

**MELROSE BOARD OF APPEALS
MEETING MINUTES
Public Hearing
Wednesday, March 11, 2020
7:45 p.m.
City Council Chamber, Melrose City Hall, 562 Main Street**

Present:

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

Absent:

Julianna Hanlon, *Associate*

Staff Present: Lori Massa

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

CASES BEFORE THE BOARD

**CASE 20 003: The appeal of Zdenek Frank Jurik and Irina Jurikova
159 Forest Street**

As advertised, case 20-003, was for Variances for Lots 1A & 1B from Sections 235- 18 & - 19 of the Zoning Ordinance for lot area and frontage and Section 235- 25.J for lot width at the rear building line in order to subdivide the lot at 159 Forest Street, Melrose, MA, containing 17,538 sf and shown on Assessor's Map E4 0 80 into Lots 1A & 1B containing 8,366 sf and 9,172 sf. The proposal includes retaining the existing single- family dwelling on one lot and constructing a new single- family dwelling on the other lot.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Zdenek Frank Jurik and Irina Jurikova appeared to present the proposal. They would like to subdivide the land and build a modest sized house on it. This would be the best use of the property and would make the property financially feasible. Mr. Jurik showed pictures of his children and cat and explained the medical expenses related to their health conditions. He has trained ten staff at the Hoover School on treatment for his son's diabetes and the family would like to stay at the school and in the neighborhood. They have another expense coming as Ms. Jurikova is expecting a baby. He also showed pictures of his credit card bills. The house was built in 1901 and is large at 2,800 square feet, which results in many expenses. They will sell the house and move if they do not receive approval.

The property is on the border of the UR-A zoning district where the frontage requirement is 75 feet. The proposed lots could be conforming to this frontage requirement. Only three other

properties on the street have the required 100 feet of frontage in the SR-A district and none of them would be subdivided because they have slope issues. The subject lot has unique conditions and if it was not allowed to be subdivided they would be deprived use of the land.

With the proposal they would be improving the property because they would remove asphalt on the lot and add green space. They would also be removing the structure that is attached to the front of the garage, which is not in good shape.

They would like to have the same rights as their neighbors that have the same frontage and use of the land as proposed. The house will be prefabricated and constructed quickly and they are not changing the footprint of the lot.

Members of the public that spoke in opposition to the application included two of Ms. Tricca's, of 167 Forest Street, daughters who live in Wakefield and Tewksbury, MA. Ms. Tricca also submitted a letter in opposition to the proposal. Comments and questions included the following: The proposed house would overpower her sunroom that provides views of the neighborhood and neighbors and proximity to the outdoors. The proposal would lower her quality of life. They did not think that the applicants intended on moving into the current house. How could they have financial trouble when they only moved in six months ago? How long has the family lived in Melrose?

Betsy Giovanard of 132 Forest Street was not opposed to the proposal but was concerned about blasting and wanted to make sure that no blasting would occur.

Mr. Jurik submitted a petition that 18 direct abutters signed stating that they are not opposed to the proposal. Two direct abutters did not sign it.

The Chair read the Planning Board's recommendation letter, dated January 28, 2020, into the record. All of the members found that the proposal to create a small lot with a modest house on it that otherwise meets the dimensional requirements has some benefits. This type of development creates smaller housing that helps fill the regional housing shortage and provides more affordable options as compared to a typical single-family house. However, members had varying opinions on how this type of development should be permitted, whether through a zoning amendment or variances.

Mr. Jurik responded to some of the comments made. No blasting is needed for the proposal. He spoke with his neighbors but gave Ms. Tricca's caregiver a letter instead of ringing her doorbell out of respect because she has trouble with mobility. He said that Ms. Tricca's lot is only slightly larger than the proposed lot. The construction of the house would take three months. The proposal would create more of a view of green space from Ms. Tricca's sunroom because they would be removing a portion of the garage that is closest to her house.

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

- The financial hardship is personal and not related to the land and building.

- The property was a larger investment than expected. Utilities are more than \$500 above what the previous owners said that they would be.
- When did the Applicants move here? The Applicant recently got a mortgage and nothing has changed with the property.
 - They moved from Los Angeles in March and lived at Oak Grove Village. Their son started school at Hoover in September of 2019. They are first time homeowners.
- Did the Applicants know the zoning district regulations when they bought the house?
 - Yes.
- Many people in Melrose have large mortgage payments and some have side yards that they would like to build on.
- A developer could buy the subdivided lots just to make money.
- Most lots are smaller than the zoning requires but they were created before zoning existed. The neighbors did not get special privileges – they just bought smaller lots. Is the lot unique because it is conforming? The purpose of the zoning district is to have larger lots.
- There are three other large lots on the street but they have slope issues.
- The proposed lots would be half of the required lot size. This is not a de minimis violation of a dimensional requirement. It is far beyond what is allowed in the district. The ZBA would be essentially changing the zoning district to UR-A by approving the application. The lot is adjacent to the UR-A district but the district line is firm and is not a gradient.
- This lot is flat and the Applicants are giving this as a reason to grant the variance. Slope is sometimes a reason for granting a variance not the other way around. It has no issues with shape, soil or topography.
- Most variance cases have existing nonconforming conditions and need a variance to add an addition or change a part of a building.
- It may not be detrimental to put a house here but the problem is with the nonconformities that would be created with the subdivision. Creating a nonconformity could cause the need for future zoning relief.
- The SR-A zoning district exists and whether or not it should exist and require large lots should not be a debate for a variance application.

