

MINUTES

On Wednesday evening, **November 28, 2007** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Melissa M. Santucci**, *Clerk*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*; **Joseph Merkel**, *Senior Planner*; **Danielle Fillis**, *Senior Planner*.

Tape 1 of 2, Side A

Chair Vlachos introduced the board, staff and new senior planners and swore in the audience.

The minutes of the September 26, 2007 and October 24, 2007 were voted on and approved as written.

The first case is a continued case:

Foss Tighe and Linda Colby, 31 Morse Street, Watertown, MA, herein request the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Height, Side Yard Setback and §2.71(b), Half-Story; and further requests a **Variance** in accordance with §2.71(b) and §5.04, Table of Dimensional Regulations, Stories-½ Story, so as to expand westerly side 10'x11.8' dormer an additional 16', (26'x11.7'), maintaining non-conforming 38.73' height, where 35' is permitted; and maintaining non-conforming 3.9' westerly side yard setback, where 10' is required; and further expand non-conforming 52% (half-story) living space by 9% to 61%, where less than 50% is allowed to maintain ½-story at **29-31 Morse Street**, located in the T (Two-Family) Zoning District.

Ms. Santucci recused herself from the case and Mr. Moynihan will be voting in her absence.

Foss Tighe introduced himself and explained their original request was for a 16' dormer. They previously stated they had reduced that request by half and have now submitted a revised plan showing the actual 61 square feet of space they are adding which accounts for an additional 5% or 57.1% of the third floor. They are requesting this as they have four bedrooms on the third floor with two small children and they would like to be able to go to the bathroom on the same floor as the bedrooms. All of the homes in the area have mansard roofs and third floors that exceed the 50% rule. This variance will not make their home out of synch with the neighborhood.

Chair Vlachos verified the plan stamped November 20th is the control document. No one spoke from the audience. Ms. Scott said the petitioner listened to what the board had requested previously and reduced the request down to the minimum for a bathroom from 61.2% to 57.1% - the request fits the need and the request from the board.

Chair Vlachos said the Planning Board recommended the approval of the original request. Neither of the Senior Planners had comment as this case was before they came on board.

Ms. Scott asked the petitioner if the neighbor's concern was addressed. She also sent both parties the law regarding accessing the abutters property to do necessary repairs. Mr. Tighe said the law was clear on how to proceed. He also changed the gutters so the water would not run onto the neighbors lawn, but the neighbor was not satisfied. He will therefore, adjust the gutters again to be sure no water will run onto his property. Ms. Scott clarified that this is not a zoning board issue and will be worked out between neighbors.

Ms. Elliott motioned to grant the Special Permit Finding, minus condition #7. Mr. Moynihan seconded. 5-0 granted.

Ms. Elliott motioned to grant the Variance, minus condition #7. Mr. Moynihan seconded. 5-0 granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 2, Side A, Continued:

Karnig Ostayan, Manager, Bell Tower Place LLC, 200 Dexter Avenue, Suite G, Watertown, MA, herein requests the Board of Appeals to grant an **Amendment** to **Special Permit/Special Permit Finding #05-42**, granted November 9, 2005, and in accordance with §4.06(a), Altrs', Add'ts to Non-conforming building and §5.15 (c), Construction of 7 condominium within former St. Theresa's Church, so as to amend control plans to allow construction of one gable dormer, 10'x 12' and shed dormer, 10'x 10' directly below on the easterly side and one gable dormer, 10'x 12' and one shed dormer, 10'x 10' directly below on the westerly side of the building; further allow two light monitors, 8'x 8', in rear on easterly and westerly side at **444 Mt. Auburn Street** located in the T (Two-Family) and R/SO (Religious/School Overlay) Zoning Districts.

Ms. Scott stated that the board entertained half of this petition last month in regards to the dormers and tonight the petitioner is before the board only for the light monitors in the rear.

Karnig Ostayan explained the need for the light monitors to bring natural light into the rear of the building. Light monitors are 8'x8' bump out on a flat roof on both sides of the building in the rear and in this case, in the ceiling of the living room/dining room area. They are to bring in light from the outside to an area that would be dark due to the configuration of the prior church which did not need natural light in that area, but now that it will be living area, it is needed. They thought a window would bring in enough light, but with the retaining wall located about 6' from the building, it blocked the natural light. The case was postponed due to the neighbor in the rear objecting. They have agreed with the neighbor to provide one large substantial tree (from the prior line of arborvitae agreement). They will plant a 15' Spruce tree within the next week or so and he is waiting on the proposal from her landscaper.

