



**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

Telephone (617) 972-6427  
Facsimile (617) 926-7778  
[www.watertown-ma.gov](http://www.watertown-ma.gov)

**MINUTES**

On Monday evening, **June 24, 2013** at 7:00 p.m. in the Philip Pane Hearing Room on the lower level of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Melissa Santucci Rozzi, Chairman; Deborah Elliott, Clerk; Suneeth P. John, Member; Christopher H. Heep, Alternate Member; John G. Gannon, Alternate Member**. Absent: **David Ferris, Member**. Also Present: **Steve Magoon, Director, Mike Mena, Zoning Enforcement Officer; Louise Civetti, Clerk to ZBA**.

Chair Santucci Rozzi opened the meeting, introduced the board and staff and swore in the audience. She then reviewed the agenda stating that cases 615 Arsenal Street and 65 Main Street would not be heard tonight. She added that the two alternate members will be voting in the absence of full member David Ferris.

Chair Santucci Rozzi asked the board if they were able to review the minutes. Ms. Elliott motioned to approve the minutes as written for February 27, 2013 and March 27, 2013. Mr. Heep seconded. Voted 5-0, approved.

Member Elliott read the legal notice:

Frank & Traci Cosco, 75 Nyack Street, Watertown, MA 02472 herein request the Zoning Board of Appeals grant a **Special Permit Finding** in accordance with Watertown Zoning Ordinance §4.06(a), Alterations to Non-Conforming Structures, so as to construct a 42'6" x 31'1" second floor addition, encroaching 1.3' into existing non-conforming front yard setback, proposing 21.7', where 22.7' is required. S-6 (Single Family) Zoning District.

Frank Cosco addressed the board explaining the reason for the petition and the fact that he is going right on top of what is existing.

Chair Santucci Rozzi asked the board for questions and hearing none, opened the meeting for the public to speak.

Dennis Duff, 33 Spruce Street stated that although there are mostly ranch-style homes on the street, there are a couple of houses with second stories and dormers. Because they are set-back from the street, they appear appropriate. He said Mr. Cosco maintains his property very well and also owns the house across from his own on Spruce Street. He asks that the Town encourage young families to stay in Watertown.

Angelo Caino, 22 Tappan Avenue said that Mr. Cosco is a great neighbor and has done a wonderful job on the changes he has made to his property already. He supports this petition.

Chair Santucci Rozzi read from the Planning Board Report which recommended approval with standard conditions and noted that Staff also recommended approval.

Member Elliott motioned to grant the special permit finding for the second floor addition. Member Heep seconded. Voted 5-0. The petition passed.

Documents Reviewed: Plan of Land, Watertown, MA Showing Proposed 2<sup>nd</sup> Floor Addition at 75 Nyack by Bibbo Brothers & Associates, 4/18/2013 and Plan Set titled Home Addition, 75 Nyack St, Watertown, MA: EX-1, Existing Floor Plans and Demo Plan; EX-2, Existing Exterior Elevations; A-1, Proposed 1<sup>st</sup> and 2<sup>nd</sup> Floor Plans; A-2, Proposed Exterior Elevations; A-3, Cross Section; and, A-4, Framing Plans, all by JK Development Group, dated 3/3/2013; Planning Board Report dated June 12, 2013.



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Chair Santucci Rozzi noted an article that had been handed to her. "Watertown is being Overrun by Vegetation & Weed Overgrowth" *By Mike Mena, Watertown Zoning Enforcement Officer*.

Mike Mena, ZEO, stated that this article was published in the Watertown Tab on-line today and will be published this Friday in the newspaper regarding vegetation overgrowth and the Town's regulations as an effort to encourage property owners, residential and non-residential, to keep their properties in good maintenance. He said that Staff put this out as a continued effort of 'preventive code enforcement' and a commitment to educate the community on the Town's regulations. The article was written with cooperation from the Health Department.

Chair Santucci Rozzi thanked Mr. Mena and agreed that educating the community helps on the enforcement of people that are not following the rules.



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Chair Santucci Rozzi announced the next case 37 Winsor Street, F. Lee Harley, Special Permit Finding and asked Member Elliott to read the legal notice:

*"Jeremiah & Michelle Casey, 37 Winsor Avenue, Watertown, MA herein request the Zoning Board of Appeals grant a **Special Permit Finding** in accordance with Watertown Zoning Ordinance §4.06(a), Alterations to Non-Conforming Structures and §5.00(e), Building Coverage, so as to raze a two-story rear porch 5'10" x 14'6" to allow construction of a new two-story addition, 1<sup>st</sup> fl = 5'10" x 14'6" and 2<sup>nd</sup> fl = 5'10" x 21.5' maintaining the existing non-conforming setback to the garage and increasing the non-conforming building coverage from 29% to 30%, where 25% maximum is allowed. S-6 (Single-Family) Zoning District. ZBA-2013-14"*

Note: The Agenda reads as 37 Winsor Street. For the record, the correct address is 37 Winsor Avenue.

