

**ZONING BOARD OF APPEALS  
CITY HALL AUDITORIUM  
62 FRIEND STREET  
THURSDAY, MARCH 27, 2014 – 7:00 P.M.**

**Meeting called to order at 7:05 P.M.**

**Present: Matt Sherrill, Olyce Moore, David Haraske, Donna Collins.**

**Absent: Lavoie, Orem, McDermot**

**Also Present: Denis Nadeau, building inspector. Sue Yeames, secretary. Paul Bibaud, transcriber.**

***MINUTES: Feb. 27, 2014: Donna Collins made motion to approve. Motion was seconded by Olyce Moore. All in favor***

**REQUEST FOR EXTENSION: COMPREHENSIVE PERMIT- 36 HAVERHILL ROAD – AMESBURY HEIGHTS**

**Wayne Capolupo, Boston North:** looking for another one year extension for Amesbury Heights. Things have improved- unique project- not for sale.

It has been a challenge, but the economy will change, and the project will move forward. Could be built in phases. Needed information on movement. Should get a one year extension. Board voted as follows:

Olyce Moore: yes

Matt Sherrill: yes

David Haraske: yes

Donna Collins: yes

**Extension approved.**

**THE ESTATE OF LOUISE BASTIEN c/o RONALD BASTIEN**

**Is seeking a variance under Amesbury Zoning Bylaws Section II: Definitions and Section VI.B: Table of Dimensional and Density Regulations to seek zoning relief to support the construction of a single family structure at 13 South Hampton Road, Amesbury, in an R-8 Zoning District, Precinct 2.**

**Carlos Wintowski:** Variance on lot width from Planning Board 9-20-2007.

Got subdivision approved and recorded. Need a variance for an approved and recorded subdivision. Plan date is 9-27-2007 = exact same plan. Approval for a width variance on Lot 1. Working for variance on Lot 1 width. Only house there is on Lot 2.

**Bonnie Schultz, 122 Market Street:** Supplies cover letter and pictures.

Water issues... drainage? Doesn't want two large houses on two small lots.

Both Lots are Form A lots. Subdivision rules not required. They will have plenty of room to build. If all zoning requirements are met, they will not need any further approval.

She (Bonnie Schultz) thinks the lots are too small.

**Patty Flynn, Rowell Street:** wants to know minimum size of the lot.

The lot does not have the proper width. Asks about wetland issues. There is a field across the street with a catch basin and a drain line. Goes along the property line.

Hardship: if not approved, subdivision not viable. Marketed as two lots. Not sold due to economy.

No questions.

Close and discuss.

Lot width variance for Lot 1. Valid variance of hardship – shape of the lot.

Donna Collins agrees. Was an odd shaped lot previously.

Meets frontage and lot size and meets Form A zoning.

1. no
2. 2. no change
3. no

No further questions.

**Motion** to close and vote by Donna Collins was seconded by Olyce Moore.

Olyce Moore: yes

Donna Collins: yes

Matt Sherrill: yes

David Haraske: yes

**Variance approved.**

**Alex and Johanna Wilson - seeking a Special Permit/Finding under Amesbury Zoning Bylaws Section IX.B: Extension and Alteration to construct a 261 square foot addition to add a bathroom and laundry room to existing single family home at 52 Pearl Street, Amesbury, in an R-8 Zoning District, Precinct 2.**

**Alex and Johanna Wilson, 52 Pearl Street:** Extend the length of the house. Reads letter from the abutters. Will remain 12 feet off the lot line. Extension of a non-conforming structure. No board questions for applicants.

**Timothy Fournier, 53 Pearl Street:** In favor of change. No problems.

**Motion** by Donna Collins and seconded by Olyce Moore to close and discuss.

No new non-conformity.

Predates zoning: yes.

How is it non-conforming? Area, front, left and right sides, and rear setbacks.

Improved or no effect on the neighborhood.

No new non-conformity.

**Motion** by Donna Collins and seconded by Olyce Moore to close and vote.

Olyce Moore: yes

Donna Collins: yes

Matt Sherrill: yes

David Haraske: yes.

