



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

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MINUTES

On Wednesday evening, **February 25, 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*. Also Present: 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. She tabled the minutes to the March meeting, and swore in the audience.

PENDING CASES

Chair Santucci Rozzi noted that the first case to be heard was 25 Langdon Avenue, and Clerk Ferris read the legal notice:

*"Sara Sclaroff, 25 Langdon Avenue, Watertown, MA herein requests the Zoning Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Additions to Non-conforming Structures, Side Yard Setback and Building Coverage, so as to add a 5.4'x4.5' addition to the northeasterly side yard setback, maintaining the non-conforming 5.4' side yard setback, where 10' is required and further construct a 6'x4.5' addition to the rear, increasing the non-conforming building coverage from 26.3% to 27%, where 25% maximum is allowed. S-6 Zoning District."*

Ms. Sclaroff described the proposed project. She described the two small additions to the house to increase the functionality of the building, as well as return the architectural symmetry of the house. She said it would also give her the opportunity to re-side the house. She said one addition is expanding the kitchen and the other addition is reconfiguring a bathroom so that it does not open directly into the kitchen.

Chair Santucci Rozzi asked the audience if there were any comments on the project? Hearing none, she asked the Board for any questions or comments.

Member Ferris asked about Ms. Sclaroff's plans to re-side the house?

Ms. Sclaroff responded that she would have to, because of the additions. She said she would use a contractor to remove the aluminum siding and return the house to wood shingle siding. She said she was going to research the house at the Library, and try to restore the house. She said there is shingle underneath the aluminum.

Chair Santucci Rozzi said she had not further questions, and characterized the changes to the house as modest. She noted the staff and Planning Board recommended conditional approval of the Special Permit Finding. She asked the Board if they felt the need to add any further conditions to those in the Planning Board report? Hearing none from the Members, she noted the Board had received letters from 21 Langdon Avenue and 31 Langdon Avenue. Ms. Santucci Rozzi said both letters were in support of the proposal.

Ms. Sclaroff noted that the letters sent to the Board were from her immediate abutters on either side.

Chair Santucci Rozzi asked for a motion on the project. Clerk moved to approve the proposed project at 25 Langdon Avenue as a Special Permit Finding subject to the conditions noted in the Planning Board Report. Member Gannon seconded the motion. It was unanimously approved 5-0.

Chair Santucci Rozzi said the next case to be discussed was 18 Hudson Street. Clerk Ferris read the legal notice:

*“Ari Koufos, Owner, 18 Hudson Street LLC, 55 School Street, Watertown, MA herein requests the Zoning Board of Appeals grant a **Special Permit** in accordance with Watertown Zoning Ordinance §6.02, Location and Design of Off-Street Parking, Front Yard, so as to allow the construction of two-front entry garages within the new two-family structure. T (Two-Family) Zoning District.”*

Mr. Koufos described the proposed project to the Board. He noted his architect was also present. He said he was looking for relief for garage parking in front of the house. He said his design was similar to the situation that many of the surrounding houses have. Mr. Koufos said he chose to come forward with his proposed design instead of a by-right design because that would involve large retaining walls, which he felt would not be as in keeping with the surrounding neighborhood.

Chair Santucci Rozzi asked the audience if there were any comments on the project? Hearing none, she asked the Board for any questions or comments.

Member Heep said he understood the relief Mr. Koufos was requesting, but was also struck by the size of the proposed structure. He suggested it was not entirely in keeping with the other houses on the street, because from Hudson Street, it appears like a 4-story house. The use of the front yard to accommodate to large garage doors also creates the appearance of an overly large structure. He said he understood the difficult topography, but he was still struck by the size of the house. He asked staff if the height of the proposed building was acceptable per mean grade?

Mr. Mena, the Zoning Enforcement Officer, responded, that there are two ways to measure building height. They are using mean grade over the average of the lot, or the height along the front property line. He said the height measurement for 18 Hudson Street was similar to a recent project on Walnut Street. Mr. Mena said measurement used was the mean grade over the average of the lot. He noted that developments that build into a hill result in this type of appearance from the street due to the topography.

Member Heep, using one of the building elevation drawings, asked if the line that determines the grade is on the plan? He said it appears to cross over the back of the house. Is it an actual line or an estimated?

Avo Asdorian, the Petitioner’s architect, approached the podium and responded that the line Member Heep was discussing was an actual grade line at the back of the building. He said the front dashed line would be the line under the porches. He said, using the revised site plan, there is a section showing the new proposed retaining walls.

Member Heep asked for clarification about the height of the retaining walls?

Mr. Asdorian said the retaining walls would begin at 3 feet and gradually increase upwards to a final height of 15 feet. He said they would slope up towards the building.

Mr. Koufos noted that each of the floors of the new building would be stepped back. Therefore, he suggested, the balcony on the top floor would not be visible from the street. He said he was aware of the need to not have the building appear “flat” or “stacked” when viewed from the street.

Clerk Ferris said he had a similar reaction to the proposed building as Member Heep. He said he had asked staff to clarify the building height scenario prior to the Board hearing. He said the building height was an issue for him, although he understood the ways to not have the building not read as “flat.” He questioned whether existing grade was being used, or the grade carved out by the retaining walls to measure height?

Mr. Asdorian responded that as Mr. Mena had explained, there were two ways of measuring, and the more stringent method was used. He said the measurement was from the existing grade of the existing building that had been on the site but was demolished. He noted that on the site elevation, there was a note about “average.”

Clerk Ferris said the mean average that the measurement is taken from appears to be measured from the existing grade, even though this grade would be modified by construction of retaining walls.

