



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
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www.watertown-ma.gov

MINUTES

On Wednesday evening, **August 28, 2013** at 7:00 p.m. in the Richard E. Mastrangelo Council Chamber on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Melissa Santucci Rozzi, Chairperson; Deborah Elliott, Clerk; Suneeth P. John, Member; Christopher H. Heep, Alternate Member; John G. Gannon, Alternate Member.** Absent: **David Ferris, Member; Louise Civetti, Clerk to ZBA.** Also Present: **Steve Magoon, Director, Community Development & Planning; Mike Mena, Zoning Enforcement Officer.**

Chair Santucci Rozzi opened the meeting, introduced the board and staff. She then reviewed the agenda, stating 43-45 Hersom Street will not be heard; 450 Arsenal is continued and 615 Arsenal is continued. She asked if the board reviewed the minutes and would make a motion.

Member Elliott moved to accept the minutes of the June 26, 2013 meeting. Mr. John seconded. Voted 5-0. The minutes are approved.

Chair Santucci Rozzi swore in the audience.

Member Elliott read the legal notice for the first case:

35R Parker Street

Brian Workman, 35R Parker Street, Watertown, MA 02472 herein requests the Zoning Board of Appeals grant a Special Permit Finding in accordance with Watertown Zoning Ordinance §4.06(a), Alterations to Non-Conforming Structures, Side Yard Setback, so as to construct a second floor bay window directly above existing 1st floor bay window, maintaining existing non-conforming northerly side-yard setback at 6'9", where 10' is required. SC (Single Family Conversion) Zoning District. ZBA-2013-20

Brian Workman, 35R Parker Street, reviewed the drawings, stating that they have a permit to add a second-story bump-out one side and they wish to mimic the second-story bump-out on the other side. They are not encroaching into the sideyard, it exists but they are matching it on the second level.

Member John asked how they received a permit for one side and began the work on the other side without one. Mr. Workman said they were overzealous and began the process before the permits were in hand. They started with the left-hand side and were given a 'Stop-Work' order by Mike (the Zoning Enforcement Officer). They filed the permits to continue the work for the side that is within the limits and completed the paperwork to come to this board for the side that is outside of the limits. He apologizes.

Chair Santucci Rozzi asked the audience to speak. No one came forward. She asked Mr. Workman about the plot plan that is unstamped by a registered land surveyor. Mr. Workman said he submitted a copy with a stamp on it. Ms. Santucci Rozzi clarified that the Existing Conditions Plan has a stamp but not the one with all of the dimensions. Mr. Workman said in order to get the paperwork submitted on a timely basis, he had his friend provide a copy from the records he has from this now defunct surveying

business. He was not able to get the person who did the original drawing to stamp it. She asked if his friend who altered the drawing is a surveyor. Mr. Workman said he just added the cad dimensions to it. She asked if he is a civil engineer, why he hadn't stamped the dimensions he added. Mr. Workman said he didn't ask him to. She requested that the professional stamp the dimensions before the decision is finalized.

Chair Santucci Rozzi closed the public hearing, declared a business mode and read from the Staff Report and Planning Board Report on August 14, 2013. She pointed out condition #7, which states that all property owners must sign off prior to final approval of this permit. Mr. Mena said they did receive authorization that the other owner is okay with the project. This condition has been met. She added the condition to have the dimensions stamped by a professional.

Member Elliott motioned to accept the Special Permit Finding for 35R Parker Street with the conditions discussed. Member John seconded. Voted 5-0. Granted.



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Chair Santucci Rozzi swore in the late attendees. She asked for a motion on 43-45 Hersom Street as the petitioner has requested to withdraw without prejudice.

Member Elliott motioned to accept the request to withdraw the petition. Mr. Gannon seconded. Voted 5-0. Withdrawal granted.