Ms. Santucci said the light monitor is on the roof and the sides of it do not allow someone to look out or in and she does not understand the privacy issue from the neighbor. Ms. Scott said that the neighbor was concerned with light pollution. Mr. Ostayan said the house sits a substantial distance from the rear of this building. Mr. Fernandez said in the seasons where the trees are full of leaves, the light would not be seen from the yard and in the winter, they are not in the yard so the light pollution would not be an issue. He is surprised that this is an issue as he does not see this as an issue at all. He thinks this agreement is unfortunate. Ms. Santucci agreed that there is already buffering and another agreement was not necessary. Mr. Vlachos asked what this tree costs and Mr. Ostayan said about \$4000. Mr. Ostayan said he is trying to keep good neighborly relations and wants to move the process forward.

No one spoke from the audience.

Ms. Santucci asked Ms. Scott is the landscaping issue under condition number 3 is resolved. Ms. Scott said the board would make note that there is an agreement. She then asked if Mr. Ostayan is paying the neighbor or the landscaper. Mr. Ostayan said he can not be paying her – he has to pay the landscaper and he will be signing a proposal from the landscaper and getting the bill directly from the landscaper. Mr. Fernandez asked if a drawing or a document would be issued. Mr. Ostayan said a proposal would be provided by the landscaper by this weekend. Ms. Scott said the board would keep a copy of the proposal with the landscaping plan of where this is going. The plans now show the arborvitae and this tree is going between the Japanese maple. The plan they have is a proposal with the arborvitae and they will draw in the tree when the proposal arrives. Ms. Santucci asked if this needed to be in our conditions. Ms. Scott said this should be a private agreement – once the tree

is in, she owns the tree and that is it. Ms. Santucci agreed and stated that there should not be a correlation between this change and what this gentleman is generously offering to accommodate this neighbor and it should not be in the conditions. Mr. Vlachos added that if the tree dies, it does not come to the board at all. Ms. Scott stated that the tree belongs to her. Mr. Bailey said there should be a warranty for a year. Ms. Scott said that would be between her and the landscaper.

Mr. Vlachos stated the Planning Board recommended to grant the Special Permit and Special Permit Finding with condition #3 regarding the landscaping review.

Ms. Santucci motioned to amend the Special Permit and Finding to allow the installation of the two light monitors, removing condition #3. Ms. Elliott seconded. 5-0 Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 2, Side A, Continued

Patricia Martocchia, 15 Fayette Street, Watertown, MA, herein requests the Board of Appeals grant an **Amendment to Variance #06-07**, originally granted April 19, 2006, in accordance with §5.04, Table of Dimensional Regulations, Side Yard Setback, so as to construct a fire-code required stairwell 4'x 12.5', to sprinkler room on southwesterly (Middle Street) side, proposing 8.5' side yard setback, where previous variance allowed 10.5' side yard setback and where 12' is required at **16-18 Myrtle Street**, located in the T (Two-Family) Zoning District.

Wayne Pellitier, Architect, said he spoke to Ms. Scott regarding the Planning Board meeting and their questions which were regarding the site and the approximate completion of the project. He estimates at about 3-4 months to occupancy. Along the back, they wanted to know when the fence was being installed and that will be within the next week or two. The plantings, arborvitae will be planted in the spring when the grading and fence is complete. The parking was addressed earlier. The areaway was shown on the architectural plans and needed to be added to the site plans. The doorway to the sprinkler room was cut in and the inspector of buildings brought up the requirement of the areaway being included in the setback. The stairway and a one foot retaining wall – which may end up being 6" or even railroad ties. The areaway is below grade, with drainage and enclosed with a railing for safety. The areaway is for the fire department only and not for tenants.

No one spoke from the audience.

Chair Vlachos stated that this is a partial oversight on a previously approved plan. Mr. Fernandez said he has a concern regarding the construction and it needs to be concrete – the bottom of the footing needs to be 3' below the level of the drain to remain usable for the fire department.

Mr. Bailey asked about traffic loading on the wall design for structural support. Ms. Scott explained that there is landscaping next to the wall and not the street. Mr. Fernandez clarified that the design of the wall needs to be considered as a structural element.

