

# Town of Millbury Board of Appeals

Paul Nigosian, Chairperson  
Robert Simmarano, Clerk  
Harold Proodian  
Ken Perro  
Daniel Mezynski  
Anna Lewandowski, Alternate member



MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

## Meeting Minutes

Wednesday, February 24, 2016

7:00 pm

RECEIVED  
TOWN CLERK  
16 APR - 1 PM 2:39  
MILLBURY, MASS.

**Board of Appeals Members Present:**

Paul Nigosian (Chairperson)  
Robert Simmarano (Vice Chairperson)  
Ken Perro (Clerk)  
Harold Proodian  
Anna Lewandowski (Alternate)  
Nancy Young (BOA Clerk)

**Absent:** Daniel Mezynski

**Guests:** Mathew LaPlante (owner of property) Mr. LaPlante's parents and brother;

**Contractor:** Michael Hopkins was unavailable

**I. Call to Order:**

1. Having complied with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, relative to advertising and notifying abutters, the Meeting was declared officially opened by **Ken Perro** at 7:10 pm. All decisions of this board are final except as provided in Chapter 40A of the Massachusetts General Laws.

**II. Public Hearing:**

**1. Owner: Matthew LaPlante Contractor: Michael Hopkins; (36 Stone Road, Millbury, Ma; Map 66; Lot 23)**

**Petitioner: Owner: Matthew LaPlante Contractor: Michael Hopkins**

Petition Purpose: Variance approval located at the property in question (Map 66; Parcel 6; Lot 23), for a multi-family dwelling in the S-1 district, providing that the property is serviced by the public sewerage and public water, this property does not have those requirements; this property has a septic and well system; the owner is asking for a variance to move forward with the conversion regardless of the current sewerage requirements.

**Paul Nigosian:** We're here to hear a variance regarding 36 Stone Road, Millbury, Massachusetts: Map 66; Lot 23 for a 2 family conversion, the property is located in a suburban S-1 zoning district.

**Matthew LaPlante:** the owner of 36 Stone Road, Millbury has brought to the board that his father has been diagnosed with Alzheimer's and is trying to find some living conditions for his parents that are affordable and attainable, he has been in contact with the Town of Millbury to see what his options were, his property is in the S-1 zoning district and it was recommended to Mr. LaPlante that he should try to acquire the multi-family permit; Mr. LaPlante has on his property for the past 15 years a pre-existing 15'x 30' two story garage that is set in the very far back of the property, the requirements are that the building is on town sewerage and water this building is not it has a well and septic system. Mr. LaPlante has been in touch with Helgerson's Septic and they spoke with the town building inspector, (Robert Frederico, Building Inspector, and Zoning Enforcement Officer), Helgerson's informed the inspector that based on the current system both septic and well can handle the additional usage if the second floor to the garage was converted into an apartment. Based on all this information it is Mr. LaPlante's request that the town would allow for the S-1 zoning a variance for the water and sewer and be zoned for the multi-family and build the second floor apartment for his parents. Mr. LaPlante was initially going with an in-law apartment which is acceptable in the Millbury Bylaws except for the dimensions; 30' x 50' – 1500 square feet, this conflicts with the Bylaws that require 800 square feet or less. Based on the research Mr. LaPlante did and the people he talked with at the Millbury Town Hall since the property is in an S-1 district it would be better to zone it for a multi-family the only hold up is the town water & sewerage vs. the well and septic. The main house on Mr. LaPlante's property is listed as a 5 bedroom, the current amount of person's living there, including his parents, doesn't exceed the capacity usage on the well or septic system and claims that will never change at any time or in the future.

