

## MINUTES

On Wednesday evening, **April 25, 2007** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Melissa M. Santucci**, *Clerk*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*. *Absent*: **Richard M. Moynihan**, *Alternate Member*.

Tape 1 of 1, Side A

The Board voted to approve the minutes of the January 3, 2007 meeting. However, they will postpone voting on the minutes of January 31, 2007 and February 28, 2007 until the May meeting.

First Case Legal Notice:

George Souliotis, 139 Brookline Street, Watertown, MA, herein requests the Board of Appeal to grant a **Variance** in accordance with §6.02(j), Location and Design of Off-Street Parking, Buffer and §6.02(i), Curb Cut Opening, to allow second driveway 11.2' varying to 11.5' wide x 46.3', without the required 4' buffer adjacent to existing driveway with a combined curb opening of 22.7', where maximum 22' is allowed at **139 Brookline Street**, located in the S-6 (Single Family) Zoning District.

On March 28, 2007, the Board received a letter from George Souliotis, Petitioner, requesting to withdraw his request for a

second driveway. He will work with the town to consider their recommendations and try to find a solution.

The Petition for VARIANCE is **WITHDRAWN WITHOUT PREJUDICE** by a unanimous (5-0) vote of the Board of Appeals.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 1, Side A, Continued

### Legal Notice:

David Zussman, Manager, 51 Water Street LLC, 93 Union Street, Suite 315, Newton, MA herein requests the Board of Appeals to grant a **Special Permit** in accordance with §9.12 Special Permit Approval of Certain Site Plans, Two or More Buildings on single lot; §9.03, Site Plan Review, §5.00(f), New Construction of a Non-Residential Use of More Than 4,000 s.f.; §5.05(d), Side Yard Setback Elimination; **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures; Front Yard Setback of 19.2', where 20' is required; and **Variances** in accordance with §5.04, Lot Coverage of 62.1%, where 50% maximum is allowed; Open Space of 7%, where 10% minimum is required; and §6.02(h)(i)(j)(k), Location & Design of Off-Street Parking, to permit 7 curb cuts which exceed number and size allowed; 3 access drives in the building front yard; less than the required 8' landscaped parking buffers and to permit 2% interior landscaping where minimum 5% is required; so as to permit change, alteration and extension of a non-conforming structure and site by razing 21,000 s.f. of existing manufacturing and warehousing structures and converting remainder to office

use; construction of a five story, 70,000 s.f. brick building with two upper levels of office and three lower levels of parking, with substantial upgrades to the structure and site at **51 Water Street**, located in the I-2 (Industrial) Zoning District.

On March 29, 2007, the Board received a letter from Richard V. Wakeman, Jr., Vice President of 51 Water Street LLC, requesting to Withdraw the request without prejudice.

The Petition for SPECIAL PERMIT/SPECIAL PERMIT FINDING/VARIANCE is **WITHDRAWN WITHOUT PREJUDICE** by unanimous (5-0) vote of the Board of Appeals.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 1, Side A, Continued

Legal Notice:

Christine Knipper and Patrick Davis, 51 Hovey Street, Watertown, MA, herein request the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Height, Side Yard Setback, Zoning Ordinance, so as to construct two shed dormers, southerly side 14.5' x 13'.25' and northerly side 21.9' x 13.25', maintaining existing non-conforming height of 33', where maximum 30' is allowed and northerly side dormer maintaining non-conforming northerly side setback of 9', where 10' is required at **51 Hovey Street**, located in the T (Two-Family) Zoning District.

Christine Knipper, accompanied by her architect, Edrick vanBeuzekom, appeared before the Board. Ms. Knipper explained that she and her husband own the second floor condominium and are in need for an additional bedroom and bath and desire to finish the attic space. However, the unfinished attic space under the hip roof does not have the adequate headroom, light and ventilation. In order to make this space habitable, they are proposing two shed dormers- southerly side 14.5' x 13'.25' and northerly side 21.9' x 13.25', both maintaining existing non-conforming height and the northerly dormer maintaining the non-conforming 9' side yard setback.

Nancy Scott, Zoning Enforcement Officer noted that the living space proposed on the third floor meets the Ordinance with regard to the ½ story definition. However, Ms. Scott questioned the roof pitch shown on the plans at 2/12 vs. the ordinance requirement for at least a 3/12 pitch. Mr. vanBeuzekom stated that there isn't enough head room towards the eaves for a higher pitch. Ms. Scott stated that the Ordinance is changing in regards to height – from 30' to 35' maximum. If they raised the dormer ridge they could meet the required 3/12 pitch. Ms. Knipper and Mr. vanBeuzekom agreed they would be willing to do that.

