

## MINUTES

On Wednesday evening, **July 19, 2006** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a continued public hearing for the originally scheduled meeting of June 28, 2006. In attendance: **Melissa M. Santucci**, *Acting Chairperson*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*; *Absent: Harry J. Vlachos, Chairperson; Mary Crain, Senior Planner* .

Tape 1 of 3, Side A

Ms. Santucci opened the meeting, introduced the new members and explained the necessity of having all 4 members vote in favor of the petition in order for it to pass. She then gave any petitioner the option to continue their case until such time as a 5 member board is present. All petitioners chose to move forward tonight.

Mr. Moynihan swore in the audience.

Ms. Santucci noted 51 Water Street will not be heard and the first case pending is a leave to withdraw for **28-30 Parker Street**, an appeal to the determination of the Zoning Enforcement Officer. She asked for a motion.

Mr. Moynihan motioned to accept the leave to withdraw;

Mr. Bailey seconded.

All in favor? 4-0. Petition withdrawn.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Alternate

Deborah Elliott, Member

Stuart J. Bailey, Member

Richard M. Moynihan, Alternate

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Tape 1 of 3, Side A, Continued

Ms. Scott read the legal notice:

Mildred L. Rahn and William Stokinger, 11 Evans Street, Watertown, MA, herein request the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Zoning Ordinance and a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Lot Coverage of 30.4%, where maximum 25% is allowed, so as to raze rear porch 6.50'x12.45' and bulkhead and construct of a 2-story rear addition 15'x30.5' with a 4'x5-5" bulkhead bumpout, maintaining the southerly side yard setback of 5.39' varying to 7.33' , where 12' required; and the northerly side yard setback varying at 6.47' – 6.65' and further construct rear deck 8'x12' located 8.69' from northerly side line, where 10' is required at **11 Evans Street**, located in the S-6 (Single Family) Zoning District.

William Stokinger, Petitioner, has lived at 11 Evans for 17 years; has been a resident of Watertown for 29 years, and plans of leaving this property 'feet-first'. He explained their request for an addition on their 1938 cape-style home on a current under-sized lot. He said the Planning Board discussed a

smaller addition but that would not work for them. They have thought out the project well and have designed the addition to eliminate a massing effect.

Mr. Moynihan asked if it was cost prohibitive to bring the project down to 27% (as suggested by the Planning Board). Mr. Stokinger said the options he considered were to remove the cantilevered garage but it would destroy the view of the structure as the garage is an integral part of the house and neither the lot nor the Town would win in that case as the driveway would extend towards the back and a shed would be added. He plans on using the room addition (the second 'Study' room labeled on the drawings) as a library and a 'sleeping room'. Reducing the addition would bring the internal size to approximately 9'x30' and the numbers wouldn't work. For what they are proposing, if their lot were at 6000 s.f., the addition would be at 23%, which is under the required 25%.

Ms. Elliott asked if any trees would be removed for the proposed addition. Mr. Stokinger has already removed a cherry tree and a maple tree that needed to come down anyway.

Ms. Santucci said that the petitioners had made a statement that the addition would not be visible from the street; however, when she approached from Main Street, the back of the house was very visible. She is concerned by the size of the addition as they are adding 50% of coverage – from 19% to 30% and thereby adding 10% to the lot coverage and 50% of existing coverage. She suggests they revisit this as they are more than 5% over the maximum allowed. She said the garage looks to be in need of repair and that could be an option or perhaps half of the width of this request. Mr. Stokinger said they have looked at reducing the size but the rooms on the 2<sup>nd</sup> floor did not warrant the plan they were considering. Coming from the front, you can not see the addition but from (Main Street the rear is visible). 117 Evans Street has done what they are proposing and they were approved by the Board. They would lose open space if they removed the garage – extending the driveway and adding a shed and lose space in terms of water percolation.

Ms. Santucci is not in favor of supporting such a large Variance. The view from drawing A2.1 shows that they are adding ½ of their house. Mr. Stokinger said the current structure is 23' and they are adding 18'.

Ms. Santucci said the length is 24' and they are adding 15', therefore, they are adding more than half.

Mr. Moynihan asked if there was any opposition from the abutters. Mr. Stokinger stated that the neighbor most impacted has submitted a letter in support and the neighbor on the north side is in support, as well.

\*The letter in support from John F. McIlhenny was received on July 18, 2006 but not read into the record.

Ms. Elliott asked if discussions have taken place with a contractor regarding the logistics and how they would access the rear of the site. Mr. Stokinger has permission from 'John', his next door neighbor to remove one post of his fence to provide access through his driveway for an excavator.

Ms. Rahn spoke on the view of the rear of the property and a trellis, flowers and perhaps trees have been discussed. The neighbors do not feel it is an issue but they will address the concern of the view from Main Street. There were hemlocks there but blight forced them to be removed. Ms. Santucci said bushes and flowers would not hide much of the view as Main Street is higher. She still feels that it is big and suggests they revisit this.

