



# 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, **December 28, 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 Rozzi**, *Chairman*; **Deborah Elliott**, *Clerk*; **David Ferris**, *Member*; **Suneeth P. John**, *Member*; **Christopher H. Heep**, *Alternate Member*; **Steve Magoon**, *Director, Community Development & Planning*; **Gideon Schreiber**, *Senior Planner*; **Louise Civetti**, *Clerk to ZBA*.  
*Absent: Michael Mena, Zoning Enforcement Officer;*

Chair Santucci Rozzi opened the meeting, introduced the board and staff; swore in the audience, noted that the November meeting had been cancelled and asked for a motion to accept the unapproved minutes. Ms. Elliott motioned to accept the minutes of the August 31<sup>st</sup>, September 26<sup>th</sup> and October 26, 2011 meeting minutes. Mr. John seconded. Voted 5-0. Minutes approved.

Chair Santucci Rozzi noted that the changes to the Rules of Practice and Procedure relate to the meeting dates changing from the LAST Wednesday of the month to the FOURTH Wednesday of the month as well as minor changes to typing errors that had not been corrected prior. Ms. Elliott motioned to accept the changes as noted; Mr. John seconded. Voted 5-0. Changes accepted.

Chair Santucci Rozzi announced the first case and requested Ms. Elliott read the legal notice:

#### **99-101 Common Street – Ahmad Yasin – Special Permit Finding**

Ahmad Yasin, 9 Sunnybank Road, Watertown, MA 02472, Owner, herein requests the Zoning Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(e), Additional Non-Conforming Uses to Existing Non-Conforming Use, Zoning Ordinance, so as to add a 16 seat eating establishment operating on weekends only and cooking classes for 8-12 students two weekdays only, in addition to the existing approved catering (Kareem Culinary) business. S-6 (Single Family) Zoning District.

Ahmad Yasin, Owner, gave a brief history of purchasing the property in 2006 and running a catering business there. He is requesting to have a restaurant open on weekends only from 11am to 9pm and cooking classes during the week for 8-12 students per class. He wants to be sure this fits with the neighbors. No delivery trucks at the site – he will buy everything for the restaurant. There is no smoking at his restaurant. He never serves alcohol. He only serves fresh juice and his own drinks. He will encourage patrons to park away from the restaurant at Columbia Street and Mrs. Smith at the high school said they could park at the high school when school is not in session or when there is a snow storm. They could also park in the lot across from the high school. They may walk from their homes and there are letters in support from the neighbors. His will be a small operation and this is his livelihood. He has been doing this for 27 years. He has a child who he will send to college and the catering business is not doing it (providing for her college). There are not a lot of places that teach. He has 10 students and two teachers from the high school and a letter thanking him from them. He is on the garden tour and involved in the community. He submitted photos taken on the weekend randomly showing there is ample parking on the street. He spoke of customers that would walk to this location would be from Watertown. He said Steve Stedman adjoins the building as is in support; Chris Larson, across the street was not in support and is now; Mr. Manavian who lives behind him has no

problems with it and Mr. David Fuller, across the street at the corner has expressed the same. The ambiance will be fresh, clean and good food. He thanked the board.

Ms. Santucci Rozzi asked the audience to comment:

John Trafficante, 23 Grenville Road, commented that he has lived in Watertown for 25 years and would walk to this restaurant. He said there is ample parking along most of the streets in the area. The traffic will be at its lowest point on the weekends. The area was more congested when there was a nail shop there. His wife is also in support.

Barbara Ruskin, 140 Spring Street, stated that she has lived for 33 ½ years. No issues with Ahmad serving 4 meals a week in addition to his catering. There has always been at this location and Ahmad's section never looked so good. Clean, beautiful, see yard, looks fabulous. Stores were there long before neighbors. She continued to read from a letter she submitted to the board indicating that the town should support small local companies; this is a green and small footprint business; it is not a football game where kids will park on both sides of the street. Ahmad is a resident, the founder of Local First and is interested in sharing his knowledge with students from the high. Community Gardens has been asked to form a club for the high school and he has volunteered to share his skills. Her vision of a sustainable Watertown leads her to believe that we should be supporting small businesses to thrive in town. His request is small – he already has a kitchen and the store has been there. She added that this is a small change for the community and it is fair. Her son bought her cooking classes...

Matt Pietri, 6 Orchard Street, said that he agrees with local businesses and Ahmad owns this and has his own business in it – this is a no-brainer. A few more cars would protect his kids when they are walking up and down the street when people are flying up and down the street. The traffic has nothing to do with these businesses. Ahmad is responsible and has kept the same people in the little store for years which means he is fair with his rent. He would rather support this than something else going in there.

