

TRANSCRIPT OF PUBLIC RECORD
ZONING BOARD OF APPEALS MEETING
AUGUST 26TH, 2009

This Regular Meeting of the **Zoning Board of Appeals**, was held in the Great Hall of Searles Building, City Hall, and was called to order at 7:13 PM.

MEMBERS IN ATTENDANCE:

Mr. Matthew D'Agostino, Chairman
Ms. Laura Walta, Vice Chairman
Mr. Richard Lacroix, Clerk
Mr. Jesse Ramirez, Member

MEMBERS ABSENT:

Mr. Vincenzo Pesce, Member
Mr. Peter Giordano, Alternate Member

OTHERS IN ATTENDANCE:

Ms. Gwen Martone, Zoning Board Secretary

STATEMENT BY THE CHAIRMAN:

Matthew D'Agostino read a statement prior to the opening of this meeting advising appeal rights.

ATTENDENCE:

Board Clerk, Richard Lacroix called the roll with four (4) members present at this meeting.

ROLL CALL:

Board Clerk, Richard Lacroix called the roll of Applicants.

At this time Chairman D'Agostino informed the petitioners that there was only going to be a four-member Board present this evening. He explained that with a four-member Board a unanimous affirmative vote was necessary to grant each request. He further explained that petitioners had the right to continue their petition to the next months meeting in hopes of having a full Board.

NEW BUSINESS:

#2009 - 17 *Joseoh S. & Stanley Majkut c/o Steven Majkut, 40 Pond Street, Methuen, MA 01844*

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to subdivide a parcel of land into three (3) lots leaving # 40 and # 46 Pond Street without the required area, # 2 Gordon Street without the required area and rear setback and to clarify all existing set backs on all parcels in a Residential A (RA) District at #'s 40 & 36 Pond Street and # 2 Gordon Street, Methuen, MA 01844.

Appearing before the Board on behalf of Steven Majkut was Attorney James Dekoulis from the DiFruscia Law Office, 302 Broadway Methuen, MA 01844. According to Atty. Dekoulis the plan before the Board this evening seeks a reconfiguration of three existing lots. He explained that 40 Pond Street, which is depicted as Parcel "A" on the plan is occupied by Steven Majkut but that it is an estate with about 8 lines of heirs. This property has been an estate since about 1940 but has never been probated and they are now trying to clear title to this land. He explained that he has obtained all the deeded interest of all 7 lines of heirs and currently has an action pending in Land Court waiting to get this certified. He further explained that one of the things they agreed to do in Land Court was to deed Parcel "B" on the plan to Rosemary Majkut who lives at 46 Pond Street. He indicated that she was having difficulties accessing her property from Pond Street and that this would allow her to install a driveway and access the property from Mason Avenue. Atty. Dekoulis further stated that upon conducting this survey they discovered that the dwelling owned by King and located on 2 Gordon Street encroaches on Majkut at 40 Pond Street. To resolve this encroachment it is their intention to deed Parcel "C" to King, which would now give that dwelling a side setback of 7.5 feet.

At this time Chairman D'Agostino opened the meeting to Public Participation. The first to speak in favor of this petition was Atty. Paul Cahill who indicated that he was here representing Rosemary Majkut or 46 Pond Street. Atty. Cahill stated that Rosemary built that house with her late husband Stanley and has lived on the premises for over 50 years. At this time he presented photographs of the property to the Board members. He proceeded to explain that Mrs. Majkut is in her mid eighties and it has been increasingly more difficult to access her property. As shown in the photos the house is built into an incline and is accessed via a series of stairways to the side & rear of the home. At this Mrs. Majkut indicated that she would like to address the Board. Mrs. Majkut gave the Board a brief history of the property indicating that over 60 years ago it used to be a farm. She also reiterated what Atty. Cahill had stated previously that access to her property has becoming increasingly more difficult and that a driveway off of Mason Avenue would provide her with a safe and easy access to her home.

