

**CITY OF TAUNTON  
ZONING BOARD OF APPEALS  
April 12, 2012 at 5:30 PM**

Members Present were: Joseph Amaral, Acting Chairman, Peter Wasylow, Estele Borges, and Wayne Berube. Steven Vieira present at 6:56 pm, Troy Medeiros present at 7:03 PM and Dennis Ackerman present at 7:15 pm.

Meeting opens at 5:37 pm.

Peter made motion to accept minutes of March 8, 2012, seconded by Estele. All in favor.

**Case # 3123**                      **Alexander**                      **144 Devon St.**  
**Hearing held on April 12, 2012**

For: A Variance from Section 7.7 of the Zoning Ordinance for an above ground swimming pool having a 5 foot side yard setback (instead of 10 feet)

For the petitioner: Justin Alexander, 144 Devon St., Taunton, Ma.

Opposed: None

In favor: None

Mr. Alexander stated he wishes to put up pool and it will be 5 feet from the side property line. He property is more of a hill and has limited amount of flat space to place pool. He is trying to maximize the flat area of his property to have sandbox and play area for his daughter. He has good relationship with abutter who has no issue with it. He stated there is a wood line on that side of his property. Joe asked if his backyard was fenced in? Mr. Alexander stated the pool will have the proper fencing attached to it per code. No opposition. Letters from the City Planner, Conservation Commission and B.O.H. were read into the record.

Motion made and seconded to Grant as Presented:

**Vote: Amaral, Wasylow, Borges Berube.....Yes**

**Petition Granted:**

**Case # 3127**                      **Andre**                      **One Harvard St**  
**Hearing held on April 12, 2012**

For: A Variance from Sec. 6.2 & 6.3 of the Zoning Ordinance to allow the division of one lot into two lots located in the HBD. Lot 1 having existing house with 9,000 sq. ft. of lot area & dry area (instead of 15,000 sq. ft. lot area & 11,250 sq. ft. dry area) with 90' of frontage & lot width (instead of 100') Parcel A having 10,000 sq. ft. of lot area and dry area (instead of 15,000 sq. ft. lot area & 11,250

sq. ft. dry area) and a Special Permit from Section 5.2 to allow a single family home in the HBD

For the petitioner: Cindy Andre', One Harvard St, Taunton, Ma.

Opposed: None

In favor: None

Mrs. Andre is requesting to split in her to help her son out and allow him to close by. She will be retiring soon and will welcome the extra income. Joe asked if the lot will stay in family and she answers yes. Wayne asked about the shed? She stated they will move it. Estele asked what kind of house were they planning on building? Mrs. Andre' answers a single family raised ranch. Wayne again asked if it was for her son and she stated yes. The Board just wanted to make sure because some cases are presented that way and the land ends up being sold. Wayne stated the property is located behind the commercial uses on Winthrop Street. He states a small house will fit nicely there. Letters from the City Planner, Conservation Commission and Board of Health were read into the record.

Motion made and seconded to Grant as Presented:

**Vote: Amaral, Wasylow, Borges Berube.....Yes**

**Petition Granted:**

**Case # 3124          American Auto Auction                          580 Winthrop St.**  
**Hearing held on April 12, 2012**

For: A Variance from Section 8.5 to allow ground mounted solar panels in the front yard.

For the Petitioner: Bob Rogers, Tibbetts Engineering Co., 716 County St.,  
Taunton, Ma.  
Aaron Brown, 245 Castleberry Industrial Rd., Cumming, Ga.

Opposed: None

In favor: None

Bob stated this is the old Taunton Expo site which is on the Taunton/Dighton line. There was recently a new building constructed on site for auto body which went through the permitting process. Bob stated the TMLP in conjunction with Cox Communication and the solar facility will be selling power from these panels. Bob stated because the property is located along Winthrop Street and Williams Street (running into Dighton) they need variance to be able to place solar panels in front yard. Joe asked about the auto body and Bob stated it went in in 2008. Joe stated this is the old auction and he did some research on property and the

ordinance doesn't allow anything above 8 feet and 20% tilt. Bob stated they will need to go to the DSPR and they will look at fencing and landscaping, etc. Peter stated the plans are difficult to determine where the streets are? Bob stated he was told by the City Planner that the plans presented would be ok, keep them simple. The Board was surprised because usually he wanted very detailed plans. Bob stated this has to go to the SPR and the Conservation Commission. Bob stated they have an agreement with the TMLP for selling power. He stated the engineer from Inman Solar took plan and placed the panels on it. Joe asked if they had anything in writing with the TMLP and he answers they have minutes of meeting of which they approved contract. It was asked that the minutes/contract be submitted to the ZBA office. No one appearing in favor or opposed. Letters from the City Planner, Conservation Commission and Board of Health were read into the record.

