

MINUTES

On Wednesday evening, June 27, 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*; **Melissa M. Santucci**, *Clerk*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Richard M. Moynihan**, *Alternate Member*, **Louise Civetti**, *Clerk*.

Absent: Carlos Fernandez, Member; Nancy Scott, Zoning Enforcement Officer.

Tape 1 of 1, Side A

Legal Notice:

James A. Otash, 58 Tobey Road, Belmont, MA, herein requests the Board of Appeals to grant a **Variance** in accordance with §6.02(j), Location and Design of Off-Street Parking, Landscape Buffer, Front Setback, Front Yard Parking, Zoning Ordinance, so as to construct one car driveway 9'x21' on southerly side encroaching 1.7' into building front yard and 0' landscape buffer, where 4' is required and front setback at 3', where 5' is required, at **88 Bradford Road** located in the T (Two-Family) Zoning District.

Steve Winnick, Attorney for the Petitioner/Owner, James Otash, explained that Mr. Otash acquired the property in May of 2005 from the family of Christine Jones, who had lived in the property for over 50 years. The two-family was run down and Mr. Otash renovated it with new windows, new roofing and interior updates in both units. A two-family house in Watertown should have 2 parking spaces for each unit to meet the ordinance requirements; however, due to the configuration of the site and the way the house is situated on it, there are only two non-conforming, undersized parking spaces located at the northerly side of the property (at 7.5' wide and smaller towards the rear). There is substantial room in the rear but that land is landlocked. They attempted to make a common driveway with the neighbor on the southerly side and construct parking in the rear but due to the grade difference that was not feasible. This proposal is to construct one parking space on the southerly side, which has been reconfigured from the original size of 11'x21'. The site will still have inadequate parking but it would be better than what is present. Attorney Winnick said that there is a set of steps in the front, which has been traditionally

used for parking, and they would request permission to continue to park there during the winter months, which would allow them four parking spaces when the parking ban is in effect. In order to create the one space, there is a small amount of encroachment into the building front yard and without any of the required 4' buffer and with 3' from the front setback, where 5' is required. The Planning Staff was in favor of the space. The Planning Board asked to move the space further into the front yard to create the 4' landscape buffer but they decided it would not enhance the property. They then recommended to leave the space at the property line and to depress the grade to be even with the driveway next door. They also recommended that the current retaining wall be moved in to accommodate that space and to reduce the size of the space to 9'x18'.

Attorney Winnick explained that the abutter on the southerly side proposed a shared driveway to allow both properties to have parking in the rear. Jerry Eckert, an Architect in Watertown, produced a report, dated May 31, 2007, that attempted to design that but do to the steep grade differential between the two properties it would not be feasible at \$40,000 and could undermine the subject house as it is built on footings without a basement on the southerly side.

Ms. Santucci asked if there will be 9' at the curb or 11'. Mr. Winnick stated that shrinking of the opening would be to 9' as well and upon approval, they will submit updated plans to reflect that.

Mr. Bailey asked if there were cost estimates done. Mr. Otash stated that he was quoted a price of \$6,000. Mr. Winnick said that includes the moving of the retaining wall.

Ms. Elliott asked if they are removing the retaining wall or installing a new retaining wall. Atty. Winnick explained that the wall has to be taken up and built further towards the front yard. It is made out of landscaped timbers/railroad ties, which will be torn out and replaced. Ms. Elliott reiterated that it is going to be a timber retaining wall on two sides of the new driveway – Attorney Winnick corrected her and said it will be just one side. Ms. Elliott asked about the 3' drop. Mr. Bailey added that 9' from the house...Attorney Winnick said they have to make the parking space at grade now to the home adjacent on the southern side, which is 3' below. Attorney Winnick said it would be an "L" shaped wall. Ms. Elliott asked if they will replace the steps to the path leading to the back and Attorney Winnick did not have that detail.

