

MINUTES
Danvers Board of Appeals

#20-4868
August 17, 2020

Present: John Boughner, Kenneth Scholes, Robert Cignetti,
Rebecca Kilborn, Jeffrey Sauer, Kenneth Jarvinen,
Corinne Doherty.

Also Present: Building Inspector, Richard Maloney
Secretary, Kathleen Archambault

ROBERT DUNCAN (20-4868) Requesting a Special Permit to erect a non-attached garage in accordance with Section 6, Table 1 uses and 30.4 of the Danvers Zoning Bylaws at **190 CENTRE STREET, R-III**

Kenneth Scholes read the case mentioned above.

Robert Duncan property owner addressed the board. He explained that he would like to erect a garage to store some classic cars that he collects.

John Boughner asked if the garage will meet all the setbacks.

Mr. Duncan replied yes.

Robert Cignetti asked if there would be three bays and how large is the lot.

Mr. Duncan said that the garage is 30' x 40'. There will be one garage door that will be 12' x 12' and a 10' attached carport. The lot is 2.4 acres.

Mr. Cignetti asked how many vehicles will be stored in the garage and what will the carport be used for.

Mr. Duncan said 2 classic cars, a motorcycle, ATVs and a golf cart. The carport will be for the storage of the trailer.

Rebecca Kilborn said that the plans looked like there were four garage doors.

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Richard Maloney, Building Inspector, interjected that those are support columns.

Ms. Kilborn acknowledged. She then asked what the height of the garage was compared to the house.

Mr. Machado, the property owner's general contractor answered. He said that the garage is 21' to the peak. The house is approximately 21' to 26' in height.

Kenneth Scholes wanted to confirm there are two classic cars, 3 vehicles, a motorcycle, ATVs a golf cart and the trailer will be under the carport.

Mr. Duncan said yes.

Jeffrey Sauer had no questions.
Kenneth Jarvinen had no questions.
Corinne Doherty had no questions.

John Boughner asked if there would be any plumbing in the garage and if it was going to be on a slab or foundation. Also, he wanted to confirm the one garage door will be 12' x 12'.

Mr. Duncan said there will be no plumbing only electric. The garage will be built on a slab and the garage door will be 12' x 12'.

Mr. Cignetti then asked if there will be anything above, like a loft and if so, will there be windows.

Mr. Duncan said yes, there will be a storage area above and there will be no windows. There will be stairs to access the storage area.

Mr. Boughner then turned questions and comments over to the audience. There were no questions or comments. Back to the board for deliberation.

Robert Cignetti said he would vote yes for this.
Rebecca Kilborn said she would vote yes for this.
Kenneth Scholes said he would vote yes for this.

Jeffrey Sauer said he would vote yes for this.
Kenneth Jarvinen said he would vote yes for this.
Corinne Doherty said she would vote yes for this.
John Boughner said he would vote yes for this.

Robert Cignetti motioned the board to grant the Special Permit in accordance with Section 6, Table 1 of the Danvers Zoning Bylaw for a detached garage per the plans submitted.

1. The municipal water and sewer shall not be overloaded by the garage.
2. The public streets shall not become overloaded by the garage.
3. The value of other buildings and properties shall not be depreciated by the garage.
4. The specific site is an appropriate location for the garage.
5. The garage will not adversely affect the neighborhood.
6. There will not be undue nuisance to vehicles or pedestrians and adequate and proper facilities will be provided to ensure the proper operation of the proposed garage.
7. The proposed garage will be in harmony with the general purpose of the bylaw.

Rebecca Kilborn seconded.

All in favor.

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Danvers Board of Appeals

#20-4869
August 17, 2020

Present: John Boughner, Kenneth Scholes, Robert Cignetti,
Rebecca Kilborn, Jeffrey Sauer, Kenneth Jarvinen,
Corinne Doherty.

Also Present: Building Inspector, Richard Maloney
Secretary, Kathleen Archambault

WILLIAM LEE TRUST (20-4869) Requesting a Dimensional Variance to construct a two-family on 15,111 square feet. 11,319 square feet is located in R-I District and 3,792 square feet is located in C-III District in accordance with Section 7, Table 2 of the Danvers Zoning Bylaws at **150 SYLVAN STREET, R-I**

Kenneth Scholes read the case mentioned above.

