



TOWN OF WATERTOWN

Zoning Board of Appeals

Administration Building

149 Main Street

WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci, Chairperson
Deborah Elliott, Clerk
David Ferris, Member
Suneeth P. John, Member
Christopher H. Heep, Alternate Member

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MINUTES

On Wednesday evening, **June 29, 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: **Melissa Santucci**, *Chairman*; **Deborah Elliott**, *Clerk*; **David Ferris**, *Member*; **Suneeth P. John**, *Member*; **Christopher H. Heep**, *Alternate Member*; **Michael Mena**, *Zoning Enforcement Officer*; **Daniel Evans**, *Senior Planner*; **Gideon Schriber**, *Senior Planner*; **Louise Civetti**, *Clerk to ZBA*.

Ms. Santucci opened the meeting, introduced the members and staff; swore in the audience and reviewed the agenda noting 532-542 Pleasant Street and 532, 550-580 Pleasant Street, A. Russo and Sons, Inc. are being continued. She asked the clerk to read the legal notice for the first case.

Ms. Elliott read the legal notice:

151 Worcester Street

Kenneth J. Swift, 151 Worcester Street, Watertown, MA 02472, 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 Setbacks, Zoning Ordinance, so as to raze existing garage; construct a 2 ½-story rear addition 32'x16.5', maintaining northerly side setback at 4.9', where 10' is required; construct a 2nd story addition over existing front porch and living area 16.5' x 6', maintaining a front setback of 13.5', where 15' is required and further to add a 14'x8' shed.

T (Two-Family) Zoning District.

Kenneth J. Swift, owner, explained their request to update their home for their expanding family. Wayne Pelletier, Architect, explained the details of the addition giving them a family room maintaining, side entrance and relocating their half bath which is currently taking up part of the kitchen. They will be able to maintain their formal living room, dining room and expand their kitchen with a breakfast bar. The family room will combine an eating area and sitting area. The second floor will have a master bedroom with access through a laundry room hall. The front addition will be 16 x 9, on top of the room that was there. That is centered on the gable – the roof on the first floor is flat and not centered. The Roof is like a Dutch colonial with a clip on the front and back – he got rid of the clips. There are a lot of gables in the neighborhood and this will match. All of the neighbors are in support of what they are doing.

Mr. Ferris asked if they are continuing with the existing siding. Mr. Pelletier stated the entire house is being resided. The pitch of the perpendicular bath will match the existing. A small window in the attic will be opened for ventilation. Mr. Ferris commented that the middle bedroom could be losing light and ventilation due to the loss of one window. Mr. Pelletier will check to be sure it meets code.

Ms. Elliott asked if they were altering the driveway. Mr. Swift said no; they are only demo'ing the garage and they already have the permit for that. Ms. Elliott asked if they will remove some of the bituminous. Mr. Pelletier said there is a difference but it follows the line of the shed and will be 7.5 or 8'. They have two cars and the driveway accommodates two cars. They do not park all the way back. If they need to expand the pavement, they have enough room to expand a couple of feet to meet the 4' setback.

Mr. John questioned the small side wall – he wonders how it meets the new addition. Mr. Swift said the wall doesn't go all the way to the garage – just to the end of the house. Mr. Pelletier stated there is a walkway now to the basement door and the wall will be removed from there but remain in the front.

No public testimony was heard.

Chair Santucci deemed a business mode and stated Mr. & Mrs. Duncan from 147 Worcester Street wrote in support of the addition; Mrs. Celasse, 151 Worcester St and the Alyards at 154; the burnes, 161 and the dupris. Staff conditional approval; PB june 13, approval for SPF alts front and side setbacks.

Mr. Ferris asked the type of siding. Mr. Swift said it is a product from Harvey.

Ms. Santucci reiterated that the criteria is based on the finding that it is not more detrimental than the existing non-conformity.

Ms. Elliott motioned to grant the finding for the side setback for relief from 4.06(a) where 4.9' exists and 10' is required. Mr. John seconded. Voted 5-0. Granted.

Ms. Elliott motioned to grant the addition maintaining the 13.5' front setback . Mr. John seconded. Voted 5-0. Granted.

