



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

Telephone (617) 972-6427
Facsimile (617) 926-7778
www.watertown-ma.gov
Louise Civetti, Clerk to the ZBA

MINUTES

On Wednesday evening, March 23, 2016 at 7:00 p.m. in the Richard E. Mastrangelo Council Chamber on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: Melissa Santucci Rozzi, *Chair*; David Ferris, *Clerk*; Christopher Heep, *Member*; John G. Gannon, *Member*; Kelly Donato, *Member*; Neeraj Chander *Alternate Member*; Jason D. Cohen, *Alternate Member*; Also Present: Mike Mena, *Zoning Enforcement Officer*; Andrea Adams, *Sr. Planner*; Louise Civetti, *Clerk to the ZBA*.

Chair Santucci Rozzi opened the meeting, introduced the board and staff and swore in the audience.

Chair Santucci Rozzi noted under the agenda title, 'Administration', the January minutes. She suggested to table the minutes for vote until the next meeting in April. The board agreed. She reviewed the rest of the agenda indicating that when 615 Arsenal Street was opened, she would recuse herself and Member Ferris would take over chairing the meeting.

Member Ferris read the legal notice for **8 Hardy Avenue**:

"John G. Neylon, 23 Boylston 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) to extend an existing, non-conforming driveway/parking within the required 4-foot buffer (§5.05e/6.02j). "T"-Two Family Zoning District. ZBA-2015-26"

Nancy Scott, 34 Emerson Street, Reading, representing John and Diane Neylon, owners (not present) and David and Adrian (Neylon) who live at 8 Hardy. Ms. Scott reviewed their request for relief – there is one parking spot within a 3-retaining wall area measuring 12'x16'. The parking is 10'x15'. They are seeking an extension of the driveway to 42' in length, which are the requirements. She described the topography and indicated an 8% slope to the new driveway for the first 10' and a 10% slope for the remainder. They will build a 4' retaining wall along the abutter's property with a vinyl fence on top, not to exceed 6' in height. They have worked with the direct abutters, the Dore's, to minimize the impact to their property. Any plantings damaged will be replaced in-kind. All permits will be obtained and the construction details provided to the Dore's. This construction will provide two parking spaces for the Neylon's which have minimal parking on the street, especially in the winter months.

Alan Dore, who lives next door to the project, said they have a friendly arrangement with the Neylon's and are in support of their project. They request that any damage to their property be minimized and the new wall that will become their new property line be solid concrete and of quality. Their abutting yard is the only usable outdoor area on their property. All of their concerns have been addressed.

Member Gannon recalls an expansion to a driveway on School Street and he would like to see this project indicate where the extra (storm) water would be eliminated from entering the street – perhaps a storm drain at the bottom of the driveway.

Member Gannon asked Staff why a variance is not required. Mike Mena, Zoning Officer, explained that the representative provided court cases showing that this type of petition is an existing non-conformity and would only require a special permit finding. Our attorney's concurred.

Member Heep asked about the 8% grade on the driveway and whether it would be advantageous to flatten it out more. Ms. Scott said planning staff suggested that they grade it sloped as the existing is flat now. ITE provided input where the first 10' would be at an 8% grade. Andrea Adams, Senior Planner agreed and stated that Gideon Schreiber, Senior Planner, worked through a couple of iterations to create a more gentle transition between the public sidewalk and the driveway. This was the design that was most logical.

Mr. Heep asked why the slope was created. Mr. Gannon said it dumps more water into the street. Ms. Santucci said it is worse than what is there now. Mr. Ferris said a concern is that if it were flat and running along the side of the existing house and near the footings, would it compromise the house. The indicated slope would be more of an advantage to the safety of the footings and foundation.

Mr. Heep asked why it is necessary to go as far back as 42'. Ms. Scott indicated that the length is required by the ordinance (18', 18' and the 5' setback).

Ms. Santucci said the 5' buffer does not exist now.

Mr. Heep said there is only one non-conforming parking space now and to provide two conforming parking spaces takes up a lot of space in the non-conforming setback.

Ms. Santucci reiterated the space is non-conforming to depth and 5' buffer. She recommends the new space be 18' deep and the exiting space be allowed to remain as is and without the 5' buffer as it is not existing (16.1 plus 18').

Mr. Mena stated that leaving a 15' parking space creates a tight space with a larger car and the potential of having the car sit on the sidewalk. He suggests that at a minimum, each space be required to be 18' in length.