F. Lee Harley, Architect, representing the owners stated that they are using an existing enclosed porch and back stair. They'd like to take it down and while maintaining the same footprint, just build the second level. The reasons for coming to the board are the existing setback from the house to the garage is 8.7' and the other issue is the lot coverage.

Member Elliott asked why they are not expanding the first floor the same as the second floor. Mr. Harley explained that they wanted to maintain the footprint of the existing house; keep the first floor the same and there is a driveway on that side. The master bedroom and bath with a nook wouldn't fit all in the area on the second floor. Member Elliott stated technically, they are creating an overhang above the window on the first floor and added that it is a nice addition.

Chair Santucci Rozzi asked about the amount of bedrooms in the house. Jeremiah Casey said there are 4 bedrooms on the second floor and the attic has been redone but they use it for a playroom.

Chair Santucci Rozzi asked if there is any public comment. As there wasn't any, she declared a business mode and explained that this request is a special permit finding for alterations to a non-conforming structure which is non-conforming to building coverage and the offset from the building to the garage. She read a recommendation from the staff June 5, 2013 and Planning Board report recommendation on June 12, 2013 with standard conditions.

Member Elliott motioned to approve the request for special permit finding for the non-conformity. Member John seconded. Voted 5-0. Granted.

Documents Reviewed: Plot Plan, 37 Winsor Ave., Watertown, MA by Bowditch & Crandall, Inc. Field Survey: 3-26-2013; and, A1, Proposed 1<sup>st</sup> & 2<sup>nd</sup> partial floor plans; A2 Proposed Elevations; EX1 Existing floor plans; EX2, Elevations, all by flh ARCHITECTS dated 4/30/2013. Planning Board Report dated June 12, 2013.



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Chair Santucci Rozzi announced the next case is 27-29 Union Street. Member Elliott read the legal notice:

27-29 Union Street - Hector Marquez & Dylan McKnight of 27-29 Union Street Condominium Association, Watertown, MA herein requests the Zoning Board of Appeals grant a Variance in accordance with Watertown Zoning Ordinance §6.02(h)(i)(j), Required Off-Street Parking, so as to allow four existing non-conforming parking spaces to remain with two curb openings of 17.5', where maximum of 22' allowed; parking within front yard; w/o 4' landscape buffer; w/o 5' front setback. T (Two-Family) Zoning District. ZBA-2013-11

Steve Magoon, Director, DCD&P provided background on this case stating that the next two cases are not a typical situation. The town adopted a curb and sidewalk policy and when there is a full-depth reconstruction of roads, the policy is to bring the driveway aprons/openings into compliance with the zoning ordinance. The ordinance states that two 11' openings or one 22' opening maximum for a residential property. He explained that the next two cases on the agenda, the petitioners found that two 11' openings or one 22' opening problematic and were granted the opportunity to apply for a variance and come before the board to seek relief. He further stated that this is unique as it is not the action of the property owner that is prompting their being here tonight but the action of the town for road projects.

Dylan McKnight & Hector Marquez introduced themselves as the owners with their wives and children. They are seeking relief to enter and exit safely from their driveways. They found when they discussed this with the Planning Board that it doesn't seem like this ordinance really address two and three-family homes. Back in 1962, most families had one car. Today, there are two cars. They would like to continue to have two cars for each family. They literally have no other place to park their vehicles. The photos show a small side yard and there is only one hour parking on the street. They received signatures from their neighbors in support of their petition and provided a color-coded chart showing the neighborhood that supports them. Every person he asked to sign did so. They are talking about safety, aesthetics and the environment. Mr. McKnight explained that they will install green space in middle, between the two walkways and on the borders of the sides and that will improve the look of the property and help with drainage. He said they will be using building techniques and materials that were not available in 1962.

The environmental impact of an entirely paved front yard. Permeable pavers or other 100% 6 inches of water an hour. Snow melt and rain in the ground not the drainage. They want to be sure they leave space for visibility (they have a 2 year old); ADA requirements – providing enough space so the sidewalk is not blocked; and enough visibility so they can see getting in and out of the street. Mr. Marquez said their deeds and documentation from when they purchased the property as two condos stated there are two parking spaces each. That is what sold them on the house. The condo paperwork was created in 2006. Should they go to two openings of 11’ and found it will be impossible to get two cars in. It would be a very hard situation for both families. They cannot use public transportation to get to appointments and there would not be a place to park their second cars. There is no on-street parking and no other place to park. Asking for this variance, they will beautify the front of their house and provide a permeable surface to the black-top that is there now and add green space providing for the environmental impact and giving them what it is that they feel is an adequate amount of space for them to safely come in and out of the driveway and open the car doors. All of their neighbors on all sides agree. There would only be a positive impact by adding these changes.