Rena Baskin, 15 Franklin Street, within walking distance would love to walk here on the weekend and would like to support the small businesses. She said we come down hard on small businesses and she would like to support them as this is a small town and it would be wonderful to walk to something like this.

Dennis Duff, 33 Spruce Street, said he wrote a letter but the meeting in November was postponed. There is a pretty picture being painted here and on a night like tonight people are not going to park in the high school parking lot, walk around the building and up the street or park at Victory Field and walk to the store – it is not going to happen. On Saturdays and Sundays, the high school is rented out so parking would be limited. It is a small restaurant where all of these people going to wait – are 40 people going to be outside and some may smoke. When he first applied for the permit, he said there would only be catering and we learned later that he is holding classes. People apply for one thing and do another. He will be back to the board to increase the number of tables or if he sells it, the new owner will need to have a full week license in order for it to be profitable and this board sees these issues more and more. The petitioners increase their little requests a bit at a time. Mr. Yasmin has cleaned up the site nicely. The sanctity of our neighborhoods should be preserved. This petition should be denied.

Frank Micelli, 103 Common Street, has lived there for 40 years. He was unable to attend the Planning Board meeting but left his name, address and objection with a person who said they would bring it to the board's attention but it was not brought to them. His objection still stands. Mr. Yasin is now requesting a permit for classes. This was voted down by the planning board and the zoning board once already. Everyone is concerned with traffic and parking in Watertown. We should be looking at ways to solve those problems instead of adding to it. The neighbors that do not live in the area say it would benefit the area, he says it will not benefit the area. It would be at the expense of the abutters. This permit is in self interest. To grant this permit when it was turned down by both boards 8 months ago shows that the residents have no say and it has no meaning. He would be ashamed of this town – to listen to the voters and not just one. Something is wrong. He asks the board to listen.

Sarkis Salikian, 107 Common Street, has lived there for 33 years and said he has appeared 4 times at these hearings. The issues are the same and the weekend restaurant has not changed. The board received his letter with his concerns: increased traffic – on the weekends there is a little peace and quiet; easy access to their driveways and no cars parked in front of their houses; property values are a concern. Letters in support are not from neighbors next to restaurant. The impact will be to the abutters not the people going there for good food.

William Lovely, 111 Common St – Ahmad is a kind man; there is no traffic concern; property value and quality goes down; he asks how can small, high-end restaurant with no liquor license make it. This will grow in future; this is the first step toward

expansion. The board will set the precedent that a restaurant will continue if Ahmad closes. If a pizza or take-out food restaurant were to seek a permit, would they also receive it. The people that support this are not abutters. They can park in front of our house, eat a great meal and then leave to go back to their tree-lined houses.

Member Ferris asked to clarify if he was stating that there is no proof that the property values will not increase. Mr. Lovely said that the five real estate offices in the area that he spoke with did not have evidence that the values increased and anecdotally, the values went down.

Michelle Lebrew, 110 Common Street, said it sounds wonderful that he is offering cooking classes and a small restaurant but he is seeking it as a hardship due to the catering business not making it. People will not park at Victory Field or away from the restaurant and walk there. There will be added traffic and parking issues. The light at the intersection doesn't stop cars from going through the red light. This is just setting up for someone to be hit. She called the Zoning Board a couple of months ago about turning her garage into a bedroom and was told that was not the intent and could not be changed. She doesn't see the difference. This will add traffic and parking problems. There will be people waiting outside; parking in the area and effecting the visibility of the area.

Mr. Yasmin stated that the customers will have reservation seating only. He will post on the website that parking on Columbia and other streets away from Common Street. The success is the goal, not failure. He has been successful in the past – this is his building. There were three businesses, a flower shop, nail salon and grocery. There are usually 1 employee per store and that would make about 6 parking spaces with one customer each. He has spoken to a lot of people and there is no way to say that this will lower the value.

Member Heep asked about waste management. Mr. Yasim stated that the vegetable waste will be composted and put into his garden and trash will be placed in tight containers and picked up weekly in barrels in a clean area in back of the building. There will be no changes in the building. There may be an awning put up for rain and sun and a small sign. Mostly word-of-mouth, by reservation only. No hanging out outside.

Member John has no questions.

