



TOWN OF WATERTOWN
Zoning Board of Appeals
Administration Building

149 Main Street

WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci Rozzi, 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 27, 2012** 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; Michael Mena, Zoning Enforcement Officer; Danielle Evans, Senior Planner; Louise Civetti, Clerk to ZBA.**

At 7:00 p.m., Chair Santucci Rozzi opened the meeting, introduced the board and staff and swore in the audience. She read the agenda and noted the agenda item under "Other Business", a 6-month review for 55 Bigelow Avenue, will be continued to July. She then asked if the members reviewed the minutes of May 23, 2012 and if there were any comments. No comments were heard. Ms. Elliott motioned to approve the minutes as written, Mr. John seconded. Voted 5-0, Approved.

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

21 Bartlett Street – Special Permit Finding

Dorothy A. Pacitto, 21 Bartlett Street, Watertown, MA 02472, herein requests the Zoning Board of Appeals to grant a Special Permit Finding in accordance with §4.06(a), Alts/Additions to Non-Conforming Structure, Side Yard Setback, Zoning Ordinance, so as to allow the enclosure for living space of an existing 16'x14' rear porch, maintaining the non-conforming easterly side yard setback. S-6 (Single Family) Zoning District.

Dorothy Pacitto, 21 Bartlett Street owner, stated they are simply enclosing the existing porch.

Mr. Ferris asked if the steps would have a roof. Ms. Pacitto stated they would not.

Mr. Ferris asked if the posts would remain in place. Ms. Pacitto said they would not change.

Mr. Heep asked if the asphalt area in the front would be removed. Ms. Santucci Rozzi noted that this question is in reference to the 'Nature of Request' within the Planning Board Report. Ms. Evans said she did not write the report. Ms. Santucci Rozzi said that it appears to be left over from a different case and has no relevance to this petition.

Ms. Elliott motioned to accept the petition for Special permit Finding as presented. Mr. Ferris seconded. Voted 5-0, granted.

Documents Reviewed: The Planning Board Report dated June 13, 2012; Certified Plot Plan prepared for Dorothy and Kimberly Pacitto, 21 Bartlett St, Watertown, MA prepared by Michael Robert Keegan, PLS of J2M Consulting, LLC. dated 5/8/2012 and the plan titled 21 Bartlett St Porch, dated 4/28/2012 also by J2M Consulting with side and rear view. Planning board Report, dated June 13, 2012.



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Ms. Elliott read the legal notice:

28-32 Center Street – Special Permit

David Aposhian, Manager, EuSocial Development LLC, 33 ½ Union Square, Somerville, MA 02143, herein requests the Zoning Board of Appeals to grant a Special Permit in accordance with §5.01.1.c, Zoning Ordinance, so as to construct a 2 ½ story, two-family dwelling and two rear detached garages. SC (Single-Family Conversion) Zoning District.

David Aposhian introduced Edrick van Beuzekom, AIA, AvB Design, who will speak for him.

Edrick van Beuzekom passed out photos of all sides of the 1-story brick building, and one photo of Mr. Aposhian's past home on Palfrey Street, and 3-D drawings of the current property.

He said the existing building is out of character with the neighborhood. It is a one-story, un-insulated masonry building – something you may find in Florida. They are proposing two attached townhouses with separate driveways to two garages. They initially proposed the garages under the house; however, that was not allowed by zoning. They put the garages in the back and will use brick pavers on the driveway. The center of the driveway will be a porous material. The turn-around area in the driveway will be a patio area; then a large back yard; lots of landscaping in the front yard and let the buyers do what they want in the back yard. Natural wood siding – red cedar shingles, a pergola at the front entry. Each unit will have a small entry, large living area, kitchen and dining, rear porch and an entry. The second floor, 3 bedrooms, 2 in the front with a bath, master with closet and bath in the back, attic with skylights, roof deck, potential master bedroom, bath and walk-in closet. The garage for each unit is a one-story with a gable face, carriage doors. The rear of the house has windows looking out to the patio. The side of the house shows the third floor dormer with the roof deck. The design is Arts and Crafts-style and in scale with other houses on the street. They are taking advantage of doing as much as they can with the landscaping. They are giving this a proper street-edge. They comply with all of the zoning regulations.

