

MINUTES

On Wednesday evening, **March 28, 2007** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*. *Absent: Melissa M. Santucci, Clerk.*

Tape 1 of 2, Side A

The board postponed voting on the minutes of the January 3, 2007 meeting. However, a correction was noted regarding Mr. Bailey's attendance.

First Case Legal Notice:

Jennifer Van Campen, 86 Common 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, Side Yard Setback, so as to permit the razing of a rear 3'x8' laundry room and construction of a second floor rear addition, 16'-1"x 20'-9 ½", over existing one story, maintaining 5' non-conforming northwesterly side yard setback, where 10' is required, at **49 Phillips Street**, located in the SC (Single-Conversion) Zoning District.

Jennifer Van Campen appeared and detailed her proposal. She recently purchased the single-family dwelling for her and her two young boys. Since the dwelling had two-bedrooms, she is in need of an additional bedroom and master bathroom.

The existing rear one-story structure is a kitchen and enclosed porch with a 3'x8' bump-out that is used as a laundry room. She intends to remove the 3'x 8' rear bumpout and construct a second story addition, 16'1 x 20' 9 ½" on top of the kitchen maintaining the non-conforming 5' northwesterly side yard setback. She intends to remodel the existing kitchen, and would like to have work completed prior to occupancy of this dwelling.

The Board concurs with Staff that the proposed addition is an appropriate solution for expanding the existing structure. The nature of the non-conforming Side Yard will not increase as a result of the proposed second floor addition. The plans submitted and prepared by an architect indicates the proposed addition has been well designed and at a very appropriate scale for the lot. In particular, the Board noted that it was refreshing to review a project that was so easily accommodated on the lot and be compatible with the existing house and the character of the neighborhood.

The Board notes that there was no one speaking in opposition to this permit.

The Board therefore, finds that the proposed second story addition maintaining the non-conforming 5' northwesterly side yard setback will not be substantially more detrimental than the existing one-story structure.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 2, Side A, continued

Legal Notice:

Yolanda Pirolli and Michael Pirolli, YRT Corporation, 56 Irving Street, Watertown, MA, herein request the Board of Appeals to grant an **Amendment to Variance #02-55**, originally granted January 22, 2003, for used vehicle business and a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Front Yard Setback and further a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Front Yard Setback, to construct 10.2'x23.0', one story addition to connect the two buildings, known as #160 and #162, maintaining non-conforming front yard setback at 7.2', where 20' is required at **160 & 162 Arsenal Street**, located in the I-3 (Industrial) Zoning District.

Owner of property, Michael Pirolli stated that his tenant, Executive Motors leased the building at 162 Arsenal and received approval from this Board to allow it to be converted to a garage, which would be used in conjunction with his second class motor dealer's license, operating from 160 Arsenal Street. Mr. Pirolli stated that presently 160 Arsenal Street is operating with a CLIVIS system (composting toilet) which was approved by the Board of Health and DEP years ago. At this time, with a change of use to a garage for 162 Arsenal Street, the Plumbing Inspector and Board of Health are requiring toilet facilities. After much discussion with various town officials, Mr. Pirolli, is asking to connect the two buildings with a small 10'-2" x 23' one-story infill addition in order to allow his tenant to remain at this location and provide a remedy to the on-going issue of requiring toilet facilities. The infill will join the buildings as one and the existing CLIVIS system will provide the requirements for the Health Department and Plumbing Inspector. However, owner and tenant must go to the State Plumbing Board and seek a variance for not providing a gasoline separator in the garage building at 162 Arsenal.

The Board acknowledged receipt of a letter dated August 16, 2006 from Gerald Mee, Superintendent of Public Works to Steven Ward, Director, Health Department indicating that there is no sewer line in front of the subject properties. He states that the nearest sewer line is 130 feet to the east and 280 feet to the west. Mee stated that "requiring the

property owner to install a sewer line would necessitate lengthy cuts in Arsenal Street", which he is opposed to.

The proposed in-fill addition will not increase the non-conforming condition of the property. In fact, the proposed addition will be set back more than 7' from the non-conforming front set backs of both existing structures. Board notes that the area between the two buildings was used for employee parking with 2 tandem spaces, which will be lost but will not affect the nature of the business or the parking requirements.

