



**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, Alternate  
Jason D. Cohen, Alternate

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Louise Civetti, Clerk to the ZBA

**MINUTES**

On Wednesday evening, December 16, 2015 at 7:15 PM 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 Gannon, *Member*; Kelly Donato, *Member*; Jason D. Cohen, *Alternate Member*. Also Present: Steve Magoon, Assistant Town Manager and Director of Community Development; Mike Mena, *Zoning Enforcement Officer*; and Andrea Adams, *Senior Planner*

Chair Santucci Rozzi opened the public hearing portion of the meeting at 7:15 PM, introduced the staff and Board Members, noting that Jason D. Cohen, Alternate Member, would not be voting. She reviewed the Agenda, noting 7 cases. She said the five full Members will be participating in the review and votes. She said the Alternate Members can ask questions. She said the Minutes would be postponed to the next meeting. She administered an oath to those speaking or providing testimony.

**PENDING CASES**

**1. 121 GARFIELD STREET: Judith R. Dushku, 121 Garfield Street, Special Permit Finding (ZBA-2015-24)**

Member Ferris read the Hearing Notice: "*Judith R. Dushku, 121 Garfield Street, Watertown, MA 02472 herein requests the Zoning Board of Appeals grant a Special Permit Finding in accordance with Watertown Zoning Ordinance, §4.06(a), Alterations to Non-Conforming Structures, Lot Coverage, to construct an approximately 5.5x13.5 single story, rear addition. Resulting in a Lot Coverage of 32.5%, where a maximum of 20% is required and 31.2% exists. S-10 (Single-Family) Zoning District. ZBA-2015-24*"

The Petitioner's architect described the proposed project.

Chair Santucci Rozzi asked for comments from the audience.

Dennis Duff, Spruce Street, advised the Board to look carefully at this Petition, as it was another example of Watertown losing onsite open space. He also cautioned the Board that this site had been the subject of prior Variances and/or Special Permits in the past.

The Petitioner's architect noted that the proposed addition would be substantially placed on an area on the lot that's now taken up by a basketball court. As such, she suggested any area not taken up by the addition would be returned to greenspace/landscaped area.

Chair Santucci Rozzi noted the proposed addition would take the place of an existing basketball court, thereby returning it to landscaped/green space. She asked the Petitioner's architect to confirm this would be the case.

Member Donato asked if the addition would be clad in the same type of siding as the rest of the house. The Petitioner's architect responded yes.

Chair Santucci Rozzi closed the public hearing and asked the Board to deliberate. She commented that there would be more structure on the lot if the proposed project was approved, but also more green space. She suggested that an additional condition should note that the existing basketball court is to be removed.

Member Ferris noted the letters of support for the record.

Chair Santucci Rozzi asked for a motion on the project.

Member Ferris moved to conditionally approve the requested Special Permit Finding with the additional condition that the existing basketball court be removed, and in accordance with §4.06(a), *Alterations to Non-Conforming Structures, Lot Coverage*, as the proposed project meets the criteria set forth in the Watertown Zoning Ordinance. Member Heep seconded. Chair Santucci Rozzi, and Members Ferris, Heep, Gannon, and Donato voted 5-0, granted.

## **CONTINUED CASES**

### **1. 82 HIGHLAND AVENUE: Evan Hearty, Special Permit Finding (ZBA-2015-18)**

Chair Santucci Rozzi asked the Petitioner to update the Board.

Mr. Hearty noted a stamped Plot Plan had been provided.

The Chair asked for questions or comments from the audience.

Bob Loris, resident, asked why the Board was considering a Special Permit Finding and not a Variance.

Chair Santucci Rozzi explained that the subject property was already non-conforming. She asked for further comments from the audience. Hearing none, she closed the public hearing.

Chair Santucci Rozzi noted the Petitioner had addressed her question from the November meeting by providing the stamped Plot Plan. Chair Santucci Rozzi asked for a motion on the project.

Member Ferris moved to conditionally approve the requested Special Permit Finding as in accordance with §4.06(a), *Alterations to Non-Conforming Structures, Front and Side Yard Setbacks*, as the proposed project meets the criteria set forth in the Watertown Zoning Ordinance. Member Heep seconded. Chair Santucci Rozzi, and Members Ferris, Heep, Gannon, and Donato voted 5-0, granted.

***\*These minutes have been updated per request of Chair Santucci Rozzi to show on the record that the vote was 4-1 with Members Ferris, Heep, Donato and Gannon voting in the affirmative and Chair Santucci Rozzi voting against.***

### **2. 25 LANGDON AVENUE: Sara Sclaroff, Special Permit Finding (ZBA-2015-23)**

Chair Santucci Rozzi asked the Petitioner to update the Board.