**Application approved.**

**Daniel Bryant – seeks a Variance under Amesbury Zoning Bylaws Section VI.B: Dimensional and Density Regulations to seek zoning relief to support installation of a deck with insufficient side yard setback at 2 Birchmeadow Road, Amesbury in an R-20 Zoning District, Precinct 5.**

**Dan Bryant:** Proposing an 11 x 42 foot deck – low to the ground –previously had a deck – replace steps. Met with Conservation Commission. Need a variance. Suggested a deck rather

than hardscape. Property line goes into the water. Need a variance of two feet, with the deck going over the wall = square it off.

Hardship: odd shaped lot. Will make a wood patio on the ground for water to pass through. Need a drawing of the plan on the lot line. Bryant shows the board their design. Will make it conform along the retaining wall inside, rather than over the wall. Approved by Conservation Commission keeping the deck on land side instead of over the water.

**Motion** by Donna Collins and seconded by Olyce Moore to close and discuss.

Hardship: lack of use and enjoyment – shape of lot – placement of structure.

1. no
2. none
3. no

**Motion** by Olyce Moore and seconded by Donna Collins to close and vote.

Olyce Moore: yes

Donna Collins: yes

Matt Sherrill: yes

David Haraske: yes

**Application was approved.**

**Charles Cullen – seeks a Special Permit/Finding under Amesbury Zoning Bylaws Section IX.B:**

**Extension and Alteration for the renovation of an existing family residence at 495 Main street, Amesbury in an R-20 Zoning District, Precinct 1.**

**Charles Cullen:** Submitted 3 letters from direct abutters. Doesn't make any new non-conformities. Wants to build a second story and will become a ¾ Colonial from a half Colonial. Mr. Cullen reads letters into the record in support of the renovations urging approval of the proposed application.

No questions from the board.

**Motion** by Donna Collins and seconded by Olyce Moore to close and discuss.

1. Pre-dates zoning.
2. area and frontage.
3. improvement
4. no new non-conformity

**Motion** by Donna Collins and seconded by Olyce Moore to close and vote.

Olyce Moore: yes

Donna Collins: yes

Matt Sherrill: yes

David Haraske: yes

**Application was approved.**

**Richard Guest – seeks a Special Permit under Amesbury Zoning Bylaws Section VI. B: Dimensional and Density Regulations to construct shed dormer on main roof and raise side addition roof and construct shed dormer on same at single family residence at 42 Merrimack Street, Amesbury in an R-8 Zoning District, Precinct 1.**

**Richard Guest:** This is a half house. Neighbor has renovated his half. Proposes to be more like that renovated side of the house. No change to the footprint. No views affected.

No board questions.

**Motion** by Donna Collins and seconded by Olyce Moore to close and discuss.

Seeking a finding.

Pre-dates zoning – 1756.

Non-conforming lot size and frontage.

Improvement to the neighborhood.

No new non-conformities.

**Motion** by Donna Collins and seconded by Olyce Moore to close and vote.

Olyce Moore: yes

Donna Collins: yes

Matt Sherrill: yes

David Haraske: yes

**Application was approved.**

**Nick Cracknell, 98E South Hampton Road:** Asking for an extension.

**Matt Sherrill:** Reads the letter asking for a one year extension to complete the drawings and the issuance of a building permit.

April 25, 2013.

Extend one year from April 25, 2014 to April 25, 2015.

Asking before it expires.

No reason not to be granted to April 25, 2015.

No discussion. Vote went as follows:

Olyce Moore: yes

Donna Collins: yes

Matt Sherrill: yes

David Haraske: yes

**Extension of one year approved. Will expire April 25, 2015.**

#### VERBATIM

**Stephen Noon – seeks a Special Permit/Finding under Amesbury Zoning Bylaws Section XI.K1: Residential conversions to convert a single family residence into a two-family residence at 4 Field Street, Amesbury in an R-8 Zoning District, Precinct 1. Sitting on this application is Olyce Donna Matt Dave**

**Stephen Noon:** I have a single family home that I build down on 4 Field Street. I am here to ask if I can get permission to change it to a two family residence. If you look at the drawing as to what I've built, I've built a traditional colonial. I've had the neighbors come over and say how much it's improved the neighborhood. That's it in a nutshell, plain and simple.