Mr. Stokinger said they considered where the addition meets the side of the house to break the mass of the side of the wall but 117 Evans had not done that and they can plant arborvitae that would grow up to 20'. To get them down to 27%, they would have to build it at 10'x30', which would give them an interior of a 9' room and they are not interested in doing that. They want some sense of size on the inside and request the Variance be given.

Mr. Bailey asked if a 12' or 13' would be acceptable. Mr. Stokinger said 13' means a 12.5' room and 2' is still a space issue.

Ms. Elliott asked if you could reduce the width to 28.8. Mr. Stokinger said they could do that and added that the 2<sup>nd</sup> floor of the house is cantilevered 2' over the garage and they could get extra bracing under that corner but they could do that to match the footprint and if the board would accept that 2', he would agree.

Ms. Scott asked if the dog house entryway would stay. Mr. Stokinger said that is a bulkhead at 4'x5' and is included in the lot coverage.

Ms. Santucci said the house will have 5 bedrooms (3 bedrooms and 2 study rooms) and 2 full baths and one half bath, a kitchen, an eating area, a dining room, a living room and another room in the front – is a pretty big cape. Ms. Rahn said the front room would be open and they would have a front to back dining room (like the living room) which would open to the new kitchen addition and eating area. Mr. Stokinger said one bath is for the master bedroom and the other bath is for guests and they have a lot of people in and out given the professions they are in. The study has a lot of books as he is an archeologist and historian and his wife is a folklorist.

Ms. Elliott said if the addition was 28.8'x11.5', they would reach the 27%. Ms. Scott added that they needed at least 12'. Mr. Stokinger said they would agree to 13.5' which would give them a 12' room. Ms. Santucci said it is 4% over the requirement.

Ms. Scott suggested continuing until September when there is a full board (they do not have to re-advertise) to have them reconsider the layout. The Chair is having difficulty agreeing with the amount of relief and they need to have all 4 members vote in favor in order for this to pass. They should take advantage of continuing until September where there will be 5 members and they could take the chance.

Ms. Elliott said 27% would be acceptable and 30% is too much. Mr. Moynihan said as it not a 6000 s.f. lot, 30.4% is too much coverage. Ms. Scott added that the general consensus is that the relief requested is too much and they can reconsider and come back. Mr. Stokinger said thank you for your time and Ms. Rahn said the same. With the construction season the way it is, breaking ground in October would not work out. They will revisit other options and their sense is they will not come back in September as it would not be feasible. Ms. Scott said the board will approve a continuance.

Ms. Santucci opened the meeting to the audience. No one spoke in favor or opposition.

Mr. Moynihan motioned to continue the petition to the September agenda.

Ms. Elliott seconded.

All in favor? 4-0 Petition is continued to September.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Alternate

Deborah Elliott, Member

Stuart J. Bailey, Member

Richard M. Moynihan, Alternate

## MINUTES

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Tape 1 of 3, Side A, Continued

Ms. Scott read the legal notice:

Stephanie E. Starr, 41R Prospect Street, 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, Undersized Lot, Side Setbacks; and a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Rear Yard Setback, Zoning Ordinance, so as to permit the construction of a second story rear deck, 10.92'x20.8', with stairway, maintaining the non-conforming 1.8' westerly side yard setback and non-conforming 3.9-4.1 easterly side yard setback, where 12/10' is required and 19.9' from the rear lot line, where 20' is required, at **41R Prospect Street**, located in the S-6 (Single Family) Zoning District.

Stephanie Starr, Petitioner, said her home is unique; she loves it there and she would like a deck off of the 2<sup>nd</sup> floor.

Mr. Moynihan asked about the Planning Board's discussion on the length of the deck and the materials being used. Ms. Starr said the discussion was if she would be willing to extend it to avoid the Variance and the building materials are such that it would be extra work to extend the deck. The Variance is quite minor as 20' is required in the rear and she is seeking 19.9' and she would not like to extend the deck as it would feel as though the entire back yard were covered with deck. Ms. Santucci said she would be cutting it back, not extending it.

Ms. Santucci said the Variance is the most deminimus that she has seen and she would support the petition as the lot is narrow and the petitioner is willing to keep the deck in line with the dwelling.

Ms. Elliott agreed.

Ms. Scott said the living quarters are on the second floor along with the kitchen. The first floor was the garage and is now a living room. She said there was some concern about privacy but given the uniqueness of the former garage being residential, she feels it is appropriate.

Ms. Santucci added that all of the abutters have 6' high privacy fences, even though this will be higher than that.

Gary Silverman, 35 Prospect Street, tenant, Danielle Fournier is the owner, said the deck will peer and hover over to their back yard and bedroom window. He said a deck on the first level would not be an issue. There will be no privacy for them. He was asked by Ms. Fournier to relay a message that the resale value of her home will be affected negatively by this deck.

Ms. Santucci read into the record a letter received on June 26, 2006 from Ms. Fournier in opposition.

Nicole Gulley, 20 Brookline Street is in opposition as their privacy will be lost.

Phyllis Kirwan, 30 Brookline Street, said the side of her house faces her yard and she would need permission from her to come into her yard to paint her house. Back in 1993, a man named Scott lived there and his request to extend a deck on the first floor and he was denied because of the Variance. The deck up high would invade their privacy and she hasn't any objections to a deck on the first floor.