Ms. Sclaroff thanked the Board for their patience, and noted that updated plans had been provided that showed the correct information on the zoning table.

Chair Santucci Rozzi thanked the Petitioner for the corrections she had made to the zoning table, and asked for questions or comments from the audience. Hearing none, she closed the public hearing. She asked for a motion on the project.

Member Donato moved to conditionally approve the requested Special Permit Finding in accordance with §4.06(a), *Alterations to Non-Conforming Structures, Front Yard Setback, Lot Coverage* as the proposed project meets the criteria set forth in the Watertown Zoning Ordinance. Member Ferris seconded. Chair Santucci Rozzi, and Members Ferris, Heep, Gannon, and Donato voted 5-0, granted.

### **3. 30 PILGRIM ROAD: Patrick E. and Rebecca A. Menton – Special Permit Finding (ZBA-2015-22)**

The Chair asked the Petitioner or their representative to update the Board.

Attorney Ken Leitner noted the Petitioner had engaged an architect, and provided new plans for the Board's review. He noted the floor plans had been updated, the windows matched, and the house would have vinyl siding and asphalt shingles.

Chair Santucci Rozzi asked for comments or questions from the audience. Hearing none, she closed the hearing, and asked the Board members for comments.

Member Ferris commented the new architectural drawings were much clearer. He asked if the entire structure would be re-sided. Attorney Leitner responded yes.

Member Ferris asked if the existing windows would be kept, or if all would be replaced? He noted that the drawings show 1/1 windows, but the existing windows appear to be 8/8. Attorney Leitner said that all the windows would be replaced and the sizes would match.

Member Gannon said the Petitioner should update the application form to match the proposed project. Michael Mena, Zoning Enforcement Officer, noted that the Control Documents are what the project would be built in conformance with.

Alternate Member Cohen asked if the front steps were existing, and what they were made of. Attorney Leitner said yes, they were existing, and they were made of bluestone. He noted the project would include a new hand railing.

Chair Santucci Rozzi summarized the recommended additional conditions posed by the Board:

- Match siding - New for entire structure
- Windows - Replace all and make them match
- Front Steps - Retain and reuse with a new hand railing

She asked for a motion on the project.

Member Ferris moved to conditionally approve the requested Special Permit Finding with additional conditions as summarized by Chair Santucci Rozzi, and in accordance with §4.06(a), *Alterations to Non-conforming Structures, Front and Side Yard Setbacks*, as the proposed project meets the criteria set forth in the Watertown Zoning Ordinance. Member Heep seconded. Chair Santucci Rozzi, and Members Ferris, Heep, Gannon, and Donato voted 5-0, granted.

### **4. 195 MOUNT AUBURN STREET: Clark Elefteriadis – Special Permit Finding (ZBA-2015-25)**

The Chair asked the Petitioner to update the Board.

The Petitioner's Attorney described the project, and the changes that had been made to it and additional information the Petitioner had provided to the Board as part of the Board's packets for this meeting. He used a series of slides shown on the public access TVs in the room to describe his points.

The Petitioner's Site Engineer described the proposed onsite parking, parking aisle width, and site drainage, using a stamped plot plan and a landscaping plan.

The Petitioner's Attorney noted Mr. Elefteriadis had provided a snow removal plan, which would have accumulated snow trucked off site. He noted the colored interior floor plans that had been provided, which showed how much interior space would be allotted to each use in the building. He addressed the lease issue with Mr. Younger, who still owns the property. He said the Real Estate office has approximately 1,000 square feet of space, and said the foyer cannot be Exclusive Use to the Real Estate office because it is the primary means of access/egress for the apartment. He said the matter of the lease with the Real Estate office is not germane to the Board's issues, and that the parking program proposed by Mr. Elefteriadis is less detrimental to the neighborhood than the existing parking situation.

The Petitioner's architect addressed zoning conformance, by directing the Board's attention to the zoning table included with the stamped plot plan. He also noted the changes in the elevations drawings since the last ZBA meeting, noting that the communicating stairs which would have connected the upper deck and a lower deck on one side had been eliminated. He noted this reduced the building's overall projection into the side driveway/parking area.

Chair Santucci Rozzi commented this was a positive change, but suggested the remaining stairs be moved or reoriented to further expand the parking/drive aisle between the structure and the driveway.

Member Ferris agreed, noting the stairs could be oriented to the west.