Ms. Elliott asked if the slope would drain to the neighbor's yard. Mr. Otash said the timber wall will be removed and it will be flush to the neighbor's. To keep back the earth, they will place an "L" shaped wall made out of landscaped block. He hadn't thought about stairs but if the board thinks they are required...the driveway will slope towards the street.

Ms. Santucci asked if this would give them four spaces. Attorney Winnick said that the space in the front is ambiguous if it is legal or not – what they are proposing that only in the winter would they park there. In the winter, there would be four spaces and other than that, there would be four. Ms. Elliott stated a car was parked (in the 'winter' space) tonight. Attorney Winnick said the space has been used for decades.

Chair Vlachos said the house is a two-family non-owner occupied and looks like the whole front yard would be used for parking as there isn't any barrier to stop that. Attorney Winnick said there is a little wall in the front that you cannot drive over – it is a foot high. He said they would fence and landscape the area.

Chair Vlachos said the new owner has put a lot of money into it but the back yard grass is a jungle. What kind of a job is going to be done when the house looks like it isn't being maintained. He has reservations about a second driveway. Attorney Winnick said he was waiting for approval because there will be excavation involved. Chair Vlachos said representation has been made about how much money has been put into this house and what the conditions are going to be once they grant approval. He sees the entire front of the house parked with cars. Attorney Winnick said they would put a fence there between the two driveways.

Ms. Santucci asked why the plot plan doesn't show the front yard as being paved. Atty. Winnick said there is existing blacktop that has been redone which runs from the northern boundary over to the area of the front steps and beyond that will be a garden fenced area up to the new driveway.

Chair Vlachos said the plot plan does not accurately show what is there as there is more than of the frontage or more is blacktopped. Winnick said there is an area that is dirt.

Christine Jones said the backyard has not been mowed because the tenants that agreed to take care of the mowing are leaving because they are disappointed that the parking hasn't been resolved. One apartment has been rented already and the tenant's family owns a landscape company and will take care of the property. Chair

Vlachos said he doesn't feel they will have enough time to do the work. Ms. Jones said she would mow the lawn herself even though she no longer owns it as Mr. Otash is her friend. She added that you couldn't get a wheel over the 'lip' in the front of the house. He should be granted as he is trying to do this legally where all other properties are doing it illegally.

Dennis Duff, 33 Spruce Street, said the top of Bradford is tough as #60 and #72 have paved their front yards and parked on it. He said this street reminds him of Charles Street in the 80's which was why it is required to put in a 4' buffer and to change zoning to deny front yard parking. He fears that the rest of Bradford Road will be in here to park on their front yards if this is approved.

The public hearing was closed and Chair Vlachos read from the Staff Report of May 4, 2007 where they recommended that the Variance be granted with conditions. The Planning Board met on June 13th and they voted to grant with conditions – they driveway be 9'x18'; at the same grade level as 86 Bradford Road; and erect a retaining wall along the left hand side of the newly created space. They reported on the architects attempt at a common driveway; Eugene Donovan, 11 Locke Street spoke objecting to less green space;

Chair Vlachos is not in support and does not feel it meets the criteria of a variance in any way. If this were the winter, there would be a lot more cars parked there. He said it is as though they are jamming something into a space that was never meant to be a parking space.

Ms. Santucci agrees and would not support the Variance because of the other space already located within the building front yard. If that weren't there, perhaps it wouldn't appear to have as much asphalt in the front.

Ms. Elliott also does not support the proposal for the same reasons.

Ms. Santucci motioned to deny the variance based on the discussion this evening that it does not meet the requirements set out in the ordinance. Ms. Elliott seconded. 5-0 Denied

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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Absent: Carlos Fernandez, Member; Nancy Scott, Zoning Enforcement Officer.

Tape 1 of 1, Side A

Chair Vlachos announced the next case to be 52-54 Putnam Street, a case for a Variance.

Mr. Jean Sogohomian introduced himself and said he lives at 52-54 Putnam Street.