Michael Panzero of MJP Properties addressed the board. He stated that his business partner Zachary Fellows was also present. He continued that they are looking to do another conversion in town. They have already been before the Planning Board regarding the registered land and once combined will be 15,111 square feet. The existing property is falling apart in the interior, it was built 1817. They will be putting on a new roof, new siding and new windows. They are going to maintain the existing look of the building.

John Boughner wanted to clarify, they are before the Board for a Variance for a two-family in R-I and a piece of the property is located in C-III.

Mr. Panzero stated that is correct.

Richard Maloney, Building Inspector, stated that they need 15,000 square feet in R-I to do a two-family by right, they need the Variance for the necessary 3,792 square feet from the Commercial side.

Corinne Doherty comment that the deed submitted lists William Lee Trust as the owner. Is that correct.

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Mr. Panzero explained that is correct. They will be purchasing the property if this Variance is granted allowing them to move forward with the project.

Ms. Doherty then asked if this property would be rental or eventually two condos.

Mr. Panzero stated they will eventually be condos.

Kenneth Jarvinen said you are keeping the outside of the structure the same except updated, just connecting them.

Mr. Panzero said yes, they have to be connected.

Jeffrey Sauer had a question for Richard Maloney, Building Inspector. If the small portion that is needed from C-III was located in R-I, would they be before the board.

Mr. Maloney replied no, they would not.

Kenneth Scholes had no questions.

Rebecca Kilborn asked said that the plan showed the driveway comes up on the right side of 150 Sylvan, where the storage breezeway will be located, So, how will you enter the property and where will the parking be?

Zachary Fellows answered that the driveway hangs tight to the right and will swale toward the front of the house, about 20' off the front of the house. The people on the right, would park in the garage and will have enough room to turn around and drive out. The house on the left you will be able to pull in to an approximately 15' area in the front of the house to pull in and park there.

Ms. Kilborn stated so the parking will be in the front of the house?

Mr. Fellows replied yes.

Ms. Kilborn stated that she always wants a parking plan.

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Ms. Kilborn noted that there is only 20' before the sidewalk, an average parking space is 9' x 18'. That is only leaving two feet before you get to the sidewalk.

Mr. Fellows replied yes. It is 20'.

Ms. Kilborn questions why they didn't just move the house back, why the new house is so close to the street.

Robert Cignetti said you are keeping the old house. You are creating a two-family instead of two houses that is why it has to be attached and you are here due to the fact you do not have enough land in R-I, correct?

Mr. Panzero said that is correct.

Robert Cignetti asked if the property was Historical.

Mr. Panzero stated yes, it was built in 1817. They did not have to go before the Preservation Commission because they are not changing the exterior, they are repairing it.

John Boughner asked if they will have to go before the Planning Board.

Richard Maloney, Building Inspector, explained that they do not have to go before the Planning Board because it is a two-family.

Mr. Boughner then stated that he agrees with Ms. Kilborn regarding parking. He doesn't understand the bump out and that entering and exiting onto Sylvan Street is going to be a problem.

Rebecca Kilborn said that she wanted some clarification on the two houses being attached. How does it have to be attached, by common space, like a hallway.

Mr. Maloney explained that two families have to be substantially connected. Meaning with a roof, a garage, a basement access for example. Something substantial.

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John Boughner asked if the connected structure has access for both units. He also asked what the square footage of the storage area is.

Mr. Fellows replied that it is a storage space for the new property only. The storage area is 9' x 12'.

Corinne Doherty had a question regarding the parking situation. She sees the garage, is it a one car garage or two. She only sees the one door.

Mr. Fellows said that it is a two-car garage with one garage door that is 16' wide.

Ms. Doherty asked if each unit has a space inside the garage. Also, where is the parking for the existing house. Is there sparking and room for a turn-around so no one is backing out onto Sylvan Street.

Mr. Fellows said that the garage is for the house on the right, new building only. The parking for the left side house will be in the front of the property. All parking will have a turn-around area.

Robert Cignetti than asked for confirmation. The new Building gets a two-car garage and the existing building has parking in front of the shed. He also asked how many bedrooms would be in each unit.

