

MINUTES

Zoning Board of Appeals Decision Meeting – May 18, 2021
115 Pleasant Street, Via Zoom.
Gardner, MA 01440

Sitting in on Hearing:

Raymond LaFond
Michael Gerry
Randy Heglin
David Antaya (Alternate)
In Attendance:

Roland Jean, Building Commissioner		
Sandra Stevenson	Tom Lan	
Rachel Taylor	Tim Slocum	GETV
Steve Rockwood	Chris Keenan	Attorney Tree
Linda Begley	Tim Hunt	Slocum Inc
Ahmed Hatim	Donna Chalifoux	Stephen Fleshman
Jillian Jenkins	Sue Moriarty	Chris Stoddard
987-855-7109	Kevin Quinn	

Meeting Called to Order by Chairman Raymond LaFond at 6 PM

Mr. LaFond went over the ground rules for the Zoom meeting and how the proceeding will take place, stating “In pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Gardner Zoning Board of Appeals will be conducted via remote participation and on the City’s YouTube Channel. The audio or video recording, transcript, or other comprehensive record of proceedings will be posted on the City’s website as soon as possible after the meeting. Since this meeting is being conducted via Zoom, all votes taken will be by roll call and all participants to raise their hands to be recognized”. Mr. LaFond explained the requirements that must be addressed for a Variance or Special Permit. He then noted the meeting is usually streamed live to YouTube, but due to a meeting conflict tonight this meeting will be uploaded to YouTube at a later date this week, a request was made if anyone objected. There were no objections.

<u>Case #</u>	<u>Type</u>	<u>Address / Request</u>
Case #2021-04-01:	<u>V</u> (con) Jason Piland	Lot 42 Summit Ave. Single Family Home
Case #2021-04-02:	<u>V</u> Alan Belanger	161 Chelsea St. Prof Office & Warehouse
Case #2021-04-03:	<u>SP</u> Timothy Slocum	0 Matthews St. Contractors Yard
Case #2021-05-01:	<u>SP</u> Tom Lan	31 Branch St. Add Residential Unit
Case #2021-05-02:	<u>V</u> Martin Bros	Timpany Blvd. Parking Forward of Building

Tonight's scheduled hearing is chaired by Mr. LaFond, the Clerk Mr. Gerry and third member Mr. Heglin. Case # 2021-05-02, Timpany Blvd, will be chaired by Mr. Heglin, with Mr. Gerry and Mr. Antaya as other members. Items on this agenda may be taken out of order at the discretion of the Chairman.

Mr. Lafond informed the Board that he had received an email of withdrawal without prejudice from Mr. Jason Piland, Case #2021-04-01, Summit Ave Single family home. (Letter Attached to minutes). The letter was read out loud at the meeting.

Mr. Heglin recapped the application denial letter, Your application to construct a Single Family Home on Lot 42, Summit Ave, Gardner, MA Parcel ID # **R12-8-22**, located in the Single Family Residential 1 zoning district (**SFR1**) is denied as it does not comply with Chapter 675, Article 620 Attachment 2:1 of City Code of Gardner.

Motion to accept the withdrawal without prejudice. (Gerry, Heglin 2nd)

Unanimous vote to accept withdrawal.

Case # 2021-04-02 Alan Belanger - 161 Chelsea St. Office and Storage Units.

Mr. LaFond informed the board that an email had been received from the applicant's Engineer requesting a continuance to the next month's meeting. (Email is attached to minutes.)

Motion made and seconded to continue case to June.

Unanimous vote to continue.

Case # 2021-05-02 CHC Timpany Blvd, parking forward of building.

Mr. LaFond hands the chair to Mr. Heglin as a conflict of interest is in place.

Mr. Heglin explained that new plans had been submitted this week and that board members have not had enough time to review the plans so they would have to continue this case to the June meeting to fully review the application.

Motion made and seconded to continue to June.

Unanimous vote to continue in June.

Mr. LaFond re-takes the chair.

Case 2021-04-03 Tim Slocum, 0 Matthews St. Contractor's yard and Storage units. Variance.

Mr. LaFond opened the floor to Mr. Slocum or his representation.

Christopher Stoddard, Stoddard Engineering, Athol MA

We are looking to construct up to 6 commercial units with both indoor and outdoor storage areas to rent. The site does not currently have city utilities so a septic system would need to be installed. The lot is in the R2 zone and very close to Route 140 and is a prime location for this kind of business. The property is 200ft away from the closest abutting resident and is a 24 acre lot. The land is sloped and most of lot has not yet been clear cut. Tim would like to keep the

topography and green space as much as possible. All codes will be met upon building. Any further questions Mr. Slocum is present to answer.

