

## MINUTES

On Wednesday evening, **October 24, 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*; **Carlos Fernandez**, *Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*. **Absent: Deborah Elliott**, *Member*; **Richard M. Moynihan**, *Alternate Member*.

Tape 1 of 2, Side A

Chair Vlachos introduced the attending board and staff; explained the requirement of a voting quorum (all four members tonight) and requested the approval of the minutes of September 26, 2007 be continued to the next meeting.

Ms. Santucci read the legal notice for the first case:

Robert L. and Anne P. Selman, 142 Russell Avenue, 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, Side Yard Setback, so as to raze existing non-conforming rear deck, 19'x 9'11" and reconstruct and enlarge to 20'4"x14', maintaining northerly side yard setback of 4', where 10' is required at **142 Russell Avenue**, located in the S-10 (Single Family) Zoning District.

Robert Selman appeared before the Board and stated that he and his wife have engaged the services of Anita Rogers, AIA, Acton, MA, an architect, to access and address the structural deficiencies of a 30-year old existing non-conforming rear deck. It was determined that the deck must be replaced and it is their desire to enlarge the deck 4'-1" in depth and slightly increase it in width. The new deck will connect 6.1' wide to the existing hip-roofed open side porch, which is original to the house. The depth from the open porch will be 15' and the width will be 20.3' and returning back to the house at 14'. A stairway is cut into the 20.3' width which allows access to the grade and garage. The bottom on the deck will be lattice screening with hinged access below the deck for storage. This deck's connection to the side porch now provides access to the house and will continue as such. The proposed deck reconstruction and expansion will maintain the existing non-conforming 4.0' northerly (right-side) setback and is in compliance with all other required setbacks.

Ms. Scott asked if the trellis as shown on the submitted drawings will have an open roof. Mr. Selman assured the Board that the trellis would be used only for the purpose of foliage. The Board discussed and agreed that this approval will be conditioned that a roof cannot be added to this deck in the future. Mrs. Selman later clarified that the "trellis" is one cross wood member on each side and rear allowing her to hang flowers from it.

No one from the public spoke on this petition.

Ms. Santucci motioned to grant; Mr. Bailey seconded; Voted 4-0, 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

Ms. Santucci read the legal notice:

Kevin MacDonald, 84 Beechwood Avenue, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Building Coverage, Distance between structures, so as to raze non-conforming two-story rear addition 5.2'x 18', rebuild two-story open porch 5.2' x 18', maintaining non-conforming 7.4' from garage/shed structure, where 10' is required; further enlarge second floor rear open porch, 12'x14' at the northerly side, maintaining non-conforming northerly side yard setback of 4', where 10' is required at **82-84 Beechwood Avenue**, located in the T (Two-Family) Zoning District.

Petitioner and owner Kevin MacDonald outlined his intended project. He and his wife purchased the two-family dwelling 4 years ago. His proposal is to remove the existing two-story rear mud room 5.2'x 18' and construct a two-story open porch 5.2' x 18', maintaining non-conforming 7.4' from garage/shed structure, where 10' is required; then enlarge second floor rear open porch to 12'x14' at the northerly side, maintaining non-conforming northerly side yard setback of 4', where 10' is required. Mr. MacDonald said that the mud room addition does not enhance the property and it is his intent to construct an open porch on the first floor, which is more in keeping with the surrounding homes. The second floor with the expanded deck 12' x14', which will maintain the non-conforming 4' northerly side setback will allow for his family to enjoy outdoor seating and dining.

Member Fernandez expressed concern with the use of 2x 12's for an open deck when he felt that would be 'overkill' and is a possible precursor that the deck is being prepared for a future enclosed room. Wayne Pellitier, Architectural Consulting Services, Inc. who drew the plans, indicated that the load bearing requirement for a deck is actually 60 lbs. per sf and less for a second floor room -40 lbs per sf. The 2x 12's are necessary for load bearing as a deck accommodates more people. Member Fernandez would ask the Board to condition this approval that the deck not be enclosed in the future. Zoning Officer Scott suggested that this Board cannot preclude a petitioner from coming back to seek further relief. Chairman Vlachos notes the concern of Member Fernandez and suggests a condition that no roof shall be permitted over the extended deck.

No one from the public spoke on this petition.

Ms. Santucci motioned to grant; Mr. Fernandez seconded; voted 4-0, granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

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Carlos Fernandez, Member

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Tape 1 of 2, Side A, Continued

Ms. Santucci read the legal notice:

Stephen and Sarah Barkhuff, 31 Merrill Road, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Front Yard Setback, so as to remove, replace and enclose existing second-story open porch, 9' x18.3' with a gable roof located on the left side of dwelling, maintaining non-conforming front yard setback at 19.5', where 25' is required at **31 Merrill Road**, located in the S-6 (Single Family) Zoning District.

