



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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MINUTES

On Monday evening, **November 22, 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*; **Deborah Elliott**, *Member*; **David Ferris**, *Alternate Member*; **Suneeth P. John**, *Alternate Member*; **Steve Magoon**, *Director, Community Development and Planning*; **Danielle Fillis Evans**, *Senior Planner*; **Louise Civetti**, *Clerk to BOA*. *Absent: Stuart J. Bailey, Member.*

Chair Vlachos opened the meeting, introduced the board and staff, and swore in the audience. He noted Member Ferris will be arriving shortly and both alternates will be voting. He wanted to be sure all petitioners understand that without Mr. Ferris, there is a 4 member board and their petition is required to have all 4 votes to be approved. They have the option to continue, if they require.

Chair Vlachos asked the board to approve the minutes of September 29, 2010. Ms. Santucci motioned to accept the minutes; Mr. John seconded; voted 3-0 approved. Chair Vlachos noted that only 3 votes are needed on administrative items. Ms. Elliott did not vote as she was not present.

Chair Vlachos asked for the applicant for **7 & 9 Swetts Court** to approach the podium.

Mr. Magoon stated that the applicant is not here tonight and as the Planning board report indicates, they found the aerial view of the deck from 2001 to be sufficient to provide protection to the property owner of the deck being removed and based on that, the petitioner requested his application be withdrawn without prejudice.

Chair Vlachos said he needs more proof than a statement that it has been there for more than 10 years -an affidavit or a plot plan from that time. This is not sufficient proof. He is willing to continue it.

Ms. Elliott said there is proof that it has been there for at least 9 years as indicated on the GIS photo.

Mr. Magoon added that the applicant also referred to a building permit from 2000 which referred to the French doors being installed going out to a deck that was already there.

Ms. Santucci noted that the building permit for the French doors was inspected and signed off on and did anyone witness the deck at that time. Mr. Magoon did not have an answer to that as he did not speak to the inspector of buildings.

Chair Vlachos could not make out what the aerial view is showing.

Ms. Santucci said the owner needs to be aware that even if it was in there for 10years and they cannot make him remove it, that does not give him non-conforming status; doesn't allow him to rebuild the deck, etc. She asks how this is going to be monitored. She added that the French doors and the deck most likely were built at the same time.

Mr. Magoon said that he could follow-up with the building inspector although he was not the inspector at the time. Chair Vlachos said that for this to be left as of right, doesn't seem appropriate and the aerial view doesn't support this.

Mr. Magoon requests the board to continue this for the petitioner.

Ms. Santucci asked why the small photo in the corner is attached. Ms. Elliott explained that there is a 6' fence around the property and that is showing the height.

Mr. Magoon said he would contact the petitioner.

Chair Vlachos does not see a formal request to withdraw. Mr. Magoon explained that this was at the Planning Board and he will contact the applicant.

After the Putnam Street case, the petitioner appeared and the board placed this case back on the agenda.

Ms. Santucci read the legal notice:

Erez Z. Levanon, 7 Swetts Court, Watertown, MA, herein requests the Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-conforming Structures, Side Yard Setbacks; and further to grant a **Variance** in accordance with §5.04, Table of Dimensional Regs, Rear Yard Setback, Zoning Ordinance, so as to legalize an existing rear deck, 24' x 11.75', located 15.7' from northerly side lot line and 17.7' from southerly side lot line, where 25' is required and varying rear yard setback at 19' – 21', where 30' is required at **7 & 9 Swetts Court**, located in the R1.2 (Residential) Zoning District.

Chair Vlachos swore in the petitioner and all other audience members that had not been sworn in prior.

Erez Levanon, apologized for his appearance as he was watching television from his home and heard the proceedings of the meeting. He left his dinner on the table to come here to explain. He thinks there is a lot of misinterpretation.

Chair Vlachos said the Planning Board came to the conclusion that the deck had been there for 10 years. He said this board needs something more concrete.

Mr. Levanon said the research that he has done, the staff, the planning Board did – there is no more information on when the deck was built as the owner who sold him the house moved to Ireland. He cannot get an affidavit from him stating that this is when he built the deck. He said that at the meeting on the 17th, a gentleman showed a picture that he does not have in his possession but this board does, that showed where the deck is from 2001.

Chair Vlachos said that the picture could be anything. He cannot identify it as a deck.