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Member Elliott read the legal notice:

“9-11 Putnam Street- Christopher Bassolino, 9 Putnam Street, Watertown, MA 02472 herein requests the Zoning Board of Appeals grant a Special Permit in accordance with §5.04, Table of Dimensional Regulations, ½ Story, FAR, Side Yard Setback and Special Permit Finding in accordance with §4.06(a), Alterations to Non-Conforming Structures, so as to add a shed dormer to existing non-conforming half-story, increasing ½ story from 57% to 64%, where 49.9% maximum is allowed; increasing FAR from 0.505 to 0.577 where .50 -0.625 allowed by SP; and enlarging 1st & 2nd fl porch and adding third floor deck, 9.5’ from side lot line where existing porch is 4.6’ and where 10’ is required. T (Two-Family) Zoning District. ZBA-2013-24”

Chris Bassolino, owner of 9-11 Putnam Street, purchased the property three years ago, he is getting married and planning to start a family. They are requesting the dormer to create open living space and to add a closet. They will be extending the back porch, as well. The Special Permit Finding is for the setbacks for the dormer at the back of the house. The dormer is to extend the closet without losing living space. The setback is shrinking but still not meeting the 10’ setback. The Planning Board recommended to narrow the front of the driveway. They are increasing the buffer zone along the side of the property for 45’ x 4’ for landscaping.

Chair Santucci Rozzi asked the audience to speak. No one came forward.

Member Heep asked about the side yard setback, specifically a square patch. Mr. Bassolino said the patch is a landing 4’x3’.

Member John asked if the rear deck existing is 4.6’ increased to 9.5’. Mr. Bassolino said he believes the landing is not included in the setbacks. Mr. Mena said, “Stairs may encroach into a setback. Landings if they meet just the minimum of building code and they are existing or being modified, they are not subject to setbacks. There is a provision in the non-conforming section but if it is a new landing and it requires a railing, they have made a determination that typically, those need to meet a setback.”

All new landings that require a railing or that are more than 3 stairs, must meet setback requirements.

Ms. Santucci Rozzi said a non-conformity, whether being increased or decreased is the same.

Mr. John asked if this is a rented two-family. Mr. Bassolino said the first floor is not rented, yet. There is a first and second floor deck that are being extended. The third floor deck will only extend 12’x6’. The third floor deck will cover 1/5 of the second floor deck. The apartment on the first floor is a Philadelphia style – the apartment is on the first floor and one bedroom is on the second floor.

Mr. John said he is at the edge of what is allowed and they are adding FAR. Mr. Bassolino said the second floor is a 3 bedroom and it will remain a 3 bedroom. The problem is there is no closet space on the third floor. They are not looking to expand the living space, they are looking to accommodate more storage on that floor. On the second floor, the rental unit takes up quite a bit of space. On the third floor, the bedroom is small. The portion of the second deck that is covered by the third floor deck is contributing to the FAR. Ms. Santucci Rozzi asked if they are covering the complete second floor deck. Mr. Bassolino said that they are.

Ms. Santucci Rozzi said the interior layout is changing, it is a 3 bedroom with an office? Mr. Bassolino said the office is being used as an office and hopefully, it will be a children's room soon. There will be an added ½ bath on the second floor.

Mr. Bassolino said the structure is non-compliant at 61% of the third floor and they want to increase it to 69% to accommodate the closet and increase the size of the bathroom. The dormer will add 46 s.f. of living space and mostly hidden and setback 20' from the property line. Ms. Santucci Rozzi asked if they could reduce the size. Mr. Bassolino said the Planning Board recommended decreasing the deck.

Member Elliott asked if he considered decreasing the covered second floor deck. She said the deck is huge and then to add something extra on the third floor. Mr. Bassolino said it is 38' from the rear lot line and the neighbor in the back extended their house in the back to additional living space. This deck lines up with their addition.

Ms. Santucci Rozzi asked who drew the plans. Mr. Bassolino said that he did. Ms. Santucci Rozzi commented that the Board does not like hand-drawn plans. She said that the plan shows 12' but does not show how wide the driveway is or the clearance. The board wants to make sure the plan reflects what it is he is actually going to do. It is important to show the improvement of the required buffer on the plot plan.