Ms. Santucci read into the record, a letter received July 11, 2006 from Andrea DiSimone, 26 Brookline Street, also in opposition.

Ms. Santucci stated the request a deminimus amount and anyone that surrounds does not support it. If the deck was shortened just a little bit, there wouldn't be a need for a Variance. Even without the Board's approval, this deck could go up as there is only a request for 1/10 of an inch. Historically, this board has granted Special Permit Findings when the request is not beyond what exists and she is proposing to take this deck in 2/10 of

an inch although small, it is something. She suggested that the deck be lowered slightly.

Ms. Starr said it is a possibility but defeats the purpose. They would have to completely redesign the stairs as the area underneath is used for storage.

Ms. Scott said there would need to be a platform before you have stairs, which is code and you would lose the deck portion.

Mr. Bailey reiterated that the deck on the second level is due to the living quarters being predominately on the second floor. Ms. Starr agreed and stated that although there is a patio with her grill on the first level, it is not easy to get to.

Mr. Silverman suggested that she put up a screen or light fencing around the deck. Ms. Scott said that would be much too confining on a small deck. Mr. Silverman asked if they could raise their fence higher. Ms. Scott said the ordinance states 6' high maximum.

Ms. Santucci closed the public hearing and declared a business mode. She read from the Planning Board report stating the Special Permit Finding and the Variance were granted based on the criteria being met in the Zoning Ordinance.

Ms. Elliott motioned to grant the Special Permit Finding.

Mr. Bailey seconded.

All in favor? 4-0 SPF granted.

Ms. Elliott motioned to grant the Variance.

Mr. Moynihan seconded.

All in favor? 4-0 Variance granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Alternate

Deborah Elliott, Member

Stuart J. Bailey, Member

Richard M. Moynihan, Alternate

## MINUTES

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Tape 2 of 3, Side A

Ms. Civetti read the legal notice:

Kenneth G. Hagopian, 162 Worcester Street, Watertown, MA , herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Undersized Lot, Side Yard Setback, Height; Zoning Ordinance, so as to construct two shed dormers, (1) at 11.5'x18.5' with northerly side yard setback of 6', where 10' is required and (1) at 11.5'x20' on southerly side, both maintaining existing non-conforming height of 32.5', where maximum 30' is allowed; and further requests a **Variance** in accordance with §6.02(b)(i)(j), Location and Design of Off-Street Parking, Size, Curb Opening, Front Yard, and Front Setback; and 4.11, Exceptions to Setback, Zoning Ordinance, so as to raze and rebuild burnt 2-story front porch, 5'8"x25'1", with a 2' cantilever, which would allow space for 3 front yard parking spaces, 8'4"x18', where 8.6' is required; without the required 5' front setback and a 30' curb cut, where maximum 22' is allowed and further allow 4'x19' front stairway encroaching into northerly side yard setback at 2.1', where 10' is required at **190-192 Arlington Street**, located in the T (Two-Family) Zoning District.

George Elangian, Architect, addressed the concerns of the neighbor which were brought up at the Planning Board. Ms. Santucci requested an explanation of the project first. Mr. Elanjian explained that the porch on the front of the house burned down and there was smoke damage to the roof inside the attic. The basement, first floor and second floor were only affected slightly. They are trying to reconstruct the front porch at the same size, coming out 6' in width from the foundation and expand the attic so they can rent it to a professional to use as break-out office space. They will enclose the rear porch for a laundry room on both levels. The foundation of the porch is setback 2' from the property line for an 18' expanse from the front property line for an 18' parking space. Therefore, the foundation of the porch would be 2' less than original but the actual porch would be the same size as before. The width of the house would be the width of the 3 parking spaces and the 30' curb cut would allow for the three spaces. The 3 spaces would allow for no parking on the street in front of the house. The neighbor suggested one car less would allow for more visibility backing out of the driveway at 198 Arlington Street, to the north of this property which can park 4 cars in the driveway.

Mr. Moynihan asked if the parking at 186-188 Arlington accommodated 3 cars. Mr. Elanjian said it would accommodate 4 cars, probably.

Mr. Elanjian drew vehicles on the site plan that would prove the visual impact would be greater if they were to reduce the spaces to 2. The car backing out of the driveway to the north would not see a car coming from the south should a car be parked out on the street. If there were 3 cars parking in the driveway, there wouldn't be any cars parked in the street, thereby eliminating any visibility issues. The

space in front of 196 will remain. The telephone pole will be moved by the utility company to the area between the stairs.

Ms. Scott asked Mr. Elanjian to explain the access difficulty to the southerly lot area where there is landscaping now. Mr. Elanjian explained the area has a gradation difference from the street up to the foundation of approximately 6'. They are lowering the grade at the foundation by 2.5', so the grade is

less and the area at the retaining wall terminates at the circular portion of the property line so the frontage at the street is less than 30', although the rest of the property is 45'. Therefore, it would be impossible to have a driveway there plus you'd be going over the adjacent property line.

