

**MINUTES
CITY OF TAUNTON
ZONING BOARD OF APPEALS
October 10, 2013 at 5:30 PM**

Members Present were: Dennis Ackerman Chairman, Estele Borges, Wayne Berube., Steven Vieira and George Moniz. .

Meeting opens at 5:38 pm.

Joe made motion to accept minutes of September 10, 2013 seconded by Wayne. . All in favor.

Chairman Ackerman explains the ZBA process. The petitioner presents their case then they hear from anyone in favor or opposed then they go back to the petitioner to address any of the opposition concerns, they do not go back & forth.

Case # 3200 Aspen Properties Group LLC 15 King St.
A Variance from Section 7.8 of the Zoning Ordinance for the conversion of a 2-family dwelling to a 3-family dwelling on a lot having 8,569 sq. ft. (instead of 15,000 sq. ft.)
Letter from Atty. Gay requesting to withdraw without prejudice.
Motion made and seconded to allow petitioner to withdraw without prejudice.
Vote: Ackerman, Berube, Amaral, Borges, Vieira.....Yes
Petition withdrew without prejudice.

The Settlement – (Comprehensive Permit) Request to reduce the percentage of affordable units in development.
Petitioner withdrew his request.
Motion made and seconded to withdraw request.
Vote: Ackerman, Amaral, Borges, Vieira, Berube....Yes
Request withdrew.

Cont'd. Case # 3198 Combined Realty LLC 66 Main St.

A Special Permit from Section 10.4.1 of the Zoning Ordinance for a Mixed Use Development in a Central Business District (8 residential units on 2nd & 3rd floor & the existing commercial use on 1st floor) and a parking waiver pursuant to Section 10.4.8 of the Ordinance

For the Petitioner: Atty. David Gay, P. O. Box 988, Taunton, Ma.
Carlos Melo, 43 Taunton Green, Taunton, Ma.

In favor: None

Opposed: David DeSantis, One Taunton Green, Taunton, Ma.
John White, 4 Winthrop St., Taunton, Ma.

Mike Wedge, 20 Cedar St., Taunton, Ma.
Terri Bernardt, Director, Taunton BID, Taunton, Ma.
Jose Bejarano, TuxTowne, 40 Main St., Taunton, Ma.
Alyssa Scully, BID Director.
Petition signed by 38 abutters.

Atty. David Gay stated they continued their public hearing for a Special Permit for a mixed use in a Central Business District and a waiver of the parking requirement. They spent considerable time at last meeting on the use on the first floor which is not the scope of this proposal. They are here tonight for a residential use on the 2nd & 3rd floors. Atty. Gay stated the Board in previous cases granted approval for a reduction of the parking downtown. He stated this site requires 18 parking spaces for a residential use and 44 parking spaces for a commercial use. Atty. Gay stated there are 2 major parking lots, one on Trescott Street and one behind City Hall. Atty. Gay stated he was unsuccessful in reaching the parking authority but he found out the Trescott Street parking lot is free of charge and the lot behind City hall is generally not crowded. Atty. Gay states they are proposing a multifamily use on the upper floors creating a mixed use. Atty. Gay stated some permitted uses are barber, dance, laundry, and theatre. The present use on the first floor is not before the Board. The hours of counseling are Monday – Friday 6:00 AM – 2:00 PM and medicating hours are 6:00 AM – 10:00AM. There are a number of counseling agencies in the area. He stated the restaurant downtown is open late into the night. He stated you think it's unreasonable to live above a clinic but not above a restaurant with liquor. Atty. Gay stated they received document from Police Department showing no incidents for this address. Chairman Ackerman stated it has been reported there have been problems with people in the area. Atty. Gay submitted letter from CEO of the Clinic stating they keep the area keep clean. Atty. Gay is requesting the Board to reduce the number of parking spaces from 16 to 8 spaces. He stated they can provide parking permits to tenants which allow to park garage. Chairman Ackerman read the documentation relative to parking permit and states having a parking permit doesn't guarantee you a spot, it's on a first come first serve basis. Chairman Ackerman stated that is not designated parking. Atty. Gay responded saying the parking lot next to the Library is never full and there are plenty of spaces to park. Atty. Gay stated commercial use downtown is not going to work. He stated if his client is willing to spend money fixing up for residential and he can't rent them then it's his problem not the Boards. Atty. Gay stated the reduction of the parking has been approved on a regular basis with this Board. Steve stated the behavior from the use on first floor affects the neighborhood. Atty. Gay stated there are people around from 6:30 AM – 7:00AM. They come for their dose of medicine and leave. Wayne stated the syringes on the ground creates a public health issue. Steve asked Mr. Melo about complaints and Mr. Melo answers they have received none. George stated he lives in area and he sees more people hanging around the convenience store across the street and he has never seen trash and needles.

