

**MELROSE BOARD OF APPEALS
MEETING MINUTES
Public Hearing
Wednesday, February 12, 2020
7:45 p.m.
City Council Chamber, Melrose City Hall, 562 Main Street**

Present:

Curtis Dooling, II
Julianna Hanlon, *Associate*
Rita Mercado, *Chair*
David Roache
Bryan Thorp

Absent:

None

Staff Present: Lori Massa

The meeting was called to order at 7:50 pm.

CASES BEFORE THE BOARD

**CASE 19 033: The appeal of Emily Alonzo
1 Sewall Street**

As advertised, case 19-033, was for Variances from Sections 235-5, -18, -19, & -44.D of the Zoning Ordinance from the definition of a half story and to alter the structure in the nonconforming rear yard on a corner lot by constructing a 19' dormer on the single-family house at 1 Sewall St, Melrose, MA, on a lot of land containing 3,600 sf and shown on Assessor's Map E8 0 93.

The Board of Appeals opened the case on December 11, 2019 and after discussion continued the case to this hearing. Emily Alonzo, Owner and Applicant, appeared to present the revised plan.

No one appeared to speak in support of or in opposition to the application.

Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

The Board voted, 4-0, to approve the requested Variances.

Documents: ZBA Application 19-033
Plot Plan dated February 4, 2020
Architectural plans dated January 25, 2020

CASE 19 043: The appeal of Matthew Roman 360 Main Street

As advertised, case 19-043, was for a Special Permit under Section 235-41.M of the Zoning Ordinance for a 20% reduction in the number of parking spaces required and for Variances from Sections 235-18 & -19 for building height, number of stories and floor area ratio, 235-17.Q & -32 for the number of parking spaces, 235-41.N for parking space size, and 235-41.O for driveway widths, all required in order to construct a mixed use building including 42 residential units, approx. 3,400 sf of retail space and approx. 3,500 sf of community facility space with 43 parking spaces at 360 Main Street, Melrose, MA, owned by PBA Associates, Inc., on a lot of land containing 17,257 sf and shown on Assessor's Map C6 0 56.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Attorney Robert Bell, Applicant Matthew Roman, Architect Peter Quinn, and Civil Engineer John Barrows appeared to present the proposal.

Attorney Bell explained that the writing of the zoning ordinance from the principles of the Master Plan is an extensive process. It is difficult to craft zoning regulations that make sense for each property in the district. When the regulations are not a good fit, the Board of Appeals can grant relief from them.

The Planning Board writes the rules in the Zoning Ordinance and they supported the variances for this project, which is an unusual occurrence. This project embodies what the City desires in this location. The City made a commitment to create more affordable housing with the zoning amendment to increase the percentage of inclusionary units required in projects. Also, the City opposed the MGL 40B project on Swains Pond Avenue with the argument that they would support housing in the right place and this is the right place for it. We need more housing units to help address the regional shortage and increase supply to decrease its cost.

The variances are needed to allow the checklist of things that the City demands to be financially feasible. The project has 15% of the units as affordable, onsite parking, 100% disability access, and extensive sustainability and energy efficiency measures. Other developments are not required to provide parking or provide all of these services.

Mr. Quinn explained the proposed building and site. The building is sensitive to the street and is setback to provide a wider sidewalk. There is the space for two retail spaces or it could be combined for one larger retail space. The building has a traditional style with a mansard roof like other buildings on the street. It has an appropriate scale for the street.

Mr. Quinn also gave an overview of the green building practices and energy efficiency measures. The building will have electric utilities, six vehicle charging stations in the garage, a shared electric vehicle for the residents, bicycle parking for 30 off of the sidewalk and in the basement, 10 shared bicycles for the residents with electric assist and baskets to carry items, a real-time schedule of public transportation in the lobby, free MBTA passes for the first month, parking will be unbundled from the units, half of the roof will have solar panels that will provide a quarter of the power needed for the building.

Mr. Roman said that he is building a near passive single-family house and he is committed to building green buildings from an ethical standpoint. The proposed building would be the greenest building in Melrose and the community would be proud of it. He said that Mr. Quinn is a great partner in designing sustainable buildings.

Civil Engineer John Barrows reviewed the plan for drainage which will reduce runoff from the site.

Attorney Bell spoke about some issues that have arisen. He explained that environmental cleanup is needed because there is petroleum onsite. The estimated cost is \$250,000-300,000. He also mentioned that right now there is no parking onsite and the parking situation will be better with the parking provided by the development. A nearby property owner is opposed. He had put in an offer to purchase the property and was refused. Since he is a business competitor he cannot be an aggrieved party in an appeal. The Melrose Zoning Ordinance (MZO) variance findings are different than the findings required in M.G.L. 40A. The MZO includes a finding about financial hardship that is not limited to the shape, soil and topography of the land. The Ordinance considers the land and existing structures. The City supports the project because it implements a lot of policy goals.

He also mentioned that the project is within the distance to a municipal parking lot to seek a parking reduction as is allowed in §235-40.

