



# TOWN OF TEWKSBURY ZONING BOARD OF APPEALS

999 Whipple Road  
Tewksbury, MA 01876

Robert Dugan, Chairman  
Len Dunn, Vice Chair  
Gerald Kutcher  
**Associate Members:**  
Jaime Doherty  
Dianne Bartalamia

DEPARTMENT OF COMMUNITY DEVELOPMENT

## MEETING MINUTES February 26, 2015

The meeting was called to order at 6:30 p.m. by Robert Dugan, Chairman, at the Pike House (temporary town hall). Present at the meeting were Len Dunn, Jaime Doherty, Gerald Kutcher, and Dianne Bartalamia (late arrival). Also in attendance was Melissa Johnson, Recording Secretary.

### Approval of Meeting Minutes – January 29, 2015

**MOTION:** Mr. Dunn made the motion to approve the January 29, 2015 meeting minutes as presented; seconded by Mr. Kutcher and the motion carried 4-0.

### CONTINUED HEARING

**GRE Tewksbury Property, LLC and GRE Tewksbury Apartments, LLC, d/b/a Shawsheen Place** for (a) a determination and confirmation pursuant to 760 CMR 56.05(11) that the affordability “lock in period” set forth in the Comprehensive Permit issued by the Board on May 26, 1988 regarding the subject property has expired; and (b) modification of the Comprehensive Permit to address the affordability restriction. Said property is located at **11 Old Boston Road**, Assessor’s Map 48, Lot 33, zoned multi-family, commercial and village mixed use overlay districts.

The applicant has requested to continue this matter to May 28, 2015.

**MOTION:** Mr. Dunn made the motion to continue GRE Tewksbury Property, LLC and GRE Tewksbury Apartments, LLC, d/b/a Shawsheen Place for (a) a determination and confirmation pursuant to 760 CMR 56.05(11) that the affordability “lock in period” set forth in the Comprehensive Permit issued by the Board on May 26, 1988 regarding the subject property has expired; and (b) modification of the Comprehensive Permit to address the affordability restriction. Said property is located at **11 Old Boston Road**, Assessor’s Map 48, Lot 33, zoned multi-family, commercial and village mixed use overlay districts to May 28, 2015 at 6:30 p.m.; seconded by Mr. Kutcher and the motion carried 3-0.  
**DUGAN, DUNN, KUTCHER**

**John Berube for Linda Gordon** for a variance under Section 4130, Appendix B and a Special Permit under Section 4120 of the Tewksbury Zoning Bylaw to reconfigure lot, raze existing structure and construct a new dwelling as shown on plans filed with this Board. Said property is located **12 Maplewood Avenue**, Assessor's Map 94, Lot 310, zoned Commercial.

Mr. Dugan explained that at the previous meeting the Board had requested guidance of Town Counsel, Attorney Charles Zaroulis, on this matter. Attorney Zaroulis has stated that he will not be issuing an opinion as the applicant has requested to withdraw the matter without prejudice; however, the Board was correct to consult his advice.

**MOTION:** **Mr. Kutcher made the motion to withdraw without prejudice John Berube for Linda Gordon for a variance under Section 4130, Appendix B and a Special Permit under Section 4120 of the Tewksbury Zoning Bylaw to reconfigure lot, raze existing structure and construct a new dwelling as shown on plans filed with this Board. Said property is located 12 Maplewood Avenue, Assessor's Map 94, Lot 310, zoned Commercial; seconded by Mr. Dunn and the motion carried 3-0.**  
**DUGAN, KUTCHER, DUNN**

**Marguerite J. Bradshaw/Chester Briggs** as a party aggrieved for review of a decision made by the Building Inspector in a letter dated August 15, 2014 as filed with this Board. Said property is located at **967 Main Street**, Assessor's Map 47, Lot 75, zoned Commercial.

The applicant has requested to continue this matter to April 30, 2015.

**MOTION:** **Mr. Kutcher made the motion to continue Marguerite J. Bradshaw/Chester Briggs as a party aggrieved for review of a decision made by the Building Inspector in a letter dated August 15, 2014 as filed with this Board. Said property is located at 967 Main Street, Assessor's Map 47, Lot 75, zoned Commercial to April 30, 2015 at 6:30 p.m.; seconded by Mr. Dunn and the motion carried 3-0.**  
**DUGAN, DUNN, KUTCHER**

Mr. Dugan recused himself. Mr. Dunn conducted the meeting.

**Richard and Donna Sullivan** as a party aggrieved for a review of a decision made by the Building Inspector in a letter dated October 24, 2014 as filed with this Board. Said property is located at **542 Kendall Road**, Assessor's Map 79, Lot 103, zoned Residential.

The applicant has requested to continue this matter to April 30, 2015.

