Present were: Elizabeth Oltman, Chair; Daniel Casper, Acting Clerk; Kathy Faulk, Member; Denise Bordonaro, Brian Corrigan, Ellen Keller, and Michael Novaria, Associate Members.

The meeting opened at 6:30 p.m. Oltman gave a procedural overview.

**Petition Number: Z-19-24 and Z-19-46**
Premises Affected: 161 + 163 Andover Street
Petitioner: Town of Andover
Relief requested: vote on preservation restriction
Members Sitting: Oltman, Casper, Faulk, Corrigan, Keller, Novaria, Bordonaro

The Board received a request from the Town Manager on May 1, 2019 to continue the hearing to the next regularly scheduled meeting. Faulk made a motion to continue the hearings without discussion to the next regular meeting. Keller seconded the motion & the Board voted unanimously to continue the hearing to the next regularly scheduled meeting.

**Petition Number: Z-19-30**
Premises Affected: 143 Abbot Street
Petitioner: Girls Scouts of Eastern MA
Relief requested: variance from Art. VIII, §3.1.3.C.6 to operate a retail sales establishment
Members Sitting: Oltman, Casper, Faulk, Novaria

This is a deliberation meeting to review and vote on the draft decision. The Board noted that the name of the Town Clerk needs to be updated on page 3, as well as the year. Also on page 3, Novaria’s name should be inserted in place of McDonough’s. Faulk suggested inserting the following language on page 3: “Accordingly, the Board voted unanimously…” Casper made a motion to approve the draft decision as amended. Faulk seconded the motion & the Board voted unanimously to approve the draft decision as amended.

**Petition Number: Z-19-32**
Premises Affected: 11 Regis Road
Petitioner: Booth
Relief requested: special permit under Art. VIII, §3.1.3.F.4 to construct a family dwelling unit addition
Members Sitting: Oltman, Casper, Bordonaro, Novaria, Keller

This is a deliberation meeting to review and vote on the draft decision. There being no changes to the draft decision, Keller made a motion to approve it as written. Corrigan seconded the motion & the Board voted unanimously to approve the draft decision as amended.

**Petition Number: Z-19-20**
Premises Affected: 125 Bailey Road
Petitioner: AJM Construction, LLC
Members Sitting: Oltman, Casper, Faulk, Bordonaro, Keller

This is a continued deliberation meeting. The Board noted that in the 2nd paragraph after Jim Hanley, it should read ‘petitioner’ and not ‘petition’. Also, the heads on pages 2 and 3 need to be updated and in the 3rd line of the 2nd paragraph on page 2, the word ‘decision’ should follow previous. There being no other changes, Casper made a motion to approve the draft decision as amended. Keller seconded the motion and the Board voted unanimously to approve the draft decision as amended.

Petition Number: Z-19-41
Premises Affected: 10 Lockway Road
Petitioner: O’Halloran
Relief requested: special permit under Art. VIII, §3.3.5 &/or for a variance under Art. VIII, §4.1.2 to construct additions that will not meet the minimum front or rear setbacks
Members Sitting: Oltman, Faulk, Casper, Bordonaro, Novaria

Mica O’Halloran represented himself and his wife in their request to construct non-conforming additions / alterations to accommodate their growing family. They have resided in the house for 10 years during which time the size of their family grew from 2 to 4 people. They wish to add a 2nd floor and rear addition to create an exit to the rear yard and mudroom. The project will include some foundation work and will be in character with the neighborhood. They have talked with the nearest abutter, included 1 letter of support in the packet and submitted another tonight. The Board noted that the lot is undersized as to area and frontage and the existing house does not meet setbacks. The existing front setback is 31.8’ and will not encroach any further. There being no other questions or comments from the Board or the public, Casper made a motion to waive a site view and to close the public hearing. Bordonaro seconded the motion & the Board voted unanimously to waive the site view and close the hearing. The Board then commenced deliberation. In deliberation, the Board felt that a special permit is appropriate since the house is a pre-existing, non-conforming structure. Casper questioned if it would be a variance since the addition will encroach 3.5’. The Board did not agree. Bordonaro made a motion to approve a special permit under 3.3.5 with the standard conditions and to deny the variance from 4.1.2. Faulk seconded the motion & the Board voted unanimously to grant a special permit with conditions and to deny the variance as moot. Novaria made a motion to continue deliberation to the next regular meeting for the purpose of drafting a decision. Bordonaro seconded the motion & the Board voted unanimously to continue the deliberation. Faulk volunteered to draft the decision.

