

9-12-13 mins.

**MINUTES
CITY OF TAUNTON
ZONING BOARD OF APPEALS**

September 12, 2013 at 5:30 PM

Members Present were: Dennis Ackerman Chairman, Estele Borges, Wayne Berube., Steven Vieira and George Moniz. .

Meeting opens at 5:38 pm.

Chairman Ackerman had a moment of silence for all the victims of the September 11th attacks.

Peter made motion to accept minutes of August 1, 2013 seconded by Steve. All in favor.

Chairman Ackerman explains the ZBA process. The petitioner presents their case then they hear from anyone in favor or opposed then they go back to the petitioner to address any of the opposition concerns, they do not go back & forth.

Case # 3197 Aspen Properties Group LLC 12 Madison St.

For: AVariance from Section 6.2 & 6.3 of the Zoning Ordinance for the division of one lot into two lots without the required lot width, frontage, lot area and dry area. Parcel A having 9,026 sq. ft. of lot area & dry area (instead of 15,000 sq. ft. lot area & 11,250 sq. ft. dry area) with 58 feet of frontage & lot width (instead of 100') and a side setback on the westerly side of 6.5' (instead of 15') Parcel B having 9,772 sq. ft. of lot area & dry area (instead of 15,000 sq. ft. of lot area and 11,250 sq. ft. of dry area) with 20 feet of frontage & lot width (instead of 100 feet)

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

In favor: None

Opposed: Petition signed by 25 abutters.
David Harnois, 14 Madison St., Taunton, Ma.
Todd Galligan, 8 Madison St., Taunton, Ma
Scott LaBelle, 13 Monroe St., Taunton, Ma.
Ellen Sylvia, 10 Madison St., Taunton, Ma.
Sherry Costa-Hanlon, 9 Madison St., Taunton, Ma.

Atty. Gay stated the petitioner is requesting a Variance to split the lot into two lots. The rear lot would have 20 feet of frontage for access. The 20 foot wide frontage contains the existing driveway both lots. They will establish an easement for both parcels to use for access. Atty. Gay stated the lots in the area are of similar size and this will remain in harmony. Atty. Gay stated that the petitioner have done substantial improvements to the single family house in front. Chairman Ackerman stated the City Planner submitted his letter and points out that variance for shape factor would be needed and re-advertised. Atty. Gay is aware of the Planner s letter. Chairman Ackerman stated several abutters are here tonight and he would like to hear from them. Chairman Ackerman pointed out the petitioner purchased on a few months ago and now he wants to divide it. Chairman Ackerman stated he went to site around 3:30 pm today and nothing has changed. He thinks it s a developer just trying to flip property. Wayne asked what the hardship is? Atty. Gay stated the petitioner bought the property and asked himself what am I going to do with this? The lot is of rectangular shape and petitioner wishes to put house in back to use all that land. Wayne doesn't see a rectangular lot as a hardship. Opposed: David Harnois. 14 Madison St. he is a direct abutter and has lived there for 55 years. He does not want house in back, it would take his privacy away. Todd Galligan, 8 Madison St also opposed. He stated the contractor/owner fixed up house nice but no one wants house in back. There is not enough land and it would make the whole neighborhood look like trash. Opposed: Scott LaBelle, 13 Monroe St., also opposed. He submitted petition signed by abutters opposed. They are trying to jam in another house. Opposed: Eleanor Sylvia, 10 Madison St., also opposed. She does not want the added traffic to street. Sherry Costa-Hanlon, 9 Madison St. also opposed. She states the contractor did good job fixing up house in front but this would extremely disrupt the neighborhood. Atty. Gay understands the neighbors' concerns. He stated the contractor did nice job in fixing up house. Letters from the City Planner, Conservation Commission, City Engineer, and Board of Heath were red into the record.

Motion made and seconded to Grant as Presented:

Vote: Borges, Berube, Ackerman, Wasylow, VieiraNo

Petition Denied:

Case # 3192 Almeida 41R Winthrop St.

For: For a Special Permit from Section 5.3.4 of the Zoning Ordinance for the alteration to a pre-existing non-conforming structure in an Office District by allowing a change of use from Mixed use to Residential.