Ms. Santucci motioned to amend the Variance to allow the stairwell for the sprinkler room entry further into the side yard setback with conditions discussed. Ms. Elliott seconded. 5-0 granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

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Tape 1 of 2, Side A, Continued

Sandra LeDuc, 199 Edenfield Avenue, Watertown, MA, herein requests the Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, so as to raze enclosed rear porch, 8'x 8' and rebuild to 10'x 10', maintaining non-conforming northerly side yard setback of 6.7', where 12' is required at **199 Edenfield Avenue**, located in the T (Two-Family) Zoning District.

Mr. Bailey recused himself from this case, Mr. Moynihan will be voting.

Sandra LeDuc said the porch on the rear is in bad condition with the roof leaking and the sills rotting. They want to raze the porch and add a 4 season room. Two weeks ago, she discovered a problem with the deck that abuts this room and she wants to take the opportunity to make the room a little larger and the deck a little smaller.

Mr. Vlachos said the November 20th plan is the latest one.

Mr. Fernandez asked how the roof of the addition is related to the roof of the main house. Ms. LeDuc said the house sits on a hill with the front of the house at street level and the rear yard is at basement level. The roof on the porch is about a foot above the floor of the second level of the house. In the front, it is a one story structure and the lower level it is exposed in the rear with a dormer. The addition will be insulated with siding.

Mr. Fernandez wanted a layout plan of the kitchen. Ms. LeDuc said her contractor knows exactly what she wants – it is just not on paper. She added that her understanding of this board is only to comply with the non-conforming setback and not the kitchen itself as the kitchen would be addressed at the building permit level. Mr. Fernandez said he could come back to her and ask why she is not placing the room more towards the middle of the house instead of more towards one side of the house and the reason is because of the kitchen renovations – so it is related so the face of the addition matches the face of the house – particularly when it is a two story condition. This is not a little shed, it is a two-story condition.

Ms. Santucci said the addition will have two French doors to the deck and a set of stairs to the backyard and under the deck is open. Ms. LeDuc said there is a patio there now and the patio will remain.

Mr. Fernandez asked if the additional space is kitchen space. Ms. LeDuc said the addition would be a sunroom off of the kitchen. Mr. Fernandez asked if it is a typical interior layout with four quarters – yes. Mr. Fernandez said the idea of the sunroom is not limited to the position that she shows it currently. Ms. LeDuc does not understand his question. Mr. Fernandez said the room could move sideways. Ms. LeDuc said it is limited because of the door is about a foot from the side wall. Mr.

Fernandez said the door can be displaced by removing 3 or 4 sticks and the concrete is the big ticket item – not the door on an exterior wall.

Ms. Santucci clarified that an existing room is 8'x8'. Ms. LeDuc said she originally requested 10'x10' and now that the deck has to be taken down, she is requested 12'x12' with the corners cut off to meet the setback.

Ms. Fillis stated that this request could not be voted on tonight as it has changed and it has to be re-advertised. Ms. Santucci disagreed as did Ms. Scott. Ms. Santucci said the original amount of relief requested has not changed and the extension of the addition is being done by right and does not need the approval of this board. Ms. Scott added that she is maintaining the same amount of non-conformity. Even though this has been changed from the Planning Board, the Zoning Board has the right to approve this change. Ms. Scott said the deck is also reduced.

Mr. Fernandez said the addition can be centered and have a nicer sunroom and return to the community a proper setback and he will vote accordingly given the fact that the renovation of the inside can accommodate a sunroom in a different location and he is prepared to vote against granting relief, seeing that it needs to be rebuilt anyway. Ms. Scott said she understands what Mr. Fernandez is trying to accomplish, but rearranging her kitchen is not something this board has the authority to do. Everyone has the right to come to this board and ask for whatever relief they require. Mr. Fernandez reiterated that he is going to vote against the relief because the addition on the outside of the house can be elsewhere and an attitude well established in the business is that you repair as opposed to continue to extend.

No one spoke from the audience.

Ms. Santucci supports the petition as this is a modest request and it is extending a non-conforming setback and the fact that Ms. LeDuc is cutting the corner of the room to maintain the setback and filling in the 2' gap where the deck is not within the board's jurisdiction.

Chair Vlachos asked the Planning Staff if there were any comments they would like to add. Ms. Fillis said she did not see the new plan and was unaware until this evening and she doesn't like to do on-the-spot zoning analysis, but if the Zoning Enforcement Officer and the Board agrees that this can be voted upon then she has nothing further. Ms. Scott said the original 10'x8' was 6.7' from the setback and this new request is 12'x12' and the relief is still at 6.7'. Ms. Fillis said she was not able to visualize the 12'x12' new request and now sees the 6.7' as unchanged.