Mr. Ferris stated that the length at 42' would allow enough room to walk to either side of the car when stepping down from the back stairs. If the board cuts back the length, they may then park further into the sidewalk to provide the room needed to walk in front of the stairs. He noted the fence is not on the property line and the Dore's will be losing some of their plantings but acknowledged they will be involved in choosing the fencing. He also noted the existing walls are stone and the proposed are concrete. Ms. Scott stated that the contractor does want to remove the existing walls as they are not

certain of their retaining capability. She said the owner decided on solid concrete with sleeves on the top for the fence posts. Mr. Ferris suggested one material.

Ms. Donato confirmed that parking on the street is minimal and the existing parking space is very tight. She suggests the board provide the proper amount of space required as it is not always going to be a smaller compact car. She then asked about the location of the fence. Ms. Scott said the fence is now at 21' from Hardy Avenue. The intention is to start where it is now and then extend to the end of the property.

Ms. Santucci Rozzi stated that depending on the building code, the fence may need to be extended closer to the street. The Inspector of Buildings and the Zoning Officer will have to weigh in on the height of the barrier and where it is located. The plot plan of March 2nd shows the fencing extended and that may be okay.

Ms. Santucci Rozzi spoke about Member Gannon's suggestion of the French drain at the end of the driveway as was previously required for an approved project. This would be a condition to run a French trench along the width of the driveway adjacent to the sidewalk, with the advice of the Town's Engineer.

Ms. Santucci Rozzi discussed the possibility of having only the 18' length for the two spaces or keep the total 41' to the inside of the wall and 42.5' to the outside of the wall (as shown on SK3). Member Cohen stated he would be good with the 36' plus 4' buffer. The stair is 6' but there are 7 treads and he recommended that the treads should be 11" each.

Member Heep said he is sensitive to the need to create more parking for this property but going from 15' to 42' or 40' with a 10% grade change and being within the 4' buffer zone is extreme. He is not in favor at this time.

Members Chander, Gannon, Ferris, Donato agreed that they are comfortable with either 40' or 42'. Ms. Santucci Rozzi reiterated that they could go with two 18' spaces with a 4' buffer and 1' in the front of the stairs.

David Neylon said the snow removal would be shoveled and moved to the right side front lawn area and putting it behind the rear of the driveway and on the berm. He said the new plan would be to move the cars out and shovel as much to the back yard and then the rest to the front yard.

Ms. Santucci Rozzi said the length remaining as proposed would help with the storage of snow. She suggests keeping the original requested length.

Ms. Scott reiterated that they will have a clear parking area of 41' and the stairway will be beyond that.

Member Gannon suggested pervious pavers at the new part of the driveway. Ms. Scott asked why they would not want asphalt as they are providing a French drain. Ms. Santucci Rozzi stated that they can build the dry well with the French drain in accordance with the asphalt calculated water runoff – adding a requirement of pavers for more water absorption is 'double-dipping'. Mr. Gannon agrees that the French drain is appropriate.

Ms. Scott agreed that the French drain being sized for the amount of asphalt would be amenable to the petitioner.

Mr. Dore was curious if the board had any concerns with the retaining wall that abuts his property. He wants to be certain his paver patio does not collapse. He said the 8% pitch is in line with the topography and in keeping the fence from becoming outrageously high. The better the pitch, the reduction of the retaining wall and the less impact to his property. The property line is shown on the plan and the amount of space they lose will not be a great factor. The wall is the main factor. Ms. Scott said the wall is on the property line now and will be extended straight back to delineate the real property line.

Ms. Santucci Rozzi said the solid concrete will have the least impact as a stone wall would be more disruptive to his property. The wall appears to be less than 4' in height and does not require an engineer stamp. Ms. Scott said she has spoken with the Inspector of Buildings and having an engineer on site to inspect the foundation will protect all – including if the foundation has to be secured. Mr. Dore agreed that the concrete would be less invasive and they could face it with stone.

Dennis Duff, 33 Spruce Street said he rarely votes to eliminate a buffer; however, there is little area to park in the winter – especially to get the cars off the street to allow efficient plowing. He requests the board approve the design.