Mr. Fellows said yes that the parking is correct. He also stated that each unit will have four bedrooms.

Mr. Cignetti said if that is the case, more parking is needed. Eight bedrooms should have 8 parking spaces.

John Boughner asked if the explored moving the new unit back.

Mr. Fellows said that they could do that. Push it back and create more parking.

Mr. Boughner then turned questions and comments over to the audience.

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Mr. Matthew Duggan, TMM, P-I, He asked if there are only four parking spots, what are the plans for snow storage?

Michael Panzero said they that had no plan for snow storage.

There were no more questions or comments. Back to the Board.

Corinne Doherty said she would vote no. Parking needs to be addressed.

Kenneth Jarvinen said he would vote no. Agrees parking needs to be addressed.

Jeffrey Sauer said he would vote no. Has no problem with the two-family, but parking needs to be addressed.

Kenneth Scholes said he would vote no. Parking needs to be addressed.

Rebecca Kilborn said she would vote no. Parking needs to be addresses as well as snow storage.

Robert Cignetti said he would vote no. Eight bedrooms, four parking spaces, push the addition back.

John Boughner said he would vote no. He likes the project however; the parking and snow storage do need to be addressed.

Rebecca Kilborn also added that she doesn't like to see the front of the house paved.

John Boughner suggested maybe they add some landscaping.

Mr. Boughner then explained they did not have the votes to move forward and asked what they would like to do.

Mr. Panzero asked that they continue to the September 14, 2020 meeting to rework the plans.

Robert Cignetti motioned the board to grant the continuance to the September 14,2020 ZBA Meeting.

Rebecca Kilborn seconded.

All in favor.

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Danvers Board of Appeals

#20-4870
August 17, 2020

Present: John Boughner, Kenneth Scholes, Robert Cignetti,
Rebecca Kilborn, Jeffrey Sauer, Kenneth Jarvinen,
Corinne Doherty.

Also Present: Building Inspector, Richard Maloney
Secretary, Kathleen Archambault

TUAN PHAM (20-4870) Requesting a Variance and Finding to allow a residential accessory structure (tree fort) closer to the rear setback on a commercial lot with a pre-existing non-conforming single family residential home in accordance with Section 7, Table 2 and Section 3.10.1 of the Danvers Zoning Bylaws at **52 DAYTON STREET, HCZ**

Kenneth Scholes read the case mentioned above.

Mr. Tuan Pham, property owner addressed the board. He said he bought the property in October of 2019. During this COVID pandemic, he decided to build a tree house for his children. There was a tree that used to sway in the wind, so he cut that down and used that as part of the tree house. The tree house is close to the fence in the back. He needs 25' feet and he has 21".

John Boughner wanted to clarify the case. He said a tree house was put up that doesn't meet setbacks and the applicant received a letter from Richard Maloney, Building Inspector.

Mr. Boughner then asked Mr. Maloney for his take on this case.

Richard Maloney said that there were neighborhood complaints. He went out to the property to take a look. The property is 100% in the Highway Corridor Zone. It a pre-existing non-conforming use. So, even if he had come to the Building Department for a permit he would have to come before the board for approval.

Robert Cignetti asked how large the lot is and noted that the problem is just the rear setback.

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Mr. Pham said the lot is 15,350 square feet. Yes, there is an issue with the rear setback.

Mr. Cignetti asked if the applicant applied for a building permit before he started this project.

Richard Maloney stated that he did not apply for a permit and that Mr. Pham did not know he needed one.

Rebecca Kilborn asked is the tree house will have electricity, water or heat and how many windows does it have.

Mr. Pham said it will not have any utilities and it has two windows.

Ms. Kilborn asked if the tree house is as high as the house.

Mr. Pham said that the tree house is 21.5' high and the house is 25' high.

Kenneth Scholes has no questions.

Jeffrey Sauer said that the structure not including the deck is 12' x 15'. So, this is an accessory structure. He asked the Building Inspector to clarify that.

Richard Maloney, Building Inspector, explained that it is an accessory structure. Any time that an accessory structure exceeds 120 square feet it needs to meet the zoning setbacks and cannot be higher than 30'.

