

Zoning Board of Appeals
Meeting Minutes

January 17, 2023, 6:30PM

Present Members:

Chairman, LaFond
Dave Antaya
Melory Cornett
Randall Heglin

Attendees:

Wesley Flis	Robin R Leger
Daniel Stroe	Paul J Leblanc
Dumitrus Ianculescus	Peter Campobasso
Sarah Carrim	Laural Adam
Glen Choniard	Ronald Koin
Steven Rockwood	Fred Unger
Francis Parisi	Robert Chicoine
Alan Rousseau	Christine M Tree
Gerald Porrier	

Chairman LaFond call to order tonight's meeting of the Gardner Zoning Board. Goes through the ground rules by which the board operates.

Mr. LaFond asked if anyone objected to the taping of the meeting. No one. Requested to silence all cell phones during the meeting.

Mr. LaFond proceeds to read the agenda:

<u>Cases</u>	<u>Type</u>	<u>Address/Request</u>
10/01/2022(con)	V	0 Clark St, Order of REMAND. An access roadway over a portion of the land zoned SFR1, which provides access to the portion zoned RR2.
11/01/2022(con)	SP	63 Walnut St; Convert an Office Bldg. to seven residential units.

11/02/2022(con)	SP	440 W Broadway; Construct operation of a wireless communication facility. A 150' tall monopole style tower (156' to top of lightning rod) inside a 50:50 fence in compound.
1/01/2023	SP	20 Graham St; To convert Accessory building to a fifth dwelling unit.
1/02/2023	SP	0 Kinzer Drive, Requested an extension of existing Special Permit case #2019/01/01.
1/03/2023	SP	163-165 Pine St; Amendment to existing Special Permit case # 2022/01/01.

First case: 1/02/2023, SP, 0 Kinzer Drive, Applicant name Fred Unger, Requested an extension of existing Special Permit case #2019/01/01.

Mr. LaFond stated that several years ago Mr. Unger had applied for a Special Permit that was granted. Due to National Grid approval delays. Mr. Unger requests another extension. Mr. LaFond asked Any abutter that want to speak in favor or opposition to this request? No one spoke in favor of it.

Any representative of the city that would like to vote in favor or opposition to this request? No one spoke in favor.

This application remains as he had previously applied for.

Calls for a Motion in favor of granting a 3-year extension effective January 17, 2023, to Kinzer Drive with an expiration date of 12/31/2025.

All those in favor.

Mr. Heglin and Mr. Cornett voted in favor.

Mr. LaFond In favor. Unanimously approved.

Mr. LaFond explains that he will not take part in the second case as it could be perceived as a conflict of interest.

Second Case 01/03/2023, V, 163-165 Pine St, Applicant Jonathan Bombachi of Millennium Holding Group; Request an amendment on pre-existing Special Permit case # 2022/01/01.

Acting Chairman, Randall Heglin, Mr. Antaya and Mr. Cornett are the zoning board members.

Mr. Heglin states that Mr. Bombachi had previously applied for a Special Permit that was granted. The request is to add tandem parking in the front of the building. Once the renovation started, we had trouble with the foundation of the hill and ended up taking two parking spaces.

Mr. Heglin asked for a refresh on how many units were on this building? Mr. Bombachi stated that the pre-existing building has 8 units with 2 bedrooms each. Since we are short of parking spaces, we are trying to have the 11 parking spaces that was previously approved. Mr. Antaya asked what was the width on the driveway and if it was short how much? Mr. Bombachi said they are short about 5 inches. The original driveway was about 17.5ft. There is a decent amount of space for the driveway, but no access to the rear part of the building. There would be enough parking for an emergency and fire department to park if needed. But there would be no entrance for the rear side of the building. We are hoping to have the Occupancy Certificate by early February 2023. Mr. Cornett questioned how can the vehicle driver get out of the car? Mr. Bombachi response was by getting out of the vehicle on one side. At the bottom of the driveway a 1 ft barricade was built.

Mr. Heglin read letters pertaining to this case.

Michael J Nicholson, the mayor, submitted a letter in favor of this application regarding how beneficial this project is to the city.

Another letter was from Rob Oliva, City Engineer, regarding his concern of having a reduced parking space. The driveway will not have sufficient access for parking and or emergency vehicles.

Mr. Randall questioned if Mr. Bombachi has considered if every applicant would just have one vehicle?

Mr. Bombachi explained that some applicants have no vehicles and others would have one so far.

Mr. Heglin: Any abutters in favor of or in opposition?

One abutter explained his concern about having someone park on the steep hill side because it gets too slippery and dangerous for parking.

