

MINUTES

Zoning Board of Appeals Decision Meeting – January 31, 2022. 6.30PM
115 Pleasant Street,
Gardner, MA 01440

Sitting in on Hearing:

| | |
|----------------|---------------|
| Raymond LaFond | Rachel Taylor |
| Randall Heglin | |
| Michael Gerry | GETV |

In Attendance:

| | |
|-----------------|------------------|
| Joanne Travano | Peter CampoBasso |
| Anthony Travano | Ronald Koivin |
| Christine Tree | Laurel Adams |

Meeting Called to Order by Chairman Raymond LaFond at **6:43 PM**. Mr. LaFond then went over the ground rules stating this was decision meeting and no further information can be submitted to the case unless requested from the Board. The floor will not be open to discussion from the public as the cases in question are closed. All cases would need a unanimous vote of all three members to be granted. He then noted that the meeting was being video, 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 #2021-08-01: <u>V</u> | Joanne Tavano (CON) | 0 W Broadway. Open Space Development. PID# <u>H17-7-1</u> |
| Case #2021-08-03: <u>V</u> | Harbor Classic Homes. (Con) | 0 Clark St. Open Space Development. PID# <u>M32-6-10</u> |
| Case #2021-08-04: <u>V</u> | Harbor Classic Homes. (Con) | 0 Century Way. OSD. PID# <u>M37-21-42</u> . |

Case# 2021-08-01: Variance for Private Oversight LLC, 0 W Broadway. Open Space Dev.

Application to construct 32 Multi-Family Units at 0 West Broadway, Gardner, MA Parcel ID # H17-7-1, located in the Commercial 2 zoning district (C2) is denied as it does not comply with Chapter 675, Article 1:1, #5 - Multifamily Dwelling of City Code of Gardner. The zoning code states that your use requested is a "not permitted" use in the "C2" zoning district.

Motion to move to Discussion.

Motion made by Mr. Gerry and seconded by Mr. Heglin.

Mr. Heglin stated that this case had been heard by the Board many times with various extensions and continuances. Attorney Tree had addressed all questions and concerns brought forward by

both the Board and abutters. The construction plan has changed to accommodate fewer homes and a site visit was conducted on November 13, 2021. at 8.30AM.

Mr. LaFond explained that a Use Variance should only be granted if there is no other means to move forward with a project. At this point he feels that there is no financial hardship that would warrant a use variance. There is another avenue that can be taken, through the Planning Board, Chapter 675-540: Smart Growth Development (*Attachment 1), which would be a better course of action. The Planning Board can then issue relief under this chapter. Use Variances should only be granted when there is no other choice.

Mr. Heglin confirmed that the area in question is much better suited to a residential neighborhood than the Commercial 2 it is zoned as, especially for the Templeton residents abutting the lot. Attorney Tree had done extensive research on the area and presented a good case for her client.

Mr. LaFond agreed that the application was well researched and presented, but the decision should be based on the need of relief from the Zoning Board. At this point the use of Chapter 675-540 is still the best way to go.

Motion to vote on Decision.

Motion made by Mr. Gerry seconded by Mr. Heglin.

Vote in favor of the use Variance by Mr. Heglin and Mr. Gerry

Vote against by Mr. LaFond.

Use Variance Denied.

Mr. LaFond stated that this decision can be appealed through the City Clerk's Office, or it can be taken to the Planning Board Directly.

Case # 2021-08-03 & 2021-08-04. Variance. Harbor Classic Homes, Century Way & Clark St, Open Space Development. Continued from December.

Application to construct an access for the proposed Open Space Residential Development (PID M32-6-10 – Clark St. Entrance), located in the General Residential 3 zoning district (GR3) and Single Family 1 Residential zoning district (SFR1) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #10 – Open Space Residential Development of City Code of Gardner. The zoning code states that your use requested is a “not permitted” use in the “GR3” and “SFR1” zoning districts.

Application to construct an access for the proposed Open Space Residential Development (PID M37-21-42 Century Way Entrance), located in the General Residential 3 zoning district (GR3) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #10 Open Space Residential Development of City Code of Gardner. The zoning code states that your use requested is a “not permitted” use in the “GR3” zoning district.

Motion to Discuss decision.

Motion made by Mr. Gerry and seconded by Mr. Heglin.

Mr. LaFond clarified to the Board that this case was to be for the egress roads and not the development project. The Planning Board will be the deciding element on the building and construction plan. Open Space development is allowed by a Special Permit of the Planning Board in the RR2 zone. The RR2 area is currently inaccessible without the proposed entrance driveway through SFR1 and G3. No homes will be constructed in the areas all dwelling will be solely in the RR2 zone under the open space development plan.