The Board finds that the small in-fill addition located 7.2' from the front lot line, will not be more detrimental than the existing buildings at 0.1' and 0.2' setback from Arsenal Street.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Carlos Fernandez, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*. *Absent: Melissa M. Santucci, Clerk.*

Tape 1 of 2, Side A, continued

Legal Notice:

Stephen P. Corbett, 14 Irving Park, 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, Side Yard Setback or in the alternative a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Side Yard Setback; **Variance** from §5.05 (f), Notes to Table of Dimensional Setbacks, Lot Frontage, so as to raze inground pool and existing single family home, maintaining westerly side foundation; and construct 3-family 3-story townhouse, 32'-11" x 70'-11" with two-car garage under each unit. Dwelling located on lot with 79.6' lot frontage, where 100' is required; and maintaining and extending the non-conforming 14.3' westerly side setback, where 20' is required at **18 Gilkey Court**, located in the R.75 (Residential) Zoning District.

At the continued hearing on **March, 28, 2007**, the Board notes that the petitioner has submitted an entirely new plan accompanied by a colored rendering. Accordingly, a new legal notice was published.

Attorney Leitner, representing Stephen Corbett, indicated that given the comments of the Board at the last meeting, he believes this new project meets those concerns raised. It was approved at the Planning Board.

He explained that they are seeking relief as previously noted - Special Permit from 5.01.1h, 3 Townhouse use; Variance under 5.05(f), lot frontage of 100'; Variance for side yard setback on the westerly side – 14.3' –keeping the same as the existing house. In the alternative, they would seek a Special Permit Finding 4.06(a), keeping a portion of the westerly foundation that is 14.3' and asking to continue the non-conformity of the existing house.

Attorney Leitner detailed the site plan – The driveway and parking area is now located on the easterly side of the property, opposite of the previous proposal, which was a concern of this Board. The three-family dwelling is now 32'-11" x 70'-11" with two-car garage under each unit. The building now has a front entrance from Gilkey Court; the third floor is a

mansard style-roof with an overall height of 34' 3", which has been increased from the previous submittal. The building is now in compliance with the front yard setback – eliminating a variance; it complies with the 25' rear setback – eliminating a variance, complying with the 20' easterly side yard setback, however, a variance is sought for the westerly setback of 14.3' which is being maintained from the original building. The existing lot frontage is 79.60', where 100' is required for the construction of new three and four family dwelling structures, townhouses, and rowhouses. This is one of the variances requested that cannot be fixed. He explained that the existing neighborhood – Gilkey Court has three homes on it- the subject property, #8-10 and #14-16-a four-family dwelling. Density was an issue with the other plan, however, the other two homes well exceed the FAR of .75. Estimating #8-10 is 110%; #14-16 is 82% and they are also non-conforming as to setbacks with 3-5' rear yards, 6-10 front yard setbacks.

The site is unique, as the street dead ends at the subject property; to the south an embankment the falls down 20', to a former railroad bed; to the rear and easterly side, it is flanked by apartment houses and their associated parking lots.

The front elevation from Gilkey Court shows a porch and door providing a front orientation, which was a concern of this Board. The two side units are orientated to the westerly side. The doors to those two units are recessed back approximately 6' and 10' with a small porch area. The basement of the structure is accessed from the driveway located on the easterly side of the property. Each unit has its own two car garage. The driveway extends past the structure allowing for 2 guest parking and/or snow storage. The driveway maintains the 4' landscape buffer as well as a proposed 3 ½' retaining poured concrete wall the length of the driveway where it then turns and connects back to the house. The topography will be depressed on the driveway side approximately 3 ½ feet, thus the need for a wall. Avo Asdourian introduced himself. He indicated that the 4' buffer along the driveway will be an green open area. The guest parking will have to back out the entire driveway. Member Fernandez asked whether a variance is needed to comply with 20' aisle width. Nancy Scott, Zoning Officer indicated that is not applicable in this instance. Member Fernandez believes that 20' should be applied in order to safely maneuver the turn into the garages. Mr. Asdourian, states it is a 90 degree turn into the garages and he believes there is sufficient room. Member Fernandez would've like to seen that fact on the plan, he thinks it is tight.

Tape 1 of 2, Side B

Nancy Scott queried Board if they would approve a Variance to allow the elimination of the 4' buffer, to gain a full 20' wide driveway and providing an acceptable turning radius. Member Fernandez would agree, as this buffer abuts the parking lot and it's a non-issue for him. Mr. Asdourian suggested the type of block that grass grows through. Steve Corbett, owner and petitioner addressed the Board. He highlighted the key elements of this new proposal. After receiving criticism of the previous plan, he took immediate steps in hiring a new architect, starting from scratch and ending with a entirely new design. He has incorporated all of the suggestions the Board made and he is comfortable that it is a much

better plan. He then detailed the comments from the previous plan – need substantial and extreme relief from the Zoning Ordinance. On the contrary, this design needs two variance(s); one the lot frontage, which is not going to change; second, if the Board does not agree with the SPF, is one side yard at 14.3', where the present house now sits. He states that the neighborhood supports this plan, as he has personally spoken with each of the neighbors. He next addressed density. The density of this project is less than what is permitted in the zone and less than the existing abutting neighbors on Gilkey Court. With the relocation of the driveway to the opposite side, there is no conflict with walkways and driveway. In closing, the existing building should be condemned and the relief requested in this new proposal will in no way set a bad precedent for future projects.

