

Approved on March 26, 2015

AMESBURY ZONING BOARD OF APPEALS
CITY HALL AUDITORIUM, 62 FRIEND STREET
THURSDAY, December 11, 2014 – 7:00 P.M.

Present: Sharon McDermot, Bob Orem, Matt Vincent, Bill Lavoie, and David Haraske

Absent: Donna Collins, Matt Sherrill

Also Present: Building Inspector Denis Nadeau, Recording Secretary Susan Yeames.

Minutes:

September 25, 2014: Although approved at October 23, 2014 meeting, errors were brought to the attention of the Board. This item it continued to the January 22, 2015 meeting for further consideration.

October 23, 2014: Motion to approve by Matt Vincent, Second by Bill Lavoie. All in favor.

2015 meeting schedule: continued to January 22 meeting to allow review by all members.

~~~

**Request for Extension:** (One year) 29 Clark's Road/ Eagle Point due to expire January 15, 2015. **Attorney Kevin Smith** representing Roger LeBlanc. The Board received a letter from Freeman Law Group dated November 26, 2014, seeking an extension for 1 year to January 14, 2016. Mr. LeBlanc has been unable to secure the necessary financing to move forward with the project. **Motion by Matt Vincent to grant a one year extension to the comprehensive permit. second by David Haraske. All in favor.**

**Michael J. Picard, Sr., & Michael J. Picard, Jr., Trustees of 176 Elm Street Realty Trust**

Applicant has submitted a new proposed parking plan and requests that the board modify their previous decision in connection with the Special Permit/ Finding to enable applicant to proceed with this parking plan.

**Attorney Paul Gagliardi and Architect Ron Laffeley representing the applicant.** On October 23, 2014, the ZBA approved a special permit from 2 family to 3 family. Two parking plans were offered, one chosen by the Board. After approval, it was realized that the parking in back will not work and because of the topography will create drainage and safety issues. They have submitted a 3<sup>rd</sup> alternative. There is sufficient room on site to maneuver and exit the site without backing out on to Elm Street. Applicant is asking for approval of a minor modification of the previous approval.

**Bob Orem** this is a better plan than last proposed however it does leave a parking space in the front yard set back.

**Paul Gagliardi** it already exists.

**David Haraske** regarding spaces #2 & #3 in the middle, is there sufficient space to maneuver

**Ron Laffeley** from audience...inaudible (asked to move to microphone). The other benefit is a large snow storage area

**Sharon McDermot** they have done some work on our concerns.

**Bill Lavoie** it looks better than it did.

Approved on March 26, 2015

**Motion by Bob Orem to approve revised parking plan as proposed. Second by David Haraske. All in favor.**

**Bradley M. Kutcher, Trustee of Kimberly Realty Trust** is seeking a **SPECIAL PERMIT/FINDING** under the Amesbury Zoning Bylaws Section IX.B to construct a single family home on a pre-existing nonconforming lot with pre-existing nonconforming front, left side and rear yard setbacks at **171 Lions Mouth Road**, MA in an R-8 Zoning District, Precinct 4.

**Attorney Paul Gagliardi** representing the applicant. Plans show both the existing structure and proposed structure. Formerly Little Red Store on Lions Mouth Road. Mr. Kutcher brought the property from Pettingill House. He proposes to take down the existing building and replace with a single family home.

|                     | <u>Required</u> | <u>Existing</u> | <u>Proposed</u> |
|---------------------|-----------------|-----------------|-----------------|
| Area                | 8,000 sq ft     | 6,050           | 6,050           |
| Frontage            | 80'             | 80'             | 80'             |
| Front yard set back | 25'             | 2'              | 7.3'            |
| Rear yard setback   | 30'             | 28              | 28.1            |
| Side Yard Set backs | 15'             | 25 R / 10 L     | 20.2 R 15.5 L   |

Nonconforming as to pre-existing area, front yard, and rear yard set backs. A change from retail to residential will be huge benefit to the neighborhood. Current building was constructed in 1910.