The Petitioner's architect agreed, suggesting part or all of the stairs could be repositioned into an indent in the building. He said the landing may not entirely fit in the indented space, but he understood the Chair and Member Ferris' concept.

Chair Santucci Rozzi asked what the dimension was at the most westerly point. The Petitioner's Engineer scaled the drawing and responded it was approximately 12 feet.

The Petitioner's architect responded that he thought the projection of the stairs could be reduced and still leave an alcove for the trash containers.

The Petitioner's Attorney noted that bike racks had been shown on the plans: both outside and inside racks.

Chair Santucci Rozzi asked the Petitioner if that concluded his presentation? He responded yes. Hearing this, she opened the hearing up to public comments.

### **Public Comments**

Susanna Toulina, Langdon Avenue, spoke in support of the Petitioner. She said she was a client of Boston Body, and currently used the Belmont location. She said if the Petitioner had a studio at 195 Mount Auburn Street, she would walk there. She noted the cross walk and bus stop on Mount Auburn Street make the site convenient for people walking or taking public transportation.

Katia Aamo, a client of Boston Body, who also lives in Watertown, said the Petitioners have a different kind of Pilate's studio. It's relaxed and slow paced atmosphere.

Rebecca Stolt, Watertown, said she's lived and worked in other cities, and is pleased to support the proposed project. She said she'd walk to the studio. She said she would also frequent the nearby stores as well.

A resident from 260 Mount Auburn Street said that space #1 on the Petitioner's landscape plan should be removed, because it will damage the tree. They said a planting area should be added between the driveway and 9 Franklin Street.

Robert Vercoloni, Franklin Street, asked about the egress path from the apartment?

DCDP staff clarified the primary egress and secondary egress for the apartment using the colored interior floor plans.

Mr. Vercoloni questioned whether the bulk of the Pilates studio clients would walk to the site. He also noted that more than 5 spaces for equipment are shown on the interior floor plans.

Chair Santucci Rozzi said the Petitioner could respond.

Mr. Eleferiadis responded that the studio would have five Pilate's machines and 3 other machines on the first floor. He said however, the studio would have no more than five clients at a time. He noted the parking program was in part based on using the Real Estate offices parking spots when they had off-peak hours for the Pilates studio.

Mr. Vercoloni asked about the proposed use in the basement? He also suggested that it was not appropriate that he had to include a side yard buffer at his house, when it appeared that Mr. Eleferiadis did not.

Mr. Mena responded that the Petitioner had included a proposed side yard buffer to 9 Franklin Street in prior iterations of his landscaping plan, but DCDP staff suggested he not include such a buffer, in favor of wider parking spaces and drive aisle, as the buffer did not currently exist. Mr. Mena said, however, the Board could choose to require a side yard buffer if it deemed it appropriate.

Mr. Vercoloni suggested the Petitioner should withdraw his application, as the neighborhood did not want the proposed project. He submitted a Petition against the project to the Board.

Chair Santucci Rozzi noted the Petition submitted to the Board states the property should be returned to a residential use.

James Morrison, 16 Franklin Street, said the idea of a Pilate's studio is great, but it's not relevant to the Board. He said the current and future use of the site is. He said the question of whether the site has adequate parking is germane to the Board's discussions. He said the fact is the site does not have adequate parking.

The Petitioner's architect noted the main driveway was asphalt. He said, however, that space #1 and spaces #6 and #7 on the landscape plan would be cobblestone. As such, they would help infiltrate runoff.

Mr. Morrison said that space #1 is right next to a tree, and would damage or kill the tree. He also said the Board needed a new plan showing how the stairs to the driveway would be moved. He asked how the number of parking spaces had been calculated.

The Petitioner's architect responded that the tree would not be killed by the installation of the cobblestone parking space.

Andrea Adams, Senior Planner described how the staff had calculated the required number of onsite parking spaces, using the Planning Board report. She noted the calculation included space attributed to the Real Estate office, the proposed Pilates studio, and the apartment. She noted it did not include foyers, common areas, covered porches, bathrooms, utility rooms and areas used for storage.

Chair Santucci Rozzi noted that should the Board choose to approve the proposed project, the decision would refer to specific Control Plans, and specific parking requirements. She asked for further comments from the Board. Hearing none, she opened the hearing to public comments.

## **Public Comments**

Rena Baskin, 15 Franklin Street, asked who would enforce restrictions on the number of Pilate's clients.

Chair Santucci Rozzi said that would fall to Mr. Mena, the Zoning Enforcement Officer. She said enforcement actions arise out of staff observations, or complaints.

