

Town of Norfolk
 Zoning Board of Appeals
 One Liberty Lane
 Norfolk, MA 02056

August 15, 2018

Zoning Board Members	Others
Chris Wider – Chair ----- Present	Robert Luciano –Assoc. Member ----- Present
Michael Kulesza –Vice Chair ----- Absent	Medora Champagne – Assoc. Member -- Absent
Joseph Sebastiano – Clerk ----- Present	Amy Brady – Administrative Asst. ----- Present
Donald Hanssen – Member ----- Present	Rich McCarthy – Town Planner ----- Present
Devin Howe - Member ----- Present	

The duly posted meeting of the Zoning Board of Appeals convened at 7:00 P.M. in Room 124 of the Norfolk Town Hall. Mr. Wider announced that the meeting was being audio and video recorded.

PUBLIC HEARINGS:

9 Fruit Street, Special Permit (cont'd from 5/16/18)

Present was Mr. Mike Brogan, applicant.

Plans and documents presented and referred to were one marked-up plot plan entitled “Fruit Street (Public Right of Way),” four hand-drawn sketches of the proposed building, one color photo of entry door, dated 1/17/18, and labeled IMG_1939.JPG

Mr. Wider called the continued public hearing to order, and recognized Mike Brogan, applicant, who handed out documents noted above. Mr. Brogan said he wanted to add a two-car garage to the side of the existing structure, and a second dwelling above it; driveway will go straight into garage from the street. The sketch of the existing house pictured kitchen, living room, bath, 3 bedrooms; the second dwelling will have kitchen, living room, bath/laundry, 1 bedroom and be 24’ x 36’, front-entry single-car garage. Mr. Brogan said the land will be perc’d and prepped for a new septic system after December 1, 2018, to change from a 3- to a 4-bedroom. Mr. Hanssen asked when the existing house was built; Mr. Brogan replied 1961, and stated that the bylaw was adopted in 1963 allowing a single-family dwelling existing at that time, to be converted to a two-family dwelling. Mr. Sebastiano asked if the “resulting dwelling” needs to be in existence before the Special Permit is issued, and Mr. Wider replied that it does not; Mr. Wider asked if there are similar garages in the neighborhood, and Mr. Brogan responded that the house next door has a garage under. Mr. Howe questioned whether a new addition would still qualify the whole dwelling as being in existence at the time of bylaw adoption; Mr. Wider stated that the bylaw did not specify whether the “resulting dwelling” could have an addition or not. Mr. Sebastiano stated that he had the same question. In response to Mr. Hanssen, Mr. Brogan said that the peaks of the rooflines would match; the proposed second family will have a 3’ entry door next to the 16’ garage door on the front of the dwelling; the front door of the main residence faces to the side, entering into the living room. Mr. Hanssen asked if these hand-drawn sketches were sufficient to make a decision, and Mr. Wider responded that they were enough to determine if the resulting structure would meet the requirement to blend into the existing neighborhood, but engineered drawings would be required to obtain building permits. Mr. McCarthy noted that the questions regarding design of the resulting structure should be incorporated into the decision, should a positive decision be issued, to ensure that the structure does look similar to other single-family structures within the neighborhood. With no more questions from the Board, Mr. Wider opened the hearing to public comment.

Dr. Tris Carpenter, 120 Seekonk Street, stated 1) that the drawings appeared to show the two structures not “communicating” with each other via any door; 2) there is currently someone living in the basement that he feels is not allowed and should be checked on; and 3) he remembers Mr. Brogan stating in an earlier meeting that the gate on the “roadway” in the back would always be locked, but currently it has not been. With regard to question #2, Mr. Wider said that Mr. Bullock addressed that at the last meeting, and said that you are allowed to have people living in your home. With regard to question #3, Mr. Brogan said there was not a gate, but 2 corral panels, and the road is a way for his children, who live at 9 Fruit Street, to travel between there and his house at 123 Seekonk Street; as he owns all of the property, he does not have to gate it. Mr. Wider asked if it is a road or a cart path, and Mr. Brogan said it’s a cart path, but 3 of his children do drive on it; it does go out to the road. With regard to question #1, Mr. Brogan said the dwellings are connected, but there will be a fire wall between them, so you cannot have a door there; the overlap will probably be 4’-6’. In response to questions from Mr. Wider, Mr. Brogan said that currently his ex-wife and 4 children live upstairs and pay rent, and a woman boarder lives downstairs. Dr. Carpenter asked that the Board look back at the minutes to see what they had requested of Mr. Brogan regarding the gate.