Documents Reviewed: the Plot Plan "Proposed Additions 151 Worcester Street, Watertown, MA" prepared by Essex Eng. & Survey, Inc. dated 5/25/2011; and the architectural plan set "Proposed Addition/Renovation: Swift Residence, 151 Worcester Street, Watertown, MA" sheets A1-A4 prepared by Construction Design Services and dated 4/26/11, revised 5/18/11.



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Ms. Santucci noted the petitioner was not present for the next agenda item and continued to the following case:

Ms. Elliott read the legal notice:

32 Arsenal Street a/k/a 71 North Beacon Street

Richard Merson, President, United Cerebral Palsy, 32 Arsenal Street, Watertown, MA 02472 herein requests the Board of Appeals grant an **Amendment to Special Permit** and **Amendment to Special Permit Finding #09-16 ASP/SPF** granted on August 12, 2009 to construct new 2-story building, so as to modify controls plans reflecting parking and landscaping and to modify condition #11 regarding parking spaces. LB (Limited Business) Zoning District.

Ken Leitner, Attorney representing United Cerebral Palsy (UCP), addressed the board stating that UCP has been in front of the board three times; in 2009 to receive a special permit and finding to construct a building; then in 2009 to amend the control documents; then to amend the specific condition. They have not been in conformance with their site plan – they essentially paved the entire lot. They were here in April to discuss the plan and are here to present it. Most of the lot is covered with asphalt – the rear side facing North Beacon Street will have the pavement removed and replaced with grasscrete – except under the dumpster. They will have planting beds along the wall and planters in the rear. They widen the walkway in the front and keep the pavement and make the planting bed more robust. The condition #11 requires 5 parking spaces. The planning staff recommended a reduction to one on Arsenal and 3 on north Beacon Street. The roofline was also in question with the snow coming off of the roof with snow and ice coming down onto China Rainbow and an engineer refastened the snow roof securely. They are seeking input on the 4 or 5 parking spaces required.

Mr. Ferris asked what type of plantings will be used. Mr. Leitner handed out a landscape design plan. The beds will have perennials; *rebecia fulgita* or black-eyed susan; *hemoropoluos*, ice carnivals and in the planters will be hostas. Mr. Ferris suggested 50% be evergreen plantings vs. mulch for 9 months and plants for a few. Mr. Leitner agrees to the plantings.

Mr. Ferris also requested that the recycle bins be kept inside the dumpster enclosure. Mr. Leitner agreed they would be kept inside the enclosure.

Ms. Santucci asked why they suggested removing the parking space on North Beacon Street. Ms. Evans stated that there appears to be ample on-street parking including a permanent handicap parking space. The maneuvering of the fourth space outweighs the requirement.

Ms. Santucci asked what the parking requirement for the building is. Ms. Evans said the parking requirements would not change from the original. They needed to add parking as they were expanding the building – since there wasn't any on-site parking, they were required to find off-site parking; however, they did away with the additional square footage and no additional parking was then required. All of the on-site parking was non-conforming to begin with and the footprint of the building did not increase. The requirement for 4 spaces was the closest to conforming as they could get and they could cram more in there – the original was for 4 on-site and 4 off-site with the additional square footage; however, without adding square footage, the 4 remained. There must have been a request to add one space; however, the reality is there isn't enough space. Ms. Santucci agreed that she was one of the members adamant about adding more parking. Landscaping was to be added on that side near the Hess gas station and it is not shown on the plan.

Mr. Letiner said they expanded the bed to the right of the walkway for this proposal. Ms. Santucci said this is the plan that will be constructed although there is not an engineer's stamp on it. Mr. Leitner agreed that this is the plan they will put into place on the site.

