



**TOWN OF WATERTOWN**  
**Zoning Board of Appeals**  
Administration Building  
149 Main Street  
WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci Rozzi, Chairperson  
David Ferris, Clerk  
Christopher H. Heep, Member  
John G. Gannon, Member  
Kelly Donato, Member  
Neeraj Chander, Member

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Louise Civetti, Clerk to the ZBA

MINUTES

On Wednesday evening, **November 19, 2014** 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, *Chair*; David Ferris, *Clerk*; Christopher Heep, *Member*; John G. Gannon, *Member*; Kelly Donato, *Member*; Neeraj Chander, *Alternate Member*. Also Present: Steve Magoon, Director CD&P; Mike Mena, Zoning Officer, Andrea Adams, Sr. Planner, Louise Civetti, *Clerk to the ZBA*.

Chair Santucci Rozzi opened the meeting, introduced the board and staff, noting Alternate Member Chander would be participating in all of the discussions; however, will not be voting. She tabled the minutes to next month and swore in the audience.

Member Ferris read the legal notice:

“28 Fayette Street, Junming Gao, 2 Nicholas Terrace, Chelmsford, MA 01824, herein requests the Zoning Board of Appeals grant a **Special Permit** in accordance with Watertown Zoning Ordinance §5.04, Table of Dimensional Regulations, FAR, so as to raze and rebuild a portion of existing two-family structure creating a FAR of 0.59, where 0.50 – 0.60 is allowed by Special Permit. T (Two-Family) Zoning District. ZBA-2014-28”

Junming Gao owner of the two-family stated one side is one-story and the other side is two-story. The one-story side is run down and he plans to tear it down and make it a similar two-story structure as the other side and it will be a balanced two-family.

Bill Russo, 24-26 Fayette Street, asked how the petitioner is going to address the driveway next to his house as there is a 4' elevation difference between the street and the entrance to his porch for the door to his house.

Fe bon Chang, Contractor stated that the new driveway will have a retaining wall about 4-5' with a slight slope from the street to the back side of the building. They will ask the engineer to come up with a retaining wall.

Member Ferris said that the grade elevates about 3' and he noticed that his structure is very close to the property line. He wants to know how the grade will be manipulated and not affect this neighbors' foundation.

Mr. Chan stated that they will be 3-4' away from the structure so it will not impact the structure. However, he said the engineer will have a better idea. He said the retaining wall will be about 1' high to about 3' and 20' in length.

Member Ferris stated that 13' width for a driveway with a retaining wall makes him question if someone will be able to open a car door.

Mr. Russo asked the board to make their decision a condition, if there is to be a retaining wall maintained.

Dennis Duff, 33 Spruce Street asked if the 4' buffer is in play between the proposed driveway and the neighbors' property line? Someone replied that there is a 4' buffer.

No further questions were asked from the audience.

Member Gannon stated that a correspondence received this evening states that the house was built in 1900. He said building permits were not issued until 1900; therefore, any older house has a listing of 1900 although the house was probably built before then.

Member Heep stated that the application states this is a two-family house; however, the floor plan doesn't look like a two-family as there is no separation between the units.

Mr. Gao said the one-floor unit has a separate kitchen with bedroom and the other unit has the kitchen upstairs and bath with 4 bedrooms and a living room.

Member Heep said the floor plans for the new construction on the Church Street side show that it is 25' long on the first floor and 30' long on the second floor.

Mr. Chan said the existing is a Cape-house and the first floor is poking into the second unit on the first floor so they are using some of the first floor and the second floor will encroach on the first floor unit on the second floor. It is about a 2-3' difference. The existing left side elevation will show the difference. He said it exists with 4' into the single story unit. They square it off in the proposed plans. Part of the first floor is the second unit.

Mr. Heep said on plan A-5 elevation, it appears to be a clean line between the units and even on the first and second floors. He asked if what is shown on the floor plan reflected on the A-5 plan. Mr. Ferris agreed.

Mr. Chan said he believes it is the siding that isn't shown at the corner. Right now there isn't siding. The new one has the siding straight down and the interior has it poking into it by 2'.

Mr. Heep said he has concerns with the grade of the driveway. If they are looking to convert to a larger two-family which includes a new driveway with a retaining wall very close to the neighbors foundation, he would want to see the plan for the retaining wall shown and the landscaping to buffer that driveway from that neighbor. He is concerned with the density of the proposal, in general and he wants to see what they are proposing to do to mitigate the increased density from the neighbors. It is hard for him to see how they are going to enter the house from the driveway as the grade will be so much lower.

