



# TOWN OF WATERTOWN

Board of Appeals

149 Main Street

Watertown, MA 02472

Harry J. Vlachos, Chairman  
Melissa M. Santucci, Clerk  
Stuart J. Bailey, Member  
Deborah Elliot, Member  
David Ferris, Alternate  
Suneeth P. John, Alternate

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[www.watertown-ma.gov](http://www.watertown-ma.gov)

## MINUTES

On Wednesday evening, **May 26, 2010** at 7:00 p.m. in the Council Chambers on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing.

In attendance: **Harry J. Vlachos**, *Chairman*; **Melissa Santucci**, *Clerk*; **Stuart Bailey**, *Member*; **David Ferris**, *Alternate Member*; **Suneeth P. John**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Danielle Fillis Evans**, *Senior Planner*; **Louise Civetti**, *Clerk to BOA*. *Absent: Deborah Elliott, Member; Steve Magoon, Director, Community Development and Planning.*

Chair Vlachos opened the meeting, introduced the board and staff, swore in the audience and asked for approval of the pending minutes. Member John motioned to accept the minutes of April 28, 2010 as printed. Member Ferris seconded. Voted 4-0. Approved. Member Santucci was not present at the meeting and did not vote.

Chair Vlachos read a letter from the petitioner of **49 Buick Street** requesting a continuance to June as they have not completed a satisfactory design change. Ms. Santucci motioned to accept the request to continue the case to June. Mr. Bailey seconded. Voted 5-0, Continued.



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Ms. Santucci read the legal notice for the first case:

Walter Vellante, 25 Perry Street, Watertown, MA 02472, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Rear Yard Setback, Zoning Ordinance, so as to raze existing westerly single-story room/entryway and construct two-story westerly side addition 14'x23' with full basement, maintaining non-conforming 15.7' rear yard setback where 20' is required at **25 Perry Street**, located in the T (Two-family) Zoning District.

Walter Vellante, son of owner, Antoinette Vellante, said the main reason for the addition is for his mother who is aging but enjoys working in the kitchen. He also wants to add a laundry room on the first floor. The existing kitchen will be converted to a dining room. The rear yard setback is non-conforming at 15.7' where 20' is required.

Mr. Ferris asked him to explain the addition if they were to maintain the setback as required. Mr. Vellante described the proposed addition and said it would not be more detrimental to the neighborhood as he would be eliminating multiple rooflines and making one clean appearance. Mr. Ferris said it appears to be quite a long dormer on the back side and if he maintained the setback, the dormer would be broken up a little bit. Mr. Vellante said he would like to add living space to the second floor and without it, there would not be any more headroom.

Ms. Santucci asked if James Street is the side. Ms. Scott said that it is and Perry Street is the front. Ms. Santucci said it is a straight-forward request and it would probably look more natural than what is there today. It is a reasonable request and is not encroaching further than the existing setbacks.

No one spoke from the audience. A business mode was declared.

Chair Vlachos agreed with Mr. Ferris on the look of the long dormer. He read the Staff report which recommended to the Planning Board to approve the request and the Planning Board also approved the request.

Ms. Santucci motioned to grant the Special Permit Finding to remove the single story and replace it with a two-story addition. Mr. Bailey seconded. Voted 4-1, Approved. Mr. Ferris voted against.



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Ms. Santucci read the legal notice:

Robert Iannetta, 117 Lovell Road, Watertown, MA 02472 herein requests the Board of Appeals grant a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Maximum Building Coverage and a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structure, Side Yard Setback, Zoning Ordinance, so as to raze rear porch/deck 10'x 16' and bulkhead, construct one-story rear addition, 10'x 22', with full basement, maintaining non-conforming 6.9' northerly side yard setback, where 12' is required and further increase maximum building coverage to 25.5%, where maximum 25% is permitted at **117 Lovell Road**, located in the S-6 (Single Family) Zoning District.

Rob Iannetta, Owner stated that he currently lives in this home with his wife and two children. He wishes to raise the existing 10'x 16' deck and build 10'x 22' addition, going over the maximum lot coverage by 32 square feet at the side where it is already non-conforming. His intention is to make the kitchen more functional. There is a half bath that you can't get into if the kitchen door is open and there isn't enough room to get around the table. He is trying to keep up with the renovations that have gone on in the neighborhood.