Bill Aderani, Howard Street – said they had tried to secure off-site parking and couldn't get it and then they didn't need it. They cut the parking down from what they used to fit on the site from 6 cars and the employees would be coming from MBTA; however, there are two cars on North Beacon Street all the time and he has been plowing by there at 2 or 3 in the morning. Someone came out of this building and complained to him that he wasn't plowing well enough in front of China Rainbow. He told him the employee has to move their car in order for him to plow so, the employee came out and moved their car. They open before China Rainbow and they always take the parking in front of the building. In front of RCN on Arsenal Street, they take 2 spots; on Arsenal Street in front of they take 3 spots. There are 2 handicapped signs on Arsenal and one was taken down so they don't have to park there. When they ice slid off the roof, they came out laughing and told Tammy, the owner of China Rainbow that she was lucky they were there to help clean it. They just didn't care. These are big chunks of ice falling right near her entrance. They have been worried about the pitch of the roof since day one. Where is the guarantee that someone will not get hurt. The snow shields didn't last one year and they said they put up heavy-duty ones but what is to happen as they age? The Arsenal Street side they had a problem with the parking but they are parking all over the streets. Anthony's Florist has complained about it, as well. The Board is letting them get away with no added parking. The businesses in the area are being affected by their lack of parking. There wasn't supposed to be a basement and now there is a basement. Little-by-little, they are getting away with things. They can't complain to the police as they will tag all of the customers at all of the businesses.

Mr. Ferris said he noticed the HP sign was laying down on their property and he wondered if it was a town owned sign.

Mr. Leitner said that UCP is a respectable company and didn't take any signs down. They generally have four employees working there. They don't use all of the spaces on their lot and a number of employees take their bicycle to work. He added that if the board wants them to keep the 5 spaces, they will. They have a plan in place that at 2:45 pm, if an employee is parked in front of China Rainbow, they are asked to move their car so that they do not interfere with their business. They have had the building inspected and it meets all codes. They put a thicker-gage ice shield on the roof and it was an unusual winter – they will add a second, if required.

Ms. Santucci asked if the conditions state the ice damn has to be continuously maintained. Ms. Civetti said it doesn't say that. It can be added. Ms. Santucci requests to add this as a condition because it has come up a few times and it could cause hazard to someone visiting the property or a vehicle. The issue with the parking has been an issue and the board tried to improve the process by adding parking to this site which also hasn't worked. The board would be inclined to go with the Staff's recommendation and then if there are people there for extended periods of time, then try to get an extra car on the site without blocking the sidewalk.

No further comments from the audience.

Mr. Mena stated there is one condition for the ice damn and sought clarification for an additional condition regarding the planting suggested by Mr. Ferris. Mr. Ferris clarified that he suggests a year-round planting plan.

Mr. Aderani said that maintaining the ice damn would be fine but what stops the ice from coming through like it did before. It happened when a little snow came – there should be a wall of some type to prevent any snow and ice from coming through onto the walkway or parking lot. Ms. Santucci said they replaced it already. Mr. Aderani said the snow came in through after they replaced it. They'll come after China Rainbow because it is her property. That roof shouldn't have been allowed to have a slant like that. Ms. Santucci said there has been a constant between the two property owners and the board can only control so much. She has the right to appeal their decision. The board is trying to

make accommodations to be safe. Mr. Aderani said that the town approved it but when he called, the town said there is nothing they can do. Ms. Santucci assured him that it is now in the conditions. A good neighbor would help clear up the ice from the roof that ends in the parking lot.

Ms. Santucci declared a business mode and stated the June 8th Staff report recommended approval and the Planning Board report recommended approval of a 3-0 vote. This board conditioned two – maintain the snow dams and the types of plantings in the beds.

Ms. Elliott motioned to approve the amendment to #09-16 with detail. Mr. Heep seconded. Voted 5-0, granted.

Approval is for the elimination of one parking space on the North Beacon Street side of the lot for the total of 3 parking spaces on grasscrete and one parking space on the Arsenal Street side; expansion of the landscaping with the inclusion 50% evergreens in planters along the building and continual maintenance of the installed snow damn on the roof.

Documents reviewed: Approval is for the Amendment of the Control Plans/Decision #09-16 to allow for a total of four (4) on site parking spaces of which one (1) space would be located on the Arsenal Street side and three (3) spaces would be located on the North Beacon Street side of the property. The Petitioner shall submit a revised Site and Landscaping Plan to reflect this approval.