Member Santucci asked why there were two dining rooms on the plan Sheet X1. Mr. vanBeuzekom stated it was an error on the plan and it is supposed to be labeled a bedroom. Ms. Santucci then stated that the house is quite large to begin with- a retaining wall along the front, garage, basement above that and 2 ½-story is above the basement. Mr. vanBeuzekom submitted 3 photos of the house taken from the street level. Ms. Knipper explained the house looks larger than it is as it is because it is high up from the street – there are 33 steps to the first floor.

Ms. Santucci asked if the parking is adequate with an additional bedroom. Ms. Scott answered that the Ordinance requires two spaces per unit with 3 bedrooms. Petitioner is proposing a third bedroom. There is currently parking for 4 vehicles.

Member Fernandez believes that the 3/12 pitch can be accommodated by placing the roof rafters atop the existing ridge. Mr. vanBeuzekom concurs. Member Fernandez supports the petition and understands the adage of non-complying conditions and trying to utilize the attic space.

Chairman Vlachos stated that upon viewing the building, he thinks it is massive from the street level; however, Ms. Knipper states that she believes because of the slope upwards from the street that it makes it appear larger. Her living space is tight, one of her two children is sleeping in the living room.

The dormers are setback 17.5' from the front together with the slope of topography, minimizes the visual impact. Architect vanBeuzekom said that the dormers are minimal and the larger dormer is required to extend over an existing stairway in order to comply with the building code headroom requirement.

No one from the public spoke on this petition. The Planning Board voted to recommend approval of this petition.

The Board concludes that there is no impact to the surrounding neighbors and that this Board finds that a condition to increase the pitch to at least a 3/12, is necessary to ensure compliance with the Ordinance. Accordingly, the four Board members concur that the proposed dormers will not be more substantially detrimental than the existing structure.

The board voted (4-0) to grant the Special Permit Finding. Member Elliott recused herself from voting on

this particular case as she lives in the same neighborhood as the petitioners.



Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

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Tape 1 of 1, Side A, Continued

Legal Notice:

Ryan and Jennifer Steele, 20 Paul Street, Watertown, MA and Ian MacDonald, 22 Paul Street, Watertown, MA, herein request the Board of Appeals to grant

a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback, Zoning Ordinance, so as to enlarge existing rear deck 5'x9' to 9'x11' providing 6' setback on the non-conforming northerly house side yard setback of 5.5' – 5.6', where 12' is required at **20-22 Paul Street**, located in the T (Two-Family) Zoning District.

Caitlin MacDonald, spouse of Ian MacDonald, appeared before the Board and was spokesman for the condominium

association ("The Association"), consisting of the MacDonald's and Jennifer and Ryan Steele. She stated that they desired to expand the existing 5'x9' deck to 9'x11' to be utilized as common space, which additionally provides the second means of egress for both floors.

The proposed deck expands closer to the northerly lot line, but does not extend beyond the existing non-conforming house setback on the northerly side. The new deck will be 6.0' from the property line, a little less than the house's 5.5' northerly side yard setback at its farthest rear corner.

The Board noted that the deck appeared to be almost completely built. Ms. MacDonald explained that they had relied on the contractor to provide the required permits and as soon as they learned a building permit had not been issued, they ceased work on the deck. Records reveal that upon the contractor submitting a building application, the Zoning Officer on December 12, 2006, denied the building application and advised him that approval must be sought from the Zoning Board of Appeals.

Chairman Vlachos noted the Planning Board and Planning Staff recommended to grant this petition as it meets the criteria set out in the ordinance.

The Board concluded that while it frowns on jobs starting without the required building permits or approval, in this instance, the petitioners immediately stopped work and put into motion their application to the Zoning Board of Appeals.

Further, the Board finds that this small enlargement to the rear deck is not substantially more detrimental than the existing deck.

The Board voted unanimously (5-0) to grant this Special Permit Finding.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

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Legal Notice:

Brooke Moncrieff, 75 Capitol Street, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Side Yard Setback and in the alternative **Variance(s)** in accordance with §5.04, Table of Dimensional Regulations, Building Coverage, Side Yard Setbacks, Zoning Ordinance, so as to raze rear one-story room and rear open porch roof, reconstruct on existing foundation a family room 17.3'x12.9' with projecting 2' bay window and roof over rear open porch, 7.5' x12.9', maintaining non-conforming easterly side yard setback of 7.3' -7.7', where 10' is required and increasing non-conforming building coverage from 32.2% to 32.5%, where maximum 30% is allowed. Further allow a fireplace 11" x 3.5', encroaching into non-conforming easterly side setback and proposing an easterly side yard setback of 6.4', where 10' is required at **75 Capitol Street**, located in the T (Two-Family) Zoning District.

