



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

Melissa M. Santucci Rozzi, Chairperson
David Ferris, Clerk
Christopher H. Heep, Member
John G. Gannon, Member
Kelly Donato, Member
Neeraj Chander, Alternate
Jason D. Cohen, Alternate

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Louise Civetti, Clerk to the ZBA

MINUTES

On Wednesday evening, May 25, 2016 at 7:08 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*; Kelly Donato, *Member*, John G. Gannon, *Member*; Neeraj Chander *Alternate Member*; Jason D. Cohen, *Alternate Member voting*; Also Present: Andrea Adams, *Sr. Planner*; Louise Civetti, *Clerk to the ZBA*. Absent: Christopher Heep, *Member*; Mike Mena, *Zoning Enforcement Officer*.

Chair Santucci Rozzi opened the meeting, introduced the board members and staff; noted that Alternate Member Chander will vote as a full member in the absence of Member Heep; and swore in the audience.

Chair Santucci Rozzi recused herself from the first agenda item of approving the minutes of the last month's meeting as she was not in attendance.

Member Ferris motioned to accept the minutes of the April 27, 2016 meeting as presented. Member Donato seconded. Members Ferris, Donato, Gannon and Alternate Cohen voting in the affirmative (5-0). Member Heep absent, Member Santucci Rozzi not voting, Alternate Chander not voting.

Member Ferris read the legal notice for the first cast at 124 Marshall Street:

124 Marshall Street

Laura A. Zimmerman, 134 Mt. Auburn St., U-8, Watertown, MA 02472 herein requests the Zoning Board of Appeals grant a Special Permit Finding in accordance with Watertown Zoning Ordinance, §4.06(a), Alterations to Non-Conforming Structures/Lots, Side Yard Setback, Building Coverage, so as to remove existing rear porch to construct a 2-story rear addition, maintaining the non-conforming northerly side yard setback at 3.2", where 10' is required; maintaining the non-conforming southerly side yard setback at 8', where 12' is required and increasing the non-conforming building coverage where 25% maximum is allowed on an existing undersized lot of 3,837s.f., where 6,000 s.f. is required. S-6 (Single Family) Zoning District. ZBA-2016-08

The board notes the 3.2" should be 3.2'.

Peter Sachs, Architect, spoke for the petitioner. He explained that the lot is undersized and they are adding a small roof to the doorway at the front of the house and the rear of the house with the proposed addition is (expanding the first floor and adding a second floor addition).

Member Donato stated that the Assessor's records show the property as having 4 bedrooms and these plans show 3 bedrooms. If there is an addition to the four bedrooms, there would be a need to add another parking space. Mr. Sachs said they will be maintaining 3 bedrooms.

Member Ferris confirmed that the entire house will be clapboard with new windows. He stated the plans show the chimney although it is being removed. Mr. Sachs said the as-built will show the removal of the chimney. He asked if the windows on the second floor are designed for egress. Mr. Sachs said they have to be or he will not receive a permit.

Member Gannon asked if the intent is to re-sell the house. Mr. Sachs said Ms. Zimmerman plans to live there.

Member Chander did not have questions.

Member Cohen stated that the landing in the rear is 3' and the handrail coming into the landing would create less than 3'. He suggests widening the footprint to accommodate the handrail.

Chair Santucci Rozzi said she visited the property and it is very tight and dark. She questioned the figures for the open space and impervious coverage – they do not equal 100%. She also questioned the setbacks. Mr. Sachs explained the setbacks and said the patio will be pervious with blocks set for drainage. He will add the material showing the pervious patio on the plan as a condition. Chair Santucci Rozzi states this parcel is at its' maximum. Mr. Sachs said the neighbors are in support and they could have built on top of the existing porch but it was not structurally sound. He believes this is not in derogation to the neighborhood.

Member Cohen said the table in the application does not match the table on the plot plan. Mr. Sachs explained that they were planning to extend the width of the garage as it is narrow and it ended up being too costly; however, that could be the reason for the error in the table. He added that the building coverage is accurate and it would be feasible for the board to request an accurate table as a condition of the sign off. Chair Santucci Rozzi said a control document will need to be submitted prior to the decision being filed. Mr. Sachs said the condition could state that the building permit not be issued until the error is corrected.

Chair Santucci Rozzi closed the public hearing and declared a business mode. She noted the letter in support from 130 Marshall Street is the only letter received. The Staff and the Planning Board approved the case with conditions.

Chair Santucci Rozzi said the lot is too tight and the driveway is narrow. This is 6% over and this lot is very tight on a 3800 square foot lot. Going up vertically will give the appearance of being tighter.

