



## Maynard Zoning Board of Appeals

Minutes: July 15, 2013

Attending: Paul Schneiner, Chair; Marilyn Messenger, Carlos Perez, and Leslie Bryant (alternate). Eric R. Smith, AICP, Town Planner, Recording Secretary. Also attending on behalf of the Town is Richard Asmann, Building Commissioner.

PS called the meeting to order at 7:00 PM

### **16 Boeske Avenue**

PS – Stated that the Board had received a request from Tracie and David Brown, 16 Boeske Avenue, Map 23 Parcel 6, for a Special Permit Pursuant to Section 8.1, Accessory Family Dwelling Unit, and a Variance to exceed the Maximum Building Coverage of 15% allowed within the S-1 Zoning District, Pursuant to Section 4.1.1.

Tracie Brown, representing the petitioner with her husband David Brown in attendance. Tracie Brown approached the Zoning Board and indicated she had brought a series of pictures to show existing conditions and help visualize her proposal (See Exhibit A for copies of pictures). She noted that the Lot behind her is for sale (Lot 11 off Karlee Avenue and Gabrielle Avenue) and is working with the owner to purchase approximately 2,550 square feet of said lot. But wanted to address the Special Permit for Accessory Family Dwelling Unit first.

Tracie Brown indicated the petition for Accessory Family Dwelling Unit (AFDU) under Section 8.1 is to allow the building of a grade level additional family unit to accommodate a single blood relative, Helene Marshall, her 76 year old mother, as well as the maternal grandmother of 3 minors living at their residence at 16 Boeske Avenue. Mrs. Brown indicated she is her mother's only care taker. The grade level unit will help to preserve Mrs. Marshall's sense of independence and dignity. In turn, she will be able to assist in the care of her 3 minor grandchildren when Tracie's husband, Sgt. David Brown is working night shift with the Cambridge Police Department.

Mrs. Brown noted that when her mother is no longer living they would have to remove the AFDU and the size of such unit is limited to 600 square feet max. Also noted that as part of construction want to add a 2<sup>nd</sup> story above the Accessory Family Dwelling Unit to give Sgt. Brown a private sleeping area during the day that is separated from their 3 children. The Browns did look to put this private sleeping

area above the garage, but the entrance to the isolated area would be through an existing bedroom. She indicated the construction of the AFDU could accommodate both needs.

Mrs. Brown then wanted to address the second request of the Variance for building coverage exceeding 15%. Because of the building coverage maximum they can't accommodate adding the AFDU. She noted the unique lot behind their house is a panhandle (shape). Ms. Brown referenced site plan presented to the Board (see Exhibit B), which shows the Lot 11 panhandle to the side of their house and its uniqueness to their situation. Proposed land acquisition of owners of Lot 11 of approximately 2,550 square feet would allow the Browns to meet the Town of Maynard Zoning Setback requirements after the acquisition and their new construction. Can't purchase any more of Lot 11 otherwise that lot's owner would be nonconforming for building coverage.

Ms. Brown indicated their existing building coverage at 15.23% already is exceeding building coverage maximum. She presented to the Board spreadsheet showing building coverage information (see Exhibit C). Their proposal would increase building coverage to 16.81%. However, visually with the rest of the panhandle included that they are not purchasing such coverage would be 14.84% and in compliance with the Maynard Protection Zoning Bylaw. With the addition, their structure would be right in line with the houses being built behind their house which range between 2,400 and 3,000 square feet.

Ms. Brown reviewed the photos with the members of the Zoning Board of Appeals.

PS – Asked question regarding the spreadsheet table, specifically asked to clarify the “proposed + borrowed view” figure of 14.84%. Rick Asmann spoke with the owner of Lot 1, who is 96 square feet short of maxing out at the 15% for his house construction.

MM asked about construction of a new 2<sup>nd</sup> driveway. Ms. Brown did note that neighboring properties have similar driveway configurations.

Ms. Brown noted AFDU entrance would be on the side. The second driveway would be coming off of Boeske. The Board and Ms. Brown reviewed proposed location of second driveway.

PS- asked about matter of construction of 2<sup>nd</sup> floor, which is not subject of AFDU Special Permit application.

Ms. Brown then continued with review of photos with the members of the Zoning Board of Appeals, showing existing conditions of her property with relationship to Gabrielle Avenue and the panhandle portion of Lot 11.

CP – Asked about installation of kitchen in AFDU. Ms. Brown said yes to give her mother independence. Upon her mother's no longer living in Unit, there would be removal of kitchen.

MM – Would Unit remain a separate apartment? Mrs. Brown said no, would enlarge the dining room and incorporate it the space to keep house as a single-family dwelling.

MM – how would 2<sup>nd</sup> story of addition be accessed? Is there a stairway; is it in the main house? Mrs. Brown there would be a stairway at the bottom probably knock down wall downstairs of AFDU to build staircase to access to the second floor. Goal is to make it feel as if her mother is living on her own

CP – Access for 2<sup>nd</sup> floor from her mother’s apartment? Mrs. Brown said yes and admitted have not got design too far along until receive Town approvals.

PS – The way I am hearing it she would have access to the 2<sup>nd</sup> floor from her unit with stairway in her unit. Thus that would make it a 1,200 square foot (versus 600 square feet) Accessory Family Dwelling Unit. Rick Asmann noted his design discussions with Mrs. Brown.