Mr. Chan said there will be 3-4 steps to enter the house at the end of the driveway.

Member Ferris said he agrees with the concerns regarding the drawings as the elevations do not match the floor plans and

As an example, drawing A5, elevation 2, shows it to be closer to the street and the way it is drawn shows the roofline forward. The plans are drawn showing the lower floor at 25 and the upper floor at 30. The plans are not coordinated with the elevations. It needs to be readdressed and further thought out. Mr. Ferris advised Mr. Gao on how to look at the roof and the way they are drawn. He then said the historic elements of the house have corner boards that are wrapped in vinyl that are 12-14" wide and they are not reflected in the elevations – are they going to be capped or modified?

Mr. Chan said they are going to replace the complete siding.

Mr. Ferris said the first floor and the second floor windows are not lined up. Mr. Chan said the new portion will have new windows. Mr. Ferris said what is drawn is not scaled to what exists. He added that drawing A1 should probably have the roofline aligned with the existing instead of having it forward of the existing.

Mr. Ferris also is concerned with the grade of the driveway and the impact to the neighbors foundation. He added whether or not someone could get out of their car between the house and the wall.

Member Donato asked what the proposed landscape buffer would look like for the existing driveway.

Mr. Chan said there is not any room between the existing driveway and the neighbor.

Member Donato asked what they plan to use for the proposed driveway. Mr. Chan said stone, gravel, or lawn. They do not have an idea for the landscaping yet. They will bring a landscaping plan with the retaining wall – they are open to suggestion.

Chair Santucci Rozzi said the doorways on the floor plans do not match the doorways on the elevation – plan A1 has one door on church and one on Fayette and two on the left side with the porch. The elevations proposed front does not show a door; and she said there is only one door on one of the units will not be approved. She said there is an opportunity to introduce a second means of egress on the front elevation.

Mr. Chan said there is not a door there and there is a door to the basement. That side is plain. They do not want to touch that side of the house.

Mr. Mena said under today's code a two-family would require a front and second egress. He believes that this is grandfathered in as it is not being touched. Member Gannon said that Public Safety is not grandfathered in. Modern standards would apply for a historical building.

Ms. Santucci Rozzi said there are clearly two separate units and they each should have curb appeal and street presence on that unit is unknown. She added that a door is missing on the left elevation, the back door for the second unit. She added that the driveway depth is not deep enough as 18' lengths are required for each car.

Ms. Santucci Rozzi said they need to look at the driveways, the landscape buffers should not have stone, pavers or other hard material – they want to see grass and perhaps bushes, a true buffer. She said they need to look at the consistency of the drawings and the depth of the driveways.

Member Gannon added that they need to address the second means of egress.

Member Ferris responded to the request by Chair Santucci Rozzi to add something to the Fayette street 'plain' side could be that the basement access rail needs to be repaired and addressed and a front door could also be added to the Church Street side and it would appear as two townhouses.

Member Gannon motioned to continue the case.

Mr. Russo stated that if the driveway is going to be extended along his side, his foundation steps up – it is only 4' below frost; however, if he excavates the whole area, 30 – 40' in, that could create a frost issue on his foundation as there will only be 4' between that and his foundation. He suggests using some type of engineering to resolve that – insulation so that the front wont penetrate and damage his house.

Member Ferris said it would be helpful to have a site plan with grading (topography) so they are all aware. He assumes it will not all be excavated level - it needs to be calculated and drawn so they understand. The drawing needs to be stamped by a PE – a civil engineer needs to come out to the site to see the house next door.

Chair Santucci Rozzi reiterated that there has been a motion to continue to December and asked for a second. Member Heep seconded. Voted 5-0 to allow the petition continue.



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Chair Santucci Rozzi stated the next order of business is 'Other Business' and Mr. Barden is back from The Growth Companies to address 1-3 Mt. Auburn Street and she noted the board received supplemental material. She reiterated that the board gave permission last month to rework the ramp

off of Mt. Auburn Street and to reconfigure some of the parking now they are back to talk about the trees.

Mr. Barden said he was not feeling well, therefore, Paul Finger, his landscape architect will speak for him. Mr. Barden added that they have pulled a building permit for the ramp and that work has commenced.

