



City of Marlborough Zoning Board of Appeals

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Minutes March 24, 2015

Approval of Minutes - January 6, 2015 were approved as written with minor changes.

Discussion:

ZBA Case # 1422-2015

Name: Raynold Menard & Angela Tom

Location: 45 Washington St.

Board Members present were: Ralph Loftin – Acting Chairman, Theodore Scott, Robert Levine and Thomas Golden.

Absent: Paul Giunta

Nature of discussion: City of Marlborough Code Enforcement Officer, Pam Wilderman and the Legal Department are requesting an affirmative vote from the Board rescinding their approval of the issued variance pertaining to 45 Washington St.

1. Present this evening were Pam Wilderman-City's Code Enforcement Officer and City Solicitor Donald Rider. Also present this evening was Robert Camacho-City's Building Commissioner.
2. In Board's file is a letter by Pam Wilderman in an attempt to notify Anna Tanyaradzwa Mairosi (Mairosi) 23 Emory St. Lowell, MA dated January 28, 2015 which was returned to sender. An unsuccessful e-mail attempt was also done.
3. Pam Wilderman stated the variance granted on October 8, 2013 to Raynold Menard & Angela Tom (Menard & Tom) for 45 Washington St. was not the owners of record for 45 Washington St. at that time. An Extension Permit was requested thru e-mail and granted to them. Extension Permit will expire April 8, 2015.
4. Pam Wilderman stated Anna Tanyaradzwa Mairosi is owner of record and that Menard & Tom had no standing to file the Zoning Board of Appeals application form for a hearing before the Board which Ms. Wilderman stated was fraudulently done.
5. Pam Wilderman stated her office would like to move forward with the Attorney General's office and then to "receivership".
6. Pam Wilderman stated she has learned the variance for 45 Washington St. was recorded at the Registry of Deeds. The Extension Permit was not recorded.
7. City Solicitor Donald Rider stated Menard & Tom had no "standing" to apply for a variance for 45 Washington St. He also sees no "hardship" as stated by (Menard & Tom) in the file.

8. After much discussion, it was agreed that they will wait till the Extension Permit expires on April 8, 2015. At that time, the variance and the extension permit will be null and void. The Board will work along with the Pam Wilderman and the city's legal dept.

9. If Menard & Tom do not request for another Extension Permit or a Building Permit by April 16th, 2015 Pam Wilderman or Atty. Rider will file appropriate documents with the Registry of Deeds to render the variance as invalid for lack of "standing".

11. A motion was made to wait till the Extension Permit expires on April 8, 2015 and then have the city file the proper paper work to the Registry of Deeds to render the variance as invalid. Robert Levine seconded the motion.

12. On a vote of 4-0 the above motion was passed.

13. The discussion was closed.

Discussion:

ZBA Case # 1410-2012

Name: Fairfield Marlborough Limited Partnership

Location: Land off of Ames Street and Rte. 20

Modification of Comprehensive Permit – Talia aka (Brookview Village and The Preserves at Ames) Determination of Insubstantial Change

Board Members Present: Ralph Loftin-Acting Chairman, Theodore Scott, Thomas Golden and Robert Levine.

Absent: Paul Giunta

Present this evening were: Atty. Bergeron, Ted Williams, Kevin O'Malley and John Shipe. Also present were City Solicitor Donald Rider and Building Commissioner Robert Camacho.

Approved Comprehensive Permit Project – ZBA Case 1410-2012: For 225 rental units on Map 89, Parcels 78 and 3B = 18.73 acres dated Jan. 29, 2013.

Atty. Bergeron, representing the applicants, stated Fairfield Marlborough Limited Partnership is ready to start construction. Financing will close in about 2 weeks. The remaining issues are what are before the Board this evening.

- Determination of Insubstantial Change
- Review of the Regulatory Agreement as to form by the city Solicitor Donald Rider

According to Atty. Bergeron's letter to the Zoning Board of Appeals, dated March 18, 2015 RE: Insubstantial Change to Comprehensive Permit; ZBA Case 1410-2012; Land off of Ames Street and Route 20, (the Property) Assessor's Map 89, Parcels 78 and 3B. They are before the Board requesting a vote on Lot Line Adjustments as shown on an ANR Plan endorsed by the Planning Board and recorded at the Registry of Deeds. (Packet in Board's file)

According to testimony, Atty. Bergeron stated the Applicant's proposed modification consists of Lot line Adjustments to the site, leaving the site subject to the Comprehensive Permit with the same area of 18.73 acres. Some land was given to Central Steel Supply, 85 Ames St., thus creating a different lot line than the original plan that was approved by the Zoning Board of Appeals in 2012.

