

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
June 24, 2008

A public hearing of the Zoning Board of Adjustment was held on Tuesday, June 24, 2008 at 6:30 PM in the Auditorium at City Hall.

Jack Currier, Vice Chair & Secretary, conducted the meeting.

Members present were:

Jack Currier, Vice Chair & Acting Secretary  
Robert Shaw  
Bob Carlson (arrived at 7:30 p.m.)  
Kathy Vitale  
Marcia Wilkins, Planner I

Mr. Currier explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Currier explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Currier also explained procedures involving the timing light.

- 1. John C. Jr. & Paula C. Kent (Owners) 14 Hillside Drive (Sheet 117 Lot 162) requesting special exception to encroach 9 feet into the 25 foot rear yard setback to construct a 12'x18' addition with balcony and landing area. RA Zone.**

Voting on this Case:

Jack Currier  
Robert Shaw  
Kathy Vitale

David Brown, Homeworks Residential Design, Andover, Mass. Mr. Brown introduced himself, and described the project, stating it is an extension of an existing structure. He said it will remain a single-family home. Mr. Brown went over all the special exception points of law as stated in the application. Further, he described the materials and windows to be used.

Mr. Currier asked if the garage is going to remain as a garage.

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Mr. Brown stated that it isn't a garage now, it has a garage door, but the previous owner converted it into a breezeway/deck area. It is like a tool shed, with lawn and garden equipment. There will be no change to the front of the structure whatsoever.

Mr. Currier asked about the topography to the rear, towards Milk Street, and asked if this were cutting into the abutters view, or land.

Mr. Brown said they haven't spoken to the neighbors. He said structurally, it is similar to the deck that is already there. He said that Milk Street is far enough below, that from the rear of the Kent's house, you look out onto the roof of the house directly to the back, and the trees are in full bloom, and it is a significant view down the hill, even to the second floor windows. The addition is designed with high windows, as well.

Mr. Currier said the windows would be beneficial to the houses below, as they wouldn't be able to look into the windows.

Mr. Shaw mentioned a potential stipulation that it wouldn't be an enclosed structure, it would remain an open structure at the ground level, and it would be a one-story addition, not two-story.

Mr. Brown said they discussed the possibility of enclosing some portion of the bottom area as additional storage area, but is not part of the proposal here.

Mr. Shaw said he didn't want it to become enclosed living space.

Mr. Brown said there's no intent to provide for a provision to enclose this in the future. The topography is such that no one can see into this anyways, because the rear properties are all downhill.

Ms. Vitale asked if anything else is going to be changed on the drawing.

Mr. Brown said windows may change an inch or two, the stamp is on the drawing to prevent a builder from using them improperly, as they are substantially complete, but not 100% complete.

Mr. Currier said if the Board were to approve this case, the size of the landing and the deck should remain as shown on the plans, and not become larger.

Mr. Brown said the sizes shown on the plan will not increase, as stipulated.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Laura Colquhoun, 29 Milk Street. Ms. Colquhoun stated that she lives right behind the Kent's house. She said they've lived there since 2005. Her concern is that there is a stone wall there in the rear, and wants the integrity of the wall to stay put. She said the house behind hers is huge compared to most in the neighborhood, and all the houses in the neighborhood are quaint. She showed the Board some pictures, and felt that the request may be overwhelming. She said she doesn't want the stone wall rocks to be compromised again. She said she is concerned about the drainage, and the integrity of the wall.

Mr. Currier asked about the picket fence in the pictures, and asked if that represented the property line.

Ms. Colquhoun assumes it is the property line, maybe a foot in from the stonewall.

Ms. Colquhoun said she believes there is a water main pipe in her yard.

Ms. Vitale asked how the wall was compromised.

Ms. Colquhoun stated that last year, she had it fixed, and part of the wall came down. She said she is not sure how it happened.

**SPEAKING IN FAVOR - REBUTTAL:**

David Brown, Homeworks Residential Design. Mr. Brown said with regards to the stonewall, it is on the neighbor's property, and given the distance involved from the stonewall, and the nature of the Kent's topography, a 10-foot no build zone could be used

to help with the stonewall and runoff. He said the runoff will not be appreciably different than what is there now. He stated that with regards to the size of the house, while it's true there will be more building mass to the rear of their lot, 29 Milk Street happens to be one of the larger houses in the immediate vicinity, at 1,731 square feet. He stated that the houses on Hillside Drive are generally somewhat smaller in size. He stated that the Kent's house is approximately 1,500 square feet, with a 216 square foot addition, it will be a 1,716 square feet, the same as the abutter in the rear.

Mr. Currier asked if the addition would be built on sonar tubes.

Mr. Brown stated that it is possible for a 16-inch or 18 inch form, but an engineer will have to review this.

Mr. Currier asked whether gutters would be installed.

Mr. Brown said they have gutters now, and on the addition as well. He said they will not be adding any impervious area.

Ms. Vitale asked about the water main.

Mr. Brown said there would be an easement for it, but didn't find anything. He said that Digsafe will be called before construction, and there's nothing there that he knows of.

Ms. Vitale asked if there will be any runoff, and whether a cistern could be used to alleviate runoff.

