

JULY 6, 2020
REGULAR
ZBA



**City of Peabody
Zoning Board of Appeals**

City Hall • 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5900

JULY 6, 2020 ZBA AGENDA
LEGAL NOTICE

NOTICE IS HEREBY GIVEN THAT THERE WILL BE A REMOTE PARTICIPATION MEETING
OF THE ZONING BOARD OF APPEALS ON
MONDAY, JULY 6, 2020, AT 7:00 PM

Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L. c. 30A § 18, 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 Peabody Zoning Board will be conducted via remote participation to the greatest extent possible. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public adequately access the proceedings in real time, via technological means. In the event that we are unable to do so on matters not requiring a public hearing we will post on the City of Peabody's website an audio or video recording, transcript, or other comprehensive recording as soon as possible after the meeting. Individuals may participate remotely in the meeting via a participation platform called Zoom.

Members of the public and/or parties with a right and/or requirement to attend this meeting may access the remote participation through any one of the following ways:

- Enter this link into your web browser to join the meeting: : <https://us02web.zoom.us/j/84293296287>
- Enter this link into your web browser to open the Zoom website: <https://zoom.us/join>. Enter the meeting/webinar ID# **842 9329 6287** as directed on the webpage and click "Join". Follow the on-screen instructions to join the meeting.
- Participants can dial a toll-free number +1 **301 715 8592** to join the meeting. When prompted, enter meeting/webinar ID# **842 9329 6287** and follow the instructions to join the meeting.

THE AGENDA FOR THIS MEETING IS POSTED ON THE CITY OF PEABODY WEBSITE.

PEABODY ACCESS TELEVISION WILL BE AIRING THIS MEETING LIVE ON CHANNEL 9, AS WELL AS STREAMING ON THEIR FACEBOOK AND YOUTUBE PLATFORMS.

IF YOU WISH TO COMMENT ON OR REVIEW ANY PLANS OR DOCUMENTS RELATED TO ITEMS ON THIS AGENDA PLEASE CONTACT CARLA MCGRATH VIA PHONE, E-MAIL OR WRITTEN LETTER. ANY E-MAIL OR WRITTEN COMMENTS MUST BE RECEIVED BEFORE JULY 2, 2020.

ZONING BOARD OF APPEALS
CARLA MCGRATH, CLERK
24 LOWELL STREET
PEABODY, MA 01960
carla.mcgrath@peabody-ma.gov
978-538-5792

REGULAR MEETING

1. Continued application of **Peter Graziani**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 11.8 H**, as it applies to the premise known as **122 Foster Street, Peabody, MA, Map 094, Lot 010**. Petitioner seeks a variance to **allow for a roof top sign where no roof top signs are allowed**. The property is located in an **BN2 Zoning District**.
Rooftop sign
2. Application of **James and Pauline Boland**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **4 Randall Road, Peabody, MA, Map 108, Lot 012**. Petitioner seeks a variance for Side Setback. The property is located in an **R1 Zoning District**.
Side 20' required 10.9' proposed 2-car attached garage
3. Application of **Danielle Caron**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **11 Anthony Road, Peabody, MA, Map 073, Lot 045**. Petitioner seeks a variance for Front and Side Setbacks. The property is located in an **R1A Zoning District**. Right Side 15' required 7' proposed family room to replace existing garage and Front 20' required 16.6' proposed addition of single-car garage
4. Application of **Jonathan Lapham**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **3 Sheffield Drive, Peabody, MA, Map 052, Lot 072**. Petitioner seeks a variance for Side and Rear Setbacks. The property is located in an **R1A Zoning District**.
Rear yard 35' required 24.7' proposed "sunroom" addition
5. Application of **Linghua Zhang**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.1.5**, as it applies to the premise known as **17 Loris Rd., Peabody, MA, Map 040, Lot 0428**. Petitioner seeks a variance for Rear Setback. The property is in an **R1A Zoning District**.
Proposed 40.2'x10.2' accessory structure (shed)
6. Application of **Barlow Signs**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 11.5.1C**, as it applies to the premise known as **1 Andover St., Peabody, MA, Map 064, Lot 019**. Petitioner seeks a variance to erect a free-standing sign in a BN Zoning District. This is allowed only if there is a setback of 30' or more from the existing building. The existing building is 21.8' from the lot line. The petitioner also proposes a height of said sign at 20' when 12' is allowed. The property is located in an **BN Zoning District**.
Free standing Domino's sign
7. Application of **Daniel Dellheim**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **9 Intervale Ave., Peabody, MA, Map 001, Lot 048**. Petitioner seeks a variance for Rear Setback. The property is in an **R1 Zoning District**.
Rear yard 35' required 24.6' proposed addition (FALA)
8. Application of **Michael and Theresa Berardino**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **43 King Street, Peabody, MA, Map 084, Lot 017**. Petitioner seeks a variance for an addition and requires relief to Side Yard Setback. The property is located in an **R1A Zoning District**.
Side yard 15' required 5' proposed addition and deck

Chairwoman Gallugi will bring the meeting to order with her opening statement and a brief overview of the process.

Secretary will read in Legal Ad (first page of your packet) and invite Applicant to present.

Applicant will state their name and address for the record as well as identify how they are related to the application (for example: are you the attorney, homeowner, contractor, sign company, property owner, etc.) Then the applicant will state what they are proposing and why they are proposing it. Please speak clearly and to the point.

The screen will show the Plot Plan and applicant will be muted and unmuted, as necessary.

The Zoning Board Members will ask questions of the applicant.

Applicant or applicant's representative will answer.

Chairwomen Gallugi will ask if there is anyone to speak in favor or in opposition to please use the "hand raise" option. Those connected via telephone will be asked if they would like to speak on the matter.