Chair Vlachos said this case is also a request for variance for a second driveway (just as the case before this had been) and Mr. Sogohomian has been before the board many times due to the property having been covered with crushed stone. The board requested the stone be removed, and it has been. Chair Vlachos asked for the public notice to be read:

Ms. Santucci read the Legal Notice:

Jean Sogohomian, 54 Putnam Street, Watertown, MA, herein requests the Board of Appeals to grant a **Variance** in accordance with §6.02(j), Location & Design of Off-Street Parking, Buffer, to allow 2nd curb cut and driveway 8.5'x 23' on westerly side without the required 4' landscape buffer at **52-54 Putnam Street** located in the T (Two-Family) Zoning District.

Mr. Sogohomian said he works as a maintenance person and he receives calls 24 hours a day. He doesn't want to bother his tenants in the middle of the night and he only wants to park there in the winter.

Mr. Vlachos asked how many times he was called during the night in the last year. Mr. Sogohomian said 2-3 times a week; two buildings; 90 tenants. He has been there 30 years. He doesn't mind working 6-7 days a week. They are good to him and he is good to them.

Mr. Bailey asked how many cars normally park on the left hand side. Mr. Sogohomonian said two, sometimes three.

Mr. Bailey asked if he could put his car in the back each evening. Mr. Sogohomonian said he doesn't know what time he will get home at night or what time the tenants get home.

Mino Sogohomonian, the owner's son stated that the Variance process started about 8 months ago and they wanted to comply with what the Town wanted them to do to make it more appealing to the neighbors. They removed all of the gravel they had placed around the house. Only one neighbor was against them adding a space on the right side and that person is now selling his two-family. Their family has been there for 8 years and in Watertown for 23 years. The parking on the right is more of a convenience to his family and the tenants as his dad is called out at all hours of the night. The space will be tastefully done. The Board has gone by his house to see what has been done with the sod and the improvements to the property.

Chair Vlachos clarified that the removal of the stone was done to bring the property back to what it was and it was not a special request from the board. He then stated that there has to be a particular reason that the board would consider the relief for this driveway as opposed to every other household in Watertown that may request an additional driveway.

Mr. Moynihan explained to the petitioner that the reason the Chairman asks this question is the due to the set of criteria that the board has to abide by and the first criteria is the topography of the lot – what is different from this lot than everyone else's that causes you to have a hardship. The Board sympathizes with the working situation; however, there needs to be a unique situation. Chairman Vlachos added that they do have one of the most attractive houses on the street but the board is restrained as to the relief they can grant.

Mr. Sogohomonian said the existing driveway is narrow and difficult to maneuver especially when there is snow. He again stated the only neighbor that had an issue is no longer there and they have lived in Watertown for 23 years.

Chair Vlachos said a Variance under the law is difficult to obtain as far as their right to give it.

Mr. Sogohomonian asked if they could park there just in the winter months. He apologized for not being able to be here with his father at earlier meetings.

Tape 1 of 1, Side B

No one spoke from the audience.

Ms. Civetti requested the letter of opinion from Nancy Scott be read into the record. The letter states that Ms. Scott recommends the board grant two rows of pavers for the grass to grow through. Chair Vlachos said at the last meeting he did request that the Zoning Enforcement Officer weigh in on this request before the board made their decision. The memo also requested they consider a sidewalk opening of 8.5' as the Petitioner has completed what the board has asked and recommends rendering a decision if the board finds the elimination of the buffer is in accordance with the Variance criteria.

Ms. Santucci asked if they currently jump the curb to get in there. Mr. Sogohomian said it the curb is rolled pavement. Ms. Santucci added that type is a Cape Cod berm.

Mr. Bailey asked if he has more calls in the winter than in the summer. Mr. Sogohomian said there is snow removal, etc. requests that come up in the winter and it is easier to get out in the summer because there is on-street parking. Mr. Bailey reiterated that it is an inconvenience to have to move your car to the back of the driveway after the tenants come home.

