



# TOWN OF WATERTOWN

Board of Appeals

149 Main Street

Watertown, MA 02472

Harry J. Vlachos, Chairman  
Melissa M. Santucci, Clerk  
Deborah Elliott, Member  
David Ferris, Alternate  
Suneeth P. John, Alternate

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## MINUTES

On Wednesday evening, **February 23, 2011** at 7:00 p.m. in the Council Chambers on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos, Chairman; Melissa Santucci, Clerk; Deborah Elliott, Member; David Ferris, Alternate Member; Suneeth P. John, Alternate Member; Steve Magoon, Director, Community Development and Planning; Danielle Evans, Senior Planner; Louise Civetti, Clerk to BOA.**

Chair Vlachos opened the meeting, introduced the board and staff, and swore in the audience. He asked to approve the minutes of the October 27, 2010 meeting. Ms. Santucci voted to approve the minutes; Ms. Elliott seconded. Voted 5-0, 10-27-10 minutes approved. The minutes of November 22, 2010 and December 20, 2010 have been postponed.

The first two cases pending, 198 Summer Street and 532-542 Pleasant Street, Appeals to the Zoning Enforcement Officer's determination, have been continued at the Planning Board and will not be heard until March 2011.

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

Chico Sajovic, 6 Chauncy Street, #1, Cambridge, MA 02138, herein requests the Board of Appeals to grant an **Amendment to Special Permit/Special Permit Finding/Variance #04-39**, granted on October 27, 2004 to allow existing 10 front (adjacent building) parking spaces and 8 spaces along northerly fence line designated as "drop-off" on the original control documents to be used as full-time/required parking spaces at **70 Phillips Street a/k/a 100 Parker Street**, located in the I-3 (Industrial) Zoning District.

Chico Sajovic, Owner, spoke of the change in parking requirements due to the change in tenancy from Full-Out Cheer, where the front area, as requested in this petition, was used as a 'drop-off' for children; to the new use as Indoor Playground, where parents are required to attend with their children. Thereby the need has changed from drop-off spaces to regular parking spaces. He noted that another tenant, Extra Innings is still located there.

No one from the audience spoke on this petition.

Chairman Vlachos asked if the stockade fence could be extended where the chain link fence is now. Mr. Sajovic stated that they are required to have the chain link fence for visibility entering and exiting the property.

Member Elliott asked if there would be a need for a drop-off area in the future. Chair Vlachos explained that would not be an issue as they could switch the area to drop-off.

Member Santucci noted that any other business would be using these spaces on a full-time basis. These uses are part-time.

Chairman Vlachos also noted the report of the Planning Board and their recommendation to approve the requested amendment.

Ms. Santucci motioned to approve the amendment; Ms. Elliott seconded. Voted 5-0. Granted.

Documents Reviewed: Plot Plan (Plan of Land in Watertown, MA 71 Phillips St" prepared by Everett M Brooks, Co dated 11/27/2004 as modified to indicate the 18 parking spaces subject to this approval.



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The next case had been advertised to be heard at the January 26, 2011 meeting. However, the meeting was postponed due to a snow storm. Ms. Santucci read the legal notice:

'David Barnett, President, The Proprietors of the Cemetery at Mount Auburn, 580 Mt. Auburn Street, Cambridge, MA 02138, herein request the Board of Appeals to grant a **Special Permit** in accordance with §5.03, Notes to Table of Use Regulations, #10, Parking Lot for Gain, Principle Use for more than 50 Parking Spaces, Zoning Ordinance, so as to use and build out a parking lot having 364 spaces proposed to be leased/utilized by Mt. Auburn Hospital employees at **165, 183 and Lot 1505-2A-0 Grove Street**, located in the I-2 (Industrial) Zoning District.'