Matt Sherrill I was presented (a letter) earlier in the day and I'll give you guys permission to speak.

Reads a letter from Laura Nikas, 22 Chase Street an abutter who is in opposition to Stephen Noon. (attached herein)

Asks Mr. Noon to step down.

Is there anyone here who would like to speak for or against this application. Please come up to the podium, state your name and address and your support or opposition.

**Sharon Nichols**, she and her husband, Christopher, own 22 Chase Street which looks directly at the back yard of the home that he (Noon) built. Would like to submit that we are very much opposed to it going into a two family residence. I have several reasons, probably already have been mentioned in the letter from Laura (Nikas). Myself and my husband, we've lived in the neighborhood for about 17 years and it's a very remote part of the neighborhood. It's the very end zone where it's a little bit rural, it's all single family homes and I'm concerned about the traffic. It is a very narrow road. If you're driving down the road and there is someone coming at you, you are pulling into someone else's yard or driveway because you can't pass. There is no room, we're lucky we have it paved. In the winter time when there's so much snow we don't even get sand down there. It's pure ice. The delivery trucks can't get through. One of my neighbors actually get oxygen delivered they have trouble getting around the corners. So I'm worried about if more families come down to the neighbor house there will be more cars, more parking, more people trying to park on the streets and you can barely move down there as it is. Mr. Noon is very nice. He drives very slow down there. There are multiple children under the age of 12 including 4 of my own. 2-3 right around the corner, several right up the street and the kids are riding around, barreling around but it's a rural area. There is a lot of overgrown brush. So going around the bend where this home is it's very dangerous. So you put more cars down there on top of the speeding cars I'm very concerned about the traffic. One of the other concerns that I have is that the integrity of the neighborhood will change. It's taken many years for this old neighborhood in Amesbury to clean up. We've had a new street come in with some new homes on it that are very nice homes. Some families have moved out and new families have moved in but the general ball park of the neighborhood is they are very good people. But if you go closer to the up town area where the apartments are up towards Mill Street where the Bathhouse is, more of the rif raf up there, I'm just very concerned that if there is a rental unit down the bottom of the neighborhood it's just going to populate and going and going and we're going to loose the integrity of our neighborhood. I don't want to loose property value. I'm very conserved for all of that.

Matt what was there prior to this new house?

**Sharon Nichols** there was nothing there. It was a vacant lot very small lot that it didn't look like you could build a house on it. There is not a lot of frontage. There is some backage, it's on an inside loop. There is a throughway road down there but there was never anything on this, just overgrown brush.

**Kate Curry**, husband Glen live at 6 Field Street: We have several comments addressing this request for special permit. The east end of Field Street is a group of single family owner occupied houses. As a neighborhood to raise children in it is idea. Low traffic, friendly neighbors, pride in ownership, a place where kids ride their bikes in the street, play ball and run from house to house. We were assured by prior owners and neighbors and in fact Mr. Noon himself that the adjacent property was a single family home and that it would remain so. Maintaining the single family zoning is critical to the identity and character of this neighborhood. The east end of Field Street is not wide enough for two cars to pass abreast. There are no sidewalks and no room for them. Additional traffic could create more congestion and certainly impair pedestrian safety especially as there are many children in the neighborhood. We have three small children and would be impossible to accommodate given the housing

density. The house in question was built in 2013 as a single family in an area zoned for single family homes. Less than a year after completion this special permit asks for the right to convert to a two family non-owner occupied rental unit. This appears to be no more than an attempt to skirt the single family zoning. The public good would not be served by granting this permit.

**Lisa Humphries**, 8 Field Street I live next to Glen and Kate (Curry). I've lived on Field Street my entire life so I've seen a lot of changes there. I'm also concerned that with multifamily or two family zoning going in that it will open it up down in our area to permit more of that to occur and I don't want that to happen. I agree with Kate and Sharon and Laura and Glen.

**Matt** invites Steve to come up. Generally these residential conversions are fairly easy for us to consider. Do you meet the parking? Do you have the lot size? Do you have this, do you have that. For us to consider, normally you don't have an entire neighborhood standing up in opposition of what you're doing.