Chair Santucci Rozzi closed the public hearing, read from the Staff Report and the Planning Board Report, both suggesting approval of the request with conditions. The conditions the ZBA will add are the French drain at the bottom of the driveway, tied into a drywell and sized for the proposed area; the top of wall barrier will be to building code; a single material for the wall – not required to be faced.

Member Ferris motioned to approve the request for a Special Permit Finding to extend the non-conforming driveway, with the discussed conditions. Member Donato seconded. Members Santucci Rozzi, Gannon, Ferris, Donato voted in the affirmative; Member Heep voted against. 4-1. the petition passes.

72 Winsor Avenue

Chair Santucci Rozzi asked if the petitioner submitted a request to continue. Ms. Civetti confirmed that a written request for continuance to the April meeting has been received.

Member Heep motioned to approve the continuance. Member Ferris seconded. Members Santucci Rozzi, Ferris, Heep, Gannon, Donato voted in the affirmative. 5-0. the case is continued to April.

Other Business:

Ms. Santucci Rozzi recused herself and Member Ferris took over as chair of the meeting.

Acting Chair Ferris announced 615 Arsenal Street, The Home Depot.

John Karikis, Greenburg/Farrell, representing 615 Arsenal Street, introduced himself and give a brief history as they are attempting to clean up the record plan at this property. In 2012, the (Home Depot) came before the board for the trial period of an outdoor display area; came back in 2013 to make it permanent but the only approval was the change to the store hours. The Penske truck rental, the outdoor display area, etc. had been withdrawn. The record plan has all of the requests on it. They are required to provide a record plan that does not show all of the requested areas. He and Mike Mena did a walk of the property and they have provided an updated record plan.

Acting Chair Ferris said the plan is not clear. It shows an area for a lumber recycling to hold up to 4 dumpsters.

Mr. Karikis said it is a state law now that requires Home Depot to recycle certain lumber. There will be 3 sides of a 6' tall fence with slats. No gate. Install 6 Arborvitae. He stated that the plan now shows all of the existing cart corals. The northeast corner shows the contractor delivery staging area, where products are bundled and placed there for pick-up by a contractor. There is a separate staging area for products that are delivered by truck. They are left outside to get the truck out as soon as possible and as OSHA requires that the aisles be closed to bring the products inside the store. When the store is less busy, they then bring the items inside; close the aisle and place them up high (on the shelves).

Mike Mena, Zoning Enforcement Officer explained that plan modifications to a ZBA approved project, are sometimes very minor that the staff does not feel it necessary to bring back to the board. Other times staff feels an amendment via the public hearing may be necessary and will bring the request back to the board via Other Business for the board to then decide if this is a minor modification or if a full request for amendment is necessary.

Member Cohen asked if the before version of the plan would be helpful to determining whether or not this is minor. Mr. Mena has a copy of the file; however, the previous plan did not show the cart corals, they were shown as parking spaces; the proposed dumpster showed 5 striped parking spaces; did not show locations for flatbed cart storage at the end of the aisles and the staging area was not clarified and questioned as being outdoor display area and further the maintenance of that area should be in good order. The changes are not significant.

Member Cohen said the lumber cart storage at the end caps are usually strewn around the parking area. Mr. Karikis clarified that the dotted area marked on the plan is just to show where the storage area is – there is no other physical barrier or structure there to hold the carts. He added that there are associates that are responsible for constant pick-up of the carts.

Member Chander clarified that the lumber recycling is just for the store and the lumber will be white pine. Mr. Karikis said the area is monitored by camera (he believes). The store manager said there is no abuse there.

Member Chander expressed concern over contaminants possibly being added to the dumpsters without these being monitored. Mr. Mena said staff has the same concern and suggested signage stating that this area is not open to the public. If it is not fully enclosed, that is a factor. There is security at the mall. Mr. Karikis said the lighting in the area is appropriate for the prior 5 parking spaces and will be the same for the dumpsters.

Member Gannon asked if it would be appropriate to put locks on the dumpsters. Mr. Mena said the dumpsters are open and cannot be locked. Home Depot stated that a gate would be too large to open. Mr. Karikis said these dumpsters are top-loaded. If they are closed, it would be difficult to get the product in the dumpster; if locked, someone may just dump it in the area around the dumpster; if gated, they may heave it over the fence. The associates will toss overhead into the open dumpster. He explained that these are not roll out dumpsters, they are 30 yards. Member Gannon suggested something like a shipping container with a closed top, where there is a door that you open and walk into it. Member Ferris asked if there is a safety issue with an employee getting injured inside.

