

Minutes of the Lexington Zoning Board of Appeals  
Virtual, Via Zoom  
April 11, 2024

**Board Members:** Acting Chair –Nyles N. Barnert, Norman P. Cohen, James A. Osten, Martha C. Wood, and Associate Member – Scott E. Cooper

**Alternate Member:** Jeanne Krieger

**Administrative Staff:** Jim Kelly, Building Commissioner, and Olivia Lawler, Administrative Clerk

**Address: 4 Gibson Road (Record # ZBA-24-12)**

The petitioner is requesting a SPECIAL PERMIT in accordance with the Zoning By-Law (Chapter 135 of the Code of Lexington) section(s) 135-9.4 and 135-8.4.2 to allow modification of a non-conforming structure.

The petitioner submitted the following information with the application: Nature and Justification, Plot Plan, Floor Plans, Elevations, Gross Floor Area Calculations, Letter from adjoining dwelling, and Background Information & Reasons in Support of Requested Relief.

Prior to the meeting, the petitions and supporting data were reviewed by the Building Commissioner, Conservation Administrator, Town Engineer, Board of Selectmen, the Planning Director, the Historic District Commission Clerk, Historical Commission, Economic Development, and the Zoning Administrator. Comments were received from the Building Commissioner, Planning Department, Historic Districts Commission, Engineering Department and Zoning Administrator.

The Hearing was opened at 7:05 PM.

Petitioner: Carl Oldenburg

Carl Oldenburg presented the petition on behalf of Eduardo and Adriana Coccozza. He shared photographs of the existing conditions of the two (2) unit condo at the property. Mr. Oldenburg described the dwelling at 4 Gibson Road was an addition in 1987 to the back of 794 Massachusetts Avenue which was constructed in the 19<sup>th</sup> Century. This situates the front yard of 4 Gibson Road as the previous backyard of 794 Massachusetts Avenue. The grade of the property was described as a 17-foot long slope from the west property line down to the front property line on Massachusetts Avenue. Previous owners installed terraced landscaping to help create a larger flat area of lawn for the property. Mr. Oldenburg emphasized the home owner's need for a "proper" garage because the current garage is located in the lower level of the dwelling with a steep entrance that creates dangerous conditions. The existing semi-circle driveway as seen in the shared plot plan is situated almost entirely in the right of way of the road and offers no extra parking spaces for visitors. The floor plan was shared to emphasize that if the proposed garage was pushed back further it would impede more of the view from the front entrance of the dwelling and create an obstructed view out of the windows in the main living space. The proposed location also allows for a rear door in the garage that offers a direct path to the main entrance of the house to provide a quick, convenient, and safe walk to and from the garage.

Mr. Oldenburg shared the proposed plot plan and described the front setback of the garage is 26 feet back from street edge and 12 feet from property line. This is in line with the original side of the dwelling at 794 Massachusetts Avenue and helps to create symmetry on the property. The rear door of the garage would be covered to protect the 5 stairs from snow and ice to offer safe passage to all users. He shared an aerial view of the property emphasizing the driveways which are to be removed and replaced with landscaping.

Mr. Oldenburg emphasized the proposed garage is advantageous to the owners through providing direct and safe access to the home, preserving the view out of the living room, and not impeding any more toward the side on the property than necessary. He stated this proposal also benefits the town by getting parked vehicles off the road and increasing pervious landscaping on the property. This proposal also reduces the extent of tree removal, excavation, and asphalt paving if the garage were to be pushed back.

Mr. Oldenburg summarized that the proposal keeps with the architectural integrity of the dwelling and neighborhood. He highlighted that the Historic Districts Commission “enthusiastically support” this proposal and approved it at their public meeting on April 4, 2024. The perceived distance from the street is the same as neighboring properties and he believes there are no negative effects of this proposed garage.

