

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

**#20-4874**

**September 28, 2020**

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

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

**MARK SPEAR (20-4874)** Appealing the Building Inspector's decision regarding a Variance from April 7, 1975 Docket #O-1025 in accordance with the Danvers Zoning Bylaws at **55 WENHAM STREET, R-III**

Rebecca Kilborn read the case mentioned above.

John Boughner stated that they were in receipt of a letter that was written 1986 by Building Inspector Peter Bryson. This letter was written citing the same violations that are currently in question. This 1986 letter of violations was not appealed.

Ms. Kilborn then read portions of the letter, stating the violations listed in 1986. Mr. Bryson stated that Condition #1 Required the area be kept neat. Condition #2 The application was for intermittent storage. Condition #3 The outside storage area is to be two-times the floor area of the building. Condition #4 hours of operation, for loading and unloading are Monday through Friday 7:00am to 5:00pm. Each condition is in violation except for #4. Mr. Bryson stated he will monitor that as well.

Mr. Boughner then addressed Mr. Spear. Stating that this letter was not appealed in 1986. It seems that the property came into compliance after receiving this letter of violations. Referring back to the 1975 decision, he doesn't think that the spirit of the decision was not referring to this type of work at this site.

Mr. Boughner then asked Richard Maloney, Building Inspector, if he had anything to add.

Mr. Maloney said he nothing to add. He stated that we do not debate the conditions of the original Variance, but it seems as

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though those conditions that were violated in 1986 are the same ones we are talking about right now. We do not dispute that the storage out there is allowed, outside two and a half times the floor area of the barn and intermittent was possibly submitted by his grandfather Eben Griffin in the original letter which is included in that package. He thinks that what happened in 1986 is what is happening now, this place is getting very busy. People are coming and going. He would not define that as intermittent by the complaints that we have on file, so that is where we are at.

Attorney Arvanites stated that conditions stated by Mr. Bryson in 1986 and the current tenants are not the same. The current violations are being worked on. Northshore Tree Experts has vacated the property, they have moved everything behind the barn. The concrete corral is under review with the Conservation Commission, so they will have to wait to see if that can be moved. The Appeals Court in 2010 stated that the variance only has to apply to the "Four Conditions". These are the only restrictions that Danvers can enforce. Currently they are meeting all four of those.

John Boughner interjected that he would like to try to move this along. Neighbors have complained. What are the updates from the last meeting?

Attorney Arvanites said that one tenant has left the property. The storage of materials has been moved to behind the barn. The traffic that was using 41 Wenham Street has been advised to only use the driveway at 55 Wenham Street. They have asked T & T Excavation to unload and load in the afternoons, as opposed to the mornings. They have also asked them to not allow the trucks to idle. T & T has agreed.

Robert Cignetti asked Attorney Arvanites if he had worked with the Building Inspector to work on this. He thought that was what was proposed at the last meeting.

Attorney Arvanites said that he thought he did. They addressed each issue that was brought up at the last meeting.

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Mr. Cignetti than asked Mr. Maloney, Building Inspector if things were worked out.

Richard Maloney stated that they had never made a definite plan to meet.

Rebecca Kilborn stated that she went out to the property twice. She saw a large tractor trailer body and a white truck. She asked if these were being used for storage. She asked how has it been determined what actual area you can use for storage.

Mr. Spear said that the truck is owned by Agway and the tractor trailer is housing shavings. These are used as part of his outside storage.

Attorney Arvanites said that they agreed to draw parallel lines behind the building to allow for outside storage. They are allowed 15,200 sq. ft and they are using less than that.

Ms. Kilborn asked so it is your opinion that you can store anything you choose in that area. Examples; trucks, rocks, stone dust, anything?

Attorney Arvanite answered No, not anything. Materials and equipment only.

Jeffrey Sauer had no questions.

Kenneth Jarvinen asked, has there been business being conducted on weekends?

Mr. Spear said there was occasional Saturday use by the tree service, but they are gone.

Corinne Doherty asked if they have had hearing with the Conservation Commission. She also asked if the concrete corral will stay in place until Conservation asked them to move it.

Attorney Arvanites stated that they did meet with the Conservation Commission on September 24, 2020. Conservation wanted them to provide a survey of the wetlands. They have hired

Hancock Engineering to do wetland and buffer mapping. They have another meeting with the Conservation Commission on October 8, 2020 and are hoping the survey is completed by then. The concrete corral will stay in place until they know, when, where and if they can move it.

Ms. Doherty also asked how long the concrete corral has been there.

Mr. Spears answered about twenty years.

John Boughner asked when the property would be surveyed?

Mr. Spears stated that he has two calls into the company and hoping it is completed by the October 8, 2020 Conservation Hearing.

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

Kevin James, 39 Wenham Street, addressed the board. He stated that materials and storage had been moved approximately 175 yards behind the barn, but the activity remains the same. He does not think that the 1975 decision from the board was intended to have a construction yard. There is still banging and noise, his property shakes.

Bill Bradstreet, TMM, P1, asked the board if there was any type of a sunset clause or changes that would happen with a new property owner.

Richard Maloney, building Inspector, explained that the Variance decision runs with the property.