Mr. Ferris thanked the architect for the photos and the 3-D drawings. He is questioning the trees on the northerly fence line where the neighbors have a nice shade garden. He wants to be sure they work with the neighbor before they do anything with the trees. Mr. Aposhian said he spoke to the neighbor, Kim twice and is certain not to do anything to jeopardize her shade garden.

Ms. Elliott said this is a nice proposal and a huge improvement. She asked about the chimney in the back-yard, the brick-oven structure. Mr. Aposhian said that it has a history and he has decided to keep it. A woman from the audience yelled out that it was built by her grandfather over 100 years ago.

Mr. John said it is a solid set of drawings and it makes it easy to understand the project especially the recharge wells. He asked what the total square footage of the building is – 6000 s.f.? Mr. Van Fuscon said the total gross floor area is 9565,

giving each unit 4700 square feet GROSS, he stressed, which includes basement areas, stairs, etc. Mr. Aposhian said the usable areas will be about 3000 sf.

Mr. Heep commented that the proposed building looks very nice.

Ms. Santucci Rozzi asked if the basement is going to be storage space or will they add a bathroom. Mr. Aposhian said there are enough bathrooms and they have no intention of finishing the basements. They will add windows to the window wells. There is only interior egress from the basement. They did not want to lose exterior usable yard space (patio, driveway or front of house) for basement bulkheads.

Ms. Santucci Rozzi stated that the garages are tight for two spaces; however there is plenty of room in the driveway. Mr. Aposhian said that have to keep within the rear yard coverage and designed the garages with as much space as possible. Their initial design did have the garages coming in from the street to have minimal pavement. No area of the lot will have asphalt as he does not 'do' asphalt.

Ms. Santucci Rozzi asked about the brick paved driveway. Mr. Aposhian stated that it will be real brick or pavers with grass, tilted in, with a center of pervious material - a gully with broken stone so that most of the water permeates into the ground.

Marta Manzelli, 29 Center Street, she lives across the street, is a trustee in the sale of this property, and her dad owned a beautiful Victorian at this location, which burned down. She said this property has been an eye-sore and an embarrassment to the owners for years. She looks at this property every day. Her brother is an inspector in LA and he loves the plans. She has a concern that the driveways are across from her mom's driveways and she is concerned with the snow. They had to give up one of their 4 parking spaces for snow in the past and she wants to be sure the snow is not pushed across the street blocking their driveway or to the front of their house. This house was sold with the agreement that it would be a tear-down.

Ms. Santucci said the driveways will be 8' wide and providing the 4' buffer – she believes that snow will be pushed back. Ms. Manzelli said she wants to be certain that the snow is not pushed across the street. She then stated that there is a lot of on-street parking. She believes it will be impossible for them to get out of their driveway. They have 3 apartments, a lot of cars and 8 people.

Mr. Ferris believes they will push the snow towards and away from the garages. Ms. Santucci Rozzi said the board can place this within the decision as a condition.

Mr. Aposhian stated that there is plenty of room to put the snow on the property and he believes it is illegal to push the snow out onto the street. They will be certain to mention this in the condo docs.

Dennis Duff, 33 Spruce Street said density is a concern as this is a single family district. Ms. Santucci Rozzi said this is a single-family conversion zoning district and currently a three family. Therefore, they are reducing the density.

Rena Baskin, 15 Franklin Street said this will be a wonderful addition to the neighborhood and she has seen other items from Mr. Aposhian that are well thought out. She is in support of this project.

Ms. Santucci Rozzi declared a business mode; stated that Staff should be able to condition the snow on site to be carried forward to the condo docs; read the Staff report and Planning Board report are both recommending approval. The conditions are 'boiler-plate' with the addition of the snow remaining on-site...Mr. Ferris asked that a condition be added regarding the trees that are growing on the northerly border be removed only in agreement with the abutting neighbor. Ms. Santucci Rozzi stated it is a special permit in the SC, single-family conversion district.

Ms. Elliott motioned to approve the special permit for the two-story, two-unit townhouse with rear garages. Mr. Ferris seconded. All in favor. Voted 5-0, granted.