Member Ferris asked about the cooking classes. Mr. Yasim said 12:30pm or 9-10 in the morning for field students until 8:30 in the evening if they open at 5, they close by 8. Mr. Ferris asked if there is posted no parking signs. Mr. Schrieber said there is not any no parking signs although there isn't supposed to be parking near a crosswalk.

Councillor Piccarelli spoke from the audience, stating that there is posted no parking.

Member Ferris asked for the type of businesses that could go into this building that would be allowed to park on the street. Mr. Magoon stated that this is not a commercially zoned area. There is no by-right commercial uses as they are non-conforming.

Member Ferris asked if any business went there, they'd have to come back to the board. Yes. Mr. Schreiber stated that none of the uses would be allowed. Use changes are not allowed as far as a variance would go. Ms. Santucci Rossi said that anything that would go in there would come back to the board. Mr. Magoon explained additional analysis would have to be done on the impact of non-conforming uses. The conforming use is residential; however, it would have to be looked at. To change a use would have to seek relief from the board. Mr. Ferris asked if a different owner could run a restaurant in the future. It would be allowed with the same hours, etc.

Member Ferris asked if he is looking to expand hours. Mr. Yasim is not interested in 6-7 days of working. Weekends and catering with classes is enough. He would sell it as it is. He will post in the restaurant to park away from the restaurant and he will remind customers when they call for a reservation to park away from the building.

Ms. Santucci Rossi said there are 3 letters in opposition, Mr. Duff; Mr. Lovely; Mr. Salakian (2); (Mr. Micelli's is not there). There are 15 that in support, names read into the record (see below).

Mr. Micelli said there was parking on Common Street and Columbia Streets a couple of weeks ago there were cars parked everywhere on all of the side streets. He said his house is right next to the store and all summer long he cannot keep his windows open with the cooking going on and all kinds of smells and odors and now with the noise and he said there will not be parking – who will stop it. He wants to be able to get out of his driveway. None of the people in favor live in the area.

Someone asked if there is a letter from Steve Stedman. There is a report that he spoke at the Planning Board meeting. Ms. Santucci Rozzi read the supporters at the Planning Board meeting and the three men that spoke in opposition tonight.

Mr. Lovely said he has a no parking sign in front of his house at 11 Common Street and Chris from across the street is not in favor. There is only one person on Common Street that is in favor.

Ms. Santucci Rozzi asked if Mr. Micelli calls the police to enforce the no parking. Mr. Micelli said he'd be calling every five minutes.

Rena Baskin said there is parking for two hours in Watertown. Ms. Santucci said there is two hour parking in Watertown and it is abused constantly.

Ms. Santucci Rossi declared a business mode.

She read from the Planning board report which stated the conditions: sat and sun only 11am – 9pm, last reservation at 7pm, seating 16, restrictions for cooking classes 12noon-830 pm 12 people one class, no catering when classes or restaurant in use, no signs except allowed in ordinance. Add: no delivery vehicles; no take out or delivery with this – outside of catering. No picking up of food on the weekends. All of the restaurant literature include the restrictions on parking and the reservations.

Mr. Yasim said he does not receive any food from trucks, he picks up his own food from Russo's, etc.

Mr. Ferris said there has been many comments about the character and cleanliness of Mr. Yasim, that there is one table of 4 being two cars, there is the potential of 16 cars and a busy road. He is in agreement with all neighbors and the safety of the patrons is his first concern.

Member Heep does not feel the use is more detrimental.

Member John is in favor.

Member Elliott is in favor.

Ms. Santucci Rossi said this is an owner operator in Watertown and you cannot ask for more in a non-conforming use.

Ms Elliott motioned to grant the special permit finding too allow the non-conforming use of the restaurant nad cooking classes with the conditions discussed. Mr. John seconded. Voted 4-1, Mr. Ferris voting against. Granted.