**MOTION:** Mr. Kutcher made the motion to continue Richard and Donna Sullivan as a party aggrieved for a review of a decision made by the Building Inspector in a letter dated October 24, 2014 as filed with this Board. Said property is located at 542 Kendall Road, Assessor's Map 79, Lot 103, zoned Residential to April 30, 2015 at 6:30 p.m.; seconded by Ms. Doherty and the motion carried 3-0.  
**DUNN, KUTCHER, DOHERTY**

Mr. Dugan returned.

6:43 p.m. – Ms. Bartalamia arrived.

## **NEW HEARINGS**

**Habitat for Humanity of Greater Lowell** for a variance under Section 4130, Appendix B to construct a single family dwelling 20 feet set back from Callahan Street and for a Special Permit under Section 3670 of the Tewksbury Zoning Bylaw to reconstruct a non-conforming structure as shown on plans filed with this Board. Said property is located at **110 State Street**, Assessor's Map 94, Lot 346, zoned Residential.

Present was Scott Carpenter, Construction Manager for Greater Lowell Habitat for Humanity. Mr. Carpenter explained that they are proposing to reconstruct a single family dwelling in the existing non conforming area. The property is considered to have two front setbacks as it is on both State Street and Callahan Street. Mr. Carpenter explained that they are seeking relief for building within the same footprint for the rear setback and they meet the requirements on both sides. Mr. Carpenter noted that they are filing for a special permit and variance upon the recommendation of the Building Inspector.

Mr. Dugan noted that the footprint is being changed quite a bit. Mr. Carpenter explained that they will not be building 100% within the existing footprint; however, there will be no further encroachment than the noncompliance that currently exists. Mr. Carpenter explained that it is his understanding that all roof structures must meet certain requirements, and the only way to get the home to fit within the footprint is to not have a roof on the back porch. As a result, they have redesigned the home to put the porch on the side and they will not be encroaching outside the setback lines.

Mr. Dunn requested prints of what is being proposed. Mr. Carpenter presented plans to the Board and explained that part of the standards they build to is each porch should have a cover. Rather than have a porch in the front, which would violate even more into the noncompliance, they have moved it to the side.

Mr. Dunn asked if the new home is 1.5 stories and Mr. Carpenter explained it is a ranch and noted that the existing home is 2 stories.

Ms. Bartalamia arrived.

Mr. Dugan asked if there is a sidewalk on Callahan Street as the plan shows a 5 foot taking. Mr. Carpenter noted that there are no sidewalks on either street. Mr. Dugan asked if they are 25 feet to the right of way and Mr. Carpenter confirmed this.

Mr. Dunn asked if the property will be connected to town water and sewer and Mr. Carpenter confirmed this and noted that the existing home has not yet been demolished.

Mr. Dugan asked if Mr. Carpenter has read Section 3670 for the Special Permit and Mr. Carpenter noted that he has not. Mr. Dugan explained that the purpose of this section is for reconstruction after catastrophe or demolition and states that the project is to be started within one year and that it is constructed on an existing nonconforming lot.

Mr. Dugan noted that with the steps the property will be 21 feet off of State Street and without the steps the home would conform to the 25 feet. Mr. Dugan asked what will be done with the rear of the property. Mr. Carpenter explained that currently there is access to both streets; they will be coming in with access only from State Street.

Mr. Dugan noted that the plan that was submitted to the Board shows the stairs on the front of the house. Mr. Carpenter explained that this is the plan that was submitted with the building permit and the stairs have since been moved to the side of the home. Main access to the home will be from the farmer's porch on the side. Mr. Carpenter explained that the correct location of the stairs in Callahan Street.

Mr. Dunn asked if the home is vacant and Mr. Carpenter confirmed this and noted that it has been vacant for quite awhile.

Mr. Dugan explained that 150 feet of frontage is required and the applicant has 120 feet on both State Street and Callahan Street.

Mr. Dugan opened the hearing to the public.

Louis Mascia of 48 Finn Street came forward and noted that he has no oppositions to this project; however, if this is to be a State Street address the landing should be on State Street and not Callahan Street. Mr. Mascia expressed concerns with the fire department being able to find the home if it has a State Street address and noted that this is a safety concern. Mr. Dugan explained the door with the landing is only for the second means of egress. The farmer's porch on the side is the main entrance to the house and does not face either street. Mr. Carpenter explained that the entrance is where it is as there would then be a covered porch on the front which cannot be done because of the setbacks. As a result, the porch was moved to the side and the front door was eliminated and put in the rear. Mr. Carpenter noted that the home will have numbers that will be clearly visible and explained that the two means of egress have to be a certain distance from each other if the home is a one story structure.

Mr. Mascia explained that they will be going from a 20 foot setback on Callahan down to 16 feet and has concerns with setting precedence on this. Mr. Dugan explained it would not set precedence as this is a unique lot and approval would still be required from the ZBA. Mr. Mascia noted that all of the lots in this area are nonconforming.

Mr. Mascia noted that he also has concerns with the removal of the septic. Mr. Dugan recommended Mr. Mascia discuss this with the Board of Health.

