

MINUTES
Danvers Board of Appeals

#17-4692 - 6 Mos. Ext.
April 23, 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

THOMAS CARNEVALE, TRUSTEE (#17-4692) Requesting a six (6) month extension to exercise variance granted on 3/27/17 at **11 & 20 LOCUST STREET**

Attorney Nancy McCann said we are requesting a six month extension the owner is extremely close to getting the demolition permit, all of the tenants are out, the building is vacant, and he has started to remove things from the building. He has been working with Captain Brooks from the Fire Department and the construction drawings themselves are in process and should be going to the building department soon. We have been working together with this board and the planning board for site plan approval and our begin date of construction is in the middle of summer around July and we anticipate that we will make that. So under the statute we request a six month extension on the variance to cover ourselves until we get the building permit in hand.

Anthony Podesta said are they tearing the entire building down? Attorney McCann said only a portion of it, mostly interior demo. Mr. Podesta said is there going to be any interruptions on the street while construction is going on? Attorney McCann said I suspect there are significant improvements and a creation of a sidewalk with a little sitting area going in there and some parking along the street, so there will be some work.

Kenneth Jarvinen said I see that this has been continued a few times, but I don't see any reason not to continue it again it takes a long time.

Rebecca Kilborn said I am just wondering what the plan is because I know that this property has been on the market through

this entire process, and I know that it is now off the market so did it sell or is the owner doing this? Attorney McCann said the owner is proceeding forward. Ms. Kilborn said and he is attempting to do the work himself? Attorney McCann said he is. Rebecca Kilborn asked the building inspector for an update on the property. Richard Maloney said they are working very closely with the Fire Department before they can get the demo permit and they want to make sure that everything is out of the building before they shut the sprinkler system off to do the demo. I know that it is all fenced off and the tenants are gone and the fire department has kept me up to date on what is going on. We are very close I have talked to the owner, architect and contractor.

Kenneth Scholes said can we make a stipulation that this be the last extension. Attorney McCann said we can only have one.

John Boughner said how long has the financing been in place. Attorney McCann said it is relatively recently, probably a couple of months. Mr. Boughner said so this six months takes it out to where? Attorney McCann said October 6, 2018. Mr. Maloney said just getting the permit if they don't work it expires, they have to actually do something.

There were no questions or comments from the audience.

Anthony Podesta said I would vote for this.

Kenneth Jarvinen said I too would vote for this.

Jeffrey Sauer said I will vote for this.

Rebecca Kilborn said I will vote for this I want to get it done.

Kenneth Scholes said I will vote for it.

John Boughner said I too will vote for this.

Robert Cignetti said I also will vote for this.

Kenneth Scholes motioned to extend the variance for a six month time period to October 6, 2018 at 11 & 20 Locust Street. Jeffrey Sauer seconded. All in favor.

MINUTES
Danvers Board of Appeals

#18-4748
April 23, 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

LEIGH STACK-CARDELLA (#18-4748) Requesting a special permit to allow garage space for more than three vehicles in accordance with Table 1 of the Danvers Zoning Bylaws at **21 BRIDLE SPUR ROAD**

John Morin, Morin Cameron Group said we are here requesting a special permit for a four stall garage. Bridle Spur Road Extension subdivision was approved by the Planning Board in the mid 2000's and there are only a couple lots left in the subdivision Lot 8 being one of them. The last time we were here about a month ago there was a question about the access to the lot, we actually showed the access coming across Lot 7 since that is how it was designed in the original subdivision plan, there were concerns from the Building Inspector that it was not allowed under zoning. The plans were revised and now the access is from the legal frontage of Lot 8 which is a 3½ acre lot. All of the setbacks are met with regard to the requirements of the special permit. Mr. Morin discussed the elevation drawings and renditions of the garage in further detail, and went over the criteria for a special permit.

Robert Cignetti asked why the applicant needs four bays. Mr. Morin said the applicant has a truck and two cars and he may want to get an antique car in the future.