**Stephen Noon:** Let me just say this. You talk about degrading the neighborhood. I can only tell you this. As far as the improvement of the neighborhood: when I bought the lot it was a run down kind of beat up old lot. There was nothing there. I think if you ask anyone in the neighborhood I put in a nice two story single family home. My neighbors next door who sold the home to the folks that are here tonight from Maine, we've met once or twice. This is what I was told – when they went to sell the home the realtor said to them, “this neighborhood isn't that nice so you shouldn't be able to get this kind of a price” and Laurie said, look at this brand new, beautiful home here in the neighborhood and look at what it's done for the neighborhood. All I've done is improve the neighborhood. I haven't done one thing to impede it – if anything, I've improved peoples properties of their homes. I've had numerous people say to me – is this an old home you're trying to make look new or is this a new home you're trying to make look old? The other thing is the reason the house is built on a slab is because I didn't want to raise it up and have it up out of the ground. I wanted the home to be traditional in appearance, as handsome as possible and not be an eyesore. From the architectural shingles to the siding to the windows to the front entryway, I personally think it's a beautiful home.

Matt Sherrill: What is your intent?

Stephen Noon: my intent is to ask is it possible to make it a two family home.

Matt Sherrill: but beyond that I've heard testimony that this is going to be a two family rental unit. What will be the end result?

Stephen Noon that would be correct.

Matt Sherrill: what would be your answer to the board about their concerns about added traffic and cars the fact that it's a very narrow street, road are impassible when there's snow, there's children. What can you do to make me feel better about that?

Stephen Noon what I can say is this. There are a lot of narrower streets in Amesbury. I built the house as a retirement home. In five years, eight years I'm not going to be able to afford my home and the taxes on the other side of town. As far as traffic the most would be two other vehicles on that street. It's a great neighborhood because there is no traffic. It's the end of the walking loop. I don't thin two additional vehicles are going to create a problem. Do I enjoy seeing little children walk through the yard and the kids on the bikes...I love it. One of the abutters has asked me could you come speak on behalf of their swimming pool? I think it's great but I don't think two vehicles is going to ruin or impede or create additional traffic on Field Street where there already isn't traffic. The other thing I'll say is if you take from Nayson's Court to Mill Street and drew a straight line down to 4 Field Street it pretty much creates a triangle. I'm at the bottom of that triangle. The lot is 15, 929 square feet, it's 71 square feet shy of allowing a form

A lot. I could ask a neighbor could I buy 80 square feet and I could have a Form A lot. I'm not asking for that. I'm from town, I live in town, I'm not leaving. I tried to build quality homes. Matt Sherrill I think that for the neighbors and myself to be honest if we were to consider allowing you to turn this into a two family residence if it were to be sold as two condos as owner occupied, I think it might sit better with the neighborhood. That's just my gut feeling. I think they are picturing people of all ages renting this place, coming and going, teenagers screaming their wheels, I don't know I can only imagine. I appreciate their concerns and I'm listening to them.

Stephen Noon I appreciate their concerns also. I've tried to build a quality home. I've had numerous comments on how it's improved the neighborhood. I don't see how it's been a detriment to anybody's home.

Matt where in your building this house did it turn from your retirement home to a two family rental?

Stephen Noon I built the house in the last six month to a year, I've been doing it out of pocket. I've built 29 homes here in town. The market got tough so I built this as a project and I've been doing it nights and weekends.

Olyce Moore if your not planning to retire to this house, why are you wanting to make it a rental property...why not just sell it?

Stephen Noon the way it's going this evening that's what I'll probably just sell it.

Olyce Moore why did you decide on a rental?

Stephen Noon I thought instead of just selling it I thought I would ask if I could make it a two family. I have a 3,000 sq. ft home now, the tax bill is going through the roof. I'm 60 years old and in 10 years I don't know if I'll be here but it would be a nice place for my wife to be and have some rental income.

Donna Collins and you don't want to rent it out as a single family?

Stephen Noon no I was hoping to rent it as a two family if approved

David Haraske you just finished this in 2013.