Atty. Tom Gay stated the people who use this service are out of town and they are not going to hang around and socialize. Atty. Tom Gay stated no one has submitted any evidence from last meeting showing there was an issue. Atty. David Gay stated his client shouldn't be denied the right to develop his property. Wayne stated based on the evidence, in his opinion, it appears the clinic is not well supervised relative to trash, needles and people hanging around. Chairman Ackerman stated you are here tonight because you need relief from parking requirement. He has not heard any evidence about having 16 parking spaces. Atty. Gay referenced some previous approved ZBA cases, #3091 granted variance from 16 spaces to 6 on Trescott Street. Chairman Ackerman stated that was for the Art Gallery and they secured parking. Atty. Gay stated the Mr. Melo has parking lot down the street but he would prefer parking on Trescott Street. Atty. Gay reference Case # 3090 from 92 spaces to 50 spaces for 25 Main Street. Estele asked Mr. Melo where his parking lot was and he said 43 Taunton Green. No one in favor. Alyssa Scully, BID Director stated she has petition signed by 43 concerned abutters downtown. She stated the Trescott Street parking should not be a substitute parking because it's full. The Trescott Street project purchased deeded parking. She stated they feel the mixed use of Clinic and residential use is not a good mix. Opposed: Jose Bejarano, TuxTowne, 40 Main St., Taunton, Ma. stated there is a crime issue but there is no public record of it. He referenced an incident from April 2012 relative to a heroin bust and someone being removed from the program. A month prior to that he heard from 4 people there were 2 woman fighting. He stated at 6:00 AM the parking lot is packed and it usually clears out towards the evening. He stated the clinic serves its cause but not a good mix. John White, 4 Winthrop Street referenced the SP and the criteria of which to grant it. He stated the clinic is an obnoxious use and not a good mix with residential. David DeSantis, stated 8 Trescott Street came before the Board and they purchased lot for \$70,00 for parking and he stated 8:30 – 4:30 pm the parking deck is full. He stated proposed parking 3-4 blocks away is not a reasonable solution for parking. Opposed: Ben Simas, 144 Oak St. stated this mixed use is not good for the downtown. He stated this will affect the revitalization of downtown. Atty. Gay stated if the Trescott Street parking lot is full during day they need parking for night. He stated he spoke to Mayor about downtown parking and they may not need it. He stated the counseling hours are 8 hrs and the treatment hours are 4 hours a day. There are many other counseling agencies downtown. He stated this facility doesn't impact them. Chairman Ackerman said they look at each case on its own merits and it's up to this Board to make a decision. Letters from the City Planner, Fire Dept., Conservation Commission, B.O.H. DPW/Eng. Petition signed by abutters. Atty. Gay stated they have put sprinklers into building. George suggests putting security and Mr. Melo stated there is security present.

Motion made and seconded to Grant as Presented:

Vote: Vieira, Berube, Ackerman, Estele.....No
Moniz.....Yes

Petition Denied:

Case #3201 **Hawthorne Development Inc.** **545 Winthrop St.**
A Special Permit from Section 5.2 of the Zoning Ordinance to allow six 3-family dwellings (triplex style) on lots 1-6 located in the Highway Business District.

For the Petitioner: Atty. Edmund Brennan, One Church Green, Taunton, Ma.
John Garanito, Hawthorne Development, Inc., 174 Dean St. Unit C, Taunton, Ma.

In Favor: None

Opposed: David Lewis, 44 Range Avenue, Taunton, Ma.
Elizabeth Lewis, 30 Range Avenue, Taunton, Ma.
Nancy Pearson, 33 Range Avenue, Taunton, Ma.
Petition signed by 28 abutters.