Mr. Mena responded that the definition is from the average existing grade along the front building line. He read the definition of “height” from the current Zoning Ordinance.

Chair Santucci Rozzi noted the existing building had had a driveway that cut into the slope of the lot along the front of the property line.

Mr. Asdorian said the lot had a partial parking area to one side that may have been a garage at some point. He said this was confined to one side of the front of the lot. He also noted the average mean grade there now would have been a bit higher than the grade line used. He said the roof line of the proposed structure was dropped down to conform to the more conservative grade measurement line.

Clerk Ferris said his other concerns dealt with the retaining walls. He said there seems to be a discrepancy between the survey drawings and the elevation drawings. Mr. Ferris noted Plan A-5. He also asked about the wall’s height (7-8 feet tall) and its proximity to the property line. He asked how the walls would be faced, and what protection would be provided to the neighbors in terms of vertical drop from their property?

Mr. Asdorian said the retaining walls shown on Plan A-5 are the correct drawings. He said the neighbors would be protected by a six foot vinyl fence that would be put on the property line. He noted it was on the Landscape Plan. HE said the intent was to also keep the grade with the neighbors to remain the same.

Clerk Ferris asked about what the neighbors would see if there was a 7-8 foot wall topped by a 6-foot vinyl fence? He looked at the Site Plan. He said it appears the walls will be 5 feet tall or so as the neighbors look out their windows, based on the grades shown on the Site Plan. He also noted the retaining walls along the driveway appeared to be 6+ feet tall.

Mr. Asdorian said the neighbors would only see a concrete wall to the rear. He said the side walls were low enough such that they work up with the grading to act as a retaining wall. It will start from zero to 6 feet, and step up. He responded that the walls along the driveway would taper up slowly, in that by code, the first 15 feet of the wall could not exceed 3 feet. He said it would slope up slowly to 7-8 feet. He said this wall would have a wrought iron railing.

Clerk Ferris commented on the overall height of the structure. He said the front elevation is a bit deceiving, except that the balcony on the top floor, and the railing is at the front. He asked if the Petitioner had considered setting that railing back from the edge of the front, so that people at street level would see the pitch of the roof as the predominant element. He suggested setting the balcony railing back by 4 feet. Mr. Ferris said it looks like a 4-story. He said he had no problem with the parking issue

and the front garages. He said the deck on that floor really makes it read like a 4 story building. He acknowledged that the house looked significantly different in the side elevations.

Mr. Asdorian responded that setting the railing that far back could cause an issue with clearing snow off the roof element in front of the railing. He said the key is to remove the snow from the deck. He suggested the balcony railing could set back a maximum of 2 feet. He said it's a delicate balance given the amount of cut and fill on the site. He said the railing top would be further back if the railing was moved inwards by 2 feet.

Chair Santucci Rozzi said she thought the proposed house looked similar to one on Walnut Street. She said she had no issue with the proposed front-yard parking. She acknowledged the house might appear stacked and tall, but she had no issue with that, either. She questioned the type of finish on the project?

Mr. Koufos said he would finish the house similar to his prior work, as with Spring and Fayette Street. He said he wanted his projects to fit into the neighborhood. The retaining walls would be stone. He noted the back walls might be interlocking blocks, but these won't be seen. He said the walls he would construct would not look the front yard parking area at the site now. He showed a picture of a house that looked square and stacked. Mr. Koufos said he would take care to have the project fit in.

Chair Santucci Rozzi asked Clerk Ferris to comment on the architect's proposal to set the balcony railing back two feet from the front? What that sufficient to address his concerns?

Clerk Ferris said yes, this would minimize the views from the street, and would make a difference in how tall it is perceived to be.

Chair Santucci Rozzi asked the other Members for comment. Hearing none, she noted the Board had received a report from the Planning Board and staff which recommended conditional approval. She noted the conditions were a bit more entailed, and the Zoning Board had the revised Landscaping Plan, which would be substituted. She noted a new condition, #10, would be added to push the railing back on the upper level by two feet. She asked for motions from the Members.

Clerk Ferris moved to approve the application for a Special Permit at 18 Hudson Street with the conditions as recommended by the Planning Board and staff, and the additional Zoning Board of Appeals condition #10 which requires the Petitioner to push the railing back on the upper level by two feet. Member Denato seconded the motion. It was unanimously approved 5-0.

CONTINUED CASES

Chair Santucci Rozzi said the first continued case was 28 Fayette Street. She noted that because it was a continued case, the Hearing Notice did not need to be read again. She asked the Petitioner to describe the situation to the Zoning Board.

Mr. Junming Gao said with the Board's input at their December 2014 meeting, the plan had been revised with two major changes. He said the first was a retaining wall and driveway. He said an engineer had been hired to come up with the plan. He said the plan for the retaining wall had been discussed with his immediate neighbor, and with the Planning Department staff. He said the design addresses two issues: possible impacts to his nearest neighbor, and driveway impacting the existing porch. He said he'd also come up with a buffer zone detail with juniper shrubs, and the existing driveway to the Church Street neighbor. He said the plan had also been revised to address the Zoning Board's other major concern about a second entrance. He said an entrance had been created for the new unit. He said it would be side by side with the other entrance and provide a Town house type view.

Chair Santucci Rozzi noted this was a public hearing and asked for comments or questions from the audience. Hearing none, she asked for comments from the Board Members.

Member Denato asked about the buffer on Church Street. She said the Petitioner had indicated he would look into plantings on that side. She said it appears to be outlined with small shrubs.