Chair Vlachos said the Planning Board recommended that the Board approve the request.

Ms. Santucci motioned to grant the Special Permit Finding to allow the reconstruction of the sunroom and deck as shown.

Tape 1 of 2, Side B

Ms. Elliott seconded. Voted 4-1 with Mr. Fernandez voting against. Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 2, Side B, Continued

Brian Howe, 173 Worcester Street, Watertown, MA, herein requests the Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, so as to raze existing three-season porch, 6'-3"x 10' and roof of 10'x 24'-4" single-story westerly side addition and reconstruct with hip roof & enlarge to 10'x 27'-7.5", maintaining existing non-conforming westerly side lot setback of 9.4', where 12' is required at **173 Worcester Street**, located in the T (Two-Family) Zoning District.

Brian Howe said his Colonial style house has 3 bedrooms and one bath. Their growing family would like a second bath by replacing the single story addition above the garage. They'd also like to replace the roof with a hip-roof.

Ms. Scott said he has done a good job on the petition. Ms. Santucci said she appreciates the photos as part of the statement as it helps and this request if straight forward.

No one spoke from the audience.

Ms. Fillis said it is a good project. Chair Vlachos asked how the Senior Planners are going to work things out. Ms. Fillis said she did all of the Staff Reports and they will work things out on moving forward. Chair Vlachos said the Planning Board report recommended to grant the request with boiler-plate conditions.

Ms. Scott commented that with the extension at 3', Ms. Fillis suggested footings be put in and the Petitioner has followed that direction. It was very good dealing with this petitioner regarding all of the revised plans.

Mr. Fernandez asked if the slope of the roof is acceptable at 4/12. Ms. Scott said 4/12 is fine.

Ms. Santucci motioned to grant the Special Permit Finding to allow the extension of the non-conforming side yard setback. Ms. Elliott seconded. Voted 5-0 Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

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Tape 1 of 2, Side B, Continued

Thomas Kilfoyle, Kilfoyle Properties LLC, 10 Munroe Avenue, Watertown, MA, herein requests the Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Parking and Structure, Side Yard and Rear Yard Setbacks, Impervious Coverage, Minimum Open Space, **Special Permit** in accordance with §5.01.1(g), Multi-Family Use; §5.01.1(l) Mixed Use; **Variiances** in accordance with §5.04, Table of Dimensional Regulations, FAR, Maximum Lot Coverage, §6.01(b) Required Parking for the conversion of former manufacturing building (Linco Tool) so as to permit 14 residential units with accompanying 8 work space units on 1st fl, providing 26 parking spaces in garage, where 28 spaces is required. Construct 3-story in-fill rear addition 12.7'x 46.6'x26.6' located 0.05' & 0.1' northerly side yard and 3.6' rear yard, where 15' side and 20' rear is required; construct new 2nd and 3rd floor containing 19,800 sf located 0.05'-7.3' northerly side yard and 0.0'-7.3' southerly side and 0.5' – 14.6' from the rear property line; further increasing building coverage from non-conforming 91% to 96%; increasing FAR to 1.4, where 1.0 is permitted; maintaining non-conforming 100% impervious coverage and 0% open space, where 10% minimum is required at **264 Arlington Street**, located in the LB (Limited Business) Zoning District.

Kevin Crane, Attorney for Petitioner, 104 Mt. Auburn Street, Cambridge, said this property is at the corner of Wells Avenue and further described the property and surrounding businesses. His client purchased the property in April 2007 after it had been vacant for some time. He wants to place 14 apartment units in that site. On September 10, they appeared before the Planning Board where they had an engaged conversation with the neighbors. Their concerns focused on traffic and parking. They then had a neighborhood meeting on October 1st where 20 people showed and they presented their changed plans for the Arlington Street side which was originally designed as a first floor work area for the units which was undefined. The planning Board raised concerns about the operation of the work area which could end up as business space. They have changed their plans for the Arlington Street side to reflect tri-plex units with a sleeping loft area, which existed, the second floor as the dining area and the first floor, the living area. The seven units in the back remain the same. The parking initial proposal was for 26 parking spaces with the zoning ordinance requiring 2 spaces per unit and they awaited the Town Council vote on a change in the requirement to 1.5 spaces, which did not pass. They revised their plans to provide 28 parking spaces to coincide with the requirement of 2 spaces per unit. At the northwest corner of the site, they are proposing to square-off. That corner abuts the Elks club on one side and the parking lot on the other side. By squaring that section of the building, it will allow parking to exist inside the building. An exit on that side of the building would not work out as there is not a right-of-way to that private parking area. There are various entities that have access to that right-of-way, but their property does not. They hired a traffic engineer from VHB and the traffic memorandum concludes that the impact of 28 parking spaces would be insignificant during peak hours. The other relief requested regarding the side and rear setbacks are already in violation – they are extending those setbacks. The proposal calls for 14 deeded storage areas and 2 common storage areas. The parking includes a handicapped space and they are providing an affordable unit, as the ordinance requires. He brought Tom Kilfoyle, Owner; Ed Herman, Construction Manager; Jason Magorsia, Architect; and Anna Fill, Traffic Engineer. They also went back to the Planning Board which approved the revised plans.