Ms. Baskin said that there was a hypodermic needle disposal problem at the site, due to the acupuncture studio. She also directed the Board to a proposed Pilate's studio on Russell Avenue. She said it was a home occupation, and referred the Board to the Planning Board report, which had a number of proposed conditions. She noted the proposed project on Russell Avenue was limited in terms of hours of operation, parking, and there'd been concerns raised about street congestion, onsite parking, trash disposal, evening and weekend use, and clients backing cars out of the site. She said the Planning Board had recommended against the project. Ms. Baskin said, therefore, the ZBA should not look favorably on the current proposal. She said the Board should be concerned about the preservation of neighborhoods, and should not grandfather non-compliant and non-conforming uses.

Tom Giadamo, 40 Dartmouth, acknowledged the site was residential, but he noted it also had businesses in it. He said the Petitioner's plan is to significantly clean up and improve the site. He noted hundreds of Watertown businesses have no parking. He said Mount Auburn Street is commercial, and the property should be allowed to remain commercial.

Jonathon Bloch, 9 Franklin Street, said he was not in favor of the project. He took issue with the parking calculation, saying it should be based on Gross Floor Area, as stipulated in the Zoning Ordinance. He disagreed that the common areas, foyer, storage areas and porch were not included in the calculation. Mr. Bloch noted the site was non-conforming for parking. He said the Board should not grant a Special Permit Finding, since the project is creating new non-conformities. He said the proposal is altering the uses and the structure. He said the Petitioner must rather obtain a Variance, because the proposal is creating new non-conformities. He cited the Snow Inn vs Rockwood legal case.

Chair Santucci Rozzi asked Mr. Bloch to identify the non-conformities in the structure?

Mr. Bloch contended the case he cited includes both "use" in terms of non-conformities. He stated a Change of Use would be detrimental to the neighborhood. He said the findings of Snow Inn vs Rockwood were persuasive. He said early morning hours at the site would be detrimental to the neighborhood. He also said late night hours would be detrimental, and cited the Donovan vs Hingham case.

Mr. Bloch recommended that should the Board be inclined to approve the project, it should place operating hour restrictions on the uses. He said the Board and staff must identify the non-conformities as part of its deliberations, citing the Willard vs Orleans ZBA case.

Mr. Bloch said the parking is inadequate, and results in an increase in a non-conformity.

Chair Santucci Rozzi noted Mr. Bloch was not the determiner of the number of parking spaces on the property, rather, this was determined by DCDP staff. She said the required number of onsite parking space is nine (9).

Mr. Bloch said the layout of the spaces is not consistent with zoning. He questioned what the aisle width was per zoning for two way circulation?

Mr. Mena responded that for one way its 12 feet, and 24 feet for two way circulation. He noted the site was analyzed in terms of the site being pre-existing and non-conforming.

Director Magoon noted the direction of the traffic has not changed.

Mr. Bloch said his point was that the prior Control Documents showed two-way circulation on the site. He asked what the requirement for onsite parking was.

Mr. Mena said the first point is that the site is pre-existing, non-conforming. He also said the Zoning Ordinance stipulates 9 parking spaces, and the Petitioner's plan shows 7.

Mr. Bloch asked if the uses in the building can park on the site.

Chair Santucci Rozzi said the Board is not counting any off-site or on-street parking towards meeting the zoning.

Mr. Bloch said he believed the proposed uses will be more detrimental to the neighborhood. He said he believed there would be a significant increase in traffic and congestion. He suggested the Board could deny the Petition for these reasons. He asked the Board to also consider the following if it was inclined to approve the request:

1. A Variance
2. Collect all the non-conformities
3. Enumerate specific conditions to be placed on the Petition

Chair Santucci Rozzi asked for other comments from the audience.

Rena Baskin noted she'd sent an Email to Louise Civetti, Clerk to the ZBA, concerning the Russell Street Pilates studio.

Attorney Ken Leitner, speaking in relation to the current owner, Mr. Younger, noted the property is in a commercial corridor. He noted Mr. Younger has a Special Permit dating to 1996. This Special Permit created 10 parking spaces on site. He noted the discussion at the Show Cause hearings. He noted that every neighbor who has spoken to date purchased their homes since the 1996 Special Permit was granted. He noted Mr. Younger would deal with the Board and DCDP staff, as necessary to resolve issues. He suggested it was in the Board's discretion to approve the Special Permit Finding.

The Attorney for the Real Estate office said there was no issue with the Petitioner's proposed business, the proposed parking scheme, or the hours of operation. He noted the Real Estate office has a lease in place with the current owner. He presented additional material to the ZBA: First page of the lease, and Exhibit A. He noted the common area/foyer is part of the Real Estate office's lease. He said Mr. Younger has contracted with the Real Estate office to extend the lease. He said his clients have use of this space until it's closed off. He said the contractual obligation carries forward to the Petitioner.