For the petitioner: Atty. Alan Medeiros, One Church Green, Taunton, Ma.

Opposed: None

In favor: None

Estele & Steve both disclosed they have their political signs on this property but do not have any financial gain and therefore no conflict of interest.

Chairman Ackerman excused.

Atty. Medeiros explains this is a pre-existing non-conforming structure & use and they are proposing to convert the first floor to residential. Currently it's a mixed use, office use on first floor and residential on second floor. The petitioner proposes to convert the first floor into a 3 bedroom living unit. There will be no alteration to the exterior of the building therefore no impact on the size and configuration of the footprint. This is tied into water & sewer. Atty. Medeiros states the location of the structure makes it impossible to use as office. Its located in the rear of another property. Wayne stated it was probably a residence many years ago. There is a Right of Way that will be used as access and there is enough parking for the residential use. Peter asked about the distance from the proposed fence to property line? After looking at plans Atty. Medeiros stated they could re-locate fence if the Board wishes. Some discussion took place relative to moving fence a few feet to give a little more room. Letters from the City Planner, Conservation Commission, City Engineer, and Board of Heath were red into the record.

Motion made and seconded to Grant with the following condition:

- Re-locate the proposed fencing a minimum of 5 feet easterly from its present location.

Vote: Borges, Berube, Wasylow, Vieira, MonizYes

Petition Granted:

Petitioner submitted photos of deck. Mrs. DeSouza stated they constructed new deck over existing patio and was unaware they needed building permit. They were informed by the Building Department and applied for zoning relief. She stated her neighbors who would be most affected are in favor. No one in opposition. Letters from the City Planner, Conservation Commission, City Engineer, and Board of Health were red into the record.

Motion made and seconded to Grant as Presented:

Vote: Borges, Berube, Ackerman, Wasylow, VieiraYes

Petition Granted:

Case # 3198 Combined Realty LLC 66 Main St.

For: A Special Permit from Section 10.4.1 of the Zoning Ordinance for a Mixed Use Development in a Central Business District (8 residential units on 2nd & 3rd floor & the existing commercial use on 1st floor) and a parking waiver pursuant to Section 10.4.8 of the Ordinance .

For the Petitioner: Atty. David Gay, P. O. Box 988, Taunton, Ma.
Carlos Melo, 43 Taunton Green, Taunton, Ma.

In favor: None

Opposed: David DeSantis, One Taunton Green, Taunton, Ma.
John White, 4 Winthrop St., Taunton, Ma.
Mike Wedge, 20 Cedar St., Taunton, Ma.
Terri Bernardt, Director, Taunton BID, Taunton, Ma.
Jose Bejarano, TuxTowne, 40 Main St., Taunton, Ma.
Petition signed by 38 abutters.

Atty. Gay stated they are proposing a mixed use in the downtown district. They are requesting a Special Permit for a parking waiver. Presently there is a commercial use on the First Floor and no use on the 2nd & 3rd floors. Atty. Gay stated there is a lot of work going on and there are a few small new restaurants. This is an opportunity to use a nice building and have some success. Atty. Gay stated a mixed use is allowed by a Special Permit and is encouraged. They are seeking a parking waiver under the Special permit, they have 16 parking spaces. Atty. Gay stated if they leave it a non-mixed use they will need 41 parking spaces so its better we try to use as residential. Atty. Gay stated the petitioner is seeking night parking in the area. Atty. Gay stated that a commercial use would require parking all day. Atty. Gay stated the present use on the first floor is the Methadone Clinic which has offices and counseling and has had no issues. Atty. Gay stated the petitioner is not the first person to have mixed use downtown. Chairman Ackerman strongly suggests the petitioner securing parking as he has required that of people in the past. Chairman Ackerman stated parking is very important to him and there are vacant lots in the area. Steve asked about snow parking bans? George stated they can park on Cedar Street when there is a snow ban. He lives in the area. George asked how many apartments? Atty. Gay answers 3 two-bedrooms, 5 one-bedroom apartments. Wayne asked what type of housing? Atty. Gay stated they will be market rate. Estele is concerned with parking and the fact that the Methadone Clinic is on first floor. Atty. Gay stated that as far as he knows there hasn't been any issues with the Clinic and you can't base your decision on that. The Clinic is existing and we are not here for that tonight. Opposed: David DeSantis, One Taunton Green, BID Chairman, stated he's in favor of residential but he respectfully disagrees with Atty. Gay. He came before the Board before and Terri Bernardt did also. Parking is essential and these if there was a different use on the first floor, the residential use would be good.