William York, Attorney, Gilman, McLaughlin & Hanrahan, introduced the support team, provided history and statistics for both the cemetery and the hospital and explained the relief requested is for a Special Permit for the commercial parking – the zoning regulations; storm water by-laws and the green design standards are all met. He noted the approval from the Planning Board and the Department of Public Works regarding storm water management engineering design and traffic. He presented the parking area as a benefit to the town by allowing parking at one location, eliminating 96 parking spaces from other areas in Watertown; the parking lot will not be used on weekends or for overnight parking; landscaping will include over 50 trees along Grove Street; the limit of this special permit is one area of the cemetery's long range (10-15 years) plans to move the front entrance of the cemetery to Grove Street; create a more public friendly 'Meadows' area for visitors, events and cemetery offices; use the Aggregate site for cemetery use or high-end development; an agreement in principal for a PILOT for the principal area of the cemetery; the Shick House will remain and the potential use of the front area of the Shick House for a recycling center has been discussed. At the end of 10 years, the cemetery will not be using this as a parking lot and the Special Permit will expire; the parking lot site can be sold to a developer that is in keeping with the long range plans of the town and the cemetery's plans for the corridor; they have been approached to use the front of the Aggregate site for a community garden; other educational and historic uses have been considered.

Nick Diieso, COO, Mt. Auburn Hospital, stated they have had 4-5 satellite lots in Watertown over 25 years with 1-2 year agreements on those lots. This lot will provide more stability; the evening shift will park on the main campus; this lot will be open from 5:00 AM – 10:15 PM weekdays; closed on weekends and holidays; gate controlled; a blue call-box to hospital security for help (no security cameras); lighting on timer or motion detection and will not spill over; not a paid lot – no money collected; they will keep the parking they currently have at the AMVET site and the Tufts Building. He added that the parking at the hospital recently increased by 144 parking spaces, for a total of 770 spaces. He noted the hospital is paying for the drainage, etc. (including the clogged catch basin) for the new parking site and snow will be piled in the areas along the sides of the lot unless another snow year as this and then they would truck it off-site.

Member Elliott asked if the parking lot will be offered to residents for winter parking. Steve Magoon, Director of Community Development and Planning, stated that the parking is for the hospital use exclusively and no other uses have been discussed.

Brad McKenzie, Civil Engineer, handed out a color copy of the bike parking and bus-stop detail showing there are 10 and 5 bicycle parking spaces.

Member John asked if the pad for the ramp at the bus stop is flush with the pavement for handicap access (It is); if there was groundwater found at any of the test pits (There was no groundwater found); and if the Aggregate site has the potential of flooding (not on a storm water level) and who will be responsible to clean out the storm water connection; holding area between both properties owned by the cemetery which is slowly released to the area at the back of the lot towards the swale and then out beyond Filipello Park. Mr. McKenzie answering all questions, stated they will clean the pipe before it gets to the catch basin.

Don Elliott, 125 Coolidge Avenue asked what type of remuneration the town is expecting especially when the tax revenue from Aggregate was \$40,000. He is concerned the traffic report at Grove Street was not done with meters. He feels a signal at Coolidge and Grove Streets is necessary as there are buses running all day. The drainage ditch along Filipello Park drains into Sawins Pond and the Charles River – who is responsible for more water to ditch? What effect will the exhaust from all of these cars have on the residents of Coolidge Hill?

Richard Robertson, 151 Coolidge Ave., asked what the tax revenue is; who is responsible for cleaning out the drain (catch basin) that is already clogged; what do the Police think of the situation and all of the accidents currently at Greenough and Grove Streets; can this be used on the weekends for the town to receive an income; what is loss of revenue to other parking locations owned by Watertown residents.

Richard Begosian, owns corner lot at Mt. Auburn and Arlington Streets, asked if the new development at the Ionics building considered in the traffic report; was the 7:30 AM traffic considered in the study; there is contamination at the rear of the Shick property that could potentially contaminate the water to river. This appears to be better for Cambridge than it is for Watertown. Mr. Dieso stated that there have not been any discussions with them regarding the proposed use of the Ionics building.

Maria Lane, 10 Coolidge Hill Avenue opposes 500+ cars due to safety, noise, pollution, traffic back-ups; this is the largest parking lot in Watertown; Hanover was not approved due to traffic; what effect will the pollution have on the cemetery's plants.

Allison Karakouzian, 141 Grove Street said this is the least detrimental than the other uses; she works at Mt. Auburn Hospital and believes the PILOT program is moving forward.