Ms. Santucci asked if they could show the board color renderings. Jason Magorsia, Architect, 15 Cranston Street, Jamaica Plain, showed a rendering from the Wells Avenue side looking from the Municipal lot. The proposed building is in the rear. He showed the main living areas set back from the parapet wall.

Ms. Santucci asked where the 91 to 96 building coverage is coming from. Mr. Magorsia said where parking spaces 14, 13, and 12 are on plan D11, show the corner cut out and A11 show the corner filled in – a trapezoid shape. Mr. Crane said there are two roll-up doors at the back of the building where the prior owner used and they are filling that area in with 892 square feet. Chair Vlachos said they are having difficulty and would like a site plan. Ed Herman, Construction Manager showed on the site plan a dimension of 44.2 and 12.7 extending along the line of the Elks club. The dot-dash line represents the second floor level; the cross-hatch represents the terrace.

Ms. Elliott asked about the vines growing up on the building. Mr. Magorsia said it is a cable system designed to keep the vining doesn't break apart the brick – a green screen. They have about a foot of planting area which would support this small vine. The length will be the entire back side of the building with the cable system.

Mr. Fernandez said the stone is poor quality in the front and the brick is poor quality on the back and the idea of cleaning is suspect. Mr. Magorsia said they are planning a new veneer. Mr. Fernandez said the entire back line is reconstructed. Mr. Magorsia said the units up above will have aluminum store-front and shiplap cedar. The Arlington side will have some façade damage repaired, as the stonework has had people express the want to save it. Mr. Fernandez asked if Brickmaster was coming on board to make it look better. Ms. Scott said no. Mr. Herman said that this façade was done in the 50's and is vertically stamped concrete, which is unique. He has had DeVinci Restoration out there already and they have considered control joints being added for expansion and contraction. They will be lowering the windows and repairing the lentils. It is a repairable façade.

Mr. Fernandez asked if they have done an engineering assessment on the building as the cracks can never be sealed. Mr. Herman said they have and any leaking would have been caused by lack of control joints and lack of maintenance to the building with the lentils and roof work, which has been neglected for years. Mr. Fernandez asked for a copy of the engineering assessment, which Mr. Herman did not bring as he didn't believe it would be necessary for this meeting.

Mr. Fernandez said to what extent is this reconstructed and to what extent is this an existing condition. When there is a great deal of reconstruction, it leaves a notion that this is an existing condition because you are reconstructing it. If it is being reconstructed then they should address some of the guidelines that are there for good qualitative reasons in terms of the kind of spaces that Watertown can have. He is suspect because of the level of deterioration. Mr. Herman said they have to repair cracks, seal the building, replace lentils, watertight roof, do sounding and make sure the façade is not peeled away from the structure with a masonry backup. They have done samples on sealing and color with the stamped concrete.

Chair Vlachos wants to know why there isn't any open space with this project. Mr. Herman said they are using the existing footprint of the building other than their special permit to add. The best use of the space is residential and to get 14 units on a small lot will work. Chair Vlachos suggested they use 10% open space. Mr. Herman can not answer the question on the spot. Mr. Crane said they can not provide 10% with the present structure on there as the lot is 15,000 square feet and 10% would be 1500 and the squaring off of the building is 892 square feet and that has the building coverage not even near the 10%. The terraced areas provide green space. Mr. Fernandez said the notion of green space is open space and there is not any open space. Mr. Crane said the only place to put open space is would be back in the corner of the parking lot and the cars traverse there. Ms. Elliott agreed that any type plantings there would be hard to survive. She is all for open-space as she is a landscape architect, but this site does not call for open space. The attempt to do vines and the green screen is a nice attempt. She is in favor of the proposal without the open space. Mr. Crane said the strip along Arlington Street that they would take over and maintain for the Town – not in ownership just maintain it.