Abutters/Participants will be called upon and unmuted, one at time.

Abutters/Participants will first need to state name and address for the record. State if they are in favor or in opposition. State why they are in favor or opposition, keeping it relevant to the relief requested. If there are questions posed, the applicant will be allowed to answer.

Secretary will read in any e-mail or mail correspondence sent in by abutters.

Chairwoman Gallugi will give everyone a chance to speak before asking for a roll call vote.

Zoning Board will vote on the issue. You will receive an email on Tuesday with instructions as to the denial/approval.

Chairwoman Gallugi will move onto the next agenda item and may take applicant in any order she sees necessary. **Please be prepared to present at any time.**



July 6, 2020 ZBA MEETING MINUTES

CITY OF PEABODY
2020 JUL 28 A 11:55
CITY CLERK

A virtual meeting of the Peabody Zoning Board of Appeals was held on Monday, July 6, 2020 at 7:00 p.m. via Zoom.

MEMBERS PRESENT	MEMBERS ABSENT
Frances Bisazza-Gallugi, Chairperson	
Stephen Zolotas, Vice-Chairperson	
Daniel Sencabaugh, Secretary	
Julie Picardi	
Barry Osborne	
Ed Colbert (
Keith Slattery (

NEXT REGULAR MEETING TBD

(Ms. Gallugi read the opening statement according to Chapter 40A)

(Ms Gallugi read opening statement in regard to how the virtual meeting will be run)

REGULAR MEETING

1. Continued application of **Peter Graziani**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 11.8 H**, as it applies to the premise known as **122 Foster Street, Peabody, MA, Map 094, Lot 010**. Petitioner seeks a variance to **allow for a roof top sign where no roof top signs are allowed**. The property is located in an **BN2 Zoning District**.

Rooftop sign

(Secretary read Legal Notice)

Christopher Girasi: My name is Christopher Girasi and I am the property manager for Peter. I can speak it on his behalf. Basically, we had to replace the roof. We had to take the sign off. We had to replace the roof because we had a leak in it. We took the sign off the roof, replaced it put a smaller one on the side. It's on top now. Then they told me to just go through the board to make sure.

Peter Graziani: Peter Graziani 121 North Main St Middleton. So, basically there was a leak on the roof. I took the sign down to replace the roof. They told me to go in front of the board to make sure that I can put the sign back. You guys have the picture but it's like way smaller than what it was. It used to wrap around the whole corner of the building. Now I just put like a little three-foot by like six-foot sign.

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Dan Sencabaugh: Second

Barry Sencabaugh: Motion to approve.

Dan Sencabaugh: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted.

2. Application of **James and Pauline Boland**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **4 Randall Road, Peabody, MA, Map 108, Lot 012**. Petitioner seeks a variance for Side Setback. The property is located in an **R1 Zoning District**.

Side 20' required 10.9' proposed 2-car attached garage

(Secretary read Legal Notice)

Pauline and Jim Boland: Hi this is Pauline accompanied by Jim Boland address is 4 Randall Road, Peabody. We are the homeowners pending occupation of the property and what we are here tonight looking for what we are proposing to build the two-car garages indicated and we

have a side setback we know is 20 and we are asking for 10.9. The garage is something we feel that we're in need of we're both 71 years old and we want to get our cars out of the weather for the winter that being one point , but the main point is we need somewhere to put our utilities. The furnace is still located in the kitchen and due to a garage conversion family room beside the kitchen. The oil lines run from the tank outside around the perimeter of the family room around the kitchen to the furnace. So, for that's about 65 feet. So, for us that was the safety issue that we hesitated to move in with that condition existing and you know we know it can be corrected. We've already consulted with people. So, that would be the furnace in the kitchen being relocated to the garage. The oil tank which is outside currently would also be housed then in the garage and there is a what a hot water tank in what would be a bedroom closet which doesn't appear to have a pan under which also then could be located to the garage. So, here would be the two cars in the garage you know the furnace the oil tank and water heater so we're very anxious to move in but we would like to really get the garage up so that we have a place to move these things to.

Fran Gallugi: Okay that's a very good presentation. Do we have any questions or comments by the Board?

Barry Osborne: I certainly agree with the petitioner this this makes a lot of sense to me I mean just a safety part of this a relocation that utilities would weigh greatly on my mind. Just one question to the petitioner. This is...looking at your picture this is a single-story garage, right?

Pauline Boland: Yes.

Barry Osborne: Okay I have no problems the only thing I see in the packet is one letter and that's in favor so I would have no problem.

Fran Gallugi: I do know that I have been by the house and I agree with you 100% Barry, especially after hearing Mrs. Boland. I think that this is the only way that she could alleviate all those problems. There was a letter in favor which was rescinded and then became in opposition. I believe they are here to speak tonight.

Nancy Hodge: Nancy Hodge. We had originally signed a consent to this garage when we were fine with the one car garage and I understand our house is the same way. We had all the utilities and the house and the everything and it was all moved out before we moved in, so I have no problem with a one car garage. I just think that they went from a one car garage to a two-car garage plus the utilities and this twenty ten foot variance is quite a lot. We're trying to keep the integrity of the neighborhood and keep space between the houses so, like I said I told you we have no problem with one car garage but two is...I'm not in favor of.

Fran Gallugi: Okay the only comment I have on that was so when they went for the variance initially it was I believe 24 by 24. So, the size never changed. Perhaps there was a little confusion of a one car or a two-car garage but the size of what they're actually asking for now and in the past...that size has always remained the same.

Nancy Hodge: Well when I first signed the letter that he asked me to sign... Jim asked me to sign for my approval, he pointed out exactly where the garage would go. He never told me anything about two cars. He told me one car. He said he had an antique car that he needed to put there and that was all. I had heard nothing about two-car garage. So, this has all changed since my initial.