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Ms. Santucci noted the petitioner arrived late and allowed his case to begin out of order on the agenda:

Ms. Elliott read the legal notice:

John Paicopoulos, Owner, 9 Cross Hill Street, Newton, MA 02459, herein request the Board of Appeals to grant a **Special Permit** in accordance with §5.02(l), Accessory Use Regulations, New and Used Vehicles for Sale, Zoning Ordinance, so as to use two existing parking spaces for the purpose of selling used motor vehicles as an accessory use to the service station, Main Street Mobile, Inc. at **320 Main Street**, located in the LB (Limited Business) Zoning District.

Dimitri Paicopoulos, the son of owner, John Paicopoulos presented his case to the board stating that he will have a Class II license for the sale of two used vehicles. He will use two existing parking spaces on the northerly corner of the lot and the remaining 13 spaces will be used for storage by the repair shop.

Member Ferris asked about the vehicles parked behind the building. Mr. Paicopoulos stated that employees sometimes park their cars behind the building.

Chair Santucci noted that there are several plans submitted: One where there are 11 outdoor parking spaces indicated and handwritten notes added; one with additional landscaping and 13 outdoor spaces and an aerial view showing 15 striped spaces with 3 vehicles behind the building. She asked for clarity on which of the plans is being considered.

Danielle Evans, Senior Planner explained that the aerial shows what is existing; the plan with 11 spaces and handwritten notes is what was approved by the board and the plan with additional landscaping is one that the Staff created to show what is existing and what the Staff recommends.

Mr. Paicopoulos said he has another plan that was submitted to Mr. Magoon (Steve Magoon, Director of Community Development & Planning – not in attendance) showing what was being requested. Gideon Schreiber, Senior Planner noted that Mr. Magoon had visited the site to speak with the owner regarding the northwest corner of their lot under discussion regarding street issues; however, he did not have details of the meeting.

Mr. Ferris asked what would prevent them from stacking cars in the back as the photo clearly shows that as happening when they have been told not to park there. Mr. Paicopoulos said he is not in charge of all of the parking and Richies liquor store patrons use his parking area. Usually the workers park there. He said there are 'no parking' signs there.

He is planning to put bushes in the planting area and they have to replace them every year due to the snow plowing over the winter. A hedge may be the answer.

Mr. John said there will be two extra spaces for the used car use. The number of the spaces will remain the same. There are 4 spaces there now (supposed to be 3). Ms. Santucci asked how they will get around the building if there are 4 cars there. Mr. Paicopoulos said no one drives around there. They will be restriping and seal coating and planting in August.

Chair Santucci requested the petitioner provide that plan. Mr. Paicopoulos brought a plan to the board dated and signed February 10, 2011, showing only two parking spaces at the northeast corner; two spaces parallel to the rear lot line and 8 spaces perpendicular to the southerly side. The Staff noted that this plan is dated and signed the same as other plans that have a different parking layout. Chair Santucci marked up the plan submitted showing the addition of landscaping with a berm surround at the northeast corner with an indicator that the two parking spaces are deemed for Class-II parking. She then marked the Myrtle Street side eliminating the last ½ parking space and adding landscaping with a berm, shifting the remaining 7 parking spaces towards Myrtle to allow the ADA parking space to be wider. She then stated that as a condition, the petitioner will bring an updated plan, as marked by her this evening to the Director for the record.

No public testimony was heard.

Mr. Paicopoulos said he has a plot plan at home. Ms. Santucci tabled the case in order for him to retrieve the plan.

After the 55 Bigelow Avenue case, Ms. Santucci noted that Mr. Paicopoulos returned with a plan and reopened his case. Mr. Paicopoulos approached the chair with a piece of paper stating that this was his plot plan. Ms. Civetti noted that it was dated February 10th. Ms. Elliott questioned this as a control document. Ms. Evans noted that this plan had never been submitted. Ms. Santucci marked up the plan according to the discussion this evening and gave it back to Mr. Paicopoulos with the assurance that this would be how the site would be set up and a plot plan would be drawn by a professional surveyor to convey the changes with the parking shifted, etc. and so the striping is done correctly. She noted that condition #6 could be eliminated and stated that the landscaping should be installed in accordance with the record plan. Ms. Civetti noted condition #7 and Mr. John said several conditions could be eliminated with one sentence stating 'according to plan'. Ms. Santucci asked about the 'curbing' and if they are just wheel stops. Mr. Paicopoulos said it would be 3-6 inches of bituminous material. Upgrade the ADA space to comply with the ADA aisle widths, on the same berm, use Cape Cod berm. Only parking allowed on site is within striped spaces. Two spaces along the northeast corner are the class II spaces. The front corner landscaping will be switched up each year.