John Boughner said so what you did to alleviate the driveway issue was basically change where it enters from the cul-de-sac. Mr. Morin said the issue was when the subdivision was built the way they engineered it was to build a retaining wall and in order to build the driveway with access we will have to remove the retaining wall. Mr. Boughner said this lot is 3½ acres but how much of it is buildable because you have a reservoir buffer. Mr. Morin said you can build in that 400 foot zone so

technically you can build within 50 feet of the reservoir if the engineering department allows it.

Kenneth Scholes said I thought the original issue was that the driveway was going over the lot line, but by removing that wall it takes care of that. Mr. Morin said yes, we will have to relocate that wall.

Rebecca Kilborn said this is more like an eight car garage with the depth, looking at your original plan is this not more? Mr. Morin said you are looking at 22 feet from the doors to the back where you've got storage and other utilities, a standard garage is usually 24. Ms. Kilborn said what does the dotted line represent? Mr. Morin said these are roughly 12 feet in.

Robert Cignetti said you have just told me that the man has three vehicles and you want a four car garage, someday he may get another car? Mr. Morin said he is building his forever home and he wants to be able to expand in the future. Mr. Cignetti said so he doesn't have a need for a four car garage right now. We have had this in the past before where the applicant was willing to take a deeper garage with fewer doors but you could still get four cars in, is that something that has been considered? Mr. Morin said based on the size of the floor plan and the house we would have to eat into the floor plan for the house which he doesn't want to do, he has put a lot of planning into this. Mr. Cignetti said I am not a great fan of four garage doors, I don't have a problem with tandem kind of parking.

John Boughner said so if I am looking at your drawing I see the depth at almost 27 feet to the storage is that correct. Mr. Morin said you go 6 foot 8 inches and then another 16'6" that gets you to the storage area. Mr. Boughner said then there is another couple of feet though. Mr. Morin said that's going to get you 24, it's not deep enough to put two cars back to back.

Ms. Kilborn discussed the dimensions of the garage with Mr. Morin in further detail.

John Boughner said it is a beautiful neighborhood that is being put in up there I guess I am just not sold on why four car garage, it looks like the other homes in the neighborhood have three car garages, it doesn't seem like it fits.

Kenneth Scholes said I am not thrilled about the four car garage.

Rebecca Kilborn said if you look at the plans it looks like the garage is as big as the house but if you go up there they don't really face into anybody or anything, I would vote for it.

Jeffrey Sauer said I don't like the four doors and if it were facing the street I would not vote for it, if it's facing away I would vote for it.

Kenneth Jarvinen said I would vote for it because of where it is, it is not like someone is behind you, I would vote for it.

Anthoney Podesta said I would vote for it.

Robert Cignetti said I won't vote for it, the owner just wants what he wants, doesn't want to compromise doesn't want to change plans he doesn't even have any use for the fourth garage right now. I am willing to go a deep tandem garage with three bays but I won't vote for four bays.

John Boughner said I think that Jeff makes a good point it is not facing the street, but the garage is as big as the house, but it also looks like the houses up there are tight. I won't vote for this, I would take some kind of change.

John Boughner motioned to allow the applicant to continue to May 7, 2018. Kenneth Scholes seconded. All in favor.

MINUTES
Danvers Board of Appeals

#18-4751
April 23, 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

SCOTT AND JENNIFER WEBSTER (#18-4751) Requesting a variance and a special permit to remove freestanding garage and two season room to construct an addition for an Extended Family Living Area (EFLA) in accordance with Table 2 and Section 9.3 of the Danvers Zoning Bylaws at **31 LAFAYETTE AVENUE**

Jennifer Webster said we have owned a home here for 17 years, we are active members of the community, my dad passed away a few years ago and we would like to build an addition to accommodate an EFLA for my mother.

Rebecca Kilborn read a memo from Richard Maloney stating the form of relief will be a Finding, also the applicant is seeking to take their fee interest in the paper street in the rear of the property.