Motion made and seconded to Grant with the following conditions:

1. Solar panels shall be in compliance with all zoning setbacks requirements.
2. Submit a copy of the minutes/contract to the ZBA Office.
3. Approvals based on the TMLP receiving power generated from solar panels (as presented at meeting)

**Vote: Amaral, Borges, Wasylow, Berube.....Yes**  
**Petition Granted:**

**Case # 3126    O'Brien    10 Fox Hill Dr.**  
**Hearing held on April 12, 2012**

**For: A Variance from Section 6.3 to allow a 24' x 24' garage having a 36 foot front yard setback (instead of 40 feet)**

For the petitioner: Bob Roderick, representing Julee O'Brien, 10 Foxhill Dr., Taunton, Ma.

Opposed: None  
In favor: None

Bob stated he will be constructing the garage for his friends. Their property is on the corner so they are required to meet a front yard setback instead of a side yard setback. Joe asked if he would be doing the construction and Mr. Rodericks answers yes. No one appearing in favor or in opposition. Letters from the City Planner, Conservation Commission and Board of Health were read into the record.

Motion made and seconded to Grant as Presented:  
**Vote: Amaral, Wasylow, Borges Berube.....Yes**

**Petition Granted:**

**Case # 3121**

**Figueiredo**

**13 Woodlawn St**

**Hearing held on April 12, 2012**

For: A Special Permit from Section 7.9 of the Zoning Ordinance to allow an accessory dwelling unit in a Suburban Residential District.

For the petitioner: Steven Figueiredo, 33 Ridgewood Dr., Taunton, Ma.

Opposed: None

In favor: Letter from Steven Simmons, 17 Woodlawn St. E. Taunton, Ma.

Mr. Figueiredo stated he wishes to construct an accessory dwelling unit to the new house. He took old house down and now has buyer who wishes to add accessory dwelling for a relative. Wayne asked if he had Purchase & Sales Agreement and he answers yes but not here tonight. Wayne stated that should have been included in the submittal. Mr. Figueiredo stated this house has not been marketed as a in-law he was approached by someone. He purchased property as a single family dwelling. There was some discussion to continue until next month so he can provide copy of P&S agreement. At this time Mr. Figueiredo stated he would withdraw his request.

Motion made and seconded to allow petition to be withdrawn without prejudice.

**Vote: Amaral, Wasylow, Borges Berube.....Yes**

**Petition withdrawn without prejudice.**

**Troy present at 7:03 PM**

**Peter excused at 7:03 PM**

**Case # 3125**

**Hamie**

**240 Alfred Lord Blvd.**

**Hearing held on April 12, 2012**

For: A Special Permit from Section 5.3.4 of the Zoning Ordinance for the alteration & extension of a pre-existing non-conforming use & building by allowing a 110 sq. ft. addition with a 5 foot front setback and change of use from gasoline service & motor vehicle repair to gasoline service and convenience store .

For the Petitioner: Atty. Marc Antine, Roster & Antine, P.C., 63 Winthrop St. Taunton, Ma

Paul Patneaude, P.E. Earth Services Corp., 198 Crane Ave

So. Taunton, Ma.

Mohamad (Mike) Hamie, Petitioner

Central St. James Noyes, Greenman-Pedersen, Inc., Traffic Eng. 105  
Stoneham, Ma.

In favor: Stanley Johnson, 235 Alfred Lord Blvd., Taunton, Ma.  
Katherine Sutherland, 210 Alfred Lord Blvd., Taunton, Ma.  
Jeffrey Heather, 211 Alfred Lord Blvd., Taunton, Ma.  
Helen Occhipinti, 27 Worcester St., Taunton, Ma.  
Chester Farrar, 33 Worcester St., Taunton, Ma.  
Charles Doherty, 121 Solitude Dr., Taunton, Ma.  
Vincent Barros, 107 White Pine Dr., Taunton, Ma.  
Joyce Caron, 37 Worcester St., Taunton, Ma.  
Petition signed by 46 abutters in favor.

