

**CITY OF TAUNTON
ZONING BOARD OF APPEALS**

May 12, 2016 – 6:00 pm.

(held at Maxham School, 141 Oak St, Taunton, Ma.)

Members Present: Steven Vieira, Michael Staples Joseph Amaral, Colby Correia.
Dennis Ackerman present at 6:26 PM

Meeting opens at 6:15 pm.

Acting Chairman Vieira explains the ZBA procedure.

Joe made motion to accept minutes of April 14, 2016, seconded by Colby. All in favor.

Case #3322 U-Haul Real Estate Co. 35 Cape Rd.

For: A Variance from Section 6.3 of the Zoning Ordinance to allow a 20' x 30 free-standing canopy with a 16 foot side setback (instead of 25 feet)

For the Petitioner: James Long, representing U-Haul, 35 Cape Rd., Taunton, Ma.

In favor: None

Opposed: No

Mr. Long stated he is here tonight so they can put a canopy on the right side of the building and they don't meet the setback. The canopy will be for when trucks come back and they clean them. The left side is for the general public. The trucks will pull under the canopy to get out of inclement weather. The canopy consists of 4 steel posts with a fabric. Letter from the City Planner, Conservation Commission and B.O.H. were read into the record. No one in favor or opposed.

Motion made and seconded to grant as Presented:

Vote: Staples, Amaral, Correia, VieiraYes

Petition Granted

Case #3320 Morin – 118 N. Walker St.Realty Trust No. Walker St. 75-44)

For: A Variance from Section 6.3 of the Zoning Ordinance for the construction of a single family on a lot having 28,312 sq. ft. of lot area and dry area (instead of 60,000 sq. ft.of lot area and 43,560 sq. ft. of dry area) with 125 feet of frontage (instead of 150 feet)

For the Petitioner: Atty. David Gay, P. O. Box 988, Taunton, Ma.

In favor: None

Opposed: None

Atty. Gay stated the lot lines were adjusted in 1988and in 2013 the ZBA granted a variance for a third lot. This property has been in the family for a long time but this lot was never conveyed to the Trust and it merged for zoning purposes. Mr & Mrs. Morin in 2000 put the property in Trust

and now it's in Judith & Raymond Morin's name. He stated recently the property next to the main house was granted a variance with condition to leave as many trees as possible. He stated they would be agreeable to that. He stated it's unfortunate the lot wasn't put in separate ownership. No one in favor or opposed. Dept. letters from the City Planner, Conservation Commission and B.O.H. were read into the record. Chairman Ackerman stated it's a reasonable request. It would be unfair to penalize them because the zoning changed.

Motion made and seconded to grant with the following condition:

1. Maintain as much trees as possible between houses.

Vote: Staples, Amaral,Correira, Ackerman, VieiraYes

Petition Granted

Case #3321

Audlee

Norton Ave. (36-130)

For: A Variance from Section 6.2 & 6.3 of the Zoning Ordinance for the division of one lot into two lots; Both lots having 68.16 feet of frontage & lot width (instead of 150' of frontage & 100' of lot width) and lot 2 having 43,699 sq. ft. (Instead of 60, 000 sq. ft.).

For the Petitioner: Karen Patneade, P.E., Earth Services Corp., 198 Crane Ave. So. Taunton, Ma.

In favor: Justin Audette, 461 Norton Ave., Taunton, Ma.

Opposed: Steven Orcutt, 135 Malibu Dr., Taunton, Ma.

Karen states this property is the former Hackett Greenhouses. It's has an irregular shape in that it's long and narrow. Lot 1 will have 2.93 acres with no wetland and lot 2 having 43,699 sq. ft. with no wetlands. Karen stated most of the lots in the area are smaller. The home on the left is bank owned and is in disrepair. Joe asked how long ago was this before us? Karen stated they received ZBA approval in 2012 for one additional lot and that variance expired now they are asking for 2 lots. Karen stated they did buy some property from Rooney which is the "square part of it" in front to add to the lot area. She stated the frontage hasn't changed. Chairman Ackerman asked what are the plans for the back land? She answered nothing it's going to be part of the lot. Letters from the City Planner, Conservation Commission and Board of Health was read into the record. In favor: Justin Audette, 461 Norton Avenue stated he's in favor of houses. He stated the houses are pretty rundown and asked about tree removal, type of houses, privacy (fence or natural buffer) Justin stated a lot of trees are old and should come down. Opposed: Steven Orcutt, 135 Malibu Dr., stated he has concern about the additional of 2 lots. Why do they want more this time.? He has gravel driveway out to his lot. He asked about the landlocked property owned by Hackett? Chairman Ackerman told him that is not before us tonight and we can't project what someone else is going to do. Karen said that Scott Hackett driveway on left and they have no intent on develop back land. That piece is landlocked. Karen stated they spent a lot of money removing the large greenhouse (purchase it for \$125,000 and \$10,000 to remove) and demo costs were \$20,000 -\$30,000 to knock down buildings. They are asking for 2 lots tonight to cover their expenses. She stated they would probably build a typical colonial house with 2 car garage. Joe asked if the Hackett site was ever on one piece.? Karen said no it's always been separate. She stated it was divided to be equal for each brother. Steve asked about the trees and shrubs? He asked if they could put buffer and she agreed yes keep natural buffer. Joe stated they purchased land but didn't end up getting any more frontage?

