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*ph: 508-430-7506*

**TO:** Zoning Board of Appeals  
**FROM:** Rachel Lohr, Zoning Compliance Officer  
**DATE:** January 15, 2024  
**RE:** ZB2024-06 481 Depot St Site Summary

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The existing property located at **481 Depot St, Map:36 Parcel: B1** is a split zone lot located in IL and the RR Zoning District. Currently the lot is developed with one structure that is a two-family dwelling and is located entirely in the IL zoning district, the two-family dwelling is a pre-existing non-conforming use and structure, the structure itself is non-conforming in setback from the road and side yard. The applicants are proposing to convert the two-family dwelling into a multifamily dwelling and construct a new self-storage garage that would span between the IL and RR zoning district.

The existing two-family dwelling was constructed in 1817 according to Town Assessing records and is currently 1 ½ stories with 4 bedrooms. According to design drawings provided by Govoni home Design dated September 6, 2023, the converted multifamily dwelling would consist of 4 apartments; Apartment 1 located on the first floor with 2 bedrooms. Apartment 2 is located on the first floor with 1 bedroom. Apartment 3 on the second floor with 3 bedrooms, and an apartment located in the basement being a studio / one bedroom. The applicants are *not* proposing any changes to the exterior or the footprint of this structure, however if any changes to the exterior were to occur (except for like for like replacements) the applicants would need to seek approval from the Historic Commission in the form of a Notice of Intent as this structure is over 100 years old.

The two-family dwelling is a pre-existing non-conforming residential use, according to **§325 Attachment 1, Table 1, Use Regulations** residential uses are not permitted in the IL zoning district, more specifically two-family and the proposed multifamily dwelling are both non permitted uses in the district. **§325-54 B (2)** of the Towns Zoning Code “Use Regulations” provides “*In no case shall a nonconforming use be changed to another nonconforming use.*” Requiring the applicants to seek a Use Variance. If the Board granted the Use Variance, then the applicants would need to seek approval from the Planning Board in the form of a Use Special Permit according to **§325-51 Q** and Site Plan review according to **§325-55**.

The proposed self-storage building will be constructed across the IL and the RR zoning district. According to **§325 Attachment 1, Table 1, Use Regulations**, self-storage use is permitted *by right in the IL zoning district* but is *not a permitted use in the RR zoning district*, thus requiring the applicants to seek approval in the form of a Use Variance for the portion of the self-storage building that is being proposed in the RR zoning district. If the Board were to grant the Use Variance this would also require Site Plan review according to **§325-55**.

Because the lot is within 2 different zoning districts, dimensional zoning requirements such as setbacks, site coverage, and building coverage, apply and are calculated separately for each



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portion of the lot that is within a separate zoning district. For the portion of the self-storage building that is within the IL zoning district, the proposed structure complies with all the dimensional zoning requirements and does not create any new non-conformities. For the portion of the self-storage building that is within the RR zoning district, the proposed structure complies with all dimensional zoning requirements EXCEPT that it increases the pre-existing non-conforming site coverage requirements for this portion of the lot. Because the proposed self-storage structure is not a one or two family dwelling it does not qualify to seek relief in the form of a Special Permit to increase the non-conforming nature of the site coverage in the RR portion of the lot. §325-54 7 provides;

**§ 325-54. Nonconforming structures and uses.**

**(7) Alteration or extension of other structures.**

**(a)** A preexisting nonconforming structure other than a single- or two-family residential structure may be altered or extended by right if the Building Official determines that it meets the following criteria:

**[1]** The proposed addition/extension will conform to current setbacks and coverage for the zoning district in which the existing structure and addition/extension are located; and

**[2]** The nonconformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure.

**(b)** All other nonconforming structures shall require a variance from the Board of Appeals pursuant to MGL c. 40A, § 10 for any alteration/extension or reconstruction.

Given the above section of the Zoning Code a Dimensional Variance would be required to provide relief to increase the non-conforming nature of the site coverage. Additionally, because the applicants are proposing residential and commercial use for the lot, the proposed project will also require a use special permit through the Planning Board for Mixed Use Development. Mixed Use Development is a non-permitted use in the IL zoning district and would require a Use Variance.

**Project History:**

- October 25, 2023, a building permit application was submitted.
- October 25, 2023, a denial letter was issued by the Building Commissioner.
- October 25, 2023, a ZBA application was submitted and heard on November 29, 2023, and continued to December 27, 2023, and January 31, 2024. After discussion with the Board and an opinion from Town Counsel, the applicants revised their plans and withdrew case#2023-36 without prejudice at the January 31, 2024, ZBA hearing.
- January 25, 2024 a new ZBA application was submitted.



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- January 30, 2024, comments were received from the Health Department indicating a compliant septic system will need to be installed and a septic application would be required prior to building permit sign off.
- Police Department returned comments indicating no concerns.