

**MINUTES**  
**ZONING BOARD OF APPEALS**  
**July 28, 2022 at 6:00 PM**  
at 15 Summer St- City Hall

**Members Present:** Dennis Ackerman, Wayne Berube, Craig Faria, Seth Turner, George Moniz

Meeting opens at 6:00 PM

Chairman Ackerman explains the ZBA process. They hear presentation from petitioner, hear opposition and in favor and then go back to petitioner to answer any questions. They do not go back and forth.

**George made motion to accept minutes of June 23, 2022 meeting, seconded by Craig. All in favor.**

**George made motion to take August off since there are no cases filed as of yet and we are within the timeframe. Seconded by Seth. All in favor. Next scheduled meeting will be September 22<sup>nd</sup>.**

**Case # 3678**

**DuBois**

**Blake St. 105-207**

The petition of Gerald & Danielle DuBois, 995 Somerset Ave., Taunton, Ma. for a Variance from Section 440 Attachment #3 of the Zoning Ordinance for the construction of single family dwelling on a lot having 7,500 sq. ft. lot area & dry area (instead of 25,000 sq. ft. lot area & 20,000 sq. ft. dry area.) with a 17 foot front setback (instead of 25 feet) on premises situated on **Blake Street, property I.D. 105-207, Taunton, Ma. Property owned by Joan Mello.**

For the Petitioner: Atty. Alan Medeiros, 4 Winthrop St., Taunton, Ma.  
Joan Mello, owner, 2 Commonwealth Ave., Taunton, Ma.  
Gerald & Danielle DuBois, 995 Somerset Ave., Taunton, Ma.

In favor: None

Opposed: Yvone Bernardo, 57 Blake St., Taunton, Ma.  
Ida Tome, 31 Blake St, Taunton, Ma.  
Angela Carvalho, 75 Blake St, Taunton, Ma.  
Kelly Dion, 54 Blake St., Taunton, Ma.

Atty. Medeiros stated they are here tonight because they want to build on an undersized lot. The lot was part of an older subdivision Sunnyside which consisted of smaller lots. Petitioner's mom lives directly across the street and they want to build to be close to family. Atty. Medeiros stated this is a corner lot and nothing can be done to obtain more land to make lot bigger. The petitioners have 2 children and their mom will be living

with them. Chairman Ackerman read dept. letters from the City Planner, Engineer, Conservation Commission, Water Dept, Fire Dept. and B.O.H. into the record. There is conservation land which is the open space for the adjacent subdivision developed by Yvon Nadeau. Public Input: Yvon Bernardo, 57 Blake St. stated the house is too small and driveway is too small too. There are 7 homes on Blake Street build about 15 years ago and there are rules under the Homeowner's association. You cannot park on the street. Kelly Dion, 54 Blake St. stated she' is fearful of the traffic. Angela Carvalho, 75 Blake St. also opposed. Ida Tome, 31 Blake St. also opposed. Atty. Medeiros stated this ot is not part of that subdivision so they are not part of the homeowner's association and it's rules. They have enough parking and plus they have 2 car garage. Gerald DuBois stated he will not allow anyone to park on the street, he has plenty of room on the property. Atty. Medeiros stated he could provide a copy of the homeowner's docs. It was asked what's the size of the house? Mr. DuBois answers 3,000 sq. ft. houses, 2 floor and room over garage. The Board thought that was a good size house. Atty, Medeiros stated the neighborhood consists of old 25 x 50 house lot. Motion made and seconded to grant as presented;

Vote: Ackerman, Berube, Vieira, Turner, Faria.....Yes  
Petition granted

**Case # 3675      223 Broadway Street Series      223 & 231 Broadway**  
**of S&P Realty Series LLC      Prop.I.D. 47-73, 47-74 and 47-99**

For: Variance from Section 440 Attachment #3 of the Zoning Ordinance for a 10 foot front yard setback along Broadway (instead of 30 feet) for the proposed building.

For the Petitioner: Atty. William Rosa, Wynn & Wynn, P. C.,90 New State Highway, Raynham, Ma.

Nicole Duquet, Greenman Pedersen, 44 Stiles Rd., Ste. 1, Salem, NH  
Patrick McLaughlin, Construction Mgt. for property owner.

In favor: None

Opposed: Paul & Donna Poirier, 286 Broadway, Taunton, Ma.  
Manuel Deescoba, 278 Washington St., Taunton, Ma.  
Joe Buczek, 282 Washington St., Taunton, Ma.  
Tammy Witkowski, 302 Washington St, Taunton, Ma.  
Antonio Correira, One Thrasher St, Taunton, Ma.