Mr. Maloney also stated that he had not heard back from Town Counsel. He would like Town Counsel to look at this 2010 Appeal court decision. He would also like to hear the Conservation Commission's meeting results.

Mr. Boughner polled the Board to see if they agreed to continue to the October 19, 2020 ZBA Meeting.

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The board agreed.

Attorney Arvanites stated that he agreed to continue. However, he does not think the Conservation Commission will have any definite answers.

Robert Cignetti motioned the Board to continue the case to the October 19, 2020 meeting.

Rebecca Kilborn seconded.

All in favor.

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

**#20-4876**

**September 28, 2020**

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

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

**RICHARD TRAVAGLIONE (20-4876)** Requesting a Special Permit for an additional garage structure in accordance with Section 6, Table 1 of the Danvers Zoning Bylaws at **8 CHRISTIAN LANE, R-III**

Rebecca Kilborn read the case mentioned above.

Richard Travaglione addressed the Board. He explained that he has shortened the garage by one garage bay, which is ten feet. He has gone from a three-car garage to a two-car garage. He was proposing a 28' x 42' garage now it is a 28' x 32' garage. The height of the garage has also decreased by a half a foot. He would also like to add a washroom on the first level of the garage.

Corinne Doherty asked what size the washroom will be.

Mr. Travaglione stated the washroom will be 5' x 6'.

Kenneth Jarvinen had no questions.

Jeffrey Sauer had no questions.

Rebecca Kilborn had no questions.

Robert Cignetti said he likes the new plans.

John Boughner said that he does not like the plumbing. He feels this could become a house.

Mrs. Travaglione explained this will not be a second house, they have parking issues that need to be addressed. The washroom would be helpful to clean up as the garage is a distance from the house.

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

Bill Bradstreet, TMM, P1, He asked if a stipulation could be put on the decision that would not allow this structure to become a structure to live in.

Richard Maloney, Building Inspector, explained they can only vote on what is before them. He did say he spoke with the owners and advised them not to put the bath on the second level of the garage for that very reason.

There were no more questions or comments from the audience. Back to the board.

Corinne Doherty said she would vote yes if they limit the size of the washroom as a condition.

Kenneth Jarvinen said that he agrees with Ms. Doherty. Yes vote.

Jeff Sauer said he also agrees with Ms. Doherty. Too many illegal apartments have shown up in town, that is why half baths concern him. He would vote yes with the condition.

Rebecca Kilborn would vote yes with the condition/restriction of a two-piece bathroom.

Robert Cignetti said he would vote yes.

John Boughner said he would vote yes, but he does have to think of future use. He wants the condition of the 5' x 6' bath.

Robert Cignetti motioned the board to grant the Special Permit with the **condition that the washroom be restricted to two fixtures and be a maximum size of 5' x 6'** 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 be overloaded by the garage.
3. The value of other buildings and properties shall 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.

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

**#20-4878**

**September 28, 2020**

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

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

**BEAUPORT AMBULANCE SERVICE (20-4878)** Requesting a Variance to allow "bunking" on the second floor in accordance with Section 6, Table 1 of the Danvers Zoning Bylaws at **1 CHEEVER STREET, C-I**

Rebecca Kilborn read the case mentioned above.

Ms. Kilborn read in two letters.

Mr. Lee Pelletier from Pelletier Rug and Floor at 17 Water Street is in favor.

Ms. Emaline Liacos 19 Water Street is in favor.

John Morris, owner of the property and business addressed the board. He would like to have bunking overnight for his ambulance crew, like a fire house.

John Boughner went back and looked to minutes from 2011, there was an electrical company in there.

Mr. Morris explained that he did not purchase the building until 2013.

Robert Cignetti asked how many people will be sleeping overnight.

Mr. Morris said only two people will stay overnight.

Rebecca Kilborn asked how many parking spaces are there.

Mr. Morris said that there are six employee spaces. During the day they run an additional ambulance out of this location. So, two ambulances total. Seven employees during the day and 2

overnight. He said that the side lot can park six cars and out front you can park three cars.

Jeffrey Sauer asked if not being able to bunk your crew at this local impact your service time.

Mr. Morris said yes, it adds an extra three to four minutes to response times.

Kenneth Jarvinen had no questions.

Corinne Doherty had no questions.

John Boughner stated that he visited the site. He wanted some clarification on parking. There is parking between 1 Cheever Street and the building that is on the corner and it is lined. He saw four Beauport vehicles parked outside the property at the time. How many vehicles can park in the three-bay garage? Where exactly do your seven employees park?

Mr. Morris said that is correct regarding parking area. He said there were two Chair Cars and one Ambulance. He said that five vehicles can fit in the three-bay garage. Employees park in the side lot and some park on Cheever Street.

Mr. Boughner asked that if you start responding to calls from Cheever Street is there a protocol for sirens.

Mr. Morris said there is no protocol in writing, but they have not had a problem with a neighbor yet.

Mr. Boughner asked what does the crew do in late night early morning situations. Also, what will this second floor consist of.

Mr. Morris answered that they use lights, no siren. They only use a siren to get a vehicle to move out of their way. The second floor will have one bath, one television room with kitchenette and 2 beds in one room.

