

MINUTES

Decision Meeting

Zoning Board of Appeals Decision Meeting – June 7, 2021
115 Pleasant Street, Via Zoom.
Gardner, MA 01440

Sitting in on Meeting:

In Attendance:

Raymond LaFond	Roland Jean	Tom Lan	Steven Slocum
Randy Heglin	Rachel Taylor	Tim Slocum	Steve Rockwood
Michael Gerry	Attorney Tree	Heather	

Meeting Called to Order by Chairman Raymond LaFond at 6:00PM. Mr. LaFond went over the ground rules for Zoom meeting and how the proceedings were to 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 and the requirements that must be addressed for a variance or special permit. He then noted that the meeting was being streamed live to YouTube, and requested if anyone objected. There were no objections.

Sitting on today’s decision meeting is Mr. Raymond LaFond, Chair, Mr. Mike Gerry, Clerk and Mr. Randall Heglin, Member.

Mr. Lafond explained that this is a decision meeting and will not be open to communication from the applicant and the Board members present. Questions may be asked of the applicant but that is all.

<u>Case No.</u>	<u>Case Type</u>	<u>Case Description</u>
Case #2021-04-03: <u>V</u>	Timothy Slocum	0 Matthews St. Contractors Yard
Case #2021-05-01: <u>SP</u>	Tom Lan.	31 Branch St. Add Residential Units

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

Mr. LaFond opened Case #2021-04-03 Use Variance. 0 Matthew St, Contractors Yard/ Storage Units.

Application to operate a contractors yard at 0 Matthews St in Gardner, MA Parcel ID #W37-2 I-I, located in the Rural Residential 2 zoning district (RR2) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #59 Contracting Business and Contractors including storage in the City Code of Gardner. The zoning states that your use requested “is not permitted” use in the “RR2” zoning district

Mr. LaFond stated that a site visit of 0 Matthews St, was conducted on May 24 at 6.30pm.

Mr. Heglin explained that Mr. Slocum had met the Board members at the site and showed them around. Showing the planned location of the driveway entrance and the purposed site for the buildings. The lot was partly cleared. The planned drive way will be several hundred feet down Matthews St from Route 140. A sign is planned to be visible from route 140 also. Hours of operation is predicted to be 7am to 6pm Monday through Saturday, although some of the rental unit owners may have slightly different hours depending on jobs. The lot is roughly 25acres and the applicant has stated there will be a vegetation buffer in placed at least 40ft to the west and to the closet abutter.

Mr. LaFond explained further the plan was for 3 large pod/units for storage and contractor's equipment. Mr. LaFond clarified that the driveway location shown will be both entrance and exit to the business. Most traffic will be coming from Route 140 and the proposal is in keeping with the city plan. This will keep local business in employment with a place to store equipment and register their business. There is no safety issue with the location as Matthews St is not heavily populated. Mr. Slocum will be installing a septic system and suppling his own water system, but had mentioned in the last meeting, that he would be open to laying the pipe work, ready for City services, should they be planned for future installation. Hours would be 6AM to 7Pm, Monday through Saturday, unless for snow removal or emergencies. Dumpster would be on site but hidden from view with a fence. There is currently no set lighting plan submitted.

Mr. LaFond stated that certain conditions should be placed on this decision:

1. Entrance and exit sign be present with left turn only, in order to send all traffic to route 140 and not down Matthews St.
2. Utility lines be put in place for future city services.
3. Signs will need to go through the zoning board
4. Dumpster be fenced out of site
5. A lighting plan must be submitted to the building inspector prior to installation and must face down.

Mr. Gerry added that a condition should also be that any larger equipment or materials that cannot fit inside the units or fenced storage area, must be stored to the rear of the building by the septic system.

Mr. Gerry suggested that the turn left sign at the entrance location should not be a condition, as small business using this location would be inconvenienced if being directed to use Route 140 if the job was in the Gardner area.

Mr. Heglin agreed, that though the intent was good, most of the renters would be small business owners with a small pick-up trucks or vans used to conduct their business. Matthews St is not heavily populated so traffic from the business would not be a real impact to the area. The only larger vehicles would be the snow plows for Mr. Slocum's own business, which would be taking the left turn to Route 140 anyway as his contract is for Heywood Hospital.

Mr. LaFond conceded the condition of the right turn only.

Mr. Heglin questioned the condition of laying the pipe work for future city services, stating that this may take the City many years as currently there is no plan to take water and sewer out that way, so it would be a hardship to have this infrastructure in place and maintained if the option to tie into may never occur.

Mr. LaFond stated that this was actually suggested by the applicant at the meeting and was not something he requested.

Mr. Gerry suggested that this should be an option left to the applicant and not be placed as a condition of the Variance.

Mr. LaFond continued with suggestion of conditions:

6. Business hours be kept to 6AM to 7PM.
7. Larger equipment not in the regular fenced areas to be kept at the rear of the property by the septic system.
8. Entrance and exit sign to be in compliance with city code and zoning.

Mr. Roland Jean Building Commissioner, stated regarding the condition of the outside storage to the rear. The city code, 675 Attachment 1, Table of use #59- Contracting business and contractor's yard, including storage in the open. Foot note 1, states that "Storage in the open shall be screened from public view. The preferred method of such screening shall be a landscaped arrangement of planting; if this is not feasible, opaque fencing shall be used."

Mr. Jean also added that applicant is still yet to go before the planning board for this project.