Clerk Ferris thanked the Petitioner for his updates. He said it would be helpful to have floor plans, as at the last meeting of the Board, the floor plans and building elevations were not synchronized. He said this would allow the Board to understand what's going on. He noted that when he compared drawing A-6 to the Site Plan, he was not understand the porch that's between the new driveway and what he called "the rear" of the house. He said the roof line on proposed elevation #4 does not quite match what's shown on the Site Plan. Clerk Ferris said there seems to be continued disconnects between the Plan and Elevation information. He noted the new entry does not seem to have a sidewalk going to the street, and it's not shown on the Site Plan. Clerk Ferris said all the plans and elevations must match. He said seeing a floor plan gives him the reassurance that things that would be required would be built as stipulated and shown on the plans, should the Board issue a decision.

Mr. Gao said the reason why one side did not have as much detail as the others is because he intended not to do much if any work on that side of the structure. He said he did not want to change anything on this existing side, except the addition of an entrance. He said he understood Clerk Ferris' concerns. He said he would discuss his designs further with his architect.

Member Heep thanked the Petitioner for submitting the updated plans, which addressed several of the Board's concerns. He noted this project was in a Two Family district, but this dwelling requires a Special Permit (SP). He noted the lot size was only just large enough per the requirements for a Two Family, and the requested Floor Area Ratio (FAR) was at the upper end of the range allowed by SP. He said he was concerned about the parking, given that the new driveway would be carved into the grade on the Fayette Street side. He said it has retaining walls, slopes steeply upwards, and is only 8.5 feet wide. Member Heep expressed concerns about this proposed driveway. He suggested it was perhaps trying to squeeze too much on a small lot, given the size of the lot, and the topography on the Fayette Street side.

Chair Santucci Rozzi said she had taken notes from the last Board meeting. She said the Board had asked for existing topography, the retaining wall details, and landscape buffers. She noted it appeared that only spot grades had been provided. She asked for the proposed grades, particularly in the driveway? She said it appeared the driveway would be about 3 feet higher at one end? She asked staff about the 4-foot buffer on the Fayette Street side. Could it include the retaining wall? She questioned the length of the buffer, as it appeared the driveway went to the inside of the wall.

Mr. Gao said the solid black line would be the driveway. He said the proposed grades are shown. Mr. Gao said Chair Santucci Rozzi was correct, the driveway would be about 3 feet higher at one end.

Mr. Michael Mena responded to the Chair, noting that yes, the Board has typically allowed retaining walls in the 4-foot buffer in the past, and has also allowed a fence in that buffer. He said the buffer is really only to restrict the driveway. He addressed the Chair's concern about the length of the buffer, by noting that this is typical of other situations the Board has allowed.

Chair Santucci Rozzi said she has the same concerns as her colleagues. She questioned how people parking in the driveway would open the car doors, as the space was tight. She also questioned how someone would enter the house on that side? Would they walk down the driveway, to the sidewalk, and around? How far would someone step down from the porch to get onto the driveway?

Mr. Gao acknowledged the area was tight. He noted the height of the wall in that location was less than 2 feet. He said the main entrance would be on the Church Street side. He also said people could use the porch, which is adjacent to the driveway. He said the porch is slightly higher than current ground level; probably one step. He acknowledged a 3-foot difference at the greatest point. At the same time, he said someone could walk to the top of the driveway and get to the porch.

Clerk Ferris said at the corner closest to Fayette Street, it looks like a 2-foot difference based on spot grades. He was concerned that someone would step off the porch and drop down. He said the reason why the Board was asking so many questions is that there appears to be not enough addressed on the drawings. He expressed a concern that issues would come up would come up during construction, which

might not match the drawings that the Board might approve, and he expressed concern this would cause a problem. He suggested the Petitioner provide drawings that are more clear and resolved.

Chair Santucci Rozzi agreed with Clerk Ferris, in that given the distance of the drop, it would be relatively unlikely that someone would enter or exit the house out the porch door. She noted the porch did not have a railing. She asked if the profile shown on the bottom of one of the drawings was for only one or both of sides of the driveway? She noted there was a note that described the length and width of something. She asked if the dimensions shown were for the walls, or for the constituent blocks. Chair Santucci Rozzi said she had the same concerns as Clerk Ferris. She noted drawing A-1 did not show a front door for the unit closest to Fayette Street. She noted the Site Plan don't show a door either.

Mr. Gao said the drawing of the retaining wall was for both sides of the driveway. He said the dimensions that the Chair was referring to were for the specification on the blocks. Mr. Gao noted that drawing A-6 had been changed. He suggested the other drawings were not changing. He suggested the changes to drawing A-6 did not impact the other drawings. He said the floor plan for the unit on the corner of Fayette Street and Church Street would not change, except for the new door.

Mr. Mena noted that all the plans could be revised to match were those doors would be as part of the application for a Building Permit.

Clerk Ferris asked about the setbacks on the Church Street side of 17 feet and 15+ feet, how do the covered entries fit into these? He asked what is the required setback on Church Street? He said one of the covered entries could be a foot deep and the other could be 2+ feet deep.

Mr. Mena said the covered porches would need to meet the setback. He said the entries would have to be outside the setback. He said the required setback on Church Street is 15 feet.

Member Heep asked about the floor plans. He asked if the interior of the two units was connected? He noted the Petitioner was proposing to not change one of the units. How would the two units be made independent of each other? He noted landscaping was proposed on the Church Street side. What is proposed relative to the driveway on that side?