Mr. Bombachi we are going to pave one side and on the other side.

Any abutters that would like to speak in favor of or against this application? No one spoke in favor.

Any representative that would like to speak in favor of or against this application? No representative spoke in favor.

Mr. Heglin, Mr. Antaya, and Mr. Cornett agreed on conducting a site visit and requested Mr. Bombachi to have the area marked and cleaned out.

Mr. Heglin called for a motion to keep this case opened.

Mr. Antaya and Mr. Cornett voted.

Mr. Antaya asked Mr. Bombachi if the 21 of January 2023 at 9AM a site visit can be conducted and if any extension is needed the ZBA secretary would contact Mr. Bombachi.

Mr. Bombachi agreed.

Third case #10/01/2022 0 Clark Street, Order of Reman, an access roadway over a portion of the land zoned SFR1, which provides access to the portion zoned RR2. MR. LaFond assumed chairmanship at this point.

Mr. LaFond explained that this a continuance case. On the previous meeting Chairman LaFond had requested that Mr. Peter Campobasso contact John Flick and have a discussion concerning the right of way pertaining the 0 Clark Street.

Mr. Peter Campobasso explains that the land owned by the Harbor Classic Homes, applicant, has no right of way. The only way to have access to the land is through Mr. Chicoine's, abutter, property. Mr. Peter Campobasso did have a discussion with Mr. Flick and agreed that there is no right of way from the owner's property. Also provided plans that are marked to be able to see where the boundary lines to the abutters is. The shape of the lot is an odd shape it only has 150ft of frontage. The issue that is confronted is the line of the property which is SFR1 and RR2 are the only way to enter the property. On the Deed it stated that Mr. Reed had the right of way through Mr. Chicoine's property to the Harbor Classic Homes property. At the beginning of the Application, we applied for two variance one for 0 Century that was approved, and the other one was for 0 Clark St which was previously denied. The abutters had complaint about the effect of traffic if the project moved forward in the 0 Clark Street project. At this time there is no traffic study but, in the future, we will administer one for the presentation to the Conservation Board.

Mr. Wesley Flis, Engineer, from Haley Ward. Provided drawn sketches which shows common boundaries to the parcels and the proposed roadways.

Mrs. Chicoine has the right of way interest in or over the land owned exclusively by Harbor Classic Homes. However, the Harbor Classic Homes has the right of way through Mr. Chicoine's property.

Mr. Flick forwarded a letter in which explains that he reviewed the titles and engineering sketches regarding the access of the easement over the Chicoine land. I agreed with Mr. Peter Campobasso on the property lines on the plans provided by the engineer. Based on the property deeds Harbor Classic Homes is the beneficiary of the easement while the Chicoine property bears the burden. Harbor Classic Homes could release the easement thus

terminating any burden on the Chicoine land. Mr. Chicoine and Mr. Peter Campobasso have the same deed dated February 14, 1950, from Hector H. Reed.

Are there any abutters in favor of or in opposition to this application?

Mr. Gerald Porrier, and Mrs. Robin R. Leger, abutters present were opposed in this project.

Any representative from the city that would like to make a comment in favor of or in opposition? None.

Any closing comment from Mr. Peter Campobasso.

Mr. Campobasso answered yes. A literal enforcement of the provisions of the bylaw would involve substantial hardship owing to circumstances relating to the soil conditions, shape, or topography of such land, and especially affecting such land but not affecting generally the zoning district in which it is located. Desirable relief may be granted without substantial detriment or the public good or creating or aggravating a safety hazard. Relief can be granted without nullifying or substantially derogating from the intent or purpose of the Gardner Code and Bylaw. As the beneficiary of the easement, Harbor Classic Homes could release the easement thus terminating any burden on the Chicoine land.

Mr. LaFond stated He explained that the Zoning Board members had administered a site visit and all of the questions had been answered in a satisfactory manner.

Mr. LaFond, Mr. Antaya and Mr. Cornett voted in favor.

Mr. LaFond: This application has been approved unanimously.

5 Minutes recess.

Fourth Case #11/01/2022, SP, 63 Walnut Street, Convert an Office Bldg. to seven residential units. Parcel ID #R27-22-20, located in the General Residential Three zoning district (GR3) is denied as it does not comply with Chapter 675 Attachment 1:1 Tabled of Uses #5- Multi-Family Dwelling, of the City of Gardner. The zoning code states that your use requested requires a Special Permit in the "GR3" zoning district. Continuance case.