Member Gannon asked about the photo from 1972 showing parking in the front and wondered if any staff had found other evidence of front yard parking earlier. Mr. Mena said the aerial photos before 1980 were grainy; however, they felt the shadowing showed parking to the 1960’s. Mr. Gannon asked about the green space. Mr. McKnight submitted a color copy of the plan that the board did not have. Copies were provided by the clerk.

Member Heep asked if there is something the Staff wanted from the petitioners that would change their recommendation from a denial.

Mr. Magoon stated that there have been several other road projects since the curb and sidewalk policy went into place and unfortunately, they were informing property owners about the same time they were constructing the road. He said the council was not pleased and wanted the property owners to have an opportunity to come before the board. The town wanted to be consistent and provided the previous property owners with the options of two 11’ or one 22’ opening. He spoke specifically about this case stating that these property owners have done everything to address the concerns – safety, aesthetics and environmental (percolation). The planning board had asked for traffic engineering to determine if the 11’ shallow openings would be adequate. They sought a traffic engineer who said it would not be sufficient. The planning staff agreed that it would not be sufficient and the petitioner settled on two 17.5’ openings. He said there is nothing additional that staff would want. He spoke to the president of the council, who lives in this neighborhood; wanted to be here; and expressed support for the applicant’s proposal. He feels it appropriate that the town decides to approve these two applications that it would make sense to look at the policies for existing situations such as this.

Member John asked Mr. Magoon if the depth is still too shallow and a vehicle would hang over the sidewalk. Mr. Magoon said the application committed to only have small cars; however, the PB and Staff placed a condition stating that vehicles parked on or over the sidewalk will be subject to ticketing and fines.

Mr. McKnight said the 17.5’ opening would limit the size of the autos being parked there and it has not been an issue for them as they all have autos that do not overhang. He also has a small patch of landscaping in the front of the porch and they will remove that to provide area for parking.

Member Elliott stated that the petitioner has done due diligence in regards to this project and it is good the road is being redone but unfortunate they purchased the property with the two parking spaces. She is in support of the project.

Chair Santucci Rozzi said she is a former resident of Union Street and is familiar with the area. She has concerns with the plot plan shows the spaces at 15'2" and the paver plan shows it at 16'. Mr. McKnight explained that he did not have a plot plan at the time. He had measured it and gave it to the contractor then had an instrument survey done. Mr. Mena said a typical auto is 16' in length and a parking space is 18' in length. Chair Santucci Rozzi said with the 5' setback, the length would be 23'. She asked why they are extending the pavers beyond the end of the porch. Mr. McKnight said that was a miscommunication – that would be walking stones or grass - They will make it green. Right now, the pavement goes all the way back. They want more pervious on the sides of the house. He wants there to be green on the sides and around the parked cars. She then asked when they put the snow in front of the car, what would the length of the space be then. Mr. Marquez said that they use the walkway towards the back of the house to deposit the snow – they clear the snow completely and keep it within the bounds of their space, not onto the street. Chair Santucci Rozzi asked if they could make these spaces deeper. Mr. McKnight explained that would require structural changes. Ms. Santucci Rozzi said if they are here to make this right, they should make it completely right and 15' is very shallow. He has a very small car. Mr. Marquez said that he drives an SUV and it does not hang over the sidewalk. Mr. McKnight said the trend is towards smaller cars and that he believes that will continue to move forwards. He added that the granting of this variance will not allow them to park over or on the sidewalk.

Chair Santucci Rozzi opened the meeting for the public to speak.

Jennifer Carley, 23 Union Street, next door – she has lived there for 7 years and she has never witnessed cars hanging over the sidewalk. She is concerned with safety issues being brought with the required curbing put in place. Visibility would be worse with ability to park on the street in front of the property. She likes the new plan they have submitted as aesthetically, it is much nicer than existing. She also commented that they maintain their property impeccably. They shovel the snow from the front to the side of the property – one of the things you just have to do when you live in this area.

Mary Fitzpatrick, here with her mother-in-law who lives on Union Street, agreed with the snow removal efforts by the residents on this street. All of the snow is removed – there are no snow banks and the driveways are clear. They are all tuned into the parking on the street, especially since this issue with the town has arisen. Their houses do not have cars parking over the sidewalk; however, two doors down, there are cars over the sidewalk.

Dennis Duff, 33 Spruce Street, thanked Mr. Magoon for the attention brought to this issue. He spoke about three properties on Palfrey Street that had the same situation. All front yard parking. 3- Two families; 6 bedrooms per dwelling. The town sent out a letter saying in two weeks they are doing full reconstruction with curbing on their street. These 3 houses sit below grade. The town said it would be 6"; however, when the curbing went in, it was 16-18" (drop). They were told 22' or 2 @ 11'. If these people had to do it, in fairness they should too. One of these people spent an extra \$10,000 to rebuild a wall because of the grade changes and he lost 2 parking spaces. In fairness, what you do for one you should do for the other. The owner of this property is his brother.