Mr. Gao said yes, they were connected now, but the proposed project would make them not connect. He said the driveway on the Church Street side would not be changed.

Chair Santucci Rozzi asked if the section of pavement in front of the dwelling would be kept? She noted the Site Plan labeled this "existing driveway." She said it's a pavement line. Would the pavement be removed? What would be the purpose of keeping the pavement closer to parking space #4?

Mr. Gao said that would become the entrance. He said yes, the pavement would be kept. He said the parking space 3 and 4 would remain the same on Church Street, with the exception of adding a buffer. He said he did not see a need to remove the pavement. He said the small portion would be kept in front of the entrance. In the case of the pavement closest to parking space #4, this would serve as the walkway to the house.

Clerk Ferris said the reason the Board was asking about this area was it is wide enough that whoever would live there could park a third car in front of the house. He said this was a concern. He suggested taking this out and making it a lawn.

Chair Santucci Rozzi asked if the Petitioner would be adding a walkway to the other unit?

Mr. Gao asked what would be the best way to do this?

Chair Santucci Rozzi said the Board was asking questions because what Mr. Gao was saying he would do, and what was shown on the plans, and what was possible given what was shown on the plans were

all a bit different. She said the Board needs to have a full understanding of what was going on with the whole project. How are people going to get to these doors?

Mr. Gao said he would put in a walkway all the way to Church Street.

Chair Santucci Rozzi suggested this meant that the Petitioner would be removing some of the pavement that's adjacent to parking space #4, and create a walkway. She suggested there would also be a walkway from Church Street to the new door. She asked the Board if that was acceptable?

Member Heep said yes, a walkway was needed. He said without one, there would be no way to get in the house.

Chair Santucci Rozzi said she still had issues with the driveway and the porch. She said she was not able to picture how all of this would lay out. She said the difficulty was understanding how all of the cut, fill and retaining walls would all work together.

Clerk Ferris said he did not feel comfortable supporting this petition because there wasn't enough information. He said things would be happen on site that would be different than shown on the plans, and things would have to be changed in the field, which would slow the project down. He said the Petitioner needed a Site Plan and Elevations that were coordinated.

Member Gannon said he agreed with Clerk Ferris.

Member Heep also agreed with Clerk Ferris and Member Gannon. He said the Board needed a comprehensive plan that addressed the walkways, the landscaping, and all of the other changes on the site. He said this is a house that could use renovation and new construction. Member Heep said things need to be shown clearly on the plans. He also continued to express a concern about the second driveway in the narrow area would be too much on a 5,000 square foot lot. He said the only real way to potentially support the proposal would be to clearly see exactly all the things that were going on on the site.

Mr. Gao said he agreed that on Fayette Street, the driveway wasn't very wide, but he noted it was an existing building. He noted the driveway was being added to make the building more conform to the Zoning Ordinance. He noted he was not planning to do anything in the existing building. He noted right now, tenants were parking on the street.

Member Heep said he was not necessarily persuaded by this argument.

Clerk Ferris said he hoped that the Petitioner understood that the Board was asking all these questions for his protection. He said if the project was not well enough defined, or if the project is built differently than what was approved, that part would have to be undone, and that costs more money that should be necessary to spend on the project. He said in terms of the width of the parking area, he suggested that with a 2-foot wall, it will be hard to get out of the car. He said he was not suggesting that the porch be removed, but rather that this was part of the consideration that more width might be needed to make it a useable driveway. If cars park lower, the walls on either side of the driveway will be taller. He urged the Petitioner to make sure the plan set addressed all of these issues.

Mr. Gao said different designs had been discussed, but several had been eliminated because of these same concerns. One scenario was to build the driveway on the current grade, but cars would go deeper into the lawn. He suggested this scenario would eat up too much green space. He acknowledged it was not a perfect plan, but it did not have a fatal flaw in terms of the other ideas that were tried and rejected.

Clerk Ferris suggested cars were about 6 feet wide, and the width of the driveway would only leave about a foot to open the door and attempt to exit the car.

The Petitioner acknowledged this and suggested that only small vehicles could fit in the proposed driveway.

Chair Santucci Rozzi asked if Taj Engineering used the plan from Boston Survey? She said the Boston Survey plan shows a certain setback from the street to the porch. She said this does not match the Taj Engineering plan. Chair Santucci Rozzi said the two setbacks don't match. She said the block is probably 12 inches deep, for the Versa Block and suggested it might not work.

Mr. Gao said yes. He said the Boston Survey plan did an additional survey. He said the Taj Engineering plan is based on the newest data from Boston Survey.

Chair Santucci Rozzi asked if Mr. Gao had used this updated plan? She said because the Taj Engineering plan is not stamped. She asked if one area got wider when it was re-surveyed? She noted it appeared that the setbacks had changed. She said other dimensions appear to have changed. She said all of the dimensions need to be consistent. Chair Santucci Rozzi suggested the Petitioner may want to think about doing something with the porch.

Mr. Gao said he did not provide the other stamped plan, but could. He said he did not look at the data. He said the lot did not get larger, but he could submit the newer Boston Survey plan, showing the Taj Engineering plan is based on this newer data. With respect to the porch, he said he originally wanted to remove the porch, but noted that the building was relatively old, and the Planning staff had advised him to retain the porch.

Member Gannon suggested that the Petitioner's proposal keeps changing, based on the interchange with the Board members. He said it seems the Board needs a lot more information, and the proposal is conversely becoming more nebulous.

Mr. Gao said if the Board wanted him to remove the porch, he could do that.