Petition Number: Z-19-42
Premises Affected: 32 Westwind Road
Petitioner: Plante & Swanger
Relief requested: special permit under Art. VIII, §3.3.5 &/or for a variance under Art. VIII, §4.1.2 to construct additions that will not meet the minimum side setbacks
Members Sitting: Oltman, Faulk, Casper, Bordonaro, Novaria

David Brown, of 31 Glenwood Rd, Andover, represented the petitioners. He disclosed his prior membership on the ZBA. The Petitioners were also present. The project consists of adding a master bedroom, bathroom and single stall garage to an existing 3-bedroom ranch house. Brown noted that the existing house was conforming at the time it was constructed. Kate Swanger informed the Board that they have spoken with two abutters who gave verbal support. The third abutter they have not spoken with, which is the abutter closest to the garage addition. Mr. Plante pointed out that an existing fence separates the nearest abutter and their house. There being no other questions or comments from the Board or the public, Casper made a motion to waive a site view and to close the public hearing. Corrigan seconded the motion & the Board voted unanimously to waive a site view and close the hearing. The Board then proceeded to deliberate. In deliberation Faulk expressed concern that they have not spoken with the nearest abutter. Bordonaro made a motion to grant a special permit with the standard
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conditions. Corrigan seconded the motion & the Board voted unanimously to grant a special permit with conditions. Keller made a motion to continue deliberation for the purpose of drafting a decision to the next regular monthly meeting. Corrigan seconded the motion & the Board voted unanimously to continue deliberation to the next regular monthly meeting. Corrigan volunteered to draft the decision.

Member Rechisky arrived at 6:53 p.m.

Petition Number: Z-19-43
Premises Affected: 375 South Main Street
Petitioner: Fergus & Machold
Relief requested: variance from Art. VIII, §4.2.4 to install an in ground swimming pool in the front yard area that will not meet the minimum front or side setbacks
Members Sitting: Oltman, Faulk, Casper, Rechisky, Bordonaro

Kay Fergus & Chris Machold represented themselves. Their request is to install an in-ground swimming pool in the front yard area, which they consider their back yard. The lot fronts on both South Main Street and Belknap Drive on opposite sides of the lot. Therefore, the lot has no rear yard area. The proposed location has existing landscaping that can be increased to buffer the pool from the nearest abutter. The proposed free-form pool would be setback 15’ from the nearest side lot line and 35’ from the Belknap Drive front lot line. Diane Castigliola, 15 Belknap Dr., voice no objection but is concerned about the visual impact since the pool is visible from her front door. Ms. Fergus assured that the existing fence will remain and the pool fence will not be see-through around most of the pool. Rich Barton, 383 S. Main St., spoke in support. Keller inquired as to standard conditions for swimming pools. The typical condition of being in conformance with the plot plan would apply. There being no other questions or comments from the Board or the public, Bordonaro made a motion to waive a site view and to close the public hearing. Casper seconded the motion and the Board voted unanimously to waive the site view and close the hearing. In its deliberation, the Board considered that the lot is unusual in that it has two frontages opposite each other and that no alternate location is available to install conforming pool. The Board also noted that it is an undersized lot for the SRC district. Casper made a motion to grant a variance from Section 4.2.4 to install the swimming pool in the front yard area that will not meet the minimum front or side yard setbacks with the condition that the pool conform to the setbacks on the plot plan submitted with the application. Faulk seconded the motion & the Board voted unanimously to grant a variance with conditions. Casper made a motion to continue deliberation to the next regular monthly meeting for the purpose of drafting a decision. Bordonaro seconded the motion & the Board voted unanimously to continue deliberation. Novaria volunteered to draft the decision.