John White, 4 Winthrop Street opposed. He states in his opinion, a Methadone Clinic on first floor and residential on 2nd & 3rd floor is a not a good mix. Mike Wedge. 20 Cedar Street who sis right next door to the Clinic states there is yelling and swearing and a sign on doors that reads: No Entrance if you have Guns or Weapons". He lost a tenant because of what the police told them about the clinic. There is always trash around. He stated get rid of clinic and put in residential use. Terri Bernardt, Director, BID stated she received phone calls regarding this. She stated the owner of TuxTowne is working but submitted petitioner of abutters in opposition. She stated an abutter, Jacqueline Solana, 13 Cedar St. e-mailed the City Council regarding the problems with the clinic. It was referred to the Police & License Committee on March 15, 2013. Terri stated the BID received fees from the downtown patrons who join the BID for cleanup of properties. Mr. Melo is not a member. They maintain downtown, clean, sweet and take care of plantings. The maintenance man stated he does have a lot of trash next to this site including needles and coffee cups. She stated the owner of TuxTown had trouble renting space because of the clinic. Terri encourages them to find a different use on the first floor and put residential on 2nd & 3rd floors. Peter stated if the Clinic is such a problem then why didn't anyway complain about it to the Police. She stated the parking commission has been approached and there is nothing the Police can do. Peter stated all these people say they have problem but the Police doesn't have anything on file. Mr. Wedge stated the police have had cars towed but that's it. Mr. Wedge stated the Police said if they saw people with needles they could do something. Peter stated the downtown people pay monies to have the downtown clean. It would benefit them to report these kind of things to the Police. Mr. DeSantis stated the BID has people who opted to pay into this service. The maintenance man general is down there 2 hours every day and sweeps downtown twice a week. Chairman Ackerman suggests complaining to the Council about these issues and reminded them it's an election year. George stated the whole section has to be cleaned up, the needle are probably from the drug dealer not the people from the clinic. Jose Bejarno, 40 Main St., owner of TuxTown. He has 20 years invested in the City and he bought 66 Main St. to expand his business. He stated you don't want to complain and get bad publicity. He stated there are vacancies downtown and you can't get any tenants. Joe stated the Clinic is good and the programs they offer are good but it doesn't belong downtown. Chairman Ackerman stated this issue has brought together the downtown. Atty. Gay stated that all the things they brought up are very important but we are not here for the Clinic. The clinic is there and the opposition all admit the residential use is good providing the clinic is not there. Mr. Melo stated that if he was part of the BID he wouldn't have this opposition. They are being discriminatory towards the Clinic. Wayne asked if the petitioner owns the building and he answers yes.

Chairman Ackerman reminded the Board they need to concentrate on the parking and not the clinic. They are here tonight for a parking waiver and mixed use. Wayne stated we are not anti-clinic but there are issues relating to the existing use with trash and needles and in his opinion, not a good mix with residential use. Chairman Ackerman stated if we based our decision on the Clinic he will appeal and win in court. We need to base it on parking and allow them to secure parking just like we did for the others. Atty. Gay requests a continuance for time to secure some parking.

Motion made and seconded to Grant a continuance.

Vote: Borges, Vieira, Wasylow, Ackerman, Berube.....Yes

Petition continued.

George Moniz excused at 7:45 pm.

Case # 3199 Goldstein 86 Scadding St.