Mr. Heglin requested that these applications be voted on separately as they are two separate applications. These two cases have had a lot of interest from local residents, and it was brought into question the number of homes that could be built under the open space development in comparisons to regular housing developments. The decision should be based on the safety and location of the roadways alone.

Mr. LaFond agreed to make decision on each case separately.

Case # 2021-08-03 Clark St Entrance.

All in Favor. Mr. LaFond & Mr. Gerry.

All Against. Mr. Heglin.

Variance Denied.

Case # 2021-08-04 Century Way Entrance.

Vote to grant Variance for Century Way.

Unanimous vote to grant variance.

Variance Granted.

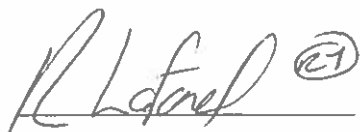
Any Further business

No Further business

Motion to adjourn meeting

Unanimous vote to adjourn

Meeting Adjourned at 6.59PM.



Raymond LaFond, Chairman



Michael Gerry, Clerk



Randall Heglin, Member.

***Attachment 1**

675-540. Smart Growth Planned Unit Development.

A. Purpose. By special permit, the Planning Board seeks to facilitate an alternative pattern of land development which promotes innovative design with compact, mixed-use development that is convenient to a variety of transportation options, to preserve common open space, and to promote the creation of new housing units that are contained in a variety of building types and laid out in a manner to promote the establishment of a pedestrian-oriented neighborhood(s). This type of development may be determined to be sufficiently advantageous to render it appropriate to grant special permission to depart from the normal requirements of the district to the extent authorized by this chapter.

B. Applicability.

(1) Smart Growth Planned Unit Development (SGPUD) is allowed in the RR2, COM2, IND1 and IND2 Zones. Proposed SGPUD shall be located on a lot or contiguous lots of not less than 60,000 square feet in the RR2 Zone and shall employ public water and sewage. In § 675-530 ZONING § 675-540

675:45

the COM2 and IND2 Zones, the tract shall contain no less than 60,000 square feet. In the IND1 Zone, the tract shall contain no less than 50,000 square feet. A development plan shall be presented for the entire tract.

(2) The development shall be subject to all zoning regulations, except those which, through the grant of a special permit, the Planning Board has permitted increased density, parking requirements less than those ordinarily required, and permit uses not otherwise allowed in the underlying zoning district as specified in § 675-540C, Allowed uses.

C. Allowed uses. In addition to the uses allowed in the underlying district, the following uses are eligible for consideration:

- (1) Mixed use.
- (2) Single-, two-, three- and four-family dwellings.
- (3) Multifamily dwellings.
- (4) Assisted living facilities.
- (5) Convenience retail.
- (6) Business or professional office.
- (7) Restaurant.
- (8) Office building.

D. Density and dimensional requirements.

(1) The minimum common open space requirement of the overall tract in the RR2 shall be 30%, exclusive of areas located in floodplains and wetlands. In the COM2, IND1 and IND2, the minimum common open space requirement of the overall tract is 20%, exclusive of areas located in floodplains and wetlands.

(2) Multifamily residential structures shall contain no more than eight units per building and shall be clustered to foster neighborhood connections. Residential density shall not exceed 20 units per acre,

to be calculated exclusive of areas located in flood zones and wetlands.

(3) The area developed for residential use shall not exceed 50% of the overall tract, exclusive of areas located in floodplains and wetlands.

(4) Setbacks. Industrial uses shall be set back a minimum of 20 feet from commercial uses and 50 feet from residential uses. The Planning Board retains the authority to increase minimum setbacks at its discretion in the interest of safety, circulation, or other factors.

(5) Maximum building height shall be 65 feet.

E. Parking and other requirements.

(1) Parking shall be in accordance with those requirements set forth in § 675-750, Schedule of parking uses. The Planning Board may allow for shared use parking if the applicant can prove the specified parking demand will occur at different and offsetting times of day.

The use of shared parking is encouraged to reduce impervious surfaces and enhance overall design of the development.

(2) Proposed developments which include over 12 residential units shall require 20% of the overall number of units to be affordable to persons and families earning 80% or less of the area's median income, and these units shall remain affordable for a minimum period of 30 years.

F. Site plan review. All developments proposed for SGPUD shall undergo site plan review. For the convenience of the applicant, site plan review and applications for a special permit pursuant to this section shall be held concurrently. The applicant will be responsible for submitting a request and meeting all submission requirements concurrently in order to streamline notice and hearing requirements