

Zoning Board of Appeals October 24, 2018 Meeting Minutes

Call to Order: Mr. Brian Heath, Acting Chairman, called the meeting to order in the Council Chambers located on the second floor of the Municipal Office building, 66 Central Square, Bridgewater at 7:02pm

Attendees:

Present: Brian Heath, Member; Anna Klimas, Associate Member; and Michael Mainvielle, Member

Absent: Anthony Aveni, Chairman; Gerry Chipman, Member; Michael Mainvielle, Member

Staff Present: Steve Solari, Building Inspector/Zoning Enforcement Officer
Jennifer Burke, Director, Community and Economic Development

75 Howard Street – Use Variance

Brian Heath, Member, opened the public hearing on application by filed by to review an application filed by John T. Mahoney III, 100 Pearl Street, Bridgewater, MA 02324. Applicant seeks approval for a Use Variance under Section 6.30.A.1 and Variance under Section 8.40 of the Bridgewater Zoning Bylaws to allow the construction of a single-family dwelling in an Industrial Zone, that will require a variance of 18,918 square feet from the minimum lot size of 40,000 square feet, and a variance of 15' from the 40' front setback requirements. Said property is owned by Woodbine Howard Realty Trust, John T. Mahoney III Trustee, 100 Pearl Street, Bridgewater, MA 02324 and is located at 0 Howard Street, Bridgewater, MA as shown on Assessor's Map 21, Lot 75. Area is zoned Industrial B.

Notice of the hearing was mailed to all abutters and parties of interest as required by statute and was published in The Enterprise on October 10, 2018 and October 17, 2018. Notice was also posted on the Town Hall bulletin board and a copy was given to the Town Clerk. Board members present, and voting were Brian Heath, Member; Mr. Michael Mainvielle, Member; and Ms. Anna Klimas, Associate Member. Mr. Anthony Aveni, Chairman, and Mr. Gerald Chipman, Member, were absent. Mr. Brian Heath, Member, opened the hearing with a reading of the public notice and the following information was given:

The application was filed with the Town Clerk on August 24, 2018. The abutter's listing is public record, therefore, Ms. Anna Klimas, Associate Member, motioned to waive the reading of the abutters list and Mr. Michael Mainvielle, Member, second the motion. The vote was unanimous.

A letter dated August 10, 2018 from Mr. Steven Solari, Inspector of Buildings/Zoning Enforcement Officer to Mr. James W. Murphy, PO Box 1327, Sherborn, MA 01770 was reviewed by the Board, and read it into the record. It stated the following: *"I have reviewed the plan and your letter dated August 1, 2018 for a proposed single-family home located at Map 21, Lot 75 Howard Street. This property is located in the Town's Industrial B District. Section 6.30 A.1 of the Town's Zoning By-laws does not allow single-family dwellings in the Industrial B district. This plan will require a Use Variance (section 11.23) from the Bridgewater Zoning Board of Appeals for relief from 6.30.A.1 Applicable section of Bylaw 6.30 Table of Use Regulations & 11.23 Zoning Board of Appeals If you have any questions, please contact my office."*

A letter dated October 23, 2018 from Mr. Stephen Rogan, 36 Howard Street to the Zoning Board of Appeals was reviewed by the Board and read it into the record. It stated the following: *"Our neighborhood is unique as it was first zoned Industrial because of the boundaries of the Eagle Cotton Gin Company in the 1800's. In 1925, the Howard Street residential lots were planned for L. W. Cushman and houses were built in 1932, but the zoning designation remained Industrial B. The primary land use of Howard Street and surrounding neighborhood since that time has been residential. In regard to the Use Variance Request under Section 6.30.A.1 of the Bridgewater Zoning Bylaws, I DO NOT OPPOSE the principal land use of 0 Howard St. to be used for a detached dwelling on a separate lot occupied by not more than one family. As noted on the Proposed Lot Development Plan, drawn by Luke Klim of Klim Surveying, Inc. for Woodbine Howard Realty Trust, the requested 25' setback is in conformance with the setbacks of the other homes in the neighborhood. In regards to the Land Space Requirements Variance Request under Section 8.40 of the Bridgewater Zoning Bylaws, I DO NOT OPPOSE the variance of 15' from the 40' front setback requirements. I also DO NOT OPPOSE the 18,198 square foot variance from the minimum lot size of 40,000 square feet. There are some concerns for John T. Mahoney III and the Zoning Board of Appeals. SITE CONCERNS Lot 1 has a steep slope. How has Mr. Mahoney proposed to*