No one spoke from the audience. No further questions from the board. Ms. Santucci read from the Staff Report noting conditional approval and the Planning Board also recommended conditional approval, some of which we altered.

Ms. Elliott motioned to approve the special permit for the accessory use to the gas station two spaces for used car sales with a condition to provide an updated plot plan as drawn this evening. Mr. John seconded. Voted 5-0, granted.

Approval is for two existing parking spaces on the northeasterly corner of the lot to be used as Class II parking.

Documents Reviewed: This plan is to be updated and submitted using: "Certified Plot Plan in Watertown, MA" prepared by Rober Survey and dated February 10, 2011 and marked in blue ink as reference.



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Ms. Elliott read the legal notice:

55 Bigelow Avenue (known as 51 Bigelow Avenue)

Vatche Keusseyan, Tenant, 169 Harrington Road, Waltham, MA 02452 herein requests the Board of Appeals grant a **Special Permit** in accordance with §4.06(e), Replace Existing Non-Conforming Use (Dry Cleaner) with A New Non-Conforming Use (Retail). T (Two-Family) Zoning District.

Jacques Akelian, owner of Kay's Farm Fresh, read his statement to the board adding that they are seeking only a local customer base and are not trying to target surrounding communities. He understands parking is an issue in the area; double parking would be an issue and is illegal; the average customer stay in the store is 10 minutes as the rough square footage of the store is only 15-1600 square feet; they will provide convenience to the neighborhood for fresh fruit and daily staples; a nutritional based business will be better utilized; if a customer does drive to the store; it will not be more intensive than the prior dry cleaning business. He grew up in the area and there is ample parking on and around Nichols Avenue. They do not plan to have deliveries at 5 am or to make as much noise as the sheet-metal company. They have secured parking for the truck in Waltham and deliveries will be done before operational hours and then the truck will be taken out of Watertown. A pest extermination company has been contacted and rubbish disposal has been submitted to the Health Department.

Member Ferris thanked Mr. Akelian for the submitted letter regarding the waste disposal. He asked if the back of the property will be cleaned of debris. Mr. Akelian said he just learned that this commercial building is not in a commercial zone but that is scheduled to be removed. Member Ferris asked how the daily trash will be stored. Mr. Akelian said they have rubber containers that are slightly larger than residential size and they will be stored outside of their door. They do not have enough space for a dumpster and they do not have access through the driveway for a truck. Member Ferris said it is visible to the neighbors and he suggests the waste barrels be screened – like a four-foot fence. Mr. Akelian hasn't an issue with that but as he is just a tenant, he will ask the landlord.

Member John asked if they have access to the open area in the back. Mr. Akelian said they have access to it but it is not for their use.

Chair Santucci said the storage of the barrels is not noted on the plan. Mr. Akelian pointed to a spot on the plan. Chair Santucci asked where the parking is. Mr. Akelian stated that the neighbor allows access via his driveway and the two employees will park next to the building in the back.

Chair Santucci read into the record the letter from the neighbor, Charles Fortunato, 57 Bigelow Avenue stating the agreement for access from his driveway for two personal vehicles only, adding that the owners assured him that refuse will be removed daily; deliveries will be made from the main street and their box truck will be removed from the premises.

Charles Fortunato stated that 57 Bigelow Avenue is a three-family house that has his business on the street level in one apartment with two residential apartments upstairs.

Member Elliott stated that the area for parking is only 32' long – enough room for only one car. Mr. Akelian stated that he would park in the street and feed the meter all day.

Member John asked if he would park on the green area in the back of the building. Mr. Akelian said he hasn't a need to park there. They have been there for three months and although not open for business yet, they do not wish to park on the grass area.

Member Elliott asked what he thought of Mr. Ferris' suggestion to fence the bins. Mr. Akelian said it is a good idea. Member Ferris said he is not opposed to having the trash on the side and if they put it in the rear, they'd have to pave a piece of pavement.