Mrs. Brown noted she would make sure design of 2<sup>nd</sup> floor is not integrated into the 1<sup>st</sup> floor access of the AFDU. Location of stairway would be in the inside of the existing single-family residential unit. She would discuss that design with her builder.

CP – asked for question of design of driveway and access width. Are they wide enough for wheelchair access? Mrs. Brown good question to ask, would want to sure such access is sufficient. CP - Does driveway design provide ample room for her mother? CP noted dwelling entrance location on side could cause difficulty if driveway is in the front of the house. Mrs. Brown noted she would take into considerations as part of construction. But she did this design for visual considerations.

Driveway location commented by Board, as Mrs. Brown is not getting any more frontages from Boeske. Safety concerns were raised of the curb cut of 2<sup>nd</sup> driveway with close proximity to Boeske Avenue and Gabrielle Avenue. Mrs. Brown noted she didn’t want to purchase more land towards Gabrielle Avenue as their property would become a corner lot and have to meet greater setback requirements.

PS asked for Public Comment to speak in Favor or in Opposition. No Public Comment received on this Petition.

LB – Motion to the close the Public Hearing. 2<sup>nd</sup> by MM – Motion passed – 4-0

Zoning Board members deliberation of Petition.

CP and MM discussed the matter of the fact she doesn’t own panhandle of lot. MM noted that the Board could approve subject with condition the Special Permit and Variance would subject be to land purchase. There is no P&S, so condition approval for no construction to occur until papers pass.

PS: Note that the stairway to the 2<sup>nd</sup> floor can’t be in the 1<sup>st</sup> floor Accessory Family Dwelling Unit. MM: noted 600 square feet maximum for AFDU.

PS: The Variance is the building coverage matter (16.8%) and the Special Permit is for the Accessory Family Dwelling Unit.

PS: With this parcel (including the portion of Lot 11 that would be purchased) the property of Mr. and Sgt. Brown would meet the Setbacks Requirements.

PS: For Variance, review hardship due to lot coverage for accessory use structure. What is the hardship to grant the Variance? PS, CP discussed using the Brown's existing garage as the new AFDU. MM: Would give up their garage and where would everyone park? PS: Alternative for parking cars in garage would be their driveway.

LB: stated that nobody in opposition in attendance. MM and PS noted that is a good point.

PS reviewed Section 8.1.2: A Special Permit (for Accessory Family Dwelling Unit) may be granted by the Zoning Board of Appeals for the conversion of an existing or new single family dwelling to accommodate an additional family living unit by the installation of a common wall or the partitioning of or extension of living space. MM: What is the Criteria for granting? These are the Standards of what it has to look like, has to be recorded need occupancy permit. PS: And it cycles every two years. When done have to pull unit out. MM it is very subjective for granting. It does meet the guidelines.

PS: Then there is the Variance. MM enough of a hardship really isn't anywhere else to put it. Giving up garage, would be causing a hardship to have to park cars in the driveway

PS: What are the Finding? MM is a hardship: really isn't where else to put it (structure) on their property (with garage

PS: What are about the neighborhood? CP: Everyone else is far away. MM: Houses are nearby but I don't think it is detrimental to the Neighborhood. The Board noted "de minimis" increase on lot coverage with "borrowed view of the panhandle open space" – MM it is subject to owning the property. Both the Variance and the Special Permit are subject to the Brown's owning the land.

PS – noted the Variance runs with the land. Rick Asmann noted that Variance is tied to the plans on the file that are with the approved petition.

LB make a Motion to Grant Special Permit and Variance subject to Purchase of the Land, Stairway will not be incorporated into the accessory use; Approval is subject to Section 8.1.5 of the Maynard Protective Zoning Bylaw. Findings of Variance are: hardship to property owner of no other place to put the accessory unit, .not detrimental to the neighborhood, small increase in lot coverage, uniqueness of lot shape with panhandle and approval subject to the land purchase. 2<sup>nd</sup> by CP. Vote 4 to 0.

**Petition of Michelle M. Booth, et. Al., for an Appeal from the Decision of the Building Commissioner as it relates to a Zoning Opinion concerning the Definition of "Supermarket."**

PS – We have a second petition before the Zoning Board tonight. We have a problem with it per notification to various abutters. We can't hear tonight. The date I am looking at to hear this matter is Monday, August 19<sup>th</sup>. Are the other Zoning Board of Appeals members available that night?

ES noted his unavailability of that evening. He would discuss with Kevin Sweet to make sure there would be a Recording Secretary for the Zoning Board of Appeals. The other Zoning Board members confirmed their availability.

Michelle Booth had question on posting of next meeting with notification of the number of abutters, 49 abutters. PS noted that Eric would research the correct procedures with Town Council. He did not believe the postcards have to be resend out to all abutters.

Ms. Booth: question on who is responsible for sending out such notices. ES noted it would be the responsibility of the Office of Municipal Services, specifically the person who would be assigned for processing of the application.

ES noted that there is a Special Permit for a Private Kennel at 39 Great Road. PS indicated approval to go ahead and schedule the Public Hearing for that Special Permit on the August 19<sup>th</sup> meeting date.

MM made Motion to adjourn. 2<sup>nd</sup> by CP. Vote 4 to 0. The next meeting is August 19, 2012.