build on the steep slope? How will the topography be altered to show structural integrity for a foundation? The driveway of Lot 77 is partially on Lot 75 and has been for decades. Will an easement be provided to maintain Lot 77's use of the driveway? FITTING THE SCALE OF THE NEIGHBORHOOD The neighborhood containing Pearl, Lawrence, Hammond and Howard Streets is listed as a good example of a "Traditional Neighborhood" in Bridgewater's 2002 and 2014 Master Plans. The Master Plan states that residential development of vacant and underutilized properties should be encouraged in a way that will enhance the character of the traditional residential neighborhoods by complementing the neighborhood's scale and design. Will this house and garage (1875 sf according to 10/16 Progress print layout) compliment the character of the traditional neighborhood? CONSTRUCTION CONCERNS John T. Mahoney III estimated construction to last for 9-12 Months. The driveways of 36 Howard St. (Lot 59) are across from the proposed driveway for 0 Howard St (Lot 75). Can a condition be attached to the zoning appeal ensuring mitigation to construction impacts to the neighborhood?"

Mr. James Murphy, representing John T. Mahoney, Trustee of the Woodbine Howard Realty Trust. Mr. Murphy stated that the Trust owns a 40,429 square foot parcel with 200 feet of frontage on Howard Street, which is in the Town's Industrial B District. The Trust is seeking a Use Variance under Section 6.30.A.1 and Section 8.40 of the Bridgewater Zoning By-Laws to permit the construction of a single-family dwelling in an Industrial Zone with frontage on Howard Street. Since the parcel is in the Industrial Zone it would likewise need a variance from the 40,000 square foot industrial lot minimum and a variance from the industrial zone front setback requirement. As shown on the submitted plan, the Applicant seeks to construct a single-family residence with frontage on Howard Street. The parcel, while in the Industrial Zone is in close proximity to the Residence D Residential Zone. While the Industrial Zone has a 40,000 square foot minimum area requirement, the Residence D Zone has an 18,500 square foot minimum. The proposed size of the lot to be created by the Applicant would be 21,082 square feet. Relatedly, the lot would meet the rear and side yard setback requirements in either the Industrial Zone or in the Residence D zone. The Applicant is seeking a variance of the front setback requirement to 25 feet. The Industrial Zone front setback requirement is 30 feet. The Residence D setback requirement is 35 feet. However, the existing houses on that Applicant's side of Howard Street have setbacks respectively of 17.5 feet, 23.4 feet, and 22.7 feet. It would be harmonious for the look of the street for the proposed single-family home to be set back at 25 feet. The requested relief is without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the underlying by-law. In addition, the topography of the lot, and the setbacks of the adjoining existing houses, creates a hardship to the land.

Mr. Lucas Klim, representing the applicant, explained the topography of the land and the scope of the project, as depicted on the engineered plans presented dated October 16, 2018, entitled "*Proposed Lot Development, Map 21, Lot 75 & 75A – Howard Street, Bridgewater, MA*" as prepared by Klim Land Surveying, Inc., 340 Manley Street, Unit 3, West Bridgewater, MA.

Mr. Joe Murphy, owner of 11 and 19 Howard Street, spoke in support of the variance.

Mr. Stephen Rogan, 36 Howard Street, spoke in support of the variance.

Mr. Donald Irving, 23 Howard Street, owner of Lot 77 wanted assurance that an easement would be given for the driveway that has been there for 70 years. Mr. Mahoney assured him that he would convey an easement for his rights to use the driveway.