Mr. Brown said some type of device could be used to absorb the roof runoff from the gutters may well be necessary.

Mr. Currier asked Mr. Brown if the request was out of character with the neighborhood, as the first four special exception criteria seem to be satisfied.

Mr. Brown said if you look at the pictures, the house below looks at the stonewall, the picket fence, trees, and wouldn't see the addition.

Ms. Vitale asked if the trees in the pictures belong to 29 Milk Street.

Mr. Brown said there are a number of trees on the Kent's property.

Ms. Vitale asked whether the addition is behind the trees, versus the part of the house you can see in the pictures.

Mr. Brown said the addition is all behind the trees, except for the balcony.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Laura Colquhoun, 29 Milk Street. Ms. Colquhoun stated that she would like them to go to Pennichuck and make sure about the location of the water line.

Mr. Currier noticed Mr. Donald Ware, President, Pennichuck Water Works in the audience for another case.

Mr. Donald Ware, President, Pennichuck Water Works. Mr. Ware said he's aware of a 16-inch main that runs cross-country in this area, but isn't sure exactly where. He said they could confirm the location after they do some research on the exact location.

Ms. Colquhoun said the size of the addition may be overpowering, as most of the houses in this area are small.

Further discussion ensued amongst the Board members.

**MOTION** by Mr. Currier to suspend the rules to talk with the applicant.

**SECONDED** by Ms. Vitale.

Mr. Currier said that the Board is struggling with the request, and is considering tabling it for two weeks.

Mr. Brown said there's no reason why they can't meet and go over it.

Mr. Currier said the Board should give the abutter one of the drawings, and then reconvene in two weeks as the first case on the agenda.

**MOTION** by Mr. Shaw to table this request to allow the owner and the direct abutter to have an opportunity to discuss the plans, and for the abutter to have some better understanding of the proposed plan, and this case will be heard at the next meeting, July 8, 2008.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 3-0.**

2. **City of Nashua (Owner) Pennichuck Water Works, Inc. (Applicant) E Street, requesting special exception to expand a nonconforming use by constructing a 160 square foot addition onto an existing water pumping station. GI Zone.**

**Postponed to the 7-22-08 ZBA meeting**

3. **Pennichuck Water Works, Inc. (Owner) Intersection of Tinker Road & Everett Turnpike (Sheet G Lots 486 & 488) requesting special exception to work within the prime wetland and wetland buffer of Harris and Tinker Ponds to construct storm water improvements to existing drainage components. R18 & R40 Zones.**

Voting on this Case:

Jack Currier  
Robert Shaw  
Kathy Vitale  
Bob Carlson

Donald Ware, President, Pennichuck Water Works. Mr. Ware said the scope of the project is a special exception to work within the prime wetlands and buffer areas. He described the location of the work, near the Exit 8 off-ramp. A lot of drainage goes into these ponds, through a headwall, into Harris Pond. The work will enhance this wetlands body, to treat the stormwater that's coming into this body by primarily nutrient removals, phosphorus and nitrogen, and secondarily for the removal of sediment from the stormwater that is coming in. There are four distinct areas around the pond, all which are in the 40-foot buffer area.

Mr. Ware said that these projects require a DES Dredge and Fill permit, and they've already been to the Conservation Commission as the primary agent for dredge and fill permits for the City of Nashua.

Mr. Ware said the other part of the project involves the drainage from the turnpike comes down and discharges directly into the Harris Pond tributary, this would collect that drainage and put it through treatment before it enters into the pond. This involves work in the prime wetland and buffer areas.

Mr. Ware said there will be minimal traffic, other than once a month to observe, as there is a lot of beaver activity in this area. He said that once a year they will clean out sediment buildup.

Mr. Ware said that there will be no impact to public water and sewer, as this request will be a benefit.

Mr. Ware said there are a lot of special regulations in the ordinance, which he mentioned, and they satisfy them all.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No One.

**MOTION** by Mr. Shaw to grant the special exception, as advertised, on behalf of the applicant. Mr. Shaw said the special exception is listed in the Table of Uses, Section 190-112. Mr. Shaw stated it will not create undue traffic congestion, or unduly impair pedestrian safety. Mr. Shaw stated that it will not overload public water, sewer or drainage or any other municipal systems, if anything, it will improve the water coming into the watershed. Mr. Shaw stated that through testimony, all the special regulations have been fulfilled, and there are no character of the neighborhood issues, it will preserve the area essentially as is. Mr. Shaw stated that there is one stipulation, per the Conservation Commission, with a letter dated May 27, 2008, specifying five stipulations.

**SECONDED** by Mr. Carlson

**MOTION CARRIED UNANIMOUSLY 4-0.**

**OTHER BUSINESS:**

**REGIONAL IMPACT:**

The Board did not see any items of Regional Impact on the next agenda.

**REHEARING REQUESTS:**

None.

**MINUTES:**

June 10, 2008:

**MOTION** by Mr. Currier to waive the reading and place these minutes on file.

**SECONDED** by Mr. Carlson.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**ADJOURNMENT:**

Mr. Currier called the meeting closed at 7:50 p.m.

Jack Currier  
Acting Clerk

CF  
Taped Hearing