Bob Airasian, Member, Watertown/Belmont Chamber of Commerce is in support of the parking lot.

Steve Magoon, Director, explained that this property will be taxed as a commercial property.

Louise Forrest, 41 Hall Avenue, asked about the traffic study done at Greenough and Grove Streets and spoke again stating Jonathan Hecht is in support of a Community Garden at the cemetery's other property on Grove Street.

Vinod Kalikan, Traffic Engineer, Vanasse Hangen Brustlin, Inc., explained that a 4-way stop sign is put in when the traffic amount is equal in all directions. It is based on national standards for when a traffic signal is warranted. Based on his observations, this location (Grove & Coolidge Streets) may warrant a traffic signal for existing conditions. Employees are not there at highest traffic volume times. This will work because it is a hospital (and shift times are different than peak traffic times).

Mr. Dieso stated that the other satellite locations were not a mitigating factor in considering the traffic study. There is more bicycle parking (100 spaces) at the hospital than at this site as it makes less sense for someone to ride their bike to the lot and then take a shuttle to the hospital.

Connie Brown, Windsor Avenue, grew up on Coolidge Hill and is opposed to the parking lot due to the 364 cars going into one lot is an increase in traffic and the satellite locations will be filling their empty spaces, as well.

Angie Kounellis, Town Councillor, stated the PILOT program numbers are not public. This case is not an issue for the hospital as the cemetery knew in 2009 they needed the parking lot for the income; the Hanover project indicated the existing intersections were insufficient in 2007; suggested to the Planning Board a 6 month review of intersections/traffic; although it is indicated that after 10 years it will no longer be a parking lot, it should be

stated that there will not be a structure built for parking. Grove Street needs resurfacing and the burden should no longer be on the taxpayers – mitigation should be considered. “Staff” needs to work with developers to mitigate/negotiate the traffic needs that taxpayers are burdened with.

Michael Shady, 71 Barnard Avenue, Watertown Community Foundation, said the use of 8,000 square feet of land should be donated to the use of a Community Garden for 10 years.

Vincent Piccirilli, Town Councillor, explained the Town Council was not in favor of this as good economic use and it brings traffic to the area; they requested the change in the ordinance to require a Special Permit for the parking lot, otherwise it would have been allowed; there is the sunset clause (10 years); industrial area warrants a higher use (Hanover project was one); this used to be a dump; now it is non-taxable land as a cemetery use; PILOT program in the works; being taxed at the commercial tax rate which is 175% of residential; other development after 10 years; not the best deal for the town but the best under the circumstances; urges approval; 25 years rebuilding Grove Street and traffic signals.

Tom Cooper, Brigham Street, Board of Trustees for the Cemetery, they have a full commitment not to be in the parking lot business after 10 years; they are adding landscaping to the parking lot which does not have any now; they hope the corridor will be appealing, eventually.

Dennis Duff, 33 Spruce Street, mentioned the attitude from the cemetery was to turn their back on Watertown for the last 107 years; now they are involved in Community Gardens and Trees for Watertown to possibly use their land to grow trees for use in Watertown. He suggested donating a portion of the land for a 4' tree path and 8' bike path as opposed to just a sidewalk.

Member Santucci asked if the property will be ‘flipped’ in 10 years or leased by a developer. Attorney York stated that the market for the property in 8-9 years will be to a developer for a ground lease of 99-100 years to develop the land to help the future of Grove Street for the cemetery. They purchased the property for their own use in 2007 for \$4.5 million; they wish to partner with the town to see improvements (transfer station, community garden, trees, education, horticultures, flowers to the town). He added that both properties were cleaned of the contamination when they were acquired.

In their business mode Chair Vlachos referenced the Planning Board report and recommendation and read the letters in support from Stephen Corbett, Leslie Horst; E. Louise Forest, all dated February 23, 2011.

Member Santucci stated the sustainable quality of the land should be preserved; 10 years is not a long time; they should pursue the right type of development after this; they need to assist in cleaning the drain at the corner; the traffic may be slightly impacted; in 10 years, attractive and viable – if hospital purchases then another PILOT program is necessary.