Chair Santucci Rozzi said the issue he was raising was between his clients and Mr. Younger, and/or his clients and the prospective owner, Mr. Elefteriadis. She said this issue really wasn't germane to the Board.

Mr. Bloch asked if the Real Estate office would change, or would it be as it is now? He said he was asking, because he felt the notice for the ZBA hearing was questionable.

Mr. Mena said in the Petitioner's proposal, the Real Estate office would encompass Tenant Space A on the colored interior floor plans.

Chair Santucci Rozzi suggested that if the Real Estate office's square footage changed, in that it decreased, this was still in keeping with the notice. She asked the Real Estate office's attorney if an option to extend the lease had been exercised.

The Attorney for the Real Estate office said yes, the option had been exercised, and the lease had been extended to 2021.

Chair Santucci Rozzi asked for any further public comments? Hearing none, she asked the Board Members for questions.

### **Board Member Questions**

Alternate Member Cohen asked about the number of parking spaces? He asked how Boston Body would work out which use had which spaces?

The Petitioner's Attorney said Boston Body would use the spaces attributed to the Real Estate office during "after hours" for the Real Estate office. He said this was the plan, although there had been no formal arrangement worked out with the Real Estate office.

Alternate Member Cohen asked about the survival of the tree next to space #1? The Petitioner's architect said the tree will survive because creating the proposed cobblestone parking space will not damage more than 25% of the root mass. He also said the Petitioner would work to maintain the tree, including having it pruned for health.

Member Gannon asked if the Petitioner had given any thought to new signage. Mr. Elefteriadis said yes, and wanted to upgrade the sign to perhaps carved wood or a similar design. In any case, he said he would abide by the Town's sign regulations for the Historic District.

Member Gannon asked about the massage therapy use? The Petitioner responded that use is no longer in the building. He noted, however, it used to be open up to 10:00 PM at night.

Member Gannon asked about the hours for the Pilates studio. Mr. Elefteriadis described the various types of training and client offerings, and said there would be small classes, as well as private training sessions.

Member Gannon asked about the possibility of 6:00 AM clients? The Petitioner responded he would like to offer private training sessions to clients starting at this time on weekdays, but it would likely be the same person, three times in one week.

The Petitioner's Attorney noted all of the clients are scheduled, in that there is no "drop in" use of the Pilates studio.

Member Gannon asked how the Petitioner proposed to handle clients who park on Franklin Street. Mr. Elefteriadis said he could consider a three-tiered system: First offense – discuss with the client. Second offense – a warning. Third offense: Loss of privileges to attend his studio.

Member Ferris asked for a clarification as to how the parking requirement was calculated?

Director Magoon noted the area colored yellow on the floor plans was the common area/foyer, and the primary egress for the apartment.

Ms. Adams described how DCDP staff had calculated the parking requirement.

Member Ferris expressed concern that what was allowed in 1996 was reliant on parking on the site. He expressed concern for adequate room for vehicles to turn around on site. He suggested the Petitioner consider putting parking "inside" the building.

The Petitioner's architect said they had considered this, but there was a grade issue. Also, he suggested that as the building was subject to the Historic District Commission, getting approval to park cars inside or partially inside the building might be difficult. He said the Commission is compelling the Petitioner to treat the entire structure as historic.

Member Ferris suggested that based on prior Board discussion, the Petitioner might be able to create additional parking spaces.

The Petitioner's architect said it was doable to eliminate part of the porch/landing as previously discussed.

Member Donato asked about the proposed business hours, and whether the Board could place restrictions on operating hours?

Director Magoon responded yes, that the Board can and has limited hours of operation, particularly for uses in residential areas, or abutting residences.

Chair Santucci Rozzi said she'd looked up the Petitioner's business on line, and the photos show the classes as full of participants. She noted one studio had as many as 38 classes.

The Petitioner responded that the Belmont Studio is totally different. It has two times the space of the proposed studio at 195 Mount Auburn. He said the Watertown model would be built around private clients.

Zena Gold, the Petitioner's spouse, and a trainer at the studios, said the online photos are from their Newbury Street location. She noted that location was even bigger than the Belmont Studio.

Chair Santucci Rozzi asked if the Petitioner was being realistic, in that would their financial profoma work with such a small studio?

Ms. Gold said yes, in that they had been running two studios for at least 30 years. She said she and her husband are looking to change their business model. She said the private client and mentoring model is financially viable for them.