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

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

Corinne Doherty said she would vote yes.

Kenneth Jarvinen said he would vote yes.

Jeffrey Sauer said he would vote for this.

Rebecca Kilborn said that she has concerns with this being a variance and the decision running with the property. She would really like to see a parking plan and snow emergency plans. She wants more employee parking information. She is not in favor.

Robert Cignetti said he would vote yes.

John Boughner said that he agrees with Ms. Kilborn. He would like to see a parking plan. He also said he is not sure he sees a real hardship.

Mr. Morris said that he can supply a parking plan and that his hardship is that it takes an extra three minutes to respond to an emergency.

Ms. Kilborn asked if the ambulance service were to leave the property, could the new owner just have anyone start bunking there?

Richard Maloney, Building Inspector, stated that the Board can make the decision specific to bunking for a 24-hour Ambulance Service.

Mr. Boughner explained that he does not have the votes to move forward tonight. He asked what he would like to do.

Mr. Morris said he would like to continue to the October 19, 2020 meeting and he will provide a parking plan as requested.

Robert Cignetti motioned the board to continue the case to the October 19, 2020 ZBA meeting.

Rebecca Kilborn seconded.

All in Favor.

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

**#20-4879**

**September 28, 2020**

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

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

**GLENN M. DAGLEY (20-4879)** Requesting a Variance from front and side setbacks to erect a shed in accordance with Section 7, Table 2 of the Danvers Zoning Bylaws at **17 PICKERING STREET, R-I**

Rebecca Kilborn read the case mentioned above.

Ms. Kilborn then read in a letter from Helen Callahan stating she was in favor of the application.

Glenn and Susan Dagley addressed the board. They stated they wanted to put in a shed but was too close to the lot line.

John Boughner acknowledged that the lot was tight and that they were looking for 4.3' on the side lot and under a foot in the rear.

Robert Cignetti asked if the shed would be placed on the corner of Hobart Street. He saw a canvas tent there; would the shed replace that?

Mr. Dagley said yes, the shed would replace the canvas tent.

Rebecca Kilborn asked if he would be .8' from the rear property line. It looks like you are installing a 10' x12' shed, she asked if they could make it smaller.

Mr. Dagley said yes that is the proposed rear setback, that is the setback that is along Mrs. Callahan's property. If needed they could make the shed smaller.

Jeffrey Sauer had no questions.

Kenneth Jarvinen asked how tall the shed will be.

Mr. Dagley answered the shed is ten feet high.

Corinne Doherty asked which direction the door on the shed will face, away from Hobart? She also asked what is the distance from the corner of the shed to the corner of this house?

Mr. Dagley said it will face into the backyard/patio area. The corner of the shed to the corner of the house is less than two feet.

John Boughner said that is tight. They like to see a minimum of three feet as standard. Maybe a smaller shed is needed. He asked the owner if the shed would be built or pre-built.

Mr. Dagley said he thinks it will be built on site.

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

Bill Bradstreet, TMM, P1, stated that he knows the applicant and he knows the lot. Sheds are a necessity. He would be in favor.

There were no more questions or comments from the audience. Back to the board.

Robert Cignetti said he doesn't see the sense in a smaller shed you don't gain much. He said he would vote yes.

Rebecca Kilborn said she would like to see a smaller shed maybe one or two feet off the property line.

Jeffrey Sauer said he would vote yes.

Kenneth Jarvinen said that he would like to see it further off the lot line. It is too tight.

Corinne Doherty said the size of the shed is not an issue for her. The location is the issue, she'd rather see it 3.3 away from Hobart, move it back to give you more space between your property and 38 Hobart and move it away from the corner of the house.

John Boughner said that Mr. Cignetti made a good point, you want a shed that you can get the most out of; you are on a small lot. He thinks reducing the 4.3 setback. However, he would vote yes as presented.

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

Mr. Dagley said he would agree to a smaller shed. He will agree to a 10' x10' shed change the location. Setbacks would be 3.3' at Hobart and 2.8' at 38 Hobart. He will submit a new plot plan and drawing with building application.

Robert Cignetti motioned the board to grant the Dimensional Variance from Section 7, Table 2 of the Danvers Zoning Bylaw to allow a shed to be located closer to the front and rear lot lines as shown on the new plan submitted. With the condition that the shed is 10' x10', the setbacks will be 3.3' on Hobart street and 2.8' on 38 Hobart Street.

The hardship is the size and shape of the lot and the location of the house on the lot and the fact that it is a corner lot with two frontages.

Rebecca Kilborn seconded.

All in favor.

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

**#20-4880**

**September 28, 2020**

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

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

**RAMON AROCHO & LIANA BISEGNA (20-4880)** Requesting a Variance from front and side and (rear) front setbacks for a 16' x 32' Kidney shaped pool in accordance with Section 7, Table 2 of the Danvers Zoning Bylaws at **10 WAYSIDE DRIVE, R-II**

Rebecca Kilborn read the case mentioned above.

Ms. Kilborn then read a letter from Neighbors Dounia Ammari and Yassine Lmai residents at 8 Wayside Drive. They are in favor of the project.

