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**ZONING BOARD OF APPEALS
CITY HALL AUDITORIUM
62 FRIEND STREET**

MARCH 24, 2016

Meeting started at 7:06 PM

Present: Bill Lavoie, Donna Collins, Matt Sherrill, Sharon McDermot, David Haraske, and Matt Vincent

Absent: Bob Orem

Also Present: Susan Yeames, Recording Secretary; D. Nadeau, Zoning Compliance officer.

Minutes: February 25, 2016 - continued to April 28th for clarification.

Chairman calls the meeting to order and reads the agenda items.

29 Clark's Road (Eagle Point) - Chairman asks if the applicant is in attendance. Applicant is not present. The reason this is on the agenda tonight is because they requested to be on the agenda in December 2015. They did not attend that meeting due to litigation. Our attorney (Jon Witten) suggested that we continue it to the March meeting in hopes that the litigation might have been settled. As far as I know it has not. Chair received an email recently that there were still requests for information that they sent to the town requesting information about any projects from 1995 to present where there may have been situations where the town was asking. If the applicant is not here tonight, we will continue it until the June 23, 2016 meeting in the hopes that things will be wrapped up and they can continue. The original request was for a notice of project change. They felt the changes were minor, the board did not agree, and it went to court.

Motion by Matt Vincent to continue the 29 Clark's Road – Eagle Point project to June 23, 2016, second by Sharon McDermot. AIF.

CONTINUED PUBLIC HEARINGS:

George and Kelly Norwood of 18 Campion Road, North Andover, MA, is seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws, Section IX, Paragraph B to raze an existing nonconforming structure on a nonconforming lot and construct a new residential structure which will also have nonconformities at 28 Lake Attitash Road, Amesbury, MA in an R-20 Zoning District, Precinct 5.

Sitting Bill Lavoie, Donna Collins, Matt Sherrill, Sharon McDermot, and Dave Haraske.

Paul Gagliardi representing the applicants. Hands out documents that will help clarify – re: setbacks both existing and proposed, new elevations (front & rear), neighborhood proximity, plan and existing structure and proposed structure.

The applicants propose to tear down the existing house and build a new structure. The existing house is non conforming as to left side yard set back, right side yard set back. They propose to center the house on the lot. They will bring the building further away from abutting structures. The elevation submitted with the application misrepresents the house they are proposing to build. The elevations I have just submitted show a more representative design of what is actually going

to be built. The house will not be taller, it will fit well with the other houses in the neighborhood. The garage (accessory building) meets the side yard set backs. We are not creating any new non conformity therefore we are asking under section IX.B to make a FINDING.

Matt Sherrill: Does this have to go before Con Com?

Paul Gagliardi: We have been to con com and it is my understanding that the con com is ready to issue the OOC. We also have to go to Planning Board for a special permit under the wetlands floodplain protection district and also under the water resources protection district.

Matt Sherrill: Are all the trees in the area of the garage coming down

John Paulson: We have a site plan showing that information. Not all trees will be removed.

Matt Sherrill: Just making sure that you have addressed all the issues. There is a stone wall – will that remain.

John Paulson: The wall will remain untouched. There are steps that require repair.

Paul Gagliardi offers pictures.

David Haraske asks about the wall. And does the house have any historical value or significance?

Paul Gagliardi: That has already been discussed. This was an emergency removal.

Jamie and Justin Chase – 26 Lake Attitash direct abutter. *Conversation out of audio recording range.*

Justin Chase Would like the house to stay within the existing footprint. Privacy – if the wall of the house were to move 10 feet closer to our home they would look down into my son's bedroom. There are set backs determined by zoning. The new owners bought the property knowing that there was an existing home that the city granted the constructors permission to build a home that did not conform to existing zoning. The house is moving towards us at #26 and away from #30. We feel that it will devalue our property.

Conversation out of range of audio recorder

David Haraske: How close is the porch to your house?

Justin Chase: It's about 16' or 23'.

David Haraske: That's a big difference.

Justin Chase: 19 feet.

David Haraske: The porch is part of the existing footprint.

Paul Gagliardi: They are questioning the work that a professional surveyor has performed. I differ with some of the differences. The plan that shows the existing structure and the proposed structure, we are bringing it away from the water which should improve their views. We are bringing it closer to their home not to injure them but in order to make the house more central on the lot. Their house towers over the existing structure. This is an area of town where the lots are small and the houses take up a large portion of the lots. We are not trying to make their situation worse but we are trying to make it better for everyone by building a nice new structure on this property. This will improve the neighborhood.