Mary Fitzpatrick said that Steve Magoon stated that the town learned a great lesson with some of the reconstruction that has already been done. People were given a huge inconvenience and that's why they are giving these people the opportunity apply for variances so the situation does not happen again.

Member Elliott asked the staff if there were additional permits required when this became a condo. Mr. Magoon said he was not aware of any. Mr. McKnight said he looked at all of the town records this has had a split address since the 1944. It was a single owner in 1896 and made a condo association in 2006 but had a split address in the 1940's and 50's.

Chair Santucci Rozzi said there is a plan that is not accurate and then there is the plot plan and then a plan without the planter sizes. She wants to know why the planters are not on the plot plan. She said 4' down to 18" is a variance, as well. She would like to see these changes shown on the plot plan. The dimensions do not match and they all need to be shown on the plot plan. She is uncomfortable with the depth of the spaces. She wants the relief to be more compliant with what is being shown. She wants to continue the case.

Mr. Magoon suggested that the town is hoping to move forward with the construction and would like to have decisions made soon than later. Ms. Elliott said that staff can review it for compliance, if they made the decision tonight. Mr. John agreed. Mr. Heep agreed.

Ms. Santucci Rozzi asked if there were final comments from the audience. Declared a business mode and read from the staff and planning board reports. The planning board recommended approval.

Mr. Magoon said if the petitioners were fine with two 11' openings and there wasn't any green space on the property, it wouldn't have mattered. They are here to request something based on the town's requirements, not their own.

Chair Santucci Rozzi reviewed that this request is for relief from the curb cut, side yard buffers and the front buffer. She read from the staff report on the conditions relating to the illegal parking over the sidewalk and other 'boiler-plate' conditions and the style of the parking. The applicant will submit a revised plot plan so the control plans are updated.

Mr. Gannon said to safeguard the town's interest, he'd like to strengthen #6 and make blocking the sidewalk an enforceable condition. Chair Santucci said no one is allowed to park over the sidewalk. Mr. Gannon added that the fines are greater if enforced by zoning and not the police. Chair agreed and requested we change the condition to reflect that this is a Variance and not a Special Permit Finding.

Mr. Mena said staff would like to recommend a condition to inspect as they are looking to put in pavers and that may not require a permit from public works. To ensure they are following the plan, he'd like an inspection to be certain it complies at the completion of the work.

Chair Santucci Rozzi added that the plan should show the revisions of the porch – the pavers begin in front of the structure. Mr. Mena added that stone can be placed for a walkway. Condition #9 to be added.

Ms. Elliott motioned to grant the variance to allow for off-street parking for four existing non-conforming spaces to remain with two 17' openings with conditions modified this evening. Mr. John seconded. Voted 4-1 with Ms. Santucci Rozzi voting against.



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**40 Union Street** - William Fitzpatrick, 35 Fuller Street, Dedham, MA herein requests the Zoning Board of Appeals grant a **Variance** in accordance with Watertown Zoning Ordinance §6.02(h)(i)(j), Required Off-Street Parking, so as to allow the existing non-conforming parking to remain along the entire 45' (approx.) frontage of the site; parking within front yard; curb opening of more than 22'; w/o 4' landscape buffer; w/o 5' front setback. T (Two-Family) Zoning District. ZBA-2013-10

Mary Fitzpatrick, representing her mother-in-law, the owner, Theresa Fitzpatrick who has lived there since the 1950's. She said the front of the property was paved between 1958-1960 to accommodate 4 cars. The property is unique as it is a full 3-family without driveways. It is 43.5' across the front and since the property has not changed hands in so many years, there isn't a plot plan or a mortgage survey. They did their best to put together the dimensions of the property for this board. Their intention is to put in permeable pavers for aesthetic and environmental concerns of the property. They have many constraints for greenery due to the limits of the property. They added low growing shrubbery to make a buffer and they propose greenery on the walkway. There is 2' on the side of the property which has plantings and pine bark and the other side is 4' wide with a concrete walkway to the back. The first floor apartment has one space; the 2<sup>nd</sup> floor has 2 spaces and the third floor has one space. They have a quote of \$14,000 to make the improvement to the property and they are willing to invest this as the parking is required to rent the apartments at fair-market value. They keep the rents low because of the one parking space and they look for single people to rent and families use the bus lines. She and her husband grew up in Watertown and feel they add to the fabric of the community. The tenants know there is no alternate parking and they tend to have long-term tenants. Although Theresa owns and lives in the house next door, #38, she has lived in each of these apartments at one time or another in her life. She has lived there all of her life.

Chair Santucci Rozzi commented that the photos were taken from across the street, although they state they are from the perspective of 38 Union Street, which is next door.

Member Gannon asked if staff verified the dimensions since there is not a plot plan. Mr. Magoon explained that he hasn't any way of verifying the dimensions. Member Gannon said he could not support anything without a plot plan.