Steve Vieira excuses himself from this case. Atty. Antine stated this building has been longstanding in the neighborhood and the petitioner wishes to change to add a convenience store. The auto repair will be removed and just gas station and convenience store. Many decades ago this received zoning approval and in 1996 the gasoline sales was re-instated and now the petitioner wishes to get rid of the auto repair and add a little addition and use the part of the building (along with the new addition) as the convenience store. Atty. Antine submitted 39 letters from abutters. Petitioner has done substantial work and has had new tanks, pumps, and installed on-site septic. Dennis stated the grass shown on the plans is actually off the property. Paul says that's how it has been developer many years ago. Jim Noyes, Traffic Engineer, presented his letter showing the traffic study they conducted and there will not be much of an increase in traffic in the area as a result of this project. Troy asked if approved is it their intention to run the store themselves? Mr. Hamie answers yes. Troy stated he likes an on-site landlord. Mr. Noyes stated he actually uses this roadway to go to the Mansfield office. He stated Rte. 140 between 6-8PM are very busy and some people use this for access from the Industrial Park. Jim stated he's aware of the bad intersection. There has been 5 accidents in 3 years at the intersection but there is a lot of site distance. Estele asked what hours are they looking at? Mr. Hamie answers 5:30 am – 9:00 pm. would be ok. Wayne stated he looked at site and stopped and he noticed the primary access is off Route 140. Paul stated this has to go through the site plan review process and we can work with the engineer on that. Atty. Antine passed out concept plan of what the building will look like. He stated there are 7 parking spaces, 1 HP and 2 employee parking spaces on plans. Joe asked about the full service gas now and is it going to stay like that? Atty. Antine stated currently it's a Full service but they may change? He stated in 1996 on their re-instatement of the gasoline tanks it stated full service. He would ask the Board to put no limits relative to the full or self service gas. He stated the petitioner has been an asset to the neighborhood and the store will be no more of a detriment than the existing auto repair. Wayne asked where is the access? Wayne stated he thinks the locals come in back from Worcester Street. They could put restriction or perhaps a speed bump. In favor:

Stanley Johnson, 235 Alfred Lord Blvd. stated the petitioner is a good small businessman. Katherine Sutherland, 210 Alfred Lord Blvd. in favor. Jeffrey Heather, 211 Alfred Lord Blvd in favor. Helen Occhipinti, 27 Worcester St in favor, Charles Doherty, 121 Solitude Dr. in favor. He stated the petitioner is of good character and takes good care of his property and he lives right across the street. Vincent Barros, 107 White Pine Dr. in favor, Joyce Caron, 37 Worcester St. also in favor. No one in opposition. It was very evident to the Board the petitioner had the overwhelming support of the neighborhood by their applauding at the granting of his request

Letters from the City Planner, Conservation Commission and Board of Health were read into the record.

Motion made and seconded to Grant with the following conditions:

- 1. Hours of operation: Daily 5:30 AM – 10:00 pm
- 2. Full Service and/or Self service gas

**Vote: Amaral, Borges, Medeiros, Ackerman, Berube.....Yes**

**Petition Granted:**

**Case # 3120                      Cana Properties                      30 South St.  
Hearing held on April 12, 2012**

For: A Variance from Section 6.3 of the Zoning Ordinance to allow the division of one lot into two lots without having the required lot area & dry area. Lot 1 having 18,232 sq. ft. of lot area (instead of 30,000 sq. ft. lot area & 22,500 sq. ft. of dry area) with an existing single family dwelling; Lot 2 having 17,500 sq. ft. of lot area & dry area (instead of 30,000 sq. ft. of lot area & 22,500 sq. ft. of dry area) for the construction of a single family dwelling.

For the Petitioner: Atty. Matthew Costa, Gay & Gay, PC. P. O. Box 988, Taunton, Ma.

Brian Reed, 8 Carlos Estates Dr., Berkley, Ma.

In favor: None

Opposed: James Morgan, 64 Railroad Ave., Taunton, Ma.

Lucinda Lynds, 24 South St., Taunton, Ma.

Atty. Costa stated that they are requesting to divide the existing lot which is on the corner of South Street and Railroad Avenue. Lot 1 will have the existing single family house (but used to be a two-family house) and Lot 2 will have a single family dwelling. The new lot (Lot 2) will have access from Railroad Avenue and have water & sewer and with comply with all the URD requirements relative to setbacks. The property is larger than many in the area and there are also 2 families in the area. Atty. Costa argues that the variance can be granted due to the unusual shaped lot. The lot is also large compared to other lots in the