Chair Santucci Rozzi said she was not necessarily suggesting that the porch be removed, but that this was in the context of making the parking spot to work. She said the Board wanted the new parking area and driveway to be functional, and have vehicles parked there, and not have a situation where people did not or could not park there because the width was so narrow. She said the plans have to be stamped. She said Boston Survey or Taj Engineering to provide a stamped plan. She said the survey plans, the architectural plans and the other drawings have to show the same dimensions on them. Where the site is so tight, it's not advisable to have such discrepancies, even if they appear to be just inches. Based on the comments and the drawings that the Board has, the consensus suggestion of the Board is to take all of the drawings and make sure they all match up.

Mr. Gao asked if he could just remove the porch? He said the Planning Board asked him to keep the porch.

Member Gannon said that was up to him as the Petitioner. He said he should work this out with his project team and staff. He said the project was his project, and the Board needed to see the final plan. Member Gannon said what had been proposed was not a final plan.

Mr. Gao said he wanted to be clear on the Board's direction. He listed the items the Board had asked for as he understood them:

1. Two walkways to the entrances (Church Street)
2. Parking space #4 needs a buffer, so three cars can't park there (Church Street)
3. Concern about the width of the driveway (Fayette Street)
4. Discuss the issue of the porch with his engineer and the Planning Staff (Fayette Street)
5. Address the discrepancies in the project drawings

Chair Santucci Rozzi said Mr. Gao had made a good summary of the major issues. With respect to the porch, she said perhaps it could be shortened, so that not all of it forms a potential obstruction to the

driveway on the Fayette Street side. Or, maybe construct the porch further into the lot. She said he was running out of space. She suggested some changes would give him more room to work. Maximize that area and make it useable. And, need to make the drawings match.

Mr. Gao said he would make some steps to the porch.

Clerk Ferris reiterated that everything on the plans needs to match. He said the drawings needed to be thoroughly reviewed. He said the walkways and covered entrances should also be shown. He noted the setbacks need to be considered, and incorporated into the drawings.

Mr. Mena said Zoning Board staff would rely the Zoning Board's concerns to the project manager in the Planning Office. Need to take a second look at the porch. Encouraged to retain it by the Planning Board, but perhaps there is a happy medium, where it can be retained, but also reconfigured in a way to provide more room.

Member Heep moved to continue 28 Fayette Street to the Board's March 2015 meeting. Clerk Ferris seconded the motion. It was unanimously approved 5-0.

OTHER BUSINESS

Chair Santucci Rozzi said the only other item on the Agenda was for 195 Mount Auburn Street, which was a continuation of the Show Cause Hearing. She asked Mr. Younger for an update since his last appearance before the Board.

Mr. Younger said he and Mr. Mena conducted a field visit after one of the neighbors questioned the number of parking spaces on the property that was previously approved in 1998 and 1996. He said the field visit indicates that the site does not fulfill the requirements of the prior Zoning Board of Appeals approvals for 10-12 parking spaces. He said the request was then to get an engineer to do a plot plan, and suggested the Board had this plan in their packets, done by the Edward Brooks Company. He said this plan reduces the parking spaces to 8. Mr. Younger said the surveyor's plan identifies the number of spaces on the property, and that Mr. Mena had said that he could bring this plan to the Board of Appeals to seek a new Special Permit to reduce the number of parking spaces down to eight. Mr. Younger also noted that one of the tenants at the property was going to try to attend, but could not due to an emergency. He noted this tenant and others had submitted letters in support of the parking changes.

Chair Santucci Rozzi noted the Board had received the letter from Mr. Mervis and Mr. Clarke. She said there were decisions made in the past which granted parking relief. She said in 1996, Mr. Younger was required to have 12 spaces, but the Board approved 10 stacked parking spaces. She said he was already in a Variance situation. She said in order to present a lessor parking scenario to the Board, Mr. Younger would need to file to amend the decisions on record. She asked the Board members for any other questions? She also suggested the Show Cause Hearing should be left open.

Mr. Younger asked if the Board would be willing to entertain a Variance to reduce the number of parking spaces to 8?

Mr. Mena noted that staff was looking for guidance as to the Board's appetite to entertain a Variance by Mr. Younger, or if there are strong feelings about that there may be substantial issues with this. He noted he had not received complaints about parking at the site. He said there were concerns about parking previously, where there was cross-access. He said that's when the property line issue arose. Mr. Mena noted that he had not received any Police Department citations or tickets in the area. He said staff was looking for guidance as from the Board.

Chair Santucci Rozzi asked what would be Mr. Younger's other option if he did not pursue a parking Variance?

Mr. Mena said the other options would be to direct Mr. Younger to reduce the amount of commercial space that would match the parking on site. He suggested ultimately a worst-case scenario for Mr.

Younger would be to potentially revoke the prior Special Permits as they were based on the site having ten (10) parking spaces. He suggested there could be guidance to find space on the site to accommodate two more parking spaces, which would also require a Variance.

Chair Santucci Rozzi asked if the Board Members had any additional comments?

Member Gannon suggested that Mr. Younger should file for a parking amendment to the prior Special Permits.

Member Heep said he appreciated that Mr. Younger responded with a survey plan. He said he would be amenable to a request to reduce the amount of parking on site to reflect the actual conditions on the ground.

Clerk Ferris and Member Donato said they were in agreement with the other Board Members.

Mr. Johnathon Block, 9 Franklin, addressed the Board. He said he was a direct abutter to 195 Mount Auburn Street. He said there were letters presented to the Board, which should have been read out in this hearing, because they were not made public to those in the audience. He questioned whether this was proper hearing procedure.

