



MINUTES of the ZONING BOARD OF APPEALS MEETING
THURSDAY, September 11, 2025

(Posted in accordance with the provisions of MGL Ch. 39, Sec. 23A, as amended)

City Hall – 7:00 p.m.

62 Friend St.

Amesbury, MA 01913

Attendance: Sharon McDermot (Chair), Donna Collins, David Haraske, Charles Bassler, John Rogers

Absent:

Also in attendance: Community Development Coordinator Becky Frey

Call to Order

Chair Sharon McDermot called the meeting to order at 7:02 pm.

Roll Call/Attendance

Chair Sharon McDermot took roll call. Everyone was in attendance.

Minutes – 7-10-25 and 8-28-25

Donna Collins motioned to accept the minutes for 7-10-25 and 8-28-25. Seconded by Dave Haraske. The motion passed unanimously.

Topics for Discussion:

1. 276, 278, 280 Main Street – Housing Support – Comprehensive Permit

Carolyn Murray from KP Law commented that since the last meeting in July, the Board instructed city staff and the applicant to take a few steps. The applicant was supposed to conduct a new water flow test and that report has been provided. It was reviewed by DPW and DPW agrees with the conclusions of that test. The Board chose to defer a review of the waivers to this evening. The Board also instructed staff to draft a decision with conditions. Ms. Murray has worked with staff to draft that decision and it has been circulated at least twice with applicants. There have been last-minute edits that have been

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included, but there are not substantive changes. The first step for the Board tonight should be to review the waivers.

Sharon McDermot requested the applicant come up and discuss the waivers.

Steve Nolan, attorney, commented that the first waiver was for multifamily use. The table of use regulations for R20 zoning does not allow multifamily dwellings. The second waiver is for maximum building area. The table of dimensional and density regulations allows for a 20% building area. The overall the building area on this site will be 20.2%. The next waiver is for minimum front yard. This is a corner lot, Bartlett's Place is not a public way, and they are presuming Main Street is the front yard. However, this waiver request covers any gray area because they would need the waiver if Bartlett's Place was a public street. The next waiver is for minimum side yard; 20 feet is required. The proposed side yards range from 15-17 feet. The next waiver is for rear yard minimum; 40 feet is required. The proposed rear yard is 20.7 feet for Building 4. The next waiver is for the accessory use building. They are proposing a 24' by 24' building, which is larger than what is allowed. The next waiver is for a reduction of lot areas. The definition in the zoning ordinance is that the lot yard area and open space may not be shared with other buildings. This site is complicated because there are multiple buildings on it. The next waiver is for parking. The off-street parking requires 1.5 spaces per unit. They are proposing 8 new parking spaces, which is 1 space per unit. The next waivers deal with design and construction standards for drainage pipes. They are proposing to use HDPE pipes material instead of concrete. The next waiver is requesting relief from the minimum 3 feet of cover over drainpipes. The last waiver is for relief on the hydraulic flow rates. They are required to be between 3 and 10 feet per second. They do not meet the minimum requirement of 3 feet per second.

Dave Haraske questioned why it was a slower flow rate than the minimum velocity. TJ Melvin responded that the flow rate in drainage pipes is a function of diameter and slope. The site is pretty flat, and the pipe is a smaller diameter, so the flow rate is lower. The thought behind the 3 feet per second is that it will provide cleaning velocity on the site. The pipe is 12-15 feet long and it goes into a particle separator. The short run of pipe could be manually cleaned if there was an issue. Dave Haraske questioned if the storm water management went out to the street or remained on site. TJ Melvin responded that they were interior storm water pipes. It is not a high traffic volume area and there is not a lot of sediment. They also have an Operation and Maintenance plan that requires maintenance and cleaning. It is not an overly taxing waiver. This has been waived by the Planning Board in the past.

Dave Haraske questioned where the final destination for the storm water was. TJ Melvin responded that it would go into a sub-surface infiltration area and then infiltrate into the ground.