After further discussion, the board concluded that they want to have more evidence that the deck has been there for 10 years as the aerial photo only went back 9 years.

The petitioner requested the case be continued so that he may contact the prior owner or attorney.



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Ms. Santucci read the legal notice of the next case:

Avi Golani, 26 Forest Street, Watertown, MA, herein requests the Board of Appeals grant a **Variance** in accordance with 6.02(j), Location and Design of Off-Street Parking, Parking in Building Front Yard and Required Front Set-Back, Zoning Ordinance, so as to add one additional parking space 10'x 19', within prohibited building front yard and with 1' front yard setback, where 5' is required at **73-75 Putnam Street**, located in the T (Two-Family) Zoning District.

Avi Golani approached the podium and Chair Vlachos explained again that he will need to have all votes in favor to pass. Mr. Golani said he just bought the house a couple of months ago and there is only one parking space. He is renovating the house and wants to add a parking space – the same as his neighbors. His contractor already constructed the porch – the shape is not changing. The support is changing only – the beams. The opening of the wall will be cut down and the space will go under the porch.

Ms. Santucci asked about the dormer and if the dormer is 10' to meet the 12' requirement the other side is 7'; then how is this 12'. Mr. Golani said the dormer is within the setbacks.

Chair Vlachos stated that Member Ferris just came in and they would like to start from the beginning so that Mr. Ferris can vote. Ms. Santucci read the legal notice again.

Mr. Golani repeated his request to add a parking space the same as the photos of the neighbors that he submitted.

Mr. Ferris asked if there is a drawing of what it might look like with part of the porch removed. Mr. Golani said it was the architectural plan. Mr. Ferris said the porch will be hanging out over one of the spaces and he was curious how that would look.

Mr. Golani said the engineer planned to have a steel beam going across and beams coming down. Mr. Vlachos said it is important that the board have these plans. Mr. Golani said he has them at home.

Mr. John asked if the drawings need to be part of the whole set of plans for the request. Ms. Evans said the request is for a Variance for a parking space in the front – they didn't request a Special Permit Finding to alter the structure. It was the opinion of the Zoning Enforcement Officer that the Building Inspector would work out the details of the structure and the parking space was the relief before this board.

Chair Vlachos said this is not a common relief and the house would be altered to provide the parking space.

Mr. Ferris asked if there is going to be a column supporting the porch and then the parking space will come to the middle of the porch and from the left point over, they will retain the lattice work and build a retaining wall and paint the trim white. The wall will match the existing.

Ms. Santucci asked how far back the porch is set as the dimension is not on the plot plan – the requirement is 15'. Ms. Santucci said if it is within 15', he needs a finding. Her question on the side setback, she'd like to have addressed.

Ms. Evans said the interpretation on the side setback – if one side is conforming for either of the two setbacks, then that would be the conforming setback. You would only have one non-conforming side setback instead of two.

Chair Vlachos said the 10.4' side would be the conforming side.

No one spoke from the audience. Chair Vlachos did not declare a business mode but stated that he wanted to see how the front would look – the details. He would be inclined to support this.

Mr. Ferris is in agreement that the detail is what is needed.

Ms. Evans measured the plot plan and stated that it is not exactly to scale and the porch could potentially need a finding.

Ms. Santucci stated that it is 19' to the house and the porch could be closer than 15'. This could be additional relief that he has not applied for.

Chair Vlachos reiterated that they would like more detail. Mr. Ferris said a front elevation detail and to confirm the front setback – more measurements need to be on the plot plan, added by the surveyor.

Ms. Santucci asked if there is enough time to re-advertise for the December meeting, if he were to need the finding. He would then continue to January.

Mr. Ferris showed Mr. Golani exactly what the board is looking for – a dimension of the front setback from the front property line to the porch and the front elevation – what it would look like once the parking space is carved out. Mr. Vlachos stated to add the retaining wall, etc.

Mr. Golani said he would like to continue to the next hearing. Mr. Golani has spoken to Nancy in the past. Chair Vlachos said to speak to any of the staff.