Documents Reviewed: The Planning Board report, dated June 13, 2012; Proposed Plot Plan, 28-32 Center Street in Watertown, MA" prepared by Rober Survey and dated 11/15/2011; and the architectural drawings "28-32 Center Street Watertown, MA 02472": C1.1 Proposed Site Plan; L1.0 Proposed Landscaping Plan; A1.0 Proposed Basement Plan; A1.1 Proposed 1st Floor Plan; A1.2 Proposed Second Floor Plan; A1.3 Proposed Third Floor Plan; A1.4 Proposed Roof Plan; A2.1 Proposed Front Elevation; A2.2 Proposed Right and Left Elevations; A2.3 Proposed Rear Elevations; A2.4 Proposed Garage Elevations; A3.1 Proposed Section A; A3.2 Proposed Section B; and SK1.0 all prepared by AvB Design, Edrick van Beuzekom, AIA, all dated 5/21/2012 with last revision date 6/07/2012.



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Ms. Elliott read the legal notice:

2 Rosary Drive – Amendment to Special Permit and Special Permit Finding

Sprint Spectrum, L.P., c/o Brian Grossman, Esq., Prince Lobel Tye LLP, 100 Cambridge Street, Suite 2200, Boston, MA 02114, herein requests the Zoning Board of Appeals to grant an Amendment to Special Permit/Finding #99-46 to modify an existing rooftop wireless telecommunications facility by replacing 6 existing panel antennas and 2 equipment cabinets with 3 new panel antennas, 6 new remote radio heads, and 3 new equipment cabinets. CR (Cluster Residential) Zoning District.

Brian Grossman, Prince, Lobel representing Sprint Spectrum LP in their Network Vision Project, which is to update a number of sites around Massachusetts to increase the data speeds to 4G. The proposed modifications are to replace three panel antennas on the property; one within a stealth chimney, which will not change the chimney shape or size. Each sector of the three panel replacements will have radio-heads, as well. The radio-head that is mounted to the panel proposed within the chimney will be within the chimney. The other two antennas mounted to the outside of the building will have the radio-heads ballast mounted on the roof – 3'6" off the roof within the height of the parapet, not visible from the ground. The equipment cabinets will have a fibre and power distribution cabinet to the platform. One cabinet will be retrofit and an additional battery-back-up cabinet. The upgrades are necessary to allow Sprint to provide necessary coverage and improve coverage to the area.

Mr. Heep asked what a remote radio-head is. Mr. Grossman said they allow additional functionality and capacity of the panel antennas. The newer panel antenna's allow you to do more with less. There is line loss from the antenna back to the equipment cabinet and this improves the performance.

Mr. Ferris asked about the elements mounted on the outside of the building wall, what is the difference between those and the ones in the stealth chimney.

Mr. Grossman said he does not know how the original design came about. The Planning Staff went over this design and there were discussions on not adding bulk to the roof for structural and leasing issues. He mentioned that at some point there are too many chimneys and they are trying to stay consistent with the character. He said that Clearwire is an affiliate but separate from Sprint and they could not agree to or guarantee that they could get the Sprint elements off of the façade and get the Clearwire elements off, as well. The antennas need significant separation. They came back from the discussions with modifying the façade mounted antennas as proposed.

Mr. Ferris said if they did not have the façade mount now, they would be requesting they put something on the roof.

Ms. Elliott asked about the interference with multiple vendors on a roof. Mr. Grossman said there does need to be distance between them and with this location, there were two teams of RF engineers working together to make that happen. Even if there are new vendors, they are aware of the existing antenna and then look at the vertical separation or on the rooftop, horizontal separation. They work together to resolve any issues and if they cannot, the FCC gets involved. Although there is competition, they all 'play in the same sandbox' and they work together.

Mr. Magoon asked that Mr. Grossman explain the change in RF emissions. Mr. Grossman stated that all vendors must comply with radio frequency exposure and this site will still comply and be well less than the 10% of public exposure they will have a report that provides the final number and they will have that for the staff later. There will be a slight increase of a couple of percentage points but still well less than the 10% FCC regulation.

Mr. Magoon stated that the Town Council approved a contract to hire an independent RF Engineer to measure all of the carriers signal strengths in town and to compare that to town-owned properties to see if there are crossovers to see if it would make sense to put out an RFP for service on town property. Ms. Santucci Rozzi agreed that it is an excellent revenue building and Mr. Grossman asked that he be contacted so he could then inform his clients.