Sarah Barkhuff appeared and stated she and her husband purchased this single-family dwelling 6 years ago. The issue is that it has one bathroom. The petitioners have engaged the services of Peter Wright Studio, architects, to design the proposed second story addition, 9.4' x 18.4'. The building presently has a two-story side (left) addition, with the first floor as an enclosed sunroom. The second floor open porch with its flat roof will be removed and rebuilt with a new gable roof and enclosed to serve as a second bathroom which is adjacent to the master bedroom. The proposal is well integrated with the existing residential dwelling and similar in character and scale to surrounding properties sharing the same pitch of the existing roof.

The Board expressed their appreciation for a well presented petition and plans.

No one from the public spoke at the meeting; however, Chairman Vlachos acknowledged receipt of two letters in support of this project. Mrs. Barkhuff clarified that they are the two direct abutters on either side of their property.

The Board is of the opinion that there is no increase of size, it will maintain the existing footprint and maintain the non-conforming front setback at 19.8'. As such, the proposed addition will not be more detrimental to the neighborhood than the existing open porch structure and does not increase the frontage non-conformity of the structure.

Ms. Santucci motioned to grant; Mr. Fernandez seconded; voted 4-0, granted.

Harry J. Vlachos, Chairperson

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Tape 1 of 2, Side A, Continued

Ms. Santucci read the legal notice:

Robert MacKerron, 4 Cypress Street, Watertown, MA, herein requests the Board of Appeals to grant a **Variance** in accordance with §6.02(i & j), Location and Design of Off-Street Parking, Curb Opening, Side Yard Buffer, Building Front Yard, so as to expand existing non-conforming driveway/curb opening from 25.9' wide to 41.9', where 22' maximum is permitted, to allow for two additional parking spaces, located on westerly side of non-conforming garage, located within the building front yard and having a westerly side yard setback of 3.0'-3.2' (inclusive of 12" retaining wall), where 4' is required at **2-4 Cypress Street**, located in the T (Two-Family) Zoning District.

Mr. MacKerron indicated that they purchased this two-family home and have done a tremendous amount of work to it. They have tried to rent one of the units and the issue that the people have is parking, knowing that Watertown has a winter parking ban. The Petitioner has revised the plans and has responded to the concerns raised previously regarding line of site and preservation of the existing mature street tree. The Planning Board reviewed and recommended the parking on the Easterly side of the garage be approved.

The Board had copies of the original plan with the parking on the two spaces on the westerly side and the Board concurs with Planning Board and staff that this is not a desirable. The revised plan provides an area for one space only, however, the petitioner is requesting a new Variance under §6.02(b), with reference to the size of the space. The shortest point of this area is 16.20 and the largest is 21.0. The required space is 8.5' x 18' with a 5' front setback, which is already requested under §6.02(j). Discussion among members was about why the wall would be 14' in width if only for one vehicle. Mr. MacKerron responded that constructing the retaining wall necessary for the proposed parking space is a difficult challenge and that they want to prepare for the future possibility that the garage may be razed and create the potential to accommodate four legal spaces. The existing two-car garage is in satisfactory condition and is used by Mr. MacKerron. It is determined that if the garage should be razed in the future, it does not need to be approved by this Board, however, the number of spaces that area would provide must be in accordance with the ordinance and this board will so condition.

The Zoning Officer pointed out that the original Variance request from 6.02(j), "No area of Building Front Yard shall be used for parking" is moot, since the revised plan provides the space on the easterly side and not within the Building Front Yard. The petitioner agreed to withdraw the request for variance under Section 6.02(j), Front Yard Parking.

Ms. Santucci motioned to allow withdrawal; Mr. Fernandez seconded; voted 4-0 to grant withdrawal.

Ms. Santucci motioned to grant for 4 cars; Mr. Fernandez seconded; voted 4-0 to grant parking for 4 cars.

Harry J. Vlachos, Chairperson

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Tape 1 of 2, Side A, Continued

Ms. Santucci read the legal notice:

Timothy Gomeringer and Jenny R. Krentzman, 11 Langdon Avenue, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Building Coverage and **Variance** in accordance with §5.04, Table of Dimensional Regulations, 25% Maximum Building Coverage, so as to raze rear deck and reconstruct existing rear one-story enclosure, 11'-6"x 17'-2" maintaining non-conforming 4.6' northerly side yard setback and further allow the additional 25 sf squaring off of rear enclosure 2'-8"x 9'-7", increasing the non-conforming 35.5% building coverage to 36.4%, where 25% maximum is permitted at **11 Langdon Avenue**, located in the S-6 (Single-Family) Zoning District.

Petitioner and owner, Jenny Krentzman appeared before the Board and stated that she and her husband purchased this single-family dwelling in July and had been in the process of updating their kitchen when it was discovered that the one-story rear portion of the kitchen had serious structural defects and was considered unsafe. In

order to immediately address the structural deficiencies in the foundation, which is supporting the existing rear addition, it is necessary to remove the rear deck, construct a new foundation and replace the rear 11.5' x 17.2' addition. Petitioner explained that there is a slight jog in the rear and it is their desire to square it off which by constructing a small 2.7'x 10.9' addition (26 sf) resulting in a de minimis increase in the non-conforming building coverage (see companion Variance decision).