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Ms. Santucci read the legal notice of this continued case:

Claudio Coppola, President, Coppola Pleasant Street LLC, 31 Whitlowe Road, Newton, MA 02465, herein requests the Board of Appeals grant **Special Permit/Site Plan Review**, §9.03, in accordance with §5.00(f), New Construction Exceeding 4,000 sf/more than 3 dwelling units; §5.01(f), Multi-Family 4+; §5.01(g)/Multi-Family 5+, Zoning Ordinance, so as to raze existing garage and three-family dwelling structures and construct a4-story, 44-unit residential building with 4 affordable units, providing 84 parking spaces (53 garage spaces under bldg and 16 exterior spaces) and in accordance with §6.01(h), provide 18% (15 spaces) shadow parking at the properties **118-120 & 132, and 140 Pleasant Street**, located in the I-3 (Industrial) Zoning District.

Chair Vlachos noted that the petitioners gave their presentation; they heard from the public and from councilors past and present and they went into their business mode. He said there has been a submission by the petitioners.

Mr. Magoon said the board requested to hear what the Conservation Commission declared at their meeting and to receive perspective drawings of different views of the proposed building. The ConCom conducted their first hearing and requested 10 items of additional information: an alternatives analysis of various uses; a copy of the existing activity and use limitations (AUL) which is regarding the contamination that exists on the site; the limitations of the use after it is cleaned; narrative discussing modifications to the AUL that will allow for residential construction; a release abatement measure (RAM) plan; a vertical soil profile documenting the depth of the contaminants – one of the concerns is that the plan showed the outer limits but not the depth; a narrative discussing the structural capacity of the modular block wall in relation to the construction of a rain garden, described by an appropriate professional as the concern is at the corner of the property where the rain garden is proposed, how that relates to the structural stability of the wall; a plan showing how contaminated soils will be handled and removed; an engineers barrier design for the AUL area and a narrative on its perpetual maintenance plan; a monitoring plan to specifically determine soil contaminate mitigation methods for oil, lead, arsenic, cadmium, and other contaminants; an updated detailed plan to indicate the 12" drainpipe connecting to the 2" weep holes. Mr. Magoon then went through the packet of information of different views of the property: the first drawing shows two cut-thru lines and different views from different properties within town. A view from the sky of the existing buildings in the area as it relates to the proposed building; a similar drawing, different direction from the west; from the northeast looking southwest; aerial of the site and it's relationship; the same view with the superimposed building and the an indication of where the cut-thru drawing will be – with a jog to show where the swimming pool is located; "section A" showing a narrow area of where building is stepped back in the front and a cross section showing the community path and a path to the river and section B shows the other side; the next is a closer detail of the path; the next is several pictures from the path side; next shows an outline of the existing structures and a dotted line showing the proposed building and the retaining wall; the next drawing is the same view with a superimposed building

and wall; then the same view with spring foliage on the trees; and the next is a street level photo with the conceptual massing; the next is the same type but looking east; the site plan with the landscaping for the project with details and adding trees to the riverside of the property. The next page shows the detail of the planting plan.

Chair Vlachos noted there is a cover letter dated November 17th received and a notation that the new landscape architect is KZLA.

Mr. Magoon added that Mr. John met with the applicant to be sure Mr. John's request was fulfilled correctly. He stated that he is willing to address any issues the board may have.

Ms. Santucci stated that she spent the additional time they had going over the proposed parking as the neighbors had expressed concerns. She reviewed the past decisions of the board and how much parking is utilized of those properties. This proposal has 44 units equaling to 56 bedrooms and 69 parking spaces in total. She is comfortable that is enough parking. She suggests the spaces up top be left open during the daytime but those spaces to be used by overnight guests from 9 am – 7am or whatever time is available.

Mr. Ferris asked if there will be equipment on the rooftop. Mr. Nardy said, 'no'. Mr. Ferris asked about the roof height and regarding a building down the road. This building is 42' from the street and the riverbank lofts building was designed for a different use and the height is 50' although it is 3 stories, then the mechanical on the roof is another 14' high so it is a 64' tall mass in relationship to this at 42'. Repton place is 4 stories and the grade is higher on Pleasant Street – the top floor has high ceilings with glass tops.

Mr. John said the reason he wanted more information on the site and the mass perspectives to show that this is not as big as he thought it was or as it was perceived as. The massing is not disproportionate to the area. They did a good job explaining the views. He suggested that a green building may want to provide a way to power the electric vehicles – an area where they could be plugged in overnight.

Chair Vlachos read from the Staff Report of October 8, 2010 concluding with the recommendation of approval. Out of the ordinary conditions include LIP program; subsidized housing; shadow parking. The Planning Board voted 3-1 in favor of this proposal with the same conditions.