Matt Sherrill: Is there any way you can reduce the amount of distance from 7 to 5 feet?

Paul Gagliardi: We could – we would have to go back to Con Com and Planning.

Motion by Sharon McDermot to close and discuss, second by David Haraske.

Summary of findings:

1. Does it predate zoning yes (1910 – field card)

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2. How is it non conforming? Nonconforming as to area, frontage, left side yard and right side yard setbacks.
3. Is it more or less detrimental to the neighborhood? The neighbors at #26 Lake Attitash feel this would be more detrimental if the house is sited as proposed.

DISCUSSION

David Haraske: It's a narrow lot, either way you move it will impact someone.

Matt Sherrill: Does the board feel comfortable with the way this has been presented? Or do you want it to move?

David Haraske: It is a larger house.

Matt Sherrill: Razing old houses and building new ones is happening all over the lake. They are moving the house back which will open up views.

David Haraske: A new house is an improvement.

Bill Lavoie: It would be much less detrimental to the entire neighborhood.

Matt Sherrill: So the answer is it will be less detrimental.

4. Are there any new nonconformities? – No

5. Should we consider any stipulations? No

Motion by Sharon McDermot to close and vote. Second by Donna Collins.

Bill Lavoie	yes
Donna Collins	yes
Matt Sherrill	yes
Sharon McDermot	yes
David Haraske	yes

The application is approved as presented.

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**Rebecca Rinkaus** of 147 South Main Street, #204, Mansfield, MA 02048, is seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws, Section XI.K.1 to convert an existing two-family home to a three-family home at **85-87 Highland Street**, Amesbury, MA in an R-8 Zoning District.

**Sitting on this hearing will be Bill Lavoie, Donna Collins, Matt Sherrill, Matt Vincent, and Sharon McDermot. David Haraske is an abutter so he recused himself from sitting on the board.**

**Matt Sherrill:** This is a continuation from last meeting. We needed some measurements for the deck and the parking. An alternative parking plan has been presented.

**Rebecca Rinkaus:** The main concern was that the 3 car garage and the 3 parking spaces were at right angle to each other so it didn't allow for turn around. The new proposal shows two parking spaces next to the garage so that all cars are facing the same direction leaving space for a turn around. All cars can easily enter and leave.

**Matt Sherrill:** You show the deck as 22' to the lot line. That meets the set back requirement of 15'. If you could go through the plans to review the way the apartments are set up.

**Rebecca Rinkaus:** As you look at the house now it's three levels split down the middle. Each unit has three floors. The proposed plan is on the right side (#85) the first floor to be an unchanged except for adding a bathroom. The back of the house would still be the kitchen. The middle room is family living area. The staircase area would become a full bath and the front room would be the bedroom. That's one apartment. The second floor on the right side combined with the entire third floor would be the larger owner-occupied unit. That would consist of the second floor bath being converted to a kitchen. The Master bath and all bedrooms will be on the third floor. The third unit would consist of the first two floors on #87 side would remain the same. It would just be cut off from the third floor. We will add a half bath on the first floor.

**Jack Martin, 89 Highland Street:** The request impacts property value, their privacy and safety of the neighborhood. This conversion of 85-87 Highland from a two family to a three family will contribute to the down turn of Amesbury and the Highland area. The deck looks down onto our home. There will be an increase in traffic. There are children walking to and from school. The petitioner was aware that it was a two family when she bought it. Work has already started on the house prior to permit. We request that this application be denied.

**David Haraske, 8 Moody Street** provides pictures of a deck at the corner of Winkley and Hillside which he considers blight. Also shows a picture of house at corner of Greenwood and Hillside with a deck that was built being sensitive to the area. I would ask that you stipulate the deck has some kind of motion sensor lighting that doesn't flash out to the neighbors. I would suggest that the deck, rails and aprons of the box of the deck as well as the posts be incased in prime pine that gives it a nice finished look. The neighborhood is primarily a single family.

**Danielle Holmes, 83 Highland Street** concerned with driveway and the large maple tree on the edge it will kill the tree. Would like the property lines to be surveyed.

**Elizabeth Stockwell, 11 Moody Street:** I don't want to see apartment buildings in our neighborhood. Concerned with traffic.