Boardmembers concur that this is a significant improvement over the first design. Member Elliott thinks it fits more with the topography and the unique shape of the site, in favor of removing the 4' buffer and the side yard variance request. Chairman Vlachos is in support of the project and in support of the Variance to eliminate the 4' driveway buffer. Member Bailey also supports it. Member Fernandez thinks Unit 1 is a 5-bedroom unit – recreation and study could be bedrooms. He questions the need to have Unit 1 40% larger than the other two units. He believes that eventually the guest parking will be the parking for Unit 1, given the size of it. The existing house is non-conforming, however, once it is torn down, the non-conformities are gone. Thereby eliminating any "extension of pre-existing structure." The variance for the westerly side yard is inappropriate due to the abutting property is 5' from the property line and between two 30' walls is much smaller than shown. Alternate Member Moynihan supports the project and its an appropriate development for the zoning district, it's a transition from apartment buildings to four-family to two-families. Sufficient evidence has been presented to support the unique character, its size, location to the street, and the existing frontage to grant the requested relief.

Ms. Elliot motioned to grant the Special Permit in accordance with section 5.01.1.1(h). Mr. Moynihan seconded. 4-1, Granted, Mr. Fernandez voted against. Mr. Fernandez later clarified that he did not mean to vote against the townhouse use. The board took a corrected vote. All in favor? 5-0, Granted.

Attorney Leitner requested the board vote on the Variance before the special Permit Finding. Ms. Elliott motioned to grant the Variance for the side yard setback with 14.3', where 20' is required based on the finding that it meets the criteria set out in the ordinance. Mr. Bailey seconded. All in favor? 4-1, Granted. Mr. Fernandez voted against.

Ms. Elliott motioned to grant a Variance for frontage at 79.6', where 100' is required. Mr. Bailey seconded. All in favor? 5-0, Granted.

Ms. Elliott motioned to grant a Variance under 6.02(j), to eliminate the 4' side yard buffer (Chair Vlachos added: "and the unique case of parking lots in close proximity to the property and to create a safer turning radius – adjacent to the driveway on the east side." Mr. Bailey seconded. 5-0, Granted. Ms. Scott added that the vote will be with conditions to comply with the Department of Public Works requirements for drainage, etc.

Ms. Elliott motioned to grant a withdrawal with prejudice the request for Special Permit Finding. Mr. Moynihan seconded. All in favor? 5-0, Granted withdrawal.

Attorney Leitner requested to withdraw with prejudice, from their prior October request, the Variance request for the rear yard setback and the easterly side yard setback of 9'.

Ms. Elliott motioned to so grant. Mr. Bailey seconded. All in favor? 5-0, Granted withdrawal.

Ms. Scott clarified that the last two motions were for previous requests that were still considered open even though a new request has been recognized.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

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Member Santucci arrived at 8:05 p.m. and will vote on the next two cases. Mr. Moynihan will continue as an alternate.

Tape 1 of 2, Side B, continued

Legal Notice:

Timothy Shannon, Trustee, Arsenal Way Trust, 126 Summer Street, Watertown, MA, herein requests the Board of Appeals to grant an **Amendment to Special Permit and Variance #03-32 & ASP & AV amended #05-37**, in accordance with §5.01.3(d), originally granted September 5, 2003 and amended November 30, 2005, for storage of 95 new and used vehicles. Petitioner seeks to allow vehicle leasing operation for 15 vehicles, reducing the storage of new and used vehicles to 80 at **Arsenal Street – Lot 1038 (a/k/a Rear 204 Arsenal Street)**, located in the I-3 (Industrial) Zoning District. Together with Companion Petition Below:

Attorney Ken Leitner, representing the owner, Timothy Shannon, indicated that Mr. Shannon has removed the landscaper and his trucks and installed a berm and more landscaping on the access driveway in accordance with the control plans. Pictures of the site were given to the Board verifying compliance. The landscaper has been removed along with his vehicles. The Board finds that the condition cited in the previous approval will remain. James Cubata, of Fuller Enterprises explained that they are looking to relocate their rental business from North Beacon Street and will be leasing 400 sf of office space in the building at 202-204 Arsenal Street, which immediately abuts the Petitioner's lot.