Richard Maloney said behind their property is a paper street so when the subdivision was laid out originally it showed the street hooking around their property. It was never developed and never will be, Danvers has quite a few paper streets. What the abutters do is take their fee interest you could take half of that way, if the Town has no interest in it and where there are no easements or no water easements. They would go to the Town first and make sure that they do not have any interest in it then go to the Planning Board and do an ANR and take their fee interest and claim the street. Right now it's a no man's land no one owns it they have rights to the half way interest. Mr. Cignetti said so the setback no longer applies because it is no longer a street? Mr. Maloney said as far as we are concerned we have a legal opinion that a paper street is considered a side setback. Right now you are looking at the case before you so they are tearing down a structure that does not meet the setback

and re-building what they are proposing, if and when they take the fee interest that variance will become moot. They have the surveying company working on that now. Mr. Cignetti said so you may or may not get the paper street. Mr. Maloney said we have opinion from town council that to the edge of the way it is a side setback, so you are dealing with an eight foot setback right now.

Ms. Webster said we would basically like to fill in the space between the house and the garage, so it is not going to go any farther than it is now. We would like a front door for my mom, she is 84 and we really need a paved space for her to walk in and out of. The last thing is that it is 882 square feet on the EFLA.

John Boughner said the current setback is 1.7' of your existing garage and the proposed new building would be the same? Ms. Webster said yes. Mr. Maloney said it is a conforming lot, the single family dwelling is nonconforming and the existing free standing garage is nonconforming as far as setbacks are concerned. Nonconforming structures can be added onto if you are not more than your 50% of your required setback it is a finding, so it's a variance in the back and a finding in the front.

Kenneth Scholes asked about the special permit. Mr. Maloney said it is a special permit for the EFLA and the front door.

Rebecca Kilborn said the floor plans for the EFLA typically we like only one front door. Mr. Webster said we didn't think of that because there is one that was just built on Beaver Park that has two front doors.

Jeffrey Sauer said so our rational with the EFLA and the preference for the front doors is that we have had a lot of illegal apartments in Danvers and the point of an EFLA is to have shared spaces, shared utilities and we are trying to make it impossible for an apartment. I believe the property on Beaver Park had a large shared area.

Richard Maloney said Beaver Park was on a corner lot so it was impossible, they got the special permit but they had a retaining wall on one side. Ms. Webster said she would have to come in the front door and go through the living room to get to her area.

Kenneth Jarvinen asked about the paper street and the retaining wall.

Robert Cignetti said when I first looked at that I had a couple of reservations one of course was the setback, this is a big EFLA why does one person need this much space. Ms. Webster said is 132 square feet a lot more to ask for, I was under the impression that the one on Beaver Park was a lot larger. Mr. Cignetti discussed the shared space with the applicants. Ms. Webster said we will be sharing the laundry area and the mudroom. Coming from a beautiful home very large extended cape, she wants to be able to feel that she is living in a large space. Mr. Cignetti said we all want what we want but sometimes we can't get what we want.

John Boughner said you pointed out the front door that you wanted your mother to enter and you are planning on having her climb the stairs, to me it looks like you have three front doors. I would think that your mother would not like the elevation. How big is the garage?

Kenneth Scholes said there will not be an address change? Ms. Webster said no. Mr. Cignetti said one set of utilities. Ms. Webster said yes.

Jeffrey Sauer said if the applicant were successful in capturing half of the street does that mean that the setback would be calculated to the middle of the street, do we know how much that would be? Mr. Maloney said they only need 5 or 6 something feet.

AUDIENCE COMMENTS

The builder said a big part of the process of honing the design is that they hired a good engineering firm, there is an expensive study of the lot lines because they were having a hard time defining the lot itself. There was a seven foot discrepancy of where their lot really was.

John Boughner said they are asking for a lot here, larger than allowed square footage, front doors, setbacks I do not have a problem with, I don't really see a well-defined common area. It seems like if they downsized the garage a little it would meet the 750, I guess I would vote for it but I really question the front door I don't see the need for it.

Kenneth Scholes said I do have an issue with the square footage of the EFLA, I would vote for it I guess.

Rebecca Kilborn said I just wondered why you wouldn't put the garage on the left side of the house. Ms. Webster said we were losing access to the garage so we wanted to both have access to it. Ms. Kilborn said I am not concerned about the size of the EFLA but I am worried about moving forward with that separate entrance, if we approve it for you then the next person and it's not in our normal process, I would vote for it but I am uncomfortable with a separate entrance.