Chair Santucci Rozzi questioned whether this Agenda item was a public hearing, as she did not remember reading a Hearing Notice.

Mr. Mena said this part of the Agenda was not a hearing, it was only an Order to Show Cause, so it was not noticed. He said it's at the Board's privilege as to whether or not to allow public comments.

Chair Santucci Rozzi said the only letter that the Board received was the one from Mr. Mervis and Mr. Clarke.

Mr. Block said he would address the issue of the hearing later. He said he and Jarid Hymevitz had purchased property from Mr. Younger in 2007. He said he and Mr. Hymevitz both reside at 9 Franklin Street. He said he was present to speak about the zoning issues and the Order to Show Cause. He said it was his understanding that Mr. Younger had not filed for a new Special Permit, or an amendment to the existing Special Permits. He said he was advised there would be no discussion of this matter, and suggested any discussion of this issue would be a violation of the Open Meeting Act, and the abutters would not be informed. He said this was already reflected in the Board's draft meeting Minutes from November 25, 2014.

Mr. Block said the only issue before the Board was whether or not the conditions of the Special Permit have been met. Mr. Block said he was compelled by the letter from Mr. Younger, his proposed parking plan, and from the comments from Mr. Mena to address zoning issues. He quoted from Mr. Younger's letter *"as you are aware, for 20 years, we have enjoyed tandem parking at 195 Mount Auburn Street, of the commercial and residential tenants without apparent difficulties."* Mr. Block said Mr. Younger's letter summarizes later *"we have experienced quiet enjoyment of the parking in the driveway and have operated without complaints from anyone onsite for 20 years plus."* Mr. Block said the Board has heard from Mr. Mena that there have been no complaints.

Mr. Block said Jarid and himself find that characterization completely untrue. He said he's spoken to several of his neighbors and some of Mr. Younger's commercial and residential tenants. All feel the same way. He said he's called the Watertown Police Dispatch and 911 multiple times with regard to parking issues at the site. Mr. Block said he is aware of three calls on the same day to 911 from neighbors that resulted in multiple Police units on site. He said this information is of public record. He said he and Jarid felt assaulted on multiple occasions by drivers who said that Mr. Younger gave them permission to use his property to exit after they had parked at 195 Mount Auburn Street. He said more than once, drivers have honked their car's horns at him, or tried to run him over in his own back yard. Mr. Block said it was hard for him to talk about this, because everyone he speaks to about this, except for the

immediate neighbors, thinks he's just making stuff up. He said the drivers' excuses were that they could not get out of the driveway, nor get out of Mr. Younger's property. He said one of these drivers was one of Mr. Younger's commercial tenants. He said he and Jarid have made costly improvements to his back yard to address this problem, including ripping out pavement that could be used by exiting cars, and putting up a fence on the property line.

Mr. Block said he hoped the Board understood Mr. Younger's letter to be unsubstantiated claims, that are not relevant even if true, to the issue before the Board. He asked that if the Board does consider these claims, that he be given the opportunity to provide evidence, including testimony, photos and Police logs that support his position. He would welcome any Board Member to his property to see the current parking situation. He said that Mr. Younger is providing about 3 parking spaces on the site now.

He said Mr. Younger's proposed parking plan does not conform to the Special Permit. He said it was irrelevant as to how many space Mr. Younger believed or even he, Mr. Block, believed could be accommodated on the site. He said the issue is whether or not the conditions of the Special Permit are valid. Once that is established, Mr. Younger will be able to apply for a new Special Permit or amend the current one, if he feels one is needed. The original Special Permit was based on land that belonged to both 9 Franklin and 195 Mount Auburn. He said as far as he could tell, that fact is not today in dispute. He noted the multiple surveys on file. He said he had submitted copies of these surveys to Mr. Mena in color, and that he retains stamped copies of them. He said he has photos to show that at least three of the marks used by the surveyors to establish the property line are still visible on the ground around the time Mr. Mena inspected the property for compliance. He said Mr. Younger has made no claim nor submitted any evidence that there is an issue with the property line.

Mr. Block said the plan for the original Special Permit included abutting land, although owned by Mr. Younger, was not part of 195 Mount Auburn Street. That land was part of 9 Franklin Street, which was sold off. The Special Permit did not reference an easement, which could have granted the owner of 195 Mount Auburn Street access to the required land on 9 Franklin. No such easement exists today. When Mr. Younger sold Mr. Block 9 Franklin, he no longer met the conditions of his Special Permit as issued. Whether or not the required number of parking spaces exists on his property today, or whether or not his characterization of the situation is accurate, does not matter is all. The Special Permit is invalid, and should be revoked because that land is no longer Mr. Younger's property.

Mr. Block and Mr. Hymevitz would like Mr. Younger to apply for a new Special Permit, and bring his property into zoning compliance for his own benefit, for their benefit, and for the benefit of the neighborhood. He said he would be willing to answer any questions, or supply documentation to the Board. He noted he had brought and submitted a copy of the survey of his property, which he had filed with the Town and State. He said it was prepared for the closing of the sale of 9 Franklin Street, and it was provided by Mr. Younger. He said the company who did this survey was call out a second time, when he had begun landscaping 9 Franklin Street, because Mr. Younger did believe the green fence could be located where it was located.

Chair Santucci Rozzi asked when he erected the green fence, and if this activity had started the dispute over the two properties? She asked when the landscaping was installed?

No, Mr. Block, said he did not think it was precipitated by the fence. He said the landscaping had been put in more than two years ago.