Fran Gallugi: Any other questions or comments?

Stephen Zolotas: Through the Chair to Mr. and Mrs. Boland ...if this were to be approved have you spoken to the any plumbers or gas fitters or whoever it might be that would need to relocate these utilities?

Mrs. Boland: Yes. We did speak with a plumber of gas fitter who did come over and look to make sure that it was just one zone and said that it would be no problem to do the furnace and the other thing water heater would not be a problem.

Stephen Zolotas: With the garage being a 24' x 24' garage, whether we call it a one car or two car I just... given that size it was the size of that in order to fit two cars or is that an amount of space required for one car plus the utilities?

Mrs. Boland: It was always for two cars plus utilities. We do have two cars that we both drive that we would like to get out of the weather in the winter and also have room for utilities. We never discussed a one car garage. \

Nancy Hodge: I know when I spoke to Jimmy originally it was a one car garage specifically for this antique car. He had said nothing about parking two cars. My husband wants to say something.

Mr. Hodge: Yeah, and that was only the same impression one car garage and I was assuming maybe a couple feet variance not ten feet of a 20 foot variance and also we've looked around our neighborhood in the I don't see there are any other homes in the area that have had gone over this much four feet or not 10 feet of the 20 foot. I think you're gonna change what looks like if we're all gonna start going 10 feet to the property line.

Fran Gallugi: I believe that the garage is not gonna be any closer to the property line as their shed.

Dan Sencabaugh: Through the Chair. I have a question for Mr. and Mrs. Hodge. When you reviewed the survey and the plot plan indicating the location of the garage and its distance from your property. Did you review the plot plan and survey that was submitted with this application or did you review something different?

Mr. Hodge: We just got this recently. We looked at it. We talked to Jim, my wife did I didn't, and he said he was going to review it and I thought he was going to make some changes from what I was understanding.

Mrs. Hodge: I got a copy of the Plot Plan from Carla, and the shed issue the shed the property goes to an angle. So, the property line is I don't know what the distance is back there with the shed but the property is at an angle so it's there's more room back there.

Dan Sencabaugh: Okay let me ask it again maybe a different way. You signed a letter dated February 26, 2020 and acknowledges that you saw something?

Hodge: No. Jim told us he had an antique car. He wanted to garage it. So, I was thinking one car garage and it's gonna be maybe two feet of variance. So, we had no problem with a one car garage.

Dan Sencabaugh: Let me read the letter, and you tell me if you have any recollection.

(Letter was read into the record and was made part of these minutes.)

Dan Sencabaugh: Did you guys sign that letter?

Mr. Hodge: I did not sign off on that.

Mrs. Hodge: I signed the letter but I honest to God don't remember seeing a plot plan or a detailed plan. All I went by was it... it was the one-car garage and he had pointed out exactly where on the property it would be.

Mr. Hodge: I was told the same thing...

Dan Sencabaugh: That's not what the letter says. So, I don't have any further questions.

Barry Osborne: Through the Chair. I have a question. Is that wood fence still existing?

Mrs. Boland: Yes. It's a six-foot stockade fence.

Barry Osborne: Looking at your plan, correct the 10-foot that's going to require the variance at its lowest at its lease point right at the beginning of this addition and then the way the plot plan goes it seems like it angles out so that even at the end of the addition looks like you might have fifteen to twenty feet from the line?

Mrs. Boland: It's possible but I do have here the piece of paper that we did show to them.

Barry Osborne: It looks like that 10 feet is only for a very small distance. I know the abutter has had some concerns that there's a ten-foot variance but really it's only a ten-foot variance for maybe 10 feet 15 feet so again as much as I understand your concerns I would have no problem.

Mrs. Boland: I agree it's an odd shaped lot but that piece of paper I showed you was the piece of paper we brought out and put on the hood of the car to show you know what we were doing.

Fran Gallugi: Any other questions by the Board. Anyone else to speak in favor or opposition. Hearing none the matter is before the Board.

Dan Sencabaugh: Motion to close the public hearing.

Julie Picardi: Second

Dan Sencabaugh: Motion to approve

Julie Picardi: Second

Fran Gallugi: Roll call vote.
(5-0) Motion approved. Variance is granted

Fran Gallugi: Number three I am recusing myself from number three. Eddie that means you have voting privileges for number three. Okay Eddie?

Ed Colbert: Okay.

3. Application of Danielle Caron, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2, as it applies to the premise known as 11 Anthony Road, Peabody, MA, Map 073, Lot 045. Petitioner seeks a variance for Front and Side Setbacks. The property is located in an **R1A Zoning District**. Right Side 15' required 7' proposed family room to replace existing garage and **Front 20' required 16.6' proposed addition of single-car garage (Secretary read Legal Notice)**

Anthony Caron: I am Danielle's father, speaking for her. My home address is 28 Hourihan Street in Peabody and what we're doing is we're turning an existing breezeway garage into a family room and would like to construct a garage in front of the existing garage. We are approximately seven feet on the right-hand side where it would be alongside that way there so we're looking for relief there and also on the street side as well.

Stephen Zolotas: I do have one question. One of the only concerns I saw with this was at least in my mind, how far in front of the house this garage would extend. It looks like it would extend about another ten feet past that. Have you spoken to your neighbors about this?

Anthony Caron: Yes. We have spoken, both my daughter and myself have spoken to the one on the right-hand side which I believe is Mr. Raponi and they did not have an issue with it.

Stephen Zolotas: Is there any concern about visibility with that garage coming out that extra 10 feet or so?

Mr. Caron: Basically, I'm coming 20 feet in front of the existing garage. So, it'll be approximately 16 plus or minus 16 feet from the garage to the street.