Ms. Elliott asked if he is planning to add other landscaping. Mr. Bassolino said he is adding flower beds in the back and in the front. He said he grew up in New York City, a concrete jungle and Alicia (his fiancé) grew up in Washington, D.C. and he loves Boston for the openness. The reason for the deck being able to accommodate a table is to be able to eat dinner out there and enjoy the landscaping. He will show the landscaping on the driveway plan.

Mr. John asked staff what the precedence is for expanding an FAR. Mr. Mena there isn't a precedence. However, they look at massing, dormers and increasing FAR. Going from a non-conforming third floor and increasing that, they look at the massing and the architecture and how that fits in with the neighborhood, in addition to views into adjacent private yards and how those impacted or not impacted or mitigated by some architectural element or landscaping of trees or something on the site. So, he wouldn't say they have a precedent on going one way or the other but they have approved these in the past and this is the general review the staff takes and staff recommended approval along with the planning board. The general feeling is that this is not more detrimental and it fits into the neighborhood. It is not out of the ordinary.

Ms. Santucci Rozzi asked the audience again, if anyone would like to speak. Hearing none, she closed the public hearing and declared a business mode. She reviewed the request, the staff recommendation of August 6 and the Planning Board of August 14th, noting standard conditions and a comment about the deck; no third unit; not to enclose 1st & 2nd floor porches.

Mr. Mena recommended a slight modification to condition #7, not precluding they cannot enclose the porches ever, just to add that any changes will come back to the board.

Ms. Santucci added that the third floor deck is to remain open. The 4' buffer tapers down to a 2' buffer; and that will be added to the plot plan. Member John noted the side yard setback at 4.6'. Ms. Santucci Rozzi stated that the petitioner is going forward with covered decks at 12 x 19.

Ms. Elliott motioned to grant the SPF for the non-conforming structure, side yard setback and maximum stories with the conditions discussed. Mr. Heep seconded. Voted 4-1, Mr. John voting against.

Ms. Elliott motioned to grant the SP for maximum FAR with conditions discussed. Mr. Heep seconded. Voted 4-1 with Mr. John voting against.



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Member Elliott read the legal notice:

“55 Bigelow Avenue - Vache Keusseyan, 169 Harrington Road, Waltham, MA 02453 herein requests the Zoning Board of Appeals to grant a Variance in accordance with Watertown Zoning Ordinance §7.04(b), Signs, Maximum 10 s.f. in the T-Zoning District, so as to allow an awning with signage on 3 sides (Kay’s Farm Fresh) at 4’x10’ and (2) at 4.5”x22.5” to remain, where the permitted approval (01/25/2012) is for a single 2’x10’ sign on a 5’x19’ awning. T (Two-Family) Zoning District. ZBA-2013-23”

Jerold Zyfis, Attorney, representing Kay’s Market, LLC. Stated that Mr. Keusseyan is seeking a variance for the lettering on an awning measuring 10x4 rather than 5x2. He said this was an inadvertent error made by the people who did the awning. He said the sign is tasteful and there have not been any complaints about the sign from the neighbors. Mr. Keusseyan submitted 150 signatures from neighbors in support of the present existing sign and some of those will speak tonight. He said the hardship would be if Mr. Keusseyan has to take the sign down, it would cost between \$5,000 - \$6,000 and that would put

him out of business. He had to spend \$20,000 on the variance to put the market in the building – he is not the owner of the building and it is a non-conforming use. It would hurt economically to take the sign down and put up new lettering.

Ms. Santucci Rozzi opened the meeting for the audience to speak.

A woman living at 56 Bigelow spoke and said the awning looks like a circus. She lives directly across the street and cannot go out on her deck anymore because the sign looks ridiculous. She is in opposition.