Atty. Rosa states this is the property that has a Sunoco gas station and convenience store. They have been operating it since 2002 and in 2017 they acquired the adjacent piece of property and now they want to re-build the whole site. They will be adding one more gas dispenser. They are here tonight for a front setback from Washington Street. They have 10 feet instead of the required 30 feet. They need more room in that corner and the cemetery is across the street. They are proposing to build a much larger store with improvements. Chairman Ackerman asked where will the tanker trucks enter to fill gas?

Nicole Duquet, Greenman Pedersen stated they will enter from the 2<sup>nd</sup> entrance (further away from intersection) and fill and then drive out taking a left onto Washington Street to Broadway. Nicole stated they sized the radii turning radius for the biggest truck they will be using. George asked they if they ran the test with obstacles .i.e. vehicles at the gas station? Nicole answers no but there is a 24 foot wide entrance with 30 feet radii which meets DOT regs. They are hoping to submit their SP/SPR with the Planning Board soon. Wayne stated they are only here tonight for the 10 foot front setback from Washington Street. Chairman Ackerman read dept. letters from the City Planner, Engineer, Conservation Commission, Water Dept, and B.O.H. into the record. Public Input: Chairman Ackerman stated they could put condition that all delivery trucks enter off Broadway and exit off Washington Street by taking a left then take right onto Broadway. This means all delivery trucks, gas, bread, soda, etc. Seth stated they are asking for 10 foot setback from Washington Street and it was answered yes. Chairman Ackerman stated the new proposal will prevent cut thru . George said he has heard there were numerous complaints and police have been there? Patrick McLaughlin stated he is the construction manager for the property owner not the store. He said they will be re-inventing the site and provide a much better clean space. They will have self checkouts and larger restrooms. Chairman Ackerman asked if they will be open 24 hours a day 7 days a week? It was believed they are open now but they will have than answers for P.B .meeting. Chairman Ackerman suggested they do and also to check into police report for that location. He will try to get as much answers for that meeting. He thinks it's a benefit by adding 1 more pump. George suggests putting something into deter the BIG trucks from coming here. Public Input: Paul Poirier, 286 Washington St. stated his concerns were big trucks going in there, ROW has been there for many years, and the property hasn't been well maintained. He feels there is no hardship they can meet the setback and he's concerned with the buffer one. He stated there is flooding issue near Jefferson & Floral Street and he has nothing against the developer but they are now creating non-conformity. The new location of the building now creates safety hazard for neighbor's driveway. The proposed building is too big and they want to 20 seats. He stated the large trees act a buffer for noise. Chairman Ackerman stated if they cut off corner and meeting setback they would not need to come here but because they acquired the adjacent property they can now re-develop the site. Opposed: Antonio Correira, One Thrasher St. stated people coming out of the cemetery have a hard time taking right. Opposed: Donna Poirier 286 Washington St, Manuel DeEscobar 278 Washington St., Joe Buczek 282 Washington St., Tammy Witowski 302 Washington St. Chairman Ackerman gave suggestion of entering off of Washington Street and take right onto Broadway? Nicole stated she would have to run the numbers to see if it's feasible? Wayne asked what's the hardship? Atty. Rosa answers the unique triangular shape. They will re-configure the curb cuts they will eliminate a curb cut on Washington Street. They will have prepared foods but they are not asking for a restaurant but they are asking for outside patio and some seats. It was suggested they need to mention seating when they file site plan review.

**Motion made and seconded to grant as presented**

**Vote: Ackerman, Berube, Moniz, Turner, Faria.....Yes**

**Petition granted**

**Case # 3679**

**Khan**

**32 Mason St**

A variance from Section 440 Attachment #2 and a Special Permit from Section 440-503 of the Zoning Ordinance for a take-out restaurant (1,780 sq. ft.) with 12 seats in conjunction with the 2 residential units on the upper levels in an Urban Residential District and a parking waiver from the required 15 parking spaces (have 1 parking space)

For the Petitioner: Aesha Khan, 32 Mason St., Taunton, Ma.  
Upoma Khan, 32 Mason St., Taunton, Ma.  
Maria –Jose Tatoille, 63 Washington St., Taunton, Ma.  
Germain Jean Willem, 31 E. Walnut St., #2, Taunton, Ma.

In favor: None  
Opposed: None

Mrs. Khan explains how she wishes to put a restaurant in her vacant space. The restaurant was located at 22 Broadway. This will allow customer to come in, sit down and take out food. This will help her and her husband financially as the place has been empty for some time. She has 3 children and 2 are in college. Chairman Ackerman read dept. letters from the City Planner, Engineer, Conservation Commission, Water Dept., Fire Dept. and B.O.H. into the record. She received approval several years ago for a take out counter. Chairman Ackerman stated he had concerns with there being only one parking space and he would vote for take-out only. He would suggest putting a one-year re-visit and see how things go. George asked if they came before us before and she answers yes but not for any seats. She stated she was open from 2004 to 2012 and then were doing some renovation which were costly and the project stopped. George agrees take out only. They are asking us to waive all the parking. George said you will get a lot of foot traffic from the housing complex down the street. Germain Jean William, 3 E. Walnut St, #2 and Maira-Jo Tatoille, 63 Washington St. are the owners of the restaurant. They do not need any seats and would be fine with takeout only. Public Input: no one in favor or opposed.