Charles Basler questioned if they could explain the drain cover waiver. TJ Melvin responded that there needs to be a 2 foot separation from the ground water to the system. They also had to take into account the 5% slope to the catch basins. The proposed cover will be 2.1 feet to 2.7 feet. The other option would be to bring in fill to meet the three-foot cover. The HDPE material is rated for a minimum of 1 foot cover. They almost meet the 3 feet requirement. Charles Basler clarified that they met the specifications of the equipment. TJ Melvin confirmed that was correct.

Dave Haraske clarified that the property owner would be responsible for the maintenance. TJ Melvin confirmed that was correct. The plan calls out how when system should be inspected and a report has to be submitted to the city. They will keep a log for the maintenance.

Chair Sharon McDermot opened the public comment.

Scott Penoyer of 8 Cleveland St. commented that he has lived here 28 years and has served on the Historical Commission for over 10 years. He is married to Meryl Goldsmith and speaks on both of their behalf. We seek to preserve the historic nature of the neighborhood. This development is not in keeping with the neighborhood. It will negatively impact trash, recycling, snow removal, drainage, parking, and emergency vehicles. This project does not address any of those issues sufficiently. The plow puts all of the snow at the end of Cleveland St. They should take that access into account. There are existing drainage issues in the neighborhood. Granting variances for less than code for drainage is imprudent. Mr. Penoyer has reviewed the final OCED and DRC comments dated August 5th. It is unclear if Housing Support will be following those details. It will be interesting to see how these changes have been captured. That document is also proposing a 5-foot privacy fence with a 2-inch fence cap. That would not provide any privacy for their fence. They should match the height to the other fences in the neighborhood. That will be more consistent. Mr. Penoyer had concerns with noise, light, and sound pollution. They already deal with 495. Their backyard is a sanctuary. This area is currently wooded and if this project is built, then there will only be a few trees left. There is a 200-year-old maple tree on his property line, and that should be preserved. It is not clear on the plans. Lastly, the format of this meeting is not conducive to having the public's questions answered. The ZBA should help us get answers.

Silvia Berciano of 11 Bartlett Place commented that she has been following this development with great interest. Ms. Berciano's lot is near the dumpster and one of the proposed houses. She shared concerns about the storm water runoff expressed at past meetings. It is alarming that they are claiming there is no storm water runoff onto my site. That is factually incorrect. Ms. Berciano's lot is downhill from this proposal. She would like to have the opportunity to raise these concerns and get answers. There are short falls in the design and character of the project. The buffer between the project and neighborhood will have a negative impact.

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Lee Pierro of 10 Bartlett Place commented that he lives with his wife and daughter. They moved there to be in a quiet historical neighborhood. Mr. Pierro was concerned about the road drainage. Every time it rains or there is snow melt it pools in his front yard. Bartlett Place is half pavement and half dirt. The road gets a lot of water pooling. It would be good to see how that would be addressed. Mr. Pierro was concerned about the sound and light pollution and how that would be addressed. Bartlett's Place is a very narrow road and access is important. Access is more restricted when there is snow. Access needs to be maintained during the winter.

Steve Pierro father of Lee Pierro agreed with everything that has been said so far. He was concerned about the impact on Bartlett Place and the road itself. Half of the road is somewhat paved. The second half has divots and puddles. There is nowhere for the water to disperse. Putting up the fence could impact the property. They will be removing the loam and dirt and then building the fence. When the plow goes down Bartlett Place the snow is dispersed on both sides. A new fence could impact where the snow disperses on that side. Right now, the snow is pushed to the end of Bartlett's Place. It blocks a lot Ms. Berciano's driveway. Drainage is a major issue. The road is in rough condition. There is a big puddle where the pavement meets the dirt. If they are putting the fence right on the property line, then it could lessen the width for snow clearing. The trees being removed along the side are an issue.

Jennifer Williamson of 6 Bartlett Place commented that her front door opens to the property. Ms. Williamson shared the same concerns of everyone that has spoken. There is pooling water. Ms. Williamson shared the same concerns about what will happen to the trees and other vegetation. Right now, they are a noise and visual barrier. The proposed fence is not high enough. The parking is concerning. It may be fine today, but it could be a problem in the future. Parking cannot spill out to Main St. Ms. Williamson questioned if the fire truck turnaround had been addressed.

Dave Haraske confirmed the plan included a turning template.