Stephen Zolotas: Okay those are the only questions I had anybody else from the Board have any questions or comments?

Barry Osborne: Through the Chair. If I could. For the petitioner. So, the addition is not coming out any further...the new garage is not coming out any further than the existing garage to the property lines is that correct.

Mr. Caron: That is correct. It is staying in line with the existing garage with it just coming closer to the street side.

Stephen Zolotas: Anybody have anything more to add?

Ed Colbert: I have driven by this area and it totally makes sense to me. I wouldn't have any problem with it especially if he's talked to his neighbors and they do not have an issue.

Mr. Caron: I have only spoken to the one neighbor to the right-hand side which would affect them the most and they did not have a problem. My daughter spoke to the woman across the street and she would not have an issue with that as well.

Stephen Zolotas: Anybody to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the Public Hearing

Dan Sencabaugh: Second.

Barry Osborne: Motion to approve.

Dan Sencabaugh: Second

Stephen Zolotas: Roll call vote.

(5-0) Motion approved. Variance is granted

4. Application of **Jonathan Lapham**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **3 Sheffield Drive, Peabody, MA, Map 052, Lot 072**. Petitioner seeks a variance for Side and Rear Setbacks. The property is located in an **R1A Zoning District**. **Rear yard 35' required 24.7' proposed "sunroom" addition**
(Secretary read Legal Notice)

Jonathan Lapham: My name is Jonathan Lapham. I live at 3 Sheffield Drive. We're looking to put a sunroom in the back of our house. We have a new deck that would be going in and the only setback we have is the distance we have an odd-shaped yard so we only have 24 feet to the rear property line and I think we need 30. I think 35 is what you'd normally be.

Dan Sencabaugh: Through the chair. This does look like an odd shaped lot as the petitioner stated. It's a pie shaped lot. This is the exact kind of hardship that we would typically approve. I've got no issue with this. I think the Board should be in favor of it.

Fran Gallugi: Absolutely my thoughts exactly.

Barry Osborne: Through the Chair. I certainly agree. I don't see whether there was anywhere else where we could put it with that shape. It certainly is a hardship. I don't think you could do it any other place to be honest with you.

Fran Gallugi: Any other questions by the Board. Anyone else to speak in favor or opposition. Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Julie Picardi: Second

Stephen Zolotas: Motion to approve

Julie Picardi: Second

Fran Gallugi: Roll call vote.
(5-0) Motion approved. Variance is granted

- 5. Application of of Linghua Zhang, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.1.5, as it applies to the premise known as 17 Loris Rd., Peabody, MA, Map 040, Lot 0428. Petitioner seeks a variance for Rear Setback. The property is in an R1A Zoning District.
Proposed 40.2'x10.2' accessory structure (shed)
(Secretary read Legal Notice)**

Attorney Keilty: John Keilt. I have offices at 40 Lowell Street here in Peabody, Massachusetts. I'm appearing on behalf of Robert Clark and Linghua Zhang. They have purchased this property at 17 Loris Road back in 2018. They are proposing a shed which shows on the plan. The shed is 42' x 24.6'. That's the size of the unit. The variances they seek are side yard rear yard and size of the unit itself which is lot coverage. The required rear yard is five feet they are they have submitted a plan which shows their shed to be 2.7 feet from the rear yard, they require a five foot side yard on the right-hand side and they have given you a plan which depicts a 1 foot side yard on that right hand side and we are the reason that the unit wants to be located in this particular location so close to the side yard is that there is a large tree in the center of the property. If we were to locate that plan on I'm sorry that tree on the plan that you have as part of this filing the tree is approximately halfway through the length of the shed in other words where it calls out the length of the shed at forty point two feet that is exactly where the large conifer tree is located. The tree indeed could be can be removed, it's 30 to 40 feet high it provides privacy provides shade not only to my clients but also given its central ish to the rear yard it provides shade and privacy to other properties in the area given its given its maturity and its size. My client I would

note to the Board that if they've been into the neighborhood the property immediately behind my clients which is on Reynolds Road property immediately to the right which will be most impacted by this particular shed and the property directly behind that property which the property to our right is owned by the Griffins. Those three properties each have sheds which are much smaller than the shed that my client is proposing however they are all very close to the side yard and they form a cluster of three sheds kind of in the in the area where the three Lots four Lots actually become contiguous to each other. Having pointed that out we'd like to say that we our effort is to preserve the tree if the tree were to be removed it would be not only expensive but the tree would need to be removed right to it's right to the ground level and perhaps even dug out with the root from the root system such that it would not then dislodge or move the shed if the shed were to be centered in the rear of the lot if that were to be the case if the Board was to feel that not requesting the rear inside yard would be more of a benefit to the neighborhood. We would still need the lot coverage which the Building Commissioner's office the building inspector has actually called out what the required square footage of this unit should be and that is 105 square feet we have a 400 square foot proposal before you this evening. The shed will house materials that have been accumulated over a period with respect to his former employment and with respect to places where the couple has lived in the past. My client has over a period of years had off-site storage units he had several 10 by 40 I'm sorry he had several 8 by 40 containers that he'd rented which were off-site. He'd like to he has discontinued rented those he would like to this can further discontinue renting those units and bringing that material on to the site where it would all be stored within the premises and not visible from the street or from any of our neighbors. There is a fence that runs along the entire property that is both on the left-hand side of the property which shows as Williams James Williams and that fence also continues along the right-hand side of the property along the property of the Griffins and at the rear along the property of the Shalkowski's. We are happy to answer questions that the Board may pose to us and with that I would turn the matter over to the Board.