Member Ferris stated that there is an increase in parking spaces but traffic is at non-peak times; there should be a thorough preparation of future use.

Member Elliott stated she is in support of the 10 year limit with the hours stated; security could be an issue.

Mr. Diieso commented that they do not rely on the Watertown police to police this lot – it is up to their shuttle drivers stationed in the lot and dropping off to watch the employees get into their cars safely. These will be 25 passenger buses with 3-4 buses running at peak times.

Ms. Santucci motioned to grant the Special Permit with conditions. Ms. Elliott seconded. Voted 5-0, Granted.

#### Documents Reviewed:

Proposed Parking Facility (Assessor’s Parcel ID No. 1505-2A-0 and portions of 1504-1-1, 1505-3-0 & 1505-4-0) Site Development Plans Grove Street Watertown, Massachusetts, prepared by McKenzie Engineering Group, Inc. Consulting Engineers and dated December 9, 2010 sheets #1: Cover Sheet, #2 General Notes, Legend, and Abbreviations, #3 Existing Conditions Plan, #4 Site Layout Plan, #5 Grading & Utility Plan, #6-9 Construction Details. “Grove Street Parking Facility – Streetscape Planting Edge Plan” and L1-1, “Planting Plan (all segments)” in color drawn by Halvorson Design Partnership, dated November 23, 2009, Revised February 17, 2011; “Mount Auburn Hospital Proposed Parking Facility” in color, drawn by McKenzie engineering Group, date stamped received February 23, 2011; Detail of Bus Stop, date stamped received February 23, 2011



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Ms. Santucci read the legal notice:

Margaret Woodruff, President, Bristol Development Group, LLC, 271 Great Road, Suite 26, Acton, MA 01720, 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 and a **Variance** in accordance with §5.04, Dimensional Regulations, Rear Yard Setback, Zoning Ordinance, so as to construct a 2<sup>nd</sup> floor dormer (15' x 8.5') with non-conforming southerly sideyard setback of 6.3' where 10' is required and to remove the existing first floor rear deck (10' x 7.8') so as to construct a new rear addition (24' x 7.8') on the existing foundation (24' x 7.8') with a 2' roof overhang set back 17.5' from the rear lot line where 20' is required at **70 Chapman Street**, located in the T (Two-Family) Zoning District.

Edward MacDonald, Jr., Construction Manager, Macallana Construction Services, representing Bristol Development Group and Margaret Woodruff, was sworn in by Chair Vlachos and presented the proposal for the 1 ½ story addition in the rear and the dormers, mentioning Ms. Woodruff had worked with Staff to present something that would be agreeable to the board.

Ms. Santucci stated that the plot plan does not show the dimensions of the rear setback with the addition and the 2' roof overhang correctly at 19.5', it should be updated to show 17.5'. She confirmed that the 'garage' is being removed.

Mr. MacDonald stated that the rear elevation will have two or three steps.

The house will not be flipped. Margaret is intending to live there. Her house is on the market in Acton. Bristol Development Corp is a company dealing with hospital issues. Margaret has bought several properties as the economy is not doing well and this was a way to supplement her income.

Mr. Ferris asked about the dormer on the south side, drawing A-9, showing the peak for height within the proposed bathroom, the next house over is also a cape and the windows may be looking into each other. On drawing A-4, he believes there will not be enough head room to access the upstairs hallway. The section A-4, shows a kneewall for part and a sloped ceiling for part. He feels during construction, this may end up being adjusted to allow for headroom. Mr. MacDonald said the knee wall is part of the hallway. Mr. Ferris showed Mr. MacDonald the stairway and the ceiling slope. Mr. Ferris encouraged Mr. MacDonald to review the ceiling height for it being less than 7'.

Mr. MacDonald stated that they have worked with Staff and two architects to devise these plans. They spent substantial time in the attic and on the drawing board to verify the dimensions.

Mr. Ferris clarified that his point is not regarding aesthetics, but the 3' wide passageway area may be an issue when construction begins.

Mr. Ferris suggests coming back to the board showing the corrected drawing or coming back to the board showing that the drawing meets the headroom requirement. He suggests elongating the dormer somewhat to meet the headroom requirement.

