

**AMESBURY ZONING BOARD OF APPEALS
AMESBURY CITY HALL AUDITORIUM
62 FRIEND STREET
THURSDAY, JULY 26, 2012 – 7:00 P.M.**

PRESENT: Matt Sherrill, Chair, Bill Lavoie, Donna Collins, Bob Orem, Olyce Moore, and Sharon McDermott

Also in Attendance: Denis Nadeau, Susan Yeames

Absent: Ben Osgood.

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**Minutes:**

**April 26, 2012 Motion by Sharon McDermot to approve with correction (Souther case, “no” new non-conformity), second by Donna Collins. All in favor**

**May 24, 2012 Motion by Sharon McDermot to approve, second by Donna Collins. All in favor.**

**June 28, 2012 Motion by Sharon McDermot to approve, second by Bob Orem. Five in favor, Donna Collins abstains.**

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Bernard & Rhonda Buckley, 108 High Street, Amesbury, MA are seeking a SPECIAL PERMIT/FINDING under Amesbury Zoning Bylaws Section VI, Paragraph B; Table of Dimensional & Density Regulations to construct a 20’ x 22’ addition to an existing home at 108 High Street, Amesbury in an R-8 Zoning District, Precinct 4.

Bernie Buckley, applicant: We wish to construct a one story/ one room addition to the side of our small house to increase living space, to be built into the slope of the land, with a foundation that includes a walk out basement. The new single room area in the basement will be used for storage, since we have no garage or barn. No changes to entrances, the deck, pool. The first floor window where the dining room is now will be removed. Architecturally it will remain the same, same siding, same windows.

Motion to close by Donna Collins, seconded by Sharon McDermott.

1. Pre-dating zoning: 1912.
2. Non conformity now: front setback of the main house. Addition is conforming.
3. Detrimental to the neighborhood: no.
4. Addition to create any new non-conforming: no.

Motion to vote by Sharon McDermott, seconded by Donna Collins.

Vote

Bill Lavoie, yes; Bob Orem, yes; Donna Collins, yes; Matt Sherrill, yes; Sharon McDermot, yes. unanimous. Application is approved.

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**Robert Courtney, 430 Main Street, Amesbury, Ma.** is seeking a **Special Permit** under Amesbury Zoning Bylaws Section XI.K.2 In-Law apartment at 430 Main Street, Amesbury, in an R-20 Zoning District, Precinct 1.

**Robert Courtney, applicant:** Request is for an in-law apartment permit. Drawings discussed. Main house on left hand side and on the right hand side used to be a 2 family home when we bought it. Right side has a bath, kitchen, and living area is all there now. Hasn't been used as 2-family, but it has plumbing, access, etc. All walls are in there. There will be one wall added in the interior to divide for storage and closets. Access now has 2 accesses: one from interior, one from exterior. Breezeway is used as dining area.

**Sharon McDermot reads the bylaws for in-law apartments:** all one unit, 2 cars allowed in driveway, no extra parking, if vacant, need to remove kitchen in 6 months, there should be parking for one additional car for the in-law apartment, driveway could be widened, needs to be on the premises (mother doesn't drive).

***Motion to close and discuss by Bob Orem, seconded by Sharon McDermott.***

Parking might be issue. Single family requires 2 parking spaces. The in-law requires one additional parking spot. Three cars can fit in driveway, but tires of third car would be on applicant's grass. The applicant is agreeable to widening if required. Driveway is 23 feet, but 27 is required in this case. Legal parking slot is 9X18X3, they need to add 2 feet on each side to meet the requirements. If requirement is to show dirt on each side for 2 feet, applicant says that can be done. Special conditions are met with the stipulation that make necessary adjustment to the current driveway to fit 3 cars minimum with 27 feet wide. Board is satisfied with access to both units. Total square footage of in-law apartment is just over 400, so that is fine.

Application will not impair the character, health and welfare of district= no.

If granted, would it create an excess of in-law apartments in neighborhood = no.

Met requirements, definition and special conditions. Gives board sketches and pictures.

***Motion to vote by Donna Collins, seconded by Sharon McDermot. Vote Bill Lavoie, yes; Olyce Moore, yes; Bob Orem, yes; Donna Collins, yes; Matt Sherrill, yes; Sharon McDermot, yes. Unanimous.*** Application has been approved.