Mr. Daniel Stroe went over the requirements made on the prior zoning board meeting. He provided the parking lot plans and explained that the parking is less than Code permits. The area in the front lawn is about 24 ft. The location of the totes is at the end of the driveway which is 24ft. The lightning is facing down on the front and west side of the building. Mr. Daniel requested a site visit.

Mr. Cornett questioned how many bedrooms?

Mr. Stroe answered all 7 units are one bedroom. Presented the layouts.

Mr. LaFond questioned what's the setback from Walnut St?

Mr. Stroe answered 24ft on the left and 25 ft on the right side.

Mr. LaFond: questioned the what if the parking spaces are 35ft in length?

Mr. Stroe stated that the parking spaces are 22ft length and 8ft width.

Mr. LaFond questioned the two spaces left on the back of the building?

Mr. Stroe explained that area will be kept locked and undeveloped.

Mr. Cornett questioned the front and rear setback?

Mr. Stroe stated that the front setback is 24ft, the left side is 24ft, and the right side 9ft, the rear is 35ft.

The Special Permit has nine criteria which are:

1. The applicant is seeking to change the use of the subject building from commercial to residential. The neighborhood is predominantly residential, with mostly one- and- two-unit buildings. However, there are several commercial, mixed-used, and multifamily (3 to 7 unit) buildings in the near proximity. A mixed used (8+ units and commercial) building is adjacent to the subject property- see attached map. The historical use of the subject property was commercial and industrial. By changing the use to residential, the building will be better integrated into the neighborhood fabric.
2. The property provides proper off-street parking (see site attached plan). Applicant does not plan to change the general layout of existing parking.
3. The Property provides proper off-street parking. Applicant does not plan to change the general layout of existing parking.
 - The parking spaces will be assigned to the tenants.
4. The building is connected to city water and sewer. The existing parking area does not change.
5. The proposed use is residential.
6. The proposed use will have a lesser traffic impact than the previous use.
7. We believe that the proposed development is great addition to the city and the neighborhood, and it is in harmony with intent of this chapter.
8. The proposed development will certainly increase that tax base of the property and provide jobs for local trades people while not detrimentally impacting the city services.
9. The proposal is consistent with the city's need for attractive, yet affordable, housing and it intends to develop a building that has been vacant for over 10 years.
10. N/A.

Mr. LaFond who will take care of the snow removal?

Mr. Stroe my employees will take care of the snow removal.

Mr. Heglin, how about the dumpster fencing?

Mr. Stroe I will be using wood fencing for the dumpster area.

Mr. Heglin, are this unit individual heating or cooling?

Mr. Dave answered yes.

Mr. Heglin questioned what's the price range for rental?

Mr. Stroe responded that he would use the regular marker rate.

Mr. LaFond asked if any representative that would like to speak on this application?

Mr. Jean requested the retaining wall be upgraded as a condition.

Mr. LaFond asked if on Tuesday 24 of January 2023 the site visit can be done?

Mr. Stroe responded that he was not going to be present, but he will have his employees present.

Mr. Heglin requested that if it snowed to please remove it and have the area cleaned out for the site visit.

Mr. LaFond: Any interest parties that would like to speak for or against this application?
No.

Mr. LaFond: Anyone interested in speaking in favor of or against this application? No interested party spoke in favor or against.

Mr. LaFond: Do you agree to have an extension if needed?

Mr. Stroe: Answered yes.

Mr. LaFond: We will have the site visit on the 24 of January 2023 @3:30PM. This case will remain open.

Fifth Case #11/02/2022, Vertex Towers, LLC, 440 W Broadway, Construct operation of a wireless communication facility. A 150'ft tall monopole style tower (156' to top of lightning rod) inside a 50:50 fenced in compound. Continuance case.

Attorney, Francis Parisi, provided the following per the board's request.

1. The Lease and Easement Agreement
2. Certificate of Insurance
3. Removal Cost Estimate and draft removal bond
4. Existing Sites Overview Maps (Aerial and Topo)
5. Airspace Obstruction Analysis Report
 - Demonstrating that no light is needed at the top of the rod.

We do have a very extensive environmental analysis for the FAA.

One of the impediments is that we have to make sure that we notify Indian tribes and if they do not respond we have 90 days to continue.

We anticipate completing the process by the end of the Spring and completing the project by the end of the year.

We usually have a phase one and sometimes phase two for automobile sites.

Mr. LaFond contacted Beth Girshman and Barbara Melville gave a great recommendation as a consultant. In that state we will not require any consultant.