Jeffrey Sauer said I am uncomfortable with two aspects of it, we usually grant relief from the setback when the setback is half of what is required, I would like to believe that you are going to get that half of the road but right now we are dealing with 1.7 feet, and if that were four feet you would not need a variance. I think that if you just move that side edge of the building a little bit you would get your four feet and you could get the square footage down a little bit. I also don't like the front door and the area and it looks too much like an apartment to me.

Kenneth Jarvinen said there was an existing issue there and I don't think that it's going to be any worse than it was, I would vote for it.

Anthony Podesta said I don't have a problem with it, it's not like you are 1.7 feet from your neighbors it is a paper street, and I am okay with that. As the other members have mentioned I am concerned with the front door it makes it look more of an apartment, I could go for it if the door was gone.

Robert Cignetti said I tend to agree with Jeff and Anthony, you live there and you are going to have an EFLA with your mom, that house is going to outlive all of us, and the next owners and the owners after that. By the way I can live with the setbacks and I can even go with the enlarged EFLA but I do have a problem with the front door.

John Boughner said just to clarify I will not vote for that third front door, I will however vote for it if the third front door is gone.

The applicant and the architect took a break in the hallway to discuss their options.

Mr. Webster said if we put the door on the side of the house would that be a problem. Richard Maloney said all of the new entry doors on the EFLA's are not supposed to face the street that is how the bylaw is written. Robert Cignetti said if it is an issue then you may want to look at the layout. Jeffrey Sauer said that is the issues we have with EFLA's we try to make them look not like an apartment that is why we share utilities and have common space and eliminate doors between the two units and that is why we have try to avoid having two separate entrances.

They discussed the EFLA bylaws in further detail. After brief deliberation the applicants requested to continue to May 7, 2018.

John Boughner motioned to allow the applicant to continue to May 7, 2018. Kenneth Scholes seconded. All in favor.

MINUTES
Danvers Board of Appeals

#18-4752
April 23, 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

MICHAEL MARKOS AND NICK MARKOS, TRUSTEES OF 13 PUTNAM REALTY TRUST (#18-4752) Requesting a variance to allow a second dwelling structure on a lot, and to the extent necessary a finding to convert existing nonconforming barn into a single family dwelling in accordance with Section 1.2.2, Section 3, and table 2 of the Danvers Zoning Bylaws at **13 PUTNAM STREET**

Attorney Nancy McCann said the property is located in the R1 Zoning district, the applicants purchased this property in January of this year and are proceeding forward with some needed renovations. There is currently in the front building a one bedroom unit and a two bedroom unit, the property contains 17,310 square feet, it was built in about 1865. The existing barn that we are talking about tonight is located in the back it is a two story barn structure it has a door that is used for bringing in materials for storage, it's got a shed not wide enough for a vehicle located on the left hand side and then a carport located on the right hand side. The applicant would like to utilize the structure, they would like to rehab the interior to utilize this for a one dwelling unit. There would be no increase to the footprint of the building it would be rehabbed and maintained. As you can see from the photograph the asphalt goes right up to the foundation of the building. They are proposing to put a fully conforming farmer's porch on the front and to pull the asphalt back and install grass. They discussed the renditions of the proposed renovations and parking. Attorney McCann read a letter from Richard Trask stating the history of the barn on property. We are seeking to keep the structure, the applicants would like to renovate it so that it could be used for something as opposed to tearing it down.

Robert Cignetti said will these be rentals or condos? The owners stated they really don't know yet, just rentals for now.

Anthony Podesta said what is it currently being used for? Attorney McCann said it is vacant, I checked the residential books and could not find anything. Mr. Podesta asked about the hardship. Attorney McCann said we had an existing structure on the lot it is nonconforming as to the setback and we would like to make some reasonable use out of it.

Kenneth Jarvinen said what concerns me is the neighbor in the back, how far back is the neighbor. Attorney McCann discussed the abutter. Mr. Jarvinen said I was wondering if it was too close to the neighbors once there are windows in the back.

