

MINUTES

Zoning Board of Appeals Public Hearing– January 21, 2020
115 Pleasant Street, Room 103
Gardner, MA 01440

Sitting in on Hearing:

Michael Gerry
Randall Heglin
Melory Cornett

In Attendance:

Sign-In Sheet attached

Meeting Called To Order by Acting-Chairman Randall Heglin at 7:02 p.m. in the City Hall Annex Meeting Room 103, 115 Pleasant St, Gardner, MA. Mr. Heglin then went over the ground rules and the requirements that must be addressed for a variance or special permit. He then noted that the meeting was audio taped, and requested if anyone objected. There were no objections.

Mr. Heglin reviewed the Agenda for this meeting:

<u>Case No.</u>	<u>Case Type</u>	<u>Case Description</u>
2019-12-01	Variance	163 Fernwood Dr – Charles LaHaye - Construct garage with in-law apartment

Case # 2019-12-01: Charles LaHaye's application to construct a garage with an in-law apartment at 163 Fernwood Dr. Gardner, MA Parcel ID #H37-15-4 , located in the Rural Residential two zoning district (RR2) is denied as it does not comply with the Dimensional Requirements for Cluster Development in RR2 of City Code of Gardner. The zoning code states that a minimum side setback is 15 feet; the plans only allow for 8.5 feet.

Public Hearing continued from the December 17, 2019 meeting.

Atty Phillips, representing the LaHaye's stated that after the site walk which took place on December 21, 2019 the Board would understand that the possibility of moving the garage back would be a hardship as far as moving utilities. Atty Phillips noted that Mr. LaHaye could build a detached garage with a regular building permit and would not need to come before the board for a variance, but it could impact the neighbor on the left far more as an accessory structure is allowed only five feet setback from the property line and may cast a larger shadow. It was pointed out by Attorney Phillips and agreed by Commissioner Jean that an in-law apartment above the garage would require a Special Permit if within the accessory structure. Mr. Cornett asked how far the setback was from the front of the property and if the new structure could be placed parallel. Mr. LaHaye, states that the setback meets wet land and it would have to be discussed with the conservation board which he believes the Building Commissioner was looking into.

Mr. Heglin asked if there had been any discussion with abutting property owners regarding concerns raised at the last hearing, and whether their complaints had been withdrawn? The response from the applicant was no discussion.

Mr. Heglin then questioned the size of garage as 24 feet wide and whether the garage can be narrowed to 17ft to comply with the setback requirements. Mr. LaHaye is insistent on the 24ft?

Mr. Cornett added that the reduced size and removal of existing porch would grant the space needed and the access to the utilities thus solving the problem of variance. Mr. Lahaye insisted on keeping the plans for the garage as is.

Mr. Heglin asked Building Commissioner Roland Jean Jr for his opinion on the relocation of the utilities if the garage was moved back. Mr. Jean feels that the relocation for the sole purpose of utilities was not a prudent reason. The house plot is classed on a river lot so wet land and conservation area could become a problem.

Mr. Jean confirmed that a detached building can be built as a right as an accessory structure and could be located with a 5 foot setback to the property line it is the attachment to the existing property which creates the setback issue.

Mr. Michael Gerry asked Mr. Roland Jean Jr. if it would be possible to build a covered walk-way between the two buildings with just a roof and if that would still be classed as attached. Mr. Jean stated that an attached dwelling would need to be habitable to be classified as an attached dwelling.

Mr. Heglin questioned whether building a detached garage with in-law apartment would cause future problems should the property be sold? Could the apartment be rented out and how would this be governed?

Mr. Jean stated that the owner of the property must live in one of the structures by Code but there is no way to enforce who lives in the other.

Mr. Heglin opened the case to the floor for questions.

Mr. Ronald Scinski of 171 Fernwood Dr. questioned why the garage had to be 24ft? Why can it not be smaller? All other neighbors have standard 17ft two car garage, Mr. Lahaye's insistence on the larger size is the main cause of problem.

Mr. Mike Collette of 172 Fernwood Dr. reiterated the same grievance as Mr. Scinski stating that the size of the garage will cast a large shadow on the neighbor's yard. Taking down the breezeway and a smaller plan would have avoided the whole conflict, and need for zoning appeal.

Atty Phillips wished to make it clear that the building of the garage attached to the existing house would be more beneficial to all as it will be further from property line and cast a smaller shadow on neighbor's land. Should Mr. Lahaye build the garage as a detached structure all grievances stated by abutters would be worse as it could encroach nearer to property lines.

A motion was made to hearing for Case# 2019-12-01. It was seconded and unanimously approved. Case# 2019-12-01 is closed.

Mr. Heglin requested that the board make their decision a later date. A decision meeting is planned for Thursday January 30th at 6pm.

CORRESPONDENCE

Unitil letter – motion to file, it was seconded and unanimously voted to file the letter.

BSC group solar – Overlook Road- motion to file, it was seconded and unanimously voted to file the packet.

No further business coming before the board, a motion was made, seconded and voted to adjourn.

ADJORNMENT OF MEETING @ 7.30PM



Randall Heglin, Acting-Chair



Michael Gerry, Clerk



Melory Cornett, Member