According to the above letter:

- The Property, as modified by the Lot Line Adjustments is depicted in an ANR plan endorsed by the Planning Board and recorded with the Middlesex South District Registry of Deeds, as Plan No. 164 of 2015 (the "ANR" Plan). Showing Lot A-1. Lot A-2, also shown on the ANR Plan, will remain in common ownership with Lot A-1 per an affidavit to be recorded by the Applicant (the "Affidavit").
- At the time of the Comprehensive Permit, the Property was shown as consisting of the above-mentioned Assessors parcels. Those parcels and a third parcel were later combined into a single parcel, as shown on a plan recoded with the Registry as Plan 1021 of 2013. The Lot Line Adjustments, which re-divide the parcels, are necessary to satisfy the requirements of Mass Housing, the Project's subsidizing agency.

Attached:

- A copy of the signature sheet signed by the Acting Chairman-Ralph Loftin for the Zoning Board of Appeals. Also, note the additional phrases added to the Determination of Insubstantial Change, dated March 25, 2015.

Action taken:

- After much discussion between Atty. Bergeron and City Solicitor Donald Rider, the Board voted 4-0 to accept the modification to the Comprehensive Permit as **insubstantial**. Applicant will send a full set of approved plans for the Board's file.
- After some discussion, the Board signed the Acknowledgement of Zoning Board of Appeals, hereby agrees that the foregoing Regulatory Agreement satisfies the requirements of the Comprehensive Permit as defined therein.

With no other testimony taken or given, the discussion was closed.

Public Hearing

ZBA Case # 1436-2015

Name: John Shelales & Alison Makinen
Represented by the City of Marlborough (DPW)

Location: 620 Farm Rd.

The property is located in Zoning District A-2 being Map 85, Parcel 7 of the Assessor's Maps.

Board Members present: Ralph Loftin – Acting Chairman, Theodore Scott, Thomas Golden and Robert Levine

Absent: Paul Giunta

Project Description: The City of Marlborough, Dept. of Public Works, are representing the applicants in creating a second driveway to allow residents at 620 Farm Rd. to exit their property and travel eastbound on Farm Rd. while minimizing conflicts with vehicles at the proposed newly constructed signalized intersection at Farm Rd./Broadmeadow St. The proposed second driveway is in violation of §650-47 Landscaping and screening and §650-49 Driveways and curb cuts.

In the Board's file are two 8 ½ x 12 plan produced by the DPW entitled #620 Farm Rd. Zoning District A-2.

Present this evening were Tim Collins, Assistant City Engineer and Evan Pilachowski, City Engineer. Also, Robert Camacho, Building Inspector, was in attendance.

Abutter(s) speaking in favor:

- Russ Christopher of 580 Farm Rd. was present. He had the following questions:
 - The safety of the proposed second driveway entering and exiting onto the roadways.
 - How the signalization will work.
 - Why have a break in the middle of the roadway for cars to enter the existing driveway when traveling east bound.
 - Grading for the proposed second driveway which may cause water run-off problems.
 - Wanted some info on how the car(s) in the driveway at 620 Farm Rd. will maneuver in and out onto Farm Rd./Broadmeadow St.
- Mary Lou Shelales of 630 Farm Rd. – Had some questions of the existing chain link fence on the side lot line which the city DPW is stating marks the side lot line. She believes the side lot line is not where the chain link fence is located. Her grandparents once owned the 2 lots as one lot and it was subdivided. She remembers being told that the pine trees at the side was the lot line. Her basement is dry now and does not want water run-off from the proposal. She also mentioned pooling of water at the front of her property on the street. Tim Collins assured her that the pitch of the proposed second driveway will be carefully looked at and there will be new upgrades to the drainage. Her house was built in the early 70's. #620 Farm Rd. was built in the 50's.
- Councilor Delano was present to speak in favor of the proposal. Farm Rd. has become a very busy road. With many homes and side streets along Farm Rd. it is very difficult to come onto Farm Rd. Traffic signal lights will give some breaks to the line of traffic on Farm Rd. which should give the residence along Farm Rd. some relief.

Abutter(s) speaking in Opposition - There was no one speaking in Opposition.

Tim Collins, Assistant Engineer stated:

- We are presenting a construction plan. Because of the snow, we did not survey the lot. DPW did survey the road lines.

A motion was made by Ralph Loftin to continue this hearing to April 21st, 2015 until such time the above requests can be produced for the next meeting. Motion seconded by Ted Scott.

The Board voted 4-0 to continue the hearing to April 21st, 2015 at 7:00 PM.

Respectfully submitted,


Paul Giunta *sb*
Chairman