Mr. Finger gave some background on himself and his practice and stated he is very familiar with street trees and urban 'fabric'. He said the material submitted to the board is regarding the trees that are existing at 1-3 Mt. Auburn Street. They are pear trees. They were very popular when they were cultivated and now they are becoming an invasive species – like the burning bush. He said this pear is not a shade tree and is an ornamental tree with a shorter life span than a shade tree. The lifespan is coming to an end; it is a weak tree as it does not have a single leader, it has several branches that come out and are susceptible to snow and wind and there is a 'crack' beginning to develop in one of the trunks. Mr. Finger continued to explain that they plan to replace the ornamental tree with a shade tree and the specific type that he would recommend.

Member Ferris asked if they are considering the Ginkgo so that the signs could be seen through it. Mr. Finger said this type of tree has one leader. A sycamore or other tree may grow high enough to have branching 10-12' up in the air and the canopy would be above the signage. There was a lot of discussion on Ginkgo's appeal.

Member Heep found his information helpful; however, the discussion on pear trees in general is not specific to these two pear trees. These are healthy trees. He has not gotten to the point of supporting the removal of these two trees. They are a great amenity to this development and the community.

Mr. Finger distributed photos of where the tree is starting to 'check' at the crotch of the tree. If that section is lost, the tree will lose ½ a tree. He does not think the tree will fail tomorrow and does not believe it will fail in 10 years. He wants to plant for the future – 30 years out. There is a better species to be planted. This is the time where these trees are getting to their maximum age. He then stated that if the town does not want to remove any trees under any circumstances, then he cannot debate that. He can only advise the board.

Member Heep explained that his comments are not to preserve all trees – the board is required to consider the site plan review portion of the decision and the landscaping on these sites with commercial use, are to make the sites more attractive today and in the future.

Mr. Finger said they would be purchasing trees from a nursery that provide trees that can be placed next to a roadway with a tall canopy. It will cost more to the client; however, they will be able to plant below the tree with flowers and shrubs, attractive to pedestrians.

Mr. Bardon said their site has more landscaping than sites next to them. They will replace these trees with large caliper trees. They are struggling there and they are not short-changing the town.

Member Gannon said he spoke of the economic needs of the town and greenspace. Is it the goal of Watertown Square to be green space and block signage with trees or is it to get people to come out of their cars and frequent. The trees may be preventing possible tenants from wanting to rent in these spaces.

Chair Santucci Rozzi asked about the height of the existing trees – which are about 25'. She is trying to visualize the new trees being planted. She then said they proposed 4-5' caliper and they are not saying 5-6' caliper trees would be planted. She likes the suggestion of landscaping the beds. If the trees are the same height as the existing at 5-6" caliper and planting at the base, she'd could support that – although she can see the signs in the background now. She stated that having trees planted with a high trunk would need to have plantings below it. She said they need a vote of 4 to pass.

Dennis Duff, 33 Spruce Street said a study was done by the American Society of Landscape Architects did a survey on signage in urban areas which states that a driver can only comprehend 20% of the signage. So, not everyone will see what their sign is. He said to consider the size of the tree they plan to plant will have a root ball that will not be able to be planted around. There is no guarantee that a new tree will survive. The existing condition is that these trees have done remarkably well. His pet peeve is that we are Tree City USA, we have healthy trees in a tough urban environment – if these trees are removed, there is no guarantee that another tree will survive. He spent his life promoting trees.

Cecilia Lenk, Councilor District B, feels that these trees should not go. She was there when this was developed and these pear trees do not have a problem. They can do better landscaping. Keep these trees and if they succumb to an ice storm, etc. in the next 5-10 years, they then replace. She would like to see a thoughtful response to this if there is to be replacement trees as the Ginko's in Watertown have not done very well. She does not think a Ginko or Sycamore is a good choice here. These trees deserve to stay and are not in the way at the moment.

Ani Clark, 10 Hall Avenue, VP of Trees for Watertown, said it is hard to grow urban street trees. Most of the time big trees do not do well in a location where a tree already existed. Keep these trees.

Mr. Finger said they can put a warrantee on any planted tree. There is a specialty nursery that propagates large trees. Trees Now is one of the nurseries and Select Horticulture in Leominster is the buyer.

Member Ferris asked about the signage at the corner which has two faces. He wondered if the signs could be at a lower elevation. Mr. Mena said as long as the signs meet the size regulations, they can be placed up high or down low (on the elevation).

Member Ferris motioned to deny the application to remove the existing trees. Mr. Heep seconded. Members Ferris, Heep and Donato voted in favor. Members Santucci Rozzi and Gannon voted against. The board voted 3-2.

Ms. Civetti explained that in order for a vote to pass, there needs to be 4 votes in favor. A 3-2 vote is still a denial. The request to remove the trees is denied.