Ms. Adams explained that there is a swing door box that is commonly used for stacked materials where they are trying to use up all of the air space. Home Depot could put a roll-top on but it is going to be difficult for anyone to get something into the open dumpster without heaving it over your head. Member Gannon said it is up to the board to decide if there is a security or safety issue with this. He requests the Home Depot not have open dumpsters.

Member Gannon asked why the water vender is not on the plan. Mr. Mena said that it is there but it is not noted. Member Gannon requested it be added.

Member Gannon said there is a cell tower that is not shown on the plan. Ms. Civetti clarified that there is a light pole with cell antennas on it. Mr. Mena will have staff review the plan to be certain all light poles and antennas are indicated on the plan.

Member Heep said he was fine with the plan as it is. The dumpster have been there for a while. He added that Home Depot has good incentive to monitor the dumpsters to make sure there is no abuse. He is comfortable with the plan as the changes are minor enough to approve the plan procedurally tonight without the need to reopen a public hearing.

Member Donato asked about the designated sales areas in the parking lot. Mr. Mena stated that the previous approval for the seasonal sales in the parking lot was for one year. When the applicant came back, they withdrew their request and there are no approvals for outdoor tent sales.

Member Donato asked about the dead, dying or to be replaced trees in the lot. She asked how many trees will be replaced and what type of tree exists now. Mr. Karikis said there were many trees that were replaced with the same type of tree that exists although there is not a requirement to do so.

Member Donato said the lumber carts are everywhere in the parking lot and she asked if there should be a larger coral to house those carts. Mr. Karikis said these lumber carts are easier to move if they are not in a coral. The regular shopping cart goes into the corals as they are lighter and easier to maneuver. He said as a safety standpoint, it is better to not have these lumber carts encumbered by a coral.

Member Donato shares the concern regarding the open dumpsters. She asked if it would be safer to have them closer to the building. Mr. Karikis said the dumpsters are expensive and if they are to be removed on a daily basis, it will hit their pocket and they will do something about it. However, they have these dumpsters now and the abuse is not happening today. The user will be the first to change the type of dumpster or add a gate.

Ms. Adams said in her experience a sign will not defray someone. The company servicing the dumpsters will refuse to pick-up if there is anything but clean wood. The DEP will also get involved if there are too many 'dirty' loads.

Member Ferris said there is only one dumpster there now – where are the other three? Mr. Karikis said he is planning ahead. The five parking spaces will be eliminated anyway and they will be reshaping the store with lots of cardboard which would have them place a dumpster in the loading area. This will eliminate the need to come back to the board when that happens.

Mr. Ferris asked about the hash marks on plane. Mr. Karikis explained that the fire lane is marked out and he is showing that there is enough space with the end cap lumber cart area to have vehicles pass

(30 feet wide). Mr. Ferris is concerned with lumber carts being in the drive area. He is also concerned about people parking in the fire lane and then there not being a way to get around the carts and the temporary parked car. Mr. Karikis said the area that is 12' not striped is actually a striped area that goes to the loading area.

Mr. Ferris asked if they could put sides to the lumber carts to prevent the rolling into the drive aisle. Mr. Karikis said the 8' length is end to end in the perpendicular to the aisle. The lumber cart does not move easily side to side and therefore should go straight in to the end cap and not lengthwise, which is only 6' wide.

Dennis Duff, 33 Spruce Street asked where the London Plain trees were being replaced. Mr. Karikis said the islands along the southern edge had missing or dead trees that were going to be a condition of approval but was withdrawn and the user replaced them anyway. Mr. Duff said this type of tree would not survive well in this environment. He also asked about parking and the Boylston Development – how many parking spaces are being taken away. He was a voting member of the redevelopment authority that put this here.

Mr. Mena said the parking analysis shows the zoning requirement of 439 spaces and the site has 675 spaces. The reduction for cart corals is minimal.

Member Gannon asked about the 'Load and Go' parking area of the Home Depot rental trucks. They are always parked in different locations throughout the parking lot. Mr. Karikis said should this be approved, he will amend the plan with all of the required items discussed tonight. He noticed that they park the trucks in the area (to the northwest). He could indicate that as the parking area for the trucks on the plan. The board agreed.

