



SEPTEMBER 16, 2019 ZBA MEETING MINUTES

A regular meeting of the Peabody Zoning Board of Appeals was held on Monday, September 16, 2019 at 7:00 p.m. in the Wiggin Auditorium, City Hall, 24 Lowell Street, Peabody, MA.

MEMBERS PRESENT	MEMBERS ABSENT
Frances Bisazza-Gallugi, Chairperson	Mike Garabedian (A)
Stephen Zolotas, Vice-Chairperson	Barry Osborne
Daniel Sencabaugh, Secretary	
Julie Picardi	
Ed Colbert (A)	

NEXT MEETING, MONDAY, OCTOBER 21, 2019.

REGULAR MEETING

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

Ms. Gallugi addressed the attorneys, applicants and audience in regard to the following...

- Cell phone videotaping is **NOT permitted** without first notifying the Commissioner of ZBA Board. The Commissioner must then announce videotaping is occurring. It may in no way be disruptive.
- Meetings are broadcast on channel 9 (PATV) and live on Facebook
- Meeting minutes are made public
- New applications, information, plot plans, renderings, etc., should be passed into the ZBA Clerk **BEFORE the deadline NOT the day of the meeting**
- The above-mentioned material **can NOT** be accepted the night of the meeting because all information pertaining to a variance application must be filed in the City Clerk's office and be made available to the public before the scheduled meeting.

REGULAR MEETING

1. Application of Ryan Sundquist, for a Variance from the Provision of the Zoning Ordinance 2018, as amended, Sections 7.2 as it applies to the premise known as **5 Dartmouth St., Peabody, MA, Map 049, Lot 059**. Petitioner seeks a variance to allow for a deck to attach to pool and requires relief to **Rear Yard** Setback where 35 feet are required, and 11.3+/- feet are proposed; **Right Side Yard** where 20 feet are required, and 13.1 feet is proposed. The property is in a **RB1 Zoning District**.

Mr. Sundquist: I'm Ryan Sundquist from 5 Dartmouth Street, Peabody. I am looking for a Variance, for an addition to a deck from a current deck, that will have a step down to attach to my pool. I'm looking for it because uh for outdoor entertainment space.

Ms. Gallugi: Let me see if I can make this a little easier for you. So, you have the house and you have the above-ground pool and you have a deck already and you just want to attach it to the pool?

Mr. Sundquist: Yes.

(Discussion ensued)

Mr. Zolotas: So, they'll be direct access from that deck to the pool correct? Okay well you plan to have that I assume, fenced in with the locking gate and all that stuff?

Mr. Sundquist: Yes.

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: Roll call vote.

(5-0 variance granted)

2. Application of Conway Cahill Brodeur Funeral Home LLC, c/o Attorney David Ankeles, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Sections 7.1.5 as it applies to the premise known as **82 Lynn St., Peabody, MA, Map 109, Lot 239**. Petitioner seeks a variance to allow for an accessory structure, (detached garage) and

requires relief to **Accessory Structure Allowable Square Footage** where 500 square feet are allowed, and 1872 square feet are proposed. The property is in a **BN Zoning District**.

Attorney Ankeles: Thank you. My name is David Ankeles. I practice law at 246 Andover Street, Unit 101. I represent the applicant in this matter. As you can tell from the application the petitioner obtained a Special Permit on December 14, 2000, to create a funeral establishment at 82 Lynn Street. At that time the petitioner was unable to construct a proposed garage due to economic and time constraints. The proposed garage is intended to house the vehicles used in connection with the operation of the funeral home. It will house a hearse, a flower car and limousines normally used and owned by the petitioner. They are essential to the operation of the funeral home and have always been an integral part of a funeral establishment. It will make the vehicles available in adverse weather conditions and provide protection from the elements in winter, to have the vehicles readily available. (inaudible)... has created a hardship and inconvenience for the operation of the funeral home. At times, an inconvenience for the families that have been customers and their and others associated with the family. I don't believe that the situation was anticipated when the original special permit was granted. The garage itself will be built to match the style and the appearance of the existing home. It will also be in harmony with the existing homes architecture and will still leave well over 90 parking spaces. It will meet all side, front and rear yard setback requirements. It will not exceed the height requirement. It will allow for police and fire access and we've checked with the fire department regarding turning radiuses access and egress. As an accessory building in a neighborhood business zone it is limited to five hundred square feet and the garage is 1872 s.f., resulting in this request. I have attached to our application an architect's plan drawings; elevations and I think you'll see that the style and proposed construction again in well tasteful and are in harmony with the existing structure. I think if you take a look the plan shows you how the six vehicles lay out in the garage.