**Brad Kutcher** Parking will be on the right side of house. There will be no garage.  
Abutter

**Brian Charewicz** – 168 Lions Mouth Rd (asked to see the plans) – has no objections

**William Shute**, 157 Lions Mouth Rd, not against plan or upgrading the property.

**Brad Kutcher** – I spoke with abutter. 171 Lions Mouth encroaches on the property behind. Property owner states that the fence can stay where it is.

**Motion by Bob Orem to close and discuss, second by Matt Vincent**

**David Haraske** set backs improve  
**Matt Vincent** would like to see improvements.

**SPECIAL PERMIT SUMMARY**

- 1) Currently exists in Table of Uses? YES
- 2) Is it essential/desirable to public convenience/welfare? YES
- 3) Will it create undue traffic/impede pedestrian safety? NO
- 4) Will it overload public systems: NO
- 5) Special Conditions (Section XI) satisfied? YES
- 6) Will it impair character/health/welfare of district? NO

Approved on March 26, 2015

7) Will it create excess of use in neighborhood: NO

**Motion by David Haraske to close and vote, second by Bob Orem.**

**VOTE**

|                 |     |
|-----------------|-----|
| Bill Lavoie     | Yes |
| Matt Vincent    | Yes |
| Bob Orem        | Yes |
| Sharon McDermot | Yes |
| David Haraske   | Yes |

Special Permit to construct a single family home on a pre-existing nonconforming lot is approved.

**Richard & Lori Boudrow** are seeking a VARIANCE under the Amesbury Zoning Bylaws, Section VI.B to construct a new single family home in place of existing single family home. The proposed home will create a new side yard non-conformity at **50 Merrimac Street**, Amesbury, MA in an R-20 Zoning District, Precinct 1.

**Richard & Lori Boudrow** are seeking a SPECIAL PERMIT/FINDING under Amesbury Zoning Bylaws, Section IX.B to extend and/or alter a pre-existing non-conforming structure by demolishing the existing structure and building a new non-conforming structure in its place, at **50 Merrimac Street**, Amesbury, MA in an R-20 Zoning District, Precinct 1.

**Attorney Paul Gagliardi and Architect Robert Rodier** represent the applicants. The applicants met with some neighbors and as a result have made modifications regarding views of the river. Same building plan but has flipped the house. New elevation plan, conceptual sketch and site plan is distributed.

**Robert Rodier**, Architect best use of the site met with neighbors and got input from them. We have redesigned to be sensitive to their comments. Using foot print of existing house all rear additions will be conforming. Will no longer use existing fieldstone foundation. Peak of roof is 5' 10" higher than existing house.

**Paul Gagliardi** We will need a vote of the Board to accept amended application. Reviews as follows:

|                     | <u>Required</u> | <u>Existing</u> | <u>Proposed</u> |
|---------------------|-----------------|-----------------|-----------------|
| Area                | 20,000 sq ft    | 9,850           | 6,050           |
| Frontage            | 125'            | 81.15'          | 81.15'          |
| Front yard set back | 40'             | 4.4'            | 5'              |
| Rear yard setback   | 40'             | 106'            | 75'             |
| Side Yard Set backs | 20'             | 16.8 R / 33 L   | 7 R / 15.7 L    |
| Height              | 35'             | 23' 8.5"        | 81.15'          |
| Stories             | 2.5             | 2               | 2.5             |
| Bldg area Max       | 20%             | 9%              | 18%             |
| Open Space Min.     | 50%             | 80%             | 70%             |

Approved on March 26, 2015

We are requesting a FINDING under Section IX.B for the front yard setback and right side yard set back, and a VARIANCE under section for the left side yard setback due to the shape and topography of the lot.

I will follow up in writing about the modification request.  
Has a Petition signed by some of the neighbors.