Fran Gallugi: I have some concerns. My first concern is in looking over the application I don't quite understand....." we went to the City Hall and were told oral guidelines that we were allowed to cover 30% of lot coverage and we will get the variance."....I42:42 I find that very hard to believe. City Hall whomever from the Building Commissioner down to I don't know who would never tell anybody that they can get a variance. What they would say is you need a variance. So, that being said... because of the pandemic you tried many times and left messages but could not get in touch with anybody. I find that very hard to believe because we have eight that we're hearing tonight and we have another seven that we can hear in two weeks and everybody else had a chance to contact the building department and get their permit and everything else that they needed. The next thing is we do not build and then ask for a variance because that's not how it works. If you need to build something you need to get a building permit. I am under the impression that this was built without a building permit or a building permit was got was had after the fact after everything was already there all of this. I know it's true so I'm not gonna hear any rebuttal on that. I would think at this point in time that people have heard enough of the various proposals and if you don't listen then when you go to the building department there they will tell you first and foremost you cannot build and then ask for a variance. You come to the building department and you come to the Zoning Board of Appeals to get a variance because you don't meet any setbacks the next thing is if I don't want to hear or even read that a shed company delivered something early. If you know you needed a

variance and you knew that you were having problems you just make a phone call and say put it on hold. That seems plain and simple. The issue of the tree... I know many people as I'm sure you do my Board Attorney Keilty and anyone else listening...if you want to build a house a garage a shed a playhouse and you have a tree in the way and that's exactly where you want to put it then you darn well better call a tree company and remove the tree. So, this was placed in a very odd position extremely odd position and I also believe it was right up in the property line so across the board I really don't know of any rebuttals right now that can be said to me it's going to change my mind that this absolutely cannot get approved. I'm only one vote but this is ridiculous and that's all I have to say.

Barry Osborne: Through the Chair. How far is the tree from I guess that would be the front of the shed....

Attorney Keilty: Virtually inches away so that the shed is very very tightly placed between the tree itself and the property line such that it's it's only a foot off the property line in its inches off the tree.

Barry Osborne: So, you could have put the shed on the other side of the tree and had it right in the middle of your property correct?

Attorney Keilty: There is room for that it may have required a modification of the area that calls for where it says deck

Barry Osborne: And a shed of that size a modification wouldn't be unusual because you're buying an oversized shed and you want to fit it into your yard and you know and all these questions lead me to believe that Miss Gallugi absolutely correct. It was done and put in there on purpose knowing that he didn't have the approvals he could have modified the design he could have measured he could have done a lot of things prior than just ordering it and tell them to put it right there. I understand about your four sheds for coming together and that makes sense but I really doubt that the other three sheds that form that corner are the same size as this one this is this is a rather large shed.

Attorney Keilty: They are not nearly the same sizes.

Barry Osborne: And you know something I could almost agree with the petitioner if it was like a regular shed the same size as the other four put it in it would make sense because all four would be clustered there but a shed of this size I think should have done a little bit you should have had a little more thought into it made modifications but not about you know limiting the amount of relief that he was gonna need I think he just did what he wanted to do and put that shed there to be honest with you and hope for the best when all was said and done so that's what they I don't like you know I don't like when things are done then you come to get permission you know it's better to ask for forgiveness than permission because a shed this size should have been thought out a lot better than this one has been. It was just stuck there and um I'll be honest with ya I don't think it belongs here.

Dan Sencabaugh: Through the Chair. There's a couple of things in this file that I should probably read into the record.

(Secretary read letter and memo into the record and both are made part of these minutes)

Stephen Zolotas: Through the Chair. Not to belabor it has already been spoken on here but a lot's been said about it being built and then asking for permission later and while we are usually dead set up to anything that happens like that I think in this sense they don't think it even matters that it was built in advance just for the record I mean essentially what I'm seeing here 40 by 10 foot shed is it's not a shed in my opinion a 40 by 10 foot is a storage container. It's like one of those Costco ones you'd see in the back of a semi basically it sounds to me like there's an attempt to at least operate maybe it's just store for this sounds like an attempt to operate some kind of business out of it which I don't like and it just it just seems totally out of fit with the area it's not a normal sized shed. We are okay you know being meaning a variance for one foot two foot side yard rear yard whatever it might be. This thing it's almost bigger than a large portion of the home that it belongs to so I agree with Barry that this should have been should have an attached to the back of the house some kind of modification addition or something if you need to store something in there that's all I have to say.

Fran Gallugi: Any other comments by the Board? Any comments by the audience?

The following spoke in opposition of the shed citing reasons having to do with privacy, decline of property value, disruption in the neighborhood, size of shed is too large.

Larry Griffin 15 Loris Rd.

Deborah Pelletier 20 Forest Rd.

James DiBiase 22 Loris Rd.

Michael O'Hara: 12 Reynolds Rd.

Fran Gallugi: Mr. Keilty is there anything else you would like to say?

Attorney Keilty: I do have a couple of things to say. In my presentation I did not raise I did not do the application by the way I did not raise the one two three issues that were in question number 17 there was a very definite miscommunication, but I don't think that that necessarily warrants a statement that I heard earlier which was that there would be no rebuttal I don't think that's appropriate we are not relying upon the miscommunications we've tried to make the cases have this evening that the building that the unit can be moved I would say once again to Mr. Osborn's comments that yes we could remove the tree take it down right to the ground move so that the shed has the appropriate rear yard inside yard even if that means cutting off a portion of the shed but that was still we would still require even in moving into the center of the yard we would require block coverage the miss on standing with respect to that first statement where my client suggests that he was told he could have 30% lot coverage to different issues one is yes

total a lot coverage meaning your house any sheds any other structures on the property in the cumulative cannot exceed 30% of the entire lot size in this instance it's the size of the accessory structure which is requiring the variance so as Inspector Menard has pointed out they would be allowed 105 square feet provided they admit the side yard requirements but this one is some four hundred square feet so I wonder whether the Board would consider granting the variance for the size of the structure if we were to tear down the tree move the units such that it met the side and rear setbacks?

