

# MINUTES

Zoning Board of Appeals Meeting – July 21, 2020  
115 Pleasant Street, Via Zoom.  
Gardner, MA 01440

Sitting in on Hearing:

In Attendance:

Raymond LaFond  
David Antaya  
Michael Gerry  
Randy Heglin.

Roland Jean  
Rachel Taylor  
Steve Rockwood  
Mel Cornett  
Andy Woodford-Applicant  
Keith Glenny- Attorney

GETV  
Keith Paquet - Applicant  
Patrick Brogan  
Richards PC  
Famirys IPad  
Mac IPad

Meeting Called to Order by Chairman Raymond LaFond at 6:03PM. Mr. LaFond went over the ground rules for the Zoom meeting and how the proceeding where 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 the requirements that must be addressed for a Variance or Special Permit. He then noted the meeting was being streamed live to YouTube, and requested if anyone objected. There were no objections.

<u>Case No.</u>	<u>Case Type</u>	<u>Case Description</u>
2020-04-01	Variance	96 Acadia Rd / Frontage, Build single family home
2020-06-01	Variance	74 Sand St / Contractors Yard.

Mr. LaFond brought to the attention of the meeting that first order of business would be to make a decision on a continuation of previous case, 2020-03-01 Mr. Ed Derrick /adding units. Once this decision was made Mr. David Antaya would be replaced by Mr. Randy Heglin for all other cases heard tonight.

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

Case 2020-03-01 opened for discussion, Neither, Mr. Derrick or his Legal representation, Attorney Kiritsy were present at the meeting.

Mr. LaFond recapped with the Board that the site visit last week of 102 Vernon St, was to review parking facilities and discuss the problem of snow removal. Mr. LaFond stated that Mr. Derrick had since submitted a revised parking plot plan and all issues discussed had been addressed.

Mr. LaFond opened the meeting to questions from the Board.

Mr. Antaya stated he was impressed with the extensive amount of work Mr. Derrick had put into this property and recommended that this variance be granted with conditions. Firstly, snow of 4 inches or

more be removed from the premises within 24hrs of the storm ending. Secondly, the buddy parking spaces which were created, would be clearly marked out, and allocated to the new Units only. One in the garage area and another against the rear property line (right side).

Mr. Gerry agreed with those conditions and made a motion to move for a vote with conditions of snow removal with 24hrs and allocated parking for two units.

Those in favor to grant Variance to Mr. Derrick? Board voted unanimously in favor.

Motion passed for Variance to be granted with conditions.

Variance granted with conditions.

Mr. Antaya asked about the withdrawal letter of Case 2020-03-02 from the July 7<sup>th</sup> meeting.

Mr. LaFond confirmed that Mr. Patel of 497-505 Chestnut St had submitted a letter of withdrawal without prejudice. The letter was signed by applicant and date stamped.

Motion to move for a vote made by Mr. Antaya, seconded by Mr. Gerry

No further discussion.

Motion to accept withdrawal letter of Mr. Patel. Board unanimously voted to accept.

Motion passed.

Withdrawal letter accepted.

Mr. Antaya to step down from hearing and Mr. Heglin to replace as member of the Board.

Mr. LaFond opened the meeting to **Case 2020-04-01. 96 Acadia Rd/ Keith Paquet build single family home.**

Your application to construct a **Single Family Home** at **96 Acadia Rd**, Gardner, MA Parcel ID # **M32-21-1**, located in **Residential One**, the zoning district ( **R1** ), is denied as it does not comply with Chapter 675, Article 2 Table of lot area, frontage, yard and height requirement of the City Code of Gardner. The table requires One Hundred feet of frontage and your plot shows 75 feet.

Mr. Paquet was not present to state his case.

Mr. LaFond moved to next case; will open to Mr. Paquet again later in the meeting.

**Case #2020-06-01 74 Sand St/ Operate contractor's yard.**

Application for Change of Use at **74 Sand St**, Gardner, MA. Parcel ID # **M27-18-5I**, located in the Zoning district (**R1 & G3**) is denied as it does not comply with Chapter 675-Attachment 1:4 **#59** of City Code of Gardner. The "Table of Uses" states that your use requested, **Contracting business and Contractors yard**, including storage in the open. (**#59**) Is not a Permitted Use.

Mr. LaFond opened the floor to Mr. Woodford or his legal representatives to address the Board.

Attorney Keith Glenny of Winchendon Law, in response to questions of variance stipulated in the application, stated that Mr. Woodford currently operates a business from 445 West St, Gardner and

would move the business office and equipment to 74 Sand St. The property will be for storage of vehicles, tools, and equipment.

There will be a positive impact on the surrounding neighborhood as Mr. Woodford intends to make great improvements to the property. There will be little to no noise as work will not be conducted on the premises. The question of “hardship related to the shape, topography, or soil conditions” was not relevant for this case.

Mr. Lafond asked for any questions for the applicant.

No questions.

Mr. .LaFond asked if there was any questions from City Representative.

Mr. Roland Jean, City of Gardner Building Commissioner, informed the board that Mr. Woodford has come before the Board before and has always followed all the guidelines and recommendations put to him. Mr. Jeans feels that 74 Sand St would be a good move for both Mr. Woodford and for the City of Gardner.

