



ZONING BOARD OF APPEALS  
TOWN OF MONTAGUE  
ONE AVENUE A  
TURNERS FALLS, MA 01376

**NOTICE OF DECISION & VOTE**

**Applicant:**

Town of Montague by its Selectmen  
1 Avenue A, Turners Falls, MA

**Case No.** 13-11 continued from 12-21

**Date** August 21, 2013

**Owner:** Lot 22

Inhabitants of Montague

1 Avenue A, Turners Falls, MA

**Owners:** Lot 24 & 23

Jordan Quinn Consulting, LLC; &

Shelly B. Kick

5 Church St., Millers Falls, MA 01349

**Premises Affected:**

25 Sixth Street, 47 J Street and

land at ( ) Fifth Street, Turners Falls

Assessors' Map 3 Lots 22, 23 & 24

{22}F Co. Registry of Deeds: Bk 8241, Pg 145

{24}F Co. Registry of Deeds: Bk 5663, Pg 282

{23}F Co. Registry of Deeds: Bk 5781, Pg 31

Special Permit (X)

Variance Application (40A) (X)

Section 6 Ch. 40A - Finding ( )

Site Plan Review ( )

Public Hearing #12-21 opened on:

Wednesday, December 19, 2012

Site visit:

Wednesday, January 16, 2013

Public Hearing Continued to:

Wednesday, January 23, 2013

Hearing #12-21 continued without a date:

Re-advertised in Greenfield Recorder:

Public Hearing #12-21 re-opened as #13-11: Wednesday, June 5, 2013

**The Board of Appeals finds:**

- It's a mess
- The land consists of three Assessors parcels - Map 3, parcels 22, 23 & 24
- Multiple zoning and sub-division violations were created with an improper division of the land. {See: "Notice of Zoning Violations"... "Order to Remedy" dated November 9, 2011}. None of the violations were appealed.
- The three land parcels and buildings are currently in separate ownerships.
- Parcel 22 consists of 25 Sixth Street, the former St. Anne's Rectory and part of a *connector addition*.
- Parcel 23 consists of land at (24) Fifth Street and J Street, a storage barn and a part of the St. Anne's Church parking lot.

- Parcel 24 consists of St. Anne's Church at 47 J Street and part of the *connector addition*.
- A *connector addition* between St. Anne's Rectory at 25 Sixth Street {parcel 22} and the St. Anne's Church at 47 J Street {parcel 24} is a two story addition with a ground floor garage and second floor rooms. The assessors parcel line and current ownership line runs through the connector building with separate ownership on each side of the line.

#### Petitioners' proposal

- The petitioners propose to comply with rear yard setbacks and lot area requirements for a single family dwelling at 25 Sixth Street {parcel 22} with a transfer of land from parcel 23.
- The petitioners propose to resolve the side yard setbacks between 25 Sixth Street {parcel 22} and 47 J Street {parcel 24} and the *connector addition* ownership with the transfer of land and building from parcel 22 to parcel 24 and the granting of easements.
- The petitioners propose to remedy the parking violations for the St. Anne's Church at 47 J Street {parcel 24} by a transfer of the parking lot land from parcel 23 and conveyance of the remainder of the shared driveway from parcel 22 to lot 24.
- Although parking for 25 Sixth Street {lot 22} may be satisfied by construction over the frontage the petitioners propose to meet parking requirements by an access easement over the parking area of lot 24.

**The Board of Appeals concludes:** The current hardship as outlined in the "Notice of Zoning Violations" is self created by improper use of the Subdivision Control Law, Chapter 41, Section 81-L. However, the underlying hardship of large attached and diverse use buildings on multiple merged parcels currently in different uses remains as a land use burden of sufficient hardship to require Special Permit and limited conditional variance relief.