Rachel Grant, 10 Angela Lane within Sienna Village said that she is concerned with the emission. She doesn't understand how it was placed there in the first place. She said although they say it isn't different, it is different – it has more emissions. She wants to know why it is in a residential area and it is people and children getting these emissions. She added that they wouldn't like it if it were next to their home.

Mr. Ferris added that it is on that building because the owner agrees to it. Ms. Grant said now the owners are the Watertown Housing. Ms. Evans clarified that the owners are Metro-West Collaborative Development, the former Watertown Community Housing, a non-profit organization in which the town has dedicated a certain amount of funds to renovate 22 units for affordable housing. They are in support of this.

Ms. Santucci Rozzi said the change in the technology is to provide the use for phones as people require it. They would not upgrade the service if there wasn't a need for it. They would hope the companies come to the Zoning Board with good proposals. This community does not have a large amount of requests for towers, they do have a lot of roof-top installations and faux-type installations. They have been able to serve the needs of the community without having to incorporate several large structures.

Ms. Santucci Rozzi declared a business mode and read the recommended approval from the Staff and the Planning Board reports, noting this was an installed approval from 1999 with a few modifications since then with the boiler-plate conditions for telecommunication facilities.

Ms. Elliott motioned to grant the Amended Special Permit and Finding #99-46. Mr. John seconded. Voted 5-0, approved.

Documents Reviewed: The Planning Board Report dated June 13, 2012; the Control Plans shall be: the plan set entitled "Sprint Vision St. Joseph's Hall BS23XC359 2 Rosary Drive Watertown, MA 02472 Middlesex County" Title Sheet, T-1; General Notes, GN-1; General Notes & Structural Design Parameters, GN-2; Plot Plan, C-1; Rooftop Plan & Elevation, A-1; Antenna Scenario & RF System Schedule, A-2; Equipment Details, A-3; Structural Details, S-1; Electrical Notes & Riser Diagram, E-1; Antenna Wiring Diagram, E-3; all dated 1/25/12 issued for review and final revision date 4/10/12 and prepared by EBI Consulting.



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Ms. Santucci Rozzi stated the last case is a continued case.

Ms. Elliott read the legal notice:

401-405 Main Street – Variance & Special Permit Finding

Anthasasios & Vasilias Mitropoulos, 9 Kirkstall Road, Newton, MA 02460, herein request the Zoning Board of Appeals grant Variance(s) in accordance with §5.04, Table of Dimensional Regulations, Side and Rear Yard Setbacks and a Special Permit Finding in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Rear Yard Setback, so as to enlarge an existing storage room and ramp, located within the rear lot area, maintaining the existing building side yard lot line, and adding a new loading dock within the rear yard, located in the LB (Limited Business) Zoning District.

Tim McGoldrick, Esquire, spoke on behalf of the Mitropoulos', explaining the existing storage area and loading dock in the rear of the building is 96 square feet sitting on top of a concrete "L" shaped slab. He spoke of their first request, which was a 500+ s.f. building in the rear, however, with the issues raised by the Planning Staff, they realized the loading dock would be 6' from the rear lot line and the dumpsters would be moved next to the residents on Westminster Street. Options discussed were to move the dumpsters to the side of the building near Express Tire and add a landscaping buffer. The waste management company said the side alleyway with the slope in the front of the driveway; the overhang on the building; the telephone pole and the storage of snow in the winter would not be a good plan and would not be 'doable'. They then discussed making the storage structure 195 s.f. He explained the issues they have with the 96 s.f. storage area – it does not have direct access, they enter from the back door on the building and bring goods down a long hallway to the small storage area. He said this causes back-up to the deliveries as a truck has to pull up to the dock, unload on the dock, wheel everything in slowly and a milk-truck delivery could be there for 1.5 hours. Their proposal is 6.5'x30' instead of the existing 6.2'x16' with most of the addition in the rear towards the left side of the lot (towards Express Tire), as shown on the May 15th drawing. This is a very slight encroachment. This will look better, there will be more storage.