Chair Vlachos feels this is a story too high. It will be an attractive building and when you drive by Repton, even though they are far off of the street, they are high. The rest of the board may wish to approve this but he will vote to deny it. He'd like to see a three story development rather than four. It will be attractive but people will gasp at the size when it is up. It is a small neighborhood and this will look massive. It is not down near Repton Place or the lofts – that is a different and wide open area. This is a congested area. He'd like to see these developers here.

Ms. Santucci asked the Staff about condition #10, 'the petitioner shall make all roadway improvements in accordance with the Traffic Mitigation' and if we have seen that. Mr. Magoon said the board has not seen it. It shows signal improvements at Myrtle and Main or Waverley and Main. Ms. Santucci asked if there is an agreement with the town. Mr. Magoon said only in concept as the details have not been committed to paper. That was worked out with the DPW. It will be finalized in short order. If the board wants to condition this, that is okay. The signal is old and outdated and the signal will be upgraded. That is the only item.

Mr. Ferris said he is looking at this from a different approach. The zoning on this site allows a building that is bigger and taller for this site. He was not part of the board when this first came to the board. This is a friendly use for this neighborhood as opposed to another use that could be on this property. He is pleased with the landscaping. This is zoned for something of this bulk.

Chair Vlachos said the site plan review is to take a second look at what is going up there. This is in an area of Pleasant Street that is almost village like. This will overwhelm the area. It will not be realized until it goes up. Every big development that they have approved has surprised him when it was finally built. The residential use is the highest and best use of this property so they wouldn't worry about another use going there. He is not in favor of this and would support a three-story structure.

Ms. Elliott spent time at the site and study it from both sides. The additional information provided has been helpful and she is in support.

Ms. Santucci proposed a condition that rooftop equipment be added and the spaces in the front can be used by overnight guest parking.

Ms. Santucci motioned to accept the proposal for Special Permit with Site Plan Review with the conditions printed in the Planning Board report and the two added tonight. Ms. Elliott seconded. Voted 4-1. Mr. Vlachos voting against.

Ms. Santucci motioned to accept the Special Permit for the shadow parking. Ms. Elliott seconded. Voted 4-1. Mr. Vlachos voting against. **Petition Granted.** Documents reviewed: The Plan Set "140 Pleasant Street, Watertown, MA Cresset Development, LLC, 120 Water Street, Boston, Massachusetts" containing sheets E-1 "Existing Conditions Plan", CPP-1 "Certified Plot Plan", C-1 "Site Plan", CD-1 "Construction Details I", CD-2 "Construction Details II", CD-3 "Construction Details III" all prepared by McKenzie Engineering Group, Inc and dated September 24, 2010. Architectural drawings "Site Plan", "First Floor w/Parking", "Parking at Street Level/Parking at Garage Level", "Second Floor Plan/Third Floor Plan", "Fourth Floor Plan/Unit Mix", "North Elevation", "West Elevation", "South Elevation" "East Elevation", "Pleasant Street Rendering", Context" and "Affordable Unit Distribution" by Bargmann Hendrie +Archetype, Inc. and dated September 24, 2010. "Landscape Plan, L-1" by KZLA, Kyle Zick Landscape Architecture, Inc., dated 11/3/10.



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Ms. Santucci asked if they were going to hear from the two continued cases – 198 Summer Street and 560 Pleasant Street. Mr. Magoon said neither case is ready to come before the board in December and would most likely be ready in January.

The board discussed the next meeting date of December 29th and two members indicated they would not be available. The board decided to move the meeting to Monday, December 20, 2010. Ms. Santucci stated that she may not be available but there is a chance she can be there.

The board then discussed the tentative 2011 meeting and deadline schedule. Chair Vlachos said that the board has never met in August before and he is normally not available that month to meet and lots of people take vacation during that timeframe – they would miss the chance to speak on a pending matter and he would therefore, not vote to have a regular meeting in August 2011. He then indicated that he would like to keep the option open in the event that there were to be a constructive grant obtained due to the time frame. Ms. Santucci stated that she would not be available in September 2011 as she is getting married and if Mr. Vlachos missed August and she were to miss September, there would not be a quorum. Chair Vlachos suggested that we visit the August meeting in May of next year.

Ms. Santucci motioned to adjourn. Ms. Elliott seconded. Voted 5-0. Adjourned at 8:55 p.m.