Mr. Gerry asked how far from Route 140 the lot was.

Mr. Stoddard explained that the land abuts Route 140, the entry driveway is about 500ft down on Matthews St. When you pull into the driveway the suggested building will be the left of the lot leaving plenty of space for future development on the right.

Mr. Heglin inquired about lighting for the building and parking areas.

Mr. Slocum – Applicant

The lighting plan has not yet been finalized but the plan would be to have soft downward facing lights above each bay door, regular doors and the parking area, probably motion activated. All these options would be considered once building was approved.

Mr. Heglin asked if the whole area would be fenced in and locked.

Mr. Slocum explained that he was planning on a chain link fence around the front section of the building with a code locked gate. The code would be supplied to emergency services in order to gain access if needed. The rear of the lot is heavily wooded and will not really need fencing but is willing to fence the whole lot if requested.

Mr. Heglin noted that the plans had bathrooms in the rental units which are not often present in these types of buildings. What is the timeframe on the project?

Mr. Slocum explained that the build would start as soon as he was given the clear to do so from the city. The bathrooms are a feature for the building, to be used by long term renters of the space. The city is in great need of spaces that can be used by contractors to store the equipment used for their business. Many are working from their home which brings in restriction on the land use and often zoning violations.

Mr. LaFond asked about plans for signage of the business.

Mr. Slocum had not yet finalized plans for signs or lighting but he would like to have a sign on the 140 side of the lot and another at the entrance but as of yet there is not set plan for signs.

Mr. LaFond informed Mr. Slocum that there are regulations on size and illumination of signs and that he may need to confer with the building department on what would be allowed in the area. He then asked about the outside storage.

Mr. Slocum stated that the outdoor storage area would be fenced in, central of the 6 units being planned, you can see on the hand drawn plans that access from the road, left of the rental units.

Mr. Stoddard offered to screen share so all present can view the plan and understand the explanation.

Mr. Stoddard indicated on the screen that entry to the business would be off Matthews St with a left turn into the area in question. First building will be a shop with two rental units, the building

closer to Matthews St (phase 2) will be 6 rental bays each having a half bathroom with vanity for the renter's personal use. Behind this is an open area which will be for outside storage, this will be completely fenced in for the safe storage of snow plows, ladders, and larger equipment. Most of this area will be for Mr. Slocum's personal business use.

Mr. LaFond asked if there would be free range storage at the property at all.

Mr. Slocum assured the board that no excessive storage on the parking lot would occur though he may at a times have a personal truck or trailer that may be there short term for the use of his other business.

Mr. LaFond stated that a condition may be discussed, that any extra storage of vehicles or trailers be kept to the rear of the parking lot. What would the hours of business be for this property?

Mr. Slocum planned on the business being open 7am to 6pm but knows that contractors work slightly different hours so it would more likely be 6:30am to 7pm six days a week. Storage rentals would be accessible to the renter out of hours via the locked coded gate, but would be discouraged. Mr. Slocum owns a snow removal company with contracts with the hospital and surrounding areas so access to the equipment stored here would be concurrent to weather and emergencies. No snow will be stored here just the vehicles used to move it.

Mr. LaFond asked how much of the land would be cleared as the plot shows just over 25 acres.

Mr. Stoddard answered that they would currently need to clear only about 10 acres and the rest would be left as woodland.

Mr. LaFond asked about the location of city services if there was any.

Mr. Stoddard stated that city services where not yet available at this location but with the expansion plans in the Route 140 area they hope there would be changes in the future to allow access to such services.

Mr. LaFond asked if the pipe work could be put in place for the city services, for when it is available to the area.

Mr. Stoddard explained that the building would be plumbed with a sump pump and these pipes could be placed in such a way that the flow could be reversed to allow public water and sewer. The site has a current limit of 10,000 gallons of wastewater a day which will not be an issue for this building but it is still something that needs to be monitored. In excess of 10,000 gallons per day will require treatment of the wastewater per MADEP regulation.

Mr. Heglin asked if there was a sprinkler system planned for this project.

Mr. Slocum had not planned on a sprinkler system as they are not required in buildings under 7,500 sqft. He has designed the lot to have 30ft travel lanes to allow easy access for firetrucks and emergency vehicles should they be needed.

Mr. LaFond asked if any chemicals and oils would be stored at this location.

Mr. Slocum keeps salt brine in large barrels for use when he runs the snow removal business but that's about all for chemicals. These will be stored inside out of view and harm's way. Maintenance lubricants may be on site for the maintenance of vehicles and stored appropriately.

Mr. LaFond asked how close the nearest neighbor was and if there was a plan to keep a forested buffer area between the buildings and the abutters.