Members of the public that spoke in support of the application included Ryan Williams of 88 Malvern Street who read a letter from the Melrose Pedestrian and Bicyclist Advisory Committee, Energy Commission and Zero Waste Melrose, Finn McSweeney of 160 W Wyoming Avenue, Dave Roh of 54 York Terrace and MMTV, Marybeth Margolis of 22 Stowcroft Road and MMTV, Linda Okoniewski of 280 W. Emerson Street, and Neal Ryan of 662 Franklin Street and owner of 71 Grove Street. Letters of support were also submitted from Michael Anderson, Michael Coleman, City Councilor Jennifer Grigoraitis, and City Councilor Leila Migliorelli. Comments and questions included the following:

- The leading-edge green features for energy, transportation, community benefits and recycling were highlighted to show their importance.
- The parking ratio is in line with the MAPC study regarding parking utilization in the City.
- The project has great benefits with the number of bicycle storage spaces.
- The height and FAR will enable rooftop solar, retail and community space while retaining the MMTV studio.
- The site is an integral part of lower Main Street and Wyoming Hill.
- This is a dense, walkable neighborhood and this development would bring other residents that would want to spend their time and money here.
- The neighbors by the development near Oak Grove want a place to walk to and this site has lots of places in which to walk.

- They met with Mr. Roman and he listened to concerns and included more green features.
- The proposed building is beautiful and makes a statement that our community wants to be green.
- Mr. Roman has been very responsive to providing MMTV the space that they need.
- The project would add vibrancy to the community.
- In the Master Plan and rezoning efforts the Planning Board underestimated the potential at this end of Main Street. Now there is an opportunity to address it.
- The building will create a new market here and provide housing for people that want to downsize.
- MMTV has the opportunity to become greener in a space that will allow for greater community participation.
- In the real estate world housing even without parking is in demand. There was recently a conference that addressed what to do with all of the parking that will not be needed in the future.
- It is exciting to have a real smart growth development.
- The project would help to increase the number of affordable units in Melrose.
- The project will bring increased tax revenue, new jobs, activation of the street, affordable units and parking.
- The project addresses goals of the Master Plan.

Jim Clifford, Director of Real Estate for Melrose Scrivanos Realty Trust, the owner of the Dunkin Donuts property next door, was not opposed to the project but wanted to voice concerns. With the construction of the underground parking he wanted to make sure that his building would not be damaged. The parking lot for Dunkin Donuts is tight and he wanted to make sure that residents, contractors and visitors do not park in the lot or pull into the lot and back out onto Main Street.

Members of the public that spoke in opposition to the application included John Wise, manager of 10 Corey Street, and his lawyer David Chaffin who also submitted a letter to the Board dated February 11, 2020. Comments included the following:

- Mr. Wise did make an offer on the property. He would have proposed 34 units with 5 affordable.
- The proposed building is too big.
- There is not an economic hardship. 10 Corey Street had asbestos remediation and all of the surrounding properties need remediation.
- Corey and Main Streets will be negatively impacted. Trash pickup will block traffic. There is no space for loading.
- The building will be about 70 feet tall from Corey Street.
- This sets a precedent for other sites in the area that will be developed soon. The zoning ordinance should be changed first.
- Most of the goals of the project can be accomplished with a smaller project. The goals are not related to the relief.

- There are three findings required to grant a variance and the application and presentation did not include factual information to make the findings.
- There is no reportable condition filed with the DEP. Where is the evidence about contamination cleanup? The developer should have received a discount on the purchase price if there is contamination. There are no case studies where environmental cleanup is considered a hardship.
- This is not a unique property.
- Dissatisfaction with the level of profit should not create the need for variances.
- The project will affect traffic and parking with the inordinate density.
- The applicant should show a proforma and documentation of why fewer units would not work.

Virginia Mamdani of Main Street submitted a letter opposed to the reduction in the number and size of parking spaces.

The Chair read the Planning Board's recommendation letter, dated January 28, 2020, into the record. The Planning Board recommended granting the Special Permit and Variances in order to allow for the redevelopment of the site as proposed.

The Chair noted that the memorandum from the Department of Public Works dated February 12, 2020, is also part of the record. The memorandum includes information on utilities, permits and a comment about not objecting to the reduced parking for this project given the smart growth and transit oriented components.

Attorney Bell responded to some of the comments made. He said that trash will be collected in the driveway and off of the street. The trash truck will not block traffic on Corey Street. They can provide more information on the finances of the project to show the hardship. The variance findings in the Melrose Zoning Ordinance differ from the findings in the state law. They are seeking a special permit for reduced parking. He could provide a legal memo on the issue of the abutter's standing. This project will help with the City's finances after a divisive tax override vote. We need a new public safety building and work on the library and Memorial Hall. We need to pay for these capital improvements with growth revenue.

The Zoning Board members had the following questions and comments. The development team's responses are noted below.