Fern Levine, 64 Bigelow Ave., Vice President of the Coolidge Village condominium Board. She lives across the street from this sign as well and this is the first negative comment she has heard from any of the neighbors. Most of the people enjoy the business; he is accommodating to the elderly that live in the complex and for those that have cataracts or macular degeneration, the sign is distinctive and they can see it and know it is there. There is another sign down the street that sticks out and on the left of the building, there is a B&G Sheet Metal that is an eyesore and this is not. People can see it as they are walking or driving up and it is tastefully done. He waited a long time to get a sign as the company he had hired for the awning took off with his money and then he waited for this sign and when it came in, it was not correctly done. She said this is the only negative comment she has heard from the 87 owners across the street.

Rachel Nadley, 56 Bigelow Ave., #11, said the sign is a happy, joyous sign and maybe it is the owner as he runs a nice business, clean, fresh fruit and vegetables every day and he has added a cohesion in the neighborhood. Even if the sign is a little big, she would hate to see that kind of money put in to changing the sign. She said when a hurricane knocks it down, it would have to be replaced but she is in support of it as it is.

Dennis Duff, 33 Spruce St., asked the board to consider this on a positive note and not an injustice and this is not a grave injustice. The sign is important to his business and to conform, may defeat the purpose of the sign to easily find the store. He then mentioned Belmont and Prospect Streets where a similar situation exists. The business is located in a block with other businesses and residential area. That business is zoned commercial and this business, in an area that runs businesses, is zoned residential. This other business has signs as big as this and doesn't have one sign, it has three signs as big as this without a problem. He noticed the new CVS 24 hour sign appears quite large. He asks the board to be fair and allow the sign to remain.

Lenwood King, 35 Elton Ave., adjacent to Bigelow, said that he has lived there since 1974 and for 40 years he has witnessed the city go through lots of changes. He feels people would have more complaints about not picking up dog poop than this sign. That is more of a pertinent issue. There is nothing wrong with this sign. Someone coming around the corner can view the sign and decide to stop to shop. It brings people in as it is the only bright spot on the street from Mt. Auburn to Nichols street. He has been a nice guy and he doesn't know if someone has it in for him but the board should approve the sign.

Rachel Nadley said we are becoming victims of cookie-cutter signs and when you are traveling, you don't even know where you are. All the signs look the same in any town. This is different. The sign is a little big but so what. She likes it.

Lorraine Kearney, 64 Bigelow Ave., said she is almost directly across the street. She said if this expense is going to put him out of business, she would be very unhappy. It is nice to walk over there and pick up a couple of things. She does not want him to lose his business over this sign.

Ms. Santucci Rozzi clarified that the board heard positive feedback from the community. She asked the petitioner if he included the photos of signs in the packet. He mentioned a petition with 150 signatures and Mr. Mena was able to provide a copy to the board.

Mr. Magoon stated the audience should be provided with some history as it is not just a case of the town not wanting Kay's to have a sign. Mr. Magoon appreciates the business he has brought to the neighborhood and to that street and he would encourage that. Kay's had some issues when they first started which caused him a lot of financial difficulties and that is unfortunate. He explained that this is a residential zoned property and the rules that apply to this property are set out by the zoning ordinance. It may not be appropriate for this to be zoned residential but that is a conversation for another time – it is zoned residentially. The rules for this residential zone are limited for signage. Also, the applicant submitted what was going to be on the sign, which looked similar to what is there but on a much smaller size and which was approved. He purchased the sign and put up one that does not comply with what was permitted. That causes concern as people that do not comply with what was permitted and we ignore it would be undermining the rules and regulations that the town has. The applicant suggested he produced a sign that he didn't order. If that was the case, then he should tell the sign maker to take it back and bring back the sign that was ordered. He wouldn't have just put it up with it being much more than what was permitted. Since we are beyond that now, the board can choose to move forward with the existing sign but he finds it disconcerting when people submit to the town for one thing and produce something else that does not comply with the rules.

Member Heep commented that this is a great use of the property and he doesn't mind the sign but he feels the rationale for the zoning relief is that an accident occurred after what was a brand new permit. He is concerned about the basis for the granting of the relief from this board.