Chair Santucci Rozzi suggested the plot plan show distances that are too tight for parallel spaces. She suggested people would shy away from parking right next to the fence along the property line. She suggested parking spot #1 would be unworkable. She suggested that a residence with one business might be all that site could realistically handle. She noted the Petitioner's prospective tenants weren't in agreement with some aspects of his plan.

The Petitioner acknowledged the Chair's concerns, but noted he was not the owner, and had been advised by his Attorney not to attempt a negotiation with the current tenants until he was the owner. He also acknowledged his long-term plan was to make the site owner/occupied.

Chair Santucci Rozzi acknowledged the Petitioner's situation was not an easy one. She said dealing with the second business on site is complicating issues.

A member of the Real Estate office said she was excited about the office's location, and wanted to grow the business. She said the reason for her company's objections is because the business they'd worked to build was in jeopardy.

Chair Santucci Rozzi suggested that there may be space inside the building that the Real Estate office could add desks to, but the constrained parking on site indicated this was ill-advised.

Member Ferris commented that the Real Estate office could not use the foyer as office because it was required as egress for the apartment.

Mr. Younger, the current owner, noted the Board had raised concerns about the parking plan he proposed. He noted the current Petitioner was offering a parking plan that tried to address the issues raised by the Board in connection with his parking plan. He noted the site had had a commercial use since 1917, and was under the control of the Historic District Commission.

The Chair asked for final comments from the audience.

Mr. Vercoloni asked about the Petitioner's proposed class schedule. He asked if the Board had documentation of how many classes would be held.

Chair Santucci Rozzi said the Board had a sample schedule. It appears the private sessions would be 40-60 per week.

Mr. Vercoloni questioned whether this was an appropriate number of people to have on site? He said he and those who had signed the Petition wanted the site to revert to residential. He said he understood the long-term lease with the Real Estate office. He suggested the neighborhood was okay with this use.

Chair Santucci Rozzi said the Board could include a condition in the decision to require the Petitioner to come back before the Board for a confirmatory re-assessment. She also asked for any further Board questions or comments or questions from the public.

The Petitioner's Attorney thanked the Board for their time.

Mr. Eleferiadis thanked the Board for the opportunity to present his project.

Chair Santucci Rozzi described the next steps, noting that Mr. Eleferiadis would need a unanimous Board vote. Based on that, she asked what he would like to do. Have the Board vote or continue the hearing, or withdraw the project?

Mr. Eleferiadis asked the Board to vote on his proposal.

Chair Santucci Rozzi explained that the Board would now go into its business mode, and it may ask the Petitioner or others for clarifications, but testimony would be closed. She closed the hearing portion and opened the Board's business meeting.

### **Board Discussion**

Member Donato said she was not in support of the proposal, without other changes such as changes to the width of the parking spaces.

Member Ferris suggested the Board was unlikely to see a more appropriately prepared application. He commended the Petitioner on his diligence. However, Member Ferris said he was concerned about the site having two commercial tenants. He was not persuaded by parking space #1, which he felt should be excluded from the parking spaces. He said he was not supportive of the Petition as it was now. He expressed concern about those parking on the site backing out onto Franklin Street.

Member Heep expressed support for the Petition. He noted it was a long-standing commercial property. He said he was not persuaded the proposed uses would be more detrimental than the existing ones. He said the legal standard before the Board is not to return the site to a residential only use. He acknowledged the site constraints. He said he was persuaded by the potential for clients to use the bus, and to park on Mount Auburn Street. He said the Petitioner was realistic in his expectation for onsite parking. He said he was also persuaded the 6:00 AM slot for one client was realistic. Member Heep said the parking proposal was better than that brought before the Board before.

Member Gannon agreed with Member Heep. He was supportive of the Application. He noted the Petitioner had been accommodating and responsive to the Board's questions. He said he was satisfied the Board could impose limits on early hours of operation. He said the Petitioner's proposal was much less detrimental to the neighborhood than the massage parlor, noting it had been the subject of criminal complaints. Member Gannon was impressed with the Petitioner's willingness to work with the Town to upgrade the signage. He said he was persuaded the 1996-1998 approval solidified the use as mixed use. He said the Petitioner's proposal would result in a reduction of onsite uses, which was positive. He said the Petitioner acknowledged and was realistic about the onsite parking situation. He suggested the Board could adequately condition the project.

Alternate Member Cohen said he was not voting on this Petition, but he was persuaded by the Petitioner, and Member Gannon's arguments. He felt any issues could be conditioned.