Mr. Stoddard confirmed that a wooded buffer would be in place.

Mr. Heglin asked how much land had already been cleared.

Mr. Stoddard said that a small areas had been cleared and the driveway is cleared but more would need to be done to build.

Mr. LaFond asked what the driving areas would consist of. Hard top or gravel? And will there be a dumpster present?

Mr. Stoddard confirmed the lot would be paved and a dumpster would be on site but would be fenced in out of site.

Mr. LaFond requested if a site visit would be possible. Applicant agreed to site visit. Mr. LaFond asked Mr. Slocum to address the 3 conditions for a Variance.

3. No hazard is created in this application. Matthews Rd is a well-traveled road and a great location for this type of business. Tenants will be encouraged to use Route 140 for access. There is no side walk, so no foot traffic will be impacted. All safety measure will be taken and all parking will be within the property lines.

2. City has done studies of this area and found it's a good location for such a business and would cause no harm to the abutters

1. There is no negative impact to the city as this business will be of benefit to local contractors which will keep them in the city. The only other use for the land would be to build single family homes which could impact to the school and road system.

Mr. LaFond stated that studies have been conducted by the city and no negative impact was found.

Mr. Stoddard explained that this was a raw area of land, so some more work would need to be done no matter the use. There is a very limited amount of industrial use land in the city and having this lot as the current use, will only benefit the city. Local contractors are in need of storage space and this will keep their business in the city. Should this application be denied that land will be sold to housing development which will then put a bigger strain on the school systems as well as roads and city services? This business would be good for the tax base without impact to the school system.

Mr. LaFond requested that the applicant keep in consideration that this location is like an entrance to Gardner so would like it to maintain a good appearance and be kept as a good symbol of the city.

Any further questions from the Board.

Any Questions from reps of the city.

Mr. Roland Jean. Building and Zoning Enforcement officer.

Mr. Jean confirmed that this is a use variance and that the Applicant will still have to go before the Planning Board before they could start construction. No site visit is really needed as the planning department will conduct their own. He agreed that the intended use would be good for the city as he often has to deny contractors in the area from using their home for the business as they are not zoned for that use. This would be a great place for these small business owners to be able to both store and register their business.

Mr. LaFond requested a site visit, in order to see the location of the driveway entrance from Route 140 and also how close the nearest abutter would be.

Site Visit Monday 24th, 6.30pm. Mr. Slocum confirmed availability.

Motion to close case 2021-05-02

Unanimous vote to close.

Case 2021-05-01 Tom Lan, 31 Branch St. Add basement unit to multi- family. Special Permit
Represented by Attorney Christine Tree.

Atty. Tree addressed the meeting to explain the case and also to screen share the plot of the building. The Applicant is requesting a special permit for the reinstatement of the fourth basement unit at 31 Branch St, as a pre-existing, non-conforming amendment. There are currently 3 apartments all with tenants living there. There is a 1 bedroom apartment space in the basement with a walkout entrance. This apartment has been vacant for a few years as it had sustained significant damage from a flood a few years ago. Mr. Lan would like to refurbish the apartment and rent it out. The building is on a large cleared lot with ample space and parking and the Applicant is also adding a fire suppressant system to bring the building up to code.

Mr. LaFond asked if this case should be a variance rather than a special permit.

Atty. Tree stated she had clarified with Mr. Jean about the code "675 sec 420 Sub B", that a special permit can be applied to this case. *(attached below minutes)

A recorded plan was screen shared showing the plot to be a conforming lot in size. The building is being cleaned up and repaired right now so there is a temporary container unit at the rear which is housing the materials and tools for the construction and clean up. There is dirt parking to the left side of the building for the tenants and there is no abutters on that side. There is ample space at the rear of the lot for snow removal so there is no impact to the parking in the snowy weather, and the building owner takes care of the removal. The surrounding property is mostly single family but there are a few close by with the three family units.

Mr. Heglin inquired if the bump out was for the sprinkler system as it looks like it's the entry for the basement unit.

Atty. Tree confirmed it was the walk out entrance for the basement unit, but the sprinkler system takes up very little room so the bump out can be used for both with no issue. Atty Tree screen shared both a photo of the said entry and the site plan to the board. Stating the area is 6ft by 8ft.

Mr. LaFond asked Atty Tree to address the 9 question required of a special permit.

