



**TOWN OF WATERTOWN**  
**Zoning Board of Appeals**  
Administration Building  
149 Main Street  
WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci Rozzi, Chairperson  
David Ferris, Clerk  
Christopher H. Heep, Member  
John G. Gannon, Member  
Kelly Donato, Member  
Neeraj Chander, Alternate  
Jason D. Cohen, Alternate

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Louise Civetti, Clerk to the ZBA

**MINUTES**

On Wednesday evening, September 30, 2015 at 7:00 p.m. in the Richard E. Mastrangelo Council Chamber on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing.

In attendance: Melissa Santucci Rozzi, *Chair*; David Ferris, *Clerk*; Christopher Heep, *Member*; Neeraj Chander, *Alternate Member*; Jason D. Cohen, *Alternate Member*. Absent: John G. Gannon, *Member* Kelly Donato, *Member*. Also Present: Steve Magoon, Assistant Town Manager and Director of Community Development; Mike Mena, *Zoning Enforcement Officer*; Andrea Adams, *Senior Planner*; Louise Civetti, *Clerk to the ZBA*.

Chair Santucci Rozzi opened the meeting at 7:05 p.m., introduced the staff and board members, noting that Neeraj Chander and Jason D. Cohen, Alternate Members, will be voting tonight. Members Gannon and Donato are absent. She reviewed the agenda, stating that the only case to be heard will be 80 Elm Street as 82 Highland Avenue has been continued at the Planning Board and 195 Mt. Auburn Street has been continued to the October Zoning Board meeting.

**1. MINUTES: 8/26/15**

Chair Santucci Rozzi asked for a motion or correction to the August 26, 2015 minutes. Member Ferris motioned to accept the minutes as written. Member Cohen seconded. Voted 5-0, the minutes of August 26, 2015 have been approved.

**2. CASES PENDING: 80 ELM STREET**

Chair Santucci Rozzi swore in the audience. Steve Winnick, Attorney for the petitioner of **80 Elm Street**, approached the podium and stated he is here for Elm Hospitality LLC and its' Principal, Cherag Patel. He mentioned the meeting he presented at on June 24, 2015 with a full public discussion. There were questions that the board requested to be addressed as well as additional information. The information has been provided to the board and he is here to address all of those concerns. He introduced the team: Tom Trichousky, Architect; Ron Mueller, Traffic Engineer; Steve Matarano, Site Engineer. He said he would turn the podium over to the project team.

Chair Santucci Rozzi expressed that there isn't any rush and requested that they be thorough in their discussion.

Cherag Patel stated that he was not attempting to deceive anyone for not disclosing the proposed hotel brand. He said on at least three prior occasions, when he had disclosed the brand, and had not had all the paperwork signed, another person picked up the work and used it. He said from the last ZBA meeting to this point, he now has a fully executed Franchise Agreement so everything is now open. Mr. Patel said he had referenced in the last meeting that all of the rooms would have an induction cooktop. He clarified that this was not the case. There would be a limited number of these available at the front desk, and a

guest could request one. He said the rooms would come standard with a refrigerator, a dishwasher and sink. He said the hotel has a communal area where they can gather, or they can relax in their own rooms. He said the pool would be saline rather than chlorine. DCDP staff showed two slideshows of the proposed interior of the two styles of rooms as Mr. Patel described the rooms. He noted the various amenities in each style of room. He noted the other updated exterior renderings of the hotel provided by his team, and as requested by the Board.

Chair Santucci Rozzi asked Mr. Patel to clarify the room types. She noted the slide show indicated a standard room and a suite style.

Mr. Patel responded that both rooms were a "suite." He said the rooms varied in square footage sizes to accommodate a one-bed and a two-bed. He said the hotel would only have four larger rooms. He also noted he'd submitted a copy of his resume, showing various other properties and hotels he had developed.

Tom Trichousky, Architect for the Petitioner, described the additional renderings he'd prepared based on the last Board meeting. He said the rooftop screen enclosure has been shown in the updated renderings. He was a six-foot tall rooftop screen. He used a rendering shown on the public access TVs to illustrate the rooftop screen. He described the remaining updated renderings of the proposed hotel. He said the updated packet also shows a building cross section to show the relative elevation of the proposed hotel, and adjacent structures. There was also another view, showing the proposed view from the street. The updated packet showed a view from the street, walking up to the drive under entrance, to the courtyard. Image packet also showed typical interiors for the lounge area, check in area, and "grab and go" amenity. Also showed static example interiors of the two room styles. 100 of the smaller rooms, and 4 of the larger style suites. Described layouts of the building using floor diagrams.

Chair Santucci Rozzi asked what the height of the building was. She also asked what the height was of the rooftop screen.

Mr. Trichousky said it was 53 feet, and the rooftop screen was 6 feet.

Member Ferris noted that some of the bed icons in the floor diagrams appeared as if they would be placed against a window. He asked if this was the case, or if the position would be flipped, so the bed would not block the glass?

Mr. Trichousky said the position of the bed would be flipped, as Mr. Ferris suggested.

