



# TOWN OF WATERTOWN

## Zoning Board of Appeals

149 Main Street

Watertown, MA 02472

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

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### MINUTES

On Wednesday evening, **March 30, 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*; **Michael Mena**, *Zoning Enforcement Officer*; **Danielle Evans**, *Senior Planner*; **Gideon Schriber**, *Senior Planner*; **Louise Civetti**, *Clerk to ZBA*.

Chair Vlachos opened the meeting, introduced the board and staff, and swore in the audience. He asked to approve the minutes of the November and December meetings. Ms. Santucci voted to approve the minutes for both November and December; Ms. Elliott seconded. Voted 5-0, 11-23-10 and 12-20-10 minutes approved.

Chair Vlachos noted that three (3) items on the agenda would not be heard at the subject hearing, which include: 198 Summer Street has requested to withdraw; 532-542 Pleasant Street has been continued at the Planning Board and 320 Main Street has been continued at Planning Board

Steve Magoon, Director of Community Development and Planning noted that the case involving **198 Summer Street** was a zoning violation which has now been corrected and the property is in compliance. Therefore, the appeal of the Zoning Enforcement Officer's determination is not necessary.

Ms. Santucci motioned to approve the request to withdraw the petition to Appeal the Determination of the Zoning Officer without prejudice. A subsequent second of the motion followed. Voted 5-0, **Withdraw Granted**.



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

Ahmad Yasin, 9 Sunnybank Road, Watertown, MA 02472, Owner of property and business, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(e), Change of Non-Conforming Use to another Non-Conforming Use, Zoning Ordinance, so as to change his current catering business to a four-table eating establishment operating on weekends only at **99-101 Common Street**, located in the S-6 (Single Family) Zoning District.

Mr. Yasin, petitioner, addressed the Board and stated that he was the owner of Karim's Restaurant from 1984-2000 and that he bought the property at 99-101 Common Street in 2005. Mr. Yasin noted that he had previously been approved by the Board for a catering business and would now like to expand the use to allow two days, Saturday and Sunday only, to serve lunch and dinner (11am-8pm). Mr. Yasin, stated that he had communication with a few neighbors who were concerned that he would serve breakfast. Mr. Yasin said that he addressed the concerns by the neighbors by clarifying that breakfast would not be served and only lunch and dinner, on Saturday and Sunday. Mr. Yasin stated that he is concerned about parking in the area due to high volume of traffic and the nearby school, which is one reason why he did not apply to have the expanded service during the week. He stated that on the weekend is a different case where the roads are fairly empty.

Mr. Yasin, additionally noted that he had spoken before the town previously regarding his banning of smoking and that the town's health department has noted that his restaurant is very clean. He also stated that he is heavily involved with community work and working with various schools to educate on good food and eating habits. He also noted that letters have been written and are in attendance to support his business. He stated that he would inform his customers' park well away from the store and from driveways of the nearby residences. He also recommended that the town provide signage limiting street parking for the neighboring properties to address visibility and safety issues. He has a deep philosophy to eat well and take care of your body and would like to extend and educate people on this, similar to the well known chef James Oliver. He is not intending to open a bar and there would be no liquor. The neighbors would not want the space to be vacant and closed; this is not good for the neighborhood. Mr. Yasin stated that he had worked seven days a week for many years no intention to be open for more than the two days being requested and limited catering during the week. The proposed use is all about wellness and would appreciate a positive vote by the Board.

Ms. Santucci asked the staff what the analysis is regarding the parking for the previously approved use vs. the propose use.

Ms. Daniel Evans, Planning Staff, stated that the site only has five (5) parking spaces and was grandfathered in as such with the commercial uses. The existing catering use only required four (4) parking spaces and therefore was allowed. The parking for the catering business was analyzed with the requirement of a restaurant standard since the ordinance does not specifically itemize catering business and therefore, the restaurant use was the closest use for parking purposes.

Chair Vlachos asked what the required parking would be with the existing catering and convenience store.

Ms. Daniel Evans stated that there is currently no parking provided for both storefronts and therefore grandfathered as such. Staff's analysis determined that the caterer would require four (4) parking spaces and the proposed expanded use to allow food service with tables and chairs would also only require four (4) parking spaces. Therefore, no additional parking would be required and the site would continue to be legal non-conforming with no on site parking.

Chair Vlachos stated that a restaurant use is typically more intensive than a caterer, so why would it not require more parking.