1. Location is of a mixed use community with some single and multi-family homes. Screen shared to show location of surrounding lots. The left is zoned for industrial use but is currently open space. There will be no impact to the area by converting this lot to a four family dwelling.
2. No existing side walk is present, this is a dead end street, so pedestrian traffic will not be present
3. The owner will keep clear the parking areas of snow and trash. There is plenty of space for parking for all units.
4. There is no need for a dumpster currently as city services are available. Currently there is a dumpster and container on the site but it is for the construction work being done and will be removed upon completion.
5. The request is to add one small unit to a three family home so no issue will occur with the addition.
6. There will be a short term inconvenience with the construction of the unit and the addition of the fire system but this will be kept to regular work hours.
7. The addition of the unit will be an asset to the city by suppling quality housing to tenants.
8. Service is already present at this location and the unit will be a small one bedroom so no impact will be made to the school or utilities.
9. The proposal is consistent with the city master plan.

To change the non-conforming pre-existing use to make the addition unit would cause little hardship and is allowed through the code 675, Attachment 420 sub section B Sub 1*(attached below minutes) The only change would be to the vestibule area to allow for the fire safety system and the entry way for the unit. Updated photos were screen shared to show the location of vestibule. The entire property is undergoing a huge cleanup and maintenance upgrade to give the building a better look.

Mr. Heglin asked if the cleanup was in case there was a site visit request or if the property had fallen into disrepair.

Mr. Lan. Applicant.

Mr. Lan stated that he had purchased this property last year and started work on up keep right away. He takes pride in the properties he owns and this was just the routine spring cleanup and regular maintenance conducted by a good landlord.

Mr. LaFond asked if a condition of the special permit be that the property be kept clean and up to code, with the chance of inspection at any time.

Atty Tree Agreed.

Mr. Heglin noted that there were 4 mail boxes visible in some pictures and questioned if the basement unit was already completed and being used. Stating that the property card also states the building is a four family.

Mr. Lan explained that the fourth mail box is what he uses for his personal use right now but it would be used by the tenant of the basement once they had moved in. The basement held a fourth unit but, as stated early in the meeting there had been a lot of flood damage to that unit so it had been left vacant for few years resulting in the loss of its zoning.

Mr. LaFond stated that a condition be that no more than this fourth unit could be installed.

No further questions.

Any reps from the city to speak.

Mr. Jean conclude that with the addition of the sprinkler system the building would be up to code and there would be no issues from the city regarding the extra unit.

Any Abutters.

Sue Moriarty – Abutter 477 Parker St requested information about the zoning in the area, asking if granting this additional unit would change the zoning in the whole neighborhood to allow more multi-family homes or even apartment building/ subdivisions.

Atty Tree explained that no change would occur to the community as this is an application for a special permit for just this property. There would be no departmental impact to the area. The board then confirmed this statement with Mr. Jean who confirmed this to be correct.

Mr. LaFond requested a site visit of the property.

Site visit planned for Monday 24th May at 6.30PM.

Motion to close hearing

Unanimous vote to close.

Any further business.

Mr. Jean informed the board that he had conducted an inspection of 145 Dyer St, regarding case 2021-01-01. All animals had been removed from the property within the time limit given by the board and the applicant had refused the 12 chicken she had been allowed. This case is now completely closed.

Mr. LaFond asked if the large pile of debris was still present to which Mr. Jean stated that the only change to the property was the removal of the animals as requested.

Any further business?

Acceptance of minute's from April 20th meeting will take place at the next meeting as they still need to be reviewed.

Motion to Adjourn Meeting

Unanimous vote to Adjourn.

Meeting Adorned 7:48PM



Raymond LaFond, Chair



Michael Gerry, Clerk



David Antaya, Member



Randel Heglin, Member.

Letter of Withdrawal.

Case #2021-04-04

April 27, 2021

*City of Gardner
Zoning Board
115 Pleasant St*

At this time we would like to withdraw our zoning application without prejudice, we think with the cost of lumber and the timing we could not be able to build a affordable house at this lot, we would like to try again at this in the future. I will be working with a survey company to resurvey the lot in question.to be better organized.

Thank you Jason Piland

Case #2021-04-02

Rachel, the applicant would like to request a continuance to the June meeting so the board has time to review the plans and conduct a site visit. Thank you.

Brian

Brian Marchetti, P.E.

Vice President, Engineering

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*** § 675-420 Nonconforming uses and structures.**

A. Applicability. This chapter shall not apply to structures or uses lawfully in existence or lawfully begun or to a building or special permit issued before the first publication of notice of the public hearing required by MGL c. 40A, § 5, at which this chapter, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming use and structures may continue, provided that no modification of the use or structure is accomplished unless authorized hereunder.

B. Nonconforming uses.

(1) The Zoning Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Zoning Board of Appeals:

(a) Change or extension of the use not substantially more detrimental than the existing Non-conforming use to the neighborhood.

(b) Change from one nonconforming use to another, less detrimental, nonconforming use.