Chair Santucci Rozzi thanked Mr. Block for his comments, and urged him to submit the pictures, data, and documents he had referred to. She said what was discussed before he provided his comments is that the Board is not closing the Show Cause Hearing as of today. Chair Santucci Rozzi said the Board has indicated that Mr. Younger is not in compliance with his Special Permit. She said Mr. Younger first needs to file a new application, to potentially allow the Board to act on a new parking plan.

Mr. Block said he understood this. At the same time, he said he made Mr. Mena aware of the property line situation quite some time ago. He said he had attempted to work with Mr. Younger some time ago, to

potentially give him an easement, prior to doing landscaping at 9 Franklin. He said Mr. Younger was not willing to discuss it. Instead, he said Mr. Younger painted new lines, indicating 3 spots available for parking. He said people continue to park on Mr. Block's property, and that Mr. Younger rented out a parking spot on Mr. Block's property. Mr. Younger supposedly gave Town Officials permission to park on Mr. Block's property, which is trespassing. He said he has photographs of this. Mr. Block said this aside, he would like this issue to be resolved. He said he was not able to make the rescheduled meeting in November. He said the first issue is the property boundary, not the parking plan. He also noted the prior property surveys were available, and as such, there was no need for a new property survey of 195 Mount Auburn Street. He said according to legal counsel that he discussed the matter with, had a survey come out that would have moved the property line, he and his Title Insurance Company would have been compelled to file charges against Mr. Younger. Mr. Block said he spoke to the person who did the survey, did he do a new survey, and Mr. Block was told no, that company only drew up a new parking plan. He understood the Board's decision to give Mr. Younger 90 days to respond, but the question was not to provide a parking plan that was consistent with the Special Permit, but rather to show that the Special Permit was compatible with the facts on the ground. Mr. Block said these facts have not changed.

Chair Santucci Rozzi agreed with Mr. Block, that the facts on the ground had not changed. She noted that in November 2014, the only plan the Board had was not stamped by a surveyor. She said that's why we instructed Mr. Younger.

Mr. Block asked if the plan the Chair was referring to was a survey plan or a parking plan?

Chair Santucci Rozzi said typically it would be a survey plan stamped by a surveyor. The Board did not have that.

Mr. Block said the first requirement is to establish the property line. He said the second requirement is locating the parking on the lot. He said the parking plan should be not as drawn or required by the original Special Permit, but as the lot exists now. He said the information required for the survey was available to Mr. Mena prior to his inspection. Mr. Younger's surveys showing the property line were on file. That's not in dispute. He said this clearly establishes that the cars can't fit on the lot as described in the original Special Permit.

Chair Santucci Rozzi said the Board did not have such a survey at its meeting. She said if Mr. Younger had such a plan at that time and chose not to give it to the Board does not matter. She said the Board instructed him what to provide. She noted he has subsequently submitted such a survey. Chair Santucci Rozzi said the Board has also told Mr. Younger that he can seek a new parking plan under a Special Permit Amendment. She also noted the Show Cause Hearing is being kept open in the event that the amendment is not granted. She suggested the Board Members are not saying that Mr. Younger is in compliance, but rather that the Board is still awaiting data to show that that is possible.

Mr. Block asked how Mr. Younger could demonstrate he was in compliance with the Special Permit?

Chair Santucci Rozzi said he would need to seek an amendment, to reduce the number of parking spaces. Mr. Younger could also seek an amendment to reduce the amount of space in the building, which figures into the amount of parking required. She said he has different options.

Mr. Block said he hoped Mr. Younger would consider both options, and noted he had suggested to Mr. Mena that he communicate these options to Mr. Younger. He asked about what would happen if Mr. Younger sold the property?

Chair Santucci Rozzi said the Show Cause Hearing is still open and applicable. She said the directions being given to Mr. Younger are applicable not to just him, but to the property in question. She said the Special Permit and Variance are applicable to the property. She asked Mr. Mena if the Show Cause was recorded against the title, thereby making prospective new purchasers aware of this situation?

Mr. Mena said he did not think the Show Cause had been recorded at the Registry of Deeds.

Mr. Block said he had been trying to find out what the process for a Show Cause Hearing was in Watertown. He said he'd been speaking to Mr. Mena and his legal counsel about it. He said he got nothing in writing, and no feedback. He said he has sympathy for Mr. Younger's situation. Mr. Block understood this could adversely affect the value of Mr. Younger's property. Mr. Block also said Mr. Younger has been unwilling to engage in a conversation. He was trying to balance his needs, with his neighbor's needs without clear guidance. He said he felt forced to file with the Town Clerk and other disclosure methods at his attorney's advice. He said he did not know what else to do. He said he didn't even know if there was an appeals process to the Show Cause process.

Chair Santucci Rozzi said the amendments and applications are all public hearings, and that Mr. Block will be noticed for these. She also noted that these processes have appeals procedures. So if the Board renders a decision Mr. Block feels has impacted him, this is appealable.

Mr. Block said the continuation is an impact to him. He said he was not certain what the due process was in such as case as this, as there is no written procedure for a Show Cause process. He said his attorney has advised him that Mr. Block is an aggrieved party. Mr. Block said Mr. Younger is not providing adequate parking, and what parking is provided is blocking access to his house at times. He said it's on record that he's an aggrieved party because of the repeated visits to the site by the Watertown Police, who have ticketed cars. He said it may difficult to show the connection to his tenants, but the situation is continuing, and is worst in the winter. He invited the Board Members to view the site for themselves, and see that there are typically only 3 spaces available. He noted there are other issues with the property.