Staff responded by stating that based on the parking required per the town's zoning ordinance, for analytical purposes, the parking demand would not be more intensive.

Mr. Yasin, wished to add that prior to 2005 there were three (3) stores; a flower shop, nail salon, and the existing convenient store. Assuming the previous uses were back in place would most like create a worse parking and traffic problems seven (7) days a week. The current has limited vehicle traffic with no truck deliveries. All purchases are done by Mr. Yasim and only select the finest food.

Chair Vlachos asked the petitioner whether he know of any other restaurants that are open the same hours that are being requested.

Mr. Yasim did not know of any and reiterated that he had worked full time and many hours during his career (16 years) and is not looking to work at that level again. However, the expansion to allow the catering and restaurant is necessary to support his family. The catering use is very limited and the neighbors never see him.

Chair Vlachos reiterated that he did not know of any restaurants open on such limited hours and stated that the previous approval, of which he was part of, was only granted because the use was to be limited and a passive use. The requested expansion is no longer going to be limited and passive.

Mr. Yasim responding by stating that eight (8) cars parking and spread out on Columbia, Catherine, and Common Streets no one would notice. The lighting of the use is not bright and would be a soft lighting.

Deborah Elliott, Board Member, asked whether cooking classes are also offered at the subject location.

Mr. Yasim stated that yes, cooking classes are offered at the site currently but not a lot and take place on the weekends with up to eight (8) people and an average of four (4) cars.

Chair Vlachos asked how many cooking classes have been held at the site over the past few years.

Mr. Yasim stated that he has probably held no more than 25 classes over the past five (5) years and are only three hours long and on Saturdays. He also teaches kids and works with high schools to better kids' knowledge regarding food. Mr. Yasim also submitted several letters of support to the chair and board.

David Ferris, Board Member, asked whether the new door has a landing, sidewalk, or lawn. The question was asked to ensure that the new door and walkway would be clear for access during the winter snow season and that the bathroom doors will need to meet accessible requirements.

With no additional questions for the applicant, Chair Vlachos opened the item up for public comment.

Sarkis Salakian, 107 Common Street – This is not about him as a chef or person. We are strongly opposed. We live just one house away. This is a residential area and want to keep it that way. The use will change this to a commercial area. This would bring property value down, increase traffic beyond existing condition, waiting outside restaurant will increase noise/smoke. High School events spill onto Common Street. Little break from traffic, only on weekends. Keep

it this way. Where will our guests park with the restaurant there? Hope the Board will consider these concerns. He submitted a statement in writing to the Board.

Yoichi Udagawa, 54 Cottage Street - Fan of food and had wedding at Kareem's restaurant. Kitchen is clean and high quality. Support proposal.

Debra Smith, Attorney with office at 134 Main Street, was a longtime resident. Attended Kareem's and attended cooking classes and used catering services. Highly support petition and will not impact neighborhood any differently than it is now. He is only asking for two (2) days with limited hours and would not impact. This economy we must look outside the box to support business. Asset to ...

Mark Freedman – Mt. Auburn Hospital. Friend of applicant. Hard working and honest. Good service and be a good neighbor. There are restaurants located in Cambridge but full time but located in neighborhoods. However, they are not as limited in hours. Also, we need to consider the current economic state and help business succeed.

Frank Miceli, 103 Common Street – Resident of Common Street for 40+ years. Opposes restaurant. Restaurant in a neighborhood will lower property value. No one wants to live next to one, noisy and attracts rodents. Living next to the variety store has caused him (between noise and traffic) to enclose screen porch and he cannot open windows. The cooking creates odor and has to close windows. Cannot enjoy outside anymore. Located directly adjacent to the site. If allowed it will potentially operate 7 days a week. Last meeting stated that he would not be back to increase use and now he has. The statement that it will improve the lighting on the street is false; there is currently no problem with lighting. This will be a regional draw and not be just a local neighborhood use. We want relief from traffic at least on the weekend. Have complained many times to the Town and police and requested slow down signs and never got them. Now the petitioner is requesting signs, if you do that at his request you are treating me differently. I can't have family over due to no parking and fast traffic trying to back out of the driveway. He has a family and wants to support well I have family also which I would like to enjoy my yard with and this will prevent that.

Frank Palermo, Wayland, MA - has known applicant for 20 years and is a friend. Will attest to his gourmet chef ability. Understand parking is the issue and believe that the applicant will be a good neighbor and address any problems. If a large restaurant can see the traffic/parking issue. We are talking about 4 tables here. Lets put this into perspective.