Member Elliott agreed that having something approved by the town and then installing something significantly different is a concern. This is a residential district but even in a commercial district, this sign would not be in compliance – it is still too big. Looking at the photos of signs that were submitted, she asked if Porcini's; Sensational Foods; Forte's; etc. comply with zoning.

Mr. Magoon said some of those sign are non-conforming and they are existing. It would be a financial burden to all existing businesses should the town tell them all they have to now conform. There are non-conforming signs that the town will continue to work on. It could be the ordinance has changed or the sign has been refaced with a new business that comes in. The town doesn't make them come into compliance for a sign structure that has been there unless the business was vacant for more than a couple of years. Member Elliott clarified that a new business would need a permit and if the permit were approved it would be an existing non-compliant sign.

Member John finds it difficult to accept that once you approve something it changes and that should become the norm. That sets a precedence. That is not something we need in this town. He understands that if it was the petitioner's mistake or the sign builder. He asks if there is something they board can do to allow him to keep the sign for a certain amount of time so that he doesn't have to go out of business. Most members are not in favor of this sign.



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Member Elliott read the legal notice:

“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”

Christopher Zevitas reviewed the changes in their project from their last presentation to the ZBA.

Deb Pierce, Architect, detailed the changes – omitting the basement and adding a crawl space according to the flood resistant construction code; increase height in the building by adding 44% to the attic for habitable storage space, maintaining the ½ story requirement for zoning and improvements to the interior with the removal of the stairway to the basement and adding a stairway to the attic. Also, there is no longer a proposed connection to the storm drain. The flood plain elevation is 12 and the crawl space is at grade at 11.6.

Member Gannon asked if Staff has had a chance to review the plans in full.

Steve Magoon said the changes submitted to the Conservation Commission have addressed the concerns of the zoning board; removing the basement due to the proximity to the flood plain; eliminating the ‘force main’ (the attachment of the sump pump from the basement to the Town’s storm water system); and to accommodate the living space by creating a higher space on the building, works for the petitioner and zoning, although not as aesthetically pleasing from an architectural standpoint. They would recommend approval.

Mr. Gannon noted that the property is surrounded by the park land owned by the Department of Conservation and Recreation and asked if we have heard from them. Mr. Magoon said they attended the

Conservation Commission meeting both times and spoke of their concerns with running the force main through conservation property or the public right-of-way. They were okay with the submittal now because everything is contained on-site. It does not impact DCR property. They originally had concerns about the discharges directly in to DCR property. The addition of the rain garden proposed at the rear of the property addresses that issues, although not entirely.

Ms. Pierce added that they have had a real education and they have removed a lot of pervious coverage.

Ms. Elliott stated that she is in support of the improvements.

Ms. Santucci Rozzi is also in support. She appreciates the petitioner and the architect looking at the issues and making those provisions and has finished with Conservation.

No one spoke from the audience. Ms. Santucci Rozzi closed the hearing and declared a business mode. She stated that the board heard this case in June and suggested changes to the applicant. They received conditional approval from Staff and with the Director's comments this evening. They received conditional approval from the Planning Board on June 12th and they have received an order of conditions from the Conservation Commission. She reviewed that this property is in the Open space Conservancy district, noting that the use itself is non-conforming (and is the only residential property in Watertown in this district). This is a special permit finding, with non-conforming setbacks from front, side yard, building coverage, impervious coverage and open space – given the fact that the ratios are more consistent with the open space property. They are altering the structure, where the use is not permitted. They also have a variance for parking where there is already a garage and paved parking.

Ms. Elliott motioned to grant the SPF with the dimensional changes. Mr. Gannon seconded. Voted 5-0. Mr. Ferris absent. Ms. Santucci Rozzi noted that the conditions are standard with nothing added.

Ms. Elliott motioned to grant the Variance for off-street parking. Mr. John seconded. Voted 5-0. Mr. Ferris absent.

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