

TOWN OF LEICESTER

ZONING BOARD of APPEALS
3 Washburn Square
Leicester, Ma. 01524
(508) 892-7007
www.leicesterma.org



ZBA Commissioners

Jim Buckley, Chair
James Reinke, Vice-Chair
Kurt Parliment, Clerk
Vaughn Hathaway, Member
Richard Johnston, Alternate

Meeting Minutes

Date: November 16, 2022

Time: 6:00 PM

Location: Select Board Meeting Room, Town Hall

Commissioners Present: Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, Richard Johnson

Other Staff Present: Alaa Abusalah, Town Planner

Order of Business

1. Public Hearing, Variance

11 Glenn Ellen Lane (ZBA 22-14) variance to construct a garage, Matthew, and Erin Waterman.

2. Public Hearing, Variance

981 Main Street (ZBA 22-11) variance for insufficient lot area front and rear setback, Town of Leicester

3. Public Hearing, Variance

2 Flint Way (ZBA 22-15) variance for insufficient lot area front and rear setback, Town of Leicester

4. Public Hearing, Variance

55 Burncoat Street (ZBA 22-12) variance to construct a single-family dwelling on a lot with insufficient frontage and area, Margaret R. Rondeau

5. Public Hearing, Variance

29 Parker Street (ZBA 22-13) variance to construct a garage, Lawrence McCullough

1. Public Hearing, Variance-(ZBA 22-14) 11 Glenn Ellen Lane

variance to construct a garage.

Mr. Parliment reads the public hearing notice. Voting members are Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, and Richard Johnston.

The applicants are not present and request a continuance.

Motion: J. Reinke makes a motion to continue the public hearing for variance (ZBA22-14) 11 Glenn Ellen Lane to December 28, 2022, at 6PM

Second: K. Parliment

Discussion: None

Roll Call Vote: (5-0-0)

2. Variance- 981 Main Street (ZBA 22-11) variance for insufficient lot area front and rear setback.

Mr. Parliment reads the public hearing notice. Voting members are Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, and Richard Johnston.

A. Abusalah explains that this property was part of the Becker University acquisition, this particular property has two structures, the 1812 House and Barrett Hall. The intention is to split the property into two separate properties for ease of sale however, this causes nonconformities in zoning.

R. Johnston asks if Flint Way is a paved street. **A. Abusalah** comments that it is not a public way, the town does maintain it and has historically, it does provide access to the gym and dog park.

V. Hathaway asked if the Planning Board already signed off of the change of the lot lines? To which **A. Abusalah** replied yes.

V. Hathaway- So the change of the lot lines is not dependent on us. I have been on the board, as have others, for many years and have never seen a case where lot lines were changed and then the ZBA was asked after for a zoning variance. This process seems backwards.

A. Abusalah replies that she believes this is part of 1812

V. Hathaway-The guidelines that the ZBA follows are 40A in MA. Law which is divided into several sections.

A. Abusalah- The property is owned by the town so they can change and move the lot lines any way they want, the issue this is triggering is if they sell the properties separately. When someone buys the individual properties, it could cause zoning issues for the new owners. We know we created nonconformities, but for several reasons.

1. There are two structures on one lot
2. The town wants to preserve the historic nature of the building and the neighborhood.

V. Hathaway-States that an ANR is when approval is not required. He tried looking through MA law to see where you can create a nonconformity then say, "let's fix it"

A. Abusalah states that the Planning Board decision does say that this change does not consider any zoning violations that may come of it but, if the town decided to keep the property it is Common Ownership so there will not be any zoning issues. The goal of this is for the ease of potential buyers.

J. Reinke-The thought behind this it to try to get the lot lines where they were originally to market the property for sale. This is a unique situation, no one expected to build the way they did and then not be around anymore.

V.Hathaway- What would be the action if we said no?

M.Rondeau -Resident Makes the point that no one person would be able to purchase the property as a whole, no one could afford that. This change would make the property sellable, and the town could then begin to collect taxes on the land to try to relieve some of the hardship this has cause the town.

K. Parliment- Doesn't think that the board needs to get into the details too much, but something needs to be accomplished so these properties can be sold soon or there will be some angry people.

A. Abusalah- Town Council was approached before the Planning Board approved anything but this is something that the Planning Board, Town Administrators Office and the selectboard would like to see and if this does not get approved the only option, they have is to try to sell it as is, as one property. This is a difficult situation, and they feel that this is the best solution not only for ease of sale but to protect the was the best solution we have to protect the character of the neighborhood and to work with what we now have in front of us.

J. Reinke- By creating this variance, to make it more marketable will help and potential buyers in the future and save them some trouble and increase the value. If we create an ANR and sell it as one it could decrease the value because that will cause a lot of issues, that we are trying to solve here in advance, for any potential buyers and it would be a lot of process that they may not be able to get approved in the future. It may not be a viable project for someone to endeavor.

V. Hathaway- (inaudible) has concerns that if we “look the other way” on this are people going to expect that we will look the other way on other things.