Mr. Moynihan said he understands there have been attempts at purchasing the area of the front property that juts out or to obtain an easement. Mr. Elanjian said Mr. Hagopian could not get an agreement for either – actually he could only get a verbal agreement which is not an agreement at all. A definite easement did not take place.

Ms. Elliott asked if there were 2 spaces to the south, instead of 2 spaces to the north, would they still be able to park a vehicle between the property at 186 and the property at 190-192. Mr. Elanjian and Ms. Scott answered 'yes'. Mr. Elanjian further explained that he took the best situation to show his point. Mr. Elanjian said the utility pole will be moved no matter where the 2 spaces are as the utility company would prefer not to have their pole be vulnerable.

Ken Hagopian stated they spoke to the utility company briefly without detail about moving the pole "and then they gave us a \$5000 bill, maybe more". Mr. Bailey commented that he thinks the pole should be moved any way – that someone could hit that pole. Mr. Elanjian agreed. Mr. Bailey furthered that the pole would need to be moved to provide parking anyway – one spot, maybe; two spots, it should be moved. Mr. Elanjian agreed again.

Ms. Elliott asked if there is an entry to the basement between the parking spaces. Mr. Elanjian said there is an entry into the basement from between two spaces. He added that there is a filled area between the existing house foundation and the new foundation (found on plan A2). Each side of the basement door has gravel fill as the existing foundation will not be down to frost. They are filling against the existing foundation for the proper frost step below grade. The new foundation will be to frost level.

Ms. Elliott noted that if vehicles are parked there you can not gain access through that door. Mr. Elanjian said the door opens into the home and it is between the two spaces. There will be one van and 2 cars parked there.

Ms. Santucci asked why they are proposing 2 dormers to add more space that would potentially bring more people with more vehicles to a site that is restricted for parking. Ms. Santucci asked for clarification of the parking – the van is owned by Mr. Hagopian who will live on the first floor; one space will be available for the rental unit, which will have a big two bedroom. Mr. Elanjian said he hopes the big space will be used for a break-out space by a professional and not living space. Ms. Santucci said she feels it is a lot of space (in the apartment) for the use of one vehicle. She added that the door in the front should be removed. It makes the house look like it has another level. Landscaping should be added. Mr. Elanjian said he suggested the addition of a vine to grow on the lattice. Ms. Elliott asked how it would be planted if the pavement went up to the foundation. Mr. Elanjian said there would be a curb stop before the foundation and between the curb and the house there would be a planting area.

Ms. Santucci asked if anyone had any comments on the third story. Ms. Scott said that it does comply with the ½ story requirement. Ms. Santucci said again that she feels they are creating more space that they can not support from a parking standpoint. She noted there is a sink in the recreation room that she suggests be removed on the plan. Mr. Elanjian said that was already agreed to at the Planning Board hearing. He added that the Staff Report from the Planning Board went along with all of the variance requests especially the parking and the only concern was the neighbors concern which he has addressed with the drawing showing a no-visual problem. Ms. Santucci said around Watertown there are “For Rent” signs everywhere and parking is an issue as much as Watertown is accessible transportation wise. A unit of this size the rent would be high enough for two people to rent it. Mr. Elanjian said there is a garage-type commercial area across the street and there isn’t residential there. So, there is parking on the opposite side and an entrance to a truck terminal there. He said even if the apartment were rented to someone needing two spaces, they could park there without a problem.

Ms. Elliott commented that parking on the opposite side of the street would create a hazard for pedestrians as Arlington Street is busy.

Ken Hagopian said he has a letter dated July 16, 2006, which he feels is damaging and he'd like to know if the board had a chance to read it. Ms. Santucci said the members did receive it this evening and were able to look it over. Mr. Hagopian said he would have like to spare the board with this type of information and he will not mention the neighbor that wrote this letter but he said if they think it is appropriate, he is willing to be sworn under oath that all the testimony he gives is the truth regarding this letter.

Mr. Moynihan swore in Mr. Hagopian.

Tape 2 of 3, Side B

Ms. Santucci asked if he were planning on storing and bringing stuff in and out of the basement. Mr. Hagopian said the staircase before was unsafe and with the door there now, he could use it but he doesn't need to store anything there at all as he has a warehouse now.

Mr. Moynihan noted that the Planning Board preferred two spaces and now with this updated plan from the architect, it shows more accurately what the parking and visual lines would be if it were reduced to two spaces and in fact, it could be worse. Ms. Santucci agreed. Ms. Elliott said that the three spaces is an excessive amount of pavement on Arlington Street and the house next to it at 186-188 there isn't any green space. She suggests the board consider the amount of pavement that will be on these front properties. Mr. Moynihan said he has considered the unique factor with this property as there is a piece of the property that juts out and belongs to 186-188 – if they were willing to sell that piece, the petitioner could have come up with a different scenario. Mr. Bailey stated there are 3-4 spaces next door and this property shouldn't be penalized by giving them only 2 spaces but the utility pole will have to go as it is too dangerous. If he can not move the pole, then one space on the south side only. Ms. Santucci stated that

they could add a condition that the pole must be moved prior to the parking being used. Ms. Elliott and Mr. Bailey agreed.

