



MONDAY OCTOBER 16, 2023 ZBA MEETING MINUTES

A meeting of the Peabody Zoning Board of Appeals was held on Monday, October 16, 2023 at 7:00 p.m. Peabody City Hall, 24 Lowell St., Wiggin Auditorium

<u>MEMBERS PRESENT</u>	<u>MEMBERS ABSENT</u>
Frances Bisazza-Gallugi, Chairperson	
Stephen Zolotas, Vice-Chairperson	
Keith Slattery	
Chris Gilbert	
Barry Osborne	

(Ms. Gallugi read the opening statement. Ms. Gallugi let everyone know we would be hearing the agenda items out of order. Agenda #6 would go second and everything else would be in order)

REGULAR MEETING

1. **Continued** application of **Gabelry Development c/o Attorney John R. Keilty** for a variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2 "Dimensional Controls 6.8 "Continuing Care Retirement Communities"**, as it applies to the premise known as **0 NEWBURY ST**, Peabody, MA, **Map/Lot 057-074T**. Petitioner seeks a variance to construct a 146 unit continuing care retirement community and requires relief from Minimum Lot Area where 25 acres is required and 4.39 acres is proposed; Minimum Depth Front Yard where 50' is required and 42.3' is proposed; Minimum Density where 15 units per acre is allowed and 34 units per acre is proposed; Vehicular Circulation where no less than 20' is required and 9.4' is proposed. The property is located in a **BR1** zoning district.

Keith Slattery made a motion to accept the following correspondence.

Revised Site Layout Plan reflecting reduction with Attorney Keilty Cover Letter

Gaffey letter in opposition

Hegan letter in opposition

Swanson letter in opposition

Jayne Gordon letter in opposition

McCabe letter in opposition

Hrycenko letter in opposition

Tyre letter in opposition

Powers letter in opposition

Stan Gryglik questions

Heaphy letter in opposition

Turner letter in opposition

Vallis letter in opposition

Councilor O'Neill letter in opposition

(Correspondences and revised plan are made part of the record)

Stephen Zolotas seconded the motion.

Motion passed **(5,0)**

Attorney Keilty gave an overview of the project and relief requested. He spoke about marketing of the proposed development and the reduction in units from 146 units to 128 units making the density 29 units per acre instead of 34 units per acre. There was an informational meeting with Huntington Woods residents to address any concerns

they have. A portion of the building was cut off to pull farther away from the Huntington Woods property.

Jeff Smetlana with United Group of Companies that owns Gabelry Development wants very much to succeed. Likes the Peabody community. Thinks the development would fit in really well. Glad to work with the City and revise the plan and reduce the number of units. Any more of a reduction would not be financially feasible. Parking ration that is proposed is more than what is required. Listened to Huntington Woods concerns and made the changes.

Board members asked questions/gave statements.

Fran Gallugi spoke to the comparisons Attorney Keilty made. Most of the comparisons were a very long time ago, included affordable units and did not seek as much relief as what the applicant is seeking. The Board needs to vote on what is in front of them. Applicant is asking too much relief. There's no hardship. If it were to pass the integrity of the board would be in question.

Bary Osborne spoke in opposition. Green space stays green until someone decides to build on it unless it's city owned. City Council makes the ordinance and the Zoning Board upholds/enforce those requirements. City Council has the authority to amend the ordinance. The Board enforces the ordinance and grant relief when there's a considerable hardship. Is the purchase and sale contingent of the sale of the permits. Is there a financial hardship? We anguish over feet inches not 5 times the area required. This insults the integrity of the board. Board members make the 40b decisions with input from all departments in the city. We value those opinions. That is what our opinion are based on.

Keith Slattery spoke 80% overage in agreement it's a big ask and is opposition.

Fran Gallugi asked if there was anyone in the audience to speak in favor or opposition.

(Abutters spoke in favor and in opposition.)

Charles Patsios 103 Foster Street spoke in favor. Developer. Believes there is a real need for this type of rental community. Asked why no one has asked about the needs of the seniors as we age and having rental units available for them to stay close to their family.

Michael Uccellini Gabelry Development associate. Spoke in favor. The project is not only housing it's a lifestyle. Been developing this type of housing for decades. It's over 5,000 units that we've done. We do it because it makes a difference in people's lives.