Any questions from Abutters?

No Questions

Any questions from interested parties?

No questions.

Any additional questions from members of the Board?

Mr. Heglin asked that on the West St, property there is a ground storage unit/ Camper. Would this be moved to the new location or would it stay at West St?

Mr. Woodford explained that if he moved to the new location he would no longer need that unit as he would have more space. The camper would be disposed of completely.

Mr. Heglin requested an explanation on what improvements plans Mr. Woodford had in mind.

Mr. Woodford explained that the first change to the property would be to remove the dust collection vents on the roof and back of building. These are not only unsightly, but have caused damage to the roof which also needs to be repaired as it currently has extensive leaking. Mr. Woodford understands it will take some time but he will also be working on replacing sheet metal work and re-painting the whole building to improve the look. He intends to keep the front porch to keep the look of the building. The Dust collector’s removal is the top priority going forward.

Mr. Woodford added that there are a few larger trees in the back of the property which he will remove as they have caused a lot of damage in regards to falling debris. He will need to use a crane to remove the tree from site but has the equipment at his disposal to do so.

Mr. Heglin questioned the size of the property at 18,000 sq ft, being large for Mr. Woodford’s intended use.

Mr. Woodford stated that the space is much needed and will not be wasted as he has a lot of stock and equipment that will be easier to both store and document. Being able to keep trailers and generators undercover will be beneficial to the business.

Mr. Heglin asked if Mr. Woodford intended to sublet any space at the 74 Sand St property.

Mr. Woodford has no intention of subletting and the property; all space will be for his company, Woodford Electronics only. He does not want the headache of renting the property.

Mr. Heglin asked if the building had a sprinkler system to which Mr. Woodford confirmed it did and it would be maintained.

Mr. LaFond stated that Mr. Woodford has followed guidelines from the Board before and has no worries that work will be done to code and in a timely manner. Mr. LaFond also asked Mr. Woodford to confirm he has no intents in the future at all to rent out sections of the property on 74 Sand St. Mr. Woodford confirmed he has no wish to do so. All space at the building will be used and can only help the company grow and move forward.

Mr. LaFond requested a site visit for the Board members to which Mr. Woodford was pleased to accommodate.

Site visit scheduled for Wednesday, July 22<sup>nd</sup> 2020. At 5pm.

Mr. LaFond made it understood that the Board understands that time can be an issue since there is a Purchase and sale agreement on the property, and that once the site visit has been conducted, a meeting for a decision will be made. The Board has 14 day to write the decision and then there is a 20 day period for any appeal of the decision to be made. Mr. Woodford understands the process and time constraints.

Mr. LaFond asked if vehicles will be parked inside the building, to which Mr. Woodford explained that the vehicles and trailers will be parked in the three sided lean too on the property. The six bay garage will be used for scissor lifts, threading machines for the conduit, large coils of wire, and generators for the business. This space will also be used to prepare products for jobs without having to unpack wires and conduit, like an indoor work shop.

Mr. Heglin asked why Mr. Woodford choose a variance over a special permit going from one non confirming use to another.

Att. Glennly felt there was little difference between which zoning relief was applied for. He believed the Variance was the better route as Mr. Woodford was looking for a change of use.

Mr. LaFond clarified that the building would be used to store equipment; larger vehicles, and trailers would be kept outside. Only Woodford Electric will be operating from the property.

Any further questions?

No further questions.

Mr. Heglin asked what will be the hours of operation for the business.

Mr. Woodford hours of operation are 7am to 4pm on weekdays and he only works weekends for emergency jobs. Saturday jobs are rare and will all be conducted off site.

Mr. LaFond asked that if the variance is granted with the condition of no work to be done on the weekend unless of emergency. Would Mr. Woodford agree to the condition?

Mr. Woodford asked if the condition of not working weekends would be with the exception that he could work on the building himself to bring it to code and to address the repairs the property needs.

Mr. LaFond understands the request and the Board would allow work on the property.

Any other questions?

Mr. Heglin requested that on the site visit could Mr. Woodford show exactly where things would be stored as well as what he plans to do to the building in regards to renovations.

Mr. Woodford agreed.

Mr. LaFond made a motion to close the case.

Mr. Heglin and Mr. Gerry agreed.

Meeting closed

Mr. LaFond opened the meeting once again to Mr. Paquet case 2020-03-01.

Your application to construct a **Single Family Home** at **96 Acadia Rd**, Gardner, MA Parcel ID # **M32-21-1**, located in **Residential One**, the zoning district ( **R1** ), is denied as it does not comply with Chapter 675, Article 2 Table of lot area, frontage, yard and height requirement of the City Code of Gardner. The table requires One Hundred feet of frontage and your plot shows 75 feet.

Mr. LaFond opened the meeting to Mr. Paquet.

Mr. Paquet, of 8 Highland Ave, Ashburnham, requests a variance to build a single family house, on a preexisting, non-conforming lot, many other houses on the street have the same frontage and setbacks.