Ms. Santucci asked if they tried to design something that did not exceed the requirements and the FAR of 1.4 is significantly over what is allowed. Why did they configure 14 units instead of taking sections off and reconfigure. She is trying to get to the hardship in regards to the relief requested. Mr. Crane said they wanted to keep the structure and the building is irregular to the lot. The only alternative would have been to knock the building down and they would have gone up 40' which as they are allowed by right and that would have been more of an issue with the neighbors than the traffic and parking.

Mr. Fernandez said they are taking down 85% of the building. He is again suspect as they are building a new building which is keeping a piece of its face for history. The 14 units could be 10 and there would be the open space. The relief could be met if they adjust the number of units they are proposing. Mr. Crane said there is interest in maintaining the exterior of the structure and the open space doesn't meet the 10% now. Mr. Fernandez said they are asking for 40% more FAR and even less of the limited setbacks – no tolerance in this business can address the numbers they have on their drawings. In essence, they are all zeros. The level of the request is not small. He said the existing condition is to have 85% demolished.

Mr. Herman said the reason there is demolition on the building is that the current parapet is 10' above street level and they are lowering the building down to the level of the Elks building. If they were to build on to the existing roof, the building would be 10' higher and they are trying to address the needs of the neighbors. Mr. Fernandez said they are allowed to build up to 40' but the quality of the spaces as defined is not satisfied – the building has many problems. He is suspicious of their intentions of maintaining the building as the relief is extreme and they are taking down more than half of the building. Mr. Herman said the height vs. the amount of demolition is his point as it was a concern of the neighborhood. Mr. Fernandez said

there isn't a record of that concern and the idea of 40' is not daunting with Tufts, etc. in the area. Mr. Herman said it was a concern of the neighborhood.

Angie Kounellis, District A councilor, she recused herself from the planning board, but she will speak on all of the developments in the East End. She attended the neighborhood meeting and she heard concerns regarding height and shadowing, etc. She instructed the neighbors that the staff works for the community and they could contact them.

No one else spoke from the public. Ms. Fillis said she agrees with Ms. Elliott that the patch of green would not add much value to the property and she applauds them for meeting the parking requirements and for meeting with the neighbors. Mr. Merkel agrees that the applicant did a noble job meeting with the neighbors and coming back with solutions and he also agrees with Ms. Elliott as he is also a landscape architect and the green on the west façade is an innovative idea. He has concerns regarding whether or not it is a new construction or working with an existing building. Coming back with open space will not make the project any better, they have a pretty good project now.

Chair Vlachos read into the record a letter dated September 17, 2007 with 7 signatures:

Tape 2 of 2, Side A

Chair Vlachos read the letter: "The proposed renovations to 264 Arlington Street will be a hazard to public safety. The dangerous intersection between Grove Street and Arlington Street prompted the Town to turn Wells Avenue into a one-way passage due to the overwhelming congestion. That area had several traffic accidents in the past – refer to the Police records for those incidents. As residents on Wells Avenue, we endure a lot of heartache due to the municipal parking which exists. The proposed renovations will put more pressure and anxiety. The street is only 30' wide and 8 residential properties holding more than 4 residents and with 14 more units it will create chaos with more traffic. We are urging the town council to consider their petition and take the building by eminent domain to save its historical value."

Mr. Moynihan asked Councillor Kounellis if this is still the current attitude of the neighbors as this letter is dated September and their meeting was subsequent. Her letter is dated November 11th. Ms. Kounellis said that a meeting on October 1st, she has not heard from any of the neighbors and was not aware of the correspondence

read tonight. She did not see this correspondence as a councilor. Ms. Fillis said a gentleman presented this letter at the Planning Board and the staff has not heard any comments since the planning board meeting. Ms. Santucci said 8 people live on Wells and 6 of them signed the letter – who is in favor of this? Mr. Crane said he spoke to neighbors at the site that are in favor of this proposal and this letter is dated September 17th – before the neighborhood meeting and there may be signatures after the meeting but when they first met on September 10th they had 6 or 7 neighbors speak against the proposal and there were 5 or 6 that were interested but did not speak. At the neighborhood meeting on October 1st, they changed the plans and on November 14th, only one individual, Jack Collegian delivered the letter and made general comments. He is surprised that there are no neighbors present. Ms. Civetti said that a phone call was received asking if there was a copy of the petition in the file for the ZBA. Ms. Scott said 6 residents of Wells Avenue spoke at the Planning Board that Wells Avenue is a speedway, parking in winter, etc. their main concerns were traffic. Ms. Kounellis said one neighbor spoke of the congestion and that Wells Avenue was turned into a one-way street due to the congestion. She said it has always been a one-way but in the other direction about 20 years ago. She was approached and asked if she would give comments to the neighbors and she refused. She has not heard from anyone in regards to this project and no one is here to voice their comments. She encourages residents to come forward.