There's many communities that do not have this kind of housing and most of the time when we go into communities they don't have the zoning in place to accept this kind of housing and we run into these challenges with zoning that we're running into today, but the City of Peabody has 54,000 people in it over half of those are eligible to live here and we met with over 60 seniors in a very short period of time in the last four weeks. We have letters of support petitions for the community. I'm not sure why they weren't submitted to the board but they weren't apparently because they weren't read. The zoning that's in place requires 25 acres for a CCRC which was done a long time ago and can be changed but there's also adult children in the in the community who would like their parents to be able to live near them. We provide a lifestyle program called SUN. It's won national awards for the best lifestyle program in senior housing.

Stanley Gryglik abutter from Huntington Woods spoke in opposition stating the same reasons in his correspondences. Wanted to state he is in opposition of the location not the concept.

Ryan Cox abutter 11 Hammerick in opposition for many reasons previously stated but spoke about the traffic concerns.

Keith Slattery made a motion to close the public hearing.

Barry Osborne seconded the motion.

Attorney Keilty requested a withdrawal without prejudice.

Stephen Zolotas made a motion to accept the withdrawal without prejudice.

Keith Slattery seconded the motion.

Motion passed **(5, 0)** request to withdraw without prejudice was granted.

2. **(AGENDA #6)** Legal matter as it applies to the premises known as **11 Michelle Rd., Peabody, MA, Map 115, Lot 341**. The property is located in the **R1 Zoning District**.

(Keith Slattery read the Legal Notice)

(There were no questions by the Board and no one to speak in favor or opposition)

Fran Gallugi reminded the board members they had met in executive session last month to go over the settlement agreement and that tonight they have to vote in open forum to accept that agreement.

Stephen Zolotas made a motion in accordance with the Superior Court's order dated September 14, 2023 and in relation to the settlement of an action brought by Vincent Masucci and Maria Grace Masucci against the City of Peabody and others in the Essex Superior Court,

- **MOVE** to reverse the ZBA's March 17, 2021 decision, which upheld the Building Commissioner's denial of the request to use the pool house at 11 Michelle Road, Peabody, Massachusetts as a family accessory living area for Vincent Masucci;
- **MOVE** to deny the Building Commissioner's decision, which denied the Masuccis' request to use the pool house at 11 Michelle Road, Peabody, Massachusetts as a family accessory living area for Vincent Masucci; and
- **MOVE** to direct the Building Commissioner to grant the Masuccis' request to use the pool house at 11 Michelle Road, Peabody, Massachusetts as a family accessory living area for Vincent Masucci.

Keith Slattery seconded the motion.

Motion passed **(5,0)** by roll call vote

3. **Continued** application of **Laurel Co. Inc c/o Attorney John R. Keilty** for a variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2, "Dimensional Controls"** as it applies to the premise known as **0 PEARL ST, Peabody, MA, Map/Lot 105-085**. Petitioner seeks a variance to allow subject lot A to be built upon where lot is less than five feet short of required 125 foot of frontage and requires relief from Frontage where 125' is required and 120.8' is proposed. The property is located in the **R1 Zoning District**.

Attorney Keilty gave an overview of the frontage relief requested for the property.

(There were no questions by the Board and no one to speak in favor or opposition)

Stephen Zolotas made a motion to close the public hearing.

Barry Osborne seconded the motion.

Stephen Zolotas made a motion to approve.

Barry Osborne seconded the motion.

Motion passed **(5, 0)** by roll call vote

4. Application of **Edward Martins** for a variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2**, as it applies to the premise known as **20 PROCTOR ST**, Peabody, MA, **Map/Lot 076-351**. Petitioner seeks a variance to build an addition and requires relief from Left Side Yard where 15' is required and 6' is proposed; Height where 30' is allowed and 33.8' is proposed. The property is located in a **R1A** zoning district.

Edward Martins gave a brief overview of the proposed addition. Bought the property in pretty bad condition and wants to fix it up especially the rear dilapidated portion of the property. Spoke with all the direct abutters and no one is in opposition. They are all in agreement and are in favor. I showed them the plans.

(There were no questions by the Board.)

Fran Gallugi asked if there was anyone in the audience to speak in favor or opposition.

Bruno Sila 25 Proctor Street. Abutter, spoke in favor.

Stephen Zolotas made a motion to close the public hearing.

Keith Slattery seconded the motion.

Stephen Zolotas made a motion to approve

Keith Slattery seconded the motion

Motion passed **(5,0)** by roll call vote

5. Application of **Domenico and Colleen Petrillo c/o David Johnson** for a variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2**, as it applies to the premise known as **22 ALDEN RD [R]**, Peabody, MA, **Map/Lot 101-107A**. Petitioner seeks a variance for a second level deck and addition to rear of home and requires relief from 2nd Level Deck Right Side Yard where 20' is required and 19' is proposed; Addition Left Side Yard where 20' is required and 9' is proposed; Addition Rear Yard where 35' is required and 25' is proposed. The property is located in the R1 zoning district.