Motion made and seconded to grant with the following condition:

- 1. Takeout restaurant Only.**

**Vote: Ackerman, Moniz, Berube, Faria, Turner...Yes**  
**Petition Granted for Take-out restaurant only.**

**Minutes of Case # 3681**

**Bowker LLC**

**492 Richmond St.**

For: A Special Permit from Section 440 Attachment #1 of the Zoning Ordinance for the construction of a two family dwelling in an Industrial District.

For the Petitioner: Robert Lincoln, 142 Rhode Island Rd., Lakeville, Ma.

Opposed: None  
In Favor: None

Mr. Lincoln stated this property is basically like a treat lot, located in back which was created by a variance from Mr. Swisher several years ago. They were thinking of putting a triplex but thought that would be too much, so they decided on a duplex. There are no wetlands and they only have one abutter but have amply buffer and woods. The duplex will be a nice addition to the neighborhood. Wayne asked what the hardship was and it was stated this is a Special Permit not a variance request. Chairman Ackerman read dept. letters from the City Planner, Engineer, Conservation Commission, Water Dept, Fire Dept. and B.O.H. into the record. They have perked and all set for a septic system. George asked how much frontage does the lot have? It was stated this lot was created by a previous variance and Form J (30.74' of frontage) and it's was previously approved for an single with accessory dwelling unit by the previous owner but never built. Public Input: no one in favor or opposed.

Motion made and seconded to grant as presented

Vote: Ackerman, Faria, Turner, Moniz.....Yes  
Berube.....No

Petition granted

**Case # 3680                      Railroad Ave. Trust LLC                      554 Winthrop St.**  
For: A Special Permit from Section 440 Attachment #1 of the Zoning Ordinance for the construction of a tr3-family dwelling on two lots within the Highway Business District .

For the Petitioner: Atty. Brianna Correira, 123 Broadway, Taunton, Ma.  
Tracy Duarte, Civil Engineer, MBL Land Dev. & Perm. Corp., 5  
Bristol Dr, Ste. 3A, So. Easton, Ma.  
Jeremy Jackson, Railroad Avenue Trust, LLC, 120 Field St.,  
Taunton, Ma.

In favor: None  
Opposed: Karen Pemberton, 86 Craven Ct., Taunton, Ma.  
Marco Fernandes, 106 Alanita Dr., Taunton, Ma.  
John Rathke, 33 Craven Ct., Taunton, Ma.  
Ed Ivanoski, 167 Craven Ct., Taunton, Ma.  
Andrew Dawley, 10 Craven Ct., Taunton, Ma.