Chair Sharon McDermot requested the applicant come back to the podium to address some of the public comment questions and concerns.

Randy Johnson from Resolution Architects commented that members of the ZBA went to visit the site and observed 4-5 Norway maples that should be preserved on the northeast side. The intent along Bartlett Place is to preserve as much as possible. They will get rid of the bittersweet and rejuvenate the lilacs. The southern boundary has some significant trees along the property line. It would not have an impact on the development, and they should be preserved. It sounds like they are offsite anyway. There may be concern about root damage, but that is beyond his expertise. They had an arborist look at two significant maple trees on the property and they advised them to remove the trees because they are too close to new construction. Dave Haraske asked them to clarify which trees. Randy Johnson responded that they were near the facilities building. They will do whatever fencing is appropriate, and they hope questions about fencing do not impede progress with the project. They have been back and

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forth about what is best for the neighborhood and residents. Right now, they are proposing extensive fencing along the whole site.

Dave Haraske questioned if it was 5-foot fencing. Randy Johnson confirmed that was correct. The existing stockade fence is in rough condition and is probably 6 feet.

Charles Basler questioned if the fence along Bartlett Place is on the property line. Randy Johnson confirmed it was. They have heard the concern about snow getting pushed against the fencing and that's valid. That is why they had initially proposed the picket style. They did not feel the full height screening was as important there. Charles Basler clarified they will have to make a decision before the vote. TJ Melvin commented that right now they are showing a 5-foot-high privacy fence. The proposed fence is in the same location as the existing fence along Bartlett Place. They can pull it in a few feet off the southern property. The fence on the Cleveland St. side is 6 inches off the property line.

Charles Basler questioned if there was a discrepancy with the downhill stormwater at 10-11 Bartlett Place. TJ Melvin responded that it depended on a topographic map. Some can be informative but not exact to the foot. Based on the information from their ground survey they are showing a rear contour of 49 and Bartlett Place is 48. They are not proposing any runoff in that direction. It is possible that there is a decline a few feet off the property line. The 276 Main St. property line is lower. Runoff will not be going up and over. They tried to keep their site as close to the existing grade as possible. They did not want to raise the site and start shedding runoff. Along Bartlett Place they have shown swales on their site. The water would go around the development and keep flowing. Furthermore, they are taking water runoff and putting into their storm water system and infiltrating into the ground. Stantec agreed with the plans. They are not showing any grading on Bartlett Place. They can put a berm off their property line but on their side of Bartlett Place. They are not raising the site to create any impediment. If there is one currently, then they will not be making it any worse.

Dave Haraske questioned which fence material they are proposing. Randy Johnson responded that they were proposing pressure treated cedar boards. There were vinyl privacy fences proposed between the structures on site.

Nick Cracknell provided a quick overview of the OCED/DRC comments. The DRC is an advisory committee to the Planning Board, and they reviewed the site plans and the design of the building elevations submitted. They have done that a number of times. The intent of the comments in the 8-5-2025 memo was to clarify and address some concerns to make sure the buildings were as commensurate as possible. The details of the buildings matter. It is important that the building designs are agreed upon and the plans are updated prior to receiving building permits. They will need to make sure the plans are in substantial compliance. They will have a CMMP process with the TRC. They will need to show exactly where the fence is located and how they will trim out the trees. It is important to do that right. They will have a preconstruction meeting that's posted and people from the

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neighborhood will know when it is. They will know who to contact if there's a problem. The building design and tree preservation are critical. Some of the trees on site are mature and provide a lot of shade. They will need some trimming and that can be managed during the construction process. All lighting on site will be dark sky compliant they should not have additional lighting on the homes. This project is not using Bartlett Place for access. The fence may be on the lot line, but that's not the edge of the road. There's 2-3 feet of space. The existing picket fence is 4 feet and falling apart. It is not a suitable fence. The intent of the five-foot fence was to not build a wall with a 6 foot privacy fence. That will create a big box, and it will not be friendly. However, if that's what the neighborhood and applicants want, then that's fine. It is worthwhile considering adding a condition that the fence can be no closer than 1 foot from the property line. Mr. Cracknell spoke with the DPW director. The applicant completed a second hydrant flow test from Hiller and it was reviewed by public works. TJ Melvin has communicated with them. Public Works is satisfied that there is adequate flow to support this project. The draft decision will require all plans to be consistent with the OCED/DRC comments in the 8-5-25 memo. They will make sure the plans are consistent with construction by requiring that an affidavit be provided by a design professional certifying that it was built in accordance with the plan.