Kenneth Jarvinen asked the Building Inspector if there were any code/safety requirements that have to be met to build this.

Mr. Maloney explained that the Building Code gives flexibility on accessory structure and play structures. It will be inspected.

Corinne Doherty asked the homeowner if he had plans for this structure or did he design and build this himself. She also noticed ladders around the structure, how many sets of access stairs will there be.

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Mr. Pham said that he designed and built the structure himself and that there will only be one set of stairs when/if it is finished. The stairs will be located at the lower side of the tree house.

John Boughner asked the Building Inspector for clarification on setbacks. With the 21' setback at the rear of this property, would that have been acceptable if the property was located in R-III.

Mr. Maloney replied yes, if it were in R-III it would be fine. However, we are in Highway Corridor Zone.

Robert Cignetti asked Mr. Phan if he had built the structure himself or hired someone. He also asked if Mr. Pham did this for business or is he just handy.

Mr. Pham answered that he built it himself. He does this type of work, doing construction.

Mr. Boughner stated that if he was someone who worked in this trade, he should have known he needed a permit to build this. The Variance issue may have surprised him, but you cannot use COVID as an excuse to not apply for a permit.

Mr. Boughner then turned questions and comments over to the audience.

There were no questions or comments. Back to the Board for deliberation.

Robert Cignetti said he doesn't have issue with the tree house. He does have an issue with not getting a permit. He would wait to make his decision after he listens to the other members deliberation.

Rebecca Kilborn said that she is ok with this. It seems huge when you drive by and look at it. But the issue with the setback is in the back and that is where the Best Western, so it's Commercial in the back. She would vote for this.

Kenneth Scholes stated he was torn. He has issues with the fact a permit was not applied for and there were neighbor complaints. He also said he would make his decision after hearing the other board members comments.

Jeffrey Sauer said that he was struggling with his decision as well. But, to Ms. Kilborn's point; the reason he is here is because he is in the Highway Corridor Zone. If he was in residential zoning, he would not be here. The tree house is located at the back of the property. So, he said he would vote yes for this.

Kenneth Jarvinen said he would for this.

Corinne Doherty said she agrees with Ms. Kilborn and agrees with everyone stating not getting a building permit was not a good idea. She does not have an issue with the tree house itself, so she will vote for this.

John Boughner said that he is struggles like his fellow Board members. He feels Mr. Pham should know better if he is a builder. There is not a thing you can build in the state of Massachusetts that doesn't need a building permit. He gave Mr. Pham a stern warning and reminded him to pull permits. He said that he would vote for this and does not feel it is not detrimental to the commercial neighbor.

Mr. Boughner then asked Mr. Cignetti how he would like to vote.

Robert Cignetti stated that he did need the permit, but it's a tree house. He said he would vote for this.

Mr. Boughner then asked Mr. Scholes for his vote.

Kenneth Scholes said that he would not vote for this. It is too large.

Robert Cignetti motioned the Board to grant the Finding in accordance with Section 3.10.1 of the Danvers Zoning Bylaw to allow an accessory structure (tree fort) to be built on the property as shown on the plan submitted.

Rebecca Kilborn seconded.

4 to 1 vote

Kenneth Scholes opposed.

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Robert Cignetti motioned the board to grant the Dimensional Variance in accordance with Section 7, Table 2 of the Danvers Zoning Bylaw to erect an accessory structure (tree fort) closer to the rear lot line from required 25 feet to 21 feet as shown on the submitted plans.

The hardship is the size and shape of the lot, it is undersized for the Highway Corridor Zone.

Rebecca Kilborn seconded.

4 to 1 vote.

Kenneth Scholes was opposed.

MINUTES
Danvers Board of Appeals

#20-4871
August 17, 2020

Present: John Boughner, Kenneth Scholes, Robert Cignetti,
Rebecca Kilborn, Jeffrey Sauer, Kenneth Jarvinen,
Corinne Doherty.

Also Present: Building Inspector, Richard Maloney
Secretary, Kathleen Archambault

JOSEPH A. STASIO REVOCABLE TRUST (20-4871) Requesting a Variance to allow construction of a second-floor addition to an existing home in accordance with Table 2 and 3.12 of the Danvers Zoning Bylaws at **23 CONGRESS AVENUE, R-II**

Kenneth Scholes read the case mentioned above.