Ramon Arocho and Liana Bisegna addressed the board explaining they are seeking a Variance to install an inground pool on an undersized lot.

Corinne Doherty said that looking at the drawing submitted there is a 24' x 22' structure? Is that a pool house?

Mr. Arocho stated that is the existing garage.

Kenneth Jarvinen has no questions.

Jeffrey Sauer asked what side the abutters are on that wrote the letter, the right side or the left side (pool side)?

Mr. Arocho said that they are on the left side, the pool side.

Rebecca Kilborn asked if they were 8' from the lot line. She also wanted to get confirmation that this plot plan is acceptable from the building inspector.

Mr. Arocho said yes, the pool will be 8' from the lot line.

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Richard Maloney, Building Inspector, said the plot plan submitted is acceptable. It is from the Variance when they built the garage.

Robert Cignetti stated the garage is existing. What is the distance from the pool to the garage?

Mr. Arocho said it is 8'.

John Boughner said that he visited the site and he has no questions.

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

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

Corinne Doherty had another question. She asked when the work will be done.

Mr. Arocho said that he planned to have them dig now and put the liner in in the spring.

Mr. Maloney said he does not recommend that. There will be frost heaves once the hole is excavated. Do not dig the hole until spring.

Mr. Arocho said he will wait to dig.

Corinne Doherty said she will vote yes.  
Kenneth Jarvinen said he would vote yes.  
Jeffrey Sauer said he would vote yes.  
Rebecca Kilborn said she would vote yes.  
Robert Cignetti said he would vote yes.  
John Boughner said he would vote yes.

Robert Cignetti motioned the board to grant the Dimensional Variance from the Danvers Zoning Bylaw to allow an inground pool to be closer to the side and front lot lines as shown on the plans submitted.

The hardship is the size and shape of the lot (undersized area and frontage) and the lot has two frontages.

Rebecca Kilborn seconded.  
All in Favor.

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

**#20-4881**

**September 28, 2020**

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

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

**33 BURROUGHS STREET TRUST - SUSAN DUNCAN (20-4881)** Requesting a Variance to reduce a non-conforming lot to help neighbor (35 Burroughs Street) to get his garage on his property in accordance with Section 7, Table 2 of the Danvers Zoning Bylaws at **33 BURROUGHS STREET, R-I**

Rebecca Kilborn read the case mentioned above.

Ms. Kilborn then read a letter from Susan Duncan, Executor of the Estate at 33 Burroughs Street. Stating that they are in favor of this lot adjustment.

Jamie Cronin of 35 Burroughs Street is looking to shift the property line to have his garage on his own property.

John Boughner asked what is bringing this about at this time.

Mr. Cronin stated that it had been in discussion for a while. There had recently been a death in their family, and he was unsure what the future of their house is and really wanted to get his garage on his own property.

Mr. Boughner asked if this is just a shifting of a property line.

Mr. Cronin said yes.

Corinne Doherty asked how he became aware that his garage was on the neighbor's property.

Mr. Cronin said he bought the house that way. It wasn't until his neighbor told him that he found out. He then had the property surveyed.

Kenneth Jarvinen had no questions.  
Jeffrey Sauer had no questions.  
Rebecca Kilborn had no questions.  
Robert Cignetti had no questions.  
John Boughner had no questions.

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

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

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

Robert Cignetti motioned the board to grant the Dimensional Variance from the Danvers Zoning Bylaw to allow the lot line to be moved to get abutting garage off this property, per the plan submitted.

The hardship is the size and shape of the lot (undersized in area and frontage) and the location of the accessory structure on the lot.

Rebecca Kilborn seconded.

All in Favor.

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

**#20-4882**

**September 28, 2020**

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

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

**JOSEPH SKOMURSKI (20-4882)** Requesting a Variance and Finding to extend and raise roof of existing garage in accordance with Section 7, Table 2 and Section 3.11 (a & b) of the Danvers Zoning Bylaws at **107 BRADSTREET AVENUE, R-II**

Rebecca Kilborn read the case mentioned above.

Joseph and Melissa Skomurski addressed the board. They have an existing 20' x 22' garage that they store vehicles in, one which is antique. There is an existing shed attached to the garage. They are looking to remove this shed and build an 18' x 20' addition to the garage and add second floor storage.

John Boughner asked if they were going to demolish the existing garage? He asked if the new garage will be 42' x 25"

Mr. Skomurski said no, they are keeping three existing walls and adding the addition. Yes, the garage will be 42' x 25'.

Robert Cignetti asked how many cars will be stored in the garage and how many garage doors will there be.

Mr. Skomurski said three cars and three garage doors.

Rebecca Kilborn asked if there will be plumbing or heat in the structure. She also asked if the new height of the garage will be nine feet than what presently exists.

Mr. Skomurski said there will be no heat or plumbing and correct regarding height of garage.

John Boughner asked for confirmation that the new height of the garage will be 24.4'.

Mr. Skomurski replied yes, that is correct.

Jeffrey Sauer had no questions.

Kenneth Jarvinen stated that the shape of the garage was odd. Couldn't they straighten it out.