Atty. Brennan stated the property is located on the corner of Winthrop Street and Range Avenue on a 4.9 acre parcel. The property is zoned Highway Business District which requires a Special Permit from the ZBA for any residential development. The proposal is to construct triplex (3 units) on each lot resulting in 18 units. Atty. Brennan it was designed as a condo complex with 3 driveways servicing 2 buildings and there will be easements and homeowners association. Atty. Brennan stated it's a good use for the property and it will benefit the neighborhood because it would be less impact on neighborhood than a commercial use. Chairman Ackerman asked if there was any consideration for duplexes? He stated the plans show "more bang for your buck". Atty. Brennan stated petitioner did speak to neighbor and has agreed to put single family on Lot 1. Atty. Brennan stated he doesn't think it's a too intense use and he won't rule out duplexes. Atty. Brennan stated the way it's designed it reduces the number of driveways. Joe asked what's the hardship and Atty. Brennan states this is a Special Permit not a variance. He stated the proposed use is in harmony with the uses in the general area. Wayne asked what kind of housing is he proposing? They will be construction 1,700 sq. ft. 2 bedroom townhouses with fire place. John Garanito, 174 Dean St. Unit C stated there will be a homeowner's association and cross easements. No one in favor. Opposition: David Lewis, 44 Range Avenue stated the property is surrounded by a State Highway, Winthrop Heights subdivisions (single family homes) and businesses. He stated this type of development in this area is not typical. What about snow removal, maintenance of property and more entrances. He stated there are no sidewalks on this road and he thinks it's crunching in too many houses. There are wetlands on the site and businesses in close proximity. Mr. Lewis stated with that many more houses there will be added traffic, tough visibility and Range Avenue is a narrow street. Estele asked if was opposed to all residential and he answers single family would be better. Joe asked if there was sewer available and he answers yes but not all the way up Range Avenue. Opposed: Elizabeth Lewis, 30 Range Avenue stated this property is in the HBD and this would be

For the Petitioner: Atty. Richard Bentley, 28 Broadway, Taunton, Ma.

In favor: None
Opposed: None

Atty. Bentley stated they are here to convert a 2 family dwelling to a 3-family dwelling. Atty. Bentley state the lot has an unusual shape and the house was built in the 1880's. Inside was set up for a 3 family. Presently the 2nd floor is being used by the owners in conjunction with the first floor and the 3rd floor is rented out. There are 3 families in the area this will be compatible with the surrounding dwellings. Atty. Bentley stated in 204 the previous owners received variance but never acted on it. In 2011 the previous owner received approval to a 2 family. The lot is undersized and they are asking for a waiver of 1 parking space. Chairman Ackerman has always preferred having the parking on site and suggests looking at plans and trying to fit it on site. Atty. Bentley stated we can but the zoning doesn't allow "stacking". Estele stated it looks like its congested with the 5 and she doesn't know how you can fit another one on the site. Chairman Ackerman stated he never has voted for this if they didn't have enough parking. Joe asked if there is public parking allowed and Atty. Bentley answers yes. It was stated he would need a curb cut on Bow Street and it was pointed out that Bow Street is a one way. It was suggested continuing and seeing if they can find room for one more parking space. Atty. Bentley requested a continuance and extended the time frame on which to act on this proposal.

Motion made and seconded to continue to November meeting.

Vote: Borges, Vieira, Berube, Ackerman, AmaralYes
Petition continued.

#3203 Mechanic's Co-Operative Bank 316 Broadway
A Variance from Section 7.1.1 & 7.5.6 of the Zoning Ordinance to allow the elimination of the required trees & shrubs in the front yard landscaped buffer and to allow an 121.13 sq. ft. Free-standing sign.

For the Petitioner: Joseph Baptista, VP, Mechanic's Co-Operative Bank, 308 Bay St, Taunton, Ma

In favor: None
Opposed: None

Joe stated they are asking for a waiver of the landscaping of shrubs and trees in front. Also they wish to put a free-standing sign and due to the size and frontage of the building they are only allowed a small sign. This will be the only sign other

Paul stated the petitioners purchased the property as 2 lots with the intention of family living closeby. The intent is for the son to live in rear lot. They surveyed property and discovered the lots was short square footage. There are 19 houses on the street and 5 conform. This lot size is not unusual in this neighborhood. Estele asked if the driveway would on Floyd or Clark Street? Paul answers Floyd and Estele though it would be on Clark and then she was informed Clark Street is not a paved street. They are proposing a single family but at this time don't know the exact size. Joe asked if the abutting Medeiros property faces Clark Street and they answered yes. Wayne asked if the access is being proposed to be off Floyd and they answered yes. Edna & Marla Isaac, 25 Floyd Ave. had some concerns with drainage. Marla stated there is an existing water problem and she doesn't want it to get any worse. She is not opposed to a house going in as long as it doesn't make it worse. Chairman Ackerman informed her that the City Engineer reviews and makes sure the drainage is not worse than existing. Letters from the City Planner, Conservation Commission and B.O.H were read into the record.

Motion made and seconded to Grant with the following conditions:

1. New house to be single family only.
2. New house must be serviced by Municipal Water & Sewer.

Vote: Borges, Vieira, Berube, Ackerman, Amaral Yes
Petition Granted.

Meeting adjourned at 7:51 pm.