Mr. Mascia expressed concerns with the size of the house as it is quite large. Mr. Dugan explained that length wise the home fits on the lot. Mr. Mascia asked why the property was not centered a little to continue the 25.5 feet down State Street and put more on Finn Street, which is not shown on the plan. Mr. Carpenter explained that the engineer is provided a footprint and he makes comments; the door was only moved to the rear because they did not want to be nonconforming on both frontages. Mr. Carpenter explained that the other reason for putting the door on the rear was the side entrance is the main entrance, and, as the result, a front door really is not needed.

Mr. Dunn asked Mr. Mascia to show the location of his home on the property and Mr. Mascia did this.

Mr. Dunn asked if any plantings will be done and Mr. Carpenter explained that they have not reached the landscape design phase just yet.

Mr. Dugan asked if Mr. Mascia's concerns are the door not being on State Street and preferring to see the home "kitty cornered" more. Mr. Mascia confirmed this. Mr. Dugan asked if it is possible to put the landing on the State Street side and Mr. Carpenter confirmed this could be done so long as they could put a roof on it. Mr. Dugan noted that the matter was advertised with the door on State Street and confirmed if a variance was granted the roof could also be done. Mr. Mascia noted that he would be pleased to see the main entrance on State Street. The farmer's porch will remain in the location in which has been proposed.

Ms. Bartalamia noted that the left hand side of the lot is longer than the right hand side by approximately 7 feet and asked why the door was not moved to the right hand side where the lot is larger. Mr. Carpenter explained that because of the placement of the driveway and existing trees.

**MOTION: Mr. Dunn made the motion to close both parts of the hearing; seconded by Mr. Kutcher and the motion carried 3-0.**

**MOTION: Mr. Dunn made the motion to grant Habitat for Humanity of Greater Lowell a variance under Section 4130, Appendix B of the Tewksbury Zoning Bylaws to construct a single family dwelling 20 feet set back from Callahan Street and 21 foot setback from State Street to reconstruct a non-conforming structure as shown on plans filed with this Board. Said property is located at 110 State Street, Assessor's Map 94, Lot 346, zoned Residential; seconded by Mr. Kutcher and the motion carried 3-0.  
DUGAN, DUNN, KUTCHER**

**MOTION:** Mr. Dunn made the motion to grant Habitat for Humanity of Greater Lowell a Special Permit under Section 3670 of the Tewksbury Zoning Bylaws to reconstruct a non-conforming structure as shown on plans filed with this Board. Said property is located at 110 State Street, Assessor's Map 94, Lot 346, zoned Residential; seconded by Mr. Kutcher and the motion carried 3-0.  
**DUGAN, DUNN, KUTCHER**

**Old Business**

There was no old business.

**New Business**

There was no new business.

**Adjournment**

**MOTION:** Mr. Kutcher made the motion to adjourn; seconded by Mr. Dunn and the motion carried 5-0.

*Approved: 3/26/15*

Approval of Minutes – January 29, 2015

### CONTINUED NEW HEARINGS

- 6:30 P.M. GRE Tewksbury Property, LLC and GRE Tewksbury Apartments, LLC, dba Shawsheen Place** for (a) a determination and confirmation pursuant to 760 CMR 56.05(11) that the affordability “lock in period” set forth in the Comprehensive Permit issued by the Board on May 26, 1988 regarding the subject property has expired; and (b) modification of the Comprehensive Permit to address the affordability restriction. Said property is located at **11 Old Boston Road**, Assessor’s Map 48, Lot 33, zoned Multi-Family, Commercial and Village Mixed Use Overlay Districts.  
*(Applicant requesting to be continued to May 28, 2015.)*
- *Letter 2/19/15 fr Attorney Regnante.*
- 6:30 P.M.** John Berube for **Linda Gordon** for a variance under Section 4130, Appendix B and a Special Permit under Section 4120 of the Tewksbury Zoning Bylaw to reconfigure lot, raze existing structure and construct a new dwelling as shown on plans filed with this Board. Said property is located at **12 Maplewood Avenue**, Assessor’s Map 94, Lot 310, zoned Commercial.  
*(Applicant requesting to withdraw without prejudice.)*
- *Letter 2/16/15 fr John Berube.*
- 6:30 P.M. Marguerite J. Bradshaw/Chester Briggs** as a party aggrieved for review of a decision made by the Building Inspector in a letter dated August 15, 2014 as filed with this Board. Said property is located at **967 Main Street**, Assessor’s Map 47, Lot 75, zoned Commercial.  
*(Applicant requesting to be continued to April 30, 2015.)*
- *Letter 2/13/15 fr Attorney O’Neill.*
- 6:30 P.M. Richard and Donna Sullivan** as a party aggrieved for review of a decision made by the Building Inspector in a letter dated October 24, 2014 as filed with this Board. Said property is located at **542 Kendall Road**, Assessor’s Map 79, Lot 103, zoned Residential.  
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- *Application packet date 1/26/15.*