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Back River Ventures, LLC, W11288 Cactus Acres Road, Lodi, WI. Seeking a variance under Amesbury Zoning Bylaws Section VIII.F to seek permission to utilize municipal parking at a distance greater than 300 feet for the property at **77 Elm Street**, Amesbury in an IC Zoning District, Precinct 3.

Donna Collins pointed out that on the back of the application it says that the representative for the applicant, Gary Bergeron, is not present. Nipun Jain, City Planner, informs board of planning issues regarding granting relief of parking requirements. The application-listed representative will no longer be representing the applicant. The new representative had a conflict and couldn't attend tonight. This is a unique property, being a large building on a small lot with no land for possible parking. Few properties have no parking areas, most use municipal parking lot. Additional parking spaces are available in municipal lot for 77 Elm Street use, and additional capacity to the rear of the MVRTA building. Since Master plan 2004, we have adopted zoning encouraging development of the lower milliard to get developers to re-develop by creating infrastructure and creating a park. Without adequate parking, the likelihood of it being developed and used to full potential is decreased. It's a disservice to residents by not trying to solve that problem. With no on-street parking possible, other option is to find parking, ie: the available

parking spaces in the municipal deck nearest the building. Residential parking could be provided onsite, but commercial parking that creates the issue. We need relief of the 300 foot distance to parking. That distance used to be the standard. Now there is a movement toward more walkable communities, that distance would be 500 feet. Otherwise, this building will remain vacant, creating a public safety issue as well as a burden on taxes by losing revenue we stand to gain. As a planning office, we think it's reasonable to put some conditions. We think: 1. Ground floor should be active use and only commercial or offices and not used for storage. 2. All residential parking should be met on site. 3. Any review of the change in usage should go through formal site plan review with the Planning Board, because it's a tight sight and a gateway, so it's important that it has full support of the city before any change in use takes place.

Matt Sherrill states that the application cannot be voted on until the board gets confirmation from applicant that they are either changing their representative or allowing or giving permission for someone to represent them. We need something from John Manchester giving you permission to represent him for me to consider this. Now, Denis, if Nipun cannot produce an e-mail from Manchester giving him permission to represent him tonight, what timeframe do we have for approval?

Denis Nadeau, building inspector: you'd need to get either get a written notice from the applicant that you continue to your next meeting, or vote on it in tonight's second hearing. There's one hundred days to move on a variance. I'd have to figure out if it's possible to continue to the Aug. meeting. There were only 4 members of the board present last month, which is why it had to be continued.

1. Parking next to the gas station is a lease. When Manchester moves, that lease will end.
2. Mentioned that taxes need to be paid. Town code says no special permits or any permits will not be awarded unless taxes are paid. If you do agree to this, know that it can't happen unless his taxes are paid.
3. 100 days is the limit for you to vote. The Aug. 23rd meeting would be 95 days, so you could continue.

Board discussion ensued. May 21st is when the application was received by the city, so that is the date used. Logical thing to do is for applicant to get his rep in front of us to review what he wants to do for us to vote on this. As far as ZBA is concerned, it doesn't matter if taxes are paid or not. It falls to enforcement agencies of city to enforce bylaws and codes.

Jon Witten, lawyer in audience: The board could issue a variance contingent on taxes being paid, making it a condition that he has to meet or Denis could not issue any permits.

Matt Sherrill: I think we need to allow the applicant in writing tomorrow, sending him an e-mail, that the applicant agrees in writing to continue to the Aug. 23rd meeting, when the board will vote on it due to time period running out, and I'd like to see a representative here that will be able to speak for applicant.

Nipun Jain: I will convey your information and request to get something in writing.

Motion to extend this application in writing from applicant that he agrees to continue to Aug. 23rd meeting, so moved by Sharon McDermott, seconded by Donna Collins. Vote was unanimous.

The letter will include asking for extending to August meeting and naming his representative.

Motion to suspend meeting and enter into Executive Session

Vote: Bill Lavoie, yes; Bob Orem, yes; Olyce Moore, yes; Donna Collins, yes; Matt Sherrill, yes; Sharon McDermot, yes.

Motion to take meeting out of Executive Session.

Motion by Donna Collins to adjourn at 9:00 p.m., second by Sharon McDermot. All in favor.

Minutes transcribed by Paul Bibaud