

**MINUTES**  
**Danvers Board of Appeals**

**#17-4743**  
**January 8, 2018**

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

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**50 HOBART STREET DANVERS, LLC (#17-4743)** Requesting a variance and a finding to allow the renovation of one single family home and one duplex on the lot in accordance with Table 2, Section 1.2.2 and Section 3.10 of the Danvers Zoning Bylaws at **50 HOBART STREET**

Chair Boughner recused himself from this application and appointed Anthony Podesta to vote in his absence.

Attorney Nancy McCann said at the last meeting we presented the application and made a full presentation. With the existing condition we have one large single family building, the original front portion was constructed in 1900, in 2011 there was a large addition put on the back of the property. We presented a proposal to renovate the property where we would eliminate the connector piece in the middle and have a single family in the front and this back area turn them into two units. We required a variance to allow two separate structures on the lot, and for the lot area. We listened to comments from the audience and the board and after that the owners went back and decided to take into consideration all that they heard and came up with another proposal. We are proposing to eliminate one unit all together, we have taken off the front portion and are just working with the existing building in the back. We are also eliminating the existing driveway and adding a new one down the middle of the property with grass area on either side. This proposal eliminates the nonconformity as to the existing building which is nonconforming as to the front setback and will no longer need a variance. So the only thing that we need from you is a finding because the frontage is only 74 feet where required is 80. Richard Maloney said excuse me what section of the bylaw allows that? Why is it a finding? Attorney McCann said the lot

right now is nonconforming as to frontage and we are not changing that. Mr. Maloney said in our nonconforming section we deal with the use and we deal with the building but we don't have anything that gives you the right for a finding under the lot. Attorney McCann said I think that we have always handled it that way in the past that I am aware of, if you have an existing nonconformity which is the single family. Mr. Maloney said 3.10 deals with use and 3.11 deals with the building itself, I think that you need a variance. Attorney McCann said you can look at it as an existing nonconforming lot you could look at it as a substitution of one nonconforming use to another nonconforming use on this size lot. Mr. Cignetti said what do they need a variance from? Mr. Maloney said from the frontage. Attorney McCann said I think that we have made the situation more compliant because we have eliminated a nonconformity and we meet all of the setback requirements, we meet the area requirement and we are not changing the nonconformity, we have created more green space over the existing condition, we are retaining the oak tree and we are decreasing the mass of buildings on this site. We are not changing the existing structure other than adding a small porch on the front. We will have significant more green space and will add more landscaping.

Mr. Fallon said I have been a resident of Danvers for 34 years, my partner grew up in Danvers, I am a general contractor and this is what I do and just wanted to introduce myself.

Robert Cignetti said the house in the front is going, the garage is going, the connection section is going, the driveway is changing and going down the middle. Attorney McCann said correct.

Rebecca Kilborn said could you go over parking. Attorney McCann said we are fully compliant for parking, three spaces per unit, and no garages. Ms. Kilborn said it sounds like we are voting on a variance and the only issue is 74 feet versus 80 feet for the frontage. Attorney McCann said yes.

#### AUDIENCE COMMENTS

Marguerite Parkman, 48 Hobart Street said this is the best that we are going to get, this process has been going on since 2011 but given what we've got now I don't have any objections.

Beverly Palmquist, 5 Pickering Place said I agree with Marge, something has to be done to it at this point in time we are stuck with this, it is the best that we are going to get.

Rebecca Kilborn said I will vote for it.

Kenneth Scholes said I will vote for it.

Jeffrey Sauer said I will vote for this.

Kenneth Jarvinen said I will vote for this.

Anthony Podesta said I will vote for this.

Robert Cignetti said I too will vote for this.

Rebecca Kilborn moved the board to grant the variance as shown on the plans to demolish the building structures at the front of the property and approve two units in the existing structure at the rear of the property, the hardship is the size and the shape of the lot and the location of the building on the lot which will allow for 74.21 feet of frontage in a zoning district that requires 80 feet, 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.