Mr. Heglin stated that the condition be worded to clearly state that the storage must comply with #59 of the table of uses in case the Planning Board fails to include it in their report.

Mr. LaFond confirmed that a light plan will also have to be reviewed by the Planning Department.

Call to vote on the granted of a use variance to Mr. Slocum with conditions:

1. Entrance and exit sign be present and in compliance of City Code.
2. Dumpster will be fenced in and out of site of the public
3. A lighting plan must be submitted to the building inspector prior to installation and must face down.
4. Business Hours to be 6AM to 7PM, Monday through Saturday with the exception of emergencies and snow removal.
5. Larger equipment not in the regular fenced areas to be kept at the rear of the property by the septic system. In keeping with the code 657 Attachment 1, Table of Use #59, foot note 1.

Unanimous vote to grant use Variance with conditions.

Case #2021-05-01 31 Branch St- Tom Lan, add a basement units to make property 4 family.

Application to construct a 4-Residential Unit at 31 Branch St, Gardner, MA Parcel ID #M22-1-1, located in the Single Family Residential 1 zoning district (R1) is denied as it does not comply with Chapter 675, Attachment 1:1 of City Code of Gardner. The zoning code states that your use requested #4 Three-Four Family Dwelling is a "not permitted" use in the "R1" zoning district.

Mr. Gerry stated that a site visit had been conducted on May 24 at 7PM. The Board members viewed the yard and saw that there was ample parking to the left of the building for the 8 required parking spaces for the unit. There is also a large back yard and no abutter to that side.

Mr. Heglin clarified that historically this building was a four family and it is still stated as this on the assessor's property card. The basement unit had suffered some severe water damage some years ago, which led to the unit being vacant for over two years thus losing its zoning right. 31 Branch St is the

largest building on the street, but as it is at the end of the street, with off street parking, he has no issue with granting this Special permit.

Mr. LaFond clarified that this is a special permit in accordance with City Code 675-420 non-conforming use.

*** § 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.

Mr. LaFond asked Mr. Lan to confirm that there was to be no external changes or construction other than the entrance to the basement unit. No changes to the footprint of the property. Will there be a second egress for the new unit?

Mr. Lan confirmed that the entrance for the basement unit is on the side of the house, not the front. No major changes will be made to the outside of the building other than the entry way.

Mr. Heglin asked if this in compliance with code as normally 2 egresses must be present for a dwelling.

Mr. Jean informed the Board he will have a discussion with Mr. Lan about this.

Mr. Gerry discussed the T-111 siding, on the side of the building being in disrepair and if there are plans to remove and replace it.

Mr. LaFond confirmed that this was included in his initial conditions for the Special Permit. Conditions being:

No paving or parking in the front of the building,

All parking is to be to the left.

8 parking spaces to be clearly marked.

Exterior of the building to be maintained, including the repair or removal of damaged T-111 siding.

Stairs to the second floor to be inspected and renovated if needed.

No more than the four units at the property

Mr. Heglin asked the Board to specify the expectations of the improvements in order to make Mr. Jean's job a little easier.

Mr. LaFond said the specific areas of concern, is the T-111 siding on the left side of the building is in bad shape and looks to be rotted at the bottom.

Mr. Heglin asked if the repair request should be for painting or should it stipulate that it should be vinyl siding.

Mr. Jean stated that Mr. Lan, the applicant, has requested to answer this question and could make them an offer they couldn't refuse.

Mr. Tom Lan, Applicant, stated that he is aware of some unsightly damage to the side of the building and will be removing the offensive sections, and checking for further damage before replacing the area with vinyl siding to match the rest of the house.

Mr. Jean stated that only that section of the property was in need of repair and most of the external facing of the house was in good condition and could be easily rectified.

Mr. Lan agreed that his plan was to match up the new siding with the current blue which is on most of the property.

Mr. LaFond voiced concern over the stairway, to the second floor, on the right side of the building. Stating the area seemed very dark and in need of some repair also.

Mr. Lan said that there were motion sensing lights in the stairwell and he is more than happy to have a building inspector come and review the area and give advice on any repair or changes they feel need to happen.

Attorney Christine Tree, Legal Rep of the applicant, screen shared an image of the stairway.

Mr. Jean confirmed he would stop by and take a look at this area for safety and repairs.

Mr. LaFond asked Attorney Tree if she was comfortable with the condition.

Attorney Tree asked for confirmation of the definition of the front yard in regards to the parking condition. Is the front yard defined as road to property?

Mr. Jean stated that in the R1 Zone the frontage requires 30ft, so parking is not allowed in the front of the building anyway.

Mr. LaFond listed his conditions in full:

1. No paving or parking in the front of the building, all parking to the left.
2. 8 parking spaces to be clearly marked
3. Exterior of the building to be maintained, including the repair or removal of damaged T-111 siding.
4. Stairs to the second floor to be inspected and renovated if needed.
5. No more than the four units

No further comments.

Motion to vote on Special Permit.

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

Vote to Grant Special Permit with conditions to Mr. Lan – 31 Branch St

Unanimous vote to Grant Special Permit with conditions.

Special Permit with Conditions Granted.

Any further business.

Acceptance of April, May and site visit minutes.

Unanimous vote to accept all minutes.

No further business.

Motion to Adjourn.

Unanimous vote to adjourn

Meeting Adjourn at 7.05PM



Raymond LaFond, Chair



Michael Gerry, Clerk



Randall Heglin, Member