**Harold Proodian questions:** when you no longer have a use for it is it going to continue to be rented out as another space? That's the biggest concern why the town created that law without the septic and sewer to keep that down to a minimum, it's almost like two houses on one lot, it's not really like an in-law per say within the house itself it's basically two houses on the same lot. Mr. LaPlante and his wife have no idea what or even when the time comes that it is no longer occupied it would be their wish to go back to the way it was so the taxes would go back down and just let the apartment gather dust, it is their hopes that their parents will be around for a long time so they won't have to think about the apartment that far in advance. **Anna Lewandowski questions:** Mr. LaPlante mentioned he discussed with someone regarding the sewer and water, (well & septic system), and asks if he has that in writing? Mr. LaPlante doesn't but he can get that. Anna Lewandowski also questions if Mr. LaPlante's father may have trouble getting to the second floor? Mr. Laplante is in the evaluation of an elevator is they can afford it if it isn't attainable then they may look into a chair lift; Paul Nigosian comments that this is the LaPlante family concern and that's not why we're here to discuss. Mr. LaPlante has informed that the way the garage is set up that if his parents were in the house they would have to park in the driveway and walk or wheelchairs to the house in any weather condition, with the garage conversion they can just pull into the garage and not have any difficulties from the outdoor conditions.

**Harold Proodian discusses:** We're all taking precedence we have to make each one individual, people could just build a garage and later say they want an apartment when they're really putting two houses on the same lot, the in-laws are usually connected to the house as part of the house as one there are certain rules...

**Mr. LaPlante comments:** this really isn't an in-law, we are completely away from that, that's why we're going with the multi-family, that's why it's the S-1 zone multi-family, this is what Lori from the planning board highly

recommended this. Mr. LaPlante was going the other route, (in-law), that was 90 days ago and taking this other route, (multi-family) we're now behind schedule on everything. The living conditions in his home in the way it is constructed they really can't have other people living in the home, there's no way to have two families, his parents are going up a flight of stairs to get to the second floor which is over the garage, (connected to the house).

**Ken Perro intervenes:** That the garage in the back is still going to have a full flight of stairs going up. Mr. LaPlante has plans of installing a stair lift and giving his mother a home where she has her own kitchen and she and his father have their own private life, they're still independent. Mr. LaPlante and his wife have two young children, 7 and 11, they all have a need for a separate place to live. The multi-family is affordable for Mr. LaPlante and his family to do but not affordable to buy and build another property and the proximity of their being close. Mr. LaPlante also pointed out the space his parents are living in now, a studio located above the main garage that is attached to the house is 30'x 50' or 1500 square feet which exceeds the 800 square foot which is required by the town. So the town told Mr. LaPlante and everybody gave him push back if he built 800 and the town allows Mr. LaPlante the 1500 for the in-law and go in under the "In-law Law" how is the town to know that he's not going to expand the full 1500 years later, so the town said to go the multi-family he can use the 1500 and he won't be restricted by anything and they would be following all the town's bylaw's, he was told this would be the best option to go. **Ken Perro questions:** (referring to the separate garage in the back of the property), it wouldn't have its own address? And all agree, (Mr. LaPlante, Paul Nigosian, Harold Proodian and Robert Simmarano), no it would not have its own address. **Paul Nigosian intervenes:** Multi-family is allowed in that zone, Mr. LaPlante points out that the property is zoned as an S-1 multi-family district the only question is that the variance is for the board to allot, the law says I need septic and well water and his water and septic can clearly handle it...

**Paul Nigosian intervenes:** Would you have to go to the planning board after this? Mr. Laplante has to wait 20 days if the board approves this and then another 30. Mr. LaPlante points out that he's been working on this approval with the town for the past 6 to 7 months, he's tried the in-law route but was told if he went through the whole process that he would probably be turned down, Millbury has already had a lot of problems with people going over the 800 square foot limit and his space above the attached garage is pre-existing 1500 square feet so there would be no way of illuminating, he would build a wall and seal off the excess footage and sign off on anything that needed to be done but in the end it probably wouldn't had gone through because a lot of people abuse that.