Stephen Zolotas: Through the Chair. Just for a point to clarity for Attorney Keilty. I'm sure he used to run this by his client to determine what they might want to do with this just from my position it doesn't really matter to me as I see it about the distance from the side the rear setback inside yard to me it's more about the size of the unit itself and that it is just so incredibly large that just so you're aware that that's my issue with it my primary issue with it.

Mrs. Pelletier: I do agree with Stephen Zolotas. It's really the size of the structure for this tight neighborhood and so for us we would like that removed.

Robert Clark: I'm Robert Clark 17 Loris Road. First off, I would like to respond to when earlier you had spoken implied that I had no previous contact with the building department and I want to say approximately one year ago I was in and had inquired about putting a storage container out here because like Mr. Keilty had mentioned that I actually have been paying for 2 40 10 by 40 storage containers and they would to inform me that the being a temporary storage container with not allowed or was only for 90 days and I would have to remove it from the properties so at that time I implied I had and asked him well what are my options and he says well you can build whatever you want on there and I don't know and now you smile and you laugh you look like I'm telling you some story and now this is at me actually standing inside the court the Town Hall over there actually speaking with Mr. Teranzoni and the supervisor when who were his boss was which I don't happen to actually catch his name and and so I cannot tell you who exactly the gentleman was that was standing with him that had told me that up to 600 square feet I could build so I told him well 10 by 40 is that gonna be okay 400 square feet he says that would be fine okay now that being said and actually the reason that I was there was to ask him for a curb cut he says well the DPW is way too busy you go ahead and do it the only thing that we need from you is liability insurance in case you damage the street okay I had the liability insurance and I cut the curb now pushing all that out of the way and you're implying actually almost calling me a liar saying that I did not actually go down to Town Hall and confer with these people on that matter which in fact I did almost a year later now I go and I have a shed fabricated and I had tried to apply online with but unfortunately my computer skills very poor when I thought it was submitted it actually in fact was not submitted and I submitted it in like May and then when I checked to see when..... I apologize for that mistake and then in April when I see that it wasn't actually not submitted I was waiting for it and had no results on the return then I in fact had found out that it had not been submitted properly so I had to resubmit and then on April 28th is when it was actually submitted and in fact the shed was delivered early I in fact did think that it was going to be 8 by 40 not 10 by 40 and it actually was come in at 10 by 40 and was delivered two weeks earlier than when I had expected it so again all that being said now in respect with the next-door neighbors across the street they have parties over there

and in fact their friends were too drunk to drive home and left their car there for two days three days in fact on two separate occasions...

Ms. Gallugi: That is not anything that we are concerned with. We're not concerned with that Sir.

Mr. Clark: ... a you know their piece and and how bad a person I was and and telling them and I never said that I was going to slash their tires and in fact on the instance that Miss Griffin was talking about where the police actually showed up out here my wife had gone next door to confer with them and asked for you know some course sort of compassion as far as you know allow in the shed and she came back to my house crying okay so so....

Ms. Gallugi: I think you've made your point. Remember we're here for dimensional relief we're not here for neighborhood does you know what we do.

Mr. Clark: You took their statement.

Fran Gallugi: Yes sir it was written and we read it in now you had your rebuttal. We understand where you're coming from. If there's anything else you'd like to say about dimensional relief we'd be happy to hear it otherwise we're going to move on.

Mr. Clark: Well I had more than once said that I will do anything that it takes and as far as us mentioning about that I called Mr. Terenzoni five days in a row I called, left messages on his machine and he never once called me back.

Fran Gallugi: I will speak to him about that.

Mr. Clark: Well he's already thrown me under the bus by telling the police officer that he never told me that I could cut the curb.

Ms. Gallugi: Okay I think we've heard about as much as we need to hear so the matter is now before the board.

Stephen Zolotas: Motion to close the public hearing.

Julie Picardi: Second

Stephen Zolotas: Motion to approve

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(0-5) Motion not approved. Variance is denied

6. Application of **Barlow Signs**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 11.5.1C**, as it applies to the premise known as **1 Andover St., Peabody, MA, Map 064, Lot 019**. Petitioner seeks a variance to erect a free-standing sign in a BN Zoning District. This is allowed only if there is a setback of 30' or more from the existing building. The existing building is 21.8' from the lot line. The petitioner also proposes a height of said sign at 20' when 12' is allowed. The property is located in an **BN Zoning District**.

Free standing Domino's sign

(Secretary read Legal Notice)

Brandon Courier: Good evening everybody my name is Brandon Courier I am at 23 McElveen Street in Merrimack New Hampshire and I'm here on behalf of Domino's. There we are seeking approval to allow a 20-foot high illuminated pylon sign with a 1-foot setback from the property line as you guys are aware this is a very dangerous and busy intersection with this sign it increases the visibility it provides drivers with that much more time to make a safe decision when crossing traffic to enter into that property for example if you're coming down Pulaski Street the only safe ways to enter the property is by taking North Central Street at the point where you actually see the building where Domino's is located you've already past that and then you have to go into that intersection and make a turn to come back around. This sign would not be visually distracting or in any way safety wise for the district for drivers passing through this intersection and it is out of the line of sight due to the height that it is the town variety they both have similar pylons and they are located in that same intersection.

Fran Gallugi: I have a couple of concerns. One being that Domino's has been there for quite a long time and correct me if I'm wrong but Domino's is still just take-out is that correct?

Brandon Courier: To the best of my knowledge as of right now I believe yes but I can't speak to exactly because I'm not sure of the current situation in Massachusetts specifically Peabody.