#### Documents reviewed:

##### Letters Written In Support:

Eugene & Joan Goodheart, 25 Barnard Avenue –asset to neighborhood, live within walking distance, will have clientele among neighbors; Frank Fuller, 10 Mellen Lane, Wayland – character, asset to neighborhood, proper scale; Watertown High School, Food Service Teacher, Ms. Johnson -provides instruction to students; Alan Teig, 87 Common Street –does not object in any way; Marcus A. Isenberg, 12 Sunnybank Road –professional, honorable, great addition to neighborhood; Scott Brine, 18 Harrington Street –would like a family run restaurant; Carol Lazarus, 304 School Street –knew Kareem Restaurant, loves food, took class; Nancy Barcelo, 61 Shattuck Road –knew Kareem, respectable, diverse nature; Scott F. Murphy, 346 Trapelo Road, Belmont –ideal setting to bring wife and child; Lisa A. Plato, 12 Sunnybank Road –matches trend in urban planning for walkable neighborhoods; Ann & Dan Asnes, 185 Bellevue Road –enhance neighborhood, little traffic extra parking on Columbia Street on weekend, friendly, strong integrity; trash, noise from people outside and traffic concerns are exaggerated; Henrietta P. Light, 22 Grenville Road, will add to the life of the neighborhood, ample parking; Christopher Williamson, 37 Robbins Road –weekends are quiet, will add character to area Wendy Weinstein & Corey O'Brien, 10 Grenville Road –delivery noise and heightened traffic concerns ridiculous, modest seating, no take out traffic, aesthetic benefit; Jennifer Fandetti, 25 Robbins Road –support small local business Debra L. Smith, 134 Main Street –cooking is asset to Watertown; Mona Jomaa, 22 Robbins Road –will enrich neighborhood without increasing traffic; Stephen & Brigitte Steadman, 91 Common Street –asset to neighborhood

##### Letters Written In Opposition:

Dennis Duff, 33 Spruce Street –parking, patrons waiting outside, trust now running cooking classes, will come back to board to extend business;



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*Absent: Michael Mena, Zoning Enforcement Officer;*

Chair Santucci Rossi stated that the next case is not a full petition and there is no legal notice. They are here to find out whether or not the board would consider a petition.

Janet Ferguson introduced Alison Bengal and Daniel Siske who own the property at 190-192 Arlington Street. They thought they had 4 parking spaces and found they were in violation of the 4<sup>th</sup> parking space in June 2011 and were in violation since December 2010. Mr. Magoon and Mr. Mena saw them and have not been encouraging but kind and very clear. They came before the Planning Board. They were given a chance to come up with a plan that would be substantially different from the plan proposed in December, they would reconsider their decision. They did reconsider. They plan to keep the 4' landscape area, 5' setback and 8 ½ ' wide which meet the guidelines. They have provided a fourth space to the three in 2006. They will remove all of the asphalt and replace it with impervious material. They will be able to claim the 2 spots per unit and return the space in the front of the home to green space.

Ms. Santucci Rossi said this would be the plan if the board were to allow this. She asked how they picked up the 5' setback in the front. Ms. Ferguson said there is 18' between the sidewalk and the house. She explained that there is a requirement of 18' and then the 5' setback requirement. The three spaces were granted without that depth and their drawing does not show the 23'. It does not meet the requirement. The plan drawn is not accurate.

Member Ferris asked how they would resolve the curved easement through the fourth parking space. Ms. Ferguson said they have been given the easement and they can use that. Mr. Magoon said the original property owner did not have the easement; the owner that sold this to Ms. Ferguson did have use of the easement. Ms. Santucci Rossi said the setback is 2' but will be 2'.

Ms. Santucci Rossi said the board will have to look at whether or not this is enough of a change to reconsider this again. The board has already looked at the setback variances before. They do not have the plan to look at.

Ms. Ferguson said they would remove all of the pavement and replace it with pervious surface and that would be a major change. Their sale documents show they each have two parking spaces. Mr. Siske said it would cause hardship if they did not have the parking spaces and would not have purchased the property – they do not want to seek legal counsel being new residents to Watertown. There is a grade change on the side and they do not wish to pave along side of the house.

Ms. Elliott questioned if the proposal is that different from what they previously denied. It will also be expensive to have this drawn up professionally.

Mr. Heep said this predates his knowledge and the board is asked to consider something that they have opposed in the past and it is due to the seller telling them something that is not correct. If the board does not approve the request to move forward (and wait two years from the original request), they would have to remove the 4<sup>th</sup> space.

Mr. John said this is a hardship for them and this new proposal is change enough for him to reconsider the proposal.

Ms. Santucci Rossi said she is in a difficult situation – buyer beware. This board requires the records be recorded at the Registry of Deeds. The board is being asked to grant variances that were not previously granted based on an alternate treatment. The Planning Director outlined in a letter what has happened to date and the reconsideration would require a 4 out of 5 vote. The Planning Board voted 5-0 to reconsider as the change in surface is enough.

Deborah Peterson, Watertown Citizens for Environmental Safety and Environmental Task Force. There is increased concern of illegal paving in Watertown. Pressure on green space and encroachment of pavement and effect to storm water run-off. Their concern is the amount of pavement. People get the impression that it is okay to do. She doesn't know if this is a substantial change or not. The pervious pavers is a huge difference and would represent an improvement from their prospective.