Ms. Fitzpatrick said the Planning Board addressed this issue specifically and they felt it was not necessary to provide a plot plan and incur further expense. Chair Santucci Rozzi said the application clearly requests a Certified Plot Plan. She said even if they are drawn but not stamped, they are required to go back and have it stamped with all of the dimensions on it. She would not support it without a plot plan. Ms. Elliott agreed. Chair Santucci Rozzi said it is difficult for the board to determine how this will work out when their sketch shows 'cones' to represent cars that are not in the shape of a car and do not have dimensions.

Ms. Fitzpatrick requested a continuance to get a plot plan and come back. Chair Santucci Rozzi asked the board if there is anything else the board requests.

Member Heep asked Ms. Fitzpatrick to consider landscaping on the sides and he would need to be convinced that if there isn't any landscaping, it is because there isn't room. Member Gannon added that he would like to see more green space like the prior petitioner showed.

Ms. Fitzpatrick said this property does not have the space that property does. Mr. Gannon said the plan would show the space issues.

Chair Santucci Rozzi said the staff report has a photo that shows a car parked between two houses. Who does that car belong to? Ms. Fitzpatrick said it is the car is parked at 38 Union Street and that is their driveway with one-car parking. There is also another driveway on the other side with a garage in the back yard.

Mr. Gannon said he would like to see some type of fencing to delineate the two houses and their parking. Mr. John said the buffer would provide that. Ms. Elliott asked if something could be done at #38 to improve that buffer. Ms. Santucci Rozzi asked if #38 has two legal driveways. Mr. Mena said there is a property line through that parking space for #38 and if a buffer were installed, it would eliminate that parking space for #38. Ms. Santucci Rozzi explained that a buffer is a 4' wide landscaping strip and #38 is making #40 look worse. Mr. Mena said these are existing non-conforming situations and there are properties like this all the way down Union Street. Mr. Gannon said he would like to see some delineation of boundaries at the very least. Ms. Fitzpatrick agreed to provide that information.

Ms. Santucci Rozzi suggested that the surveyor contact staff with any questions. She asked if it was difficult to maintain the landscaping shown on the plan. Ms. Fitzpatrick said there are hostas in front of the porch – they are low to the ground so a car can pull up. They measured the property using the cement sidewalk as the front line.

Ms. Santucci Rozzi said the case will be continued to next month.

Documents Reviewed: A sketch titled, "Variance Proposed for Existing Front Yard Parking" with dimensions estimated from Deed descriptions and showing permeable front yard and two landscaped beds along front walk by William Fitzpatrick, 35 Fuller St., Dedham, MA; Planning Board Report dated June 12, 2013.



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Ms. Elliott read the legal notice:

#### **93 California Street**

Christopher & Rose Zevitas, 93 California Street, Watertown, MA herein request the Zoning Board of Appeals grant a **Special Permit Finding** in accordance with Watertown Zoning Ordinance §4.06(a), Alterations to Non-Conforming Structures and §5.04, Table of Dimensional Regs; and **Variance** from §6.02(j), Off-Street Parking, so as to raze attached one-story garage and construct a 2 ½ -story addition, maintaining non-conforming front yard setback at 8.9', where 25' is required and westerly side yard setback from 4.6' to 4.4', where 25' is required and further improving/formalizing an existing parking area in front of the garage for two vehicles to become front yard parking with existing setbacks less than 5' from the front lot line OS/C (Open Space Conservancy) Zoning District. ZBA-2013-16

Chris Zevitas introduced his architect, Deb Pierce and said his wife is home with their 6 month old twins. They need more living space and plan to demolish a dilapidated garage. Their property is on the line of DCR and they propose to improve their property to better manage storm water by getting rid of all of the pervious surfaces and add a rain garden. They have a sump pump that discharges hap-hazardly to their backyard now and they plan to use the current storm-drain system which will be coordinated with the DPW and will address that with Conservation. They are also removing an invasive species on their property – knock weed, etc. They are working with a landscape architect to be sensitive not to hurt any of the sides of the property.

Deb Pierce, Architect said she has been working on this for some time and she brought a hand-out as she had a thumb-drive to project but didn't know the room would be changed. She commented that this property bounds the City of Newton and the backyard is the Charles River, across the street is two-family zoning and this is OCS zoning. She went through the submittal – a photo of the colonial house with a flat roof, industrial looking garage; the site plan shows a 200' buffer and they are eliminating that and making it a 100' buffer. She said the FEMA floodplain 'snakes' around the back yard. They have a very constrained site. The DCR property wraps around this property. The 'red' on this plan shows the buildable lot (there was laughter from the audience as the actual buildable area is tiny). She explained the floor plan, as well. They wish to add a bathroom on the second floor. They found a usable concrete stair

and landing under the deck, which they will use. She went through the existing elevations and then explained the proposal is to put the addition where the garage is and to match the existing roofline of the house. They are putting a stair and a porch over the back of the addition. They are staying at three bedrooms – they are converting an existing small bedroom to a bathroom. They will provide 2 parking spaces in the front without changing the curb cut. She then addressed the ordinance – section 4.06(a), and stated it is not more detrimental than the existing as there is an industrial area next door in Newton and a park on the other side with Stop & Shop across the street with other residences. They are working on the landscape plan and they are filing a NOI application. They will remove the knock weed and add a rain garden. That will solve a lot of the water problems as the backyard can be flooded. Ms. Pierce went through the dimensional regulations and noted a similar project was approved in 2004. She said the existing house has two parking spaces and they are not changing that, they are putting in pervious pavers, and they have no other place to put parking. She said this property meets all of the Variance conditions and went through each criteria point.