Member Ferris agrees that the site is undersized but the neighborhood is intimate. He is not opposed to the application as it is proposed.

Member Chander would like the discrepancies between the two tables to be resolved as a condition for a permit.

Member Ferris added that a condition be the patio be pervious.

Member Chander said this does fit into the neighborhood and as it is more volumetric rather than pushing out, he does not believe it poses a visually risk.

Member Donato agrees that it is a lot on this site; however, it is consistent with the neighborhood.

Member Gannon said the neighborhood is tight and any improvement to this property will help.

Chair Santucci Rozzi asked about the history of this property and the property next door as it appears to be 1/3 the size of the other lots. Mr. Sachs said the planning department said this is an old lot that has been split for a long time. His client has owned the house for two months. Mr. Ferris commented that this may be newer than other more stately homes in the area. It was an unbuilt lot that was divided. Member Gannon said Marshall Street was subdivided in 1895. Mr. Sachs said the larger lots were subdivided so

as to avoid paying taxes on the agricultural lot. Mr. Gannon noted the lots were divided before zoning went into effect in 1937.

Member Ferris motioned to approve the petition with the conditions discussed – clarifying the accurate zoning analysis and the patio being 100% pervious and noted on the plan and the chimney projection eliminated from the plan. Chair Santucci Rozzi defaulted to Staff for the accuracy of the table.

Member Chander seconded.

Members Ferris, Chander, Gannon, Donato voted in favor.

Member Santucci Rozzi voted against.

Vote 4-1.



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Member Ferris read the legal notice for the second case:

21 King Street

Robert Martins, 21 King Street, Watertown, MA 02472 herein requests the Zoning Board of Appeals grant a **Special Permit** in accordance with Watertown Zoning Ordinance, §5.02(f), Parking for Occupant's Business Truck, Exceeding ¾ Ton Capacity, so as to park a 2010 Chevy Box Truck in existing driveway. T (Two-Family) Zoning District. ZBA-2016-04

Robert Martins requests to park his truck at his home. It is primarily a work vehicle; however, he uses it to transport his kids. Since he submitted his application, his father passed and he now has his dad's vehicle parking in his driveway as well until he can figure out what to do with the vehicle. He was asked to move the truck away from the wall, where he then parked it next to the entryway to the house. It was then discovered that he would be blocking a window, so he moved it to the middle space so there would be

access to both bedrooms for safety reasons. He'll be moving out on September 1st and he will apply again for another location so he will only need this for a couple of months.

Member Cohen did not have questions.

Member Chander asked if there are any combustible or hazardous materials stored in the truck. Mr. Martins said it holds tools and materials only – maybe a filter. Nothing that could drip.

Member Gannon said he lived next door in the green house and understands the density of the neighborhood and the lack of trees. He was going to suggest a temporary condition that the permit would not run with the land but only with his occupancy. He understands needing the vehicle at home due to emergency calls in the middle of the night. He doesn't like oversized vehicles in dense neighborhoods but seeing it is for a short period of time, he would be in favor of this.

Member Ferris asked if this approval would follow the vehicle or the person or the house. Ms. Civetti explained the ZBA approval would follow the vehicle. If he should have a different truck, he would have to come back in to the board.

Member Donato asked how this petition came to be. Ms. Civetti explained the Zoning Enforcement Officer had received a complaint from the neighbor that the truck had been parked next to the wall which separates the two properties; thereby obscuring her view out of her window. If the truck is between the two windows, there is enough space on both sides for other cars to be parked. Mr. Martins said the truck has been there as long as he has lived there except for a couple of times when he was at his mom's house.

Chair Santucci Rozzi said the plot plan shows that the wall is on the other person's property as well as the fence in the rear. She said it would make more sense to park the truck closest to the wall – and she would be uneasy to have the truck next to the house. She also said he could park it on the street until September. She thinks that the truck blocking the house makes the truck more noticeable. She would recommend parking it on the side (near the wall). Mr. Martins noted that that is why he was called in here in the first place as the neighbor did not want the truck parked next to the wall. Chair Santucci Rozzi said the board is the deciding factor and blocking the house with that mass is the deciding factor.

Member Gannon said the old location backed up against the bedroom window? Mr. Martins explained that the neighbor was concerned with the truck parked next to the wall as she was afraid the wall would fall over onto her car. He moved it away from there to the furthest spot but a firefighter said he could not block the window to the bedroom. He moved it to the center where the second bedroom would be accessed from the side window.

Member Gannon reiterated the need to keep the bedroom windows unobstructed. He agrees with the location of the truck closest to the wall.