A. Abusalah- This is already a nonconforming property as far a frontage etc. so we would have to do a change of use anyway, since these were used a dorms and they most likely wouldn't be used as dorms in the future.

J. Buckley- We have to look at this as we would any other petition, not look at it differently because it is for the Town.

A. Abusalah- The town has no other use for these buildings, some of the other buildings will be used for The school department and other things but there is no use to the Town with these buildings. They wanted sell them by December but we are already behind schedule on that, but this will help with the sales.

J. Reinke- Asks if it would be a good idea to have Town Council come and answer some of the questions that have been brought up.

V. Hathaway- questions if the ZBA should be involved at this point.

M. Rondeau- Reiterates her statements from earlier.

More of the same discussion back and forth about the ease of sale for the town and wheather or not Town Council should be present to answer questions that the board has.

Motion: K. Parliment- makes a motion to approve the variance for 981 Main Street (ZBA 22-11)

Second: Richard Johnston

Discussion: V. Hathaway, if we vote on this now, we cannot consider this anymore. A. Abusalah states This could come back we are just kind of pushing this away to the next person it could come back because the homes are so large, they would most likely be multifamily use. R. Johnston asks if there is a time limit on when people can come back and repetition. Discussion goes back and forth about having Town Council, the Town Engineer and/or the Town Administrators present to answer questions.

Motion Withdrawn: K. Parliment.

Motion: J. Reinke makes a motion to continue the hearing to December 28, 2022, at 7:30PM

Second: K. Parliment

Discussion: None

Roll Call Vote: (5-0-0)

3. Variance- 2 Flint Way (ZBA 22-15) variance for insufficient lot area front and rear setback.

A. Abusalah- Requests continuance

Mr. Parliment reads the public hearing notice. Voting members are Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, and Richard Johnston.

Ms. Abusalah suggests continuance so that more information can be collected.

Motion: J. Reinke makes a motion to continue the hearing to December 28, 2022, at 7:45PM

Second: K. Parliment

Discussion: None

Roll Call Vote: (5-0-0)

4. Variance-55 Burncoat Street (ZBA 22-12) variance to construct a single-family dwelling on a lot with insufficient frontage and area, Margaret R. Rondeau

Mr. Parliment reads the public hearing notice. Voting members are Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, and Richard Johnston. Proof of mailing and advertising presented by M. Rondeau

M. Rondeau- Sold other home to downsize and would like to construct a small, single-family home, on the property at 55 Burncoat, which is a property that she owns next to her daughter's home. M. Rondeau provides plans and renditions of the intended home. She states that the other homes on the street have the same frontage that she is requesting, and this is a pre-existing lot.

V. Hathaway- inaudible

M. Rondeau- explains that she thought this should have been grandfathered in but was told that she had to have a denied building permit and that she would have to apply for a variance.

The board asked if she had done any title research and M. Rondeau explains that she bought the property from the town.

Motion: J. Reinke motion to approve (ZBA 22-12) variance to construct a single-family dwelling on a lot with insufficient frontage and area as presented.

Second: V. Hathaway

Discussion: None

Roll Call Vote: all-in favor (5-0-0)

5. Variance- 29 Parker Street (ZBA 22-13) variance to construct a garage

Mr. Parliment reads the public hearing notice. Voting members are Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, and Richard Johnston.

Proof of mailing and advertising presented by L. McCullough.

L. McCullough: requesting to build a 16x24 garage to store a snowmobile. His drive is very steep, and he would like to build the garage so that it is easier for his access and storage of the machine due to the topography of his land.

R. Johnston: Asks about alternate locations on the property for placement of the garage.

L. McCullough: States the chosen location is his best option over the suggested alternate spot because of access from the drive.

J. Reinke: Asks where on Parker Street the property is located

L. McCullough: explains location.

V. Hathaway: asks for explanation of hardship.

L. McCullough: explains that he cannot access the garage with the trailer that he owns, and he can not leave the machine outdoors due to sap from the trees and concern of rodents damaging the machine.

V. Hathaway: asks if there had been any consideration of making alterations to the existing garage to make it easier for storage.

L. McCullough: States that he has but, there would still be issues with the angle of the driveway he would probably end up jack-knifing his trailer if he used the other garage.

Motion: J. Reinke makes a motion to approve (ZBA 22-13) variance to construct a garage.

Second: R. Johnston

Discussion:

Roll Call Vote: all in favor (5-0-0)

Motion: J. Reinke motion to close the Public Hearing

Second: V. Hathaway

Discussion: None

Roll Call Vote: all in favor (5-0-0)

651 Main Street Special Permit (22-07)

A. Abusalah suggests continuance until December 28, 2022.

Motion: J. Reinke motion to continue to December 28 at 6:15

Second: R. Johnston.

Discussion:

Roll Call Vote: All in favor (5-0-0)

Motion: J. Reinke motion to adjourn

Second: V Hathaway

Discussion: None

Roll Call Vote: All in favor (5-0-0)

Meeting Minutes Respectfully Submitted by:

Donna K. Main, DIS Assistant

Date Approved: April 26, 2023