Petition Number: Z-19-33
Premises Affected: 429 South Main Street
Petitioner: Andover Village Associates
Relief requested: modifications of Decisions 3710 & 3762 to remove or modify certain conditions & for variances from Art. VIII, §3.1.3.C.12.a & 5.1.4.C.12.a to convert retail space to sit-down restaurant, expand hours of operation & to rent space within the existing building
Members Sitting: Oltman, Faulk, Casper, Rechisky, Keller

Attorney Mark Johnson represented the petitioner. Also present was owner/operator Tom Walsh. Johnson gave an overview of the requested modifications, which are fully outlined in the application and include, in part: removal of the condition requiring the business to be locally owned, change the hours of operation to allow the business to be open later on certain days, removal of prohibition on the existing use to allow a sit-down restaurant, remove reference to the general store & Hearthstone Realty, remove prohibition on the service of alcohol. The Board also discussed the off-street parking requirements along with the total number of seats (including the outdoor seating) and requested a detailed parking plan to demonstrate how many spaces are available for staff and customers. Inspector of Buildings Chris Clemente had submitted a memo regarding the
seasonal outdoor seating not being counted toward the minimum parking requirement. There are 28 patio seats as allowed in Decision #3762 with a maximum of 8 employees. According to the applicant, 36 are required, but 37 are provided. The Board suggested that the applicant consult with the Public Safety officer regarding parking signage to mitigate parking issues. In regards to the condition of local ownership, Johnson noted that many local businesses are owned by non-residents and that the second floor office at 429 S. Main Street will be for Mr. Walsh’s real estate business, of which he is the sole employee. The Board discussed the proposed hours of operation as well as noise and suggested a closing time of 10 pm on weekdays (Sunday – Thursday). Walsh stated that music will be shut off no later than 9 pm and the restaurant will close at 11 pm on Friday & Saturday. Casper suggested that if there are noise complaints or overflow parking issues, the Board can retain the right to alter the hours of operation. Walsh informed the Board that he has partnered with the Andover School of Montessori (400 S. Main St.) to allow parking in their lot. David Deloury, of 437 S. Main Street, Andover, and part owner of 429 S. Main Street, explained the complexity of a local ownership restriction if the current owners move out of town but retain ownership, or pass it to a family member who is a non-resident. The Board discussed the option of having the ownership restriction to exclude franchises, nationally owned companies or publicly traded companies. Several abutters spoke in favor of the proposed changes and the existing business operation. Some abutters voiced concern over noise and existing parking issues. There being no other questions or concerns from the Board or the public, Keller made a motion to waive a site view & to close the public hearing. Casper seconded the motion & the Board voted unanimously to waive a site view and close the public hearing. The Board then proceeded to deliberate. The Board was generally in favor of granting the requested modifications and relief with appropriate conditions as discussed. Casper made a motion to approve the modifications to Decisions 3710 & 3762 as discussed and to grant the variances to convert to a sit-down restaurant with specific hours of operation as discussed during the public hearing. Faulk seconded the motion & the Board voted unanimously to grant the variances and allow the modifications with conditions and the Board voted unanimously to grant the variances and modifications with conditions. Casper made a motion to continue the deliberation for the purpose of drafting a decision to be reviewed at the next regular meeting. Novaria seconded the motion and the Board voted unanimously to continue deliberation to the next regular meeting.

Approval of Minutes

Minutes of 4/4/19 - There being no changes to the draft minutes, Casper made a motion to approve the minutes as drafted. Corrigan seconded the motion & the Board voted unanimously to approve the minutes as drafted.

There being no other business of the Board, Rechisky made a motion to adjourn the meeting. Bordonaro seconded the motion and the Board voted unanimously to adjourn the meeting at 7:45 pm.

Casper reminded the Board that the annual business meeting should be held in September.

Respectfully submitted,
Barbara Burke, Zoning Administrative Secretary