



TOWN OF WATERTOWN

Zoning Board of Appeals

Administration Building
149 Main Street
WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci Rozzi, Chairperson
Deborah Elliott, Clerk
David Ferris, Member
Suneeth P. John, Member
Christopher H. Heep, Alternate Member
John G. Gannon, Alternate Member

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MINUTES

On Wednesday evening, **November 28, 2012** 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: **Melissa Santucci Rozzi**, *Chairman*; **Deborah Elliott**, *Clerk*; **David Ferris**, *Member*; **Suneeth P. John**, *Member*; **Christopher H. Heep**, *Alternate Member* and **John G. Gannon**, *Alternate Member*. Also Present: **Michael Mena**, *Zoning Enforcement Officer*; **Gideon Schreiber**, *Senior Planner*; **Louise Civetti**, *Clerk to ZBA*.

Chair Santucci Rozzi opened the meeting, introduced the board and staff, welcomed the board's newest member, John G. Gannon, who served the board several years ago; she stated the board now has 4 full members and two alternates – the alternate will alternate voting and Member Gannon will vote tonight. Ms. Santucci Rozzi reviewed the agenda – announcing the continued case for 462 Mt. Auburn Street, T-Mobile will be continued again to the next meeting; and swore in the audience.

Ms. Santucci Rozzi asked if all members reviewed the minutes and if there were no corrections, asked for a motion. Member Elliott motioned to accept the minutes as written for the October 24, 2012 meeting. Member Heep seconded. Voted 5-0, approved.

Ms. Santucci Rozzi stated that the first case on 385-387 School Street has been advertised as both a Special Permit Finding and a Variance. Member Elliott read the legal notice for the first case on the agenda:

“378-380 School Street - Special Permit Finding

Harold Kevorkian and Robert Kevorkian herein request the Zoning Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structure, Zoning Ordinance, so as to replace two (2) non-conforming front yard parking spaces with four (4) conforming parking spaces in the rear yard accessed by a new driveway with a non-conforming 2.1' to 3' wide landscape buffer, where 4' is required and 12.1' exists. T (Two-Family) Zoning District.

378-380 School Street - Variance

Harold Kevorkian and Robert Kevorkian herein request the Zoning Board of Appeals grant a **Variance** in accordance with §6.02(j), Off-Street Parking, Required 4' Landscape Buffer, Zoning Ordinance, so as to build a new driveway with a non-conforming 2.1' to 3' wide buffer, where 4' is required and 12.1' exists. The proposal would remove two (2) non-conforming front yard.”

Attorney Steve Winnick, representing the petitioner stated that the driveway is existing non-conforming with the unsightly front yard parking, creating serious safety hazards when backing out of the front spaces. In lieu of the front yard parking, the proposal is to grade a new driveway along the side. Because the slope is steep, they will require some of the 4' landscape buffer. The four parking spaces in the rear will be provided with sufficient turn-around space. The project is conforming except the portion of the required 4' landscape buffer.

Atty. Winnick explained the reason they have filed for both a special permit finding and a variance, noting the recent decisions by the SJC and the Appeals court.... Which they believe and they have submitted for

approval by a Special Permit Finding without the need of Variance relief. The Planning Board Staff and the Zoning Enforcement Officer take issue with that interpretation. Atty. Winnick feels the board should have this legal issue resolved for its own edification as this will come up repeatedly with non-conforming single and two-family houses that are under entitled to special protections under 40 A, Section 6. He added that his request tonight is to have the board approve it as a finding or a variance as the staff has requested. They do not have a problem with that.

The Staff Report and the Planning Board Report have both approved this for variance relief. They request that the ZBA approve this either as a Variance; a Finding or as he has requested, under both forms of relief. The ZBA can do that and will eliminate any ambiguity.

Member Ferris asked what the front yard will look like as there are no elevations (wooden gable?) and no detail in regards to if the retaining wall will match. Atty. Winnick said the architect could not make it tonight. Along the driveway, there will be veneered retaining walls along both sides to match what exists. The front stair will be a single entry and landscaping will surround it. The deck will be on the first floor and open above that – they may make a deck on top in the future which would not require approval in the future.