Mr. Bardon asked what the appeal process is. Chair Santucci Rozzi said there is nothing to appeal as this was not a hearing, it was a modification.



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Chair Santucci Rozzi announced the last item on the agenda is under **Other Business** and is a 'Show Cause' for Clyde Younger. She asked Mr. Younger if there is a plot plan for this property. The board has a drawing without stamps.

Mr. Younger said it was surveyed before and he is trying to get it surveyed again. Bibbo Brothers came out.

Mr. Mena said he copied the board on a portion of the drawings from the 1998 approval. It is not stamped but is the site plan for the 1998 approval.

Mr. Younger said he assumes that he is before the board to prove that he is not derelict in his responsibility to follow-up. Mr. Mena and he made the measurements and he has attempted to have the property surveyed again; however the company could not find their markings when they came back out. They did a marking of the entire block. Even surveys are imprecise science. The question raised to him is, 'What is the width of a property line?'. Mr. Magoon replied that there is no width...

Mr. Younger asked the board to amend the special permit which allows for 10 cars to reduce it to 8 cars – 2 in the garage, 2 stacked parking areas, approved previously. That would allow him not to have to have Bibbo Brothers come out again for the survey. He was approved by this board for stacked parking in the driveway. Since the stacked parking is approved, remove the 2 parking areas in question – along the property line. The abutter will not have any issue with the property line.

Chair Santucci Rozzi said the survey would show them the exact measurements for the parking. If he would like the number of cars reduced, it would have to be by him requesting to amend the special permit. That cannot take place in this forum, as it has not been advertised, etc. None of the members on the board today were on the board then. However, exiting through the 10' width was probably a reason for the approval. Now that exit is blocked and having 8 stacked autos is a different scenario than what is shown.

Mr. Younger said a site plan in 1980 was stamped by a professional land surveyor, John J. Russell should be in their possession. (The board did not have that). Mr. Younger gave the copy with the measurements to the board.

Chair said mortgage surveys are the most unreliable as they are based on Assessor's information.

Mr. Younger said Bibbo Brothers can come out to do the survey and he will reduce the autos from 10 to 8.

Chair Santucci Rozzi said stacked parking is not allowed today and this could be protected except when you change it.

Mr. Magoon said that Staff tried to work with the property owner to file a petition for this purpose. The parking spaces depicted on the approved plan do not currently exist. He encouraged the property owner to present an application. They would hold the show cause order in conveyance until the application could be resolved. Member Gannon said he would be in support of that action.

Mr. Younger asked if the measurements that they did together support 8 parking spaces or not. Mr. Magoon said he does not know as there is not a survey. Mr. Mena said they measured from the property line to the garage, which would eliminate those two parking spaces. He did not do an analysis of the rest of the property to determine if 8 cars could park on the site. He said the 8 cars shown on the plan (minus the two by the garage) he does not know if they would be able to maneuver around the site to get in and out with the difference in the property line. Mr. Magoon further clarified that the distance between the garage and the property line is one issue and the rest of the parking will be determined by the survey. He hopes to come to a solution that amends his approval and keeps his existing operation in good stead with the survey.

Mr. Younger said it was there before and must have been lost. He has a problem with when something is approved by the board and then reneged.

Mr. Magoon said they have information that suggests he no longer has the land that supports those 10 parking spaces that were approved.

Mr. Younger said a survey is an imprecise science. He will provide a survey to show at least 8 parking spaces can park on his land.

Mr. Mena added that he does not think the question is whether or not 8 vehicles can park on the site – the question was that the 10 parking spaces were needed to serve the uses at the time – the question is if the parking is reduced from 10 to 8, is that sufficient for the uses on the site when the uses had required 10.

Member Gannon said the merits should not be discussed without notifying abutters as it would violate the open meeting act.

Chair Santucci Rozzi reiterated that they are here for show cause and they can discuss parking. The property owner proposed to get the survey and Mr. Magoon and Mr. Mena can then advise him on whether or not he can move forward with 8 parking spaces vs. 10.

Member Gannon motioned that the board place the show cause in abeyance until Mr. Younger has had a chance to have a survey completed on the property. Member Heep suggested allowing him time to get this done 30, 60, 90 days. Member Gannon does not know the timing of a survey. Chair Santucci Rozzi suggested 90 days. Member Gannon amended his motion to include an end time of 90 days. Member Ferris seconded. Voted 5-0. Continued.

Member Heep motioned to adjourn. Member Gannon seconded. Voted 5-0. The meeting ended at 8:45 p.m.