**Ken Perro questions:** Would Mr. LaPlante have to go in front of the Board of Health for the septic upgrade? Mr. LaPlante was told they don't necessarily have to upgrade the system, the septic can handle 5 bedrooms they're only using 3 bedrooms and that's all there is going to be in their home. **Ken Perro questions:** Is there a bathroom in the other garage already? Mr. LaPlante in forms that there is nothing in the garage, the garage has no septic or what so ever, he has already paid Helgerson's to come in and check the grade to make sure they can connect and all that and Helgerson's said that they could. Helgerson's then contacted the gentlemen who does the inspections for the town site plans for the board of health that inspects for septic and sewerage and he talked with Helgerson's and agreed that the existing system can handle that and that it's O.K. Mr. LaPlante also commented in regards to Anna Lewandowski's request as far as having all that in writing he was told that he would have to have that in order to move forward for the next step after this meeting, he already has an engineer involved and that will be all drawn up and written.

**Paul Nigosian intervenes:** Mr. LaPlante is going to have to submit plans and go through inspections, this is just his first step and without this he can't go anywhere. Mr. LaPlante is aware without the Board of Appeals approval he has nothing.

**Paul Nigosian:** referring to the people accompanying Mr. LaPlante at the meeting are his mother, father and brother, no one from his neighborhood, (abutters), are present at the meeting. Mr. LaPlante comments that he is good terms with his neighbors and the garage is nowhere near any of them

**Harold Proodian Questions:** How long has Mr. LaPlante lived at this property? Mr. LaPlante has been living there for 15 years. **Harold Proodian continues:** His concerns aren't for Mr. LaPlante and the multi-family upgrade on his property and what he is trying to accomplish is very common his concerns are what might happen to the property if Mr. LaPlante decides to move and the property is advertised as a multi-family two houses, that's his only concern.

**Ken Perro questions:** Can a condition be made on that? And nobody on the board knows if such a condition exists.

**Paul Nigosian:** Explains that the board is there to give Mr. LaPlante a variance and this can be discussed at the closed part of the vote and continues to ask if there were any further questions before the public hearing was closed?

**Anna Lewandowski questions:** Earlier in the meeting Mr. LaPlante stated he and his family only uses three of the four bedrooms, but if they were to sell the house the property would need the increase in the septic system? Mr. LaPlante explains that the way the house was built they have a great room over the garage, which some people construed as a bedroom and some don't but his family uses the three main bedrooms, but when the septic was built it was built with the potential for that fourth bedroom to be used which he thinks most homes they don't because it is a huge room over the garage but he doesn't technically understands that thoroughly how they built it opposed to how you could turn any room could be turned into a bedroom, in Mr. LaPlante's honesty he thinks Anna is correct but that's what happened with the in-law apartment, the town asked what if you were to sell it and the next property owner could come along and use up the rest of the space and go from the 800 to the 1500, Mr. LaPlante continues to explain that he is there for he and his parents and he shouldn't be restricted based on what someone might do 20 years from now and it's the same thing with this if he sells the house and someone wants to turn the office, den and downstairs into bedrooms they would have to go for whatever variables with the septic system, he's there complying and making sure the septic system can manage what's going to be living there for the next 15 to 20 years.

**Ken Perro intervenes:** If the system fails then you you're going to have to have to fix it anyway you can't live without it. As Mr. LaPlante stated the only challenge, going through this whole process, is a lot of what he's been walking through is "what if the other person after you leave?" the whole purpose of the in-law at first was to help this exact situation because he happened to have a pre-existing and now he's just trying to follow the process to the best of his ability to what is conducive for his family.

**Paul Nigosian:** Asks the board if anyone has any further questions, first to Bob, then to Harold and then to Anna the board agrees there are no further questions, Paul continues to ask Mr. LaPlante if he had anything further to add, Mr. LaPlante is confident that he has covered all his bases.