Mr. John asked if the steps on A-9 are to the front of the property. Mr. MacDonald states they are facing Chapman Street.

Mr. Macdonald stated that if they elongate the dormer on one side, they would have to elongate the dormer on the other side and they are trying to keep the character of the house.

Mr. Ferris stated that he believes there made need to be a 'blip' to the left of the dormer to gain the headroom.

After further discussion regarding the dormer, the petitioner requested the case be continued to seek clarity from their architect.

Ms. Santucci motioned to allow the continuation to the next meeting date. Ms. Elliott seconded. Voted 5-0. The case is continued.



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Ms. Santucci read the legal notice:

Amleto Martocchia, Trustee, 11-13 Ladd Street Realty Trust, 693 Main Street, Waltham, MA 02451, herein requests the Board of Appeals to grant a **Variance** in accordance with §6.02(j), Location and Design of Off-Street Parking, Front Yard, Zoning Ordinance so as to allow two 10' wide driveways to access two garages (each to contain two tandem parking spaces under a new two-family dwelling) located 16' and 21' feet from the front lot line, where 23' is required at **80 Walnut Street**, located in the T (Two-Family) Zoning District.

Amleto Martocchia stated that they propose to build a two-family dwelling within the required zoning regulations, providing the required four parking spaces within garages under the structure. The area in front of the garages is the reason for the variance. The side lot lines are angled and the surveyor had drawn the structure parallel to the side lot lines leaving the front of the property angled to the front long line thereby creating two access areas to the garages of different depths, 16' and 21', where 23' is required in accordance with section 6.02(j). He stated that this type of garage access is common on Walnut Street with some of the properties having their garage right against the sidewalk. He stated that the property has been vacant for some time and an existing approved plan has a driveway along the entire side of the house.

Member Ferris inquired if the retaining wall at the front of the property would continue to match the existing shared retaining wall. Mr. Martocchia stated that they would try to match what is existing.

Chair Vlachos inquired as to the owner of the existing garage located partially on the rear of this site and partially on another site. Mr. Martocchia stated that the garage sits partially on this site but fronts and belongs to a property on Spruce Street. There is no easement on the records but it will be investigated.

Richard Marcus, 68 Walnut Street stated that the garage in the rear has belonged to George Bergosian for over 27 years. He stated that he is concerned that this new structure will have cars parked in front of the garage and over the sidewalk. He is concerned that if they excavate more, the water table will be disturbed. There is a spring on the land and he has a French drain on the outside and inside of his house. He agrees that the current structure is an eyesore and something should be done.

Paula Halpin, 86 Walnut Street, the house to the right, stated that although her house is taller, it is set back and she does not have a garage on the street. She feels the proposed structure is too massive for the lot and too close to the front. She requested that a water analysis be done before any construction or excavation be started. She said the plan shows 'grades are existing and proposed - final grades may vary' – and feel this is too vague.

Dennis Duff, 33 Spruce Street stated that the garage at the rear of the property has a history as a working barn when the land in the area was all orchards. The barn can only be accessed from Spruce Street. He is concerned that there

will be parking in front of the proposed garages that will end up with cars on the sidewalk. Watertown needs to be concerned with the ADA requirements.

Ms. Santucci asked if the architect considered providing steps to the side of the structure instead of in the front. Mr. Martocchia said he did not want to disturb the grade by excavating more of the land to provide stairs on the sides of the property. You enter the outside stairway from the driveway grade at the front and exit the rear at the first floor living area. He added that there will be a door at the garage entry level.

Chair Vlachos asked if we should have a full set of architectural drawings. Ms. Elliott agreed.

Mr. Martocchia stated that there will be one door for each unit next to the garage doors so they do not have to go to the outdoors to use the stairway in the winter. Ms. Santucci said it was odd to have outdoor stairs if they are parking inside the garage – why would they come outside from the garage to enter the house. Mr. Martocchia said all of the dimensions will remain the same, some of the design elements may change – a lamp, a door but the common landing will remain.