Motion made and seconded to grant as Presented with the following conditions:

1. Place house on Lot 2 a minimum of 45 feet from the property line of property I.D. 36-131 & 36-132 (Dukeman Property).
2. Keep a vegetated buffer along the rear property line of property I.D. 36-131 & 36-132).

Vote:.,Staples, , Correira, Ackerman, VieiraYes
 Amaral.....No
 Petition Granted

Case #2823 Remand (2016) Lamb Rosewood Drive (Map 36, Lots 24 & 25)

For: : A Special Permit from Section 2.1 of the Taunton Zoning Ordinance for a common driveway & a Variance from Section 6.3 of the Taunton Zoning Ordinance for a waiver of the minimum contiguous dry area requirement to allow the construction of a single family dwelling on a parcel of land without having the required dry area (having 23,800 sq. ft. of contiguous upland instead of 43,560 sq. ft.) and being accessed by a common driveway resulting in a common driveway servicing 3 lots on premises situated on the **north side of Rosewood Drive, Taunton, Ma. and is known on Assessor’s Reference Map 36, Lots 24 & 25.**

For the Petitioner: Atty. David Gay, P.O. Box 988, Taunton, Ma.

In favor: Letter from Paul & Karen Patneau, 198 Crane Ave. So, Taunton, Ma.

Opposed: Atty. Steven McLaughlin, representing James & Jane Andrews, 95 Rosewood Dr., Taunton, Ma.

Letter from Martin & Lyn Desjardins, 100 Rosewood Dr., Taunton, Ma.

Atty. Gay stated this case has been remanded back to the ZBA. He gave history of the case. All 3 parcels have equal access and an easement was given in error and in 2008 a new easement was drawn up. The original case was in 2006 and that decision was appealed in Superior Court. Then subsequently the petition was subject to litigation in the Superior Court, Appeals Court and most recently Land Court. The only issued before the Board on the Remand is condition #1 on the decision. The Board placed that condition on the recommendation of the City Planner and it required the petitioner to widen property that was not his. The 2 abutters who use the common driveway as not in favor . The City Planner’s recommendation is to the lot line of the abutters. Atty. Gay stated the rest of the conditions are not subject to this remand. The bridge is not in our scope. Chairman Ackerman asked if they talked to the neighbors to resolve? Atty. Gay stated unfortunately they have not resolved it and now the Court has retained jurisdiction. Chairman Ackerman asked if this could be appealed again? Atty. Gay answered if appealed if will go back to the same judge. Joe asked about the driveway and it’s width. The existing is about 12 feet wide and they would increase to 18 feet wide. The Fire Dept. is fine with it the way it is. Asst. City Solicitor deAbrea stated the Court is only asked you to look at condition #1 and Mr. Scanlon’s recommendation is entirely consistent with the court. Atty. deAbreau said the bridge is not to be addressed by the Board. The judge limited the remand to the condition #1 driveway. He stated the previous conditions required the petitioner to do work on other people’s property. Atty Steven McLaughlin representing Mr. & Mrs. Andrews states the remand is accurate. The existing condition requires work to be done on the Andrews property. The court clearly says you can consider other factors like design the work to be done. He stated during testimony evidence showed there was absolute zero design standards and the driveway rises up, has heaves, and the exiting gravel has logs in it. The Board can look at the history of the deficient driveway and