Ms. Brenda King of 2 Gordon Street spoke in opposition of this application. She indicated that in 1980 when they bought their home they were told that they had 2 feet beyond the rear of the home that belonged to them. Chairman D'Agostino questioned is she was the same Mrs. King who was going to gain Parcel "C" and if she was opposed to this. She indicated that she would like to invite the Board to her yard to see what a driveway would like in her rear yard. She further indicated that it is a yard with a nice lawn, is quiet and that she is a nurse who works third shift. She also stated that she used to live in Lawrence and used to have driveways near her house in triple-deckers and that she found them noisy. At this time she presented pictures of her yard to the Board. Mrs. King was away from the podium and her contribution to the discussion was barely audible. Chairman D'Agostino summarized her conversation indicating that she was trying to show them where her house was with reference to the submitted photos and the plan. Mrs. King returned to the podium and stated that she did not think a driveway behind her house was aesthetic and that it would be noisy and unsafe. Additionally she believes that she will now have to deal with traffic in her back yard and that this is upsetting because she works third shift. Chairman D'Agostino explained that Mason Avenue is an existing street and that this Board cannot entertain who basically can and cannot use this street. Mrs. King indicated that Mason Avenue has 2 houses on it, it's a dead end and that there is a day care home and that the proposed driveway is going to end in front of that woman's house. She expressed concerns that if it is slippery out a car exiting the driveway could go into that house. She believes that there is a better location along the side of her house where the petitioner can put a road in instead of tearing up what she calls a community area where everyone lives and gets along.

Having no discussion, Public Participation was closed and the petitioner's representative returned to the podium.

Board Clerk, Richard Lacroix read a letter in opposition and dated 08/05/2009, from Richard J. and Maureen A. Daigle, into the record of the meeting. A copy of this letter can be found attached to the rear of the Minutes on file in the Office of the City Clerk, 41 Pleasant Street, Methuen, MA 01844

At this time Atty. Dekoulis stated, with respect to the Daigle's letter, that the topography from Gordon Street onto Mrs. Majkut's property is not conducive to installation of a drive. He describes the property as having a steep incline with her

house located in a knoll. He further indicated that this is not going to increase traffic in the neighborhood that Rosemary is simply going to access her house from a different point and that this is not a plan of development that would be detrimental to the character of the neighborhood. Discussion ensued relative to actual ownership and the problems that the petitioners have faced with trying to clear title and settle this estate. Vice Chairman Laura Walta questioned the location of the driveway. Atty. Dekoulis indicated that they will be sensitive to the abutters but the topography will really dictate where the driveway will be located.

ROLL CALL:

Mr. Richard Lacroix – yes, per plan
Mr. Jesse Ramirez – yes, per plan
Ms. Laura Walta – yes, per plan
Mr. Matthew D’Agostino – yes, per plan

VOTE: 4-0-0 APPROVED

#2009 - 18 Homestead Village, LLC, 380 Merrimack Street, Methuen, MA 01844

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to construct a three (3) unit and a twenty three (23) unit condominium building without the required setbacks and the entire complex over the allowed maximum density in a Multi-Family B (MB) District at AM 11-09, Block 78E, Parcels 14A & 19 Village Lane, Methuen, MA 01844.

Attorney Anthony Copani, 265 Broadway, Methuen, MA appeared before the Board on this petition. He indicated that the petitioner since submitting this application has decided to reduce his request from a three-story, 23-unit structure to a two-story, 15 unit structure. At this time he is formally requesting to withdraw the density portion of this request via his letter dated August 26th, 2009. Additionally he indicated that they are scheduled to go before the Community Development Board on September 9th, 2009 to seek subdivision approval for phase 4 of this project. He further indicated that prior to this they need a setback variance, which he has described as de minimus in nature. He explained that the rear corner of the proposed building is five feet from the lot line of another parcel owned by Mr. Pappalardo. He further stated that joining him this evening is Mr. David Jordan from SFC Engineering Partnership, Inc. who can answer any questions they may have. Mr. Jordan came to the podium and indicated that they are looking for a 5-foot setback as opposed to the required 30 feet.

MOTION: *Matthew D’Agostino moved to accept the proposed change on this evening’s petition reducing the structure from three stories to two stories and 23 units to 15 units.*
Laura Walta seconded this motion.

VOTE: 4-0-0 UNANIMOUSLY APPROVED

Chairman D’Agostino opened the meeting to Public Participation with no one speaking in favor of this plan. Mr. Jack McKenna of 374 Merrimack Street came to the podium requesting further information. He was concerned with what was being construct and where it was located on the property. After looking at the plan he determined that he had no objections to this petition. Having no discussion, Public Participation was closed and Atty. Copani returned to the podium. Discussion ensued relative to the where the property lines were actually located at the rear of the proposed structure.

ROLL CALL:

Mr. Richard Lacroix – yes, per plan
Mr. Jesse Ramirez – yes, per plan
Ms. Laura Walta – yes, per plan
Mr. Matthew D'Agostino – yes, per plan

ADJOURNMENT:

MOTION: *Matthew D'Agostino moved to approve at 8:03 PM adjournment.*
Richard Lacroix seconded this motion.

VOTE: *4-0-0 UNANIMOUSLY APPROVED*

Respectfully submitted,

Gwen Martone, Zoning Board Secretary
Methuen, MA 01844