- Regarding the finding about not granting a special privilege, the abutter that spoke also received variances to develop his property.
- They asked for more information on the hardship. It is more difficult to make the case when it is all financial.
 - Wilcox & Barton Environmental Consulting has done site work. There is gas in the soil. It is not in the groundwater. They will have to remove the soil at a great cost.
 - There is a six foot grade change from Main Street to Corey Street which will require shoring and this is an added expense.
 - This is a dense area where it is more costly to do construction.

- The hardship is financial. The City is requiring a lot of the project and wants development downtown. This site also links Main Street with the Wyoming Hill commercial area.
- Are these the minimum variances necessary for a reasonable use? The Board should be considering a reasonable use the by-right use, which would be a four-story mixed use building.
 - The building is not financially feasible as a four-story building. There would be no green features to the building.
- What is the agreement with MMTV? Will the cost of the studio be absorbed by the residential units?
 - They are tenants at will with a 60 day notice. They will find temporary housing for 1 ½ to 2 years. They are committed to providing the space for MMTV and have designed the first floor around their needs. They will have under market rent so that they can stay. This is not a condition of the sale.
 - The current owner of the building, Paul A'Hearn also looked out for MMTV. Mr. A'Hearn started the renewal of downtown when he built this building, which was a Coca-Cola distribution facility. This project is the next phase of downtown growth.
- The driveway off of Main Street is only 12 feet wide?
 - Yes. It is only for three parking spaces that will primarily be used by MMTV. There will be illumination and signage so that it will be safe.
- People love having green buildings but do not want to pay for them. What is the cost difference to include these features?
 - For example a standard window would cost \$300 and the energy efficient windows planned for the building would cost \$900 to \$1,000.
- Will the roof be solar ready or will the solar panels be installed?
 - The roof will be solar ready and Mr. Roman intends to install the panels.
- If other sites redevelop how will the shadows impact the neighborhood?
 - A shadow study was done for the Planning Board and can be provided.
- How tall is the building on the other side of Dunkin Donuts?
 - About 80 feet tall.
- Will a shaft be constructed to have a restaurant tenant?
 - Yes.
- The project meets a lot of the City's goals and the Board would like to see what is driving the financial hardship.

The Board requested a shadow study, summary of the geotechnical report, and proforma.

Attorney Bell requested to continue to a future meeting to provide this information. The Board voted, 5-0, to continue the case to March 11, 2020.

Documents: ZBA Application 19-043

Mr. Roache left the meeting.

CASE 19 044: The appeal of John & Allison Rynak

105 Beech Avenue

As advertised, case 19-044, was for a Variance from Sections 235-18, -19 & -44.G of the Zoning Ordinance to construct a second floor addition on the single-family dwelling in the nonconforming side yard at 105 Beech Ave, Melrose, MA, on a lot of land containing 4,855 sf and shown on Assessor's Map E6 0 27.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Mr. Rynak, Owner, and the Architect and Contractor from Pegasus Design to Build appeared to present the application. Two abutters appeared to speak in support of the application.

Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

The Board voted, 4-0, to approve the requested Variance.

Documents: ZBA Application 19-044

CASE 20 001: The appeal of New Hampshire Signs 401 Upham Street

As advertised, case 20-001, was for an appeal under Section 235-60.C of the Zoning Ordinance regarding the determination of the Building Commissioner and MGL c.40a s.6 as to the need for Variances from Sections 235-31 to install signs that are not allowed in the residential district, 235-31.2 to alter nonconforming signs and not bring them into compliance, 235-30 to install LED/changing, internally lit signs and more than one sign in a residential district, and 235-29.B to install internally lit signage at 401 Upham Street, Melrose, MA, owned by WW Industries – Thomas Harvey, on a lot of land containing 7,800 sf and shown on Assessor's Map G9 0 4. The Application, depending on the outcome of the appeal, includes a request for Variances from Sections 235-31, -44.B, -31.2, -30 and -29.B in order to install the proposed illuminated signs.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Peter March of New Hampshire Signs appeared to present the application. Attorney David Lucas appeared to represent the Owner of the property. Two people appeared to speak in opposition to the application.

Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

The Board voted, 0-4, regarding the administrative appeal, denying the request.

The Board voted, 4-0, to approve the requested Variances with three conditions.

Documents: ZBA Application 20-001

CASE 20 002: The appeal of 419-429 Main Street Melrose, LLC

419-429 Main Street

As advertised, case 20-002, was for a Variance from Section 235-25.I of the Zoning Ordinance for minimum floor area of four dwellings within the mixed-use building that is currently under construction at 419-429 Main Street, Melrose, MA, on a lot of land containing 7,045 sf and shown on Assessor's Map C6 0 51.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Attorney Robert Bell and Contractor Matthew Roman appeared to present the case. No one appeared to speak in support of or in opposition to the application.

Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

The Board voted, 4-0, to approve the requested Variance.

Documents: ZBA Application 20-002

OTHER BUSINESS

Approval of meeting minutes from January 8, 2020

Ms. Hanlon made a motion to approve the meeting minutes from January 8, 2020. Mr. Dooling seconded the motion. All members present voted in favor. None were opposed.

The next meeting is set for March 11, 2020 in the City Council Chamber.

The meeting adjourned at 11:05 pm.