to look at the design standards. Costa applied for 4 lots in the 1980's and was denied. They developed the Andrews and Desjardins lots with a common driveway as a right. There was zero oversight and no standards. Currently a common driveway is under the jurisdiction of the Planning Board. In 2006 Lamb was approved for 3 houses to use common driveway and that was denied 4-1 and that was appealed in Superior Court. The ZBA addressed it again and it was not thorough enough. The superior court decision was sent back to the ZBA and conditions were placed on decision. He stated the Desjardins home is sold and to a couple with 6 kids which means more people will be using the driveway. He stated it's grossly deficient. He suggests Mr. Lamb properly excavate to sub base and paved to a sufficient width. There is potential for numerous children using it to walk and ride bikes. He stated put some standards on it for the safety of all the residents. Steve asked if the Andrews has express easements rights? He stated they have right to cross over and they share expense for maintenance. Atty. McLaughlin stated it's not a good agreement. Joe asked how far is it from Rosewood to Andrews property? He answers about 200 feet. It was stated it's a gravel driveway but it's paved from Rosewood Dr. to bridge and it's in better shape. Atty. Gay stated they will pave it the right way per the City Engineers review. Joe stated 18 feet wide is suitable to serviced 3 lots and they all shape in the maintenance. He asked what are they looking for? It was stated 20 feet wide with lights. Chairman Ackerman read letter from the Fire Dept. stating they are ok with it in its currently width. Atty. McLaughlin stated just because the Fire Dept. is ok with it doesn't mean the Board can go above what they are recommending. Chairman Ackerman stated he would not go against the Fire Dept. Atty. McLaughlin stated you would not be disrespecting if you asked for more than what the fire dept. says. Joe stated he would like to refer it to the City Engineer and whatever he wants. Atty. McLaughlin stated the ZBA doesn't have the right to delegate. Atty. deAbreu informed the Board to put standards on it and have it reviewed by the City Engineer but not to leave it up City Engineer. Joe just thought it was appropriate because the City Engineer has more expertise that he does. He relies on his expertise. Chairman Ackerman stated whatever the City Engineer recommends he will approve. He is not going against the City Engineer, he will not allow anything unsafe. Jane Andrews, 90 Rosewood Drive stated the easement had to be re-confirmed when the ZBA denied this and they went to land Court and they offered to settle. She asked the driveway be built to a certain standard. She stated the City Planner reversed his recommendation and asks for it to be 18 feet wide. In 1993 Costa was required to widen to 20 feet and in 2006 Captain Galligan wanted 18 feet wide and now in 2016 the Fire Dept. is ok with the existing width. She stated it's around 15 feet wide paved and narrows to about 13 feet and about 12 feet across her yard. She asks the Board to comply with the National Fire Code and the Massachusetts Fire Code (527 CMR) for a fire department access road. That code specifies width of bridges. Chairman Ackerman stated the Fire Dept. knows the code and their letter does not state what she is asking. He will support the Fire Dept. She thinks her suggestions are pretty reasonable. Joe asked if the petitioner didn't do this project would they be here tonight? She stated she has a right to go over his property. Mrs. Andrews asks the Board to adopt her suggestions which include lighting, following Nat'l Fire code and the work be done prior to construction of home. Chairman Ackerman stated if they don't build a house nothing gets done. Atty. Gay stated Mrs. Andrews doesn't want to do any improvements to the driveway portion on her lot. Atty. Gay stated the Board can place conditions per the City Planner's, Fire Dept. and Engineer. Sam Delgado from the Fire Dept was in the audience and said the laws have changed. Atty. deAbreu stated it would be appropriate for the Board to identify conditions subject to the review of City Engineer. Chairman Ackerman read letters from the City Planner, Fire Dept., and Paul & Karen Patneau in favor. The Board thought 18 feet wide will be a significant upgrade. Joe said he knows that Atty. Gay will have it done right

Motion made and seconded to grant as Presented with the following conditions:

3. The access drive to be widened and paved to a minimum of 18 feet wide from the existing bridge to the lot line separating parcel 36-25 and #90 to accommodate 2 way access subject to the review and approval of the City Engineer.
4. The access drive must be widened BEFORE construction of the house.

Vote: Staples, Correira, Ackerman, Amaral, VieiraYes

Petition Granted

Other Business:

Powhattan Estates – proposed Amendments to rules & regulations.
Email from City Solicitor informing the Board that under GL. C40A, G.L. C.40B or in 760CMR56 a public hearing would not be required.
Steve made motion to approve the proposed amendments, seconded by Joe. All in favor.

Summer Schedule –

Steve made motion to re-schedule July 14th meeting to July 21st and have no August meeting. Seconded by Joe. All in favor.

Meeting adjourned at 7:57 PM