Mr. Brian Heath, Member, asked the advice of Steve Solari, Building Inspector on the ability to build a home on this lot, considering the topography. Mr. Solari stated with the appropriate engineering it could be done, however, he did not support dividing the lot, and thereby creating their own hardship.

The Board reviewed and discussed all the facts as presented and there were no further questions or concern. Mr. Michael Mainvielle, Member, made a motion to close the hearing. Ms. Anna Klimas, Associate Member, seconded the motion. VOTE: All in favor, none opposed. The hearing was closed. Ms. Anna Klimas, Associate Member, made a motion to approve the use variance under Section 6.30.A.1 and a 15' variance from the 40' front setback requirement under Section 8.40 of the Bridgewater Zoning By-laws. Mr. Michael Mainvielle, Member, seconded the motion.

The vote was recorded as follows: Brian Heath, Member – in the affirmative; Michael Mainvielle, Member – in the affirmative; and Anna Klimas, Associate Member – in the affirmative.

The reasons for granting the variance were: 1) The topography of the existing lot creates a hardship to the land, 2) The proposed addition would be in harmony with the general purposes and intent of the bylaw, and 3) The proposed use does not derogate from the intent of the by-law. The variance is conditioned by the conveyance of a driveway easement to Lot 77.

1300 Vernon Street – Variance, Section 8.40

Mr. Brian Heath, Acting Chair, opened the public hearing on application filed by Milton Morris, 62 Spring Street, Bridgewater, MA 02324. Applicant seeks approval for a Variance under Section 8.40 of the Bridgewater Zoning Bylaws to allow the construction of a single-family dwelling. A variance of 135' from the 150' frontage requirement is requested. Said property is owned by Estate of Alvin G. Calnen, 1040 Pleasant Street, Bridgewater, MA 02324 and is located at 1300 Vernon Street, Bridgewater, MA as shown on Assessor's Map 124, Parcel 6. Area is zoned Residential A/B.

Notice of the hearing was mailed to all abutters and parties of interest as required by statute and was published in The Enterprise on October 10, 2018 and October 17, 2018. Notice was also posted on the Town Hall bulletin board and a copy was given to the Town Clerk. Board members present, and voting were Brian Heath, Member; Mr. Michael Mainvielle, Member; and Ms. Anna Klimas, Associate Member. Mr. Anthony Aveni, Chairman, and Mr. Gerald Chipman, Member, were absent. Mr. Brian Heath, Member, opened the hearing with a reading of the public notice and the following information was given:

The application was filed with the Town Clerk on October 1, 2018. The abutter's listing is public record, therefore, Ms. Anna Klimas, Associate Member, motioned to waive the reading of the abutters list and Mr. Michael Mainvielle, Member, second the motion. The vote was unanimous.

A letter dated August 21, 2018 from Mr. Steven Solari, Inspector of Buildings/Zoning Enforcement Officer to Mr. Milton Morris, 86, Spring Street, Bridgewater, MA 02324 was reviewed by the Board, and read it into the record. It stated the following: *"I have reviewed the attached plan with the proposal to construct a single-family home located at 1300 Vernon Street. The property location is in the Town of Bridgewater's Residential A/B District. The property contains approx. 28 acres, but only has 15 feet of frontage. The required frontage in the Residential A/B District is 150 Ft. You will need a variance from the Zoning Board of Appeals. You will need to seek relief for 135 feet. Applicable section of zoning Walls 8.40 Land Space Requirements If you have any questions, please contact my office."*

