

COMMONWEALTH OF MASSACHUSETTS
ASHLAND ZONING BOARD OF APPEALS

RECEIVED
TOWN CLERK
ASHLAND, MA.

HEARING NUMBER: SP-05-05 Barbieri

2005 JUN 22 PM 2: 55

I. APPLICANT: The applicant in this matter is Richard Barbieri. Attorney Jerry Effren represents the applicant.

II. APPLICATION: The applicant seeks a Special Permit pursuant to terms of Section 282-13A of the Code, Town of Ashland, to allow a twelve unit (2 bedroom each) alteration to a present pre-existing non-conforming five unit building.

III. THE LOCUS: The locus, which is the subject of this application, is located at 9-15 Concord Court in Zoning District Residential B and is shown in the Assessors' Atlas as Sheet 8, Block A, Lot 145, Registry of Deeds' Book 44137, Page 281.

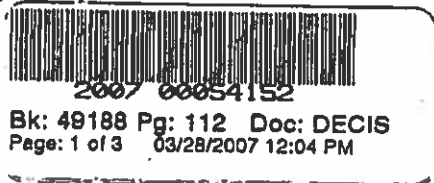
IV. THE HEARING: The public hearing in this matter was held in the Meeting Room, Town Hall on April 4th, 2005, commencing at 7:45 PM. Notice of the hearing was given to all persons deemed affected as shown on the latest tax rolls of the Town and by publication in "METROWEST DAILY NEWS", a newspaper of general circulation in the Town, on 3/22/2005 and 3/29/2005. The Board of Selectmen, Town Manager, Inspector of Buildings, Planning Board, Conservation Commission, Board of Health and Board of Assessors were also notified. Sitting at the hearing were Kitty Mahoney, Chair; James Hanna, Clerk; and Helene Wagner, Member. Associate John Agostinelli did not sit as an alternate having disclosed conflict. There were no alternate hearing members named in case an emergency should arise. There were no objections.

V. DISCUSSION: The decision in this matter is based upon the application and supporting documentation, public records of the Town, testimony and evidence brought forth at the hearing and a view of the premises, all of which are incorporated by reference. On March 14th, 2005 a request for action by the Zoning Board of Appeals was filed with Town Clerk. Hearing and decision due dates are noted to be filed on or before April 4th and July 4th respectively.

Attorney Effren stated that there is no relief being sought on frontage relief. The proposal request includes increasing the number of units from five (5) to twelve (12). If granted, the project will still require Site Plan Review. The property is grandfathered as to present use. The locus is 1.36 acres abutting the Sudbury River. The property is larger than neighboring lots. Mr. Barbieri proposed 3 attached buildings with four units in each building. The neighboring abutters do not agree on stockade fencing or live landscape fencing as a buffer. The new building proposes to use a small part of the existing building. Attorney Effren further stated that the neighborhood contains a number of nonconforming homes. Mr. Barbieri also stated that Conservation Commission and Planning Board approval would also be sought.

Mr. Barbieri also stated that while several trees will be cut down to provide a yard for the apartments, he will preserve what is possible and that he does not intent to sell the units as condominiums. All other setback requirements would be met.

In it's viewing taken by all members sitting and voting, the Board noted all external characteristics of the locus and neighborhood. The property is located in an older build up section of town. The locus abuts the Sudbury River and is in a rather wooded area at the end of a cul-de-sac. The five-unit structure has been continually used for five residential units well before the year of zoning Ordinance adoption in 1954. The locus size is significantly larger than immediate neighboring lots. The average lot size west of the locus is 5,500. This locus contains 53,180 square feet.



Effren
25 West Linn St
Ashland, MA 01720

Abutters present at the public hearing expressed concerns regarding town wide impact (school and other municipal services increase by the proposed expansion) and boundary buffering needs.

