Mr. Sauer-will not vote for this as proposed. Neighborhood present; noted impacts. Units 32, 33, 34, 35 I will never vote for. Eliminating will increase space from 25' to 100'. Will not vote for this as presented.

Mr. Scholes-trailer park owns 7 acres; have right and potential to expand. Too many units; would vote no.

Mr. Jarvinen-illegally parked cars being addressed by property manager. New units spaced properly with proper setbacks. Would be okay with this except 31, 32, 33, 34 – if those removed, will vote for this if other homes are okay with Conservation. Currently a no.

Ms. Doherty-would vote no. Too many. Existing needs to be addressed; current is unsightly and dangerous.

Mr. Boughner-noted some improvements to the site; site currently does not meet expectations. Cannot force upkeep of property; management company to assist with this; too many proposed. Would like open space. Would like existing to be in better condition. Would vote no. Count too high; would like existing site improved. Proposed in wetland setbacks?

Attorney McCann-not in setback. Would like to continue to October 30, 2023.

Motion to continue 98 Newbury Street docket 23-5038 to October 30, 2023 made by Jeff Sauer. Seconded by Ken Scholes. In favor: 5. Opposed: 0.

Motion to adjourn made by John Boughner. Seconded by Jeff Sauer. In favor: 5. Opposed: 0. Meeting adjourned at 9:40PM.