Chris Valstyn, 98 Common St., No doubt he is clean and a great cook but no one else here has to live with this use next to them. We want our relief from traffic on the weekend. No parking signs on Common Street, when, where can we park. Four cars is a lot. Constant cars beeping and jockeying for position. Just a matter of time before there is an accident. I didn't buy my house to see people smoking cigarettes waiting to be seated, there will be trash. I am always picking this up. Accepted living next to a convenience store but not a restaurant. Property value will go down. He bought the building knowing it wasn't zoned for restaurant. Cars are already blocking driveways for the convenience store where will the restaurant folks park. This will ruin the neighborhood. I wouldn't have bought the house if there was going to be a restaurant. What's next ... he know wasn't zoned. Plenty of places downtown where restaurants are zoned for. Not the right location. This is not personal. I know the owner is a good person but not the right place.

Patrick Gonzales - Friend and work at a local training facility. The owner brings me food to give. The community will be enriched with his cooking as a restaurant.

Eileen McCluskey, 66 Hall Avenue, Watertown Citizens for Environmental Safety – Knows the property owner. I hear deep concerns about parking. The petitioner stated this evening that he will work with neighbors and customers to deal with these concerns. As far as other people coming from out of the area but I personally would like to see people enjoying the restaurant. I don't know of any studies to document lost of property value do to restaurant location.

Dennis Duff – Spruce Street. Long resident (60+ years). Concern for neighbors to have their peace on the weekend. People have testified to the number of cars; 4 tables could be 12 cars. Where are these spaces? [staff responded by stating that it is all on street parking] Parking on Columbia Street is busy with high school on weekends. He only had catering several years ago and he said he'd have one car. Now he wants a restaurant and is rented out to private functions. Pushing parking to other streets isn't fair and they are not represented tonight. Previous request he has stated he would not expand and would be passive use. Now he wants more, whats to keep him from asking for more in the future. This should be denied.

Mark Kriskavic, 77 Riverside Street – Verona's operates only on weekends now. Grappa (formerly) was only open on weekends. These are two examples. Support petitioner and think this would ad vibrancy to neighborhood. Twin cities have diner or variety store on every block and it is very nice. The commercial structures predated residential and

owners knew they were next to residential uses. Commercial before and they are commercial buildings and they should be put to a commercial use.

Henrietta Light, 22 Grandview Rd., reiterated what the previous speaker stated that this has been commercial for many years. Some judicial striping and signs could address the issues from neighbors and would be a great loss if we would lose a special use like this.

John Hope, Attorney with a practice in Watertown – Serve as character witness. What other uses could go in here. This could be a copy shop, law office, etc. If not this use, it will be some other commercial use which generates parking and traffic. Yes, if you have people milling around smoking cigarettes or making noise. Basically what is wanted is that any new use would be subject to a hearing like this.

Adrian Gropper, 52 Marshall St., – Live in a similar situation on spring street across from commercial uses. Traffic issues and striping and signage are worth a second look. I want to be clear of support for commercial uses. I find that more pedestrian activity is nice and not a problem. I urge you to support but still look at solutions to traffic and parking.

Matt Peitrie, 6 Orchard Street. Live near store and know the petitioner. Has fixed and bettered the property is being treated poorly for trying to better the neighborhood. It is the town's responsibility to address the current traffic and parking issues not put the problem on the petitioners back. We all bought property near Common Street knowing the issues. Urge you to support some one who is trying to make the area better.

Ernesta Kraczkiewica, 77 Riverside St., I would love to have a use like this next to me. Parking and traffic is an existing problem for the town to deal with. I would be surprised that with such a small restaurant people would be waiting outside. I can't see how this would lower property values as there are other restaurants in high end neighborhoods.

Frank Maceli asked an addition question as to how big will these four tables be? [answer: sixteen people]

CLOSE OF PUBLIC HEARING:

Chair Vlachos declared a business mode and asked the petitioner if there will be any take out.

Mr. Yasin said there will be no take out. He is willing to draw agreement with town that he will not seek additional hours. People/cars do slow down when there is more pedestrians and on-street parking. Let's see this as a positive. There is no proof that property values go down. Customers are healthy conscious – they do not smoke. He has talked to all of the neighbors.