(discussion ensued)

Mr. Zolotas: This is a very nice plan. Through the Chair. I don't have any questions I just think because we've had some very large accessory structures come before us in the last few months I just think it's worth noting for the record that since this is a Business District and since this was a Special Permit that came through years ago, that I don't see any problem with the size of it given the nature of as opposed to a normal residential garage.

Mr. Colbert: I was actually there today, and I unfortunately know the property very well and I can understand why you would need garages. I don't see where it's going in that far corner with a parking lot where it's going to be a problem to any neighbors.

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: All in favor? Any opposed?

(5-0 variance granted)

3. Application of Danielle Vautour for a Variance from the Provision of the Zoning Ordinance 2018, as amended, Section 7.2 as it applies to the premise known as **35 Trask Rd., Peabody, MA, Map 060, Lot 085.** Petitioner seeks a variance to allow for an 8' x 12' addition to store the oil tank and needs relief to **Right Side Yard** where 8'+/- is proposed and 20' are required. The property is in a **R1B Zoning District.**

Ms. Vautour: Hi there my name is Danielle Vautour, formerly Danielle Duquette of 35 Trask Road. My husband Dennis and I are here today to request a variance approval for our Campanelli ranch to add a mechanical room to the side of our house. The current edge of our house is 20 feet from the side yard and any changes would need a variance of approval. We're looking to build the room eight feet off the house to ensure proper distance is provided between the proposed furnace and oil tank. In May we came home to find our furnace producing soot. Our furnace is located in our kitchen causing us concern with the smell of oil, soot generation and potential release of carbon monoxide on the same level we live in every day. Additionally, with the oil tank being outside our house, there's always concern of oil freezing in the winter. The current furnace location is not safe, and we wish to build the mechanical room on the side of our house for the furnace oil tank and hot-water heater. We have spoken to a few of our neighbors and they've discussed how this setup works well for.

(Discussion ensued)

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: All in favor? Any opposed?

(5-0 variance granted)

4. Application of **Robert Dunn**, 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 Roycroft Rd., Peabody, MA, Map 065, Lots 278**. Petitioner seeks a variance to allow for an 8' x 10' addition and requires relief from **Rear Yard Setback** where 35' are required and 33' are proposed. The property is in a **R1A Zoning District**.

Mr. Dunn: I'm Robert Dunn from for Roycroft Road and I'm seeking to have an addition of 10 feet wide by 8 feet deep put on the back of my property and the required clearance is 35 feet from the boundary and I only have 33 feet and that's the reason we're here tonight.

Mr. Zolotas: Through the chair. I assumed the reason why... there is a rock wall for the driveway there's an elevation change I assume.

Mr. Dunn: Very steep.

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: All in favor? Any opposed?

(5-0 variance granted)

5. Application of **Craig and Rachel Childress**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Sections 7.2** as it applies to the premise known as **7 Longwood Ave., Peabody, MA, Map 124, Lot 168**. Petitioner seeks a variance to allow for a 32' x 16' addition and requires relief to **Side-Yard** where 15 feet are required, and 3+/- feet are proposed; **Rear-Yard** where 35 feet are required, and 18 feet are proposed. The property is in a **R1A Zoning District**.