Chair Santucci Rozzi said if the neighbor is concerned with the wall falling, she should fix it as it is on her property. She said the surveyor could come out and mark the property. He could back his truck in to the space and keep it at least 6 inches away from the wall.

Member Ferris asked if there is a fence on the side as he is concerned with the fire access to the rear of the property. The right side of the property is a raised flower bed. Mr. Martins said there is a fence and a gate on the left side.

Member Cohen asked how close he is to the sidewalk. Mr. Martins said he pulls it in all the way and there is not a bumper over the sidewalk. Ms. Santucci Rozzi added that there is still room to walk behind the truck, as well. Member Cohen agrees that it is too close to the house and parking too close to the wall does not seem structurally founded. It is probably about aesthetics.

Member Gannon said he does not like big trucks in residential neighborhoods. He asked if the truck would be an impediment to the neighbor's driveway and her backing out of her driveway. Mr. Martins said he doesn't know if she would be impeded or not. He can pull it back further from the side of the driveway to give her more sight line.

Chair Santucci Rozzi asked Staff when did this front-yard parking come into play and is it legally non-conforming. Ms. Adams stated that the photo shows a small slit window at the front bottom of the house, perhaps indicating that it used to be a garage. At some point the garage was blocked and the driveway filled in. There are no town records of that change.

Chair Santucci Rozzi indicated that front yard parking is not allowed in Watertown and the only way people could have it today is that it went in was there before the ordinance went into effect. The burden of proof is on the applicant. She stated that this needs to show that it is pre-existing and non-conforming and legal. She is puzzled that it is not referenced in the Staff report. She said that there should be some record that the garage was there. Mr. Martins does not know how long the owner has actually owned this house and the house next door. Member Ferris said it makes sense that there was a driveway that went down to a two-car garage and was eliminated due to ice issues. The expanse of the apron indicates that it has been in place for quite a while. He said if it were done sooner, the apron would not look so homogenous. Mr. Martins added that he guesses it has been like that for at least 30 years.

Chair Santucci Rozzi said that the board cannot assume that the property is legally non-conforming. If there is no proof then no one should be parking there. The board cannot approve a special permit based on an assumption. She added that the neighbor complained about the truck parking, there should have been a complaint about filling in the driveway as it is a big job.

Member Gannon asked when the house was built. Ms. Adams does not have an extensive permit history in the Staff report as the request was limited to the parking.

Chair Santucci Rozzi commented that it would be easily verified by entering the basement and looking to see if it were a two-car garage prior. Mr. Martins said it is clear from the interior that it was a garage. Member Ferris said there would have been front yard parking if there was a garage; however, it may not have extended over to the retaining wall.

Chair Santucci Rozzi again explained that the parking has to have been prior to our ordinance requiring not to park in the front yard and staff should be able to help with this. Member Gannon stated that the retaining wall was there in 1992.

Chair Santucci Rozzi closed the public hearing, declared business mode and read from the Staff and Planning Board reports which both recommended approval. "Boiler-plate" conditions except #6 & #7 which indicated the location of the parking – the board has changed the location of the parking to the northerly side boundary. Member Gannon added that the permit is temporary and goes along with the applicant and upon his leaving the property, the permit expires. Mr. Martins understands that he would have to reapply if he relocates; come back to the board if he purchases a different vehicle; and he is to back into the spot close to the corner of the house, not blocking any windows. The truck cannot fit between the house and the side yard.

The Chair added that the building inspector may be able to determine if there was a garage there. Ms. Adams said she would assist to find information on the property. The Chair said the truck being parked for the next 30 days will be up to the applicant while the decision is being written and the appeal period passed.

Ms. Adams said she is satisfied with the plan submitted as it is illustrative only.

Member Ferris motioned to approve the Special Permit application for parking a business truck at 21-23 King Street with the conditions discussed. Mr. Gannon seconded. Members Ferris, Gannon, Santucci Rozzi, Donato and alternate Chander voted in the affirmative (5-0). Member Heep absent.

Chair Santucci Rozzi stated the last case is a utility pole on Waverley Avenue for telecommunications. She asked for a motion to allow the petitioner to withdraw without prejudice.

Member Gannon motioned to allow the withdrawal of the request. Member Donato seconded. Members Gannon, Donato, Santucci Rozzi, Ferris and Alternate Member Chander voted in the affirmative (5-0). Member Heep absent.

Member Gannon motioned to adjourn. Member Donato seconded. Members Gannon, Donato, Santucci Rozzi, Ferris and Alternate Member Chander voted 5-0 to adjourn at 8:20 p.m.