Board members asked the petitioner if a house inspector looked at the property prior to them purchasing and Ms. Krentzman said yes and that is another issue they are dealing with. They have moved into the house and have been without a kitchen and it has created a very depressing and sad situation for them, since this is the first house they purchased. They intend to remove the rear deck which received a variance because it was less than 10' from the garage. Therefore, the variance will be removed.

No one from the public spoke on this petition.

The Board is sympathetic and finds that these necessary improvements will resolve a major safety and code compliance issue and provide more usable space for the new owners. In their opinion, the proposed alterations will not be more detrimental to the neighborhood than the existing structure's non-conformity - it will maintain the 4,6' – 4.9' setback from the northerly side property line.

Mr. Fernandez motioned to grant the Special Permit Finding; Mr. Bailey seconded; voted 4-0, granted.

Mr. Fernandez motioned to grant the Variance; Mr. Bailey seconded; voted 4-0, granted.

Melissa M. Santucci, Clerk

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Tape 1 of 2, Side B

Ms. Santucci read the legal notice:

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

Karnig Ostayan appeared before the Board and outlined his proposal. Due to new conditions discovered during construction and in an effort to preserve the front façade of the former church building, he is requesting a Special Permit Finding in accordance with §4.06(a), as well as an Amendment to Special Permit under §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' on the third floor and shed dormer, 10'x 10' directly below on the second floor on the easterly side and one gable dormer, 10'x 12' on the third floor and one shed dormer, 10'x 10' directly below on the second floor on the westerly side of the building; further allow two light monitors, 8'x 8', in rear on easterly and westerly side of the existing structure.

Nancy Scott, Zoning Officer informed the Board that the petition before the Board has been split by the Planning Board. The Planning Board approved the requested dormers, and continued the approval on the two rear light monitors. Therefore, this board will only hear that portion of the petitioner relative to the requested dormers on either side.

Mr. Ostayan informed the board that the original plans call for 6 new individual windows openings in the front above the existing 6 windows. These new windows were needed to meet the bedroom window egress requirement for the building code. Upon demolition on the interior they encountered substantial structural concrete members that were unknown, which necessitated a change to the plans. He would ask approval to change to smaller windows in the masonry above each of the patio doors for Units #1 and #2 and not do the 6 new individual window openings in the front façade and the character of the façade as it is. In lieu of that , the architect has proposed dormers which are necessary to provide adequate window egress and the best alternative to the previously approved window openings at the front façade of the building. The building poses a number of structural and/or masonry challenges at the front elevation and the architect for the project has proposed the dormers as reasonable alternative.

Member Fernandez questioned whether it was a state code requirement, there is no way to get down from the roof. It is noted in this decision that The Massachusetts State Building Code, Section 5310 "Emergency escape and rescue opening", shall be required in all sleeping rooms.

Member Fernandez questioned whether the two new skylights between the third floor dormers are proposed. Mr. Ostayan apologized for not noting them; however, the skylights were proposed where they are now proposing the dormers. Therefore, we are relocating the skylights closer to the ridge and maximizing natural lighting.

Questions arose as to why the change in the two dormers; one gable-pitched and the other shed. Mr. Ostayan and his architect discussed this and it was felt that the character of the that portion of the building renders itself as dramatic and the architect thought a gable would be the best, where the shed below it is gentler, complimenting it. Member Fernandez said the angles are very different and not sure that it is complimentary.

Member Fernandez asked if they considered a dormer that would serve both the second and third floors. No, because it would be too massive – aesthetically. Member Fernandez stated that this is not a house, but a church. He does not understand the statement of too massive. It is the intent of the petitioner to keep it more coherent with the existing third floor dormers. For clarification, there were 5 small 3' dormers existing and the petitioner enlarge them to 10' .

No one from the public spoke on this petition. Planning Board reports and voted unanimously to recommend approval

on the dormers. The light monitors will be addressed at the next public hearing in November.

Ms. Santucci motioned to grant the modification of the control documents to add 4 dormers and 2 additional skylights and skylights to be relocated. Mr. Bailey seconded; voted 4-0, granted.



Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

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Tape 1 of 2, Side B

Continued Case: 29-31 Morse Street

Ms. Santucci recused herself from the case.

Mr. Tighe submitted new plans with a reduced dormer. Chair Vlachos continued the case to November due to the 3 member board remaining (no quorum).



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Tape 1 of 2, Side B

Other Business: 16-18 Myrtle Street, Modifications to control plan and site plan.

Wayne Pellitier, Architect, explained the reason for the changes: the fire department requires the sprinkler room to have it's own access. Mr. Pellitier has provided the drawings to show the stairs and doorway to the sprinkler room and the subsequent side yard setback, which increases the already short setback requirement.

Ms. Santucci requests the petitioner return to the board with a request for an Amendment to a Variance, even though the requirement is originating from a fire code issue.

The petitioner will file an Amendment to Variance request for the next zoning board meeting.

Ms. Santucci motioned to adjourn; Mr. Bailey seconded; voted 4-0, meeting ended at 9:20 p.m.