Paul Richardson of 6 Bartlett Place commented that this development was like trying to fit a round peg in a square hole. The drainage system is inadequate and what they are proposing will be worse. The development team should repave Bartletts Place and address the storm water. If they want to do this project so bad, then they should restore that area.

Chair Sharon McDermot commented that they have heard from the public and the applicant has reviewed the waivers. Sharon McDermot requested a motion to close the public hearing.

Donna Collins motioned to close the public hearing for 276, 278, 280 Main St. Seconded by Dave Haraske.

Chair Sharon McDermot took a roll call vote:

Donna Collins: Yes

Dave Haraske: Yes

Charles Basler: Yes

Sharon McDermot: Yes

The motion passed 4-0.

Chair Sharon McDermot commented that they should discuss the waivers. Charles Basler commented that he was concerned about the amount of conditions in the decision and questioned if they were enforceable. Charles Basler also noted that it was his understanding that all permits are issued through this Board. The draft decision gives others authority once the decision is approved. Carolyn commented that since this is a Comprehensive Permit, the Zoning Board issues all local permits. They are all covered

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by the Comprehensive Permit. That being said, at this stage drawings are only required to preliminary in nature. They have not submitted construction drawings. The Board would be approving the plans generally. The applicant would still have to go back to the state subsidizing agency for approval. Assuming they get final approval, then they start preparing construction level plans. Those will need to be reviewed by the Building Inspector, DPW, and possibly the Board's peer reviewer. The purpose of that further review is not to issue a new approval, its' to ensure they are consistent with the comprehensive permit. They have talked a lot about the fence. If the Board approves a 6-foot-high fence and the applicant comes to the building department with a 4-foot-high fence, then they would be denied. Charles Basler requested clarification on the items left to the discretion of other authorities and who makes the determination the plans meet the OCED memo conditions. Carolyn Murray responded that the memo is captured in the decision to make sure their plans are updated to be in compliance. The building inspector will review them in consultation with OCED staff. If they are of the opinion is not consistent then the applicant could update the plans or come back to the ZBA to request a modification.

Charles Basler commented that he would love to see the updated plan. There are a lot of conditions still out here. Carolyn Murray responded that they require the applicant to come back to the Board with updated plans for review. More often than not, the Board is not the one who reviews them because they do not have the expertise to review them. The Board could also require that departments report to the ZBA to confirm they have reviewed the plans and they are compliant prior to the issuance of any building permit.

Dave Haraske requested a stipulation that they clarify if the fence material will be wood cedar or vinyl fencing. They should be very clear about it. Charles Basler requested the Board see a set of plans that encompass the comments. They have not received any updated plans, and he would like to have an accurate set of plans before the Board votes on it. There are 85 conditions in this draft decision. Donna Collins commented that if a condition says they are required, then that's what they are required to do.

Chair Sharon McDermot commented they would not see this level of plan at this stage in the game. That's why they put the stipulations in. Charles Basler commented that they have not talked about the trees. They should be clear which trees over a certain height are they going to preserve. Carolyn Murray commented that she has been doing 40Bs for a longtime and different Boards handle it differently. Some Boards want to see all the updated plans and some condition the updates in the decision and leave the final review to staff.

Becky Frey clarified that this ZBA meeting had a July 30, 2025, submittal deadline. An updated set was not submitted because the DRC memo was issued after that deadline.

Nick Cracknell commented that in a perfect world they would have had this much tighter coming into this meeting. These plans were not fully updated. It is not unusual to have conditions. The Planning

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Board does it all the time. In respect to the fence staff has no opposition to the fence being 6 feet tall. The Board could consider moving forward with an added stipulation on how tall the fence is and include that it cannot be located any closer than 12 inches from the property line. The Board has to consider if the fence should be all wood. They showed vinyl for the fence between the patios on the residential units. The perimeter fences should be wood. The Board could add a stipulation that the tree trimming of any perimeter tree within 10 feet of property line be addressed in preconstruction with TRC. There are not a lot of open-ended items other than the trees and fence.

