



BOARD OF APPEALS  
TOWN OF FOXBOROUGH  
40 SOUTH STREET  
MASSACHUSETTS  
02035

**Foxborough Zoning Board of Appeals Minutes  
March 15, 2012**

Members present: Chairman Erik McKenzie, Members Neil Forster and Barney Ovrut, Alternates Kevin Penders and Kim Mellen.

The Chairman opened the meeting at 7:00 p.m.

**7:00 p.m. Kurt Yeghian requests a finding pursuant to Foxborough Zoning By-Laws, Section 5.4.4, to extend a pre-existing nonconforming structure into the required side yard setback where 7 feet is provided and 15 feet is required. The proposed addition will further extend the nonconforming structure by 7.9 feet. The property at 31 West Street is located in an R-40 Zoning District and a Zone II Water Resource Protection District.** Mr. Yeghian was present and represented himself. He would like to take off an existing one story addition and garage from the 1970's and move it to the other side of the house where it would be five feet off the property line. His property abuts Open Space Conservation Land. This would be an attached 35' x 28' two-story addition with plumbing and electricity, with a great room over the three car garage and attached decks on the back. The driveway will need to be extended five feet. The original part of the house is from the 1800's; he has owned the property since 2004. He will use materials to match the house. The existing garage is a one story with no plumbing. The side yard setback is currently 7.9 feet; he would like to reduce it to 2 feet where 15 feet is required. The current house has four bedrooms with a septic system for five bedrooms. The total lot is 1.3 acres.

No abutters were present.

The board members are concerned with construction so close to the property line. The addition could be reduced to take it away from this setback.

The hearing was continued to April 19, 2012 at 7:00 p.m.

**7:10 p.m. Adam Goldberg requests a Special Permit pursuant to Foxborough Zoning By-Laws, Table of Use, Section 3-1.E.7; Educational Use-Nonexempt, to conduct a Music School at 106 Mechanic Street. The property is located in an R-15 Zoning District and is not located in any restrictive overlay districts.** Mr. and Mrs. Goldberg were present and represented themselves. They would like to convert the building at 106 Mechanic Street that was most recently an art studio into a music studio with four lesson rooms inside. The hours would be from 2:30 p.m. – 8:00 p.m. Monday to Friday to accommodate school age children; they may expand to Saturday hours. The rooms would be made sound absorbent so as to not interfere with the surrounding rooms and music would not be heard outside. They would be leasing the

property. There are currently eight parking spots. Most parents would drop off/pick up the children to the lessons and don't stay. They would like a two sided sign that would conform to what is allowed and would be lit during business hours.

Abutter Jim Hazeldine of 3 Margaret Road stated that when the art studio was allowed to open in 2005 there were restrictions on parking, lighting and the requirement of a living fence near his property. The fence died and light from the parking area shines into his house. The art studio also had fundraisers with lots of traffic a few times a year. He complained to the Building Department many times about the lighting problems and the parking problems to the police. He feels the business infringes on his rights and the burden is on him to notify the town

Lloyd Gibbs of 2 Margaret Road echoed Mr. Hazeldine's complaints. He feels that a music school is a business and should not be located in a neighborhood as there are other areas in town it could go to.

Atty. Jeff Lovely who represents Bob Larkin, the owner of the property, stated that Mr. Larkin who lives next door is willing to let them use his driveway for parking if needed, he could fit up to nine cars in his driveway. The recodified bylaws broadened the non-educational for profit use to almost any zone in town with a permit from the Zoning Board. Atty. Lovely also stated that the overall traffic should be less than the art studio.

The bylaws require four parking spaces per classroom, any reduction to that would need to go before the Planning Board.

Deb Dauphine of 108 Mechanic Street stated that the art studio was good for the nearby elementary school children, 90% of the children were dropped off so parking wasn't an issue. She thinks this would be a similar use. She has no issues with lighting, noise or traffic in the past. She is located at the corner of Mechanic and Chestnut.

Dave Dauphine of 108 Mechanic Street stated that there was always sufficient signage for any events and the police were notified.

The lessons would be for ½ hour with the last being at 7:30 p.m. The hours would stay the same in the summer and any recitals would be held off site.

The lesson rooms would be soundproofed so they don't hear each other. The keyboards and guitar amps could be turned down.

A motion to close the Public Hearing was made by Mr. Penders and seconded by Mr. Ovrut.

The Board acknowledged that the neighbors were concerned with noise, parking, lighting and vegetative screening.

There are 8 parking spaces on site with an additional 6 spaces on the Larkin's property for a total of 14. There would be no recitals and the studio space could be limited to lessons only. The lighting of the sign could be internal to reduce the glare and could be conditioned to be turned off at 8:00 p.m.

A motion to approve the application with conditions that the hours are Monday-Friday from 2:30 p.m. – 8:00 p.m.; Saturday 10:00 a.m. – 3:00 p.m. and no Sundays; there will be no recitals or camp activities or concerts allowed on site. The rooms will be soundproofed and improved as described and the parking will be limited to 8 on site and if further parking is needed, it will be addressed with the landlord. The sign will be 2 ft x 3 ft with internal illumination and will be turned off at 8:00 p.m. during the week and 3:00 p.m. on Saturday and there will be no lessons or music outside of the classroom was made by Mr. Penders and seconded by Mr. Ovrut. The motion carried 3-0-0.

**GENERAL BUSINESS**

**Informal discussion on modifications to Nadia Estates** – Mohammed Itani and Jim Pavlek of Outback Engineering came before the Board to discuss the recent settlement agreement. Mr. Pavlek explained that there has been a settlement agreement between Nadia Estates and abutters Mr. and Mrs. Harris. It calls for a slightly higher and longer berm and a minor change to one infiltration basin.

Mr. Forster would like a letter from Conservation and the Maguire group that the changes will not affect the flooding design or the Orders of Conditions from Conservation.

Mr. Ovrut stated that the decisions need to be modified to incorporate these changes into Condition 18.

Mr. Itani stated that if the Board requires a new filing it will make the project uneconomical.

Mr. Itani would also like to extend the permit from three years to five years.

The meeting was adjourned at 9:15 p.m.

Respectfully Submitted,

Diana Gray

