

Zoning Board of Appeals
Minutes
August 26, 2014

Members Present: Paul Giunta – Chairman, Theodore Scott, Ralph Loftin – Vice Chairman, Thomas Golden – Clerk and Robert Levin

7:00 PM 19 Marien Lane - Neeraj Bhatia (ZBA Case # 1429-2014)

Petition: The applicant desires to construct a sunroom 21 ft. vs. the required minimum rear yard setback of 30 ft. In accordance to §650-41 (Table of Lot Area, Yards, and Height of Structures). The lot is located in Zoning District A-3, being Map 43, Parcel 118 of the Assessors' Maps, also known as 19 Marien Lane.

The Board opened the public hearing at 7:00 PM with the reading of the legal ad. The applicant was not present. The Board waited for a few minutes for the applicant to show.

The Board requested their secretary, Susan Brown, to give the applicant a call to see if he will be attending. After making the call to the applicant, Ms. Brown informed the Board that the applicant will not be attending tonight's meeting and that he will not be constructing the proposed sun room due to financial constraints. He also stated to Ms. Brown that he thought his carpenter was going to call to cancel his meeting. But, Ms. Brown stated she did not receive such notice.

Ms. Brown also asked the applicant to provide to the Board some documentation, i.e. e-mail or letter to state his intentions of either "Withdrawing without Prejudice or just to "Withdraw" his petition before the Board. The applicant stated he will do so.

With this information, the Board made a motion to continue the public hearing to Sept. 2nd at 7:30 in order to receive the applicant's written intentions. Motion was second by Thomas Golden.

The Board voted 5-0 to continue the public hearing to Sept. 2nd at 7:30 PM.

7:30 PM 525 Maple St. – NGP Management LLC (ZBA Case #1430-2014)

Petition: The applicant, NGP Management LLC, seeks to raze the existing structures on the property and construct a new 2,615 sq. ft. restaurant with drive-through facilities and parking for 41 vehicles. The project would need relief from a front setback requirement with respect to Mill St. in addition to various landscaping, parking design and driveway design requirements, set forth in the following sections of the

Marlborough Zoning Code: Dimensional: §650-41; Landscaping: §650-47(D)(5)(a), §650-47(D)(5)(b), §650-47(D)(6), §650-47E(1)(a)(3), §650-47(E)(1)(b), §650-47(F)(3), §650-47(G), §650-47(H)(1), §650-47(H)(2)(b), §650-47(1)(2), §650-47(K); Parking: §650-48(C)(5)(a)(3), §650-48(D)(2), §650-48(D)(5); Driveways: §650-49(B)(2)(a), §650-49(B)(2)(b), §650-49(D)(1), and §650-49(D)(6). The property is located in Zoning District CA-Commercial Automotive, at 525 Maple St. (the former registry building), being Map 104, Parcel 37 of the Assessors' Maps.

The applicant is before the Board to construct a Dunkin Donuts at 525 Maple St. (the former Registry of Motor Vehicle site).

Representing the applicant Gus Stavanos were:

- Atty. Bergeron and Brian Falk-Associate of Mirick O'Connell, 100 Front St., Worcester, MA 01608-1477
- George Delegas - Director of Architecture and Planning
NGP Management, LLC . 3 Pluff Avenue , North Reading, MA 01864
- Mike Scott of Waterman Design Associates, Inc., 31 East Main St.
Westborough, MA 01581

Variations sought:

- One dimensional variance – front setback along Mill St.
- All other variance requests concern the design of landscaping.
- Driveway areas

Variance Request

	Required	Proposing	Deviation
Front yard setback (Minimum required 50 ft.)	Minimum 50 ft.	Mill St. 24 ft. ±	26 ft. ±
LANDSCAPING			
Maple St.	10 trees 80 shrubs	2 trees 40 shrubs	8 trees 40 shrubs
Mill St.	10 trees 110 shrubs	3 trees 19 shrubs	7 trees 91 shrubs
Side Planting Area – along the parking lot and Ms. Ippolito and the tip of the lot	6 trees 42 shrubs	0 trees 14 shrubs	6 trees 28 shrubs

	Required	Proposing	Deviation
Interior Plantings (required 4 trees and 14 shrubs	4 trees 14 shrubs	2 trees 56 shrubs	2 trees Shrubs – no deviation

Plans presented entitled: Existing Conditions Plan, 525 Maple St., dated 7/16/2014; Layout Plan, dated 7/16/2014; Planting Plan dated 7/16/2014; and a Locus Map, dated 7/16/2014, prepared by Waterman Design Associates, Inc.

The Lot in question is abutting one residential home (168 Mill St.) The majority of abutting properties are of business/commercial automotive use.

This is a corner lot – containing 2 front yards and 2 side yards – No rear yard

There was much discussion concerning the number of proposed parking, egresses and the number of landscaping variances requested.

Councilor Roby was present asking questions about the number of variances the applicant is requesting. She also asked questions on behalf of Ms. Ippolito of 168 Mill St. Councilor Roby stated Ms. Ippolito is not opposed to the project. Ms. Ippolito would not like to see another parking lot. Ms. Ippolito would like to a living buffer between her property and the propose Dunkin Donuts. She would also like not to hear the intercom speaker at Dunkin Donuts during the evening hours.

The Chair asked if anyone in the audience wanted to speak in **favor** of the petition:
 Robert Arcieri, 22 Sadie Hutt Lane, Southboro, MA

The Chair asked if anyone in the audience wanted to speak in **opposition** to the petition:

- Atty. Gregg S. Haladyna – representing 181 Mill St. South – Bronx Industries.
 - His clients own Bronx Industries.
 - He stated this is a tough site for the size of the building being proposed.
 - The applicant is requesting 19 variance
 - The hardships stated are not criteria’s under Chapter 40A.
 - The applicant is asking too much for the site.
 - Burden on the applicant to show hardship
 - Not an appropriate site for a Dunkin Donuts

Board Member, Ralph Loftin is requesting from the applicant the following:

- To meet with Priscilla Ryder, Conservation Office, about her concerns as noted in her memo dated August 26, 2014. After said meeting, the Board is requesting a letter back to the Board from Priscilla Ryder on the outcome of that meeting
- To meet with Even Pilachowski, City Engineer, about his letter dated August 26, 2014. After said meeting, the Board is requesting a letter back from Mr. Pilachowski to the Board on the outcome of that meeting.
- Continue to meet with Ms. Ippolito to address her concerns, and have the applicant keep the Board informed about those meetings.

A motion was made to continue the public hearing to Sept. 16, 2014 at 7:30 PM in order for the applicant to address the issues as noted on above. The motion was seconded by Ralph Loftin and a vote of 5-0 was taken to continue the public hearing to Sept. 16, 2014 at 7:30 PM.

The meeting was adjourned.

Respectfully submitted,


Paul Giunta - Chairman *ss*