Ms. Childress: I am Rachel Childress, and this is my husband Craig of 7 Longwood Ave and we are here requesting a variance from the rear and the side in order to build an addition to accommodate our growing family. We just had a baby in January and are anticipating my mother-in-law also needing a bedroom in the near future. We chose the location in our yard because it made the most sense practically as far as the house setup would go and really anywhere else that we would build would require a variance.

Mr. Sencabaugh: Through the Chair. You mentioned anticipating your mother-in-law to have a bedroom. Would that be to temporarily sleep over or were you looking for to move in at some point?

Ms. Childress: She would be moving in. Craig's dad is quite ill. So, she would wind up moving in with us permanently.

Mr. Sencabaugh: Okay have you applied for what we call a FALA?

Ms. Childress: No. It wouldn't be like an in-law apartment. It would just be her living with us.

(Discussion ensued)

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: Roll Call vote

(5-0 variance granted)

6. Application of David Richard, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Sections 7.2 as it applies to the premise known as 29 County St., Peabody, MA, Map 109, Lot 103. Petitioner seeks a variance to allow for a 19' x 12' open deck and requires relief to **Left Side-Yard** where 10 feet are required, and 5+/- feet are proposed. The property is in a **R2 Zoning District**.

Mr. Richard: My name is David Richard and my wife Amy, 29 County Street. We're looking for relief from my neighbor's property to build a deck for our backyard.

Ms. Gallugi: Relief from your neighbor's property?

Mr. Richard: Relief or whatever it is yeah, and you know I'm too close, I guess.

Ms. Gallugi: Relief on your property.

Mr. Richard: Yeah, I'm sorry.

(Discussion ensued)

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: All in favor? Any opposed?

(5-0 variance granted)

7. Application of **Austin Keough**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Sections 7.2** as it applies to the premise known as **11 Elaine Ave., Peabody, MA, Map 124, Lot 147**. Petitioner seeks a variance to allow for a patio and requires relief to **Left Side-Yard** where 15 feet are required, and 4+/- feet are proposed. The property is in a **R1A Zoning District**.

Mr. Keough: Hello my name is Austin Keogh from 11 Elaine Avenue. I'm seeking a variance on a deck that is 15 feet required and I'm proposing hardship on around my property where there's nowhere that I don't have 15 feet. Just from the house to the end of the property so I was hoping to be able to have the deck on that side to be able to give some outdoor space to my family and my elderly mother. I guess there's there was some discrepancy about it being a patio versus the deck the way it was built it's I didn't have them attach it to the to the ground or to the building as well so that's.... but it still was considered a deck by the by the town.

Ms. Gallugi: I guess this was already built

Mr. Keough: Yes. So, I applied for a permit to build the deck. It was denied. I was in given some advice that I would be able to build as a patio if it was under 2 feet in height and it was not attached to the building and not attached to the ground. So, I had it built however the Town of Peabody said that that doesn't exist. There's no such definition for a patio. You built a deck therefore you have to apply for a variance. I said okay I'll do that

Ms. Gallugi: It was just an honest mistake. Anyone in the audience to speak in favor? In opposition? Hearing none the motion is before the Board.

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: Roll call vote.

(5-0 variance granted)

8. Application of Bruce and Noreen Garland c/o Attorney Arvanites for a Variance from the Provision of the Zoning Ordinance 2018, as amended, Section 7.2 as it applies to the premise known as **41 Beacon Boulevard, Peabody, MA, Map 108, Lot 192X**. Petitioner is proposing the subdivision of their lot and requires relief to proposed Lot A **Lot Area** where 15,000 square feet are required and 7,560+/- square feet is proposed; **Lot Frontage** where 125 feet are required and 85+/- feet is proposed; **Lot Width** where 93.75 feet are required and 85+/- feet is proposed; **Minimum Buildable Lot Width** where 60 feet are required and 55+/- feet is proposed; **Minimum Buildable Lot Depth** where 40 feet are required and 34+/- feet is proposed. The property is in a **R1A Zoning District**.