Dennis Duff, 33 Spruce Street said the crux of the problem is how did the town allow this to become a concern in the first place? In 1985 when they did the re-zoning, they were to limit building on lot sizes and to remove front yard parking and paving material to create green space. He brought a case to the board on Aldrich Road where there was illegal paving; they were denied and yet the paving still exists. At 160 Langdon Avenue had one parking space and when this was turned into condos, they put parking in the front yard and never came before this board. Now there are two cars parked in the front yard. On Orchard Street there are different forms of front yard parking. One person did it and then others do it. The town should never have allowed this to happen. The town should fine these illegal parking spaces.

Vinny Piccarelli, 23 Orchard Street, District C, said not to consider this (no reflection on current petitioners) as they pass laws as they are legislators. The law does have flexibility. This house caught fire and came before the board for a wider driveway and through the change of ownership, the illegal paving was put in and when caught, he came before the board for the fourth space and was denied. The landscaping was to be restored and curbing installed to prevent illegal parking. That property owner sold this fraudulently. It is not the town's concern to consider this due to the fraudulent nature of the seller. The current owners will have to take legal action. Is their proposal significantly different from the existing. There were 4 cars parked there all last winter and last week there were 4 cars parked there in violation of this board. The Town Council has become concerned with violation of non-criminal ordinances. On December 6<sup>th</sup> at the Council meeting, they passed new budget guidelines to the Town Manager, adding a new goal: "Examine changes in staffing or processes to better handle enforcement of non-criminal ordinances and regulations such as snow removal, improper trash disposal, permit violations and the like. The Town Council has voted for stricter enforcement of these types of things. He is asking this board to consider the policy guidelines given to various owners of this property and not grant this reconsideration. What has been proposed is substantially the same as what is there today. The real issue is no front parking is allowed; relief was granted for a hardship for 3 front yard spaces and now a fourth is being sought. There are those that do the right thing and others that get a free pass. The prior owner took the money from these owners and they are seeking the town to fix this. We need to follow our ordinances.

Ms. Ferguson said the decision that was made to deny the fourth spot was made while they were the owners. Mr. Magoon clarified and said the last owner sought the fourth spot and was denied. The enforcement of this was when they were owners. The three spaces were granted in 2006. Ms. Ferguson said this was converted from a single to a two family in 2010. Ms. Santucci said this was always a two-family with two addresses and was not converted from a single - it was converted to condos. Ms. Ferguson said that would have been the best time to enforce the two parking spaces per unit. There are abutters that wrote and showed up at the Planning Board in support of their request. The abutters do not like the parking on the street.

Ms. Santucci Rossi was at the prior meeting and was a member of the board when they made the decision to provide the three spaces. She does not believe surface treatment was a factor then. Mr. Magoon said Mr. Ozcan offered an alternative surface and the board did not consider it.

Mr. Ferris asked if this house had a skinny driveway with parking in the back. That was not the case with this house. He said would they consider two tandem spaces and then the two in the front, making three in the front and one tandem. Mr. Magoon said that has been considered in the past and the topography and the gas main is a concern now. Ms. Ferguson said that

gardens don't grow well in the front and trees will block her vision. Mr. Ferris said there is the potential of 4 spaces without parking side by side.

Mr. Ferris motioned not to consider the case based on the change of the paving materials as the layout is the same and results in the same number of spaces in the front. Ms. Elliott seconded. Voted 4-1 with Mr. John voting against. This will not be considered for a case before the board. Enforcement of eliminating the fourth space will take place.



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*Absent: Michael Mena, Zoning Enforcement Officer;*

Ms. Santucci Rossi announced Cortiva Institute.

Ted Hevelca representing Cortiva Institute, 103 Morse Street is here for Diane Polseno, President, out on medical leave. This is the second required traffic review of their use on Sundays. They use the building 2-3 Sundays per month and there have been no reported complaints or traffic advisory notices. They have had a community meeting with no issues.

Ms. Santucci Rossi said there has been more pedestrian activity from Stop and Shop area and that is a positive comment.

Mr. Hevelca said they stress the importance of parking at every orientation. The parking is renewed annually.

Mr. Magoon said he wants to make residents aware that there is parking on the Capitol Street right-of-way in the back of the parking lot which is accessed from Morse Street for the overnight parking ban. Ms. Santucci asked how the residents get out if it is not plowed. They have not heard of an issue there before.

Ms. Elliott motioned to adjourn. Mr. Heep seconded. Voted 4-0. Meeting ended at 10:45 p.m.