Member Gannon stated that he always remembers California Street, at this property always being flooded or having ponding. There was reconstruction of California Street and he is curious what the current status is of that ponding issue. Ms. Pierce said that was their topic of conversation last week with the civil engineer, Everett Brooks. She said they are connecting up to the storm drain system. There is a catch basin on the Watertown side of California Street but it is filled with silt. Further down, heading towards Watertown Square, there is another catch basin that they will be connecting their storm drain system to (the basement sumps).

Mr. Gannon asked Staff what the process is to connect into the town's system. Mr. Magoon said he didn't believe that was allowed. Ms. Pierce said that was being addressed with the NOI and it is allowed because it is on their side of the street and there is no other alternative. She added that they are taking care of a lot of the runoff and making it better. Mr. Zevitas said they have discussed this with the DPW and Conservation.

Mr. Gannon asked if they discussed a separate permitting process to have a private storm drain connect into the town's storm drain system. Mr. Zevitas said he is not aware of a separate process.

Mr. Gannon said his concern is the extra building in the front exasperating the flooding to the property and the public way. Ms. Pierce said they are improving the situation by connecting to the DPW and adding gutters to one side of property that doesn't currently have them and connecting them underground through piping.

Ms. Santucci asked for clarification. Ms. Pierce said they are connecting the front runoff to the town's system which is about 60, 90 or 100' down California Street.

Ms. Santucci questioned whether or not the town would allow this resident to run piping 100' down the street. Mr. Magoon could not answer that question. Mr. Zevitas said they will run the piping under the sidewalk. Ms. Santucci cautioned them on this actually happening. Mr. Zevitas said DCR is also willing to work with them as the river walkway gets flooded by runoff from their property.

Mr. Gannon said he is also concerned with any construction going below grade – which they intend to do and how that will impact the wetland system. Ms. Pierce said this is all being addressed and everyone has giving them their blessing.

Mr. Gannon said he would need to see these agreements as it will impact his decision. He asked if they have spoken to DCR about how their addition will impact their abutting property. Mr. Zevitas said he has not, as yet.

Mr. Gannon does not have all of the information he needs to safeguard the town's interest in making sure that – in the front that the public flooding is not enhanced or diminished and in the rear, that the recreational area will not be impacted. Ms. Pierce said again, they are improving the situation. Mr. Zevitas said the front is all pitching back and the front catch basin needs to be cleaned out.

Mr. Gannon said if they are bringing all of these people to the Conservation Commission, which input impacts the way he needs to balance his own sense of safeguarding the Town's interest and DCR.

Mr. Heep said the addition looks good but challenging.

Ms. Elliott asked if they considered a garage instead of the wet bar and making the living space a bit smaller. Ms. Pierce said the house is tiny and there is a lot of wasted space as well as changes in the grade. The total square footage will be 2722, where the existing is 2726. Ms. Elliott said the house is not small. Ms. Pierce added that that does include the garage and the basement now. Ms. Santucci said the answer is that the living space is more than doubled and they are counting the garage to make it appear that the increase is not as much as it is. Ms. Elliott said it is just under 1200 and they are adding 1000 – so, they are not quite doubling.

Mr. John asked about the open space requirement. Ms. Elliott said that this is the only house in Watertown in the Open Space Conservancy zoning district.

Ms. Santucci asked about the proposed survey and the dimension at 4.4' and the table says 4.3 and these should match. The floodplain is addressed in the bylaw which requires that all floors be elevated about the flood plain and for this property, it is 12, including the basement or be flood proofed. She added that the first floor of the house is 15.7'. She asked what the basement elevation is. Ms. Pierce said it is existing at 7.6'. Ms. Santucci asked why they are putting a basement into the addition when the existing with the pumps is already higher – this is going to be sitting in a pool of water and require more pumps. The choice is to elevate it up or flood proof. She read from the ordinance: "The elevation in mean sea-level to which proposed new or substantially improved structure shall be elevated or flood proofed, whether or not the structure has a basement is required." Ms. Pierce said this is above the flood plain. Ms. Santucci said they should do a slab and get rid of the basement. They do not want any more water pumped into the drain system – she is not speaking for the town but that area already floods and they are displacing more subsurface area with a structure and add more pumps...