Mr. Mena said Mr. Block is correct, in that he did request information on the Show Cause process. He said the Town does not have a codified process in Watertown's Ordinance. He said the process stems from a complaint filed with his office concerning whether Mr. Younger was following the requirements of the Special Permit, and the parking shown in that Permit. He said going out and looking at the yellow line, it looks as if the parking is not there, and the plan submitted was inaccurate at that time. He said therefore, his office issued an Order to Show Cause to Mr. Younger, to show proof or not that he is in compliance or not. He said Mr. Younger has filed information with the Board, which clearly shows that he is not in compliance with the Special Permit, because he does not have the required number of parking spaces. He said the Hearing is how to resolve this situation by filing for an amendment, to reduce the number of spaces, finding two additional spaces, or reducing the commercial tenant spaces. He noted that this amendment process has its own appeals process. Mr. Mena said the Show Cause process does not have an appeals process.

Mr. Block asked for clarification about what the issue was. He thought Mr. Mena had said the issue was the location of the line, and suggested the DVD of the meeting could be queried for clarification. Mr. Block then said Mr. Mena said Mr. Younger was not in compliance with the parking requirements, and Mr. Block said this is the critical issue. He said he wanted to appeal the Show Cause itself. He said the issue is not strictly about parking. He said you can't give someone a Variance to park cars on someone else's property, even if there was an arrangement to do so, because that arrangement might go away in the future. He said an easement would be needed between the two property owners to do this. Mr. Block said he would like Mr. Younger to continue to use his property, but not at the expense of Mr. Block's property.

Chair Santucci Rozzi reiterated that if Mr. Block did not like what the Board did, he had the legal right to appeal that decision. She said the Board has not rendered an opinion. She said the Board has given Mr. Younger some direction, but it was up to him to rectify the situation. She said he might not rectify it. But, the Board is not there yet. There is a 20 day appeal period once the decision is filed with the Town Clerk. She said at this point, there is nothing to appeal. The Board is merely given Mr. Younger some direction on the next steps.

Mr. Block said he understood what the Chair was saying. At the same time, he wanted to be clear on his position. He said when Mr. Younger sold Mr. Block his property, that Special Permit could no longer be

valid. He tried to make this point clear to Mr. Mena and the Zoning Department. Mr. Block said he has sought legal counsel, who indicated that he cannot force Watertown to do anything. He said others who he has spoken to are surprised that the Town has not forced compliance at that point.

Chair Santucci Rozzi said the Town does not necessarily track what properties are bought and sold, and suggested it was odd that Mr. Block and Mr. Younger's closing attorneys did not pick up on the issue.

Mr. Block said the impact or loss of a zoning permit was not an issue for the property he purchased, 9 Franklin. He suggested it was something for Mr. Younger to be aware of. He said he understood that the Board's focus is the parking. He said his focus was establishing whether or not the Special Permit must be revoked simply on the evidence on the ground. He's confused that this process would go forward, when the property is not there to comply with the original Special Permit.

Chair Santucci Rozzi said revocation could be an option for the Board. She said this would be part of a noticed public hearing. She suggested the Board was not at the point of approving any option, because it did not have the information needed to make such a decision at this point. She said until the Board has that information, and holds a hearing, the Board won't make a decision.

Mr. Block said that he would make sure to submit information in advance, and submit it to the Clerk, the Board and staff. He said he agreed there was a parking issue, but did not agree with the process used to get to this point. He said he'd been trying to get Mr. Mena to take action for years.

Mr. Mena said staff understands what Mr. Block is getting at. He said the two issues were tied together. He said the reason for the parking issue is because the property line was miss-represented on the original plan. He said he "gets" the issue. He said the Show Cause is to determine if the property line on the 1996 and 1998 plans is accurate? Is the property line where it is on these plans? Can the parking shown on the plans can be put on that lot? The information to date indicates that these plans are inaccurate, and the parking cannot be put on the site as shown. He said the Order to Show Cause establishes that the property is not in compliance, and the Board will be taking the next steps to try to rectify it.

Mr. Younger said he did check to see if there was a plot plan done of the entire block. They only did a plot plan for 9 Franklin Street. He did not have a plot plan for 195 Mount Auburn Street. He said Mr. Block is correct that when he bought 9 Franklin Street, there were 4 parking spaces behind that property. He said he's had difficulties with his abutter, and as such, he asked for the yellow lines to be marked, because one of the residential tenants did not know how to back out the driveway, avoiding Mr. Block's property. Mr. Younger said these lines were trying to resolve the issues affecting Mr. Block's property. He said he not sure what he's done relative to an easement. He noted there are granite blocks separating the two properties. He said the parking on the site has been reduced with the snow this winter and plowing. Mr. Younger noted he had gotten the plot plan done. He said it's a plot plan for just 195 Mount Auburn Street. He said whatever provisions there are, these carry over to a new property owner.

Chair Santucci Rozzi said the Board is clear on the direction it has given to Mr. Younger, and Mr. Younger is clear on these directions. She said the Board welcomes additional input from both Mr. Block and Mr. Younger at the hearing. She suggested that the snow be removed so that the Board Members can see the site free of snow, and look at what the parking situation is now.

Chair Santucci Rozzi asked if any other members of the audience were present for the Show Cause hearing. They said no. Hearing no other testimony, the Chair asked for a motion to adjourn.

ADJOURN

Member Heep moved to adjourn the Zoning Board of Appeals meeting. Member Gannon seconded. It was unanimously approved 5-0.

Adjourned at 9:15 PM.