Member Ferris noted that the house next door has a very similar addition - also in line with their house. He stated that the amount of lot coverage the petitioner is over is 32 square feet and to make it conforming, he would have to pull the whole wall back by 18". Mr. Iannetta stated that although 18" is not a lot by looking at it from the outside, creating usable living space in the kitchen is a great deal of space. Mr. Ferris asked if the projecting window at the sink is included in the area. Ms. Scott stated it is but then corrected herself to state that the bay window is not included in lot coverage.

Chair Vlachos reiterated that the variance is only for the increase in lot coverage.

John Donohue, Councilor, was sworn in and stated that he is Mr. Iannetta's neighbor. Most of the neighborhood has similar additions. He states that Mr. Iannetta has a larger garage (taking up more lot coverage). The addition will compliment the neighborhood and it does fall in line with the other houses. He asks the board to approve the request for the petitioner and the neighborhood.

Chair Vlachos stated that historically, if there has been minor increases in lot coverage, i.e.; .5%; .25%; etc. and in the past several years the board has approved them.

Member John asked what type of tolerance does the board allow. Mr. Vlachos stated that each case is considered separately. The board has not defined de minimus but 25% to 25.5% is considered de minimus; 35% would not be.

Member Santucci asked if the shed is included in lot coverage. Mr. Iannetta said it is a plastic shed and it is being removed. He doesn't know where he is going to put it – he may give it to his sister.

Ms. Scott stated that she agrees that the board has considered each case individually and weighed their de minimus variation.

Chair Vlachos stated the two forms of request – the special permit finding and the variance. The Planning Staff recommended approval provided it was reduced in size and was not recommending the variance be granted. The Planning Board recommended approval of both the finding and the variance. He would approve both forms of relief as the variance is de minimus.

Mr. Ferris has considered the issues and the building form in relation to the neighbors and how obtrusive it would be and right next door the neighbor has a similar addition. Considering the size of the yard and the profile of the addition, it is much more natural in appearance and neutral.

Ms. Santucci motioned to accept the recommendation from the Planning Board. Mr. Ferris seconded. Voted 5-0, approved.

Ms. Santucci motioned to grant the variance to allow the de minimus increase. Mr. Bailey seconded. Voted 5-0, approved.



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Ms. Santucci read the legal notice:

Sima Mancilikli, 9 Oak Street, Watertown, MA 02472 herein requests the Board of Appeals grant a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Front Yard Setback and a **Special Permit Finding** in accordance with §4.06(a), alts/Additions to Non-Conforming Structure, Front Yard Setback, Zoning Ordinance, so as to allow alterations to the 2<sup>nd</sup> floor front enclosed porch by extending main roof line/attic area aligning with non-conforming 12.7' front yard setback and allow two bay windows projecting 16" further into front setback to 11.2'- 11.3', where 15' is required at **9-11 Oak Street**, located in the T (Two-Family) Zoning District.

Paul Magliocchetti, Attorney with offices at 70 Bailey Boulevard, Haverhill, MA representing the applicant. He said he got involved after the case went before the Planning Board. He has met with the Building Inspector, the Zoning Enforcement Officer and the Planning Director. His opinion is that they are before the board improperly. His client was issued a building permit a year and a half ago, a plan was submitted and the work was done in accordance with the permit. A cease and desist was never issued and an enforcement order was never issued. He feels the meeting was productive and frank meeting. He needs to preserve his clients' rights in the event they require further legal action. He doesn't believe there was any malice or ill intent by the Town of Watertown. They are seeking a Special Permit Finding in order to allow the alteration of the non-conforming front yard setback on work that was completed over a year ago and an 8' deep front addition, extending the 26' width of the house, replacing the second floor open deck and extending the attic. The applicant was given a building permit for the improvements. They are seeking a variance for the second floor bay windows, encroaching upon the non-conforming setback of 12.7' – 10.4', where 15' is required. They are here for 16" on bay windows that are projecting from the second floor. There is no foundation. Tom Welch is the general contractor and he was handling this before Atty. Magliocchetti got involved. The original permit was issued in January 2009. The third building permit for a back yard addition prompted a request by the Zoning Enforcement Officer that a site plan be drawn to be sure the back yard addition did not encroach on the setbacks. When that plan was done the Zoning officer caught the fact that the front yard setbacks were being encroached upon.