Chairman Ackerman stated because there are only 4 members voting on this case he asked if they would want to continue or move forward tonight? Atty. Correia answers they would like to move forward tonight since the abutters came out. Atty. Correia stated this lot was part of a Form A Lot approved by the Planning Board. The property is located in the Highway Business District and borders the Suburban & Rural Residential districts. The lot is surrounding by mixed uses, single family and commercial uses. This lot abuts the open space for the Winthrop Heights Subdivision. They are only asking for a Special Permit for the use and no variances needed. Atty. Correia stated the entrance will be off Winthrop Heights Drive rather than Winthrop Street which is much safer. She stated having 3 residential uses will be less of an impact than a commercial use. She stated under the zoning ordinance they can ask for 10.8 units but are only asking for 6 units. Atty. Correia stated the proposal prevents over crowding and she states some uses allowed by right that could go in that would be a bigger impact on the neighborhood. A commercial use will have more impervious area, more noise and more traffic. She referenced the denial of the SP for Bask for the marijuana place on Winthrop Street of which the City lost in court. She stated they have had people complaining about the commercial uses ie. Fence company and car wash on Winthrop Street. Her proposal is in the HBD but the property is much closer to Winthrop Street than the opposition in Winthrop Heights Dr. Tracy Duarte, Civil Engineer state they will submit a Form A to create the two lots and provide 8 parking spaces for each lot. The units will consist of 3 bedrooms, 2.5 baths and about 1,400 sq. ft .with no garages and probably sell for about \$450,000 per unit. George suggested adding another parking spaces so each unit will an extra visitor and Tracy said they could do that. Chairman Ackerman read dept. letters from the City Planner, Engineer, Conservation Commission, Water Dept, Fire Dept. and B.O.H. into the record. Chairman Ackerman stated he drove by and saw driveway/curb cut from Winthrop Street? Atty. Correia stated using Winthrop Street would cause a traffic concern and she spoke to the City Engineer and he said an entrance off Winthrop Heights Dr. is a much safer option. Chairman Ackerman suggests if approved putting condition of no swimming pools, no further subdivision of lots. Wayne asked Atty. Correia the uses allowed by right could go in but she's representing that a residential use would be more appropriate and she answers yes. Public Input: no one in favor. Opposed: Karen Pemberton, 86 Craven Court. Stated she is one of the closest abutters and she stated Winthrop Heights Dr. is not an accepted street with the City. Chairman Ackerman stated it's not accepted by the city yet but it's a public way open to public travel. She pointed out there is only one way in and out for 65 home and this will add more traffic and congestion. She stated their parking for the triplexes is a parking lot and they have constant problems getting out onto Winthrop St. because of the Range Ave. across the way. They are now going to be visually impaired and she has huge concerns. She brought up the other lots having that will have a single family dwelling and duplex dwelling so that is 3 more residences along with this proposal. It's extremely hard getting out off Winthrop Heights Dr. and she thinks the entrance would be better off Winthrop St. She stated their subdivision is one of the highest in taxes and this will create a hardship with property values, traffic issues and she would prefer keeping it all on Rte. 44. She is unaware of anyone complaining about the fence company as Atty. Correia mentioned. They had some issues with the car wash about trash. Karen asked if there was a traffic study done?

Marco Fernandes, 106 Alanita Dr. stated his concerns are the additional traffic and safety. He can hear noise from the car wash and fence company and now they will have more noise from these units. This development of this property is at the cost of the neighborhood. Chairman Ackerman asked if he would rather see 18-24 units or a motel which is a permitted use. Chairman Ackerman stated the City Engineer prefers the entrance off of Winthrop Heights Drive. Mr. Fernandes reminded them all about school buses too. Ed Ivanoski, 167 Craven Court stated he opposed. He reminded the P.B. denied a duplex on the other lot. John Rathke, 33 Craven Court also opposed. He asked if the board represented the neighborhood or the developer? Chairman Ackerman stated he represented the citizens of Taunton and either the developer or an abutter has a right to appeal any decision. He takes each case on their own merits. Mr. Rathke asks what is the benefit to the neighborhood. He pointed out the 4 votes are all friends with the developer. Chairman Ackerman asked if he would like to see 6 units or a commercial use like a hotel? Mr. Rathke argued it's going to be approved anyway. Wayne stated he was an insulting individual. Mr. Rathke abruptly left the meeting on his own. Andrew Dowley, 10 Craven Ct, stated the residents are passionate about their neighborhood. He is one of the longest neighbors. He has been in Taunton for 34 years of which 17 years he lived in a duplex. He is just trying to make the best life as a homeowner. There is only one way in the car wash on the corner. They have about 120-140 drivers coming in and out of that subdivision. He stated the traffic backs up because it's hard getting out onto Winthrop Street. It's a legitimate safety issue. He stated he thinks they should use the lot as a business lot and put the entrance off Winthrop Street. Tracy stated they have done some preliminary commercial uses such as car restoration and a 16 unit mixed use bldg. and they would need access from both Winthrop St & Winthrop Heights Drive. She stated the next lot is the duplex lot which was denied by the P.B. which is under appeal. Atty. Correia states based on the 64 units in Winthrop Heights there are 128 vehicle trips and their proposal will increase it 10% which is significantly lower than a commercial use. She stated the abutters oppose everything that comes up. They voiced their opposition for the fence company, mixed use and duplexes. She thinks no matter what the proposal is they will oppose it. She stated they would have to be aware that something would be going there. George asked if the triplexes are townhouse style because that would act as a buffer from noise from Rte.44. Craig stated the abutters in Winthrop Heights Drive knew there was only one way in/out when they bought their house. Wayne said it's a difficult hearing but they need to vote on what is presented and he thinks a residential use will be in harmony with the neighborhood without the traffic being intrusive. Chairman Ackerman suggests placing conditions such as no pools allowed, no further development of the lots, provide 9 parking spaces for each lot, and no unregistered vehicle allowed.

Motion made and seconded to grant with the following conditions:

1. No swimming pools allowed on both lots.
2. No further subdivision of both lots.
3. No unregistered vehicles allowed on both lots
4. Provide a total of 9 parking spaces on each lot.

Vote: Ackerman, Berube, Faria, Moniz.....Yes  
Petition Granted

**Meeting adjourned at 8:24 PM**