The Petitioner wishes to amend its prior Special Permit to allow 15 of the 94 storage of new/used vehicles for rental vehicles and to operate the office from 204 Arsenal Street. Mr. Cubata stated that there will be two full time employees, who drive rental vehicles, therefore eliminating parking spaces for their private vehicles. The Board finds that the storage site is an appropriate location for such a rental use since the existing lot is now being utilized for storage of Peter Fuller's vehicles.

The rental business will have sporadic activity as opposed to the storage lot. Customers of the rental business are generally

dropped off, where they would do the paper work at the office and proceeds to the designated spots on the lot to retrieve the

vehicle. The surrounding neighbors consist of a commercial block adjacent the driveway entrance and residents across the

street. Hours of operation of the rental business will be Monday – Friday 7:30 am to 6:30 pm, with Saturday hours 8:00 am to

5 pm. The office will be closed on Sunday. The use as developed will not adversely affect the neighborhood

This storage lot where the rental vehicles will be stored, is naturally screened by the commercial building at 202-204 Arsenal Street. There is a substantial change in elevation from Arsenal Street to this rear parking lot site and is sheltered from public view as a result. This lot is accessed by a 50' easement, with an existing 28'-wide driveway which

provides access to this area and the Open Air Parking lot via Arsenal Street. The driveway exiting is signed with "no left hand turn" and "keep right" as conditioned previously by this Board. There will be no nuisance or serious hazard to vehicles or pedestrians. The storage lot together with the office space located at 204 Arsenal Street is an appropriate fit since it abuts this already striped parking storage lot which is associated with Peter Fuller dealership. The site presently is approved for storage/parking of 95 new/used cars in conjunction with his dealership located on North Beacon Street. 15 spaces of the 95 will be converted to the rental vehicles and is designated from the fence at space #63 westerly to Space #49.

The Petition to AMEND SPECIAL PERMIT is **GRANTED** by a unanimous vote (5-0) of the Board of Appeals.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

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Tape 2 of 2, Side A

Legal Notice:

James Cubata, Clerk, Fuller Enterprises, 115 North Beacon Street, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit** in accordance with §5.01.3 (d) to allow office for vehicle rental operation at **204 Arsenal Street**, located in the I-3 (Industrial) Zoning District.

The building in which Fuller Enterprises intends to occupy is owned by Carmen D'Aurira. The building has two commercial

uses, one will serve as an office for the Fuller Rental, which is now located at the corner of Irving Street and North Beacon

Street. The building fronts the large open storage lot in which Peter Fuller leases for storage of new vehicles. Rental vehicles

will be parked in the rear lot as well as the employee vehicles. There is an Enterprise/Jiffy Lube office within a half mile of the

proposed rental office. The specific site for the office use is an appropriate location for a vehicle rental business.

The site of the proposed rental office use is within an existing commercial structure, of which 400 sf is to be occupied

by the petitioner. James Cubata, for Fuller Enterprises stated that there will be two employees, who drive rental

vehicles and they would park in the rear storage lot. The office hours will be Monday – Friday 7:30 am to 6:30 pm,

with Saturday hours 8:00 am to 5 pm. The office will be closed on Sunday. No exterior modifications, except

signage, to the existing structure have been proposed. The rental office use as conditioned by this Board will not

adversely affect the neighborhood

The adjacent parking lot in the rear, where the rental vehicles will be stored, is naturally screened by this commercial building together with a substantial change in elevation from Arsenal Street to this rear parking lot site and is sheltered from public view as a result. There is an existing 28'-wide driveway easement that provides access to this area via Arsenal Street immediately adjacent this building. There will be no nuisance or serious hazard to vehicles or pedestrians.

The commercial building is an appropriate site since it abuts the already striped parking lot associated with the

proposed car rental office use. Fuller Enterprises is also the leaseholder for the approved storage/parking of new

cars in conjunction with his dealership located on North Beacon Street. Parking of 15 vehicles will be permitted and is

designated from the fence at space #63 westerly to Space #49. Adequate and appropriate facilities will be provided

for the proper operation of the proposed use.

The Petition for SPECIAL PERMIT is **GRANTED** by a unanimous (5-0) vote of the Board of Appeals.

Mr. Moynihan motioned to adjourn at 9:20p.m. Ms. Elliott seconded. All in favor, 5-0, Adjourned.