

MELROSE BOARD OF APPEALS
MEETING MINUTES
Public Hearing
Wednesday, May 12, 2021
7:30 p.m.
Remote Meeting

Present:

Rita Mercado, *Chair*
Megan Carriere, *Associate*
Curtis Dooling, II
Katherine Moore
Bryan Thorp

Absent:

Julianna Hanlon, *Associate*
David Roache

Staff Present: Lori Massa, Clerk

The meeting was called to order at 7:30 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 Melrose Zoning Board of Appeals was conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting were found on the City of Melrose's website, at www.cityofmelrose.org/remote-meetings. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access the proceedings in real time, or in the event that we are unable to do so, on the mmtv3.org website an audio or video recording, transcript, or other comprehensive record of proceedings was posted as soon as possible after the meeting. A link was also available on www.cityofmelrose.org.

Application materials were posted to the City's website: www.cityofmelrose.org/board-appeals.

OTHER BUSINESS

Mr. Thorp made a motion to approve the meeting minutes from April 28, 2021. Ms. Moore seconded the motion. By roll call members Rita Mercado, Megan Carriere, Katherine Moore and Bryan Thorp voted, 4-0, to approve the minutes.

21 003 – 12-16 Essex Street Condition Edit

The Massachusetts Housing Partnership, the subsidizing agency in connection with the Comprehensive Permit pursuant to M.G.L. c.40B, §§20-23 for 12-16 Essex Street, reviewed the Zoning Board of Appeals (ZBA) decision for this property. The agency pointed out that condition 26 incorrectly characterizes the affordable units in this project as Local Initiative Program (LIP) units to be counted on the Subsidized Housing Inventory (SHI). For the affordable units that are part of this comprehensive permit approval the City needs to submit a Request for New Units form to DHCD.

Members reviewed the proposed changes to condition 26 to reflect the correct mechanism to have the units be on the SHI for this development. They found that this edit was not a substantive change. By roll call members Rita Mercado, Megan Carriere, Katherine Moore and Bryan Thorp voted, 4-0, to approve the revised condition.

Condition 26. The affordable and market rate units shall qualify for inclusion on the Massachusetts Department of Housing and Community Development's Chapter 40B Subsidized Housing Inventory. ~~The Applicant/Owner, its successors and/or assigns, shall work with the City to submit an application to the Department of Housing and Community Development's Local Initiative Program (LIP) for inclusion of the affordable unit on the City's inventory of subsidized housing.~~ The Applicant/ Owner, its successors and/or assigns, shall provide the information needed for the City to submit the 'Request for New Units' form so that the units will be on the SHI. ~~LIP application before a Certificate of Occupancy for the affordable dwelling unit is issued.~~

CASES BEFORE THE BOARD

21 009 – 90 Highview Avenue

The appeal of Sarah Moore for Variances from §235-18, -19 & -44.G of the Zoning Ordinance to construct a 2nd floor dormer in the nonconforming rear yard on the single-family house on the corner lot at 90 Highview Ave, Melrose, MA, on a lot of land containing 4,063 sf and shown on Assessor's Map F8 0 30. The application includes variances to legalize the existing violations of lot area, lot frontage and front & rear setbacks.

Sarah Moore, applicant, Andrea Morelli, MBA Builders, and Katherine MacPhail, Architect, appeared remotely to explain the proposal. Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

By roll call members Rita Mercado, Megan Carriere, Katherine Moore and Bryan Thorp voted, 4-0, to grant the requested Variance and withdrawal of the variances related to legalizing the existing violations.

Documents: ZBA Application 21-009

21 002 – 40-40A Chestnut Street

The appeal of Magalie Valcin for Variances from §235-25.B of the Zoning Ordinance to have two principal structures on one lot, §235-18 & -19 for lot area, rear yard, left side yard, and §235-17 & -32 for the number of parking spaces to renovate and convert the existing detached garage into a detached single-family dwelling at 40-40A Chestnut St, Melrose, MA, owned by Robinson Vilmont, on a lot of land containing 9,390 sf and shown on Assessor's Map C6 0 67. The Applicant also seeks Variances from §235-18 & -19 for lot area, lot frontage and width, right side yard and front side yard to legalize the violations for the existing two-family.

Attorney Natasha Lucien and Applicant Magalie Valcin appeared to present the materials that the ZBA requested at the March 10 hearing. Ms. Lucien explained the changes to the plans that they find accurately show the proposal and the existing conditions. They also showed pictures of the existing conditions.