Mr. Skomurski said they did not want to further encroach the property line.

Corinne Doherty asked if the second floor would be for storage only. She also asked if any neighbors expressed concern over the new height of the garage.

Mr. Skomurski said that the second floor will be used for storage only and no neighbors had any complaints.

Mr. Boughner then asked to confirm that the existing height of the garage is 15'.

Mr. Skomurski said yes, 15'.

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

Bill Bradstreet, TMM, P1, addressed the board to say that he was in favor.

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

Robert Cignetti said he would vote yes.

Rebecca Kilborn said she would vote yes, as long as there is no heat or plumbing.

Jeffrey Sauer said he would vote yes.

Kenneth Jarvinen said he would vote yes, as long as there is no heat or plumbing.

Corinne Doherty said she would vote yes.

John Boughner said he would vote yes.

Robert Cignetti motioned the board to grant the **Dimensional Variance** from the Danvers Zoning Bylaw Section 7, Table 2 to raise the roof of the garage in the front setback and extend the rear wall into the rear setback as shown on the plans submitted **with the conditions that there is no plumbing and no heating in the structure.**

The hardship is the size and shape of the lot, the lot has half the required area, is not deep front to back and has two frontages. Also, the location of the existing garage on the lot.

Rebecca Kilborn seconded.  
All in Favor.

Robert Cignetti motioned the board to grant the **Finding-Part One** in accordance with Danvers Zoning Bylaw Section 3.11(a&b) to expand the existing non-conforming garage as shown in the plans submitted increase the non-conformity.

Rebecca Kilborn seconded.  
All in Favor.

Robert Cignetti motioned the board to grant the **Finding-Part Two** in accordance with Danvers Zoning Bylaw Section 3.11(a&b) to expand the existing non-conforming garage as shown in the plans submitted is not substantially more detrimental than what presently exists.

Rebecca Kilborn seconded.  
All in Favor.

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

**#20-4883**

**September 28, 2020**

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

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

**JHR DEVELOPMENT, LLC (20-4883)** Requesting a Variance to allow a portion of the property to be used for multi-family residential purposes and a Finding to allow the alteration of the existing non-conforming parking setback and landscaping setback to decrease the non-conformity by increasing the parking setback and landscaping buffer over existing conditions in accordance with Table 3, Section 3 of the Danvers Zoning Bylaws at **51 NEEDHAM ROAD, C-III**

Rebecca Kilborn read the case mentioned above.

Attorney Nancy McCann addressed the board. She stated that she is representing JHR Development, LLC and present with her were Hillary Rocket, Principal of JHR Development, LLC, Larry Beals, Project Engineer and Michael Wang, Project Architect. They are looking to redevelop a portion of the property at 51 Needham Road that had ben the site for many years of a movie theatre, most recently Hollywood Hits. The property has fallen into disrepair, this portion of the parcel has been vacant for over four-years now. This is an opportunity to revitalize this area and create a new multi-family use on the site. This property has been before the Board a number of times to grant a number of Variances relative to uses that are on this property now. This is a 24 ½ acre site. There are a number of mixed uses. Big box retail, professional office use, medical office use, as well as the old movie theatre. The site that that movie theatre is on is about 4 ½ acres and that is what they are looking to redevelop. They would like to revitalizer the area by removing the movie theatre and which is about 25,000 square feet. It is an area that is almost entirely paved. They are hoping to redevelop the area into multi-family housing and address the housing needs in Danvers. They have submitted a thorough and

lengthy application the feel this proposed use fits on within the mixed use, C-III zoning district permits by right shopping centers. Shopping centers as we know them have changed, they are bringing uses together that support each other including adding residential uses. Bringing social and services together calling "Retailidential". Similar to Lynnfield Market Place. They are looking to build two residential buildings there will be 140 Residential units. There will be 38 Studios, 61 One Bedrooms and 42 Two bedrooms. They will replace pavement, a reduction of 20%. They will add green spaces and landscaping. They are required to provide any affordable housing; however, they are providing 10% of the units to be affordable totally 14 units.

Attorney McCann also said that they presented this at a staff meeting on July 15, 2020 and incorporated the changes that were suggested. There will be no waivers needed through Site Plan and if Conservation Commission approval is required, they will find out moving forward and address it at that time.

Larry Beals of Beals Associates, Project Engineer, addressed the board. He had four easels with various plans of the site on display, he referred to them as he addressed the board. He said that the site is on a diagonal. Boat sales, Retail, Professional, Residential, Condominiums and Assisted Living are all abutters to this property. It is surrounded by a mixture of uses and he feels this is ideally located. Right now, it is a sea of asphalt, lacking storm water management and landscaping. The site is relatively flat, but it is adjacent to the Crane River. The site is a very permeable sand and gravel. So, they have tremendous opportunities to recharge a lot of the storm water runoff and put it back into the ground and allow it to sustain the Crane River in conditions of draught, like we are experiencing today.