Chair Vlachos reiterated that Ms. Scott's letter stated that if we were to grant the Variance, she would recommend using that kind of paver. The staff recommended that the case be denied and a factor was due to the gravel all over the lot and they questioned why the existing driveway could not be lengthened. He then pointed out factors that make this case different than that of the prior case that was denied- the area is not as congested; it is not front yard parking, it is a second driveway issue; the entire frontage is not taken up with parking.

Ms. Santucci asked if they could allow him to put the pavers in to park in the winter time but not cut the curb as cutting the curb formalizes it and makes it wide open to potential abuse. The pavers could be raised up a little so the grass can grow through and he could drive over the berm, which he is doing now and park there during the ban only. Although he can extend his existing driveway.

Mr. Bailey is not amendable to another parking space as it is only a convenience which is not what the relief of the ordinance is all about.

Mr. Moynihan does not see how the board could grant this in terms of a variance although he is sympathetic to the petitioner.

Mr. Soghomonian said he does not want the board to look at this as a second driveway, they are looking for only one spot using pavers and it would be kept very nicely.

The board questioned whether the use of pavers; winter-only parking; and no curb cut would be deemed a Variance.

Chair Vlachos stated that this is a very difficult case and he is trying to make the case for a variance; however, he would go along with Ms. Scott and Ms. Santucci's recommendation.

Mr. Moynihan said the case law is pretty clear that the size of the lot is not something we can consider as the hardship and we are left with a situation where this lot does not get us past criteria one – the topography is not unique. There has to be some other unique character to the land.

Chair Vlachos suggested that this lot or the structures that are peculiar to it are different than the others in the zoning district. The other criteria are more easily met. He would be in favor with the special conditions of pavers, etc.

Ms. Santucci motioned to move Nancy Scott's recommendation in her memo of June 27th to allow Mr. Soghomonian (he is to submit a plan showing the location of the pavers); however not cutting the curb and allowing to use one space for his vehicle only during the parking ban.

Chair Vlachos seconded.

All in favor? 2-3 Ms. Elliott, Mr. Moynihan, Mr. Bailey voted against.

The variance did not pass.

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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Bailey, *Member*; **Deborah Elliott**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Louise Civetti**, *Clerk*.

Absent: **Carlos Fernandez**, *Member*; **Nancy Scott**, *Zoning Enforcement Officer*.

Tape 1 of 1, Side B

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.

Chair Vlachos announced a four-person board as Ms. Santucci was not present at the prior meeting and he would need a unanimous vote to pass. He was given the option to continue.

Mr. Kelly said he as better plans and the current structure was built on concrete tubing and he is nervous about the safety and energy efficiency of the porch. It would be a nice addition to the neighborhood and their living space. They have two children in middle school and he and his wife have both grown up in Watertown.

Mr. Bailey asked how the roof is going to connect – otherwise he is in favor of the plan. Wayne Pellitier (Architect) showed the pitch of the roof, drawing A3 and a photograph of the existing house and showed how the ridge would match the existing ridge and the gable would come into the existing gable making the house an 'L' shape.

No one spoke from the audience. Chair Vlachos explained this petition is for a special permit finding and the criteria is less rigid than a variance.

Mr. Moynihan supports the petition. The Petitioner was asked to bring in more detailed plans, which he has done. Ms. Elliott is also in support.

Chair Vlachos read the Planning Board Report of May 9, 2007 which recommended to grant with conditions.

Ms. Elliott motioned to grant the Special Permit Finding with conditions stated by the Planning Board.

Mr. Bailey seconded. All in favor? 4-0

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

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Absent: Carlos Fernandez, Member; Nancy Scott, Zoning Enforcement Officer.

Tape 1 of 1, Side B

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.

Chair Vlachos requested the petitioner send the request to continue in writing. Ms. Civetti has requested the Petitioner follow-up in writing of her verbal request.

Ms. Santucci motioned to continue to July this petition on request of the applicant.

Ms. Elliott seconded.

All in favor 5-0 Granted

The board closed the meeting and voted to go into Executive Session to discuss pending litigation.

The meeting ended at 8:30 p.m.