

## MINUTES

On Wednesday evening, **May 30, 2007** at 6:15 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 and Acting Clerk*; **Louise Civetti**, *Clerk*. *Absent: Melissa M. Santucci, Clerk; Nancy Scott, Zoning Enforcement Officer.*

Tape 1 of 1, Side A

Chairman Vlachos opened the meeting and the board voted to go into Executive Session. At 7:05 p.m., the board resumed the open session:

The Board voted to approve the minutes of the January 31, 2007, February 28, 2007, March 28, 2007 and April 25, 2007

The Legal Notice was read for the first pending case:

Paul Kelly, 39 Warren 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, Zoning Ordinance, so as to raze 8'x19' one-story rear enclosed room and construct two-story 12'x 21' addition with full basement, maintaining non-conforming northeasterly side setback at 5.6' – 5.8' where 12' is required at **39 Warren Street**, located in the T (Two-Family) Zoning District.

Paul Kelly stated that the Planning Board had requested that he update his plans. He explained the proposed two story addition maintaining the side yard setback of 5.6'-5.8'.

Ms. Civetti stated that the petitioners' architect was not able to complete the formal plans by this evening. The board can condition the Petitioner to provide the plans or they can

continue the meeting until the formal plans are submitted. The current plans are not acceptable to the Inspector of Buildings.

Mr. Fernandez said the plans lack any type of signature and is not a legal record to pull a permit.

Mr. Kelly stated that Wayne Pelletier, Architect would help him draw up the formal plans. Should he request a continuance and whom does he need a legal signature from. Mr. Vlachos said the architect would stamp them. Mr. Fernandez explained that the person that stamps the documents is stating that the dimensions are correct. They do not have to be formal documents but they should be stamped and signed.

Mr. Kelly added that he has two kids in middle school and they need more room. Mr. Fernandez asked about the foundation of the existing addition. Mr. Kelly said that it sits on a few pillars and the cold air blows right through the floor.

Mr. Fernandez said that he could move the room towards the eastern property line to meet the requirements of the setbacks for zoning. Mr. Kelly stated that they want a continuous wall on the northerly side and the southerly side has existing stairs that he doesn't want to change due to the driveway.

Mr. Fernandez said that they are only talking about a foot and the stairs can be moved a foot without being in the way of the driveway. He suggests a 10' setback with the two-story addition on the western side by not aligning along the existing plane and he is not losing a great deal of space and ends up with generous dimensions. Mr. Kelly wants to maintain his dining room with one continuous wall inside the house.

Mr. Fernandez said the opening would be 7' on the interior and it can be less and still get the continuous space. He is qualifying his reading of the plans and finds it difficult that he must align the new addition wall to the existing western edge of the house to achieve all they want to achieve. His concern is the 5.8' setback on a one story

condition and it is not a small change when it becomes a two-story condition when you add a two-story addition along that plane. He suggests that when he meets with his architect that the minor dimensional modifications (could be met for the zoning regulations).

Ms. Civetti asked Mr. Vlachos about the prior discussion that the board had regarding volume and one-story vs. two-stories – the petitioner is requesting a special permit finding and setback regulations are the same whether it is one story or two stories.

Mr. Vlachos asked that the board save this until the architect be here next month.

Mr. Moynihan motioned to continue the case until the next scheduled meeting. Ms. Elliott seconded. 5-0

Case continued to the July agenda.



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 1, Side A, Continued

Legal Notice:

Efstratios and Rena Lithotomos, 26 Channing Road, Watertown, MA, herein request the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Maximum Height, Zoning Ordinance, so as to construct a 8'x12', gable dormer on the northerly side maintaining non-conforming 32' height and setback 8.1' from northerly side yard lot line, while non-conforming house is 7.1' and where 10' is required at **24-26 Gertrude Street**, located in the T (Two-Family) Zoning District.

Efstratio Lithotomos presented his petition as stated above. He requests the board grant his finding in accordance with Section 4.06(a).

Mr. Fernandez asked if this space is intended to be used as storage, why provide a bathroom. Mr. Lithotomos said they will use the space for storage and with two children, they sometimes need to have a second bathroom. Mr. Fernandez asked if he determined if this was within the allowable ½ story requirements of zoning. Mr. Lithotomos said his contractor did determine that and he does have the paperwork to support that – but not with him tonight. Mr. Fernandez said he doesn't think this will be storage because of how they'll be using the attic space and he wants to see the contractor's plans. Mr. Lithotomos said the intended use is for storage but later on, he doesn't know what they will do. Mr. Fernandez said if they put in a bathroom, it will become a bedroom.