Chair Santucci asked how they were handling the trash. Mr. Akelian said they will load it into the truck. He said they will unload the truck with the daily deliveries and place the trash onto the truck which would then go to Waltham. They will drop the trash off in the morning in Chelsea.

The deliveries will be from the truck at the front of the store, bring it into the building around 7 am or later. Chair Santucci asked if they were okay with a condition of 'no deliveries before 7am'. Mr. Akelian said that would not be a problem. They will open for business either at 9 or 10am. Member Elliott stated to change proposed Condition #7.

Chair Santucci noted the discrepancies between the conditions on the Planning Board report stating the hours of operation are 8am – 8pm and his testimony at the PB meeting which states: 9am – 8pm M-F, 10-6 on Saturday and 10-4 on Sunday. She would be more comfortable restricting the hours to what was stated in the testimony. She asked if they could load off the street. Mr. Akelian said they would have to load onto the street and use a dolly to bring it to the back door. The truck cannot fit into the driveway. Mr. Ferris noted the rear door will be used as an egress for patrons. Chair Santucci asked if deliveries are 7 days a week. Mr. Akelian stated that they may have a delivery on a Saturday of bread, milk or eggs but not on a Sunday. Chair Santucci said she understood that they were making all of the deliveries to this location in their own truck. Mr. Akelian said there are other vendors with dry goods that will deliver and the bread delivery. Some they will pick up and some will deliver. It may change. In the morning, it will be just them. Other deliveries will not be on a consistent daily basis. Canned goods once every three weeks at anytime during the day. Chair Santucci said as the day goes on, the parking gets filled with the operation of other businesses. Mr. Akelian said he is not promoting double parking ever and if there is a delivery at 2 pm, the truck would have to go down the street and find a parking space. They will not be open for business on major holidays. They will not be taking up their parking spaces. The daytime hours are opposite of the restaurant hours and they will not be competing directly with them for parking spaces. Chair Santucci said it is always difficult to find parking on Bigelow Avenue.

Priscilla Moskos, 40 Bigelow Avenue, Unit 27, said she is opposed to the business as it would bring their property values down and have a negative impact on the neighborhood; there will be increased parking; double parking; parking spaces taken away from church goers; their condo parking lots will be used illegally; what if there are two funerals at the same time; and their truck will be parked there all day.

Rachele Natalie, 56 Bigelow Avenue, Unit 11, said she is not opposed to the business as it will be healthy food. She is concerned with the disposal of aging produce; sidewalk displays; and their being open on Sunday.

Margaret Cassidy, 22 Prentiss Street, is not opposed; however, a big difference from the dry cleaning business – more deliveries; more patrons; rodents; bugs; smells; if refuse pick-up missed; Sunday parking and future complaints about the truck parking. She sees a problem in Zoning that there isn't any follow-up on these (petitions) and it is up to the resident to complain.

Member Elliott suggested a condition to review the petition 6 months after they have been in operation.

Angie Kounellis, District A Town Councillor, said there are pros and cons. Some condo owners think this is wonderful and some think there will be issues. She mentioned that in the past (this business was open on Mt. Auburn Street) the box truck was parking in the Wells Avenue parking lot. She raised a question about the truck being moved to Waltham

after deliveries if there are only two employees – the truck cannot be parked in Watertown; the trash will be left overnight in the truck and then the truck will pick up fresh produce – the Health Department might have to look into that. If they are allowed to park only 1 employee vehicle during the day on the premises, the other employee cannot be feeding the meter all day. She said foot traffic on Sunday may happen but grocery shopping on a Sunday will not provide parking. She agrees with the suggestion of a 6 month review after the occupancy permit.

Member Elliott asked to have the trash addressed. Mr. Akelian said the majority of the trash would be cardboard boxes and the rest would be in plastic bags – not loose. He will avoid any odors or inconveniences in the truck. Chair Santucci said they are removing the trash from the bins outside the store in bags and placing it on the truck. Member Elliott suggested they use two sealed bins during the day and two different sealed bins to store refuse in overnight. Mr. Akelian said he is planning on keeping in good standing with his neighbors – it would be in their best interest for their business foot traffic. They are not looking for neighboring towns to use their market. He was not involved in the other Kay's Market and Vatche took over the space from the previous owner. This will be a smaller version of that market – cheese, olives, etc. provided the Board of Health approves them.