Larry Clark, 130 Seekonk Street, stated that 1) this design is very different from the first, so wouldn’t it require a new application? 2) he felt that the Board should require architectural drawings to really determine if the house would blend in with the neighborhood; 3) Mr. Clark said that the home is currently being used as a two-family, which he said is against zoning bylaws, and he felt a cease and desist should be issued until this hearing is completed; 4) Mr. Clark said that state code only allows one electric service per property, so there could not be two services to this property. With regard to #1, Mr. Wider said that Mr. Brogan came before the Board with a plan to convert to a two family, utilizing the basement, but that was not allowed, so a new plan was required, but it is still the same application for converting a one-family home to a two-family home; regarding #2, Mr. Wider said that the ZBA does not require architectural plans to make this determination for a Special Permit, it simply needs to know that it meets minimum criteria, which can be conditioned, but the Building Department will need the architectural drawings. Regarding #3, Mr. Brogan said his children do not pay rent, his ex-wife does, and the woman living in the lower level does; Mr. Clark asked if it was a boarding house, to which Mr. Wider took issue, because Mr. Brogan’s children live there. Returning to the question of architectural plans, Mr. Clark said he did not see how the Board could make an educated decision based on the drawings presented. Mr. Hanssen said that part of any approval the Board would give, would be that it conforms to the single-family characteristic of the neighborhood, and then it would be incumbent upon the Building Commissioner, Bob Bullock, to ensure the plans meet that criteria. With regard to multiple electrical systems, Mr. Wider said multiple meters have been allowed in the past, so he did not know the answer. Mr. Brogan said that Mr. Clark was correct that there could not be two separate 220V cables, or services, coming into one home, but there would be only one service, which would be split into two meters once it reached the home, which is standard, and Mr. Clark said he just wanted to be sure it was clear.

Karen Clark, 130 Seekonk Street, asked if Mr. Brogan was going to re-do the septic system, and Mr. Brogan said yes, it would be done before the addition was done, and regardless of whether the addition was approved. Ms. Clark also said that because of the firewall, it really seemed that this was two separate structures; the initial hearing was to convert the existing 9 Fruit Street as it stood to a two-family, with no talk of an addition, and therefore this is not the same as the original application; Mr. Wider said that what was applied for was to convert 9 Fruit Street to a two-family, and this is still what is being asked. Discussion ensued as to whether or not a structure built before the 1963 bylaw, but expanded upon after 1963, is still considered a dwelling existing before the bylaw adoption; Mr. Wider said that the bylaw does not state that it isn’t. Mr. McCarthy said that the Board needs to make a determination on this point, since it is not specified in the bylaw.

Mr. Wider asked if the Board would like a walk-through of the site, or a better plan; Mr. Howe said that, in his opinion, he could not determine if the outside of the addition would conform with the single family look, without architectural drawings; Mr. Brogan said he is looking for direction, so that he doesn’t waste money having drawings done that will need to be changed. Mr. Wider suggested that the plans be sent to

Mr. Bullock for his opinion, and if he approves, then Mr. Brogan will be asked to provide architectural drawings. Mr. Hanssen asked if there will be a door, or a pass-through, that goes from one foundation to the other, in order to enable it to go back to being a one-family; Mr. Brogan said he could put a fire door if necessary. The necessity of doing such was debated.

Al Quaglieri owns a house at 194 Main Street that the ZBA approved for conversion from a one- to a two-family. After spending \$3,000.00 on plans for such, the Special Permit was rejected by the Building Commissioner. The Board had approved a teardown of the one-family, to be rebuilt as a two-family for that Permit. Mr. Wider replied that that building was in the B-1 district, not having the “existing prior to . . .” restriction.

Mr. Clark asked for clarification on why 9 Fruit Street is not considered a two family, just because his family lives upstairs, and a boarder lives downstairs, equating that to any family wanting to rent out their basement, and Mr. Wider said the bylaw does not prevent people renting out rooms. Mr. Clark said Mass state code says that renting to more than 4 people requires a license; Mr. Wider said that would be up to the Building Commissioner. Ms. Clark spoke next, and referred back the difference between tearing down and rebuilding, as opposed to expanding and making a two-family, stating that then anyone in Norfolk could do that; Mr. Wider said no not just anybody, only if their house was built prior to 1963. Mr. Wider summed up that the Board would ask Mr. Bullock if he concurs that this is an acceptable interpretation of the bylaw, the Mr. Brogan will be asked to provide more detailed plans.

Mr. Hanssen made a motion to continue the hearing for 9 Fruit Street to September 19, 2018, at 7:00 P.M. to Room G-07 at Town Hall; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.

6 Hill Street, Special Permits (cont'd from 8/1/18)

Present were Nathaniel Hunter, applicant; Atty. Ted Cannon.

