

MINUTES

Zoning Board of Appeals Public Hearing– February 19, 2019
115 Pleasant Street, Room 103
Gardner, MA 01440

Sitting in on Hearing:
Randall Heglin
Michael Gerry
Melory Cornett

In Attendance:

Sign-In Sheet attached

Meeting Called To Order by Acting-Chairman Randall Heglin at 7:00 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 being video and audio taped, and requested if anyone objected. There were no objections.

Mr. Heglin reviewed the Agenda for this meeting:

Case# 2018-12-01 – 63 Walnut St. – Transition House – Operate 42-bed transition house
Case# 2018-12-02 – 180A Chapel St. – Cruz Cisneros – Construct Single-Family House

Case# 2018-12-01: The Transition House's application to operate forty two bed Transition House at 63 Walnut St., Gardner, MA Parcel ID # R27/22/20 , located in the General Residential Three zoning district (GR3) is denied as it does not comply with Chapter 675, Article 750, B. of City Code of Gardner. The zoning code states that the use requires 21 Parking spaces. The submitted plan shows ten parking spaces.

B. Assisted living; nursing home; group/rest home; rooming house 1 per 2 beds

Mr. Heglin read into record a letter requesting a “withdrawal without prejudice” from the applicant dated February 17, 2019.

A motion was made to accept the withdrawal without prejudice, it was seconded, and unanimously accepted.

Case# 2018-12-01 is withdrawn without prejudice.

Case# 2018-12-02: Cruz Cisneros's application to construct a single family home at 180A Chapel St., Gardner, MA Parcel ID # W27-15-8, located in the single family residential one zoning district (SFR1) is denied as it does not comply with Chapter 675, Attachment 2 Table of lot area, frontage, yard, and height requirements of City Code of Gardner. The zoning code states that the use requested requires one hundred feet of road frontage. The submitted plan shows ninety feet of road frontage.

Atty Thomas Gibbons, representing Mr. Cisneros, explained that the parcel in question is 4.1 acres and was previously approved as a 3-unit subdivision by the Planning Board, but that approval is now expired. Mr. Cruz wants to build a single or 2-family dwelling (both allowed by right in the SFR1 zoning district), but is 10 feet shy

of the required 100 foot frontage. The subdivision was never built because of the death of the previous owner and the housing market collapse.

Atty Gibbons states that minimum frontage is required in zoning districts due to safety and to control the uniformity of the district. He contends that 90 feet of frontage is safe for this property. Also, having a home on the property will be beneficial to the city. Water and sewer lines already exist.

It was asked if there was interest in trying to resurrect the subdivision plan, but it's determined that current wetlands regulations would prove to be a hardship.

There is no current plan for placement of the home on the parcel, but Atty Gibbons points out that the parcel is large and his client would adhere to all setbacks. If a 2-family home is granted, it would more than likely be a "townhouse style."

Mr. Heglin mentioned a letter received from the DPW that indicates they would want a new water line run and the existing sewer would need a pressure test if the Variance were to be granted. He read the December 13, 2018 memo into record:

The property proposed for house construction is the "Chapelwoods" subdivision. It is our understanding that the Applicant is requesting relief to build one single-family house on the property. This subdivision was approved and the roadway was constructed to near completion. The road construction included water, sewer, and drainage installed. Based on what currently exists at the site, we have the following comments/concerns:

- 1. The 8" water main that was installed shall be cut and capped at the main in Chapel Street.*
- 2. A new water service to the main in Chapel Street shall be installed to service the house.*
- 3. The existing hydrant shall be removed.*
- 4. The existing sewer force main, if used for a sewer service, shall be pressure tested prior to connection. Any connection must be made on the section before the services that are stubbed off of it. The remaining portion with the existing services will be capped and abandoned.*
- 5. Required Water/Sewer Connection Plan, connection application, and fees shall be submitted for DPW review.*

Building Commissioner Roland Jean Jr. spoke as a representative of the city. He is of the opinion that a 1 unit is better than a 3-unit subdivision for that neighborhood, and he is not aware of any 2-family dwellings currently in that neighborhood.

Mr. Peter Korhonen of 136 Chapel St. spoke in favor of the application, stating that a home on that property would be an improvement to the neighborhood and it would put it back on the payroll for the city.

Mr. Donald Knower of 192 Chapel St. expressed concern about the wetlands in that area. There is an easement pipe that runs through his property and he is concerned about flooding. Would a survey of the parcels be required if the Variance is approved? He explained that he and other abutters had purchased 75 feet of land from a previous owner of the property but it wasn't surveyed or marked at that time. He is concerned about actual property lines.

Ms. Suzette Knower of 192 Chapel St. is also concerned about the wetlands and possible erosion if trees are cut.

Mr. Heglin replied that the map presented to the Board does show the wetlands and the applicant, if the Variance is granted, would need to go through Conservation for approvals. Any clear-cutting would be his right, as it's his property.

Atty Gibbons again stressed that his client would comply with any regulations of Conservation and would not interfere with any existing easements. He also mentioned that the subdivision plans he found noted the wetlands and there is plenty of room on the property to avoid wetlands and adhere to setbacks.

Mr. Jean confirmed that a tape survey and As-Built plan is required prior to any building permit being issued.

There is no site visit needed for this property as the Board is familiar with the site.

A motion was made to close the case, it was seconded, and unanimously approved.

The Board moved to a Decision on the case.

Mr. Cornett said that if the applicant would comply with setbacks and Conservation, he's ok with the proposal.

The requirement of the As-Built by the Building Department is checks and balances. Also, the DPW would hold signatures until all of their requirements are met.

Mr. Jean pointed out that there aren't multi-family dwellings on Chapel St, but an in-law apartment was just permitted for one property in the area.

Mr. Gerry is ok with 1-family or in-law apartment, but not a 2-family, and although it's allowed by right in that zoning district, it's not in character with the neighborhood. Mr. Cornett agreed.

Mr. Heglin pointed out that a 2-family would have a greater setback requirement, and Mr. Gerry said that it was an aesthetic question.

The abutters in the audience do not object to a 2-family, so Mr. Gerry said that he would then be ok with a 2-family.

A motion was made to grant the Variance for Case# 2018-12-02. It was seconded and unanimously approved. The Variance for Case# 2018-12-01 is granted.

CORRESPONDENCE & PREVIOUS MEETING MINUTES

The Board voted to accept the January 15, 2019 and January 29, 2019 Meeting Minutes "as printed."

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

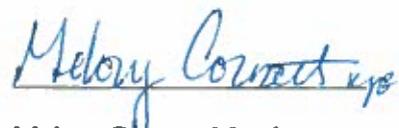
ADJOURNMENT OF THE MEETING @ 7:45 pm



Randall Heglin, Acting Chairman



Michael Gerry, Clerk



Melory Cornett, Member

All detailed conversations, questions, comments and concerns are documented on CD identified as February 19, 2019.