Member Ferris asked Staff if there is a requirement for the planting density of landscaping required in the buffer. He noted the plans show a rhododendron every 6' or so. Mike Mena, Zoning Enforcement Officer said the ordinance does not require density, only that it be landscaped.

Member Ferris asked what material the paved walkway will be. Atty. Winnick said the majority is intended to be brick and a small portion may be cement. Harold Kevorkian said the walk along the Belmont Street side runs along the side of the house to the rear and will match up with the existing masonry.

Member Elliott asked what the maximum height of the retaining wall will be. Atty. Winnick said he is at a loss for that but there is at least a 4' differential as you come up (from the sidewalk), which is the maximum it can be. The front of the property is 0' and the top of the wall is 4'. Member Elliott asked for a grading plan or anything that shows 'top of wall'. She wonders what the slope of the drive will be – 23'...Atty. Winnick said the architect looked at the rate of slope and determined that it is entirely feasible. Member Elliott said Ms. Santucci Rozzi did the math and it does look feasible. Mr. Kevorkian said they will try to keep the light available to the two windows beneath the deck/porch but not store anything there.

Member John said his concern is the lack of drawings showing the information on the materials and grading. He did a rough calculation and came up with 17% with 4' in height and 23'. It is an intense slope. He asked about the water that will come down the slope.

Atty. Winnick said they are using pervious pavers so the stormwater runoff will improve. Member John said it is not pervious at the slope. Atty. Winnick agreed it is pervious in the back. Member Elliott said it isn't just the water, it is the ice. The ice will create an issue at the sidewalk. Member John asked if it is required to do a stormwater analysis. Mr. Mena said that it is not necessary for a residential property to do a stormwater analysis and this zoning ordinance allows one property to drain onto another property, which is unusual and that is why there is the requirement for the 4' buffer it also drains to the street and to the storm sewer connections.

Mr. Mena added that there is a requirement for a driveway the first 15' of a driveway height maximum is 30". Member Elliott asked if they are required to put a rail around the retaining wall. Mr. Mena said it is not a requirement of the building code. Member Elliott said she believes anything higher than 4' requires this – especially this close to the walkway.

Member Heep asked if there were any consideration given to a more narrow driveway. Atty. Winnick said that the staff also wanted that but the architect persuaded the staff that the approach required the wider driveway due to the retaining walls on both sides. Mr. Schreiber added that the minimum width of the driveway could only be 8' wide. Staff does not have a preference and the board thought that 8.5' was adequate. The approach or ramp was the discussion. Member Heep said if 8' is permissible in the ordinance and the talk is to preserve the landscaping as much as possible, he'd like to hear more about why

the 8.5' is preferable from a safety perspective because from a landscape perspective, he'd think we'd want to preserve as much as possible.

Atty. Winnick said the board should look at this from the existing undesirable condition with just a small sacrifice of the width of the landscape buffer. That is driven by a hard feature, the retaining wall on the left side and the house on the right side, which could be at risk of having cars hit is potentially.

Member Gannon asked about a concern addressed by an abutter on the light intrusion from autos entering from the School Street side where none existed before and he noticed there isn't any landscaping at the rear of the property. What is at the rear of the property to prevent light intrusion. Mr. Mena said there is a fence along the rear property line but not along the side property so the lights would be going into the neighbors' yard. Mr. Kevorkian said the opening on the side of the property shows a small opening between the front of the neighbor's garage going towards the front of the property. Then there is a porch, then the kitchen. There isn't a deflection of light that could be an issue – especially if there are two or three vehicles in the driveway. All of the homes are close proximity. The fence at the rear of the property was a shared cost between the two properties that was replaced 30-40 months ago, 6' high. They hadn't considered a fence on the side and would that detract from the openness of the yards. The intent is also to plow the snow to the rear of the property and then hand shovel – they maintain a snow removal contract.

Member Gannon asked how many bedrooms. Mr. Kevorkian said two bedrooms on each unit and the first floor has an unheated area that can be used for a variety of uses.