Mr. Martocchia said the front setback requirement is 15' if they keep the driveway on the side as the prior approved plan had shown; however, he doesn't feel that is the best plan for this property.

Chair Vlachos said the Planning Board report states that the only item before them is the driveway for the new two-family structure but they believe they should have had the complete drawings of the structure before them. He added that the board should have front, side and rear elevations to know what is going in there.

Ms. Elliott stated that the 16' does not allow for a car to park in front of the garage without being on the sidewalk. Ms. Santucci added that the interior garages are only 38' deep.

Mr. Martocchia said there will be an interior stairway from the garage to the living level. There will be stone to match on the exterior of the outside stairway.

Ms. Santucci asked the Staff if this type of outside stairway is subject to setbacks. Steve Magoon, Director, Community Development and Planning stated that it would not be as it qualifies as front entryway. She then asked if that would change if he puts doors next to the garages. Mr. Magoon said it doesn't change the setback. She clarified that the stairs are exempt from the setback requirement as a means of egress but if he then adds doors next to the garages, why would he need substantial stairs that are close to the street and doors on the upper level. Mr. Magoon agreed that it is a good point. She then added that if the stairs were to go into the side yard, they would be less intrusive. Mr. Martocchia said that was considered but the left side is too close to the large tree and the right side does not have 4' clearance to the side lot line.

Ms. Santucci said that although the petitioner is saying he cannot push the house back any further, he has 12' of patio area in the rear and the board is looking for 7' of front setback to reach the required 23'. She understands the hardship related to topography but they are going through the expense of providing 12' of patio space in the rear. Mr. Martocchia said the retaining wall in the rear will end up being 10 – 12' high. Ms. Santucci suggested terracing or tiering the retaining walls in the rear.

Mr. Vlachos said he is not against the front yard parking in the area but he feels this could be pushed back.

Mr. Ferris said if it is pushed back 18', someone may need to walk in the street and wonders if 18.5 or 19' is sufficient.

Ms. Santucci asked if the house is going to look crooked (the lot is angled). Mr. Martocchia said the surveyor went parallel to the lot lines and not to the front of the property or the front property line.

Mr. Vlachos said they need front, side and rear elevations. Ms. Elliott stated that she would want to see the plans for the tiered retaining walls. Mr. Martocchia said he has those plans tonight – they change as they have been working on this for a while.

Mr. Vlachos said the request is for a significant variance and they want to see the plans. He reiterated the requests of the board: closer to the street, pushed back 3'; the front of the house parallel to the street. Mr. Ferris said they may end up with side setback issues. Ms. Evans said they are seeking a variance for the front; however, they could seek a variance for the side – but which would be more acceptable.

Mr. Ferris said they made need to build retaining walls on the side. He asked if they considered a retaining wall on both sides of both driveways and have the stairways into the sides. He then suggested building a small wall in the front of the center stairs to provide a planting are at the front of the house. Mr. Martocchia said he would consider that.

Ms. Santucci said one of the plans says sloped driveway to garage but there isn't any grading shown on the plan. Mr. Martocchia said the floor elevation is 102.5 and the street is 101.

Chair Vlachos said they are not going to take a vote tonight. He again reiterated what the board wants to have him rework: issues are massing in the front.

Ms. Santucci said it appears top heavy. Then there are doors at the street level; stairs in the front, doors on the upper level.

Mr. Martocchia said leaving the house towards the front is better for the neighbors' privacy as her house sits further back. He said he thinks the board is concerned with someone parking in front of the garages. The current driveway is very steep and someone would park on the sidewalk now.

Mr. Ferris reiterated that the board wants plans for all around the property including grades. Mr. John stated a section showing the retaining wall. Mr. Ferris said they are also requesting the house be pushed back 3'. Mr. Martocchia said he would be careful about that as they cannot push back the house any further. He wants to provide a patio in the rear. He said he could push the house closer to the front and not have any parking in the area in the front. Mr. Ferris said it is unsafe for anyone.

Ms. Santucci asked for the 16' dimension for the south side but not on the other. Mr. Martocchia said it is 21' setback from the street. Mr. Vlachos said it should be on the plan.

