

**Zoning Board of Appeals Board
Minutes of the Meeting April 24, 2017
195 Main Street, Maynard - Room 101 – 7 p.m.**

Members present: Paul Scheiner, Chair, Marilyn Messenger, John Courville, Jerry Culbert, Molly Bergin

7:00 – Chair Scheiner called the meeting to order

Chair Scheiner read the Public Hearing notice for 25 Glendale Street. The Zoning Board of Appeals will hold a public hearing on Monday, April 24, 2017 at 7:00 p.m. at the Maynard Town Building, 195 Main Street, Maynard, Room 101, to hear all persons interested in the petition of TLC LLC for the property located at 25 Glendale Street, Map15, Parcel 6. The applicant is requesting a Variance from the Zoning Bylaws to allow four residential units to be developed on a 14,378 sq. ft. lot. The required lot size for four units under the Zoning By-laws is 20,000 square feet). The Variance would allow creation of a new non-conforming property. The proposed project would retain the existing two-unit residential structure and construct a second two-unit residential structure. Two of the four units will be dedicated as affordable.

Chair Scheiner described the procedure for the hearing. The petitioner was represented by Peter Bemis, Engineering Design Associates. Mr. Bemis presented a map showing the location of the property. The property was initially developed in 1915 and the rear building used as a bottling company thru the mid 1950's, it was later converted to an auto body repair shop, that use has been abandoned for many years, the reuse of auto body repairs was previously denied by Zoning Board of Appeals (ZBA). The property's legal non-conforming status was no longer in effect as the use had been abandoned. There was a current 2 ½ story family structure that is used as a two-family residential structure, the proposal was to raze the building in the rear and construct a townhouse that has 2-2br units and a garage. The proposal would reduce the amount of pavement, the proposed construction will comply with zoning setbacks, the variance request is for units allowable under the s.f. on the lot. The other portion of the request is to designate the two rental units as "affordable". The newly constructed units will be market rate for sale units. There are five interests to address to show the hardship, the lot is 14,378 s.f., 20,000 s.f is required, re-use of the rear building has been denied previously by the ZBA so trying to come up with something more palatable to the neighborhood. Mr. Bemis described different options allowed under the zoning bylaw which would allow for 7 units designated as elderly housing. The hardship is that the existing rear building has not been allowed to be used. Marilyn Messenger asked if the existing building could be used as garage space, Mr. Bemis stated it could be used as garage, but historically has been a business use. He also stated the neighborhood is a residential neighborhood with multifamily dwellings. The variance can be granted without detrimental to the public good, as it provides rental units and taxation on the new units, to not grant the variance would be manifest injustice as the abutting properties are developed, the proposed use is more in line with the neighborhood. Mr. Bemis

provided drawings showing the floor plans and elevation plans of the proposed dwelling and photographs of the existing site.

Resident Vic Tomyl asked why the petitioner did not present copies of the plans and photos to the public, Chair Scheiner stated that the presentation is for the Board. A few of the Board members gave their copies to residents in attendance.

Chair Scheiner stated the Board needs to find that the request meets three criteria; he asked what is unique about the property. Mr. Bemis stated that the building in the rear was used as a business, it is currently not allowed to re-use, it allows the approved use in the current zoning area with the exception of enough s.f., by right 7 units are allowed as elderly housing units. There is currently a structure right on the boundary the new structure would meet current zoning setbacks. Mr. Bemis stated the value of the property has been taken away, the Board disagreed. John Courville asked if the rear building could be converted to residential units, Mr. Bemis stated the building is right on the property line, it makes more sense to demolish and build a conforming unit. Chair Scheiner asked what the hardship is, Mr. Bemis stated that the previous use of the property is unique. Chair Scheiner stated that the grandfathering has lapsed. Marilyn Messenger stated if the rear building is unique, and it is being razed, where is the uniqueness? She stated the Board is looking to see how the request meets the criteria.

Chair Scheiner asked again what the petitioner feels is the hardship, Mr. Bemis stated the structure is on the boundary line, it is inappropriate to try to use, that is why they are proposing a building that meets setbacks. Jerry Culbert stated the previous uses do not factor in, the building can be demolished and the land used as parking or lawn, does not see the hardship. Marilyn Messenger stated the topography does not present a hardship, both buildings could be torn down and build two new units, she does not see the hardship.