A letter dated October 23, 2018 from Ms. Jennifer Burke, Community and Economic Development Director, to the Zoning Board of Appeals Milton Morris, 86, Spring Street, Bridgewater, MA 02324 was reviewed by the Board. It stated the following: *"I have performed a preliminary review of the plans and the application documents submitted with the variance application for the above referenced location. The application seeks a dimensional variance to develop a single-family house within the Residential A/B Zoning District for frontage. Based on my initial review of the application, I submit the following comments for your consideration: 1) The plan as submitted to the Board is not stamped and/or certified by a registered land surveyor. As you know the Board's own application requirements state that "certified engineered plans" will be provided. The request is for a dimensional variance; without certification of the lot dimensions, the Board should not consider the application. 2) As you know, certain standards must be met in order to grant a use or dimensional variance. Specifically, "The board specifically finds that owing to circumstances of the soil conditions, shape, or topography of such land or structure and especially affecting such land or structure, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise to the petitioner or appellant and that the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance." 3) The required frontage in the Residential A/B District is 150 feet. The property that is the subject of the application has 15 feet of frontage on Vernon Street. The relief sought is 135 feet. Granting the required relief and allow only 10% of the required frontage will certainly nullify and substantially derogate from the intent and purpose of the ordinance. 4) It should also be noted that the standard driveway width is 12 feet. This would leave only 1.5 feet on either side of the driveway. 5) At this time, I would ask that the Board not grant the dimensional variance for frontage as it derogates from the intent and purpose of the zoning ordinance. Please do not hesitate to contact me if you have any questions."*

Mr. Milton Morris, representing the owner of the Estate of Alvin Calnen, stated that they are seeking a variance of 135' from the 150' frontage requirement to allow for a 15' driveway to access the 28-acre parcel, of which 24 acres is uplands, for the purposes of building a single-family home. Mr. Morris explained the topography of the land, and the

location of the wetlands, noting that the uplands is completely surrounded by water, as depicted on the engineered plans presented dated April 26, 2016, entitled "Compiled Existing Conditions Plan" as prepared by Morse Engineering Company, Inc., 19 Union Street, Scituate, MA 02066. Mr. Morris also gave the history of the parcel, noting that the Calnen family has owned and paid taxes on the property since 1958. Mr. Morris stated that the Calnen family ownership of the parcel pre-dates the Zoning Acts, the Rivers Act, and the Wildland's Protection Act, and those bylaws have adversely affected them. Mr. Morris stated that if the variance were approved, they would then seek approvals through DEP and the Conservation Commission for a wetland crossing to access the uplands.

Mr. Steve Solari stated that the state zoning required 50' of frontage and 5,000 sq ft to have a buildable lot and stated that zoning requirements started in the 1940s.

Mr. Arthur Kinnealey, 1310 Vernon Street, spoke in opposition of the variance, expressing flooding concerns.

Mr. Shane Veronesi, 1188 Vernon Street, spoke in opposition of the variance, expressing flooding concerns.

Mr. Gerald Ouellette, 1286 Vernon Street, spoke in opposition of the variance, expressing flooding concerns.

Mr. Rich Daniels, 1262 Vernon Street, spoke in opposition of the variance.

The Board reviewed and discussed all the facts as presented and there were no further questions or concern. Mr. Michael Mainvielle, Member, made a motion to close the hearing. Ms. Anna Klimas, Associate Member, seconded the motion. VOTE: All in favor, none opposed. The hearing was closed. Mr. Michael Mainvielle, Member, made a motion to deny the variance request of 135' from the required 150' of frontage under Section 8.40 of the Bridgewater Zoning By-laws. Ms. Anna Klimas, Associate Member, seconded the motion. The vote was recorded as follows: Brian Heath, Member – in the affirmative; Michael Mainvielle, Member – in the affirmative; and Anna Klimas, Associate Member – in the affirmative. The Variance is denied for the following reasons: 1) Does not meet the criteria of the bylaw, 2) The proposed use would not be harmony with the neighborhood, and 3) Relief would result in a substantial derogation of the intent and purpose of the bylaw.

Zoning Board of Appeals Business

There was no board business for discussion.

Mr. Michael Mainvielle, Member, made a motion to adjourn the regular meeting at 8:45pm. Ms. Anna Klimas, Associate, Member, seconded the motion. VOTE: All in favor, none opposed. Acting Chairman Brian Heath closed the meeting. Next Zoning Board of Appeals meeting will be held on November 14, 2018 at 7:00pm in the Council Chambers located on the second floor of the Municipal Office Building, 66 Central Square, Bridgewater.

Respectfully submitted,



Jane K. Brown
Administrative Assistant