Attorney Arvanides: My name is Peter Arvanites. I'm a practicing attorney here in Peabody with an office at 7 Essex Green Drive. I'm representing tonight, Bruce and Noreen Garland, the petitioners who owns property at 41 Beacon Boulevard in Peabody and they are seeking to subdivide a lot which they own which consists of about 26800 square feet and is a conglomeration of seven lots from a and I think I included a copy of that plan with the application and also included a copy of a portion of the assessor's map titled Beacon Boulevard. a neighborhood which depicts a number of other lots in the area, many of which were developed with single-family homes. Currently the reason the Garlands are seeking the variance is to enable them to create a separate lot of 7560 square feet and ultimately convey that to a child of theirs for hopefully building a home on it to be near them and when they get older and have grandchildren with them and it's one of do the things that parents and grandparents want to do together with their family members. The variance is requested, are as the petition states, for area frontage and I will say that in terms of the setbacks the lots ought to be created, meets all of the setbacks and at least from the standpoint of maintaining the distance from the neighboring properties it accomplishes that. The other variance has requested our minimum buildable lot with minimal available a lot depth and a lot width. Generally, the vast majority of the other lots in this neighborhood situated and undeveloped lots are situated on lots of approximately four to five thousand square feet. One of the purposes stated in the zoning dialogue for variance is to provide for single-family residential development in this district while respecting the existing character of the neighborhood. This proposal does that. They own several other parcels and the neighborhood all of them substandard in size. None of them have frontage on any public way and they all involve wetland. There is some wetland in this area, but it does not affect the particular parcel that we are dealing with here tonight. As I stated earlier, they've got almost a twenty-four thousand square foot lot of which dwarfs any of the other lots anywhere near this property and they seek to create this two separate lots. The remaining lot, I should mention meets the zoning ordinance in all respect. So, in order to maintain that compliance with zoning we needed the variances for the other aspects the lot area and primarily a lot area and lot frontage. I have the petitioners with me tonight if the Board seeks to ask any questions of them and I also have Chris Mello our engineer who prepared the plan. He's available to answer any questions that might come up tonight in his area of expertise.

Ms. Gallugi: Okay. I have some concerns. First of all, we have a notice from Lucia Del Negro the Conservation Commissioner, and she says that your dwelling appears to be in a buffer zone. The wetlands are located off-site. At a minimum she would like you to file a request for determination of applicability with the Conservation Commission before any construction can

Commence. That's **number one**. So, you do have something that you may have to deal with, with the Conservation Commission. **Number two**... question number 16 on your application... **what you described as a hardship, isn't a hardship. It's just facts. So, everything that you wrote here we can see for ourselves. It's really not a hardship. Number three... on your plot plan, I don't see any driveway delineated at all. I see that where a driveway could be. You have two trees. I don't know what kind of trees that just that it's proposed trees. You then have these little style markers which I don't know what those are, and you made reference to the other lots in that neighborhood that are a little smaller and that may be true. It is true. This is new construction and new construction has to abide by the zoning laws which require a fifteen thousand square feet lot. You are asking for seventy-five sixty which is the sun the moon and the stars. So, with that being said I don't know if anybody else has any questions but those are a few things that screamed out at me immediately.**

Attorney Avandies: address at least a couple of those.... If there is wetland in the area, we don't believe there is, I was about to say that we will be certainly happy to file a request for determination of applicability before any building is done. With respect to a driveway I know it's not shown on the plan but whatever the board would like to see with respect to a driveway could be made a condition of any variance which is granted and would be fine with that. As far as the hardship is concerned I can't disagree with the chairperson as to what she considers to be a hardship or not a hardship, but this is not unlike many other requests that come before the Board and what I think what well then what we end up with here is something that is twice the size of almost all the other in the neighborhood and I just wanna you know, reiterate and emphasize that point and again Mr. Mello is here. He can address any questions with respect to the plan itself if you consider there any deficiencies or any other issues that are within an area of expertise.