After hearing the discussion, the Applicants requested to withdraw the case. The Board voted, 4-0, to approve the request to withdraw the case without prejudice.

Documents: ZBA Application 20-003

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

As re-advertised, case 19-043, was for Variances from Sections 235- 18 & - 19 of the Zoning Ordinance for building height, number of stories and floor area ratio, 235- 41.N for parking space size, 235- 41.O for driveway widths and 235- 33 for not providing a loading dock all required in order to construct a mixed use building including 42 residential units, approx. 3,400 sf of retail and/or restaurant 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 application includes Special Permits under Sections 235- 41.M for a 20% reduction in the number of parking spaces required and 235- 40.A for a reduction of required parking spaces for a site within 1,000 feet of a municipal parking lot. Depending on the outcome of the Special Permit requests, the application includes a Variance from Section 235- 17.Q & - 32 for the number of parking spaces for 2 residential units, 6 spaces for the community facility space and the parking for the retail and/or restaurant use.

The Board of Appeals opened the case on February 12, 2020 and after discussion continued the case to March 11, 2020. The case was re-advertised for this meeting. Due to only four of the members appearing at the meeting due to illness, Attorney Robert Bell requested a continuance to the next meeting.

The Board voted, 4-0, to continue the case to April 15, 2020.

Documents: ZBA Application 19-043

CASE 20 004: The appeal of Seaside Legal Solutions 40 Hancock Street

As advertised, case 20-004, was for Variances from Sections 235- 41(H) of the Zoning Ordinance for parking in the front yard, 235- 41(J) to install a curb cut closer than 50 feet to the intersection, 235- 41(L) for driveway width, and 235- 41(N) for parking space size in order to remove granite curbing to accommodate a driveway for the single- family dwelling at 40 Hancock Street, Melrose, MA, on a lot of land containing 3,801 sf and shown on Assessor's Map F3 0 100.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Agent Lauren Weeks and Owner Ginger Lazarus appeared to present the application. One abutter 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 deny the variance from Section 235-41(L) for driveway width, and approve the other requested Variances.

Documents: ZBA Application 20-004
Photos of cars in the driveway

CASE 20 005: The appeal of LCB Senior Living c/o Jason Fredette, Poyant Signs, Inc 116- 158 Essex Street

As advertised, case 20-005, was for Variances from Sections 235- 71.2.G.7.c.1 of the Zoning Ordinance for sign size and 235- 71.2.G.7.f for sign lighting to install an approx. 5.5x50 foot wall sign with halo lit letters above the entrance to the assisted living facility at 116- 158 Essex

Street, Melrose, MA, on a lot of land containing 77,548 sf and shown on Assessor's Map C8 02- 3.

The Board of Appeals opened the case. The Chair swore in the applicants and those choosing to speak at the hearing. Jason Fredette from Poyant Signs 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 for halo lighting and approve the request to withdraw the requested Variance for sign size without prejudice.

Documents: ZBA Application 20-005
Plans dated March 10, 2020

OTHER BUSINESS

Vote to rescind decision for case 19 028, 423 Pleasant Street

As instructed in the Agreement for Judgment regarding the property at 423 Pleasant Street, the Board voted, 4-0, to rescind with prejudice Decisions 19-028 dated October 16, 2019 and November 6, 2019 on behalf of the Applicant, defendant, Jeffrey P. Newman.

Request to continue Case 19 035 272 Tremont Street to May 13, 2020

Case 19 035 was advertised as to be heard on December 11, 2019. Attorney Lucas submitted a written request to continue the case to April 8, 2020 so that the applicant could apply for site plan review prior to appearing before the Board of Appeals, which the Board granted. Attorney Lucas submitted a subsequent request to continue the case to the May 13, 2020 hearing. The Board voted 4-0 to approve the continuance request. New notice to abutters will be mailed and an advertisement in the paper will be published with the May 13, 2020 hearing date prior the initial rescheduled date of April 8, 2020.

Approval of meeting minutes from February 12, 2020

Mr. Thorp made a motion to approve the meeting minutes from February 12, 2020. Mr. Dooling seconded the motion. All members present voted in favor. None were opposed.

The next meeting is set for April 15, 2020 in the City Council Chamber.

The meeting adjourned at 10pm.