Stephen yes

David and is never occurred to you along the way that it could become a two family? It almost seems like intent to me.

Stephen if the neighborhood is that much against this then it is what it is. And if it isn't going to go I'll put it on the market and sell it. I tried to plan for my future.

Matt Sherrill the neighborhood opposition is what getting you.

Stephen Noon but are two vehicles going to be a traffic problem...I don't think so.

**Sharon Nichols, 22 Chase Street:** Mr. Noon has built a beautiful home. The biggest concern is the fear of it becoming a multiple family home. There is already someone living on the first floor and they have two vehicles already, coming and going, and they do have lots of company coming in and out. Everybody is entitled to have company, which is not a problem, but it is causing traffic problems in the neighborhood because they are parking on the sides of the road, and it makes it's impassable in the winter. So the other problem I have is, and its not the fact that it is a beautiful home, it is very attractive on the outside. Years ago, when he first started building the home, I actually called the building department and left a message, and I believe I spoke with Denis at the time, because I was concerned that this house was being built as a two family house years ago. It's been a very long process building this house. The reason I was very concerned was, because when I looked at the back of the house, my home looks directly at the back of his house, there is a full walk out door from the upstairs (second floor level) with

immediately a stairway brought downstairs. Most double family homes do not have a full walk out from the second floor. When you looked at the position of the windows, and if you peeked through the windows, you could see that the layout was identical upstairs to what it was downstairs. He already has tenants living there, and there is already two doorbells on the front door. Please, this is nothing personal against Mr. Noon, he seems like a very nice, kind, respectful man. It is really to save the integrity and the safety of our neighborhood and our children's futures, without them being hurt. This is my home for life. It may be his home temporarily, it may be the renter's home temporarily, but you don't know who is going to be the next people living there, and what they are going to bring, good or bad, to the neighborhood. That is what worries me. I just wanted to bring that to everyone's attention.

**Matt Sherrill:** Alright. Is there any more questions from the board for the applicant? (none).

Then I will entertain a motion to close and discuss this application.

**Motion** by Donna Collins and seconded by David Haraske to close and discuss.

**Matt Sherrill:** Before we go through the summary of findings, what is the flavor? What do you guys think?

**Donna Collins:** It does look like a two family, hearing the last lady speak about two door bells and the stairway from the back. I would question whether it was really ever going to be a single family dwelling, and two families are not allowed, so with all the neighborhood opposition, I'm a little bit leery.

**Olyce Moore:** What would've happened if he had applied for a permit to build a two family...

**Matt Sherrill:** You can't build a two family home.

**Olyce Moore:** This could be considered almost a way around that.

**Matt Sherrill:** Certainly.

**Olyce Moore:** That is a concern. I'm not so much concerned with an extra two cars. I'm not sure that that is going to make that much difference. But I am kind of concerned with the process.

**David Haraske:** I'm equally concerned. With this finished off last year, and lo and behold 6 months later, it's "let's turn it into a two family now." I know the gentlemen had built 29 homes, he said, and usually when you have that kind of experience, you know what a house can and can't be. So, I get that same flavor, as well.

**Matt Sherrill:** Alright, then I think based on what I've heard, I will entertain a motion to close and vote on this application.

**Motion** by Donna Collins and seconded by Olyce Moore to close and vote.

Olyce Moore: no

Donna Collins: no

Matt Sherrill: no

David Haraske: no

Application denied to convert from a one to a two family dwelling. You might consider an in-law apartment, which we have on the books. As long as it meets the regulations as an in-law apartment. It can't be more than 30 % or something.

**Jon Davey** – 71 Sullivan Street, Berwick, Maine has filed an application for an Appeal of the Code Enforcement officer’s Cease and Desist Order issued on January 17, 2014, for the property located at 77 Elm Street, Amesbury in the Central Industrial District, Precinct 2.

Mr. Davey’s appeal has been postponed until the next Zoning Board meeting on April 24.

**Matt Sherrill:** I will entertain a motion to close the meeting. So moved by Donna Collins. All in favor.

**Meeting was adjourned at 9:15 P.M.**