Ms. Gallugi: Anyone in the audience to speak in favor? In opposition? Please line up and state your name and address for the record.

Danielle and Chris Johansen: 36 Beacon Blvd.

Candace Ayers and Annette Wright: 37 Beacon Blvd.

Richard and Maria Dawicki (Comeau): 35 Beacon Blvd.

Joan Baldassari: 34 Bay State Blvd.

(All spoke in opposition citing issues with flooding and the water table in the area and concern with the disregard of the ordinance requiring 15,000 s.f. to build a home within the R1A Zoning District when they are proposing 7,000 s.f. Also stated, the area being over crowded, flooding, stream location in close proximity, homes built without basements because of flooding, those with basements have sump pumps constantly running, construction having a negative impact on the wildlife in the area, cost of flood insurance,

Attorney Avanites: I'm an attorney for the petitioners. What I've heard here from the neighbors to the extent that I get here, everything really focuses on water and water problems. We've considered that aspect of this proposal and Mr. Mello can address the various solutions that might be necessary. First off, we would say that this isn't going to exacerbate the existing situation as bad as it is now. There are ways that can be dealt with, and if it please the Board I would like to have Mr. Mello have a few things to say about that.

Mr. Mello: Good evening. For the record I'm Chris Mello from Easton Land Survey at 104 Lowell Street and I've been working on and off on this neighborhood and property for 40 years and everything that the neighbors say is it's true and I can't help them with their problems by building or not building on this house. They have issues with cellars drainage different types of cellers and the area itself its flow it pitches from Lynnfield Street everything comes to the back. The drainage is essentially a large pipe that runs down Bay State Road and has a ditch that tries to drain all the vacant land in the streets. So that being said the proposal to build a single-family house on this lot we've looked at it and there are three things that I can tell you what we have proposed you know ourselves, with the drainage, one is that the house would not have a cellar therefore it would not take out the earth, displace that area and take area that currently absorbs water and allows it to flow through. So, no cellar slab on grade footing we have a proposed house it's about 1600 square feet and we would have a proposed driveway on the easterly, I'm sorry the westerly side, closest to the Garland's house of about 400 square feet. What we proposed to do with the driveway it is on a parallel line to it further towards the Garland's house. We would build an infiltration trench and pitch that driveway towards it. That trench would be essentially two foot by two-foot square broken stone with a perforated pipe in it to take the increase in water from the driveway. The roof itself being about 1,600 square feet we would take that through a downspout gutter and pipe system to the....and build series of infiltration chambers which you've probably seen on jobs. The common term is "cultech." They're half round. They're usually yellow. They're set on a bed of stone. They have a percolation factor that allows the water to dissipate and they also have a storage factor in the half domes so we feel that we can alleviate our increase in storm water and not cause any additional runoff in the neighborhood. The neighborhood will still do what it does, and I can't say anything about that except it does happen. I don't disagree with any of the people that spoke. I'm happy to answer any questions about how that system might work or anything else that you might have in the area.

Ms. Ayers: Candace Ayers, 37 Beacon Boulevard. There was no house on that lot. Today the problem is groundwater. It's not just run off. The water table is so high there that it doesn't take anything to make it rise up and there are Springs all along Beacon Boulevard and no doubt Bay State. Also, there is no house there today. My sump pump is running it was running when I left to come here so they can French drain it and Swale it and bring it to the culvert all they want but it's going to destroy my property and that's a fact and I truly believe it thank you.

(Discussion ensued)

Mr. Sencabaugh: Motion to close Public Hearing

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to approve

Mr. Zolotas: Second

Ms. Gallugi: Roll call vote

(0-5 variance denied)

Mr. Sencabaugh: Motion to accept meeting minutes.

Mr. Zolotas: Second

Mr. Sencabaugh: Motion to adjourn.

Mr. Zolotas: Second

BUSINESS MEETING

REPORTS

Carla D. McGrath, Clerk