For: Variance from Section 6.2 & 6.3 of the Zoning Ordinance for the re-configuration of 5 pre-existing non-conforming lots without having the req'd. lot width, frontage, lot area, and min. dry area.. Lot 185 having 69.07' of lot width (instead of 100') with 74.41' of frontage (instead of 125') with 8,005 sq. ft. of lot area & dry area (instead of 30,000 sq. ft. of lot area & 22,500 sq. ft. of dry area). Lot 186 having 70.40' of lot width (instead of 100') with 68.11' of frontage (instead of 125') with 8,005 sq. ft. of lot area & dry area (instead of 30,000 sq. ft. of lot area & 22,500 sq. ft. of dry area) Lot 173 having 67.30' of lot width (instead of 100') with 65' of frontage (instead of 125') with 8,001 sq. ft. of lot area (instead of 30,000 sq. ft. lot area & 22,500 sq. of dry area); Lot 172 having 72.14' of lot width (instead of 100') with 64.33' of frontage (instead of 125') with 8,001 sq. ft. of lot area & dry area (instead of 30,000 sq. ft. lot area & 22,500 sq. ft. dry area) and Lot 184 with the existing dwelling having 16, 199 sq. ft. of lot area & dry area (instead of 30,000 sq. ft. lot area & 22,500 sq. ft. dry area)

For the Petitioner: Atty. David Gay, P. O. Box 988, Taunton, Ma.
Lance Golstein, 87 Scadding St., Taunton, Ma.

In favor: None

Opposed: Eric Johnson, 77 Scadding St., Taunton, Ma
John Gentrolis, 38 Hillside Ave., Taunton, Ma.
Scott Aguiar, 40 Hillside Ave., Taunton, Ma.
Carol Garon, 84 Hillside Ave. Taunton, Ma.
Melanie McGrath, 99 Scadding St., Taunton, Ma.

Atty. Gay states it sounds like we are asking for a lot but actually we are re-configuring lots and making them actually bigger. They are taking all the small lot and making bigger. There are 5 sewer stubs for these 5 lots and 5 tax bills. All lots in this area are smaller than the requirements. The neighborhood is made up of smaller lots combined for one house lot. The petitioner tried to purchase more land to make bigger but was unsuccessful. The proposal is for 4 new houses and he has reduced his lot to straighten out the property line.

Atty. Gay stated the hardship is directly related to the size and shape of the lot. Wayne stated the presentation is based on because the City is taxing as buildable lots. Atty. Gay stated there were buildable lots at some point but now have merged for zoning purposes. Opposed: Eric Johnson, 77 Scadding Street stated the property was deeded over for \$1.

Mr. Johnson stated his home is on 3 lots comprising of 1/3 acre and the vast majority of the homes in the area on 1/2 or 2/3 acre parcels. This is a too much density for this area. Opposed: John Gentrolis, 38 Hillside Ave. stated this is a beautiful area and he only met Lance once and he didn't talk to him about this. He would be in favor of 2 additional lots, not 4. Opposed: Scott Aguiar, 40 Hillside Ave., stated everyone has a right to develop their property but this area but the street is small and narrow and suggest a compromise. Opposed: Carol Garon, 84 Hillside Ave. stated 4 is too many looks like clustering the houses in. She would prefer 2 lots and also save as many trees as you can. Opposed: Melanie McGrath, 99 Scadding St. stated she talked to Lance and she said 2 lots would be better than 4. After some discussion with his client, Atty. Gay stated they would be willing to reduce the request to 2 additional lots, combing lots 185 & 186 for one lot and combining lot 172 & 173 for another lot. Letters from the City Planner, Conservation Commission, City Engineer, and Board of Heath were red into the record. Estele stated this is a very heavily traveled street and 2 additional house lots is more compatible. It was asked about drainage and Chairman Ackerman stated the City Engineer reviews that during the building permit process and they can't add any more run off.

Motion made and seconded to Grant as Amended:

- **Combine revised lots 185 & 186 resulting in one lot fronting on Scadding Street and combining revised lots 173 & 172 resulting in one lot fronting on Hillside Avenue.**

Vote: Borges, Vieira, Wasylow, Ackerman, Berube.....Yes
Petition Granted.

Meeting adjourned at 8:07 PM