The Chair asked for any comments or questions from the other Board Members.

Alternate Member Cohen noted the extensive use of glass, particularly in the corner rooms, and questioned whether or not this would detract from privacy?

Mr. Trichousky responded there would be blackout curtains that will be in the room, so he felt there wouldn't be an issue. He said there was spandrel glass in-between the floors and the Petitioner could explore this treatment in other areas, to provide for additional privacy.

Member Heep suggested tower on one side of the project should perhaps be switched to the other corner, and softened by the use of glass? He suggested this would allow for less relief from the setbacks?

Mr. Trichousky responded this was where the stair tower was located, and it had windows, to soften the massing. He noted the Petitioner had not considered use of glass, but this could be discussed with Mr. Patel, or perhaps use of modulated color panels.

Alternate Member Chander asked if ambient light from the lobby would cause light pollution issues for the neighbors.

Mr. Trichousky responded that across Elm Street from the proposed hotel was the auto body repair shop. He said the views were taken from down the street. He used photo renderings of the surrounding neighborhood to illustrate the adjacent properties. He suggested the lobby would be active at later hours at night, but noted that the hotel was not directly abutting residences.

Member Heep asked if the trash dumpster would be enclosed?

The Petitioner's Architect said the dumpster would be enclosed with decorative panels. He said these decorative gates would also enclose the recycling container.

Alternate Member Cohen asked Mr. Patel to explain the HOME 2 concept.

Mr. Patel explained the HOME 2 concept is an extended stay product from Hilton hotels. He said the brand was introduced in 2008, and there are about 150 of this style of hotel under development.

Chair Santucci Rozzi asked the Petitioner if he or his team had additional information to submit at this time.

Attorney Winnick responded no, but noted him and the Petitioner's team would like the opportunity to respond, and to make closing remarks.

Chair Santucci Rozzi asked the Board Members for additional questions.

Member Ferris noted the proposed height of the building was 53 feet, and the rooftop screen was to be six feet high. He asked for clarification.

Attorney Winnick suggested the proposed height was allowable through a Special Permit under the Design Standards.

Director Magoon clarified that the proposed height was allowable under the amended Zoning for hotels.

Chair Santucci Rozzi noted the hotel amendment, which was now part of Zoning, allowed up to six stories or 60 feet.

Member Ferris noted that there was going to be more rooms that onsite parking spaces. He suggested the room style was for more long term stays? He asked if the setting allowed for fewer spaces.

Attorney Winnick agreed, noting the parking provided was within the ratios required by the Zoning Ordinance.

Mr. Patel said the room concept was for extended stay, where industry averages indicates a stay of 4.2 days for this style. Something such as Sunday through Thursday. Mr. Patel suggested the guest to parking ratio should be approximately 70% and the proposed parking was acceptable.

Member Ferris discussed the retaining wall. He asked if the existing one would be demolished, and if so, what would the new wall be made of? He noted drawing #5 of 15, showed a 5-foot wall. He noted it was right on the property line, and this reduced or eliminated any buffer to the shopping center. Mr. Ferris commented on the walls at the rear, noting there was terracing, and different wall heights. He noted a 12 foot grade change in one location.

Mr. Patel said the existing retaining wall would be demolished.

The project engineer said the new wall would be cast in place concrete. He said it had not been totally designed yet, but a cast in place did not need to be tied back into the slope. Mr. Matarano said a smaller, lower wall might be a precast block. Mr. Matarano said the existing area was lawn, and this would be continued, other than new plantings in some locations. He said there was landscaping on the upper and

intermediate terracing. He said the outer wall was the wall of the garage. He noted the lower wall could be a different material.

Chair Santucci Rozzi asked if the garage was completely subsurface. She suggested the natural grades don't differ that much, front to back. She questioned the wall heights. The Chair suggested the elevations show a slightly higher entrance than the sidewalk.

Mr. Matarano said the entrance was at grade. He said you drive down a ramp. He said the back would be just visible at the entrance. He suggested the grade change front to rear was about 10 feet, under current conditions, to the Mall's property line at the rear. He said he was looking at the existing conditions site plan. He noted there were walls on the site now, in the left side, at about 10 feet high now. Mr. Matarano said that side would have the same condition in the built condition. He said to go down to the garage; you needed about 10 feet to descend into the garage. He noted Elm Street was sloping. He said the relationship would not substantially change with Elm Street. He said the Petitioner did not want to push the hotel up higher, so as not to lift the first floor off Elm Street.

Member Ferris noted the wall to the South is right at the property line of the site and the Watertown Mall. He noted the west side wall was also very close to the property line. Member Ferris also noted there were substantial trees on the property lines: between 15 and 22 inches in size. He questioned whether the trees would be there after project construction.

Mr. Matarano suggested the Petitioner could work with his neighbors, noting he wall on the Watertown Mall side encroaches on to the site. He suggested this can be done from a construction standpoint. Mr. Matarano addressed Member Ferris' question about the existing trees. He suggested the Petitioner would replace trees that were disturbed. He suggested working with the abutter/neighbor would be the best route to address these issues.