Michael Wang, Project Architect, addressed the board. He talked about the site being 4.5 acres in size. That is about 184,000 square feet. Currently 95% is impervious, they are looking to add 48,000 square feet of green space, bringing it down to 74% impervious. There will be courtyard space that will be open toward the river. There will be 200 parking spaces, 2 spaces per unit. There will be sidewalks and landscaping. There will not be any three-bedroom units, this development is geared toward empty nesters and professionals. The design of the

buildings are a traditional New England style architecture. Mansard roof look, gable forms, balconies and porches. There will be stone bases and fiber siding and architectural asphalt shingles. The buildings will be 42' high, 45' high at the maximum. He feels all of these components are a great look for the project.

Attorney McCann addressed the board to let them know that they have included a traffic study to demonstrate the reduction of the volume of traffic using this property for residential purposes as opposed to the movie theatre. This is 2 1/2 acre site that has an irregular shape. They are seeking a variance for use. The hardship is the size and shape of the lot. The 4 1/2 acres are not visible from the access from Endicott Street which makes it not a successful location for retail or commercial use in C-III. She said that this is an attractive project, it has been vacant over 4 years. There are aesthetic and economic benefits with this project; and it helps meet the housing needs in Danvers. The Finding they are seeking is because the northern border, parking and landscaping is approximately 3' from the lot line. They are proposing to make it 10' off the property line so, altering that non-conformity will better the property and make it less non-conforming.

John Boughner asked Attorney McCann to explain Note 1 and Note 2 on the plans that were submitted. What do these notes mean.

Attorney McCann said that 100' feet to the residential use and 50' to the R-IA zoning district. So, the setback line to the R-IA zoning district. The two lot lines closest to this development are Route 128 and the lot line along the Northerly boarder, there is residential there and they meet setbacks.

Mr. Boughner asked for confirmation that 100' on the right side and 50' on the Route 128 side.

Attorney McCann said yes.

Corrine Doherty had a question for Richard Maloney, Building Inspector. She asked if he was present at the staff meeting on 7/15/20. When you discussed this project, this is a use Variance; so, once it's granted it runs with the land, is that correct. If this goes before the Planning Board and the developer backs out, we already granted this use variance correct.

Richard Maloney said yes, he was. Yes, the Variance would run with the land. For the record he stated that this project was presented superficially at best. We were here for a meeting for redevelopment of Downtown. This was presented at the end of that meeting; it was not vetted properly or thoroughly. In his opinion it was presented at the end of a meeting that was for downtown, he considers this a superficial overview, not really vetted.

Ms. Doherty said that she thinks that they need to go before the Planning Board process and see what the recommendations from the Technical Staff are. There is another application for a large project across the way at our next meeting, she is concerned issuing a use variance with all these issues that need to be addressed.

Attorney McCann said that Site Plan approval comes after they get approval for the use Variance.

John Boughner said that the board can seek input from the Planning Board, that is what he thinks they will do.

Kenneth Jarvinen had no questions.

Jeffrey Sauer asked what will happen to existing signage.

Attorney McCann said that the applicant will work with the owner of the property. However, they have not worked on the signage at this point.

Rebecca Kilborn asked had you considered putting the parking under the building.

Michael Wang, Project Architect said that the major consideration was the cost of doing underground parking. When the lot has more topography and they are building into a hillside they may consider that type of parking, but the lot is level, so there is no need for underground parking.

Ms. Kilborn stated that plans show that the driveway is 24' wide. Is this a 2-way driveway.

Attorney McCann said yes, it is a 2-way driveway.

Ms. Kilborn asked if the parking spaces were parallel or straight in parking spaces and if they have provided visitor parking. Is the parking assigned or open? She asked, what about snow removal and dumpsters.

Mr. Wang said most of the parking spaces will be 90 degrees from the travel aisle.

Attorney McCann said that the bylaw does not require them to provide visitor parking spaces. They have studio apartments and one-bedroom apartments that do not require two spaces, yet they have provided two. She is unsure about assigned parking. They have two dumpsters located on the plan for 140 units. Snow Storage will be drawn on the plans when they go to Site Plan.

Ms. Kilborn asked how they come up with the number of units.

Mr. Wang said that was the maximum number of units with two parking spaces each they could get.

Ms. Kilborn asked if there are any four-story apartment buildings in Danvers.

Mr. Maloney stated yes, there are. Example: 180 Newbury Street

Robert Cignetti asked if Hutchinson Road and Needham Road were private roads.

Attorney McCann explained that Hutchinson Road is a driveway and Needham Road is a public road. That is why address of this project is 51 Needham Road.

Mr. Cignetti stated that there are signs posted that there is contamination there, how are they going to proceed.

Attorney McCann answered that they have conducted a 21E phase I study.

Larry Beals, Project Engineer stated that the site is contaminated with Arsenic. LSP has performed a Phase I test. Logically, with the conclusion of that tests show contamination exists they will proceed to Phase II. He believes that they are upstream from the contamination. Soils throughout the property is mostly clean as is the ground water. There is arsenic contamination in one corner of the property, not higher or lower than abutting property. The recommendation is encapsulating it using pavement, working at grade and above grade.

Mr. Cignetti asked for a copy of the report.

Mr. Beals stated he just got the results today. He will check to see when official results will be ready.