Abutter **Brian Amero**, 56 Merrimac Street is in favor of the proposal. He feels that it will improve the neighborhood.

**Motion by Bob Orem to close and discuss, second by David Haraske.**

### **FINDING SUMMARY**

- 1) Proof that it predates zoning? Yes (1880 Assessor's field card)
- 2) How is it nonconforming? Frontage, lot size, front yard set back, left side yard set back
- 3) More or less detrimental? Less
- 4) Does extension/alteration create a new nonconformity? No

**Motion by David Haraske to close and vote on the Finding, second by Bill Lavoie.**

### **VOTE**

|                 |     |
|-----------------|-----|
| Bill Lavoie     | Yes |
| Matt Vincent    | Yes |
| Bob Orem        | Yes |
| Sharon McDermot | Yes |
| David Haraske   | Yes |

Finding is approved.

### **VARIANCE SUMMARY**

- 1) What is the Substantial Hardship? Topography (narrow lot width, steep grade)
- 2) How is it due to soil, shape, or topography of land or structures? Topography and shape
- 3) Do the above features generally affect the district? No
- 4) What would be the substantial detriment to public good, if granted? None
- 5) Does petition derogate from the intent of the bylaw? No

**Motion by Matt Vincent to close and vote on the Variance, second by David Haraske.**

### **VOTE**

|             |     |
|-------------|-----|
| Bill Lavoie | Yes |
|-------------|-----|

Approved on March 26, 2015

|                 |     |
|-----------------|-----|
| Matt Vincent    | Yes |
| Bob Orem        | Yes |
| Sharon McDermot | Yes |
| David Haraske   | Yes |

Variance is approved

**Lyndsey & George Haight** are seeking a **VARIANCE** under the Amesbury Zoning Bylaws, Section VI,B., and Section X to allow encroachment of front setback from 25 feet to 21.2 feet, right side setback from 22.4 feet to 6.2 feet (front corner) and 4.2 feet (back corner) at **2 Pine Street**, Amesbury, MA in an R-8 Zoning District, Prec. 3.

**Lindsay Haight** requesting a Variance for front yard set back and right side yard set back for an addition. She has a letter of support from abutters at 4 Pine Street and a letter from Ron Star at 109 Market Street in support of the proposal. Would like to built a 16' x 22' two-story addition. We will work with the Conservation Commission on a drainage plan.

**Motion by Bob Orem to close and discuss, second by David Haraske.**

#### **VARIANCE SUMMARY**

- 1) What is the Substantial Hardship? Topography, narrow lot, steep grade, placement of structure.
- 2) How is it due to soil, shape, or topography of land or structures? Topography, wetlands, and shape.
- 3) Do the above features generally affect the district? No
- 4) What would be the substantial detriment to public good, if granted? None
- 5) Does petition derogate from the intent of the bylaw? No

#### **STIPULATION**

Applicant will meet all other state and local regulations. Applicant will go before Conservation Commission to address wetlands at the rear of the property.

**Motion by Matt Vincent to approve Variance with stipulation that the applicant meets all other state and local regulations to include the Conservation Commission.**

#### **VOTE**

|                 |     |
|-----------------|-----|
| Bill Lavoie     | Yes |
| Matt Vincent    | Yes |
| Bob Orem        | Yes |
| Sharon McDermot | Yes |

Approved on March 26, 2015

David Haraske            Yes

Variance is approved with stipulation

**Tim Bailey-Gould** is seeking a **VARIANCE** under the Amesbury Zoning Bylaws, Section XI K.1 to revert back existing residence to a two-family residence with insufficient frontage and front and side yard setbacks at 39 Cedar Street, Amesbury, MA in an R-8 Zoning District, Precinct 3.

**Tim Bailey-Gould** is seeking a **SPECIAL PERMIT / FINDING** under the Amesbury Zoning Bylaws Section XI K.2 to return an existing single family home into a two family residence at 39 Cedar Street, Amesbury, in an R8 Zoning District, Precinct 3.

**Tim Bailey Gould** purchased house in 1996. It was originally a 2-family (actually 39 & 41 Cedar Street) and remained that way for a few years. As the family grew, they removed a couple of walls and used the whole house. Now they would like to convert it back to a two-family. All it needs is a couple of walls. No alterations to the outside.

**Denis Nadeau** the house still retains all the characteristics of a two family home. All it needs is a wall and a door.

No questions from the Board.