Mr. Zevitas said he understands but the board cannot blame him for the drainage system. Ms. Santucci said that what he is proposing does not comply with the flood plain section of the ordinance. Ms. Pierce said everything is dependent on everything else. Conservation, DPW, etc. Ms. Santucci said this board is concerned with the Zoning Ordinances.

Mr. Magoon said conceptually, the board likes the project; however, there are concerns with the floodplain and these issues will be raised with the Conservation Commission. He suggests continuing until that is approved by Conservation.

Ms. Santucci Rozzi explained that their house is existing and is considered not in the flood plain for the first floor. The new floodplain regulations that FEMA has put out within the past two years and redid all of the maps. When they talk about substantial renovations, they do not want people duplicating those errors, as Mr. Zevitas is speaking of his pumps, etc., they want people to include the basement – they are not talking about the first floor anymore. She suggests that she go to conservation and requests staff look into this a bit more. She would be in favor of something that did not disturb the floodplain elevations.

Mr. Gannon requested that staff reach out to DPW for input on whether there is the possibility of storm drain on private property being introduced to the towns drain system and what would the impact of the new water into the drain system be (would it push the limits of the drain system?). He also asked that staff reach out to DPW to confirm the impact to the recreational area with DCR is not going to be impacted by this.

Ms. Pierce said they have been discussing issues that are not part of the points for the Special Permit Finding and Variance and would like to discuss those points. Ms. Santucci said this is all related to the proposed structure. Mr. Gannon said the Conservation Commission has jurisdiction over the drain system and the board needs to hear from them – that would alleviate his concerns. Mr. Magoon said they have discussed those concerns but he is not certain they have alleviated those concerns. Mr. Zevitas said they need more space with their growing family and without the garage, which is now a workspace and storage, will be lost and that they require the basement for that use. He isn't certain the whole plan will work for him without finding storage. Ms. Santucci Rozzi said the town would like to work with him; however there are regulations that need to be followed. She added that they are talking about their project alleviating the existing water problems and then creating a plan that increases the water problem.

Ms. Santucci Rozzi said that this will be continued to the August 28<sup>th</sup> meeting to allow the applicant to work with the Conservation Commission and to have staff look into the floodplain by-law a bit more and to work with DPW and DCR on the items Member Gannon mentioned.



**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 Monday evening, **June 24, 2013** at 7:00 p.m. in the Philip Pane Hearing Room on the lower level of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Melissa Santucci Rozzi, Chairman; Deborah Elliott, Clerk; Suneeth P. John, Member; Christopher H. Heep, Alternate Member; John G. Gannon, Alternate Member**. Absent: **David Ferris, Member**. Also Present: **Steve Magoon, Director, Mike Mena, Zoning Enforcement Officer; Louise Civetti, Clerk to ZBA**.

Ms. Elliott read the legal notice:

**55 Bigelow Avenue**

Vache Keusseyan, 169 Harrington Road, Waltham, MA herein requests the Zoning Board of Appeals grant a **Special Permit** in accordance with §8.02, Merchandise on Public Rights of Way; and to **Amend Special Permit Finding**, ZBA-2011-12, granted July 13, 2011, for non-conforming use (Kay's Farm Fresh), so as to display merchandise for sale outdoors on the Public Right of Way. T (Two-Family) Zoning District. ZBA-2013-17

Jennifer Woltzcot, co-owner of Kay's Farm Fresh, said they are applying to display four peddler's carts, they are solid, weather-treated pine with an oak finish, measuring 40"x18"x36" to display flowers and plants and the produce displayed would be weather appropriate. Maybe corn in the summer to make them more visible. They plan to position them horizontally, alongside the windows and placed one foot away from the brick façade, leaving 6' of sidewalk to pass and will only be seen during business hours and be brought in at 7 p.m. every night.

Member Gannon said it would be attractive to the neighborhood and wondered if there was enough room to be ADA compliant,. He asked staff how many of these permits are issued around town. Mr. Mena said he doesn't believe there is a limit on the number of permits issued, and there was not an inventory of the number of permits issued. This is the first one he has encountered in the 2 years he has been here. Mr. Gannon asked if there is any requirement of insurance by the town if there is an injury by the cart. Mr. Mena said the only need for insurance that he is aware of is if there is an overhanging canopy which would require proof of insurance and liability for the property. They would have to follow-up with the tenant to see if there is insurance for the carts.

Mr. Keusseyan said they had the carts on Mt. Auburn Street when they were located there in the 70's.

Mr. Magoon asked if their insurance policy covered them then. Mr. Keusseyan said they were part of the store policy.

Mr. Gannon said as part of a condition, to provide some proof of liability insurance naming the town as an additional insured.

Mr. Heep did not have questions and noted that he is enjoying broad support from his neighbors. Ms. Elliott and Mr. John did not have questions. Ms. Santucci Rozzi said they are already displaying produce outdoors and they are visible in the photo simulation for the carts, which is a zoning violation. She is glad they are formalize this request and wants to be sure they keep the carts clean and bring them in every night.