John Boughner said that had a few questions and wanted some confirmations. Is the new proposal larger than Hollywood Hits? Is there existing storm water management on site? How many existing parking spots are there? Attorney McCann mentioned this idea is similar to the Marketplace at Lynnfield, how many units are there? If planning wanted to decrease the number of parking spaces, would you increase impervious space? He would like to see less pavement.

Mr. Beals answered that BJ's is to the south. He is not sure of the square footage of Hollywood Hits. He stated there are approximately 500 parking spaces currently at Hollywood Hits.

Attorney McCann answered that there is no storm water management presently on site. She does not know how many units are at the Marketplace in Lynnfield, but she can find out. The parking issues and impervious areas will be up to Planning and Site Plan.

Mr. Boughner stated that he knows there are abutters that would like to speak however, members of the board are looking for

additional information and does not think that they will be voting on this tonight.

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

Bill LaChance, 47 Needham Road, He addressed the board. He stated that the site is approximately 4 acres of a 24+ acre parcel. This is located in C-III and R-I zones. Not just C-III as mentioned. Its access is through the R-I zone across Needham Road is a private way. The abutters to the driveway have the right to block Needham Road. He asked is the opportunity to increase income by proposed use versus the allowed use a hardship and given that there is no such thing that he has observed in a 24 acre perfectly rectangle parcel, where is the hardship. With such a major departure from zoning, that you need to create 140 units.

Attorney McCann stated that the lot is irregularly shaped. It has been before the board eight times and variances have been granted based on the hardship of the size shape of the lot, it is zoned for commercial purposes, yet it is completely invisible to access points. The only access point being coming off Endicott Street.

Bill Bradstreet, TMM, P1, he asked if there were any issues with the proximity to the gas station and the LPG Filling Station.

Richard Maloney, Building Inspector stated there were no issues with the separation of the propane tank and gas stations.

There were no more questions or comments from the audience.

Back to the Board.

John Boughner stated that this was a lot of information to digest. He thinks that board members are looking for more information regarding contamination and he would like some insight from the Planning Board. He will go through the board members but feels that we will continue this application.

Corinne Doherty stated that she feels this is premature. She would like to see the contamination report as well as insight from the Planning Board.

Kenneth Jarvinen asked if the Planning Board will address water pressure issues and infrastructure.

Richard Maloney stated that process happens during Site Plan with Engineering.

Attorney McCann interjected that Site Plan will not happen until they get the use approval.

Jeffrey Sauer said that he likes the plan, but it's too big. He likes the green space in the middle. The concept is good. He is concerned about the contamination and does appreciate the affordable units. He would like some input from the planning Board as well.

Rebecca Kilborn stated that she agreed with Mr. Sauer's comments. She would like to see it downsized and would input from the Conservation Commission, Planning and see the contamination report.

Robert Cignetti said he likes the concept, but he wants to see the contamination report.

John Boughner said he thinks this can become a slippery slope. Commercial to residential, now mixed use. He is interested in the Marketplace at Lynnfield information. He thinks this too large, too many units. This is something you would see in a big city. It looks nice and has a nice layout. He wants to get the Planning Board's input, the contamination report and the storm water management information.

Attorney McCann wanted to question the process going forward. They cannot go to the Planning board with the use approval from this board.

Mr. Boughner asked Mr. Maloney, can a letter be drafted to the Planning Board to seek their input.

Mr. Maloney stated yes, that can be done.

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Attorney McCann then asked if Mr. Maloney will write the letter and "cc" her on it.

Mr. Maloney replied yes, he will do that.

Attorney McCann requested the board approve a continuance to the October 19, 2020 ZBA Meeting.

Robert Cignetti motioned the Board to continue the case to the October 19, 2020 meeting.

Rebecca Kilborn seconded.

All in Favor.

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

**#20-4884**

**September 28, 2020**

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

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

**MJP PROPERTIES, INC (20-4884)** Requesting a Variance and Finding for frontage and lot area to allow construction of a duplex on a lot with an existing non-conforming single family home in accordance with Table 2, Section 3.11 of the Danvers Zoning Bylaws at **82 SYLVAN STREET, R-I**

Rebecca Kilborn read the case mentioned above.

Attorney Nancy McCann addressed the board. Michael Panzero the property owner was present, as well as Bob Griffin the Project engineer. She stated that Mr. Panzero began restoration on this property that was in disrepair about a year ago. This is a non-conforming single-family home on a large lot, it is 29,154 square feet. They are looking to maintain the existing home and the street scape. In the rear right side of the property, they are looking to build a fully conforming two-family duplex, combined it will be three units and according to the bylaw the multi-family housing requirements apply. In the R-I district 30,000 square feet is needed and they have 29,154 square feet. They are required to have 125' of frontage and have 124'. She stated R-I requires 7,500 square feet needed per unit and they are providing 9,718 square feet per unit. Also, 1,000 square feet of open space is required; and they are providing 6,600 square feet per unit. Although they are deficient in required lot space, they meet the intent and purpose of the Zoning Bylaw.

Bob Griffin, Griffin Engineering, went over the plans submitted. They will reconstruct the curb cut to level it off to ensure handicap accessibility. They will be removing one tree yet planting several new trees. They would also be putting up a privacy fence on a portion of the property. The driveway will stay in the current location. There will be plenty parking on site.