Board members asked questions of the applicant. How many feet are between the garage and the rear lot line? Ms. Valcin said that it was approximately 8 feet; however, this was to the wall on the abutter's property. Who will occupy the unit? The tenants will be family members or it may be rented out. What determined the size of the addition? It is going from a 648 sf space to approximately 1300 sf. Currently it

is a one-bedroom with an open living room and bathroom. They want to make a two-bedroom unit, improve the quality of the space and the garage needs renovation. Did Ms. Valcin clarify the proposal with the neighbors and talk with the abutter to the rear about access for construction? She sent the abutters letters by certified mail that spoke at the last hearing. She did not contact the abutter to the rear. She said that construction vehicles could use the driveway. Neither a contractor nor structural engineer has been consulted yet.

The following people spoke at the hearing: Teresa Scioletti of 32 E Wyoming Avenue, Gary Comeau of 34 Chestnut Street, and Suzanne Guirakhoo of 39 Chestnut Street. They discussed the following concerns. Cars currently park overnight on the street in front of the property and it is difficult to clean the snow when cars are parked there. Construction vehicles will not have access to the building. There has always been someone living in the garage, which is not a concern, but the additional cars from the proposal will be a problem.

The Board asked Ms. Valcin about the existing parking situation. Her family has two vehicles and the first floor unit tenants have three vehicles. There are three on-site parking spaces. She was not sure where the two extra vehicles park. No one parks in the garage currently but three spaces will be in the garage with the proposal. Members asked about the three proposed spaces outside of the garage. This area will be paved to provide the parking spaces. The Board found that there would be a lot of paved area and questioned whether a variance would be needed for open space. They also thought that it would be difficult to park six cars on the lot.

The property was marketed as a two-family with a third accessory unit. Ms. Valcin did not check with the City on the legal use before purchasing the property.

Board members discussed the following concerns and considerations. They had serious questions about the ability to rebuild the foundation and reside the house so close to the property line. There is slope and ledge at the back of the property and minimal setbacks. They have not consulted the rear abutter and would likely need a maintenance agreement. Not having convenient parking pushes people to park on the street. The garage spaces are only 8 feet wide. There is an existing parking problem with two units and adding a two-bedroom unit will exacerbate the issue. The existing gazebo was not drawn in the correct location and that made the members question the accuracy of the plans. It would be a disservice to the applicant to approve plans that cannot be built because it is likely that she would have to come back for additional approval and/or there could be added costs with construction. The structure could function as a residential until without increasing the square footage. The proposal adds height to the building at the property lines and creates a large unit that increases the intensity of the use. The question about the percentage of open space with the proposed pavement was an unanswered question. Members struggled to find a hardship to support the proposal.

Attorney Lucien requested to withdraw the application without prejudice. By roll call the Board voted, 5-0, to grant the request to withdraw the application without prejudice.

Documents: ZBA Application 21-002

21 011 – 37 South Avenue

The appeal of Michael Betts for Variances from §235-24.A of the Zoning Ordinance for side and rear yard setback for an in-ground pool at 37 South Avenue, Melrose, MA, on a lot of land containing 6,616 sf and shown on Assessor's Map A12 0 23.

Applicant Michael Betts appeared remotely to explain the proposal. Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

By roll call the Board voted, 5-0, to grant the requested Variances.

Documents: ZBA Application 21-011

21 012 – 24 Gibbons Street

The appeal of Brandon Raymond for Variances from §235-18, -19 & -44.G of the Zoning Ordinance to construct a 2-story addition on the nonconforming single-family house in the front yard at 24 Gibbons Street, Melrose, MA, on a lot of land containing 4,224 sf and shown on Assessor's Map D5 0 59.

Brandon and Kara Raymond and Architect Jay Bradley appeared remotely to explain the proposal. Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

By roll call the Board voted, 5-0, to grant the requested Variances.

Documents: ZBA Application 21-012

21 013 – 401 Upham Street

The appeal of WW Industries, Inc, Thomas Harvey, President for Variances from §235-44.B of the Zoning Ordinance to expand the nonconforming use to continue an 'automotive repair or service station' business on the lot but under different ownership from the gasoline sale business and to install an accessory structure for the use & §235-24.A for rear yards for the accessory structure at 401 Upham Street, Melrose, MA, on a lot of land containing 7,800 sf and shown on Assessor's Map G9 0 45.

Attorney Judith Clark and Owner Tom Harvey appeared remotely to explain the proposal. Information regarding the hearing and the Board's discussion regarding the proposal and findings are documented in the decision for the case.

By roll call the Board voted, 5-0, to grant the requested Variances.

Documents: ZBA Application 21-013

The next meeting is set for June 9, 2021.

The meeting adjourned at 10:30 pm.