Anna Fill, VHB, did the traffic assessment due to the neighborhood concerns and her professional opinion is that this proposal will not significantly impact the roadways. They estimated 11 new trips in the morning – 2 going in and 9 going out and 12 in the afternoon with 8 going in and 4 going out and this translates to 1 car every 7 minutes. The infrastructure there today should be able to accommodate the traffic.

Mr. Vlachos said they did the report on a Wednesday – did they consider a Saturday or Sunday as it is very busy with 4 churches in the area. Ms. Fill said the additional cars will not break the system. They counted about 70 cars in the morning and 105 in the afternoon now.

Ms. Elliott asked when was the building last fully occupied. Ms. Scott said it had a jewelry business. Mr. Vlachos said he never called it the Linco building, it was called Natalia – no one remembers Linco Tool Company. Ms. Elliott asked where the employees parked when it was occupied. Ms. Scott said they parked in the Wells Avenue lot. Ms. Elliott said they are adding 28 spaces that were not there before. Mr. Vlachos said the employees may have been taking public transportation.

Chair Vlachos said the Planning Board met September 10th and requested some changes and they came back on November 14th and recommended granting the relief with the changes and condition #10 stating that “the petitioner shall provide and continuously maintain the landscaping as shown on the plan...” There isn't any landscaping on the plan.

Chair Vlachos said he feels this is maxed out and tremendous relief is being sought – especially the floor to area ratio. He does not have a clear understanding of what this will look like. He can not visualize it. He'd like to see color renderings from all sides.

Ms. Santucci likes the idea and the concept and does not like so much relief being requested and the fact that they are asking for so much relief indicates that the project does not work on this lot as proposed. She understands the open space may not work back there but it may work somewhere else where it is visible and provides a buffer to the street. She is for working with the existing building and they are entitled to their existing non-conformities but they are exceeding quite a few of those. She can not support this project as presented.

Mr. Fernandez does not support the project because they are able to demolish 70% of the existing, they could also demolish more and change the elevation. Open space can be offered through the site is possible at the ends of the site. The relief request is excessive and driven by their bottom line in the number of units. It is not a good match for the site. The number of units and dimensions, setbacks, open space are good things that we do not have to continue to ignore them and he does not feel that this is an existing building any more. The speed which this came through the Planning Board and the neighbors have not had a chance to stay in tune and he feels this was pushed through the planning commission at the expense of any type of opposition from the neighbors. There isn't any type of documentation from the Planning Board showing any opposition is a troubling fact.

Ms. Elliott has reservations about the FAR, she is in support of it. It is exciting and using the existing parameters of the existing building – filling in one corner. It is a good resolution to add parking to a mechanical space next to the Elks building. She is in support and thinks it will be good for the neighborhood.

Mr. Bailey said he agrees with Mr. Fernandez as the building is not being maintained anymore. There isn't any buffer and if they are taking a lot of walls down, they can take a couple more down and have 12 units with added open space. The idea of the parking is a good one.

Mr. Moynihan agrees with Ms. Elliott that the lot or the area supports the need for a strip of open space between this building and the Elks lodge – what is the benefit. The neighborhood concerns suggest a keeping a dilapidated building in perpetuity. It is a unique lot and building and is surrounded by pavement. He would be supportive of the project.

Chair Vlachos suggested the petitioner consider continuing the case with modifications or ask for a vote now. The case would be continued to whenever they were comfortable in days or weeks to address the concerns. Mr. Crane asked if Mr. Moynihan was voting tonight – which he is not. Mr. Crane asked that the case be continued and he hears the open space issue and they will consider it and he doesn't see how that would effect FAR and the amount of relief they'll be requesting.

Chair Vlachos also suggested more narrative on the variance analysis as they are bound by certain criteria. Ms. Scott said the Variances are FAR and lot coverage and they are going from 91% to 96% and a FAR existing at 1 to a 1.4. Chari Vlachos asked that the plans be made larger to be read without a magnifying glass and they'd like to see a rendering of the front.

