

MINUTES
Danvers Board of Appeals

#17-4725
October 30, 2017

Present: Robert Cignetti, Rebecca Kilborn, John Boughner,
Jeffrey Sauer, Kenneth Scholes, Kenneth Jarvinen,
Anthony Podesta

Also Present: Secretary, Marybeth Burak-Condon

DONALD F. STRUNK (#17-4725) Requesting a variance from setbacks to construct an 8 X 12 addition to an existing shed in accordance with Table 2 of the Danvers Zoning Bylaws at **19 DARTMOUTH STREET**

Clerk Sauer read a letter from Donald Strunk dated 10/16/17 requesting a withdrawal of this application.

Robert Cignetti motioned to allow the applicant to withdraw without prejudice. Rebecca Kilborn seconded. All in favor.

MINUTES
Danvers Board of Appeals

#17-4734
October 30, 2017

Present: Robert Cignetti, Rebecca Kilborn, John Boughner,
Jeffrey Sauer, Kenneth Scholes, Kenneth Jarvinen,
Anthony Podesta

Also Present: Secretary, Marybeth Burak-Condon

R. TONY PISA TRUST (#17-4734) Requesting a special permit for an Extended Family Living Area (EFLA) after a violation in accordance with Section 9.3.10.2 of the Danvers Zoning Bylaws at **170 OLD BURLEY STREET**

Clerk Sauer read an email from David Deluca, Town Counsel, stating that the ownership of the EFLA can be a trust or a corporation but the occupancy is still required to adhere to our bylaws.

John Boughner said after a discussion today with our building inspector and just to be clear going forward you no longer have the EFLA, in 2012 you did not register within the 30 days at the building department. Therefore this property is before us for a special permit and we now know from Town Counsel that a trust can be part of a special permit, however the occupancy of the EFLA needs to be an extended family member as we define it, and the Code Administration Department would require a copy of the trust listing all the names of the trustees. So it doesn't limit one person to the other within the trust but all of those names need to be filed at the Code Administration Department. We do not have a floor plan but our Code Administration Department is fine with what already exists.

Gary Pisa said we have taken care of the mailboxes and cleaned up the property as asked and also submitted the trust as asked and here are some pictures.

John Boughner said I think we are clear on what you want to do I am vague on what the actual square footage is. Mr. Pisa said 750 square feet.

Robert Cignetti said there are five owners of this house, one of those owners can live in the house with a relative, so you said your brother Rocky who is an owner is going to live there. Mr. Pisa said yes. He submitted a family tree of ownership to the board.

Rebecca Kilborn said so Rocky is going to live on one side and your father's brother your uncle will live on the other side with his wife. My concern is who will be looking after the property, who will be maintaining it? Mr. Pisa said one of the family members.

Anthony Podesta said you mentioned the use restriction, are they required? Mr. Boughner said if this board votes to allow the special permit and issue an EFLA then they would have the same requirement, 30 days to come in to the building department and sign the use restriction form and it will be recorded on the deed.

John Boughner said I saw that you took the mailbox down but the other mailbox still says Suite B. Mr. Pisa said we will take the B off. Mr. Boughner said the other thing is the gas line the building inspector would like the permit to be pulled by a licensed plumber.

AUDIENCE COMMENTS

Randall Sparkas, 3 Tulane Road said I am an abutter to the property we dealt with an issue when the first one was set up our problem then and still is we are not in the habit of checking on our neighbors to see if they are or are not blood relatives of persons living there. So my wife and I stand opposed to an EFLA being issued because this is what we were afraid of in the first place.

Robert Cignetti said well there was an EFLA before and I would vote for this.

Rebecca Kilborn said I know that they would not be here at all if there wasn't the confusion with the ownership and because the 750 square foot EFLA is allowed without coming to this board, so I would vote for this.

Kenneth Scholes said I think that they have had some violation in the past with this and I believe they will keep an eye on

them I like the fact that this trust is on file so we know who the trustees are, I would vote for this.

Jeffrey Sauer said I would vote for this.

Kenneth Jarvinen said if I were voting I would vote for this.

Anthony Podesta said I would also.

John Boughner said our bylaws are set up in such a way where this is an allowed use in the Town of Danvers, I understand your concerns I think that this trust has come before us to try to clean it up and fix the mistake. They are on record and there is a deed restriction and I believe these trustees now are clear as to what this property can be. Based on all of those things I would vote for this.