Mr. Vlachos asked if Mr. Fernandez wants to continue this case subject to the attic space plans. Mr. Fernandez said they can condition the petition.

No one spoke from the audience.

Mr. Vlachos stated the Planning Board and the Staff both gave approval of the special permit finding without any special conditions; however as Mr. Fernandez said earlier, it would be a good idea to have proof. Ms. Civetti stated that there is a sheet in the Petitioner's file with the calculations of the ½ story on it – the case would not have gone forward without a variance if it did not meet the ½ story requirements. The calculations were found and confirmed by Nancy Scott to be 619 square feet for the area being used for storage or livable space and the actual 49.9% is equal to 642 square feet. Mr. Fernandez said the condition would have to be that the clear dimension is 12' width as the plans do not show the 12' width and then to strike the 14' dimension on A1 plan.

Mr. Fernandez motions to add a condition for a special permit finding that the width clear is not to exceed 12' so the requirement for attic space is not to exceed 50%. Ms. Elliott seconded. 5-0.

Mr. Vlachos clarified that the motion is to approve the special permit finding with the condition that the width is 12' clear. The motion was seconded. All those in favor? 5-0

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 1, Side A, Continued

Legal Notice:

Tara Ripley, 125 Evans Street, Watertown, MA herein requests the Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard and Front Yard Setbacks, Zoning Ordinance, so as to raze roof and second floor 28'x24' and roof of one-story 12'x 28' rear addition and construct new second floor 28'10.5"x 36', with ½ story, maintaining non-conforming front yard setback at 17'6", where 25' is required and non-conforming northeasterly side yard setback at 9', where 12' is required at 125 Evans Street, located in the S-6 (Single Family) Zoning District.

Tara Ripley explained her request for the special permit finding on her recently purchased home. She said the property is non-conforming to lot area and frontage – 4500 sf as opposed to 6000 required. The front setback is 17'6" as opposed to the 25' required and the right setback is 9', where 12' is required. She gave details of the dimensions of the first floor and the double dormer on the second floor with ceiling heights of 6.5'. She wants to raise the roof of the second floor to enlarge it over the first floor addition and correct the ceiling heights. The total building height is 29'6"; they are staying within the existing footprint of the house and maintaining the current setbacks. She added that although Evans Street is located within the S-6 zoning district, the houses on either side of this house are two-family homes and significantly higher than her house. The previous owner was not able to keep up with the house and it fell into disrepair – it is currently an eyesore. She believes the changes will be a positive impact to the neighborhood.

Mr. Vlachos asked if the new information presented to the board tonight is the same as what is in the packets they'd received earlier? Ms. Ripley said that one of the Planning Board members said they liked the draft of what the house looked like from the front and requested the same thing from both sides and the rear and a list of materials – that is what was submitted.

Mr. Vlachos asked who drew the plans as there is not a name on them. Ms. Ripley said it is a contractor that she has hired named Gerard Caruso. She said she listened to the earlier case regarding a signature on the plans - he is a Watertown Firefighter and she can get his signature tomorrow.

No one spoke from the public.

Mr. Vlachos asked if there were any further comments other than having the plans stamped.

Mr. Fernandez asked at what point does this become new construction – the first floor and the second floor are being eliminated and being rebuilt to an entirely different profile. He is concerned that the reading of setbacks as far as volume is concerned is to be addressed. He doesn't read this as continuing an existing condition with minor modifications – the modifications are quite extensive.

Mr. Vlachos read from the statement, 'remove the roof of the second floor together with the roof of the first floor addition, construct a new second floor...'. Mr. Fernandez said they are removing the second floor up and the original Cape is replaced and then the addition to the original Cape is extended to the second floor plus attic.

Mr. Moynihan said that the second floor of the existing condition does not cover the entirety of the first floor of the existing condition. There is a lesser amount being removed and modified than what is staying in the original footprint or structure.

Mr. Fernandez said that the original cape has a taller second floor and attic and on the addition in the rear to the original cape and attic there is a new second floor and attic – that's the addition to the volume. He doesn't see that as minor and it is not extending an existing non-conformity as it is new construction.

Mr. Moynihan said that whether it is minor or not doesn't change the fact that according to the code it is making changes and alterations to existing non-conforming structures. It may be extensive changes but none-the less it is an existing structure. Mr. Fernandez believes that his interpretation is that alterations do not mean 80% by nature a dormer or resizing an exterior deck or a different roof profile to an existing addition, well below 50% and here it is 75% - 80%. The ability to comply with the guidelines is problematic. This is a Cape not a Victorian next door.