9 Conditions:

1. As an infrastructure developer, the petitioner shall provide evidence of an executed lease for antenna space with at least one (1) duly licensed wireless carrier to the Gardner Zoning Board of Appeals (ZBA) and the Building Commissioner prior to the issuance of a Building Permit to construct the referenced Wireless facility.
2. The Petitioner shall provide evidence (confirmation) from the Gardner Conservation Commission that the proposed wireless communications facilities does not violate the Wetlands Protection Act.
3. The petitioner shall certify that they possess all necessary licenses and permits to operate and complies with all federal and state requirements to operate this wireless communications facility.
4. Annual maintenance and inspection reports shall be submitted to the Building Commissioner and the Gardner ZBA no later than 30 days after completion.
5. The Petitioner shall submit an executed Certificate of Liability Insurance for 2023 before the Building Commissioner issues a Building Permit. The Petitioner will submit annually, a current Certificate of Liability Insurance to the Building Commissioner and Gardner ZBA.
6. Should the facility not be used for a one year, the Applicant or owner of the facility shall remove the facility. The Petitioner shall deliver an executed Tower/Structural and Equipment Removable Bond or other surety in the minimal amount of \$35,000 at the time of construction. For each of the 10-year lease extensions, the Applicant shall submit an updated removal cost estimate, prepared by a registered professional engineer. Surety or Bond in the amount of this revised estimate to be provided to the city. The amount at the time of extension, shall be reviewed and approved by the City Engineer. The Bond holder shall be the City of Gardner. This will ensure that the facility, which has not been used for one year or more, is removed.
7. The Petitioner shall submit Annual Certification denoting continuing compliance with the Standards of the Federal Communications Commission, Federal Aviation Administration and the American National standards Institute to the Building Commissioner and Gardner ZBA. If any expense is incurred, it will be the responsibility of the Petitioner.

8. The Petitioner shall allow adequate space on the tower for a minimum of 4 (four) carriers.
9. If any provider of Performance/Surety Bonds issues a Notice of Termination of Surety the Petitioner must provide a replacement Bond in the same amount or greater if required, effective 12:01AM the day following the effective day of cancellation.

Mr. LaFond called for a Motion to approve the application with nine conditions **and reword number 6.**

Any further questions pertaining to this application? No there were no further questions.

Present members from ZBA voted.

Mr. LaFond: Approved.

Sixth Case #01/01/2023, SP, 20 Graham St, to convert accessory building to a fifth dwelling unit. Continuance case.

Mrs. Tree: Back in March the main building had a fire. As a result of that fire the building had to be reconstructed on existing footprint. Keeping the 4 units that had been established. The building in the rear side is the one that we are trying to convert into units. This area is in the Commercial One district. We are requesting a Special Permit because the accessory building is about 432 sq ft with 93.7 of frontage. The setbacks are not being met. Since it was previously used as a salon it currently has water and electrical and sewage utilities. It is currently used as storage. The changes would be a studio, a one bedroom on the second floor, and a three-bedroom unit on the third floor. Seven parking spaces are needed. Since the lot does not have sufficient parking spaces. The owner bought the 34 Franklin Court Lot that is abutting 20 Graham Street. Creating sufficient parking spaces. At this time the property does not require a survey for the property is grandfathered. The property does have 8ft high fence to abutters. The front entrance has a sidewalk, and the Main Building has parking all the way to the rear side. The off-street parking will be used for unloading and loading materials. The proposal is compatible with the neighborhood. The tax increase will be beneficial to the city.

Mr. LaFond: A site visit will be scheduled on the 24 of January 2023 at 3PM. We request that the property has a layout of the parking spaces.

Mrs. Tree: Agreed.

Mr. LaFond: Motion to leave this case open.

Mr. LaFond, Mr. Heglin and Mr. Cornett voted to approve the motion.

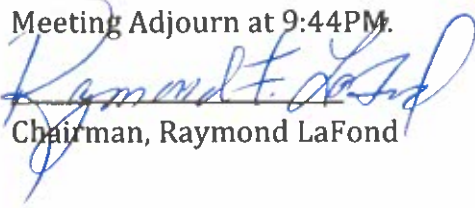
Mr. LaFond: This case will stay open until further notice.


5 min recess.

Meeting Minutes

The meeting minutes for the 15 of November 2023 were unanimously approved.

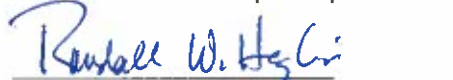
Meeting Adjourn at 9:44PM.


Chairman, Raymond LaFond


Member, David Antaya


Member, Melory Cornett

On one of the cases participated as Chairman.


Chairman* /Member, Randall Heglin
*Case 163-165 Pine St