Member Heep asked if the board should condition the off-site parking of the truck. Mr. Akelian said the truck would be parked at the American Legion in Waltham on Beaver Street.

Member Santucci asked if he would have an issue with restricting deliveries between 7am – 9am. Mr. Akelian asked if he is not to conflict with the sheet metal business or is he misunderstanding the issue there. Member Elliott said it is not just the unloading, it should be no deliveries or pickup. Mr. Akelian said there may be a delivery in the off hours. He doesn't want to say that there won't be a delivery. He thinks 7am – 9am is reasonable but some things are uncontrollable. Member Elliott said Donohue's must have deliveries of beer during the day – why wouldn't he be allowed? Mr. Akelian said it is common sense for deliveries not to be all day long and he would be willing to post a sign stating no double parking in the store. Chair Santucci stated that there will be no deliveries on Sunday and the trash in receptacles to the rear, secured. Member Ferris said the trash was planned to the left of the door fully screened; however, suggested the rear have a bit of paving if they are storing the bins there so they do not have to step into mud. Chair Santucci said crushed stone would be acceptable and there is enough room as they have 27' to the rear yard. She added that there will be one parking space only on the premises.

Ms. Elliott motioned to approve the special permit for the change in use with the conditions specified. Mr. Ferris seconded. Voted 5-0, granted.

Approval is for the change of one non-conforming use, a retail laundry, to another use, a retail produce business.

Documents Reviewed: "SITE PLAN"; "PROPOSED PRODUCE STORE", "BIGELOW AVENUE ELEVATION", and "BASEMENT FLOOR PLAN".



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WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci, Chairperson
Deborah Elliott, Clerk
David Ferris, Member
Suneeth P. John, Member
Christopher H. Heep, Alternate Member

Telephone (617) 972-6427
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MINUTES

On Wednesday evening, **June 29, 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: **Melissa Santucci**, *Chairman*; **Deborah Elliott**, *Clerk*; **David Ferris**, *Member*; **Suneeth P. John**, *Member*; **Christopher H. Heep**, *Alternate Member*; **Michael Mena**, *Zoning Enforcement Officer*; **Daniel Evans**, *Senior Planner*; **Gideon Schriber**, *Senior Planner*; **Louise Civetti**, *Clerk to ZBA*.

Ms. Elliott read the legal notice:

485 Arsenal Street (Arsenal Mall)

Renee Miller, Agent, Chipotle Mexican Grill of Colorado, 1401 Wynkoop Street, Suite 500, Denver, CO 80202, herein requests the Board of Appeals to grant a **Variance** in accordance with §7.07(c), Signs, so as to have exterior signage of 28.66 s.f. on the northerly façade and approximately 10 s.f. on the northeasterly facade where the maximum 200 s.f. allowed for all facades has been exceeded. I-3 (Industrial) Zoning District.

Robyn Casey, KC Signs, Londonderry, NH, representing Chipotle's, stated that they are requesting two exterior signs – one above the existing Marshall's sign and one above a proposed entrance. The sign above Marshall's is referenced as sign "A", 28.66 s.f. is requested based on the mall being setback from the roadway a significant distance and they wish to be visible for both patrons of the mall and those traveling along Arsenal Street. They requested the use of the "reader board" at the entrance of the parking area which lists the tenants of the mall but was told by Simon Properties that there was not space available. Sign A.1 is 9.73 s.f. sign proposed at the new exterior entrance to the restaurant.

Chair Santucci clarified that Chipotle's, which is a small tenant in the mall, is requesting two exterior signs. She added that the Planning Board report states they are withdrawing Sign 'A'. Ms. Casey explained that Simon is planning to move the Marshall's sign to an exterior wall that is part of their lease space; however, that plan will not be finished until 2013. Senior Planner, Gideon Schriber explained that the Planning Board only recommended Sign A.1, as there was a request to withdraw sign A; however they did review the Staff Report which has an analysis for both signs. The Staff recommends denial of sign A. The petitioner, knowing Staff's recommendation decided to withdraw their request for sign A although the request for sign A has been formally made; has been advertised; and has been reviewed by Staff.