Beck Frey noted that the Stantec peer reviewer did not have any outstanding comments in their final memo.

Carolyn Murray commented that the Board could vote on all the waivers as one component noted as Exhibit A.

Donna Collins motioned to vote on the waivers as a package. Seconded by Dave Haraske.

Charles Basler commented that they should take them individually.

Chair Sharon McDermot took a roll call vote:

Donna Collins: Yes

Dave Haraske: Yes

Charles Basler: No

Sharon McDermot: Yes

The motion passed 3-1.

Donna Collins motioned to approve the waivers requested in Exhibit A of the draft decision. Seconded by Dave Haraske.

Chair Sharon McDermot took a roll call vote:

Donna Collins: Yes

Dave Haraske: Yes

Charles Basler: No

Sharon McDermot: Yes

The motion passed 3-1.

Carolyn Murray commented that she could circulate the updated draft decision. Now that they have closed the public hearing, the Board has 40 days to issue a decision. Beck Frey noted that the Board meets next on September 25, 2025.

Donna Collins motioned to continue the 276 Main St. application to the September 25, 2025, Zoning Board of Appeals Meeting. Seconded by Charles Basler.

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Charles Basler commented that it would be hard for him to look at this positively without new updated plans.

Nick Cracknell questioned if the development team could update the plans before the next meeting. TJ Melvin confirmed they could and requested clarification on which trees they should show. Nick Cracknell responded that they should show anything within 10 feet of the property line that is 25 inches or larger. The updated plans should have notes referencing 1 foot inboard to the property line for fences. Randy Johnson commented that they would get updated drawings to OCED within a week and coordinate from there.

2. 9 Lake Attitash Road – Variance

Fred Lavassor represented the Knox Family at 9 Lake Attitash Road. The variance application is to construct an addition to the property. Right now, the home is L-shaped and awkward. All the homes in that neighborhood are tight together. This is a growing family, and they are trying to make it more comfortable to live in. They are looking to get approval to complete the addition.

Chair Sharon McDermot questioned what they were adding. Fred Lavassor responded they were adding an open concept for the first floor. The second floor will be changing to a three bedroom and they are adding a one-car garage.

Donna Collins noted that they were moving the shed, and they should keep it in line with the new garage.

John Rogers questioned why the single car garage was 23 feet. Fred Lavassor responded they were trying to accommodate the back of the garage for storage. It is only 15 feet wide. It looks 20.3 feet wide because there is a mudroom to access the home.

Chair Sharon McDermot opened the public comment. There was none.

Charles Basler motioned to close the public hearing for 9 Lake Attitash Rd. Seconded by Donna Collins.

Chair Sharon McDermot took a roll call vote:

Donna Collins: Yes

David Haraske: Yes

Charles Basler: Yes

John Rogers: Yes

Sharon McDermot: Yes

The motion passed 5-0

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Chair Sharon McDermot commented that it was a pretty straight forward addition and it would be an improvement.

Chair Sharon McDermot reviewed the summary of findings. The substantial hardship is the lot size and shape and position of the existing structure.

Chair Sharon McDermot commented that it does not generally effect the district. There would not be a detriment to the public good and it does not derogate the intent of the bylaw.

Donna Collins motioned to approve the variance application for 9 Lake Attitash Road as presented. Seconded by John Rogers.

Chair Sharon McDermot took a roll call vote:

Donna Collins: Yes

David Haraske: Yes

Charles Basler: Yes

John Rogers: Yes

Sharon McDermot: Yes

The motion passed 5-0

Adjourn

Dave Haraske motioned to adjourn the meeting at 8:54 pm. Seconded by Donna Collins.

Chair Sharon McDermot took a roll call vote:

Donna Collins: Yes

David Haraske: Yes

Charles Basler: Yes

John Rogers: Yes

Sharon McDermot: Yes

The motion passed 5-0