Board Member, Norman P. Cohen, asked to clarify that the dwelling in a condominium. (Yes.) He questioned who has right to use the yard where the proposed garage is located. (The owners of 4 Gibson. The yard has an imaginary line dividing the properties) He questioned if there were any comments received from abutters. (No.)

Administrative Clerk, Olivia Lawler, clarified Town Staff received no comments from the public.

Board Member, James A. Osten questioned if the owners would be pulling into the garage forwards and reversing back into the road to exit the garage. (Yes.) He questioned if there are any anticipated issues in regards to sight lines when reversing in a vehicle. (No. There will be no added shrubbery or landscaping that would impede sight lines. The existing drive also requires the owners to reverse into the road. Adding a paved turned around to allow for vehicles to exit without reversing would require too much paving.)

Associate Board Member, Scott E. Cooper asked to clarify that the existing driveway is primarily in the public right of way, (Yes.) He questioned if visually the proposed garage is well in excess of the setback. (Yes.) He questioned if this proposal would provide parking spaces for visitors. (Yes, the owners will park in the garage and visitors will use the driveway to park their vehicles.)

Acting Chair, Nyles N. Barnert, stated his concern that the unit at 4 Gibson Road is conforming in nature, it is the 794 Massachusetts Avenue unit that is non-conforming and therefore allowing this proposed garage would make the conforming dwelling non-conforming. He questioned if the tree in the rear of the proposed garage would have to be removed if the garage was pushed back. (Yes.) Mr. Barnert asked to clarify the depth of the garage. (About 28 feet.) He emphasized that to reverse out the garage, a driver would have the rear of their car in the road before they had a clear sight line. (A car is an average 16 feet long; a driver would be able to start to reverse and still have space to turn before entering the road without having a line of sight.) Mr. Barnert questioned why the garage is deeper than required for an average car. (There is a stairway in the rear of the garage to access attic storage. Approximately 3.5 feet are added to the depth which will also allow more storage space for yard tools and other storage. Most garages are 24 feet dee.) Mr. Barnert questioned how much more excavating would be

required in the garage were pushed back (a good amount more because of the slope of the yard in that location. There is a retaining wall that would be removed and then earth removal to create a flat surface for the garage.)

No further questions or comments from the Board.

No comments from the audience.

The Hearing was closed at 7:32PM. (a roll call vote was taken: Norman P. Cohen– Yes, James A. Osten – Yes, Martha C. Wood – Yes, Scott E. Cooper – Yes, and Nyles N. Barnert – Yes).

Mr. Cohen asked to clarify if Historic Districts Commission approved the submitted plans. (Yes.)

Mr. Cooper questioned what relief the garage across the street received when their garage was built in the setback. (Special Permit to rebuild a preexisting structure.)

No further comments from the Board.

The Board of appeals voted five (5) in favor, zero (0) opposed, and zero (0) in abstention a SPECIAL PERMIT in accordance with the Zoning By-Law (Chapter 135 of the Code of Lexington) section(s) 135-9.4, 135- 3.1.1.1, and 135-8.2.1 to allow for the alteration of a pre-existing non-conforming use (a roll call vote was taken: Norman P. Cohen– Yes, James A. Osten – Yes, Martha C. Wood – Yes, Scott E. Cooper – Yes, and Nyles N. Barnert – Yes).

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**Other Business:**

1. Minutes from March 28, 2024

The Board of appeals voted five (5) in favor, zero (0) opposed, and zero (0) in abstention to approved the minutes from March 28, 2024 Hearing (a roll call vote was taken: Norman P. Cohen– Yes, James A. Osten – Yes, Martha C. Wood – Yes, Scott E. Cooper – Yes, and Nyles N. Barnert – Yes).

The Board voted to Adjourn at 7:36 PM (a roll call vote was taken: Norman P. Cohen– Yes, James A. Osten – Yes, Martha C. Wood – Yes, Scott E. Cooper – Yes, and Nyles N. Barnert – Yes).