Mr. LaFond asks Mr. Paquet to address the questions of the variance. Mr. Paquet states that none of the questions are relevant to this case. There will be no hazard and the new building will meet all requirements.

Mr. LaFond asked if it would be a single family home with just 2 vehicles. Mr. Paquet verified that it would be a small house and the frontage is the only issue for building.

Mr. LaFond enquired as to what the abutting lots were like and did they have the same frontage as 96 Acadia.

Mr. Paquet listed lot numbers 156, 101, 75,40 and 60 all have between 75 and 100 feet of frontage some have as little as 50ft. Plots used to have trailer/mobile homes so they are all small.

Mr. LaFond asked if anyone knew when the plots were established.

Mr. Heglin stated that a plan was included with the application. The transfer of deed, the lots were created in 1946 by Stanley Kendall of CB Kendall Company and all lots across from 96 have 75ft of frontage as well as all lots to the north and south.

Mr. LaFond noted that there are no vacant lots of land surrounding this property that could be purchased or used to meet the requirements.

Mr. Heglin asked if there was still a trailer present on the property when Mr. Paquet purchased the land from the city.

Mr. Paquet confirmed that the trailer already been removed when the purchase was made.

Mr. Heglin asked just what Mr. Paquet's definition of a small house was. Mr. Paquet responded with a house no larger than 1,500sqft. The frontage is the only setback which cannot be met, all other side and rear setbacks will be met.

Mr. LaFond asked the board if there were any further question.

No further questions from the Board.

Any questions from representatives from the city?

No questions from the city.

Any Abutters present and have questions?

Mr. Patrick Brogan. 33 Glen Rd. abuts the rear of 96 Acadia.

Mr. Brogan is concerned that when a house of 1,500sqft is built on the lot that he will lose privacy to his own yard, has a pool and deck which would be over looked by the new build. He is requesting Mr. Paquet build a privacy fence at the back of the property. He also questions that a home of that size would not fit on the lot. Mr. Brogan has lived at 33 Glen Rd, over 22 years. His home is a ranch style of 960 sq ft, he is worried that Mr. Paquet will not build within the guidelines and setbacks.

Mr. LaFond stated that the lot has the depth to build and requested that the Board make a site visit to judge the property layout. Mr. LaFond also requested that Mr. Paquet submit a plan to the building commissioner, of the house he plans to build with placement on the lot clearly noted. Addressing the placement to setbacks.

Mr. LaFond asked Mr. Paquet just how far back from Acadia Rd do you plan to build your house?

Mr. Paquet informed the Board that he did not yet know the exactly where he will build, but it will met all setbacks including the 30ft at the rear. It will be no closer than 30ft at the front and 15ft at the sides.

Mr. LaFond rephrased the question to, if the house would be closer to the front or rear of the lot.

Mr. Paquet refused to say where the house would be placed, insisting it would be within the setbacks and follow zoning guidelines.

Comment could be heard off camera stating the board did not need to know where the house would be placed as long as setbacks were met.

Mr. LaFond asked; if Mr. Paquet would be willing to provide a detailed house plan to the building commissioner. Mr. Paquet again stated he would agree to building within the setbacks only.

Mr. Brogan then asked what the side abutters setbacks were to which Mr. LaFond stated 15ft.

Mr. Heglin confirmed the side setback was 15ft.

Mr. Brogan then explained that with the setbacks of 15ft each side and 30ft at the front and 30ft at the back there will only be 40ft of space left to build and a ranch house of 1,500sqft. That would never fit.

Mr. LaFond made clear that the house type and size was yet to be determined. The house must be built within the setbacks, the rear being 30ft.

Mr. Heglin then clarified that the rear set back was in fact 20ft.

Mr. Brogan then stated he would like to go on the record to the Zoning Board that he is requesting a privacy fence to be a condition of the case.

Mr. LaFond made it clear that this fence would be a conversation between Mr. Paquet and Mr. Brogan and was not to be addressed by the Zoning Board.

Mr. Brogan implied that he has already suggested this fence to Mr. Paquet and was informed in choice words that Mr. Paquet would not be building a fence to accommodate Mr. Brogan's request for privacy.

Mr. LaFond asked if there was any further question of opposition.

No questions.

Mr. LaFond requested a site visit of 96 Acadia Rd.

Mr. Heglin agreed to a site visit and requested if it could be done tomorrow before they attend the 74 Sand St site visit.

Mr. LaFond asked Mr. Paquet if 4.30 pm tomorrow Wednesday July 22, 2020 would be suitable for him to conduct a site visit.

Mr. Paquet agreed to a site visit at 96 Acadia Rd, 4.30pm tomorrow.

Any further discussion.

Mr. LaFond asked that a condition of this case should be that a detailed plan of the house to be submitted to Mr. Jean with proof of setbacks and guidelines.

Mr. LaFond made a motion to close the meeting.

All Board members were in favor to close.

Meeting closed.

Approval of minutes from July 7<sup>th</sup> 2020.

No further business

Motion to adjourn.

All Board Members in favor.

Meeting adjourned 7.05pm.



Raymond LaFond, Chair



Michael Gerry, Clerk



Randall Heglin, Member



David Antaya, Member