**MINUTES**  
**Danvers Board of Appeals**

**#17-4739**  
**January 8, 2018**

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

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**STEVEN J. DEMPSEY (#17-4739)** Submitting revised plans for previously approved finding (approved 12-11-17) to renovate and restore dwelling to create four townhouse style units in accordance with Sections 3.10.3 and 3.11 of the Danvers Zoning Bylaws at **11 NICHOLS STREET**

John Colantoni said back in December you approved a finding to build four new townhouses and there were three conditions on that finding, one to remove closet space in the computer rooms which was done, another was to create two parking spaces but not pavement and we've done that, and the other was to take care of the part of the building that was on town property. In checking that out it seems like the easiest way to handle that problem was to move that wall back off of the town property. When you go up in the air and even if we took care of the town problem in this corner the overhangs of the roof are still right in the plane and moving the whole wall completely back will take care of that problem. So there will be twelve inches of space between our wall and the town property on one end and there will be 2.3 of space on the other end. The layout is the exact same floorplans that you had except obviously slightly smaller because the wall is going back a little bit, and to try and keep the square footage the same in these two units there is a little jog now in this wall, so the actual living area is about 100 square feet less than what you originally approved, but the layout is 99.9% the same. John Boughner said so you are just going to take this wall down or just cut it back? Mr. Colantoni said the wall is going to come down and be rebuilt and cut back, so it's a more expensive project but it is the right thing to do to take care of all our problems, it will allow us to control our own destiny and we can move forward with the project without a delay. With that condition we could not get a demo permit or

a building permit. Basically what I am asking the board to do is approve our new plan and take that condition away because the new plan takes care of the problem.

Richard Maloney said right now the building is on town property, and what he is going to do is move the whole wall onto his property so all he is looking for the Zoning Board to do is approve this plan and eliminate the condition that he cannot get any permits because Town Meeting is not involved anymore. We ran it by Town Counsel and he said absolutely he doesn't have to apply for it he can come in here under "old business". Mr. Boughner said so this just cleans it up and gets it off of town property and Town Meeting is not involved. Mr. Maloney said it gets the whole thing cleaned up and Town Counsel said this is the right way to do it.

Kenneth Jarvinen asked are you compromising the foundation. Mr. Colantoni said a new foundation will be built for that new wall.

Jeffrey Sauer said you are just going to spend a little more on lumber and a lot less on lawyers.

Kenneth Scholes said so it was either get the easement through the attorneys or do this. Mr. Colantoni said we missed breaking the plane in the air so we could do all the legal work and all that and go to the Town Meeting in May but there is no guarantee, and it would still not take care of the problem of the overhangs so this is the way to make it completely clean.

Robert Cignetti said how much are you taking? Mr. Colantoni said it varies because the boundary line is at a slant and when we move this wall back we need to keep it parallel to the angle that it was so that's what is being done. On one end where it is mostly on town property we are creating a twelve inch buffer and on the other end where it is not on town property it is creating over a two foot buffer. Mr. Cignetti said and that will cover the eaves too? Mr. Colantoni said yes.

John Boughner said are the eaves 12 inches? Mr. Colantoni said they wouldn't go over 12 inches. Mr. Boughner asked if the building were empty right now. Mr. Colantoni said I am checking it every other day and they have been there shoveling and we are cleaning it out a little at a time. Mr. Boughner said so basically you are tearing down this wall, building a new wall back off of town property, re-submitting this new plan to us,

and you would like the condition taken away that says this land issue must be resolved, and this is still going before site review. Mr. Colantoni said yes and we are scheduled to go before planning board on January 23, 2018.

#### AUDIENCE COMMENTS

Matt Duggin said at the prior meeting I voiced some concerns with the right of way and the corridor that is being discussed here, even though the building itself is being moved back from the right of way there is still a concern of the impact that this project will have on the corridor. This is the next phase of the Rail Trail coming up from Hobart Street and we have had issues in the past where people move into these developments and are surprised to learn that theres a trail proposed. He discussed building fences and asked if one is planned. Mr. Colantoni said this is town property so we are not going to do anything with it we would like to leave it open because of the Rail Trail, the fence situation these will be owner occupied and if the condo association chooses to do a fence.

Anthony Podesta said I am okay with this.

Kenneth Jarvinen said I am too.

Jeffrey Sauer said I think it is a good idea to clean up the legal problems before moving forward.

Kenneth Scholes said I am good with the new plans I like them.

Rebecca Kilborn said I am in favor with this so now you can move forward.

Robert Cignetti said I will vote for this.

John Boughner said I too will vote for this I think it is a minimal change.

Robert Cignetti moved the board to grant the finding for the proposed renovation as shown on the plans submitted as it will not be substantially more detrimental than what presently exists, I also move that we vacate the third condition that the applicant settle the land dispute with the town since there is no longer a land dispute. Rebecca Kilborn seconded. All in favor.