Mr. Martocchia said he needs guidance – the steps they are looking for a retaining wall with dirt; they are looking for...

Ms. Santucci stated that the property is only 19' from the street and the hip roof will make it appear massive. The height of the structure 43.4' from the garage level.

Mr. Ferris asked if it is one large pitched roof. Mr. Martocchia said he could add dormers in the front if it would make it appear better.

Mr. Ferris asked if the third floor will be used for living space. Mr. Martocchia said they will use the attic space for one room and there will be a dormer in the back.

Ms. Elliott asked if there are side elevations available. Mr. Martocchia does not have the final drawings but the height is shown based on the average grade now. This house will be lower than the house immediately to the right.

Mr. Ferris is concerned about the 16' setback and states that someone will end up leaving the sidewalk to walk in the road to get around the car in the driveway. Mr. Martocchia said the house could go back further but they did not want to dig out the back. A plan was to excavate further into the back but he doesn't think it is a good idea.

Chair Vlachos reminded the board of a case they disallowed recently because of the area in front of the garage doors not meeting the requirements. Mr. Martocchia stated that the Planning Board and Staff put a condition on their recommendation for no parking in front of the garages.

Mr. Martocchia requested the case be continued.

Ms. Santucci motioned to continue the case to the March meeting. Ms. Elliott seconded. Voted 5-0 to continue.



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## MINUTES

On Wednesday evening, **February 23, 2011** at 7:00 p.m. in the Council Chambers on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Melissa Santucci**, *Clerk*; **Deborah Elliott**, *Member*; **David Ferris**, *Alternate Member*; **Suneeth P. John**, *Alternate Member*; **Steve Magoon**, *Director, Community Development and Planning*; **Danielle Evans**, *Senior Planner*; **Louise Civetti**, *Clerk to BOA*.

Ms. Santucci read the legal notice:

Erez Z. Levanaon, 7 Swetts Court, 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 Setbacks; and further to grant a Variance in accordance with §5.04, Table of Dimensional Regs, Rear Yard Setback, Zoning Ordinance, so as to legalize an existing rear deck, 24' x 11.75', located 15.7' from northerly side lot line and 17.7' from southerly side lot line, where 25' is required and varying rear yard setback at 19' – 21', where 30' is required at 7 & 9 Swetts Court, located in the R1.2 (Residential) Zoning District.

Upon the Planning Board's finding that the deck has existed for 10 years, the petitioner requested his request be withdrawn. The Planning Board voted to approve the withdrawal request. However, at the Zoning Board meeting on November 22, 2010, there was controversy as to whether the evidence given in support of the 10 year time-frame was enough. The board requested the petitioner provide alternative evidence. At the Zoning Board meeting on February 23, 2011, Steve Magoon, Director, Community Development and Planning, stated that he has determined the deck to have been in existence for 10 years, thereby granting it unlawful but a legally protected structure. The request for Variance and Special Permit Finding are no longer necessary. The Zoning Board voted to approve the request for withdrawal.

Ms. Santucci motioned to accept the request for withdrawal. Ms. Elliott seconded. Voted 5-0 to withdraw.

Documents reviewed: Plot Plan: signed, stamped & dated by John W. McEachern, registered land surveyor, Bowditch & Crandall, Inc., 9-9-2010; As Built Plan: signed, stamped & dated by Malgorzata Staruk, Reg. Architect, 10/21/05 "A1 AS-BUILD PLAN OF 7-9 SWETTS COURT CONDOMINIUM WATERTOWN, MA"; MassGIS 2001 Color Ortho Imagery Viewer submitted by John Hawes 11/17/10, showing location of existing deck; E-mail from former owner, Mike Hession, stating the deck was built in 2000, dated 11/30/10.

Chair Vlachos noted the last case is under **Other Business**. This is a modification to their control plans requested by David Webster, Manager of United Cerebral Palsy **71 Arsenal Street also known as 32 N. Beacon Street**. They have requested a continuance via e-mail on 2-22-11. The case will be continued to March.

Ms. Santucci motioned to adjourn. Ms. Elliott seconded. Voted 5-0. Meeting adjourned at 11:30 PM