Member Ferris stated that both signs would be visible at the same time and he doesn't see the need for two dedicated signs where some tenants don't even have one.

Member Elliott asked why they cannot have a sign at the parking lot entrance. Ms. Casey explained that there isn't any space, according to Simon and Chipotle's wants to be visible from the street. Senior Planner, Danielle Evans explained that Simon periodically changes the signs – right now it is Gap Outlet, T-Mobile and Forever 21. The sides are for community notices.

Member John agrees with the Staff that the sign over the door is sufficient.

Member Heep agrees with the sign above their entrance; however, take away the entrance, there isn't any reason why every tenant shouldn't have a sign on the exterior wall.

Chair Santucci said she has seen several Chipotle's going in recently and the sign over the door is sufficient. The additional exterior sign will not be approved.

No one spoke from the public. Ms. Santucci declared a business mode and repeated that the request is for two signs with both requiring a variance as the Arsenal Mall already exceeds the 200 square feet maximum. The Staff Report recommended approving one sign over the outside entryway with denial of the second sign. The Planning Board recommended approval of the sign over the outside entryway with a withdrawal of the second sign. She asked if this is white light with a colored face – no colored lights. Ms. Casey said there would not be colored lights. Ms. Santucci said a sign above the door would look better.

Ms. Elliott motioned to deny the variance for sign A. Ms. Santucci added that it does not meet the criteria set out in the ordinance and is deemed unnecessary and excessive. Mr. John seconded. Voted 5-0, Denied.

Ms. Elliott motioned to grant the approval of sign A1. Mr. Ferris seconded. Voted 5-0, Granted.



TOWN OF WATERTOWN

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Ms. Santucci announced that under Continued Cases, 52 Partridge Street was on the agenda as going to be continued again; however, Mr. Watson has appeared with revised material. The board has not seen or reviewed the material yet. She noted that Mr. Heep would not be voting as he missed the testimony. However, he can ask questions and participate. The board was not prepared to hear this case and the clerk must retrieve the file from the office.

Ms. Elliott read the legal notice:

Daniel Watson, Owner, 52 Partridge Street, Watertown, MA 02472, herein requests the Board of Appeals grant a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Front Yard Setback, Zoning Ordinance, so as to construct a 10'6" x 5'9 ½" portico over existing 9'9"x5'3" front stoop creating a 4'11" front setback where the existing house setback is 10.7' and where 25' is required at **52 Partridge Street** located in the S-6 (Single Family) Zoning District.

Mr. Watson cut down the request by 20% and cut down from 4 columns to 2 columns. He said Mr. Magoon would not be opposed to columns although he would not elaborate. He said Mr. Ferris said our house is the closest to the street than his neighbors although he now shows a neighbor that is 4 houses away that is as close as 5' to the sidewalk and he is not trying to create anything like his neighbor. He is only trying to put a roof over a stoop. He said Mr. John suggested that the entryway may have been changed but his house does not have a basement under the foyer like his neighbor and he is only trying to keep his family safe – his 90 year old mother, 89 year old father, etc. There are 51 houses in the area that have porticos. He wants a little roof over his roof.

Ms. Santucci asked if the drawing is to scale as the door swing is 36" and the person standing on the stoop would have enough room to open the storm door without stepping off the stoop.

After discussion, the board determined that the stoop had been extended without a permit, violating the front yard setback. Ms. Santucci stated that the board does have 10 years to have him go back and legalize this. He cannot expand the non-conforming setback. Mr. Watson said he put the extended stoop in about a year ago, it used to be the width of the steps. This negates the request to add a roof over the stoop as the stoop would have required relief from the board to be extended.

Ms. Santucci asked the Staff to put together some photos for the board to review. Mr. Mena said that he would have to re-advertise the finding. He suggested to withdraw the petition and re-file. Mr. Watson said he will not be around until September. The staff will review what is necessary for him to re-file.

Mr. John motioned to adjourn. Ms. Elliott seconded. Voted 5-0 Meeting ended at 10:15 p.m.