Ms. Santucci Rozzi asked why after 30 years they are having a problem with deliveries. Mr. McGoldrick said with the proposal they can back the truck up and wheel the goods right into the storage area – it would look better and be quicker, lessening the noise to the neighbors. He believes Mr. Mitropoulos would not go to all of this trouble if it were not necessary. He read a letter from the Coca-Cola vendor stating that they could save more money if they could take a larger delivery. Ms. Santucci Rozzi asked if they could reconfigure the interior of the store to allow for more space.

Mr. McGoldrick said the storage space exists and does not accommodate the business. They have also have had several break-ins.

Ms. Santucci Rozzi said a new business just moved in to the area and asked why the space wasn't reconfigured when the liquor store moved in. Mr. Mitropoulos said he owns both businesses and it is now a security issue as they have broken in three times. Mr. McGoldrick said the needs of the building have changed since there were restaurants there and they need more space now. He stated the door in the rear has been broken into in 2003 with \$30,000 in damages and stolen goods – he then improved the locks and the alarm system but was broken into again in 2005 and 2009. He explained that the proposed room would allow a secondary door to be added to the outside for security. The backdoor area is secluded and has lighting and security indoors. The police said that once the person was inside the door and the alarm tripped, within 5 minutes they grabbed \$1500 worth of lottery tickets, etc. The video did not identify the person.

Ms. Santucci Rozzi reiterated that the reasons for the addition are for storage and security.

Mr. McGoldrick reviewed the special permit criteria requirement of the proposed addition to state that it will not be more detrimental than the existing structure as it will look nicer, the deliveries will be more efficient and the building will be more secure. He said Mr. Mitropoulos approached the abutting neighbors to show them the proposal – they all signed a form stating they were not against the proposal. Mr. Mitropoulos purchased the building in 1994. The Variance criteria requires: #1 - a uniqueness and he states the area is obsolete; doesn't offer a very good loading, unloading or storage area; it is a security risk and the positioning of the building on the lot (is closer to the rear with plenty of room in the front). He does not have the area in the rear to improve and from a business standpoint he cannot improve it at all without a special permit request. #2 financial hardship? He said he cannot protect the business or building that he owns and the 2003 incident cost him \$30,000; the 2005 incident cost \$1500 and the 2009 incident the neighbors heard the noises – those are financial hardships. He could have saved \$260 on one delivery as shown in the letter and when multiplied by several deliveries over a year, it is a substantial amount. #3 Is this a detriment to the public good? He said, no, the neighbors are not against it; and deliveries will be quicker, quieter, more efficient. The double doors will deter burglaries. #4 Will this nullify the intent of the ordinance? He said, no, the building change is a de minimus amount of encroachment.

Mr. McGoldrick continued and stated that they are doing what is requested in the ordinance - they met with planning to come up with better design and they scaled it back; and it meets the criteria requirements of the ordinance. The addition area is across from the middle of the back lots of each of the residences. This area is not in direct contact with the living area of the residences. The planning board asked if they could do something more to the back of the property; however, the waste management truck has to back up the driveway to get to the dumpsters. They could add landscaping to the area where the concrete walking ramp is now and keep a smaller area.

Ms. Santucci Rozzi asked what the client did when there was a request for wheel stops and landscaping conditioned by the former board 20 years ago – did he bring it into compliance. Mr. Mitropoulos stated that he did not own the building then. Ms. Santucci Rozzi said that he bought the building and bought the permit as referenced in the Staff Report. Mr. Mitropoulos did not know about the requirement. Mr. McGoldrick said that he had read the report. Ms. Elliott read from the report: "A Special Permit was granted to allow Domino's Pizza to locate on the site with specific conditions for landscaping to be provided along the perimeter of the parking area and the removal of all curb cuts along Westminster Avenue – neither requirement appears to be completed." She also stated that the permit requested that the rear area be used for loading only. Mr. Mitropoulos said they added some landscaping at the corner and he added the planters as there was not anything there when he bought the building. Ms. Santucci Rozzi said the board does not like to hear that the petitioner is requesting further relief without complying to the conditions set forth – especially when stated in the Staff Report. Mr. Mitropoulos said he did not see the report. Mr. McGoldrick said it was raised in a meeting with the staff and with the planters there; the parking and the concrete structures, it was not stated he was not in compliance. They brainstormed issues and he was told they could increase the building if the waste management issue could go away. The rear of the building had dumpsters all along the back as there were restaurants there and that is no longer the case. This was only brought up as a prior order and there are not entrances to Westminster and there is landscaping – it could be improved but the condition was met. He reiterated that this was not stated when they filed this paperwork.