Attorney Nancy McCann, who is representing Mr. Stasio addressed the board. She stated that Mr. Stasio was also present. Back in 1977 a Variance was granted to allow an addition to be placed on the existing structure that was closer to the side lot line. That Variance did allow the construction of the addition they had done. They constructed a second story in the front of the building and they are looking to do an addition in the back of the building to square it off in the back in the left-hand side. There will no change to the existing footprint of the building. The addition will be 140 square feet to allow a bedroom and a bathroom. The addition is 10' x 14' and at the rear of the structure. The lot is irregularly shaped. It is setback more than 90' from the street, which makes the proposed addition not visible from the street. The applicant has owned the property for over 30 years.

Corinne Doherty stated that she was reviewing the plot plan and wanted to know if there was a paper road next to the lot.

Attorney McCann replied yes.

Kenneth Jarvinen had no questions.

Jeffrey Sauer asked if Attorney McCann could clarify which line on the left of the plot plan was the property line.

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Attorney McCann replied that the dark dotted line is the property line, showing 250' in length.

Kenneth Scholes had no questions.
Rebecca Kilborn had no questions.
Robert Cignetti had no questions.

John Boughner stated that the existing setbacks would remain.

Attorney McCann replied yes.

Mr. Boughner then turned questions and comments over to the audience.

There were no comments or questions. Back to the board.

Corinne Doherty said she would vote for this.
Kenneth Jarvinen said he would vote for this.
Jeffrey Sauer said he would vote for this.
Kenneth Scholes said he would vote for this.
Rebecca Kilborn said she would vote for this.
Robert Cignetti said he would vote for this.
John Boughner said he would vote for this.

Robert Cignetti motioned the board to grant the Dimensional Variance in accordance with Section 7, Table 2 of the Danvers Zoning Bylaw to allow for the addition of a partial second floor as shown on the plans submitted.

The hardship is the size and shape of the lot and the location of the existing house on the lot.

Rebecca Kilborn seconded.
All in favor.

MINUTES
Danvers Board of Appeals

#20-4872
August 17, 2020

Present: John Boughner, Kenneth Scholes, Robert Cignetti,
Rebecca Kilborn, Jeffrey Sauer, Kenneth Jarvinen,
Corinne Doherty.

Also Present: Building Inspector, Richard Maloney
Secretary, Kathleen Archambault

LIVERMORE DEVELOPMENT, LLC (20-4872) Requesting a Variance for reduced frontage to allow the two properties to be combined and reconfigured to create two buildable lots in accordance with Table 2 of the Danvers Zoning Bylaws at **18 CONGRESS AVENUE & 11 HARVARD AVENUE, R-II**

Kenneth Scholes read the case mentioned above.

Attorney Nancy McCann, representing Livermore Development, LLC., she addressed the board and stated that Ryan Livermore and Steven Livermore (Architect) were also present. They are requesting a combination and a reconfiguration of two existing lots located in the R-II zoning district. The first lot is 18 Congress Avenue which was made up of 10 small lots on the original 1906 Subdivision plan. It is an irregularly shaped lot, it has 240' of frontage on Congress Avenue and it is 36,000 square feet of area. The second lot is 11 Harvard Avenue which contains 7,200 square feet in area. It has zero feet of frontage. Harvard Avenue was never constructed. It is a paper street. Harvard Avenue is listed in the Assessor's records as not buildable because it has no legal frontage. The applicant has acquired both of these parcels and is proposing to combine them and reconfigure them to create two regularly shaped lots. Each of those lots will have 21,600 square feet of area, which is more than the required lot area in the R-II zoning district. Each of the lots will have 120' of frontage on Congress Avenue. The requirement in the bylaw is 125' of frontage. So, we are requesting a 5' frontage Variance for each of the two resulting lots. Both existing lots are irregularly shaped. The two new lots will be rectangles and meet all setback requirements, except the 5' of frontage. This will create two attractive house lots that will fit well into the neighborhood. They will be the

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two largest lots in the neighborhood. The average frontage on Congress Avenue is 79' and these two lots will have 120' of frontage. House plans have been provided to show that they will be building modest homes approximately 2300 square feet.