**Motion by Matt Vincent to close and discuss, second by David Haraske.**

**VARIANCE SUMMARY**

- 1) What is the Substantial Hardship? Shape of lot (long and narrow), financial.
- 2) How is it due to soil, shape, or topography of land or structures? Shape of lot.
- 3) Do the above features generally affect the district? No
- 4) What would be the substantial detriment to public good, if granted? None
- 5) Does petition derogate from the intent of the bylaw? No

**Motion by Matt Vincent to close and vote, second by David Harakse.**

|                 |     |
|-----------------|-----|
| Bill Lavoie     | Yes |
| Matt Vincent    | Yes |
| Bob Orem        | Yes |
| Sharon McDermot | Yes |
| David Haraske   | Yes |

Variance is approved.

**SPECIAL PERMIT SUMMARY**

- 1) Currently exists in Table of Uses? Yes
- 2) Is it essential/desirable to public convenience/welfare? Yes
- 3) Will it create undue traffic/impede pedestrian safety? No
- 4) Will it overload public systems: No
- 5) Special Conditions (Section XI K1) satisfied? Yes
  1. In no instance shall the lot be less than 12,000 square feet.
  2. The minimum lot frontage be at least 80 feet in the R-8 zone, and not less than the required minimum in all other zones. (Variance)
  3. There shall be at least a minimum off-street parking for three (3) vehicles.
  4. All other dimensional requirements of the zoning district on which the conversion is proposed are met.
  5. The maximum number of dwelling units allowed in any previously existing one-family dwelling shall be two, and two-family dwelling shall be three.
  6. In instances where the Board of Appeals is requested to permit three (3) dwelling units in a residential structure the Board of Appeals shall require a Site Plan that indicates off-street parking for at least five (5) vehicles; and said plan shall indicate that no designated off-street parking spaces are located in the required front yard setback of the zoning district in question.
  7. For all conversions, all health and safety regulations of the City and Commonwealth shall be met, and a report to that effect shall be obtained by the applicant from the Building Inspector.
  8. No applicant for a residential conversion special permit shall apply to the Building Inspector for a building permit or occupancy permit, unless and until a special permit for conversions is approved by the Board of Appeals. Further, all building permits and occupancy permits issued by the Building Inspector shall be in conformance with the conditions, if any, stipulated in the special permit approval.
  9. All proposals for conversions are subject to the special permit requirements and procedures set forth in Section X.J of this Bylaw .
- 6) Will it impair character/health/welfare of district? No
- 7) Will it create excess of use in neighborhood: No

**Motion by Bob Orem to close and vote on the special permit, second by Matt Vincent.**

|                 |     |
|-----------------|-----|
| Bill Lavoie     | Yes |
| Matt Vincent    | Yes |
| Bob Orem        | Yes |
| Sharon McDermot | Yes |
| David Haraske   | Yes |

**SPECIAL PERMIT is approved.**

Approved on March 26, 2015

**Appeal of Fence at 68 Lake Attitash Road.**

Correspondence from Debra Dow.

Previously noted.

1. Amesbury Zoning Board of Appeals did not have jurisdiction over the issue.
2. Appellant waited too long didn't meet the deadline.

In the minutes we need to make sure that Denis Nadeau was not acting as the BI. What is her appeal based on?

**Matt Vincent** Have the minutes from that meeting been given to K&P to review? Do not approve minutes until K&P reviews them and asks for more information.

**Motion was made by Matt Vincent to close the hearing, second by Bill Lavoie.**

**Meeting adjourned at 8:00 P.M.**

**Minutes transcribed by Joan Baptiste.**