Ms. Santucci reviewed the conditions: #8, takes care of the sink/bar issue that will need to be removed from the 3<sup>rd</sup> floor dormer. #9, pertains to having no vans of  $\frac{3}{4}$  ton or greater shall be parked on site; #10, the utility pole must be relocated prior to the installation of the parking spaces.

Mr. Bailey asked if they could add landscaping. Ms. Santucci asked Mr. Hagopian if he would add flowers and such on the area marked 'dirt' on the plan. He said he would landscape that area as he already owes that neighbor for some of the stones there were moved. Mr. Elanjian added that the wall would be from 0' – 2'2". Mr. Hagopian plans to use 3' or so of his neighbors land to "straighten it out for him – he's been a good neighbor". Ms. Santucci clarified that condition #11 would read: 'Applicant must landscape the area between the parking spaces and the retaining wall.'

Mr. Moynihan motioned to grant the Special Permit Finding for the dormers.

Ms. Elliott seconded.

All in favor? 4-0 Granted.

Mr. Moynihan motioned to grant the Variance for 3 parking spaces in the front yard.

Mr. Bailey seconded.

All in favor? 4-0 Granted.

Mr. Moynihan motioned to grant the Variance for a 30' curb cut.

Mr. Bailey seconded.

All in favor? 4-0 Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Alternate

Deborah Elliott, Member

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Tape 2 of 3, Side B, Continued

Ms. Civetti read the legal notice:

Thomas Kilfoyle and Patricia D. Kilfoyle, Trustees of 10 Munroe Avenue Real Estate Trust, 10 Munroe Avenue, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structure, Parking; **Special Permit** in accordance with §5.05(d), Notes to Table of Dimensional Regulations, Reduction in Side Yard Setbacks; **Variances** in accordance with § 5.04, Table of Dimensional Regulations, Side Yard Setback, Westerly Side and §6.01(b) & (k), Required Off-Street Parking, Elimination of 8' Buffer setback, Zoning Ordinance, providing 5 spaces where 6 is required for the new addition, so as to permit the construction of a two-story rear addition, 65'x39' for expansion of marble fabrication; tile warehouse and office allowing reduction in side yard setbacks varying 2.5'-4.8' on westerly side and 3.2' (closest) on easterly side, where 25' is required and providing 5 spaces with possible 6<sup>th</sup> space, eliminating the 8' required buffer from the northerly setback, where there is no off-street parking at **10 Munroe Avenue** and land formerly known as **83 Elm Street** located in the I-1 (Industrial) Zoning District.

Kevin Crane, Attorney, 104 Mt. Auburn Street, Cambridge, is representing the petitioners. He explained that Mr. Kilfoyle operates a tile fabrication

business at 10 Munroe Avenue which is a private way, since 1996. Access to the one-story, 'L' shaped structure has been from the private way. He said that Mr. Kilfoyle has purchased the property at 83 Elm Street, which abuts 10 Munroe in 2000, and it was occupied as a one family. That house burned down one year ago and has been demolished. Access to 83 Elm is via a 10' wide easement from 81 Elm Street, an automotive facility. Prior to Munroe Avenue, Mr. Kilfoyle ran his business from Arlington Street and he does have a retail showroom on Arsenal Street (next to Know-Fat). Clients view the tile from Arsenal Street and it is then fabricated from Munroe Street. This proposal is for an addition 65'x39' to the rear of the current structure on Munroe into the site on Elm. It will be a 2-story addition with the basement level being the first story and the second level is the first floor. The property has a severe slope from north to south with a 12' difference in grade. The basement level would extend the fabrication business from Munroe and the first floor would include storage for tile slabs, office space and a kitchenette for employees. This would make the operation of the business safer without additional employees. There are 8 employees presently. There are no parking spaces with the current building and parking is informal on Munroe Avenue. Initially, they planned 5 parking spaces and the Planning Board recommended a 6<sup>th</sup> space. They now only need a variance for the 8' buffer zone for the 6<sup>th</sup> space and not for the number of spaces. The buffer will be up to the abutter's concrete building. The parking off of Elm Street will free-up Munroe Avenue. The set-back on the westerly side of the property requires a variance, as well, due to the dwelling on 75 Elm. The set-back on the Boston Edison side will require a Special Permit Finding. Both abutters' buildings are significantly set off of the lot line and they have received letters of support for their plan. The 2.5'-4.8' setback is greater than the existing setback from Munroe. Any concerns from the abutters were addressed at the Planning Board meeting. The additional parking is an asset and the additional storage will allow the slabs that are currently stored outside to be moved inside. The site will become more conforming as to use with the removal of the residential home as it is an industrial zone. Ed Sherman, General Contractor is here to answer any questions.

Ms. Elliott stated that removing traffic from Munroe, which is crowded with vehicles, is an asset and she is happy to see that these plans were discussed with the fire department. Attorney Crane confirmed Captain Walsh's letter to the board stating his agreement with the proposal as long as the parking at 81 Elm Street would still be angular (parallel to their building, which is in their license agreement) so the vehicles could still get to the back via the 10' wide right-of-way.