area. Lot 2 will be best suited for a residential home and will be consistent with the neighborhood. The granting will not result in any negative impact. Atty. Costa stated that 2 lots behind are results of a variance granted in 1984. This property was in the Urban Residential District but has changed to Suburban Residential District. This neighborhood is a high populated neighborhood. The petitioner purchased the property thinking he had 43,000 sq. ft and later found out the lot area is only 35,772 sq. ft. Chairman Ackerman asked if that was found at the closing? Brian Reed, 8 Carlos Estates, Berkley, Ma. answered no it was after his engineer researched the legal description. Chairman Ackerman stated according to the DPW there is a moratorium on cutting into the road for sewer until 2013. Chairman Ackerman is concerned because there's not much backyard. Atty. Costa suggests moving pine trees to maximize 30 South Street. Wayne asked what is the hardship? He too was concerned with the limited frontage and the lot is tight. Joe stated the current status of 30 South Street? Mr. Reed answers it's on the market after he fixed up. He is self-employed and he is just trying to keep his workers busy in this tough economy. He stated there is a financial hardship for him. Mr. Reed submitted photos of the house he fixed up. Opposed: James Morgan, 64 Railroad Ave. asked where the driveway would go? It will go on Railroad Avenue. Opposed: Lucinda Lynds, 24 South St. had some concerns on ledge, water in her basement, and she doesn't want more water. There is no need to cram houses in and part of her reason for buying property was the open space. The property used to be a funeral parlor. She has French drains and the water runs down hill. Chairman Ackerman stated the City Engineer that not more water will come from property. Mr. Reed stated they are thinking 44' foundation and putting driveway on other side. He grew up in the area. Joe stated he too grew up there and this road is heavily traveled. Mr. Reed stated he went around to abutters but no one was home at 24 South St. Chairman Ackerman stated the ZBA process is to listen to petitioner, then in favor, opposed and the go back to the petitioners to allow them to address the oppositions concerns. Wayne suggests putting driveway off back of South Street, circular driveway. Wayne commended the petitioner for wanting to keep his workers employed during this economy. Atty. Costa stated accessing from South Street would be an acceptable alternative. Estele stated the open space is still there. Joe stated he looked at this with an open mind and he thinks there is no hardship. Atty. Costa reminded the Board that 24 & 63 South Street were creating by variances. Letters from the Conservation Commission, City Planner, B.O.H., DPW/Water Dept.

Motion made and seconded to Grant as with the following conditions:

1. Re-locate the existing white pines trees on new lot.
2. The new lot t have circular driveway accessing from Railroad Ave.

**Vote: Ackerman, Borges.....Yes**  
**Amaral, Wasylow, Berube,... . No.**  
**Petition Denied:**

Wayne excused at 7:48 pm.

**Case # 3122**

**Olaniyan**

**77 Short St.**

**Hearing held on April 12, 2012**

For: A Variance from Section 6.2, 6.25 & 6.3 of the Zoning Ordinance to allow the division of one lot into two lots without the required frontage, lot area, dry area, lot width, shape factor. Lot 1 having 25,000 sq. ft. of lot area and dry area (instead of 60,000 sq. ft. of lot area & 43,560 sq. ft. of dry area) with 100' of frontage (instead of 150') Lot 2 having 20 feet of frontage & lot width (instead of 150' of frontage & 100' of lot width) with 26,500 sq. ft. of dry area (instead of 43,560 sq. ft.) with a shape factor of 54 (instead of 35).

For the Petitioner: Atty. John Blake, One Taunton Green, Taunton, Ma.  
Joseph & Christine Duarte Olaniyan, 24B Bliss St., Taunton, Ma.  
John DeLano, P.E., 27 Jefferson St., Taunton, Ma.

In favor: John McGrath, 71 Short St., Taunton, Ma.  
JoAnn Allen, 76 Short St., Taunton, Ma.  
Petition signed by 10 abutters in favor.

Opposed: Paul & Dorothy Whiffen, 79 Short St., Taunton, Ma.

Atty. Blake stated that Christine & her husband, Joseph Olaniyan are trying to divide the existing lot owned by her mother into two lots so they live closeby. There was 2 variances granted in 1974 & 1975 and then most recently there was a variance to divide the property and that was denied. The property is located in the Rural Residential District and has 105,070 square feet with a single family home on it. There is sufficient foliage and the existing home is well kept. There are some wetlands on the property and they are trying to stay away from them. The newly created lot will be for Christine and her husband to build a single family house while her mom will remain in the existing house. There will be no impact to water & sewer and there will be separate driveway for both lots. Atty. Blake stated that new landscaping will be added and there will be no commercial use of the property. He stated this will allow a third generation to live on the property. Christine & Joseph have a Purchase & Sales Agreement for the property. They submitted petition signed y 10 abutters in favor. Christine stated that her family has lived there for over 60 years and that is her ultimate dream is to live close to her mom and her mom can help her with her children. Christine stated her husband is in the service industry and is working alot so she relies on her mom to help out. Troy stated he likes it when family helps family and he will support this. John Delano defined the wetlands on the plans which have been flagged provided a 25 foot No Touch per the Conservation Commission. There is room for septic system and he has surveyed plans and they are accurate and there is a tree line in back. They will widen the existing driveway for current