Ms. Santucci Rozzi said the board likes to see the conditions are met. Mr. McGoldrick said it was never presented to him that they were not in compliance. They have worked with Planning; they tried to move the dumpsters to the side; they would have liked to put landscaping in the back. Ms. Santucci Rozzi asked why they wouldn't move the dumpsters; make them look better or enclose them. Mr. McGoldrick said they discussed with planning moving the dumpsters but they are in the most ideal place for the residents. There are two dumpsters because one is for recycling.

Ms. Elliott asked Staff where the dumpsters were supposed to be. Mr. Mitropoulos said they used to be along the back of the building.

Mr. Magoon said that he doesn't disagree with Mr. McGoldrick's characterization that the meeting didn't state that the conditions needed to be complied with but putting them on notice that it was not being complied with. They discussed finding a solution to the proposal with lessening the impact on the residences in the rear. The petitioner is coming forward

with what they could come up with knowing that the conditions would need to be complied with when the proposal was approved.

Mr. McGoldrick said they were on board with that. Mr. Magoon clarified that they did not agree to comply with the outstanding conditions. Mr. McGoldrick said they were proposing changes to the rear of the property and discussed buffering and landscaping the rear mostly.

Ms. Santucci Rozzi said she would like to see what this site was supposed to look like. She is uncomfortable with giving relief for something that is not in compliance. She said they needed to be certain all conditions in the prior Special Permit were in compliance before they added more conditions.

Mr. John asked if they had two reasons for the proposal – the security and the ease of loading are what is driving this. Ms. Elliott said she thought it was for more storage space. Mr. McGoldrick said it is for both. Mr. John suggested they put a door on the storage area and close up the other outside door without increasing the storage area. Mr. Mitropoulos said the structure is old and has to go. Mr. Ferris said they are trying to build a vestibule. Ms. Elliott said now they have to go through two doors and asked how that is easier. Mr. McGoldrick said the roll-up door would be the loading area and then the other door would be inside. Mr. Ferris said it would help to have a floor plan.

Ms. Santucci said the convenience store is huge and when they moved into that building, they should have reconfigured then – not to take on a new tenant and then ask to encroach further. Mr. McGoldrick said there is nothing that can be done without relief. Mr. Magoon said you can replace it but you cannot enlarge it. Mr. McGoldrick said it is 6'x16'. Mr. John said it is already non-conforming. Mr. McGoldrick said it is not much different than what is there – just a little more square footage. If the neighbors were away when he got his building permit, they wouldn't notice when they came back. He has gotten the plot plan, the architectural drawings, etc. This is a business man trying to improve his business. They've revised the plans already and they are willing to revise them further. This is not just giving our Variances – they have addressed the criteria.

Ms. Elliott reviewed why they are seeking relief: for storage, better loading or drop off and security. Mr. McGoldrick added, "appearance". Ms. Elliott confirmed that there are now four reasons, including the structure is falling down, which they have now learned. She said they can rebuild it with the same footprint, it would not be falling down, it improves the appearance, put a secure roll up door (where the milk crates are shown in the photo) and they come straight into the storage room – no loss of storage area and they figure out more room in the existing store. That solves the problems. Mr. McGoldrick said they would have to increase size of the structure to accommodate the rolled up door and they need to cover the existing door. Mr. Mitropoulos said they need the existing door. The need to have the existing door within a rolled up door area to have two levels of security. Ms. Elliott said they can put the extra security on the inside. Mr. McGoldrick argued that they need the improvements for all of the reasons stated earlier.

Ms. Elliott reiterated that the Planning Staff does not support the proposal. The criteria is met for the Special Permit and they have not met the criteria for the Variance. She is trying to propose solutions for them. Mr. McGoldrick again argued that the space is too small. Ms. Elliott said floor plans would have helped to see their issues. Ms. Santucci Rozzi said they did a lot of improvements when they moved into the space and cut a hole in the wall between the two stores, they could have addressed that issue three years ago. Mr. Mitropoulos said it was not an issue at the time. Ms. Santucci Rozzi said the break ins were in 2003 and 2005.