**Paul Nigosian:** Asks if anyone is to entertain a motion to close the public hearing? First motion was made by Harold Proodian, second motion was made by Ken Perro **All in Favor (5 – 0) closed.**

### Brief Discussion

Paul Nigosian: opened the discussion asking members of the board if they had any thoughts or concerns, observations of the board were as follows;

- The detached garage is set far back and quite a distance from the road, almost 100 yards or 300 to 400 feet.
- In-law apartments being detached from the house is definitely a separate house not part of it.
- The appeal is based on an S-1 Multi-family, an apartment for the elderly parents not an in-law apartment, an In-law and a separate apartment are two different entities the property is in an S-1 Multi-family Zone and the only reason why the LaPlante's are here is to get a variance for the town water and Sewer because the property is on a well and a septic system.
- Multi-family would always be one family one house you don't have two separate units as a multi-family, when you have a multi-family you have a first floor, second floor, third floor or one unit and one unit beside it sharing a common wall.
- A multi-family is larger than one or two it's like a project, multi-family; Briely Pond or anything like that is considered a multi-family and it's zoned an S-1 multi-family zone, the LaPlante family looking for a variance for sewer and water that's it, it's the sewer and water vs. the septic rule they're here for.
- The town new they didn't want multi-family in that area and that's why they never rushed to put the sewer and water up there because it was going to be over developed quickly, it's the last of the land and I think the master plan was to try to preserve that area by slowing down all lot of the growth in that area and keep it in that historic look.
- Bylaw rules: In a suburban district the following principle uses are permitted if granted a special permit for an exception by the special permit granting authority for a multi-family dwelling provided that it is serviced by public sewerage and public water and provided that

After a long deliberation Paul Nigosian asked the board if someone wanted to make a motion; Ken Perro made the first motion to approve for 36 Stone Road, Millbury, Ma (map 66, lot 23) for a variance to allow a multi-family dwelling that is not serviced by public sewer and water, Robert Simmarano second the motion to approve the variance, Paul Nigosian reiterated that the motion has been made a second in all in favor? Robert Simmarano responded with an "I", Ken Perro responded with an "I", Anna Lewandowski is "opposed", Harold Proodian is "opposed", Paul Nigosian, favor. Motion is denied, **3 to 2**. Paul Nigosian continues: This was a super majority in which there needs to be 4 "yes" votes; **the appeal is denied**, they do have a right to appeal. There's a 20 day waiting period from the date the decision is filed with the Town Clerk before you can file an appeal to the court.

### III. Approval of Meeting Minutes from December 30<sup>th</sup>, 2015:

(Portions of the meeting minutes need to be amended)

Paul Nigosian Entertain a motion to accept the minutes from December 30<sup>th</sup>, 2015 with the corrections made; Harold Proodian made the motion, Anna Lewandowski second, all in favor **5 - 0**.

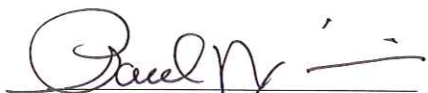
**IV. Nancy's Time Sheets:**

At present it is required three signatures; **Paul Nigosian** asks the board if anyone is opposed to the Chairman being the lone signer or do you want to continue as is? **Anna Lewandowski** made it into a motion to have the chairman sign Nancy's time sheets, **Harold Proodian** second the motion, Paul **Nigosian** reiterated, that there was a motion made that the chairman can sign the secretaries time sheet singly; the board was all in favor **5 - 0**.

**V. Adjournment**

Motion to adjourn by Chairman Nigosian at 8:00 pm, Harold made the motion seconded by Ken Perro, motion carried unanimously **5 - 0**.

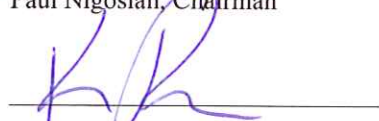
Respectfully submitted by Nancy Young and submitted to Town Clerk.



Paul Nigosian, Chairman



Robert Simmarano, Vice Chairman



Ken Perro, Clerk

\_\_\_\_\_

Harold Proodian

\_\_\_\_\_

Daniel Mezynsky



Anna Lewandowski, Alternate