Chair Santucci Rozzi read the correspondence. A letter from Raffi Kebabjian, owner of 14-16 Carver Road East which is the abutter to the rear and owner to the side said that the light glare and asked the board not to vote on the back section. The back section does not require relief.

Susan Steele and her husband wrote in support of the project.

Chair Santucci Rozzi said the first item is the 17% grade, which is steep, and seeing that the walls can only be 30', she asked how they will address the grading further back in the driveway. Atty. Winnick said the architect had a conversation with the Zoning Enforcement Officer. Mr. Mena said they had a brief conversation about grading but there wasn't a plan to review. He added that the Chair is addressing something reasonable that could easily be addressed during the construction stage, without changing this plans setbacks and design, it would simply be addressing the slope.

Both Member Elliott and Chair Santucci Rozzi said this plan is going to change significantly as the wall is going to go further back. Chair Santucci Rozzi said you do not want to do anything more than 12% and that is still steep. The wall will go further back and the buffer will look different.

They should address the drainage at the base of the driveway, a trench drain, infiltration whatever it is – they want to get water into the ground and off the sidewalk. If they hit ice, they'll be in the middle of School Street.

They might want to see how far that wall comes back.

Atty. Winnick said the architect really needs to address these issues. He suggests continuing to the January meeting to provide the feedback of the architect.

Ms. Santucci Rozzi would like to see the grading plans – Ms. Elliott added, top of wall, bottom of wall and where will the trash bins be stored (Mr. Kevorkian said at the end of the driveway on pick-up day).

Mr. Kevorkian noted the grade at the neighbors side. Ms. Santucci Rozzi said his walls are higher than his neighbors walls. These issues need to be thought through with the surveyor and the architect.

Mr. Gannon added that the site line from the sloping of the wall towards the street be addressed as well as the water on the sidewalk which is heavily traveled by pedestrians.

Mr. Ferris said it is a very hilly neighborhood – the height of the wall (or fence, vegetation, etc.) along the end of the driveway cannot be more than 30” in height. The two houses in the photo show that the neighbors driveway has a more shallow pitch and the retaining wall can be lowered. The future lawn can be modified, as well. The elevations can help decipher that. The plan is sketched with new curbing and the homeowner is responsible for that (it will match the existing curbing).

Ms. Santucci Rozzi said the board will continue this until next meeting.

Ms. Elliott added that Mr. Ferris wanted to see the front elevation drawings. Atty. Winnick will include them.

Ms. Elliott motioned to continue the 378-380 School Street case to the next meeting. Mr. Heep seconded. Voted 5-0.



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Ms. Santucci Rozzi noted that she has endorsed an extension agreement for **462 Mt. Auburn Street** which will be heard at the next meeting. There have not been any revisions submitted since last month about the visual appearance. That will be heard in December.

Ms. Santucci Rozzi stated that under the agenda item, "Other Business", Matt Shine, **109 Rutland Street** is here to present some changes to their control documents.

Pam Woodworth, Architect for 109 Rutland Street explained they have an old plot plan showing a small uncovered landing with 3' wide stairs that were not what they hoped to build. They will make the stairs wider and eliminate the 3'x3' square landing.

Ms. Santucci Rozzi asked about their original decision in 2009. Matt Shine explained that they received a determination by the Board of Appeals which was approved but they did not record it at the Registry of Deeds. They are now back to modify the plans to make the porch *smaller*.

Mr. Mena clarified that they saw this plan a couple of months ago.

Ms. Santucci Rozzi said they were here in August where the half-size and the 3x3 was approved. They now want to modify the steps. Mr. Shine said the 3x3 landing was a remnant from the first plan and should have been removed.

There were no questions from the board. No one spoke from the audience.

Ms. Elliott motioned to accept the changes to the control docs. Mr. Ferris seconded. Voted 5-0. Mr. Gannon did not vote.

Ms. Civetti noted the next meeting will be Wednesday, January 2nd, 2013 instead of December. Ms. Santucci Rozzi confirmed the date.

Ms. Elliott motioned to adjourn. Mr. Heep seconded. Voted 5-0 the meeting adjourned at 8:00 p.m.