Fran Gallugi: So, it's basically takeout and it's been there for a while and looking at the picture that parking lot is very, very small and very shallow so where it is situated, one of my concerns is somebody backing out there's a good possibility will probably rear-end it the car will rear-end part of that. That is one of my concerns. The other concern is this is an extremely busy intersection and yes, it is a very dangerous intersection. I believe that the sign would be a distraction and quite personally I personally don't think it is necessary to put such a large sign in that location at this point in time but I'm sure we'll hear from other members of the board.

Barry Osborne: Through the Chair. I will say this that I'm one of those lucky people that grew up in Gardner Park so I knew Wilson Square very well and I hate to disagree with you but I do I disagree with you. I do think it'll be a distraction I don't know why you need a sign of such size you know I don't think it's really necessary. The sign you know the zoning ordinance allows certain science I don't think we need to go above and beyond. There's a reason you're putting all those pylons around that post because you're afraid people are gonna back into it back into that

sign because of the the there's not an awful lot of room in that parking lot there's also an electric box there, people coming out of Central Street that want to turn right... yes there's a light there but what's your line of sight gonna be? Is that those pylons going to between the electric box and those pylons you know is that gonna infringe on their line of sight maybe?

(discussion ensued)

Barry Osborne: To be honest with you Domino's you know very successful business I'm glad to have him in the city but I'll be perfectly clear if I'm gonna buy a pizza from Domino's I know exactly where I'm going to pick up that pizza. I don't need a 20-foot sign to point away I doubt very much that many people are gonna drive more than a five miles radius to get their pizza. There are an awful lot of places you get pizza and Domino's one of them and they're good you know they make your money on the delivery. There's really no need for 20-foot sign to say this is a Domino's. They're gonna know exactly how to navigate Wilson Square because if you live anywhere near Wilson square you learned very quickly how to navigate through Wilson Square.

Anne Manning Martin: My name is Ann Manning Martin and I'm a property owner down in that area and I also grew up in that area right at Wilson square so I know it very well and you've already touched upon some of the concerns you and Councilor Osbourne so I may reiterate them and I may add other concerns. The electrical box on the corner of Pulaski and over where the sign is going is it's really tall I think in the plan that was presented they say it's about five and a half feet high and it's pretty wide so that in and of itself is always a safety concern. It's been there for a long time but it's unusually large and in a very bad location so to add to it with a 20-foot sign would raise major safety concerns at that intersection where the petitioner has already admitted that it's a very dangerous and busy intersection. It absolutely is and if you can see from the picture that was presented is also you've mentioned the yellow what are these those balus the 3 foot what it was called anyway the to protect the sign those yellow for the 3 feet high so that adds more a line of sight blockage right next to the electrical box and if you look right over to the right of the electrical box there's a monopole that is probably 2 feet wide so as a whole bunch of busyness going on at a very dangerous intersection and the height of this sign as proposed I believe is even higher than the reference Chevron or it used to be Chevron I guess at Citgo. I believe it's a lot higher than that and to also stress on the safety concerns of that area at a recent City Council meeting as recently as a last meeting the issue of pedestrian safety came up at that very intersection where this sign is proposed to go... that we made a motion to have Traffic Division take a look at the timing on the pedestrian light because folks were running across and taking their lives in their hands as they indicated just across that Street...perhaps to get to Domino's So, hopefully we'll fix that. So, they can get over to Domino's. So, those are some concerns and I wanted to point out this may be a BN zone but that BN zone where Domino's is is surrounded by R1 and R1A... it's all surrounded by residential. I can only imagine adding more chaos down to that corner is going to make it more difficult for those residents to get in and out of their driveways and into their homes. It may be helpful for the petitioner to say that it's helpful for Domino's for people to get in and out but I don't think this sign is going to be helpful to the residents of that area to get in and out of their driveway I believe and lastly the we really want to be dropping signs that light up in a residential area again those houses that I just mentioned how bright is this sign going to be is it going to be

lighting up their living rooms in their bedrooms when there was no sign at all before. I certainly wouldn't want that next to my house.

Brandon Courier: I do understand that you guys are saying that this is obviously we agree that this is a very, very dangerous intersection and you guys are from the area so you do experience this every day. Me as someone from outside of the area coming in it is extremely tough to navigate and I know that the case was made by Mr. Osborne about people that are ordering from Domino's could potentially just be from that area but there also is people driving from outside of town. I mean it's a very closed snip to the highway people could just be getting off the highway in that sense I'm sorry... to who just spoke, on the phone I believe she mentioned about the visual representation of the height of the sign about 12 feet of clearance underneath for a tractor-trailer I do understand that that may be an issue but most truck trailers are the top of the box trucks aren't even past that but I do understand that it is a tight parking lot and I think that I think that people driving down driving down from further distance are going to benefit from this from seeing the sign more than just like the individuals who partake and every day in this area and intersection.

Fran Gallugi: Any other comments? Hearing none the matter is before the Board.

Julie Picardi: Motion to close the public hearing.

Barry Osborne: Second

Julie Picardi: Motion to approve

Barry Osborne: Second

Fran Gallugi: Roll call vote.

(0-5) Motion not approved. Variance is denied

7. Application of **Daniel Dellheim**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **9 Intervale Ave., Peabody, MA, Map 001, Lot 048**. Petitioner seeks a variance for Rear Setback. The property is in an **R1 Zoning District**.
Rear yard 35' required 24.6' proposed addition (FALA)
(Secretary read Legal Notice)

Mark Bergeron: Mark Bergeron 120R Marvel Ave Woburn, MA. I am the contractor for the Delheims. They would like to add a addition on the back of their property basically like an in-law apartment. I believe you call it a FALA and we are seeking a really odd setback variance the required is 35 feet and we're proposing 24.6 feet.