Robert Cignetti motioned to grant the special permit to allow the Extended Family Living Area (EFLA) with the two conditions that the writing on the mailbox be removed and that a licensed plumber inspect the gas line;

- The municipal water and sewer systems shall not become overloaded by the proposed use.
- The public streets shall not become overloaded by proposed use.
- The value of other land and buildings will not be depreciated by the proposed use.
- The specific site is an appropriate location for this use or structures.
- The use developed will not adversely affect the neighborhood.
- There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use.
- The proposed use or structure will be in harmony with the general purpose of this bylaw.

Kenneth Scholes seconded. All in favor.

MINUTES
Danvers Board of Appeals

#17-4735
October 30, 2017

Present: Robert Cignetti, Rebecca Kilborn, John Boughner,
Jeffrey Sauer, Kenneth Scholes, Kenneth Jarvinen,
Anthony Podesta

Also Present: Secretary, Marybeth Burak-Condon

MATT OUELLETTE (#17-4735) Requesting a variance from front setbacks to erect a new front entrance addition, in accordance with Table 2 of the Danvers Zoning Bylaws at **3 HAMPSHIRE STREET**

Matt Ouellette said our front stairs are falling apart and we would like to add on and build a new front entrance. A small addition to the front of the house to encompass the size of the existing stairs that are there now about 10 feet by 4½ feet, and add a closet.

Kenneth Jarvinen asked about the hardship. The board members discussed the placement of the house on the lot. Mr. Jarvinen asked about the average setbacks on the street. Mr. Ouellette said 17-18 feet, a lot of them also have bump outs, it will look similar to what is there but it will be larger once you are inside.

Anthony Podesta asked if the stairs were included in the setback.

Jeffrey Sauer said you paid good money for this surveyor and he gave us a measurement of 11 plus or minus, we sometimes give people difficulty with a mortgage survey because they can be off sometimes by 5 feet in any direction, you got a survey done and they gave you a sloppy measurement.

Kenneth Scholes said so the setback now doesn't include the stairs, so he is coming into the setback five and a half feet, are you going to be on the sidewalk with these stairs. Mr. Ouellette said the contractor told me that I needed an additional landing of about three feet and then one or two stairs after that. So in terms of the additional distance from

where it is at now I think it will be that three foot landing per code.

Rebecca Kilborn said did you look at the average setback on the street. Mr. Ouellette said I looked down the street and it looked similar. Ms. Kilborn said you could have gotten an average setback on the street.

Robert Cignetti said I looked at the house today and so all you are going to do is enclose the stairs and the porch and you measured from the sidewalk or street, and the $11\frac{1}{2}$ is from the sidewalk. But you are not going to encroach any more than what you are encroaching now except for a few stairs. Mr. Ouellette said I think that the most it would be is 3 feet. Mr. Cignetti said the other houses on the street are close to what you want to do.

John Boughner said this plot plan says your setback currently is 17 feet. So you are saying that you are going to come out $4\frac{1}{2}$ feet but yet this new drawing says $11\frac{1}{2}$ feet so the math is not working? I am just trying to get an understanding of how close you are going to be, so you are going to be from where you are now about another 5 feet, does that sound about right? Mr. Ouellette said it might be closer to 3, right now I have 3 steps up to the $4\frac{1}{2}$ foot landing so the landing will now be an enclosed structure and the first step will be 3 feet so now I am adding 3 feet and I will have 2 more steps which will be the same thing that is existing now. Mr. Boughner said you are at 17 now.

There were no questions or comments from the audience.

Anthony Podesta said I went to the property and the other houses are the same.

Kenneth Jarvinen said I agree a couple of the houses down the street have similar entranceways.

Jeffrey Sauer said I would vote for this.

Kenneth Scholes said I would vote for this.

Rebecca Kilborn said it looks like there will be 7 to 8 feet after the stairs end before the sidewalk so I will vote for this.

Robert Cignetti said just to clarify we are going to be at least 11 feet not including the stairs. Mr. Oullette said correct. Mr. Cignetti said I don't have a problem with this.

John Boughner said and I as well think this is in keeping with your neighborhood and I would vote in favor.

Robert Cignetti moved the board to grant the variance to erect an addition according to plans submitted, the hardship is the placement of the house on the lot; this condition does not affect other [properties or structures] in the same zoning district; a literal enforcement of the zoning bylaws would involve a substantial hardship to the applicant; and granting this variance will not create a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the zoning bylaws. Kenneth Scholes seconded. All in favor.

*Robert Cignetti motioned to adjourn. Jeffrey Sauer seconded. All in favor.