Attorney Keilty Attorney representing Petrillos, made a brief presentation on the 2 proposals for the property. Present were Attorney Keilty, Homeowners and

contractor/applicant David Johnson. House is on an oddly shaped lot and a high elevation.

(Board members asked questions/gave statements.)

Chris Gilbert: Asked what the large green structure was in their backyard.

Domenic Petrillo Homeowner. Answered the large accessory structure is not on his property and he doesn't know what it is.

Chris Gilbert asked Carla McGrath to check on the accessory structure with the Building Inspectors.

Fran Gallugi asked if there was anyone in the audience to speak in favor or opposition.

(No abutters spoke in favor or opposition)

Stephen Zolotas made a motion to close the public hearing.

Barry Osborne seconded the motion.

Stephen Zolotas made a motion to approve

Barry Osborne seconded the motion.

Motion passed **(5, 0)** by roll call vote

6. Application of **Joseph Mucci c/o PJ de Bernardo** for a variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2**, as it applies to the premise known as **71 LAKE ST, Peabody, MA, Map/Lot 045-039A**. Petitioner seeks a variance for an above ground pool attached to the existing deck and requires relief from Rear Yard Setback where 35' is required and 26.5' is proposed. The property is located in the R1 zoning district.

Stephen Zolotas made a motion to accept the following correspondences.

P.J. de Bernardo narrative
DEP/Conservation Order of Conditions

(Correspondences are made part of the record)

Keith Slattery seconded the motion.

Motion passed **(5, 0)**

PJ de Bernardo from Gibraltar Pools, gave a brief overview of the proposed pool.

Fran Gallugi asked if he was aware of the conservation issues and that he must build to what was specifically on the plot plan.

PJ de Bernardo was in agreement and knew of the conservation conditions.

(Board members had no questions. No one spoke in favor or in opposition.)

Stephen Zolotas made a motion to close the public hearing.

Barry Osborne seconded the motion.

Stephen Zolotas made a motion to approve

Barry Osborne seconded the motion

Motion passed **(5, 0)** by roll call vote

SPECIAL MEETING

1. **Continued application of 41 Newbury Street Realty LLC, for a Chapter 40B Comprehensive Permit** as it applies to the premises known as **41Newbury Street, Peabody, MA, Map 078, Lot 015B**. Petitioner seeks to construct **60 rental units**. The property is located in **BR1 Zoning Districts**.

Chris Gilbert made a motion to accept the following correspondences.

- 9.5.23 EBI Consulting Phase 1 Environmental
- 9.8.23 Weston and Sampson Water Service System Evaluation
- 9.25.3 Eaglebrook Response to WS
- 9.29.23 Bayside Traffic Response
- 9.29.23 Revised Civil Plans
- 1.27.23 Captain Dowling Memo

(Correspondence is made part of the record.)

Stephen Zolotas seconded the motion.

Motion passed (5 ,0)

Ben Minnix with Eaglebrook Engineering gave a brief update on traffic peer review, parking space width, clarification of construction details, added some signage and painting notes. Fire Dept. reviewed plans in January 2023 and those plans/correspondence were submitted. Water and Sewer comments were also addressed through peer review. Environmental Review report was submitted and we are waiting on comments back.

Fran Gallugi let the applicant know that Bob Langley is working on a few items and would be in touch.

Ben Minnix requested a continuation to the November 20th meeting.

Stephen Zolotas made a motion to acceptance continue the public hearing to November

Keith Slattery seconded the motion.

Motion passed (5,0) by roll call vote

Business Meeting

Stephen Zolotas made a motion to accept the September meeting minutes

Keith Slattery seconded the motion.

Motion passed (5,0)

Stephen Zolotas made a motion to accept 2024 ZBA Meeting Dates

Keith Slattery seconded the motion

Motion passed (5, 0)

Discussion ensued in regard to revision in 39 Walnut Street 40b decision

Stephen Zolotas made a motion to accept Attorney Panos memo

Keith Slattery seconded the motion

Motion passed (5,0)

Stephen Zolotas made a motion to deem the revision as insubstantial in regard to Walnut Street

Barry Osborne seconded the motion

Motion passed (5,0)

Discussion ensued in regard to location and date for the holiday party.

Stephen Zolotas made a motion to schedule the holiday party on Thursday December 14, 6pm at Su Changs.

Chris Gilbert seconded the motion.

Motion passed (5, 0)

Meeting adjourned.

NEXT REGULAR AND SPECIAL MEETING NOVEMBER 20, 2023