Mr. Vlachos stated that he would like to see plans that are more elaborate. Mr. Moynihan said that they are not able to approve this with what they have here. Mr. Vlachos added that given the extent of what is being done.

Mr. Moynihan asked if she was working with an architect and Ms. Riley responded that she is only working with the builder. Mr. Moynihan said that it would be beneficial for the board to see much more detailed plans than what they see. Ms. Riley asked if the board is requesting that she hire an architect. Mr. Fernandez said the builder could issue documents that are scaled and properly laid out so that the information is clear. Ms. Riley said she

believes they are drawn to scale. Mr. Bailey said the drawings do not show the dimensions. Ms. Elliott stated that there are dimensions on the existing first and second floor. Mr. Bailey said the proposed is not there. Ms. Riley said she is not trying to be difficult – she just wants to be sure she has all of the information for the next time. Mr. Moynihan said that there are dimensions for the existing but there are not any dimensions for the proposed. Ms. Riley said she believes they aren't on there because the dimensions are the same as the existing footprint. Mr. Fernandez said in order to pull a permit, the building inspector will want to be sure the bathrooms are large enough by code and not too small – for example. Ms. Riley asked if they require dimensions on all of the rooms. Mr. Fernandez said principally the bathrooms which are new. It would be good to show the depth of the wall construction and not single lines – 5 inches thick or more. When that is all added in, you'll be able to define what the clear dimensions are and the building inspector will want to see that.

Mr. Vlachos asked Ms. Riley if she would like to continue this until next month to have the plans ready then. Ms. Riley said, 'yes'. Mr. Moynihan motioned to continue; Ms. Elliott seconded; 5-0 Granted to continue to June.

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 1, Side A, Continued

Legal Notice:

Julia Yan Hui Li, 12 Irma Avenue, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Building Coverage and a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Rear Yard Setback, Building Coverage, Zoning Ordinance, so as to raze existing 4.1'x16.2' two-story rear porch, and construct a two-story 8'x25.6', rear porch maintaining northerly side yard setback at 3', where 10' is required and increasing non-conforming rear yard setback from 12' to 8.1', where minimum 20' is required and further increasing existing non-conforming building coverage from 39.9% to 43.9%, where 30% maximum is allowed at **10-12 Irma Avenue**, located in the T (Two-Family) Zoning District.

Julia Yan Hui Li said she has been a resident for the last 12 years and she has been working with Nancy and Louise to redesign the porch to enlarge her porch from 4x16 to 6x21.5 instead of 8x25.6' and this will increase the setback from 12' to 10' and increase existing non-conforming building coverage from 39.9% to 21.8% instead of the initial 43.9%.

Mr. Vlachos stated that on the plot plan site detail under the notes that it was depicted as of August 2006. Ms. Li said she has a new one with the current proposal on it that she received this morning. Ms. Li handed the updated plan to the clerk for the record.

After each member looked at the updated plan, Mr. Vlachos asked for any comment from the public. No one spoke from the audience. Mr. Vlachos read from the Staff report recommending that this be approved with conditions based on the fact that it met the criteria of the ordinance. The condition is to have the plot plan revised and that was turned into tonight. The previous Staff reports asked that this be denied based on the prior size of 8'x25.6' to 6'x21.5'. The Planning Board voted unanimously to grant with the condition of the plot plan.

Tape 1 of 1, Side B

The report went through the analysis of the Variance.

Mr. Bailey stated that the width is the same as the house next door and the house has the same lines.

Mr. Moynihan said that unlike other cases, this does have a topographical issue with the lot and it is unique without usable space in the front and the houses are very close together in the rear.

Mr. Moynihan motioned to grant the petition for special permit finding. Ms. Elliott seconded. 5-0

Ms. Civetti noted that they will eliminate condition #6 and the SPF meets the criteria set out in the ordinance.

Mr. Moynihan motioned to grant the petition for Variance based on the findings as articulated by the planning staff and the topography is unique and literal enforcement would not derogate from the intentions of the ordinance and there is not a substantial detriment to the public good by allowing this relief and literal enforcement would create a hardship for the petitioner and there is very little usable space. Mr. Vlachos added that the condition regarding the plot plan is to be eliminated. Ms. Elliott seconded. 5-0 Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

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Tape 1 of 1, Side B, Continued

Mr. Vlachos announced the next case is for 52-54 Putnam Street, Jean Soghomonian and asked the clerk to update the board. Ms. Civetti said the board requested that Mr. Soghomonian remove all of the crushed stone that had been placed around his property and as witnessed this evening, that has been done. They are now back to the original petition for a variance for one parking space.