John Boughner asked will this go to site review. Attorney McCann said I don't believe so.

Robert Cignetti said the property has been kept up, is it just used for storage? Attorney McCann said it seems to be as far as we know.

John Kelliher, 14 Putnam Street said it has been used for storage, I moved in a year ago.

Richard Maloney said I think it does have to go to site plan because one and two families are exempt but if the board chooses and adds one more family on the property, now it becomes a multi-family property. Attorney McCann said if we have to go through site plan then we will.

AUDIENCE COMMENTS

Mr. Kelliher, 14 Putnam said most of my questions are about the parking and I am unclear about bedrooms and how many people will be renting on this property. Attorney McCann said there is an existing one bedroom in the front building, an existing two bedroom in the front building and a three bedroom unit is proposed for the back unit and we are proposing seven parking spaces. They discussed the location of the parking on the lot. Mr. Kelliher said I am all for making the property look better but I am concerned with the parking and it is a tight area to park cars. Attorney McCann said we will be going to the Planning Board for site plan approval and we will discuss parking and landscaping.

Cheryl Colby, 12 Cherry St. said I am the neighbor behind the barn, there are only 2 windows in the back will that remain the same? The applicants said there will be 2 windows, one for each bedroom. Ms. Colby asked about the fencing and if there will be a patio. Attorney McCann said no patio.

Nancy Tsoutsouris, 12 Putnam St. said it looks good how will it look with all the cars on the lot? Attorney McCann said we will be going to site plan review through the Planning Board and we can discuss adding trees or shrubs.

Matt Duggin asked if there was a full basement, if the height will remain the same, will the front façade remain as is and how far does the roof come out from the farmer's porch. Attorney McCann discussed the proposed plans in further detail.

An abutter stated his concerns with having to demo more than just the inside once the walls are exposed. The property owner stated they had a contractor inspect it and said it was very well kept and it is a sound building.

Anthony Podesta said I am torn I am not sure that we have the criteria for granting a variance.

Kenneth Jarvinen said my main concern was the outside changes, but was glad to hear that the windows were staying the same and that the neighbors are okay with it.

Jeffrey Sauer said I will not vote for this I don't think that it meets the bar for a variance and we do not allow two residential structures on a lot.

Rebecca Kilborn said I like the fact that the property is being used as it is and when you go out there it looks like there is quite a bit of land area. I think that we are not adding onto the structure and they will just be renovating and it will be an improvement so I will vote for this.

Kenneth Scholes said I like it I think that it looks great, I think that the parking spaces how you have them going up the lot is a lesser impact than cars staggering in that big long driveway, I would vote for it.

John Boughner said I look at this project and these two structures and I know that we are calling it a barn but it looks

like a second structure and it looks like a garage. I don't see a hardship and I agree with Jeff and this is two separate residences on one lot therefore I would not vote for this.

Robert Cignetti said if you were going to build this second building I would be against it the building is already there so you have to do something with it, so I would vote for this.

Attorney McCann said the hardship involves something unique to the property related to soil condition shape or topography of the lot or the buildings thereon. You've got this building that has been there since the 1900's or before that, what else are we going to do with it and it fits in the neighborhood.

Rebecca Kilborn said I think it is definitely an improvement.

Robert Cignetti said has anyone changed their mind?

John Boughner said I am just stuck on the two separate structures why would we allow that, it is a vacant building. I suppose I could go along with it, I am just torn, this area is jam packed. I will vote for this.

Jeffrey Sauer said the applicant could connect these two buildings and put in two more units, they have the land, if we reject this proposal.

Kenneth Scholes motioned to grant the variance allowing a three bedroom unit in the back which is an existing barn, to allow a second dwelling structure on a lot, to permit the conversion of an existing detached barn into one dwelling unit on a lot with 17,310 s.f., the existing barn is setback 1.5' from the lot line, the hardship is the existing building 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. Rebecca Kilborn seconded. Jeffrey Sauer opposed.
Vote: 4-1.

John Boughner motioned to adjourn. Kenneth Scholes seconded. All in favor.