Mr. Fernandez said his two issues are of a design challenge – this site can possibly be many things. He addressed Mr. Moynihan stating that this design is not the only proposition at this site. He addressed the petitioner and said his architect can address the issues in relation to the guidelines and is open to interpretation for the design. The other issue is the financial challenge. The two are at odds and this site is quite large and open to many interpretations.

Mr. Crane requested the matter be continued to the next available date. Chair Vlachos said the next meeting is early January for the December cases and then the end of January again. Mr. Crane said in early January, they will have an idea of what direction they are going in – in order to make a presentation in early January. Ms. Civetti clarified that the meeting date has not been voted on yet – it could possibly be January 2nd.

Ms. Santucci motioned to continue. Ms. Elliott seconded. 5-0 Continued.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

MINUTES

On Wednesday evening, **November 28, 2007** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Melissa M. Santucci**, *Clerk*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*; **Joseph Merkel**, *Senior Planner*; **Danielle Fillis**, *Senior Planner*.

Tape 2 of 2, Side A, Continued

Chair Vlachos stated that this is a case under Other Business and therefore hasn't a legal notice.

Ricardo Sousa, Attorney for Sprint/Nextel. This proposal has a current antenna installation at 2 Rosary Drive which comprises of 3 panel antennas, 2 on the side and one on top of the building inside of a canister. In addition, there are 2 equipment cabinets in a steel platform on the roof. Sprint and Nextel have merged within the last year and are in the process of developing those networks. Unfortunately, due to the nature of the technology, Sprint having a different network than Nextel, they have to continue to build two different networks. They are still trying to consolidate those networks as much as possible. They try to use existing sites to bring the other carrier onto it. They need a site for Nextel in Watertown which includes Main Street, all the way up to Belmont, Waverly and Warren. That section has degraded coverage and they are attempting to utilize this building by adding an additional 3 Nextel antennas. However, given the original controversy at this site and the fact that it did go to litigation before it was approved, and given the area and neighborhood, they are trying to find a way to service both Sprint and Nextel customers with the most minimal impact. They have found a way to use dual band, dual pole antennas. They are one antenna that will service both networks. The result will be replacing the three antennas that exist with three antennas that will service both carriers. In addition, they are placing two additional cabinets on the roof top. Attorney Sousa referred to the drawings that were submitted, LE1 with the existing antennas and equipment cabinets. The canister will remain the same size and the antennas will be replaced. The equipment cabinets will be shifted and the two new ones will be placed right next to them. He considers this maintenance rather than a new antenna installation. They can do this under their lease as a matter of right. They have spoken to the Sisters and their conditions are that this does not create any public controversy, the Town is amenable to it. The only thing that will change, is the addition of two equipment cabinets on the roof at the same size, sitting on the same platform. They do not have to extend their lease space as these fit onto the existing platform. The height of the existing antenna is 61.9 from the ground. The top of the parapet wall is 63'6". The façade antennas will be 56'6" and the new will be the same. Attorney Sousa believes this is a good responsible application. He had a conversation with Ms. Scott regarding another installation on a church on Main Street and she dissuaded him against that. He is here tonight as they looked at their existing installations as an alternative.

Ms. Scott said that the plan has a note on the cylinder size, and this would be just a building permit.

Chair Vlachos asked if anything was going into the ground – no. Will there be additional maintenance trips – no.

Mr. Fernandez asked if the conduit is the same. Mr. Sousa said there will be additional wires on the roof but he doesn't anticipate the conduit getting bigger.

Ms. Santucci asked if the control plans change. Ms. Scott said they will reference this plan as the control plan with the 16 inch cylinder, dated 11-26-07. Mr. Sousa said it is a replacement for Sprint with a dual band, dual pole antennas for Sprint and Nextel. There are not many locations where they can do this – they can not put this in a high traffic, dense area in Boston.

Ms. Santucci motioned to accept the changes to the control plans to the user. Ms. Elliott seconded. 5-0 Granted.

Ms. Civetti requested the board vote on an alternate date for the December 26, 2007 meeting. Mr. Vlachos suggests January 7, which is a Monday and she suggests January 2nd, which is a Wednesday. Mr. Bailey will not be here until the March meeting. After some discussion, the board voted on Monday, January 7, 2008.

Chair Vlachos asked if we could have a dinner for the holidays. Ms. Civetti will plan that event.

Ms. Santucci motioned to adjourn. Ms. Elliott seconded. 5-0 The meeting ended at 9:30pm.