They partially agree with the Planning Board. They agree with the analysis to grant the Special Permit Finding - they do not believe the change is more detrimental than the house next door which has the same second floor addition. The difference is the neighbor has a flat roof over the addition. They disagree with the analysis for the Variance – they believe they meet the criteria. The soil conditions, topography, etc. – it is the structure that makes it peculiar because of its proximity to the road and the fact that they are talking about 2

bay windows and their overhang that is the issue – not the structure coming out. Secondly, would literal enforcement create a hardship...it does create a hardship as all of the work was done with permits – nothing was done by slight-of-hand, the building inspector was involved throughout the process. The bay windows are of a significant cost and to replace them would be over \$13,000, according to an estimate. All due to her having done nothing wrong. She is only adding what her neighbor has and you would be adding special privilege to her neighbor and not to her. Can desired relieve be granted without substantial detriment to the public good? Yes. They are two bay windows on a house – 16” and they are still 10’ from the road. Without nullifying the intent of the ordinance. Yes, the house next door has the same situation so it can be granted without derogating from the intent of the ordinance. Everything was done with permits – no violation. He reiterated the hardship – his client has done everything right with the knowledge of the building inspector and a denial would result in extreme hardship, depriving her of the same rights as her neighbors and the financial hardship. She is elderly and handicapped. She needs to get back into this house. It’s been over a year and a half and further delayed by this process. This is a two-family and she relies on the rent to supplement her income and the tenants are losing patience. She cannot afford to lose this tenant. There is a cumulative effect and multiple hardships on her because of the delays caused. They are asking the board to vote in favor of the finding and the variance. They have a person representing the contractor and the owner, Sima, present to answer any questions.

No questions were asked by the board. Chair Vlachos said these cases are rare.

Nancy Scott, Zoning Enforcement Officer stated that the extension of the attic was not on a permit. It was a verbal approval by the Building Inspector. The only permit was for the enclosure of the second floor porch. Atty. Magliocchetti said he is not disagreeing. The plan submitted with the permit shows the flat roof but it does show the two bay windows. Ms. Scott said the permit that she approved did not have a plan – she never had seen a plan – it was never passed on to her when she signed the permit. There was a lot of work going on in this house and on the different applications. When July came, Ms. Scott said that everything had to slow down because she didn’t know what was going on at that home. She acknowledges that she gave the permit and they proceeded in good faith but as the enforcement officer, she has to recognize that a violation is in place. She worked with the contractor to get this going. Although the attorney is disagreeing with the procedure, we are here requesting the board to act favorable as the contractor and the owner acted in good faith with the permit that she signed. Atty. Magliocchetti stated that it is refreshing to see the integrity here as she did her job. At the meeting, it was acknowledged that she did not see the plans, the building inspector had it and stamped in January '09.

Member Santucci asked if enclosing the porch (without the projecting windows) had required a finding? Ms. Scott said a plot plan was never submitted and when she looked at the assessors’ plan, it appeared to be the same size as the original. The roof was going to be flat and then it changed to a peak and it just snowballed.

Ms. Santucci asked if the roof was taken off of the house. Atty. Magliocchetti stated that they brought it forward. Ms. Santucci asked what was going in on the third floor now. Atty. Magliocchetti stated that they boarded over the window on the third floor and that area will not be used for storage or anything else. That was agreed to with the Building Inspector. The original permit closed in the first floor porch, too.

Member Ferris stated that the original third floor had two windows in it and asked if there is a room that can be occupied back there without windows now. Ms. Scott said there is a room back there. Atty. Magliocchetti said there are windows on the sides. The area above the porch is dead space. The third floor is just attic space used for storage.

Jason Poole, representing Moreau & Welch Company, stated that they left the old gable wall behind the new addition as the building inspector asked that they not increase the area on the third floor. The wall is still there behind the new gable.

Member John asked if the new addition is all the way to the roof. Mr. Poole explained that the ceiling is the same flat ceiling as the rest of the second floor – there is no usable space above it. No access to that area from the third floor, as well. Atty. Magliocchetti said there is no need for that space – it will not be pushed through. The first floor has the apartment. The first floor plan was not drawn as the tenant did not let them in to draw the plan. The living space was only increased on the second floor.

Ms. Santucci stated that they pulled permits and there was a little mix-up and if they made them replace the windows and take a photo, they would pick the one with the bay windows as it is more aesthetically pleasing. Mr. Poole said three neighbors attended the Planning Board meeting and stated that the bay windows are more appealing than the way that it was – they all in favor of the windows.

Chair Vlachos said these cases come up rarely and appear that they would have a hard time getting through if they went through the proper channels. In his opinion, it is a situation that is not so bad they cannot live with it. He is in favor of the relief. It doesn't come up often enough that it becomes a practice.