**MINUTES**  
**Danvers Board of Appeals**

**#18-4744**  
**January 8, 2018**

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

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**TAMMY AND TODD RYAN (#18-4744)** Requesting a variance and a finding to tear down and re-build a nonconforming structure as to front and right side setbacks and increase height in accordance with Section 3.17 and 3.17.3 of the Danvers Zoning Bylaws at **7 FRANKLIN STREET**

Todd Ryan said after I had gotten the approval through this board for the renovations I went to the Preservation Committee and they gave me permission to tear the house down. I had gotten all the building permits and started to remodel the building and I found out that the main structural parts of the building were built on dirt, and the more I took it apart I had basically taken the building down. Mr. Maloney said he called me and was picking my brain about moving the foundation and I said what are you talking about you are just adding a second floor. So we talked about it and I said you are going to have to seek a different relief to tear the building down. John Boughner said so the bottom line is that you started to renovate this property, you demoed a portion of it and discovered it wasn't built correctly and now you are here for something a little different than what you initially asked for. Mr. Ryan said correct. Would I have to re-submit another plan if I cannot move the building over because I may not be able to afford to do that as I had planned. Mr. Maloney said the original plot plan is here and you could vote on that. Mr. Ryan said the problem that I am running into is that the house is from the 1850's and it has significant structural damage the more I took it apart so with that said I have been trying financially to re-build this property so it doesn't burden my family, it has become such a money pit there have been a lot of issues. Mr. Boughner said you are asking for a variance and a finding, if you are going to make changes to what you are

submitting tonight speak to the building inspector. Mr. Ryan said the footprint will stay the same the foundation is still there I just want to put it back the way it was. Mr. Maloney said you approved him using the same footprint he was going to renovate the second floor and put a garage on the left hand side. They got into a mess and Preservation approved the demo of the house and he got confused, but that is not what he asked this board. I told him that he did not ask for that relief so I told him he needs approval to tear down and rebuild a nonconforming building, he asked to enlarge a nonconforming building. He essentially he wants to do what you approved in June 2017 but it is a different section of the bylaw, we want to make sure he gets the right relief.

Robert Cignetti said what you want to do is re-build the building on the same footprint that is there. Mr. Ryan said correct. Mr. Cignetti said so when you rebuild you are going to square off some of the gables? Mr. Ryan said so it will still have the a-frame second story. Mr. Cignetti said you want to re-build on the same footprint and you want to knock it down which you already have.

Rebecca Kilborn said so you are going to build the building that we approved in June 2017. Mr. Ryan said absolutely.

Kenneth Scholes said so you are okay using the existing plan and not the proposed plan. The variance was to create a second floor and now he is going from ground zero. Mr. Maloney said under the provisions to tear down and re-build we have 5 caveats to meet and if he can't meet them, he is increasing the nonconformity so that is a variance from that particular provision in 3.17.

John Boughner said I think I understand what you are doing, you are not going to move the building to what presently exists.

#### AUDIENCE COMMENTS

Matt Duggin said we all hear financial hardships but this sounds like a true financial hardship where you discovered things that were unanticipated.

John Toomey, 9 Franklin Street said I am confused you are going to use the original foundation but you are asking to increase

the right side setbacks. Mr. Ryan said the footprint of the foundation will not move at all. Mr. Toomey said what about the height. Mr. Ryan said it will be the same height.

Robert Cignetti said I will vote for this.

Rebecca Kilborn said I will vote for it.

Kenneth Scholes said yes I will vote for this as long as we use this existing plan.

Jeffrey Sauer said I will vote for this.

Kenneth Jarvinen said I will vote for this.

Anthony Podesta said I will vote for this.

John Boughner said it sounds like you are trying to improve this site and not changing the existing footprint.

Robert Cignetti motioned to grant the finding for the tear down and re-build of the building as shown on the plans as it will not be substantially more detrimental than what presently exists. Rebecca Kilborn seconded. All in favor.

Robert Cignetti moved to grant the variance to increase the height on a nonconforming structure which will stay in the same footprint that exists, the hardship is the placement of the house on the land; 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. Rebecca Kilborn seconded. All in favor.