In its deliberations, the Board finds that the applicant has satisfied the terms of 282-10(C, D and E) under which the Board has unanimously found all of the following: The Granting Authority (The Z.B.A.) Has determined that the proposed use shall not create a condition peculiar to the particular case that shall cause nuisance, hazard or congestion or for other reason cause substantial harm to the neighborhood and derogation from the intent of this chapter and that the proposed use will be of some substantial benefit or serve some need of the Town. That a Special Permit may be issued with such reasonable conditions and safeguards or limitations in time and/or used as the Special Permit Granting Authority (The Z.B.A.) has deemed necessary to serve the purpose of the Chapter.

VI. VOTE: Therefore, it was unanimously and duly **VOTED TO GRANT** such **Special Permit with the following conditions and safeguards in place:**

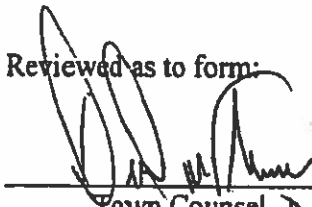
1. The rights granted by this Special Permit shall expire if a substantial use thereof or construction has not begun, except for good cause, within twenty-four (24) months of Special Permit approval (including such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, S 17, from grant thereof. Failing such substantial completion, all rights granted under this Special Permit shall lapse automatically unless an extension thereof shall earlier have been granted by the granting authority (Z.B.A) or any succeeding granting authority.
2. No occupancy or use shall commence until all conditions are in place and that the Inspector of Buildings has certified, IN WRITING, to the granting authority (Z.B.A) with acknowledgment returned; prior to an issuance of any permit, temporary or otherwise.
3. That the Conservation Commission determine that the requirements of the Wetlands Protection Act (Chapter 131, Section 40, M.G.L., as amended) have been satisfied and or an Order of Conditions has been issued to assure non-hazard impact to health or safety, and that such sue will not result in any risk of pollution or contamination of waters or endanger wildlife with such copy of said Order of Conditions submitted to the granting authority (Z.B.A) and the Office of the Inspector of Buildings prior to the issuance of any permit for construction, sue, occupation, temporary or otherwise.
4. That the Planning Board review the proposal under Site Plan Review.
5. That the immediate abutters property boundaries, noise and light migration and buffering needs be satisfied with either live landscape fencing or stockade fencing; which ever the abutter prefers.

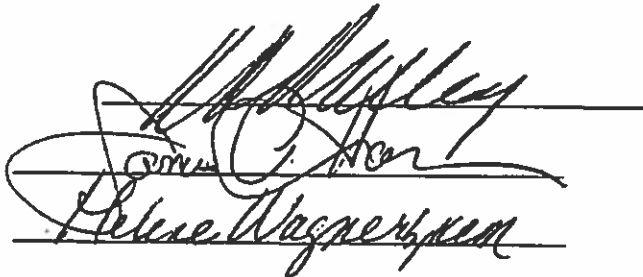
Kitty Mahoney	voting to Grant with 5 conditions.
James Hanna	voting to Grant with 5 conditions.
Helene Wagner	voting to Grant with 5 conditions.

DATE: 6-20-05

ASHLAND ZONING BOARD OF APPEALS
by:

Reviewed as to form:


Town Counsel 6/22/05
Donna Hafner


Helene Wagner

Filed with Town Clerk on:

Date: June 22, 2005

Saram Ward
Town Clerk

APPEALS MAY BE MADE PURSUANT TO SECTION 17, CHAPTER 40A, M.G.L.. IF NO APPEAL IS MADE WITHIN TWENTY DAYS OF THE DATE OF FILING OF THIS DECISION WITH TOWN CLERK, THE FOLLOWING SHALL BE EXECUTED BY TOWN CLERK:

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED FROM THE DATE THIS DECISION WAS FILED IN THE TOWN CLERK'S OFFICE AND THAT NO APPEAL HAS BEEN FILED.

DATE: March 27, 2007

Saram Ward
Town Clerk



*****NOTICE*****

The Grantee must see to the filing and indexing of this decision and certification in the Registry of Deeds as set forth in Chapter 40A, Section 11, M.G.L. This grant shall not be in effect until proof of filing is shown and filed with the Inspector of Buildings and the Zoning Board of Appeals.

James C. Brown
Attest, Middlesex S. Register