#### **THE BOARD OF APPEALS VOTED:**

To grant a Special Permit for (alterations of non-conforming uses and structures) at 25 Sixth Street & 47 J Street as stated in Petitioners' proposal, with conditions, pursuant to Section 5.1.4 of the Montague Zoning Bylaws, and;

To grant limited variance to Section 5.4.4 (Side yard setbacks) for a 0' lot line setback for the two attached abutting buildings to allow the remainder of the *connector addition* on parcel 22 to be conveyed to lot 24.

To grant a Special Permit to allow access by easement across lot 24 for the required parking on lot 22. (Section 6.2.1)

To deny variance to Section 5.4.5 (rear yard setback) and 5.4.1 (minimum lot area) for parcel 22.

Lot lines shall be established in substantial conformance with the "Conceptual Plan" date October 15, 2012 by Harold L Eaton Ass. Inc., as modified.

**Conditions: 25 Sixth Street, lot 22**

Lot 22 shall comply with frontage and area requirements.  
 Frontage shall be 75'  
 Final total lot area shall be 10,000 sq. ft.  
 The rear yard setbacks shall comply with or exceed the 30' requirement.  
 The first floor exit door into the connector addition is to be abandoned.  
 The rear wing wall extension connected to 25 Sixth Street shall remain with lot 22.

**Conditions: 47 J Street, lot 24**

The adjacent 20 wide strip of parking lot from parcel 23 shall be added to lot 24.  
 Vehicle parking access easement shall be granted to lot 22 over the lot 24 parking lot.

**Conditions: lots 22 & 24**

The 0' lot line through the *connector addition* shall be moved to run in a straight line to include the 25 Sixth Street exterior wall from the 6<sup>th</sup> Street face of the *connector addition* to the interior face of the rear wing wall extension connected to 25 Sixth Street.

Easements for the 0' foot lot line shall include:

A mutual right to use and maintain building features along the line, specifically (to 47 J Street) rights to use and maintain:

1. Wall surface and foundation support as it currently exists,
2. Minor encroachments between chimneys or other irregularities in the wall surface including weather tightness.

(to 25 Sixth Street) rights to use and maintain:

1. Encroachments for eaves and roof runoff, underground foundation support of the wall, chimneys and irregularities in the wall surface.
2. Rights to access upon the roof of the connector for improvements or repairs.

Prohibited is new exterior construction to the connector addition within 10' of the new common lot line without ZBA permits or approval.

**The vote of the Zoning Board of Appeals was as follows:**

1. <u>Ernest L. Brown, Chairman</u>	<b>YES</b>	2. <u>John Burek, Vice-Chairman</u>	<b>YES</b>
3. <u>John Reynolds</u>	<b>YES</b>	4. <u>Robert Sojka</u>	<b>YES</b>
5. <u>Ericka Almeida</u>	<b>YES</b>	Alt. <u>Richard Ruth</u>	<b>not voting</b>

Modification and Approval: Any changes proposed shall be reviewed by the Board of Appeals or its designee. The Chairman or designee may approve changes if in conformance with the intent of the Special Permit or may refer it to the Board. Changes consistent with the purpose of this approval may be allowed by the Board without further hearings. Further hearings shall be at the discretion of the Board. Approval shall not be unreasonably withheld.

**IMPORTANT:** Any appeal from the decision of the Town of Montague Zoning Board of Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed in the office of the Town Clerk within twenty (20) days after the date of filing of the decision with the Town Clerk.

Board of Appeals

By \_\_\_\_\_  
Ernest L. Brown, Chairman  
Clerk

\_\_\_\_\_  
Karen Casey-Chretien,

\*\*\*\*\*

Received for filing by Town Clerk: \_\_\_\_\_  
Time Date

Twenty day appeal period ends: \_\_\_\_\_  
Time Date

I HEREBY CERTIFY THAT NO APPEAL HAS BEEN FILED WITHIN 20 DAYS  
FROM THE DATE THAT THIS DECISION WAS FILED WITH THE TOWN CLERK:

\_\_\_\_\_  
Montague Town Clerk

\_\_\_\_\_  
Date

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*Notice to be recorded by Landowner*