house but each lot will have their own driveway. Chairman Ackerman asked if the land has been to Conservation Commission yet? Mr. DeLano answers no but it has been flagged by botanist. Joe stated this case came before us in 2005 and is there anything different? Atty. Blake stated they took all the board's concerns and implemented them in new plans tonight. Joe asked how far the new house will be located off roadway and it was answered about 300 feet. Joe asked who will live there and they answers daughter & husband. Chairman asked if they will be agreeable to the original conditions placed on the decision. They stated yes they shown on plans already. In favor: John McGrath, 75 Short St. met with petitioners and he's in favor of proposal. JoAnne Allen, 75 Short St. Joseph Olaniyan stated he moved from Boston to Taunton to be close to his family. Opposed: Paul Whiffen, 79 Short St. stated he's a direct abutter and he sympathizes with petitioner but there is no hardship. He would like to have his family live closeby but he would not chop up his property. He stated this lot is a pork chop lot and this will set a precedent . He thinks the existing clothes line is actually on his property. He had several questions regarding the submitted plans as to whether there accurate, calculation of dry area, no hardship directly relating to the shape & size of the lot. He stated that 14 years ago he & his wife bought property because it was nice and quiet and now they want to add another house. Troy asked Mr. Whiffen if he would divide his property for his children and Paul answers no he would not break up land. He stated if it was the petitioner's intention to keep the property in the family then why did they sell him his land. Joe pointed out Paul is passionate about his because he lives there but 90% of his questions are for the Conservation Commission. Paul asked if he will be notified if they put septic in? Paul also pointed out fire access, TMLP utilities, water, B.O.H.'s regs for septic systems. Dept. letters were read into the record from Conservation Commission, City Planner, Water Dept. and Board of Health. Mrs. Whiffen asked what house number would they be and they answers the City Engineer assigns the house number. Estele stated this was denied in 2005 and now they incorporated and all they want is family to live by family. Mrs. Whiffen asked Estele is that's how she's votes? Mr. Whiffen asked if the Engineer was an expert in archeology? He stated his property value is going to decrease. Mrs. Whiffen asked what if petitioner's son wants house will they split lot again? Mrs. Whiffen stating they are creating a hardship for them. Atty. Blake stated the hardship is in the eye of the beholder. Mr. Delano explained how he calculated the dry area, conducted perc tests which were observed by the B.O.H.. He has been in business since 1979 and he's feels confident his calculations are accurate. Joe asked if they actually did perc test and he answers yes. Joe asked about the clothes line and they stated they could move it either way. The Board suggests having a 30 foot side yard setback along the Whiffen property. In favor- petition signed by abutters in favor. Chairman Ackerman stated the shape of the property with it being long and narrow is a hardship directly related to the land.

Motion made and seconded to Grant as with the following conditions:

1. Each lot must have individual driveway on own property.
2. Both lots must tie into Municipal Water.
3. House on Lot 2 must face Short Street
4. Must provide emergency turnaround approved by the City Engineer and Fire Dept. on Lot 2.
5. Petitioner must plant shrubbery along the Whiffen property line.
6. Relocate proposed house on Lot 2 to have a 30 foot side yard setback along the Whiffen property line.

**Vote: Ackerman, Amaral, Medeiros, Borges, Vieira.....Yes**  
**Petition Granted:**

## **OTHER BUSINESS:**

### **Update from the City Planner – relative to monies for Hart & County St. Improvements**

Troy stated he spoke with the City Planner on this and he's satisfied. City Planner's letter was placed on record.

### **Green Pines Town Homes – request to switch affordable unit.**

Request to switch affordable unit # 6 to be designated as an affordable (instead of Unit 2)

Motion made and seconded to grant request and allow Unit 6 to be an affordable (instead of unit 2) and to approve the submitted list of affordable as follows:  
Units #4, 6, 9, 12, 15, 18, 25, 31, 34, 38, 41 and 48.

### **Communication from Municipal Council relative to 272-274 Winthrop Street – relative to information regarding their case.**

Chairman Ackerman read draft letter to the Board to forward to the Municipal Council in regards to obtaining information relative to 272-274 Winthrop Street. Motion made and seconded to forward the Chairman's letter to the Municipal Council.

### **Communication from Municipal Council relative to update on Jefferson Partners, 437 Whittenton St., relative to continuance. – update Councilors.**

Chairman Ackerman informed the Board that the secretary e-mailed all the councilors in regards to when this will be on the ZBA docket.

### **Summer schedule – re-schedule July Meeting – no August meeting.**

Revisit next month.

Meeting adjourned at 8:58 PM.