Member Gannon asked if the area for the perennial plants and Christmas trees was approved and is part of the permit. Mr. Mena said the outdoor sales was for one year in the parking lot. He said he has not seen any further sales in the parking lot. The fenced in area next to the store is part and parcel to their store and is allowed.

Member Cohen asked about the propane cylinder storage bins. He said he was told by an employee that the Fire Department would not allow these to be sold. Mr. Karikis said he does not know. Mr. Mena said they used to have a location in front of the store near the entry that was moved to the storage and staging area that is not a public area. He believes they are in compliance.

Acting Chair Ferris reviewed the discussed items for determining whether the board considers this an amendment or minor modification:

1. Load and Go – as long as the applicant modifies the plan to go along with the signage, it is okay. All members agreed.
2. Striping of the Fire Lane – update plan to show the striping. Agreed.
3. Water Vender to be identified on the plan. Agreed.
4. Light Pole Cell Tower – to be illustrated and added to the plan (Mr. Gannon said it is near the Water Vender)
5. Lumber Cart Placement – Member Heep okay as is - no edging to be added. Member Cohen suggested a single bollard be added. Ms. Donato said she would be supportive of that. Mr. Karikis said if there is a solid item like that placed into the drive-path, there will be more accidents. Member Ferris said if the carts are flowing into the drive aisles, this may be a safer way to stop that from happening.

Mr. Karikis asked for the board to explain where they wanted the bollards to be placed – 4’ off of the tangent of the island? One cart parked is 4’; two carts is 8’ thus requiring two bollards, perpendicular to the island. Mr. Ferris said when they are at 8’, that is where they get into the way. Mr. Cohen said if carts are parked there, that is the first thing the car would hit – not the bollard. Mr. Ferris said he does not feel strongly one way or the other to contain the carts. He mentioned a rail system vs. a bollard sticking out. Mr. Cohen said it is not a large issue for him either. Mr. Ferris asked if they could condition this so that if the carts become an issue in the future, the board can then do something about it. Mr. Mena suggested the Home Depot come back to the board in 6 months for a review of the lumber cart parking. Staff would monitor this; monitor any complaints; get a report from the police to see if there were any reported accidents, etc. Mr. Ferris asked if they would have to come back to the board. He clarified they would not be adding a structure and would have staff monitor the site. Member Gannon asked if there is a sign stating that this is where the lumber carts are to be placed. Mr. Karikis said this is where they pick-up the lumber carts to go into the store with. When they bring it back to their car, they then leave it either in the cart coral, at the end cap or bring it back to the store. The associates at the store try to take them out of the cart coral, put them at the end cap or bring them back into the store. The employees are tasked with getting the lumber carts from around the lot and bringing them to the end cap.

Acting Chair Ferris continued with the other discussion the board had regarding the dumpsters:

1. The possibility of hazardous waste being placed into the dumpster
2. The monitoring of the dumpsters
3. Covered or locked
4. Signage indicating what is allowed in the dumpsters.

Member Chander stated he would defer to the staffs experience with this particular issue and agree with the applicant monitoring the site/dumpsters.

Member Gannon agreed. If there is a problem in the future, Home Depot could be brought back to the board for a solution. Mr. Mena agreed and mentioned there are other property owners in the area that are monitoring the site.

Member Heep added that signage could be added at the dumpster site on the plan. Mr. Mena clarified that the signs should state that it is private and subject to prosecution...

Acting Chair Ferris reiterated that the board feels comfortable that the changes to the plans are minor and there is not a need for an amendment to the special permit. The new control docs will include: The Load and Go area noted and signage noted, as well. The striping updated for the fire lane; Staff for 6 months will monitor the lumber corals; no outdoor sales are currently allowed within the parking lot; the water vendor and cell tower will be illustrated and identified on the plan; signage indicated letting people know what type of debris is acceptable in the dumpsters and exclusive for recycled wood only.

Member Heep motioned to request the applicant to submit an updated parking layout plan (C-1) with the changes noted and that plan once submitted will be regarded as the control plan and these changes are regarded as minor modification to the prior control documents and not requiring an amendment to the special permit. Member Gannon seconded. Members Ferris, Heep, Gannon, Donato, Cohen voted in the affirmative. 5-0, approved. Member Chander not voting. Member Santucci Rozzi recused.

Member Heep motioned to adjourn. Member Gannon seconded. Voted 5-0, adjourned at 9:00 p.m.