Ms. Gallugi: Any questions by the Board?

Barry Osborne: Through the Chair. I you know I'm glad you told us that the FALA was gonna be approved and that it's been submitted to the building inspector for approval. I'd hate to approve this and then find out that it was gonna be something and so if that's the case and the FALA application is in, I don't really see a problem with this. Sort of makes sense to me. I don't think it's going to be egregious to anybody. I don't see any correspondence from any others that it's going to be a problem so again as long as they go through, follow the process, I have no problem.

Fran Gallugi: ...and I don't believe there's anybody in the at the at home audience... I don't see anybody.

Dan Sencabaugh: Through the Chair. I suppose once we do close the public hearing, we moved forward we probably want to make a motion to approve with the condition that the FALA procedure is complied with.

Fran Gallugi: Hearing no other concerns the matter is before the Board

Stephen Zolotas: Motion to close the public hearing.

Julie Picardi: Second

Stephen Zolotas: Motion to approve with the condition that all FALA guidelines are followed.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted with condition.

8. Application of Michael and Theresa Berardino, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2, as it applies to the premise known as 43 King Street, Peabody, MA, Map 084, Lot 017. Petitioner seeks a variance for an addition and requires relief to Side Yard Setback. The property is located in an R1A Zoning District. Side yard 15' required 5' proposed addition and deck (Secretary read Legal Notice)

Theresa Berardino: Theresa Berardino, 43 King St. I am the homeowner. I'm here with my husband Michael and we are proposing to change an existing front porch structure just bringing it out 10 feet long. The only issue we have is with the side yard setback when we need 15 feet and there's five feet between our property and the fence of our neighbors.

Fran Gallugi: Any comments or concerns from the Board?

Stephen Zolotas: Through the Chair. It looks from the plan as those will stay directly in line with the rest of the house?

Theresa Berardino: Yes. Correct.

Fran Gallugi: Anyone else? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Stephen Zolotas: Second

Barry Osborne: Motion to approve.

Stephen Zolotas: Second

Fran Gallugi: Roll call vote.

Meeting minutes were approved.

Next regular meeting was scheduled for July 27, 2020

Meeting adjourned.



City of Peabody Zoning Board of Appeals

• 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5792

MEMORANDUM

TO: Mr. Albert Talarico, Building Commissioner

FROM: Carla D. McGrath, Clerk Zoning Board of Appeals

SUBJECT: Application of Robert Clark and Linghua Zhang, 17 Loris Rd.

DATE: July 8, 2020

On Monday, July 6, 2020 there was a virtual participation meeting of the Zoning Board of Appeals regarding **17 Loris Road**. The Board decided, in a vote of 0-5, to **deny** the variance requested by the applicant, citing the applicant did not meet the hardship requirement, the container was too large and had the applicant applied for a building permit before erecting the storage container, Section 7.1.5 of the Peabody Ordinance requirements would have been disclosed. The applicants and their representative were mailed a decision letter. The decision letter was date stamped and filed with the City Clerk on July 8, 2020. In accordance with Chapter 40A, Section 17, an appeal of this decision must be filed with appropriate court within twenty days of the decision letter. Should an appeal not be sought, the applicant must comply with The City of Peabody Dimensional Controls Ordinance Section 7.2. The Building Department will send correspondence to Robert Clark and Linghua Zhang requiring them to comply.

Carla D. McGrath
Clerk, ZBA



PATRICIA AND LARRY GRIFFIN

15 Loris Road |978-807-8852| LGriffin68@comcast.ne/29/2019

City of Peabody Zoning Board of Appeals

24 Lowell Street

Peabody, Mass. 01960

Subject 17 Loris Road Structure (Pictures were sent to Carla McGrath.)

Dear Zoning Board of Appeals Members:

We have done our best to state below the following details regarding the storage building that was delivered to 17 Loris Road's back yard which runs parallel to our fence at 15 Loris Road. I believe it is important to lay out the details.


1. This past spring our neighbor at 17 Loris started parking his vehicles on a strip of grass parallel to our driveway and referred to this land as his "second" driveway. He claimed he was given approval by the building inspector.
2. He then removed the curbing on the sidewalk in front of this "second" driveway for easy access. Again, he claimed that the city (DPW) approved the removal of the curb.
3. He later delivered a very large storage building in his back yard. The building has windows that can look out over my fence (6') and into my yard which leaves me no privacy.
4. The "second" driveway allowed him to back up directly into the new storage unit

I reached out to my Councilor at Large Tom Gould and advised him what was happening and could ask the city to intervene. He asked the building department to visit the site. The building inspector did arrive at my home and he advised me that it appears that the building was too big for the lot. He asked us to be patient as the virus had closed the City Hall offices and everything was going to take longer than normal.

Over the last few weeks tensions have escalated between myself and the other neighbors surrounding 17 Loris Road. The gentlemen forbid anyone from parking on the street in front of his home where the curbing had been removed. He would yell at the neighbors and their visitors claiming this was his driveway, and their parking there prevented him from accessing his storage unit with his vehicle.

A little over 2 weeks ago tensions skyrocketed where the neighbor was yelling at my wife to the point where the surrounding neighbors were concerned and the police were called. It was at this time we learned that the gentlemen doing all these projects was not the property owner and had never received written approval or a permit for any of the above listed projects.

Since the incident above the gentlemen replaced the curbing with asphalt, (not completed) and has stopped using the small piece of land as his "second" driveway. However the storage unit is still in place, and hinders upon our privacy in our back yard.



We ask the Zoning Board members for your consideration to help remedy this situation by having this structure removed.

Sincerely

Patricia and Larry Griffin

15 Loris Road, Peabody, Mass. 978-807-8852