Chair Vlachos stated that there are lots for and lots against. On the decision in 2004 special permit for a catering business, people were concerned then of a restaurant use and the intended hours. Mr. Yasin stated that this was more of a hobby than a business. Chair Vlachos mentioned two spots in East Watertown that were turned down for restaurant use, Seminara Motors and the old gas station. He is not sure about a Special Permit for two days – it will then creep to more days, bigger business. He is not in favor as this as it would put a burden on the area by not allowing two days of rest. This used to be a small variety store that survived because of the walking patrons.

Mr. John said that there is parking on a busy street and the traffic does slow down when there is activity in the area. The restaurant is only two days and there will be an agreement not to expand. He is in support.

Ms. Elliott is in support as there is limited seating, parking, hours. Neighbors will be impacted minimally. 4 spaces not sign. det.

Ms. Santucci stated that this is a single family district and if it isn't this business then another business with non-conforming use will come in. She is in support. She added that this could be by reservation only so there will not be any waiting.

Mr. Ferris is not in favor as there are no immediate abutters in support and they are the ones impacted.

Ms. Santucci stated that the petitioner has the opportunity to withdraw as it appears the vote would not pass. However, if the petitioner appealed to a higher court, they could find in favor of the petition.

Chair Vlachos stated that the petitioner does not meet the criteria for a special permit fining. Such change is more detrimental no permit for 2 days only; limited intensity of use prior approval, traffic impact, no parking not suitable spot.

Mr. Yasin has chosen to withdraw his request.

Ms. Santucci motioned to allow the withdrawal without prejudice. Ms. Elliott seconded. Voted 4-1, Mr. Vlachos voting against. The petition is withdrawn without prejudice.

Documents reviewed: Letters in support: 2/7/11-Laura Segal & Matthew Petrie, 6 Orchard St., Watertown; 2/25/11-Lisa A. Plato, Joie de Vivre Cuisine; 3/16/11-Alan Davoy, 286 School St., Watertown; 3/7/11-Rebecca Ijams, 24 Sunnybank Rd., Watertown; (undated)-Marcus a. Isenberg, 12 Sunnybank Rd., Watertown; 3/30/11-Liza Ketchum, 7 Arthur Terrace, Watertown; 3/28/11-Stephen E. & Barbara L. Neel, 35 Barnard Ave., Watertown. Letters in opposition: 3/25/11-Frank J. Miceli, 103 Common St., Watertown.



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The following case was continued from the February 23, 2011 Zoning Board meeting.

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.

Mr. Martocchia presented the updated architectural plans and plot plans showing the house with the garages having 23' in front of them.

The board discussed the changed plans and noted that the distance between the garage door and the sidewalk is now 23' based on the design of the house being parallel to the street. There will now be one car inside and one car outside. He added dormers to help with the look. He included elevations from the side. He will have stone on the stairs from the driveway and wood with lattice for the remaining stairway up to the doors. There will not be entry doors at the garage level.

Ms. Santucci said this is extremely responsive to the boards' comments at the last meeting.

Chair Vlachos said the rest of the street has driveways close to the street and this will be an improvement.

Mr. Ferris said the drawing titled "Front elevation behind the stairs", should show that the retaining walls are now going up to meet the building grade. It would show the grade goes up and then comes back down. The retaining wall in the front will align with the wall on the sides.

The initial front elevation did not include dormers. Does he feel the dormers are necessary for what is going on inside the structure?

Mr. Martocchia said the dormer falls onto the stairs. Several houses on the street have three dormers on them – this makes sense. The small dormers provide a window on the third floor although it doesn't need it.

Mr. Ferris said the board mentioned the dormers last meeting and he feels that the dormers make the building look taller although the retaining wall in the front helps that.

Ms. Santucci commented that the dormers break the roof up. The house next to it has two dormers.

Ms. Elliott asked what the square footage would be – if the board needs to be concerned with the living area. Mr. Magoon said the third floor is not living area – it is just to let light in. Mr. Martocchia said the space is unfinished but will be finished. Ms. Civetti asked if they are concerned with the area of the half-story. Ms. Santucci asked if the floor area was calculated. Mr. Martocchia said the FAR was calculated as a two family and they are well below the requirement of .50. Mr. Ferris asked if it should be a half-story by definition. Mr. Ferris said that it would be a lot of living space. Mr. Martocchia said the front dormers will not make any difference in the floor area. Mr. Magoon said he would have to evaluate that to be sure it meets the requirements. Ms. Santucci asked if the calculation is over, would he create interior walls to bring it to the requirement. Mr. Martocchia said the outside would remain the same.