Dennis Duff, 33 Spruce Street, is in favor of this project and Mr. Keusseyan is a hard-working man, he remembers the business on Mt. Auburn Street and this is the type of small business the town would like to keep. He said the Town Diner has chairs on the sidewalk and doesn't know if wheelchairs can get by.

Ms. Santucci Rozzi read that the Staff recommends conditional approval. The Planning Board met twice and recommended conditional approval. The conditions, #4, state that the display carts cannot be displayed unless the signage is an approved permit within the ordinance for more than 10 s.f.

Mr. Mena said they issued a sign permit for the awning within a two-family zoning district showing the requirement for 10 s.f. Ms. Santucci Rozzi clarified that the awning is now non-complying. Mr. John asked if the "Banana" sign shown in the depiction is a violation. Mr. Mena stated that the petitioner was asked to remove that sign and he has. The awning is fine as far as size and location; however, the graphic and lettering should only be 10 s.f.; what was actually put up is larger than 10 s.f. What exists is closer to 25 or 30 s.f. – this is in a residential zoning district. Mr. Keusseyan said 95 % of the street is commercial and across the street used to be the Hood Rubber company and now it is residential. He did not do this intentionally.

Ms. Santucci Rozzi said if he has to go to the 10 s.f., the sign would be tiny. She asked what he would have to do to bring the existing sign into compliance. Mr. Mena said it would be a new application for a variance. Mr. Magoon said the carts on the sidewalk are another form of signage and attracting customers. Unfortunately this is in the T zone, so the site is limited. The awing was permitted at 10 s.f. and was put up at much more than that. Ms. Santucci Rozzi requested to see what the permitted sign looks like.

Mr. Keusseyan said it was a misunderstanding. Mr. Gannon questioned how a 10 s.f. sign could become a 25 s.f. sign as a misunderstanding. He would not support that; however that is not before us tonight.

Ms. Santucci Rozzi said she doesn't see how you can get all of what is here in 10 s.f. Mr. Keusseyan said that Mr. Gideon said it could be spaced out. Mr. Mena said it had to be within the box. He was confused as to what was the correct way. Mr. Magoon said that what is on the front of the building is much bigger than what was permitted.

Ms. Santucci Rozzi asked why this wasn't noticed prior when he has been in front of the board for violations already. He has been at this site for a year and a half.

Mr. Magoon said they added conditions to the cart request so that the petitioner could bring the awning into compliance. Mr. Gannon added that he is astonished that the sign is double what was approved.

Ms. Santucci Rozzi asked what the size of the awning is. Mr. Keusseyan said it is 5' width and 22' in length. Ms. Santucci Rozzi added that she never noticed it was oversized or out of place. She is not condoning that it is not a zoning violation but 10 s.f. will look ridiculous on this awning. Mr. Magoon said it doesn't have to have all of the extras (fruit/vegs) on the sign. This is a commercial operation in a

residential district. Mr. Gannon added that the permits are issued with the expectation that the conditions will be listened to. Mr. Kesseyan said he has to go through two companies to get this done.

Mr. Mena retrieved the actual sign permit and provided a copy to the chairman. Ms. Santucci Rozzi reviewed the permit and said that this is not even legible. She added that there may be some middle ground.

Ms. Santucci Rozzi asked again why this wasn't mentioned until a year and a half later. Mr. Mena said there are permits issued for signs and there aren't any inspections done for them; therefore, staff did not catch it until the next application was filed for.

Ms. Santucci Rozzi went back to the push-carts and reviewing the conditions on the Planning Board report. She said condition 5 talks about the carts being pulled into the building at night. Then she questioned why the Health Department is listed on the conditions – no eggs outside. And then coming back to the board in one year for review. We will add the comments by Member Gannon on the proof of insurance to the town on the carts and naming the town as an additional insured.

Ms. Elliott asked if this is a special permit and an amendment to special permit finding. Mr. Mena said it is only a special permit. He then added that it is an amendment as it is an expansion to the existing non-conforming use.

Ms. Elliott motioned to grant the special permit to allow merchandise on public rights-of-way and to the amendment to special permit finding for non-conforming use to display merchandise outdoors. Mr. Heep seconded. Voted 5-0 with the added condition to meet the sign permit requirements.

Ms. Santucci Rozzi stated that this is granted and they are to take care of the sign. Mr. Mena stated that he could apply for a variance.

Ms. Civetti requested that the board vote on the approval of the minutes for May 1 and May 24. Ms. Santucci Rozzi confirmed the earlier vote was for other minutes and requested a motion for these minutes. Ms. Elliott motioned to approve the minutes for May 1<sup>st</sup> and May 24, 2013. Mr. Gannon seconded. Voted 5-0. Approved.

Mr. Heep motioned to adjourn. Ms. Elliott seconded. Voted 5-0 to adjourn.