**Jack Martin:** Saw new plans. The entire back yard is a hot topped parking lot.

**Danielle Holmes:** It says it will be owner occupied now but owners move out.

**Denis Nadeau:** The original deck size has been cut down.

**Rebecca Rinkaus:** We decreased the size of the deck. We will install motion sensor lighting.

**Matt Vincent:** Bedrooms will decrease from 8 to 7.

**Rebecca Rinkaus:** That's true.

**Jack Martin:** Original plans it showed the attic with 4 bedrooms. It did not have that many bedrooms.

**Motion by Sharon McDermot to close and discuss. Second by Donna Collins.**

#### **SUMMARY OF FINDINGS**

1. Currently exists in the table of uses – Yes.
2. Is it essential or desirable to the public convenience or welfare? Yes, housing is essential.
3. Will it create any undue traffic or impede any pedestrian safety? No - Improved parking plan will prevent cars backing out onto Highland Street.
4. Will it overload the public systems. No.
5. **SPECIAL CONDITIONS** Section XI.

In no instance shall the lot be less than 12,000 sq.ft. (17,000).

The minimum lot frontage be at least 80 feet in the R8 zone and not less than the required minimum in all other zones. (100').

Minimum off-street parking for three vehicles. (parking for 5).

All other dimensional requirements of the zoning district on which the conversion is proposed are met (they are).

The maximum number of dwelling units allowed in any previously existing one-family dwelling shall be two and two family shall be three. (going from two to three).

In instances where the board of appeals is requested to permit three dwelling units in a residential structure, the board of appeals shall require a site plan that indicates off street parking for at least five vehicles and said plan shall indicate that no designated off street parking spaces are located in the required front yard set back of the zoning district in question. (they are not).

For all conversions all health and safety regulations of the city and commonwealth shall be met and a report to that affect shall be obtained by the applicant from the building inspector.

No applicant for residential conversion special permit shall apply to the building inspector for a building permit for 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.

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 the character, health or welfare of the district? (It will not). That has been up for debate.

7. If approved will it create an excess of use in neighborhood? No.

No stipulations to be considered.

**Matt Vincent:** I heard what Mr. Martin was saying and I understand.

**Denis Nadeau:** The plans show that she will use Aztec rail. She has to build according to the plan.

**Motion by Sharon McDermot to close and vote, second by Donna Collins.**

**VOTE**

**Bill Lavoie – yes**

**Matt Vincent – yes**

**Donna Collins – yes**

**Matt Sherrill – yes**

**Sharon McDermot – yes**

**Application has been approved.**

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Ronald D. Bastien, Personal Representative of the Estate of Marie Louise Bastien of 9 South Hampton Road, Amesbury, MA is seeking a Special Permit/Finding under the Amesbury Zoning Bylaws, Section IX, paragraph B to raze the pre-existing nonconforming house structure and to construct a new single-family home at 9 South Hampton Road, Amesbury, MA in an R-8 Zoning District.

Sitting on this case will be Bill Lavoie, Donna Collins, Matt Sherrill, Sharon McDermot, and David Haraske.

Paul Gagliardi represents the applicant. Plan shows the existing conditions and proposed new structure. Property has been before the ZBA previously and a variance was granted to allow the two lots, one with insufficient width. There are wetlands on the property which affected both lots and in order to stay 35 feet away from the edge of the wetlands, it was necessary to push the house over to where we propose. Mr. Gagliardi distributes a chart to the board comparing setbacks: existing, required, proposed. The existing house is in pretty bad shape. We will have to get a demolition permit, go through the Historic Commission. We will go back to Con Com as we will still be within the jurisdiction. They suggested that we come to the ZBA to get the necessary permit.

David Haraske: The garage faces South Hampton Road. Is there an area for a car to turn around so they don't have to back out into the street?

Ron Bastien: We can put that on the plan.

Matt Sherrill: We are considering this for a **FINDING**.

Motion by Sharon McDermot to close and discuss, second by David Haraske.

1. Does it predate zoning? (1927 – field card).
2. How is it non-conforming (front yard and right side yard set backs).
3. If approved, would it be more or less detrimental to neighborhood (less).
4. Does create any new non-conformity? (no).

Stipulations

Turn around area in front of garage which meets Conservation Commission requirements.

Motion by Sharon McDermot to close and vote, second by Donna Collins.

VOTE

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| Bill Lavoie | yes |
| Donna Collins | yes |
| Matt Sherrill | yes |
| Sharon McDermot | yes |
| David Haraske | yes |

Application for FINDING is approved.

Motion was made to close the meeting by Sharon McDermot. Donna Collins second. AIF.

Meeting adjourned at 8:45 p.m.