Chair Scheiner opened the hearing up to abutters speaking in favor of the petition. Resident from 37 Acton Street spoke in favor the petition stating that the rear building is in disrepair and devalues abutting properties and if re-built in the same footprint it would be right on her property line, she prefers the new proposal. Owner of 27-29 Glendale Street has owned their property for 35 years, knows the history of the property, the structure in the rear needs to be removed it is in terrible condition.

Chair Scheiner asked for comments in opposition. A resident stated that when the property was purchased the zoning had already changed, it is zoned for a two family, does not see a hardship. The new structure would be very high, does not support the variance. Margaret Day of 23 Glendale Street stated that when the property was purchased there was a lot of construction noise, would not like to see condos go in there, it is a quiet residential area, she stated that 23 and 25 share a driveway. The owner of 23 Glendale stated that the driveway that #25 uses is actually owned by her, there was an agreement with the previous owner to share the driveway, adding another building with 4 more spaces

does not fit into the neighborhood, she would support razing the building as it is currently caving in on itself, would like to see building demolished and create parking for the existing two units in the house. Bill Cranshaw of 20 Mockingbird Lane commented on a letter from March 21, 2017, he stated he is the Chairman of the Maynard Housing Authority and they have not been contacted about this use, the Maynard Affordable Housing Trust does not yet exist, the intent of 40B is that units are of equal quality, so if this was allowed an affordable, one unit should be in each building.

Town Planner Bill Nemser referenced the staff comments as far as the affordable units. Vic Tomyl of Powdermill Road stated that the bylaw does not allow for the use to become more non-conforming, the house was originally a single family dwelling. The owner of 26 Glendale Street spoke in opposition, he stated the building is red "x", why has it not been torn down yet, the density of the new proposal changes the character of the neighborhood. The owner of 27 Glendale stated the previous owner had received insurance money to take down the rear building, there is already a parking issue, it would be too dense. The owner of 23 Glendale stated that the previous owner had tried to get use as a mechanical repair shop and was denied, the case was not presented well, then the building has been empty since then.

Chair Scheiner asked if the petitioner had any further comment before closing the hearing. Mr. Bemis stated his research had indicated that there had been multiple attempts to use the property. Based on the comments from the Board and abutters it does not appear that the Board is in support and Mr. Bemis would like to request to withdraw the petition without prejudice, he will do more research and reapply at a further time. Chair Scheiner asked Bill Nemser if this could be allowed since the case was already heard. Bill Nemser stated he had to check to see if that is allowed. Mr. Bemis stated something will be done with this property and based on the input he will review other options. If the Board does not allow the request for withdrawal and takes action, no filing can be made for two years, he does not feel that benefits the neighborhood.

The owner of 27 Glendale Street asked if that means the rear building will stay there.

Bill Nemser read the criteria for allowing withdrawal without prejudice. Mr. Bemis again formally requested a withdrawal without prejudice.

A motion was made by Marilyn Messenger to close the public hearing, seconded by John Courville. The Board voted 5 to 0 in favor of the motion.

A motion was made by Marilyn Messenger to allow the petitioner to withdraw the petition without prejudice for 25 Glendale Street,

The abutters asked if he can come back with a new proposal, Marilyn stated they only need to come back if there is a request for a variance. Bill Nemser stated he would like the request in writing and

perhaps the petitioner should meet with abutters for input. Vic Tomyl asked why there was no input from the Building Inspector, Chair Scheiner stated it is not required.

The above motion was seconded by Jerry Culbert. The Board voted 5 to 0 in favor of the motion.

Approve Minutes:

The Board reviewed the minutes of 2-27-17.

A motion was made by Marilyn Messenger to approve the minutes of 2-27-17, seconded by John Courville.

The Board voted 5 to 0 in favor of the motion.

Town Planner updates:

Bill Nemser stated he sent out an email last week re: Town Meeting, there are some proposed zoning bylaw amendments, and definition additions.

A motion was made by Marilyn Messenger to adjourn the meeting, seconded by Jerry Culbert.

Meeting adjourned at 8:07 p.m.