Attorney McCann stated that these will be three-bedroom units and are family oriented. The existing house is not changing, but due to the fact that it is non-conforming they do need to ask for the Finding. This will require a Special Permit through the Planning Board and Site Plan approval as well.

Robert Cignetti asked if these were going to be condos?

Attorney McCann answered yes, they will be condos.

Rebecca Kilborn had no questions.

Jeffrey Sauer had no questions.

Kenneth Jarvinen had no questions.

Corinne Doherty had a question for Richard Maloney, Building Inspector. She said that she noticed they had come before the board two times in the past looking to subdivide the property. She asked what happened then.

Mr. Maloney answered that there was not enough frontage/access on Ash Street to subdivide.

MS. Doherty also asked, if the duplex is in the back of the property where is the entrance.

Attorney McCann stated that it is a shared driveway. It will remain in the current location.

John Boughner had no questions.

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

Tammy MacKay, 107 Ash Street, addressed the board. She stated that if they put up a fence, their fence would be in her driveway. She said that the property line runs right down her driveway. That would bring her from two parking spots down to one. If the fence runs the whole property line, she wouldn't be able to see pulling or backing out of her driveway.

Mr. Boughner answered that they would not build on her land.

Mr. Griffin stated that they had the property professionally surveyed by LeBlanc Surveyors. He looked at the plan and does see that her driveway was encroach on their property. They have set the fence in one foot, on our side, off of the property line. So, it doesn't look like they will be placing the fence on her driveway. They will try to work with the neighbor if necessary.

Paul Tutko, 108 Ash Street, asked what would prevent them from coming back in the future to ask for another variance on this property. Will there be construction equipment entering via Ash Street.

Mr. Boughner asked that nothing would prevent them, but they would have to prepare a new application with specific details and come back before the board.

Mr. Griffin said that they have 18' of access on Ash Street, they will use this access for utilities, but not to access the property for construction.

Pam Wall, 111 Ash Street, she has concerns regarding runoff, snow being piled up against her fence and her loss of privacy with the height of the new building. She also asked they can come back before the board to build more.

Attorney McCann said that this will have to go through Site Plan, where these concerns will be addressed. three sides of the property will be fenced.

John Boughner suggested that she attend the Planning Board meeting, to see that these areas are being addressed. They can come back before the board, but they can only vote on what is before them tonight.

Susan MacDonald, 86 Sylvan Street, She and Mr. Panzero have been arguing about what should go there and how it should be. She stated that the board approves this, it needs to be with a restriction of a fourth building. No abutters want a new unit there.

Mr. Boughner again encouraged that all neighbors need to follow this through to the Planning board stage.

Matt Walsh, 113 Ash Street, he stated that the existing house was old and decrepit and he is all for making it look better. He has met Mr. Panzero and thinks that he is doing a good job on the site and he is in favor of the project.

Tammy MacKay, 107 Ash Street, spoke again stating that Mr. Panzero has never spoke to her about putting a fence in her driveway. A year ago, a tree from his property had fallen on her property and he still hasn't moved it, he is not being a good neighbor.

Mr. Boughner interjected, there is a plot plan with a defined property line. They are not going to build on your property. You cannot just say they are building on your property. It may be that over time what seems like is your property, may not be.

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

Robert Cignetti said that he would vote yes.

Rebecca Kilborn said she would vote yes.

Jeffrey Sauer said that he will wait to hear the other members.

Kenneth Jarvinen said he would vote yes.

Corinne Doherty said she cannot see the hardship, she would vote no.

John Boughner said that he thinks the improvements on the existing structure are a sign of things to come. He sees the shortcomings on this lot as minimal. The second structure is not detrimental. He would vote yes.

Rebecca Kilborn said that she feels the existing house is in terrible shape, it's already looking much better and the new structure will also be better which will improve the property values around it.

Jeffrey Sauer then said he would vote yes.

Robert Cignetti then motioned the board to grant the Dimensional variance from the Danvers Zoning Bylaw, Section 7, Table 2 to

allow Multi-family development to have less frontage and area as shown on the plans submitted.

The hardship: Owing to circumstances related to the shape of the lot and the location of the existing structure on the lot that affect this lot but not lots generally in the Zoning District, a literal enforcement of the Zoning Bylaw would result in substantial hardship to the Applicant, financial and otherwise. The proposal is very much in keeping with the other multi-family developments in the R-I district, and the minimal Variance will allow the applicant to retain the existing dwelling and the streetscape, and construct a duplex that will provide needed modest housing in the downtown area and be in keeping with the neighborhood. The requested relief will not derogate from the intent or purpose of the Zoning Bylaw and the requested relief may be granted without substantial detriment to the public good.

Rebecca Kilborn seconded.

4 to 1. Corinne Doherty opposed.

Robert Cignetti moved to grant the Finding on the existing structure in accordance with the Danvers Zoning Bylaw, Section 3, for the existing non-conforming dwelling regarding front and side setbacks.

Rebecca Kilborn seconded.

4 to 1. Corinne Doherty opposed.