**MINUTES**  
**Danvers Board of Appeals**

**#18-4745**  
**January 8, 2018**

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

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**WILLIAM DRUMM (#18-4745)** Requesting a variance from use and setbacks to install a residential storage shed in the commercial zone in accordance with Table 2 and Table 3 of the Danvers Zoning Bylaws at **132 SYLVAN STREET**

Bill Drumm said I have lived here for six years and this summer I applied for a permit and through the process we discovered that part of my property is in the commercial zone. So basically from Sylvan Street to about 150 feet less 25 feet is commercial zone and that is where I would like to put the shed. I hired a surveyor and I am submitting a plot plan and I plan on putting the shed 8 feet from the property line.

John Boughner said so you just want to install a shed but you found that a portion of the property is in a commercial zone. So if this did not have a commercial piece to it he would not be here and he could put up the shed by right. Mr. Maloney said right. The zone line is parallel to Sylvan Street all the way down to Danvers Ford I think that it is 100-125 feet back from Sylvan Street, it used to be I-1 and converted to C-3 in 1999. Mr. Sauer said and if that shed were 20 feet closer to his house it would be on residential and he wouldn't be here.

Jeffrey Sauer said it says 12 X 18 is that bigger than a normal shed? Mr. Maloney said yes but if we treat it as Residential 1 the setbacks would only be 8 feet.

Kenneth Scholes said the other little shed is that staying and is it 5 feet off of the lot line? Mr. Drumm said no when I bought the property six years ago it was already there. Mr. Maloney said it is grandfathered a previous owner put that in.

Robert Cignetti said what is prop deck? Mr. Drumm said there will be a little porch on the shed with a barn door and a ramp.

#### AUDIENCE COMMENTS

Judy Leedham, 134 Sylvan Street said I live next door to him and does that mean that my property is also partially commercial?

Anthony Podesta said I am in favor of this it seems like if not for the zoning issue he wouldn't have to be here.

Kenneth Jarvinen said I am in favor of this. Why are you facing the shed to the back of the property and not the house?

Jeffrey Sauer said I would be in favor.

Kenneth Scholes said I have no problem with this.

Rebecca Kilborn said I am in favor of this.

Robert Cignetti said I don't have a problem with this.

John Boughner said I am in favor of this.

Robert Cignetti moved the board to grant the variance to install a shed, the hardship is that the lot is in a split zone and is odd shaped; 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.

**MINUTES**  
**Danvers Board of Appeals**

**#18-4746**  
**January 8, 2018**

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

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**GEORGE AND COLLEEN THAYER (#18-4746)** Requesting a variance from dimensional requirements to transfer a parcel of land from 26 Burley Ave to 22 Burley Ave in accordance with Section 7, Table 2 of the Danvers Zoning Bylaws at **26 BURLEY AVENUE**

Liz Faria, 22 Burley Avenue said we are looking to move the property line over 18 feet, the neighbor's yard slopes down toward our yard to our driveway, we do not meet the setbacks at all on the side our driveway it is less than 7 feet in some areas, so we would like to move the line over. Our lot would become more conforming and if we had a working driveway we could remove the garage which is also nonconforming.

John Boughner said I read in the narrative that the pool would be filled in. Ms. Faria said they would fill in their pool and we would level off the land that is not useable to them and we would make a driveway. Mr. Boughner said and the fence will come down. Ms. Faria said yes. Mr. Boughner said and the idea is the new section of land becomes the driveway? Ms. Faria said yes the driveway would be just a standard size we would be widening it.

Robert Cignetti said what happened to #24? Ms. Faria said they have a double lot. Mr. Cignetti said are you going to replace the garage? Ms. Faria said no we are going to put a shed on the property.

John Boughner said okay you are going to remove the garage and buy the property called Lot B you are still going to be nonconforming but will be in better shape, the pool goes away on Lot A and the fence comes down and a new one will replace it on the new lot line. Ms. Faria said yes.

George Thayer, 26 Burley Ave. said I am in favor of all of this it helps us out and it helps them out, every lot up there is noncompliant.

Robert Cignetti said normally I would not like to see a conforming lot become nonconforming but since both lots are nonconforming anyway I don't have a problem with this.

Rebecca Kilborn said I will vote for this.

Kenneth Scholes said I will vote for this.

Jeffrey Sauer said I will vote for this.

Kenneth Jarvinen said I will vote for this.

John Boughner said I don't see an issue with this it is a great neighborhood up there.

Robert Cignetti moved the board to grant the variance to transfer a parcel of land from 26 Burley Ave to 22 Burley Ave, both lots are nonconforming in area, the hardship is the shape of both lots; 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.

\*Rebecca Kilborn motioned to adjourn. Kenneth Scholes seconded. All in favor.