Mr. Wider called the continued public hearing to order. Ted Cannon, lawyer for the applicant, requested to withdraw the application without prejudice, because there was some question as to use by the previous owner regarding parking commercial vehicles on an area that might be residentially zoned, which would require a separate hearing. The applicant and his lawyer decided that the most efficient thing to do would be to withdraw this application, and file another encompassing all Special Permits required. Atty. Cannon said that the proposed use would be less invasive than the previous use. Mr. Cannon also stated that he and Mr. Hunter would be willing to meet with the neighbors present after the hearing. Mr. Wider asked if they had any opposition to allowing residents to speak at this hearing; Atty. Cannon responded that they were not opposed to that. With no questions from the Board, Mr. Wider recognized Betsey Whitney, 26 Valley Street, who asked if any testimony were added tonight, what hearing it would be attached to. Mr. Wider said if testimony were taken tonight it would be filed with the record for this hearing. Ms. Whitney continued, referring to the Town Meeting of 2013, where this district was changed from Commercial to Commercial with a Residential Component, and said she will speak more on this topic when the application is refiled. Thomas Martin, 42 Everett Street, first stated that he did not get a hearing notice, and he didn't understand why, since he was notified of hearings regarding #7 Hill Street. Mr. Martin asked for a description of the applicant's business. Mr. Hunter said his company, Hunter Environmental, does commercial snow removal in the winter, and in the off-season they do landscape construction, such as installing lawns. Mr. Martin said that before Mr. Hunter re-files with the Board, he would like to see Material Safety Data Sheets (MSDS). Mr. Wider said that detailed information such as that would be part of the public hearing. Mr. Martin asked what traffic pattern will be used; Mr. Hunter said first he wanted to clarify that his operation will be much smaller and less impactful than ILP, the previous owner; also he had done some research into the biggest neighborhood concerns, and found that traffic emptying onto Everett Street was a problem, so he will be moving the gate in front of 6 Hill Street

will be moved back allowing trucks to take a lefthand turn (toward Valley Street,) funneling truck traffic into the C-1 District, not into the Residential District.

At the request of Mr. Wider, Ms. Brady checked the abutter list, and Mr. Martin's name was not on it; as a courtesy Ms. Brady will include him on future information regarding #6 Hill Street. Mr. McCarthy noted that the plans shown are based on a plan not on record with the Assessor's office, due to an error many years ago. Mr. Quaglieri elaborated that the 1979 plan was never recorded as a plan of record, and Mr. McCarthy agreed with that statement. Christopher (?), 9 Hill Street, expressed concern with trucks backing up in the middle of the night, with no regard for noise, lights or property; Mr. Wider said that will be addressed at the public hearing. Peter Svalbe, 58 Everett Street, asked why the Assessor's site says the owner of 6 Hill Street is Mary Gould; Mr. Wider responded that there appears to be some administrative paperwork on this property that is not in order; Atty. Cannon said it will be addressed at the next hearing; Mr. Wider explained that the applicant does not need to be the owner, as long as they have the owner's signature on the application. Mr. Svalbe stated that he discovered that ILP did not have any Special Permits, and he didn't understand how this Special Permit could be based on it; Mr. Wider said this Special Permit will be based on its own merits. Mr. Svalbe asked Mr. Hunter to give a brief description of the size and scope of his business; Mr. Hunter said that he wanted to be a positive member of the neighborhood community, and asked a person to raise his hand stating that his company was now "raising its hand," but also said that it does scale up in the busy season. He also indicated that his website is designed to make the company look bigger than it actually is, for marketing purposes. Mr. Wider said that the more information that could be provided to the public hearing would be appreciated, such as number and types of trucks, chemicals, etc. Mr. Martin asked a question to clarify that, if Hunter Environmental were issued a Special Permit, it would expire when Hunter Environmental moved, or otherwise stopped operations.

Mr. Hanssen made a motion to withdraw the application for 6 Hill Street without prejudice; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.

The Preserve at Abbyville (cont'd from 8/1/18)

and:

Abbyville Commons (cont'd from 8/1/18)

Mr. Sebastiano made a motion to continue the hearings for The Preserve at Abbyville and Abbyville Commons to September 5, 2018, at 7:00 P.M. at the Freeman Kennedy School Cafeteria; Mr. Luciano seconded the motion; the vote on the motion was unanimous.

MINUTES:

April 26, 2018

It was noted the word formulae should be formula.

Mr. Sebastiano made a motion to accept the minutes of April 26, 2018 as amended; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.

May 30, 2018

It was noted the work no should be not.

Mr. Hanssen made a motion to accept the minutes of May 30, 2018 as amended; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.

MINUTES: (cont'd)

June 6, 2018

Mr. Sebastiano made a motion to accept the minutes of June 6, 2018; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.

Mr. Hanssen made a motion to adjourn the meeting; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.

The meeting was adjourned at 8:45 P.M


Mr. Joseph Sebastiano, Clerk

In accordance with the requirements of G.L. 30 § 22, approval of these minutes by the Board constitutes its certification of the date, time and place of the meeting, the members present and absent, the matters discussed, and the action taken by the Board with regard to those matters (if any). Any other information contained in these minutes is included for context only. Notes memorializing deliberation or discussion of any matter are in the summary form and may include inaccuracies or omissions. Where proof of the content of a statement is required, a tape recording or transcript should be consulted, if available.