Chair Santucci Rozzi noted there were two Members in opposition and two in favor, not counting Alternate Member Cohen. She noted the Petitioner needed four affirmative votes to proceed. She asked if the Petitioner would like to discuss next steps with his Attorney.

Mr. Elefteriadis said yes, and he, Zena Gold, and his Attorney left the chamber.

After about 10 minutes, Mr. Elefteriadis Zena Gold, and his Attorney came back into the chamber. The Petitioner's Attorney asked the Board to provide them with detailed guidance on what further could be done to improve the proposal.

The Board Members provided the following list of items for the Petitioner's consideration:

1. Tuck the porch/stairs in or remove them to make more driveway/parking space
2. Grass-crete instead of cobblestones
3. Cars face out – Demonstrate through a turning movement diagram that vehicles can be positioned this way
4. Provide a turning movement diagram or template showing that vehicles can maneuver the site
5. Provide example upgraded signage
6. Consider providing spaces in the building, and eliminate space #5 to provide more space to maneuver
7. Provide an agreement on parking arrangements and usage with the tenants
8. Better address parking spill-over into the neighborhood

Chair Santucci Rozzi asked the Petitioner if he was prepared to entertain another continuance to January 2016.

Mr. Elefteriadis said yes.

Member Heep moved to continue 195 Mount Auburn Street to the January 2016 ZBA meeting. Member Gannon seconded, and the motion was unanimously approved.

##### **5. WALTHAM STREET, Lot 3: Joseph M. Deodato, Builder – Special Permit (ZBA-2015-21)**

Chair Santucci Rozzi appointed Alternate Member Cohen to participate in the hearing and deliberations on Waltham Street, Lot #3 in place of Member Gannon.

Attorney Ken Leitner, representing the Petitioner, noted the lot was undersized. He provided the Board with a black and white rendering of the streetscape, showing the proposed new single-family house on the lot. He said the dwelling was to be two stories, with the third story compliant with the Zoning Ordinance. He said the proposed project fits the neighborhood, and noted the builder had done a similar project on Lexington Street. He noted the proposed requirement in the Planning Board Report for a landscaping plan, and said this would be worked out with DCDP staff.

Dennis Duff, Spruce Street, said the proposed project is not compliant with the Zoning Ordinance, because it allows front yard parking.

Mr. Mena responded that in this case, a single-family dwelling is allowed per Special Permit, and a driveway in the front is allowed. He suggested that Mr. Duff was referring to prior projects, which had petitioned the Board for front-approaching driveways as part of a two family dwelling.

Alternate Member Cohen said the house was a good design.

Member Gannon, who acknowledged he was not voting on this Petition, questioned the status of the lot. He noted it was undersized, and he questioned whether the subject property was dependent on the

adjacent lot. He also questioned whether the two properties were in common ownership, and suggested the Board seek a legal opinion. Attorney Leitner responded there is no structure on the subject lot. Mr. Mena responded to Member Gannon that the issues raised by him were also issues discussed by DCDP staff. He expressed confidence that the adjacent site, which has a house and garage on it, is not dependent for zoning conformance on the subject property.

Chair Santucci Rozzi said the same logic that Mr. Mena was referring to is the way that Braintree, where she works as a Principle Planner, has been advised by Kopelman and Paige to treat such circumstances.

Member Gannon suggested the Board nonetheless consider a continuance to get a definitive legal opinion on the matter.

Member Heep said he was of the same mind as Member Gannon. He said nonetheless, the issue for him turned on whether the subject lot was merged with or independent of Lot #22.

Member Ferris asked the Petitioner whether the house would be wooden siding or other material. He also suggested there was typo in the application with respect to the project's height. Member Ferris suggested that something other than vinyl siding would look better. He also noted the recently enacted Design Manual expresses a preference for materials other than vinyl. Attorney Leitner said it would be Hardiplank or vinyl siding. He also acknowledged the typo.

Director Magoon noted the Design Manual is intended in commercial settings, rather than residential, but also acknowledged it encouraged use of other materials.

Member Heep noted the staff report map shows Lot #22.

Mr. Mena acknowledged this, and suggested the Assessor may consider the lots combined for assessing purposes. However, he noted this was a separate issue from zoning considerations.

Attorney Leitner said here was a 1951 deed at the Registry of Deeds, which shows two lots.

Chair Santucci Rozzi suggested there were no coverage issues? Mr. Mena responded yes. The Chair asked for further comments or questions from members of the audience? Hearing none, she closed the public hearing, and opened the Board's deliberations.

Chair Santucci Rozzi reviewed the Planning Board report, noting it called for a landscape plan and she also recommended the project not use vinyl siding. She asked for a motion on the project.