Ms. Elliott referred to plan A1-1 in regards to the loading area, asked what type of vehicles are expected to go back there and how will they access it. Attorney Crane said it would be accessed from the 10' easement; they would not enter the building from that roll-up door to the building. Mr. Kilfoyle said the type of vehicles would be small pick-up trucks and vans. Ms. Elliott asked why the plan shows a 50'x12' loading area, large enough for a semi. Ms. Scott explained that the size is a requirement. Ms. Santucci asked if they were to drive in, would they need to do a 17-point turn to get out. Mr. Kilfoyle said they would back all the way in. Mr. Bailey said they would have to back in to get around the 6 cars. Ms. Elliott said they would back all the way down the easement, make the turn around the dumpster of the property next door, and back up to the new addition.

Ed Hermon, True North, Inc., Construction Manager, said in the quest for the 6<sup>th</sup> parking space on the modified plot plan, they moved the space all the way up to the Boston Edison lot line, which would allow a small van or pick-up truck to drive in and then back up to the loading bay. Trucks will not be backing up against the building, it is really for tile storage, which supplements the United Tile process.

Ms. Santucci asked for a plan that shows the 6<sup>th</sup> parking space. Ms. Scott stated that we do not have the new plan showing the 6<sup>th</sup> space but it is removing the buffer on the left hand side. She then questioned the open space close to the building and suggested that area be pavement instead. She would be in favor of wiping out that open space and not going so close to the lot line and adding some curbing or something with all pavement up to the building. She does not see any benefit to landscaping in the rear where no one will see it or maintain it. Ms. Santucci asked if the drainage is sufficient to handle the additional paved area? Ms. Scott said this would have to be approved by the Town Engineer. Mr. Crane said he has spoken to the Town Engineer and they still have to have a perk test and have it sized but they can accommodate any surface area.

Ms. Santucci asked if there is any contamination. Mr. Crane said they have done 6 test borings out there and they have nothing but virgin ground.

Ms. Santucci asked if landscaping or green space could be added to the front of the building.

(It was stated that deliveries would continue to be from Munroe Avenue and the back of Elm Street would be for people working for United Tile.)

Mr. Hermon said there is a strip in front of the existing structure that is paved – 5'. There is a driveway to the right which will still be used. The roofed open under area is about 30" wide and can be planted with vines. The landscaping area will be extended towards Busa's building which would still give them enough room to turn around.

Ms. Scott asked where the dumpster would be. Mr. Kilfoyle said they do not have a dumpster now and BFI collects the trash every Thursday morning - it is piled at the front door behind a wall of samples. Ms. Santucci said that a condition should be entered that all trash should be maintained in trash barrels and the applicant must maintain trash pick-up.

Mr. Moynihan asked about increased productivity and the amount of barrels they currently have. Mr. Kilfoyle said the waste is just people's lunches and office supplies and won't be different than it is now.

Ms. Scott asked what is going to be allowed in the back. Ms. Santucci said the Planning Board requested to remove the 8' buffer and this board is requesting to remove all buffers or is the buffer to stay or be reduced along side of Boston Edison. Ms. Santucci added that something should be left to move snow into. She suggested reducing the buffer to 5' and removing the 8' and 10.9'.

Mr. Hermon said they can go back an additional 3' for the original 5 spaces. Mr. Bailey said the 6<sup>th</sup> space is 0' to the neighbor. Ms. Scott suggested being consistent with a single 5' or 4' buffer along the entire length of Boston Edison. The board agreed on 4'. Ms. Scott requested a revised plan from the petitioner. Ms. Santucci said to compensate for losing space in the rear, adding the landscaping in the front with a landing in front of the door.

Ms. Santucci requested to review the trash. Mr. Kilfoyle said the dumpster in the rear was fenced in at one time but when they demolished the house, the fencing came down. He said he is responsible to put the fence back up. Mr. Kifoye clarified that the dumpster belongs to the auto repair business.

Ms. Scott asked that the trucks be pulled into the yard to leave Munroe open to the residents for over-night parking. Mr. Kilfoyle said there are two trucks that are parked inside the locked gate and a small van that is sometimes left in the front of the building or could be parked in the back.

Mr. Bailey asked if the right-of-way is paved all the way to the back. Ms. Scott answered that it is.

Ms. Elliott motioned to grant the Special Permit Finding. Mr. Moynihan seconded. All in favor? Granted.

Ms. Elliott motioned to grant the Special Permit for the reduction on the easterly side yard setback. Mr. Moynihan seconded. All in favor? 4-0 Granted.

Attorney Crane noted that they thought they would need a variance for open space when they added the sixth parking space. However, they added open space on the easterly side and they are in conformance. When they calculate all of the new dimensions, he believes they will still be in compliance with the open space requirement. Ms. Scott said the board could not grant a variance on lot coverage until the actual numbers were known.

Ms. Elliott motioned to grant a Variance for the elimination of the 8' buffer on the northerly side for the additional parking space and reduced on the easterly side to 4'. Mr. Moynihan seconded. All in favor? 4-0 Granted.