Chair Vlachos read from the Planning Board report of February 9, 2011 and voted 4-0 to recommend the approval of the Variance.

Mr. Magoon said the variance is no longer required and the vote should be on a Special Permit.

Mr. Ferris added that the 10' wide driveways can be extended to 11' wide driveways to allow for more room for the space between the retaining walls.

Ms. Santucci motioned to grant a Special Permit to allow front yard parking in front of the garages for the two units at 80 Walnut Street. Ms. Elliott seconded. Voted 5-0. Granted.

Documents reviewed: Plot Plan "Plan of Land Watertown MA Showing Proposed House #80 Walnut Street Watertown, MA" prepared by Bibbo Brothers and Associates dated 1/12/2011 and revised 1/24/2011 "Revised Plot Plans dated March 21, 2011 by Bibbo Brothers and Associates - "Proposed 2 Family House"; "Foundation Plan"; "First Floor Plan"; "Second Floor Plan"; Costa Architectural drawings #A-5, A-6, A-7, dated revised March 23, 2011.



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Chair Vlachos noted the last case is under Other Business. This is a modification to their control plans requested by United Cerebral Palsy 71 Arsenal Street also known as 32 N. Beacon Street

Ken Leitner, Attorney representing United Cerebral Palsy of Metro Boston who has built the property at 32 North Beacon Street and also known as 71 Arsenal Street and has been in front of the board several times as they were allowed to construct the building but had to come back when they started to excavate and found out they needed a basement because of the fill; they came back and amended the special permit and then modified the plans from there. The landscape architecture changed and they are back to modify the landscaping plan that he has just passed out today that has been stamped. They plan to put grasscrete everywhere except where the dumpster is to comply with what they originally planned to do – they will remove all of the pavement except under the dumpster (for the ability to clean it). Also, they originally had 5 spaces on their plan and they would like to put 4 spaces on the North Beacon Street side and one space on the Arsenal Street side. They are landscaping the Arsenal Street side with azaleas and dogwood tree on that side with a five foot wide walkway and they can only fit one vehicle. They have to come back with an amendment as there is a specific condition that states they are required to have 2 spaces on the Arsenal Street side which he will call the front of the building as that is where the front of the building is. They will put 4 spaces on the rear. They have the same staff they had in the old building. They'd like to substitute this plan for the landscape architecture and come back concerning the parking issue to amend the special permit condition.

Ms. Santucci said the board cannot accept the plan submitted tonight as there is only one parking space drawn on the Arsenal Street side and that is not what is requested in the conditions.

Chair Vlachos said they have to come back anyway. This was an attempt to improve a building that was rundown and that was accomplished but the board was kidding themselves when they thought they could impose parking that is not workable with planting and the dumpster. The site was just too small. It will never be a perfect situation – it is an odd shaped building and an odd shaped lot. He does not want to create too high a burden.

Mr. Magoon stated that the petitioner would like to have direction from the board tonight – the plan that was submitted is the correct direction to go in when they come back to the board. The condition does specify 2 spaces but they just do not fit. Instead of amending the condition and then not having the board approve it; they are asking if this is the direction the board would want them to go in.

Chair Vlachos said he could live with it; Mr. John agreed; Mr. Ferris agreed. Ms. Elliott asked if one of the spaces was supposed to be van handicapped parking. Attorney Leitner said he did not recall reading that in the decision. Chair Vlachos said they would only drop off from the van but the van would not park there – that is his recollection.

Ms. Santucci stated that the prior petitioner stated the pavers were removed because they were not ADA approved. Now the pavers are coming back. Just make sure the plan works for them. Attorney Leitner stated that the pavers are

ADA compliant and asked if the board still wants grasscrete in the rear as grass isn't going to grow there. Mr. John replied, 'yes'. Ms. Elliott noted that the point is that they are permeable.

Chair Vlachos noted that they will come back in May with their petition.

Documents Reviewed: Drawing LA-1a by Ronald F. Jarek, Architect, dated March 23, 2010; proposed December 7, 2010; Temporary Occupancy Permit valid for 60 days, dated 10/15/10; Letter of complaint from abutter, Tammy Young, China Rainbow with photos, dated 10/20/10;

Ms. Santucci motioned to adjourn. Ms. Elliott seconded. Voted 5-0 The meeting adjourned at 10:00 PM.