

Minutes of Public Meeting

Zoning Board of Appeals Meeting- October 18, 2022; 6:30PM.

115 Pleasant Street, City Hall Annex

Gardner, MA 01440

Members sitting in on Hearing:

Raymond LaFond, Chairman

Randall Heglin, Clerk

Melory Cornett

David Antaya Participating via conference call due to illness. *(Will be a part of the Continuance Cases only on tonight's meeting)*

In Attendance:

City Officials

Mariela Negron, Administrative Coordinator

Roland Jean, Building Commissioner

Attorney John M. Flick, City Solicitor

Doug Smith

Tanya Hardy

Jennifer LaRoche

Steven Rockwood

Donna Chalifoux

Philip Chalifoux

Travis Maggs

John Dubey

Ron Bowel

William Price

Claude E Boudreau

Merrick S Fuller

Ryan Proctor

George L Dole

Meeting called to order by Chairman LaFond at 6:30PM. Chairman LaFond went over the ground rules for the hearing and the requirements for a Variance and a Special Permit. He then noted that the meeting was being video recorded, and audio taped and requested if anyone objected. There were no objections.

Mr. LaFond reviewed the agenda for this meeting.

<u>Case #</u>	<u>Type</u>	<u>Address / Request</u>
Case #2022/07/03(continued)	V	29 Stephanie Drive, Construct 2 nd access driveway.
Case #2022/07/02(continued)	V	146-B Greenwood St, Construct 40Ft wide driveway.
Case #2022-09/01	SP	24 June Street; Raise 3’Ft on existing roof.
Case # 2022/09/02	V	60 Yale Street; adding a deck to the rear side of the house and a small porch on the front adjacent to the existing dwelling.
Case # 2022/09/03	SP	205-213 School Street; To operate an inpatient care center.
Case # 10/01/2022	V	480 Parker Street, Replace the existing fence in the same location with a six-foot-high white vinyl fence.

Chairman LaFond stated that this evening's agenda will be heard in order. With the exception, once the City Solicitor arrives that case will be forward.

Members hearing this case – LaFond, Heglin, Antaya

Case #2022/07/03(con) V 29 Stephanie Drive, Construct 2nd access driveway.
Parcel ID #M17-15-3A, Located in the General Residential 3 Zoning District (GR3).

This application was denied as it does not comply with Chapter 675-720 C. 2-Each parking area may have one additional access driveway for each 200 feet of frontage, provided that all such access driveways shall be at least 200 feet apart on the parking area measured from the center line of each access driveway, of City Code of Gardner. The plans presented by the applicant was less than 200 feet from the current driveway.

Continued Hearing from August and September meetings.

On October 17, 2022, Michael Diaz sent a request to withdraw the application for a Variance via email. As it states, "I am canceling my driveway permit.

Thank you
Michael Diaz"

Mr. LaFond called for a motion to permit withdrawal of the application. Motion Antaya, second Heglin. All in favor. Unanimous

The request for the application to be withdrawn without prejudice has been granted.

Members hearing this case – LaFond, Heglin, Antaya

Case #2022/07/02(con) V 146-B Greenwood St, Construct 40Ft wide driveway.
Parcel ID #M22-19-21A, Located in the General Residential 3 Zoning District (GR3)

This application was denied as it does not comply with Chapter 675-720 C. 1 Of the City Code of Gardner.

The zoning code states that your Access Driveway may be 24'ft wide at a maximum. This application requires a Zoning relief issued by the Zoning Board of Appeals.

Continued Hearing from August and September meetings

On September 14, 2022, Ken Matson sent an application withdraw request via email.

As it states, "Matson's Homes II Inc. is requesting that the petition to grant a waiver to allow a 40Ft wide driveway at 146-B Greenwood St be withdrawn. This is without any prejudice.

Thank You
Kenneth Matson"

Chairman LaFond asked for a motion to withdraw the application without prejudice. Motion Heglin, Second Antaya. All in favor. Unanimous

The request for the application to be withdrawn without prejudice has been granted.

Member Antaya left the meeting. Member Cornett now third member.

Case #2022-09/01/2022 **SP** **24 June Street; Raise 3’Ft on existing roof.**
*Parcel ID #R12-15-26, Located in the single Family Residential
One zoning district (SFR1)*

This application was denied as it is non-conforming structure. Chapter 675-420 states that a Special Permit is required to extend or alter a non-conforming structure.

Mr. LaFond asked Mr. Maggs to present his case.

Mr. Maggs explained that the footprint will remain the same the only difference will be repairing and raising the roof. Application included photographs of the property and existing garage.

The Applicant addressed the criteria for a Special Permit per Code (Section 675-1170) and are as summarized below.