Ms. Elliott motioned to grant the Variance on the side yard setback. Mr. Bailey seconded. All in favor?

4-0 Granted.

Ms. Scott asked Attorney Crane to clarify that he was asking for a variance on the number of off-street parking spaces – 6 is required and 5 were proposed. She explained that the board will now need a leave-to-withdraw or a letter explaining that it is no longer required.

Attorney Crane verbally requested the board vote on approving a leave-to-withdraw for the number of parking spaces.

Mr. Moynihan motioned to approve the said request to withdraw the previous request for parking spaces. Ms. Elliott seconded. All in favor? 4-0 Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Alternate

Deborah Elliott, Member

Stuart J. Bailey, Member

Richard M. Moynihan, Alternate

## MINUTES

On Wednesday evening, **July 19, 2006** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a continued public hearing for the originally scheduled meeting of June 28, 2006. In attendance: **Melissa M. Santucci**, *Acting Chairperson*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*; *Absent: Harry J. Vlachos, Chairperson; Mary Crain, Senior Planner* .

Tape 2 of 3, Side B, Continued

Chairwoman Santucci announced that the next agenda item is under 'Other Business' and is in regards to 103 Morse Street, modification to hours of operation for July and August 2006.

Attorney William York, representing Cortiva Muscular Therapy Institute, is appearing before the board for an isolated issue relating to temporary permission to allow educational use for July and August for 27 students that have applied to the program. He expresses his appreciation to the Neighborhood Advisory Committee which was formed from the process of the petition before the board of appeals.

Tape 3 of 3, Side A

Attorney York said the Institute thought they had the ability to go to a 4 quarter program. As the demands of the industry and the students, who mostly work full time, they signed students up for the summer session in

July and August and made commitments to 27 students and signed contracts with them. Attorney York came on board with the institute and read the original decision by the board of appeals where he felt clarification would be necessary. He and Maryann DiRoberts met with Nancy Scott who also felt clarification by the board will be necessary and a temporary modification for the summer hours would be needed. The school has meet with the Neighborhood Advisory Committee and have compromised for these 27 students to attend classes except on Sunday, although they do have approved year-round clinics and continuing education on Sundays, there will not be any throughout July and August. On 5 Sundays, the school will be closed and on the other 4 Sundays, the school will hold introductory sessions for new students only (of which 3 Sundays are left). They would have come before the board in June but due to quorum issues and the appointment of new members to the board, a session of the board of appeals was not held until tonight. Attorney York reminded the board that a full review of the school is scheduled to come before the board on the September agenda and any issues relating to that comprehensive review will be addressed in September. He then mentioned Dr. Ben Benjamin and Maryann DiRoberts are here tonight to answer any questions. The school has made a commitment to these students through an honest mistake and look to have these students at the school for the rest of the summer.

Chair Santucci confirmed that the letter titled "This Summer 2006" is what is in place for what is going to happen this summer and the 4 Sundays are July 9, 30, August 13 and August 27th. Attorney York said that is correct.

Mr. Bailey asked if they held classes today. Maryann DiRoberts, Director of the school said they have a group there 3 days a week – today was one of them. They have one group there 3 full days a week and there are other schedules that she would have to check. Attorney York said there is one group that is 11 students and another group that is 11 students – once they realized the issue, they did not allow any more students to enroll. Mr. Bailey said he had driven by today and it appeared to be very quiet with only a few cars in the lot. Attorney York said the summer is quieter anyway but there is off-site parking for the students at the Hibernians Hall.

Patrick Mertens, 103-105 Union Street which abuts the school and there is only one other house that is run by the Beaverbrook Day Care. He said this

process began over a year ago and the neighbors were against the process immediately but after meeting with Dr. Benjamin and Ms. Di Roberts, they felt it would be good for the neighborhood. They formed the neighborhood committee by way of an agreement that the Zoning Board of Appeals approved and they have met many times. He and his wife are very enthused about the program and they have both volunteered to get a massage by a student if there isn't anyone available. He feels the students are mature and sensible people and more responsible than the previous tenants of the building. He was surprised to learn that Dr. Benjamin had originally agreed to having no classes during the summer as he feels the students are practically invisible. There is no negative impact and in a book he referenced about city planning the more people on a sidewalk is actually a deterrent to crime. He and his wife are in favor of the summer hours.

Attorney York added that Kate James who lives across the street is out of the country and attended all of the meetings has written a letter in support; Susan Sideropolis is here and also attended the meetings and Mr. Higgins has also written a letter in support. He added that any issues of traffic or parking that have been handled extremely well, be addressed at the September comprehensive review meeting.