Mr. Ferris asked if there is a problem with putting a louver vent on the attic window, which is more typical to see – instead of a window to allow ventilation. Ms. Scott said the plan shows one window in the front. If there is a window, how would you have access to it to clean. Atty. Magliocchetti stated that he would work with the inspector to be sure it is properly vented. Member Bailey asked if it is sealed off, how would you get in there. Mr. Poole stated that the double window is still there on the inside. If you had to get into that area, you could crawl through the window space. Ms. Scott said that Mr. Welch stated those would be blocked. Mr. Ferris suggested the venting in the window. Mr. Poole said they are fine with that. Mr. Ferris asked that it be worked out with the building inspector. Ms. Santucci said she would not be opposed to a window as who cleans their third floor window.

No one spoke from the audience. Chair Vlachos said this is a special circumstance. Planning Staff and Planning Board were not in favor of the variance. He is.

Ms. Santucci motioned to approve the special permit finding for the attic area, maintaining the front yard setback of 12.7'. Mr. Bailey seconded. Voted 5-0, granted.

Ms. Santucci motioned to grant the variance for the two bay windows projecting 16" into the front yard setback. Mr. Bailey seconded. Voted 5-0, granted.

Attorney Magliocchetti ended with a comment to Nancy Scott stating it was a pleasure to work with her.



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Continued Cases:

Chair Vlachos explained that this is a continued case from the April agenda and Ms. Santucci has been recused from this case due to not being present at the first hearing. He then appointed Mr. Ferris to be Acting Clerk for this case. The legal notice was not read but is printed below for the record:

James Hoyt, Esquire; Prince, Lobel, Glovsky & Tye LLP for Clear Wireless, LLC - Affiliate of Sprint/Nextel, 100 Cambridge Street, Suite 2200, Boston, MA 02114 herein requests the Board of Appeals grant an **Amendment to Special Permit/Special Permit Finding/Variance #96-33** in accordance with §5.14(b) Wireless Telecommunications, Zoning Ordinance so as to add 3 panel antennas mounted on chimney; 2 dish antennas (1 on chimney, 1 on existing array); and an equipment cabinet on existing rooftop at **805 Mt. Auburn Street**, located in the LB (Limited Business) Zoning District.

James Hoyt, Attorney for the applicant, introduced, Andrew Thompson, Site Acquisitions Specialist on behalf of John-Markus Pinard, who appeared at the last hearing and Anoop Jaikumar, Radio Frequency Engineer. He stated that at the last hearing, most of the issues brought up by the board were resolved. He distributed new copies of revised plans, with 4 copies signed and stamped by the engineer and the remainder not signed. He also distributed two new color photo simulations, 8x10" size. He reviewed the request, stating that at the Planning hearing, they were asked to modify their original plans to stealth the proposed panel antenna. After the Zoning Board hearing, they were asked to modify the existing installation at the front of the building. With the help of the Site Engineer and the Radio Frequency Engineer, they were able to work with Sprint to move the antenna back from the front of the building and put it centered on the stair projection in a faux stove-pipe flue to stealth it. The dish antenna was to go onto the existing pipe mount. It will now be pushed to the side as the Board requested. Sheet A-1 and Sheet A-2 show the stealth chimney unchanged from the last hearing and the new positioning of the existing panel antenna in a stove pipe, pushed back from the entrance and the dish antenna is slightly visible. The existing photo simulation shows the panel antenna in the front and the proposed photo sim shows the dish off to the side and the panel antenna moved back with the stove pipe on top of it – the stove pipe is dark but it can be painted to match.

Mr. Ferris stated that it looks much better. He asked if the component on the side wall could be painted to match the brick. Attorney Hoyt stated that it would be painted to match the brick – it will not be invisible. Mr. Ferris asked if it makes a difference if the stove pipe is round or a rectangular shaped chimney. Atty. Hoyt

explained that the stove-pipe is less obtrusive. The round chimney-type is usually 4'x4' large. For single panel antennas, the smallest footprint is usually the stove-pipe.

Ms. Scott stated that it looks much better.

Chair Vlachos said sometimes their objections do turn out something better.

Atty. Hoyt credited Anoop and John-Marcus – they worked with the engineers, the architects and with Sprint.

Chair Vlachos stated that three votes will have to be taken. The control documents will be stamped in.

Mr. Ferris motioned to approve the Amended Special Permit. Mr. John seconded. Voted 4-0, granted.

Mr. Ferris motioned to approve the Amended Special Permit Finding. Mr. John seconded. Voted 4-0,

granted. Mr. Ferris motioned to approve the Amended Variance. Mr. John seconded. Voted 4-0, granted.

Mr. Ferris motioned to adjourn, Mr. Bailey seconded. Voted 4-0. Meeting Adjourned at 8:10 p.m.