Member Heep moved to conditionally approve the requested Special Permit with the additional condition that the project use material other than vinyl siding, and in accordance with §4.09, *Exceptions to Lot Size, Frontage, Lot Size*, as the proposed project meets the criteria set forth in the Watertown Zoning Ordinance. Member Ferris seconded. Chair Santucci Rozzi, and Members Ferris, Heep, Donato and Alternate Member Cohen voted 5-0, granted.

**6. 124 WATERTOWN STREET: Bell Atlantic dba Verizon Wireless – TCA Use Variance (ZBA-2015-**  
The Chair asked the Petitioner to update the Board.

Attorney Manougian, representing the Petitioner, noted he had distributed a Radio Frequency Radiation (RFR) report to the Board, and a set of colored plans. He noted, unfortunately, the colored plan set, and the one distributed to the Board in their packets, were both not correct. He distributed black and white copies of a plan set which he said was correct. He described the proposal, noting the equipment cabinet had been shifted to the other building alcove.

The Petitioner's RFR Engineer showed the Board updated coverage maps using colored maps mounted on foam core. He said the proposed site is not for coverage, but rather for additional capacity. He

described two other locations that were analyzed, but rejected, because they could not handle the capacity problem.

Chair Santucci Rozzi suggested that a site with 16 antennas was the largest she's seen in her experience both as a ZBA member in Watertown and as a Principle Planner in Braintree. She asked the Petitioner why the company was "blowing out" the site in terms of the number of antennas.

The RFR Engineer responded that other company sites were being similarly upgraded to deal with capacity.

The Chair acknowledged this, but noted the site was not in a location where wireless facilities were permitted.

Member Heep questioned the Petitioner's attorney, in that if the site was for capacity, and not for coverage, could the Board not deny the site and that denial would not necessarily constitute a violation of the Telecommunications Act (TCA)?

Attorney Manougian said he believed such an action by the Board would constitute a violation of the TCA, in that the TCA presumption included capacity sites.

Chair Santucci Rozzi questioned the Petitioner as to whether or not the company had equipment on the Crowne Plaza Hotel?

Attorney Manougian responded yes, the company has equipment at that site.

Chair Santucci Rozzi asked if the Crowne Plaza site was boosted. If not, she suggested the company investigate boosting this or other surrounding sites to deal with the capacity problem.

The Petitioner's RFR Engineer responded it probably was boosted.

Member Gannon asked why the company wouldn't first choose to add antennas to existing sites to address capacity.

The Petitioner's RFR Engineer responded that changing a site from 3 to 4 antennas would not provide enough additional capacity.

Donald Hayes, for the Petitioner, noted that antenna technology had evolved. The first antennas were Omni-directional. Now, he noted, antennas are uni-directional. He said this means more antennas are needed to focus and capture the signal, and to provide adequate reach between facilities.

Chair Santucci Rozzi noted again that the site selected by the Petitioner is not in an applicable zoning district. She also noted that there is no gap in coverage, but rather a capacity issue. She strongly advised the Petitioner to address the capacity issue in other ways.

Attorney Manougian responded the Petitioner would assess whether or not capacity at other sites could be upgraded to address the issue. He asked about the roof of the Armenian Library, which is Watertown #2. He also said he would provide the Board with a legal memorandum as to how the TCA Variance encompassed capacity sites.

The Chair suggested that the roof of that building was already festooned with antennas. She noted the Board needed more persuasive evidence that capacity was needed. She strongly suggested the Petitioner analyze Newton #2, Newton Silver Lake and Newton North, and provide the Board with information on the status of these sites relative to the capacity issue.

Member Ferris noted the plans needed to be updated.

Attorney Manougian said the Petitioner would provide corrected and updated plans.

Chair Santucci Rozzi asked for further comments or questions from the Board, staff or audience. Hearing none, she asked for a motion to continue 124 Watertown Street to the January 2016 ZBA Agenda.

Member Heep moved to continue 124 Watertown Street to the January 2016 ZBA meeting. Member Gannon seconded, and the motion was unanimously approved.

**ADJOURN**

Chair Santucci Rozzi asked for a motion to adjourn. Member Ferris moved to adjourn the hearing. Member Heep seconded, and the motion was unanimously approved.

Adjourned at 12:00 AM (midnight)

Submitted to the board by staff.  
Updated per request 1-26-16 lc

These minutes have been approved by the Zoning Board of Appeals on January 27, 2016, by a vote of 5-0. Members Santucci Rozzi, Ferris, Heep, Donato, Gannon voting in the affirmative.