Mr. Ferris asked about the dumpsters both being accessed from the back. They need to be picked up more often. Their businesses are doing well and they need to manage the company that picks up the trash as the residents have to put up with the trash coming over the dumpster and on the ground. He said the fence and the landscaping in the rear is all done by the neighbor and they are trying to grow a lot of stuff to create a barrier. Mr. McGoldrick said they are not opposed to doing landscaping in the rear but the dumpster pick-up trucks needs to have the room. They cannot move the dumpsters to the side as their dumpster pick-up will not support moving the dumpsters. Mr. Ferris said the truck can make it by the loading dock now and does not see how they will pick up one dumpster behind the other in the future.

Mr. Heep said the findings in this case are not satisfied. He acknowledges that the landscaping in the rear is by the neighbor and states that intensifying a non-conformity next to a residence without improving the situation is a concern.

Mr. Magoon said he is sensitive to businesses in the area and this situation is not unique. The town has tried to work with the petitioner to come up with solutions; however, they need to be respectful of the ordinance.

Mr. McGoldrick stated this is a modest and reasonable request and they sought the support of the neighbors. They would do fencing in the rear but there isn't room. The increase in size is towards Express Tire, not the residences. The Waste Management situation is at each spot. They understand the town cannot always give variances but this is a modest proposal

and he does not see how this substantially derogates from the ordinance or the public good. They have done everything they were asked to do.

Dennis Duff, 33 Spruce Street, said he comes to many meetings and sees where people do not meet the standard requirements. However, it seems to me that the attorney doesn't quite understand what is needed. He asked the board to pre-condition these things before they come back before us. He referred to the landscaping and curb cuts but he did not read the report. The neighbors have done a nice job on the rear landscaping and the petitioner could donate to the homeowner more arborvitae to continue the hedge. He is disappointed because the man at 99 Common Street lied to the board and nothing was said and his petition went through without a problem.

Mr. Mitropoulos said he purchased this building 18 years ago and has never had a complaint from the neighbors. Everyone is happy with his work and the staff comes into his store. He is trying to improve his business.

Ms. Santucci Rozzi said he needs 4 out of 5 for the petition to pass. It appears that he does not have enough positive votes. However, he has options to go forward. His attorney will advise him on what to do and they can go into the hall to discuss their next steps.

Mr. McGoldrick said he wants to understand what the prior permit issue is. It was not a clear issue at the time and he now understands that it is an important issue and would like to take those recommendations as they will shine a better light on their petition.

Ms. Elliott supports the vote of the planning staff and in order for her vote, she would need to have the planning staff support this petition. Mr. McGoldrick understands that requirement.

Ms. Santucci Rozzi said they may need to look into other waste management companies or come up with a different solution for the overflow of the trash. Her point is that the board needs to know they have done everything they can to improve their situation.

Mr. Ferris said he has a couple of concerns with the dumpsters. The back corner will be filled in more, causing the dumpsters to be even more tightly together and picking up the dumpsters more of an issue. Mr. Mitropoulos said they will not be that far back. Mr. Ferris said he doesn't want to hear that as it means the dumpsters are stacked more closely to the neighbors yard – one in front of the other. If all of the dumpsters are on wheels, they could be stored on the side of the building where they tried to get access, (and then moved to the rear to be picked up). Mr. Mitropoulos asked if they do that, will they get the variance?

Ms. Santucci Rozzi said they will have to consider all of the discussion tonight. Ms. Elliott said they need to consider interior options, as well to help with some of the relief they are seeking.

Ms. Santucci Rozzi said they will continue to whenever they are ready and asked if the agenda was full for the next month. Ms. Civetti stated they would need to sign a new Extension Agreement.

Ms. Elliott motioned to allow the applicant to continue. Mr. Heep seconded. Voted 5-0. Continued.

Ms. Elliott motioned to adjourn. Mr. Ferris seconded. Voted 5-0. Meeting ended at 9:15 p.m.