John Boughner commented that it's not too often you see it nice and squared off like this.

Robert Cignetti asked if the two new houses to be built will be exactly the same.

Ryan Livermore, property owner replied that yes, both houses will be exactly the same.

Mr. Cignetti said it would nice to have them a little different.

Rebecca Kilborn had no questions.

Kenneth Scholes asked if the 7,200 square foot lot was land locked.

Attorney McCann replied that yes, that lot is land locked.

Jeffrey Sauer had no questions.

Kenneth Jarvinen asked why the sale of the 11 Harvard Avenue property was so inexpensive.

Attorney McCann explained because it wasn't buildable as is and it was inaccessible.

Corinne Doherty stated that she agreed with Mr. Cignetti and would like to see two different houses, not exactly the same. Also, is there any conservation issue here.

Attorney McCann said not on this side of the street.

John Boughner wanted to confirm that 11 Harvard Avenue is unbuildable, the average frontage on Congress Avenue is 79' and these houses will have 120' of frontage and the 5' of frontage is why the variance is needed.

Attorney McCann replied yes.

Mr. Boughner then turned questions and comments over the audience.

Cheryl Buchanan, 20 Congress Avenue, Danvers said that it would be nice to see new houses there. She wanted to know what will happen with the brook that is on that property and runs under her property. She stated that sometimes the brook flows great and sometimes it doesn't, like in the winter. She is just very concerned because it flows under her property.

Ryan Livermore said that the brook is 60' to 70' behind where the houses will be built, so there will be no disruption.

Mr. Boughner asked if the new homes would have full foundations.

Mr. Livermore replied yes, full foundations.

Matthew Duggan, TMM, P-I, He stated that he knows when you drive down Congress Avenue on the left side, the second house in is 8 Congress. Does this property abut 8 Congress?

Mr. Livermore stated that it does abut 8 Congress Avenue.

Mr. Duggan then asked if the lot is subdivided will the street get new house numbers. He also stated that there are several parcels owned by the town on that street, are any adjacent to this paper street.

Attorney McCann answered that would be up to the Assessor's department, but they will be separately numbered houses. She also answered that there are no town owned adjacent lots to this property.

Jane Fuller, TMM, P-3, 30 Congress Avenue. She stated that she is happy to see these lots finally being developed, but there are wetlands on the Harvard Avenue property according to the wetlands map.

Attorney McCann answered that if there are wetlands, The Conservation Commission will be involved.

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Mr. Boughner asked if they would be using the 30' set back from the property line to keep as much distance from the brook as possible.

Mr. Livermore answered yes.

Ms. Fuller said that the street was just paved. If the road is going to be dug up for water and utilities, what are the rules for repaving it.

Mr. Livermore said that the main lines are in the street. They will be cutting into the street and have to patch the pavement. There will be one cut for water and electric and one cut for gas. The patching will match as close to the new pavement as possible.

There were no more questions from the audience. Back to the board for deliberations.

Robert Cignetti said he would vote for this.

Rebecca Kilborn said that she would vote for this.

Kenneth Scholes he would vote for this.

Jeffrey Sauer said he would vote for this.

Kenneth Jarvinen said he would vote for this.

Corinne Doherty said she would vote for this.

John Boughner said he would vote for this. But would like to see then try to make the houses different so they don't look cookie-cutter.

Attorney McCann asked if they could have a condition to modify floor plans and elevations if they stay with the 2,300 square feet of the home.

Richard Maloney, Building Inspector, explained that the plans are immaterial. This Variance is about setbacks, not the house plans. These are two oversize lots in R-II. To limit the house to 2,300 square feet could cause problems down the line. For example, if someone wanted to put an addition on and met the setbacks.

The board agreed.

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Robert Cignetti motioned the board to grant the Dimensional Variance from Section 7, Table 2 of the Danvers Zoning Bylaw for the combining of the two lots and reconfiguring to create two new lots with 120 feet of frontage each on Congress Avenue as shown on the plans submitted. The house plans submitted are not part of the decision.

The hardship is the irregular shape of 18 Congress Avenue lot and land locked parcel lot of 11 Harvard Avenue.

Rebecca Kilborn seconded.
All in favor.