1. Proposal is suitably located for the use and compatible with character and existing uses. The proposal is for a garage. The use is consistent with a residential use.
2. Proposal provides convenient and safe vehicular and pedestrian movement within the property and adjacent streets. Existing garage on the property.
3. The proposal for a residential garage constructed on the same footprint as existing garage residential use.
4. No water or sewer to be connected to the building. Surface drainage will be as existing.
5. No nuisance will be created by the alterations proposed to the existing garage. No erosion or flood, noises or odor, dust, lights will be in effect. The only additional lightning will be in the interior.
6. There will be no inconvenience or hazard to any of the abutters, vehicles, or pedestrians.
7. Repairing and reconstructing a garage to enhance the residential use of the property is in harmony with the general purpose of the Code.
8. The proposal will not have a detrimental impact on City services, tax base or employment opportunities.
9. The proposal is consistent with the City’s Community Development Plan by enhancing and improving the property.

Chairman LaFond asked if any members had any questions. None.

Chairman LaFond then opened the hearing to the audience.

Chairman LaFond asked if any representatives of the City would like to speak regarding the application.

None.

Chairman LaFond asked any abutters in favor of?

Mr. John Dubey is an abutter for at least 10 years and is in favor of this application. He is the current contractor for Mr. Maggs as well.

Chairman LaFond asked if anyone to speak in opposition of the application. None.

Because of the completeness of the application and presentation a site visit not necessary.

Chairman LaFond asked for vote on raising the roof 3ft and repairing. Motion Heglin, second Cornett.

Chairman LaFond: All in favor. Unanimous. Application granted.

Case # 09/02/2022 V 60 Yale Street; adding a deck to the rear side of the house and a small porch on the front adjacent to the existing dwelling.

Parcel ID# M22-24-2, Located in the single family residential one zoning district (SFR1).

This application is denied as it does not comply with Chapter 675 Attachment 2:1 Table of Lot, Area, Frontage, Yard, and Height requirements of City Code of Gardner. The zoning code states that your use requested requires a thirty-foot front setback, the plan presented shows less.

Member Heglin advised that he has done work with the engineering firm Dillis & Roy with his full-time job and that this will not have any effect on the evaluation and decision of this application. Chairman LaFond asked the Applicant and his representative Ryan Proctor of Dillis & Roy if they have an issue or objection with Member Heglin hearing this case. Response- no objection.

The Applicant's representative Ryan Proctor summarized the request for the Variance. Currently the frontage of this property is in a curve shape and existing house does not comply with the zoning code setbacks. Also, the proposed additions are on the rear and side of the house and a small porch on the front adjacent to the existing dwelling. A part of the deck foundation will be removed and replaced with the new. Requesting setback relief from the zoning requirement.

Applicant stated only have one neighbor. Since his property goes far in, he will not be affected by the proposed addition. The use of the property will remain the same.

William Price is the owner of the property. The property is at the end of the accepted way. Beyond the property is paper street. Only one car garage on the basement and one car off street parking.

Members Heglin and LaFond had a lot of questions about the terrain of the property, why not change the addition to another side, and how come it will not have an effect to the neighbor. How far does the abutter reside from the applicant?

Member Heglin suggested a site visit. Members LaFond and Cornett agreed.

The site visit is scheduled for October 29 at 9AM. Mr. Proctor will also be present during this visit.

Chairman LaFond called a motion to continue this case for next month's Zoning Board Meeting with the results of the site visit for a final decision.

Motioned and seconded. Unanimous.

Chairman LaFond stated that this case will remain open.

Case # 10/01/2022 **V** **480 Parker Street, Replace the existing fence in the same location with a six-foot-high white vinyl fence.**
Parcel ID #M22-6-9, Located in the Single Family Residential One zoning district (SFR1)

This application is denied as its your intent to place the fence on the property owned by the City of Gardner.

Chairman LaFond introduced City Solicitor John Flick.

Attorney Flick explained that the fence cannot be allowed by the Zoning Board of Appeals as it does not have the authority to do so. The City Council, by state statute, is the only authority authorized to grant such permission.

Applicant Donna Chalifoux explained that other abutters had already installed a fence on the City of Gardner premises and that the fence that she was applying for had already been installed prior to their property purchase. The existing fence is on city property.

Mr. Flick explained that it does not comply. The ZBA needs to deny this application since it is out of its jurisdiction.

Donna Chalifoux requested this application to be withdrawn without any prejudice.
LaFond asked for a motion to withdraw the application without prejudice. Motion Cornett, second Heglin. Unanimous.

Chairman LaFond stated motion to withdraw the application without prejudice is granted.

Case # 09/03/2022 **SP** **205-213 School Street; To operate an inpatient care center.**
Parcel ID #R22-7-28, Located in the Industrial One zoning district (I1).