Brooke Moncrieff, Petitioner and owner, addressed the board with a brief description of her project. The main house is Victorian style built in 1898-1900. The existing rear one-story room and open porch was most likely a full porch and 12'x17' portion was converted for living space; however, no record of its construction exists in the Building Department. They intend to raze the existing room and roof of the rear porch and replace it on its same foundation and adding a bay window to the rear. This would minimally increase the non-conforming building coverage from 32.2% to 32.5%. Also, the petitioner is proposing a zero clearance chimney 11" x 3.5' to be erected on the 7.3' non-conforming easterly side and proposing a setback of 6.4', where 10' is required.

The amount of relief requested is .3% for lot coverage due to the addition of a bay window and 11 inches for the side yard setback due to a self-enclosed gas fireplace structure. In order to maintain the existing non-conforming building coverage, the petitioner would be required to remove the roof of the rear porch, leaving it as an open deck, thus eliminating the increase or offset the bay window increase of .3%.

Nancy Scott, Zoning Enforcement Officer, explained to the board that the reasoning behind the request for a Special Permit Finding rather than a Variance is that the Board had discussed in those instances, where a one or two-family dwelling with non-conformities can be altered or extended under the Special Permit Finding in 40A, Section 6. In this instance, the further encroachment of the fireplace into the non-conforming setback by 11" is a de minimis request in addition to the .3% increase in the non-conforming building coverage. The criteria of a Variance in this instance cannot be met; particularly the first criteria - uniqueness of structure; topography.

This Board has by Special Permit Finding permitted the expansion and additions of non-conforming structures making a finding that the expansion is not more detrimental. Board members had a lengthy discussion on the merits but followed the Planning Board in making a "finding" for the chimney fireplace encroachment and increase of building coverage, as both would fail the variance criteria.

The control plans submitted by the petitioner, indicate a "future proposed second floor" as noted by the dotted lines. Member Fernandez agreed with voting for a Finding for the one-story addition but found the drawings with the "future second floor" troubling. Member Fernandez believes that a second floor is not an insignificant addition to the non-conformities. He believes that the future second floor would require a Variance and the Board will have less control over that future request. Ms. Scott stated that the future second floor would not require a Variance because it is not encroaching further into the non-conforming setbacks but maintaining them. Ms Scott indicated that any member of the Board can in any "Special Permit Finding" determine that the proposed addition is more detrimental. Zoning Officer assured the Board that if the Petitioner should propose a second floor, they or any future owner, would be required to return to this Board for a Special Permit Finding.

Member Santucci stated that the relief requested is exceeding the existing footprint dimensions, however small, and is uncomfortable voting them as a "finding".

Tape 1 of 1, Side B

Member Bailey asked why there was a flat roof when the snow load alone would require a pitched roof. Ms. Moncrieff explained that there is tapered insulation coming from the windows towards the edge of the roof creating a slight pitch.

Robert Rosensweig, husband and co-owner of 75 Capitol Street, stated that the cost of creating a pitched roof that would have to be removed if in the future the second floor was to be done is not feasible. Also the second floor windows almost reach the floor and the light they provide would be blocked by a roof. The architect is building the flat roof with the requirement that it meets all of the load-bearing standards. The addition provides the necessary headroom needed in order to provide a more functional living space.

Chairman Vlachos stated that he would be in favor of voting for a Special Permit Finding provided the petitioner update the building plans without the future second floor proposal on them.

Member Elliott stated she would vote for the Finding with the plans as they are, the additional increases of non-conformities are minor and she does not have a problem with them.

Member Santucci again stated that she would vote only for a Variance on this current request

involving the increase of non-conformities and encroachment.

There was no one in the audience to speak on this petition. Planning Board recommended approval of the Special Permit Finding.

The majority of the Board found that the one-story addition with its bay window and new zero clearance fireplace is a de minimus request and further find that the replacement of the one story addition with the roofed porch will not be more detrimental than the existing structure.

The Board voted 4-1 to grant the Special Permit Finding. Ms. Santucci voted against.

The board voted to adjourn at 8:10 PM