Mr. Soghomonian said that underneath the rear porches he is having a carpenter come in and close it to make it look much better.

Mr. Vlachos said the original request is to have a parking space on the left side without the 4' landscape buffer. He asked Mr. Soghomonian if he plans on using this one space only in the winter months. Mr. Soghomonian said he will park his car on the street in the other months and his wife parks her car in the existing driveway.

Mr. Vlachos said that it is unfortunate that Ms. Scott is out as he would like to have had her input before we went through this analysis.

Mr. Moynihan asked if there were any plans to use the parking during the summer months. Mr. Soghomonian said no, they do not need it.

Mr. Vlachos said if they go through a variance analysis, they come up short.

Mr. Fernandez asked to see the plot plan. Mr. Soghomonian said he put flowers around the backside.

Ms. Civetti said that Ms. Scott had mentioned the use of two rows of pavers for the tires as opposed to paving the space. Ms. Elliott agreed and added 12" in width. Ms. Civetti said the condition was to remove all of the crushed stone. Ms. Elliott asked if the curbing was going to be removed or use the existing curb line of the street. Mr. Soghomonian said the curbing is rounded almost flat. Ms. Elliott said it is a Cape Cod bituminous berm.

Mr. Moynihan asked if they considered the two lines of pavers or something for the tires to rest on, would that require a variance in the same way as a driveway would. Ms. Civetti said she could not answer that question but if they are allowing parking, it would be considered a parking space (and that would require a variance) and a determination by Nancy Scott.

Mr. Vlachos would request input from the Zoning Officer prior to making a decision on this case. Mr. Moynihan said they are seeking a variance for the parking space and there is a high burden to meet the criteria of a hardship and he does not feel he has met the burden.

Mr. Soghomonian said he would take photos for Mrs. Scott, if the board would like.

Mr. Vlachos said the plot plan is almost 6 years old and it looks like a copy. Mr. Soghomonian said the prior owner of the house used to park like this.

Mr. Vlachos said again that he would like to hear from the Zoning Enforcement Officer. Mr. Moynihan agreed and wonders if there is another analysis that could be undertaken other than a variance for seasonal parking and minimal coverage – to get out of the variance analysis.

Mr. Vlachos asked when Ms. Scott may be available for comment. Ms. Civetti said as soon as she receives a copy of this meeting. Mr. Moynihan asked if Mr. Soghomonian would mind coming back one more time. Mr. Soghomonian said he will come.

Mr. Vlachos explained that it is difficult to grant the relief based the criteria they are required. He wants to find out if there is something more favorable. Mr. Fernandez agreed.

Mr. Vlachos added that there was an enforcement issue on this from way back and he'd like to hear the resolution of that.

Ms. Civetti will update the extension agreement for Mr. Soghomonian. Mr. Soghomonian agrees to request the continuance for the next month.

Mr. Moynihan motioned to continue. Ms. Elliott seconded. 5-0

Mr. Soghomonian will bring Polaroid photos.



Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

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Tape 1 of 1, Side B, Continued

Other Business:

Legal Notice:

Empire Management Corporation, 171 Great Road, Acton, MA, for Lawrence M. Gordon, Colonial Chrysler Jeep, Inc., herein requests the Board of Appeals grant an **Amendment to Special Permit Finding #99-50**, granted 10/27/99, in accordance §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Open Space, Zoning Ordinance; **Special Permits** in accordance with §9.12, Multiple Buildings on One Lot; §5.05(d), Elimination of Side Yard Setbacks Between Buildings, so as to permit alterations of the front façade, expanding 3' deep x 15'4" wide and side service entrance façade; eliminate 9 employee parking spaces and construct a 6-bay service garage structure, 75'x26', 16'8" high located on the southerly side of the existing dealership building, 1.6' from westerly side lot line and 8.3' southerly side yard setbacks, where 25' is required for the property at **66 Galen Street**, located in the I-2 (Industrial), LB (Limited Business) and RO (Revitalization Overlay) Zoning Districts.

Mr. Vlachos asked if the petitioner was advised that they would be on the agenda this evening and they have not responded. They are not here to present their case with multiple contacts without response. This would be a denial based on failure to prosecute.

Mr. Moynihan motioned to deny the petition for amended special permit finding #99-50 for failure to prosecute. Ms. Elliott seconded. 5-0 DENIED.

Mr. Moynihan motioned to deny the petition for special permits as outlined in the request. Ms. Elliott seconded. 5-0 DENIED.

Mr. Moynihan motioned to adjourn. Ms. Elliott seconded. 5-0 The meeting ended at 8:15 p.m.