This application is denied as it does not comply with Chapter 675 Attachment 1:2 Table of Uses #20-Hopital, Sanitarium, of Nursing, rest, or convalescent home of City Code of Gardner. The zoning code states that your use requested a Special Permit from the Zoning Board of Appeals.

George L Dole is the engineer presented the application.
Jennifer Laroche will address the program questions.

George Dole is presenting this application. 205-213 School Street. This 3rd Floor will be leased. Once you enter the premises you will see that we have parking spaces in the front, lower and back area of the building. Our employees will have designated parking spaces in the back of the building. We will be needing some improvements on the cooling and heating systems. This space will have a kitchen, bathrooms with showers, also a recreation area, some bedrooms will be for two patients and other for one patient according to their needs. Maximum of eight beds. The front exit is about 250ft from the front door and the other exit is about 190ft from the front door. Additional egress is required to comply

with Code. Front door or the bedrooms will not have any locking mechanisms. There will be alarms and protocols for any emergency.

Jennifer LaRoche oversees the programs. As of now they have a 24-hour program and a regular program from 7AM to 3PM. They will be having these programs as volunteer only. The cost for each voluntary patient will be charge through their Medical Insurance policy. The treatment term will depend on the patient's situation, and condition. As of now the treatment is for adults with mental illness and have had drug abuse, violence abuse, alcohol abuse, etc. We are also working directly with the Police Department on emergency crisis. The Police Department is on speed dial in case of any emergency.

Mr. Dole addressed the none criteria for a special permit. The responses are in the application and summarized below.

1. The proposed use is compatible with other established use the Industrial 1 district. The building consists of several businesses including Clinical and Support Options offices and private practice medical offices. The inpatient clinic beds to be located far away for any residential houses.
2. The construction of the in-patient clinic will not affect the existing convenient and safe pedestrian and vehicular movement at the property.
3. Adequate parking in compliance with the Code is exists. An evaluation of the parking requirements of the clinic was completed by the Applicant. Dedicated parking for the clinic will be established. No parking relief is sought by the Applicant or the owner. The proposal will have no effect on the existing access to the building for the loading and delivery of goods and other services.
4. The proposal for an inpatient clinic is an internal renovation to an existing space. The building is connected to public water and sewer. No exterior renovations, with the exception of an emergency egress stair are anticipated, therefore no external drainage concerns will be created.
5. There will be a temporary nuisance created by the renovation of the building but would not have an effect external to the building. The proposed egress stairway will be compatible with the general industrial design of the overall building.
6. The proposal will not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians. The proposal is internal to the building.
7. The proposal is in general harmony with the intent and general purpose of the Code. Renovating a large, former industrial complex into beneficial use in consistent with the Code.
8. There will be minimal impact on City Services. Occasional ambulance or other response may be necessary at the clinic to respond to issues within the clinic.
9. The proposal to renovate old industrial space to beneficial reuse is consistent with the City's Community Development or Master Plan.

Included in the discussion of the criteria –

Member Heglin asked about number on staffing overnight – 3 including clinician. During day, increases.

Discussion on programs that are to be take place at the property. The Special Permit necessary for overnight inpatient.

Chairman LaFond asked about crisis intervention and what does it involve. Representative explained the process. Intoxicated and violent individuals not to be admitted at the facility.

Chairman LaFond opened the hearing to input from the audience.

Representative of the City – Building Commissioner Jean. Question on parking. Chairman LaFond and Commissioner Jean asked about parking requirements and whether relief is necessary. Chair LaFond asked about designated parking. Answer in affirmative. Representatives explained where the parking areas to be dedicated. Applicant to provide an analysis.

Abutters to property in favor - Abutter from Chestnut St. Mr. Bowel. Concern of adequate staff and security. A patient in distress could leave the facility. Representative said that crisis evaluation part of the preadmission assessment. Facility is not a medical detox facility. Department of Mental Health regulates and licenses the type of treatment at facility.

No additional comments in favor or opposition.

Chairman LaFond, members Heglin and Cornett decided to make a site visit on October 29 at 10AM.

Chair LaFond Called for a motion (Member Cornett, seconded Member Heglin) to continue this case to next month Zoning Board of Appeals meeting. All in favor. Aye.

This case will remain open.

Meeting took 5 Minute Recess.

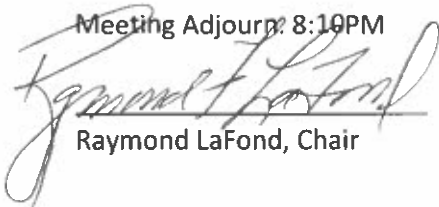
Minutes approved


April 19, 2022

September 7, 2022

Minutes approved.

Meeting Adjourn: 8:10PM


Raymond LaFond, Chair


Randall Heglin, Clerk


Melory Cornett