Dan Rosati, has been in opposition to this school in regards to the monstrosity that the school would bring to this neighborhood. He will address the advisory committee, the parking, the traffic, operating in July and August and the Neighborhood group and save his comments for the September meeting. He said this past June he was invited to an advisory meeting, which there are about 3 or 4 different groups, to address Sunday and Monday operation. He said he is not sure what has happened since then but he will read from his notes of the advisory meeting on Hunt Street on June 22<sup>nd</sup>. "Current students trying to beat the system by not purchasing parking passes and parking on Jackson Street, Derby Road and the Stop & Shop parking lot." He said he got wind that the students were parking all over the place by Mr. Callini and they didn't know why the school was not responding to the parking problem. Mr. Rosati said he took photographs of the cars parked all over the street on a Saturday and ended up having a discussion with Ms. DiRoberts about how the school was charging the students for parking. He said he believes the town thought the school would provide parking for the students. The students were beating the system by not signing an agreement and parking where they pleased. He also said he had spoken to the manager of the Stop & Shop who stated 'I'm sick and

tired of people dumping their cars in my lot'. He added that it is not the students' fault as he also had heard that the Stop & Shop was "overflow" parking and the manager of Stop & Shop had no such agreement. He said after a year of his involvement and of them being in operation, they have addressed the parking and the students are now parking in the Hibernian Hall. Another issue was the summer operation. From the committee: "Original summer activities were planned to be very minimal" which is what they presented to this town. "With a new semester creating a constant flow of year-round students, certain restrictions should apply to the summer schedule. Specifically during the summer activity, classes, appointments should end by 6:30PM. Additionally, during the summer, the school should be restricted to a week-day schedule with no operations on Saturdays or Sundays in July and August." Mr. Rosati said all of that has changed between June and July and this past Friday, he called Maryann DiRoberts about all of the cars on Morse Street and over 50 cars in the Hibernians Lot. She said it was a special day. Mr. Rosati handed in photographs showing the Hibernian parking lot. He read from the decision of the board from 2004 on page 4: "Mr. Benjamin of MTI indicated that there are approximately 275 – 300 students." Mr. Rosati said he attended a meeting at the town hall a couple of weeks ago where Mr. Klingman, owner of Cortiva, said he expects to expand the school to almost 400 students. Mr. Rosati then stated that Mr. Klingman must have read the decision of the board and wonders how much of a mistake it could have been to sign up students for a summer semester. Now that July is gone, the classes are there and August is here, he doesn't see any reason to not grant them this July and August. However, being in opposition, he was going to ask that they stop the July and August classes but where students had paid their money, he spoke to Nancy Scott and said he would leave it up to the board to make their decision tonight and he would bring the other issues before the board in September.

Pat Farrell, Union Street, said she doesn't have a lot of complaints about the school but she does have concern about summer hours and Sunday hours as this is her home and her community. She does not want it taken over – if she wanted to be in the middle of a business area, she would be in Watertown Square. Her street is crowded with parked cars all day long – there is a pre-school, a day care, the new apartments, Water Street - when will it end, there has to be a balance. She hopes the board will keep the residents in mind.

Susan Sideropolis, 69 Union Street, a member of the Neighborhood Advisory Group. In response to the comments by Mr. Rosati regarding the changes between the June 22<sup>nd</sup> meeting – she was opposed to it in the beginning for summer and Sunday hours. She changed her mind because of the small group of people they would be dealing with and the Sunday hours were only 4 Sundays. She has spoken to Police officers regarding the parking issues and they do not see a problem with the parking but they would keep aware of that and bring it to the attention of the Advisory Group. It is their neighborhood too, and this summer there is such a small group and in September they will deal with other issues.

Ms. Scott would like to hear what happened last Friday when Mr. Rosati took the photo. Ms. DiRoberts stated they are allowed to have continuing education and they had a workshop on pregnancy – they were parking professional massage therapists and pregnant women. They had a workshop on cancer patients at the same time. They had more activity in the building than is normally the case. She addressed Mr. Rosati's concern regarding parking and the Neighborhood Advisory Committee is happy with the parking arrangements. They had a Saturday class that did park along that road and they did deal with and they are moving away from charging students for parking passes – they will address all of that in September.

Chariwoman Santucci said she would save her comments for September; however, she is disappointed that they went ahead and charged people and signed them up for a summer session when it is very clear in the board's decision that that was not permitted. There were a lot of promises made to this board and a lot of discussion and she feels some of them have fallen to the wayside. Due to concern for the students that signed up for massage classes during the summer, she will support the temporary request as outlined for this summer, 2006 and signed by Ben (Benjamin) and welcomes the board to motion on this and discuss all else in September.

Mr. Moynihan motioned to grant the temporary approval as outlined in the document titled "This Summer 2006". Ms. Elliott seconded. All in favor? 4-0 Granted.



Harry J. Vlachos, Chairperson

Melissa M. Santucci, Alternate

Deborah Elliott, Member

Stuart J. Bailey, Member

Richard M. Moynihan, Alternate

## MINUTES

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Tape 3 of 3, Side A, Continued

Chairwoman Santucci noticed that the representative for 480 Arsenal Street was not in attendance.

Mr. Bailey motioned to move this item to the September agenda. Ms. Elliott seconded. All in favor? 4-0 This item is will be presented under "Other Business" on the September agenda.

Mr. Moynihan motioned to adjourn. Ms. Elliott seconded. All in favor? 4-0

The meeting of the Board of Appeals ended at 10:15 PM.