Member Heep asked how the Petitioner would address the Level of Service and handle cut-through traffic using the adjacent Mall, particularly on Saturdays.

Mr. Mueller suggested there would only be such traffic in limited circumstances, and diversion of traffic is the reality under existing conditions. Some people may choose to divert through the Mall. This is most likely Mall traffic that is using Elm Street. He said the project does not rely on this. He noted the Petitioner is contributing to the cost of a new signal at Elm Street and Arsenal Street of \$100,000. He suggested his personal opinion was that a signal was not needed, but noted this was a decision for the Town.

Chair Santucci Rozzi noted the Public Hearing was not closed yet, and noted some members of the audience who seemed as if they wanted to make comments.

### **Public Comments**

A woman from the audience named Rita noted she'd sent the Board a letter in opposition to the project. She hoped the Board would consider all of the prior objections, including businesses and the residential abutters. She also noted the Planning Board comments as well.

Mary Keenan, 48 Bigelow Avenue, noted she was concerned about having a hotel in the neighborhood, where the area was so congested. She also noted the other hotel being built on Arsenal Street. She expressed concern about the hotel changing hands, and what the future might bring. She noted other nearby options for hotels, such as the Crowne Plaza at Newton Corner. She suggested Watertown had adequate hotels options.

Jim Delevuo, 69 Elm Street, said he was confused to why he was only permitted to have a 2-family with a limited number of cooking areas. He questioned why the proposed hotel was permitted to have more cooking areas?

Mr. Mena clarified that 69 Elm Street was a two-family with a commercial use in the basement, an oil company. He said it's a non-conforming use in the Industrial District. He said the zoning would not allow a 3-family in the Industrial District, but does allow a hotel.

Chair Santucci Rozzi noted the distinction was that Mr. Delevuo's use is not conforming, and as such, would not be allowed by today's zoning.

District Councilor Kounelis expressed concern about the proposed project. She noted the comment in the staff report, in that the location is not ideal, but can provide a transition. She said the hotel does not fit on the parcel. The Assessors' information shows the lot as just a bit larger than a quarter of an acre, in comparison to the proposed Marriott on a site of over an acre. Councilor Kounelis noted the single means of egress for the hotel, which is only 24 feet wide. She noted the Marriott has three means of access/egress. She said the impact on the abutting property owners would be detrimental. She expressed concern that the egress/access was inadequate for fire and waste management trucks to maneuver. Councilor Kounelis suggested the scale of the development was out of scale with the area and the street.

Director Magoon noted he'd received a phone call from Anne Lazaro, 108 Elm Street, that she and her sister were opposed to the project. Too narrow a street, building too tall, and the kitchenettes are problematic.

Director Magoon also noted the statement in the staff report about siting. He suggested the hotel use in the Town would increase the property value, property taxes, and value from rooms' tax. Mr. Magoon noted that before the Marriott was approved, there was only one hotel/motel in Watertown, and as such, there was a need. He noted the location of the site and its proximity to other uses, such as the auto body repair and lumber yard, make it not an ideal location.

Chair Santucci Rozzi asked Attorney Winnick to describe the rationale and means by which the Board could approve the project based on the Petitioner's requested relief. How does the project meet the criteria?

Attorney Winnick noted the site is challenging, however, that has gone through the Design Review process. He noted how the project has changed, as a result of this process. He noted the difficulty in creating enough space to make it economically viable. See the larger vision for the transitional area of the Town. Massing has been reduced. Staircase back sections of the building, and the relief is based on the desire to meet the Design Review. The zone won't be Industrial much longer. The proposed use is forward-looking. Prior use was industrial, and resulted in contamination on the site. Project has undergone at least 4 different iterations. Purpose is to focus the Board on these types of projects, moving the Town towards a larger, more vibrant tax base. Can bring up the project Architect to describe the technical reasons as to why relief is needed.

The Chair asked Attorney Winnick to clarify the legal reason the relief was necessary.

Attorney Winnick responded that Board has the discretion to grant the relief. The project meets the goals of the Design Review process.

Chair Santucci Rozzi noted the requested relief was the side yard setback and Floor Area Ratio (FAR). She noted the building is almost two times the lot size.

Mr. Trichousky responded the relief needed on the size related to the Design Guidelines. He noted the original design concepts. He said the original design was the same size as it is now. He said the Design Review moved the massing around on the site. He said the areas where relief is needed have always been part of the hotel.

The Chair asked if a different design had been explored, one that would not push the structure up against the property line, nor create such a large FAR?

Mr. Patel responded that the design had substantially changed through the Design Review process.

Chair Santucci Rozzi said it wasn't the design per se that was the issue; it was the scale and mass of the development on the site. She said her question is why this building is nearly at the property line and at an FAR of 1.80?

Mr. Patel said the setbacks came about as a result of the Design Review. He said the FAR was related to the room count, which was needed to make the project sustainable.

Chair Santucci Rozzi asked if the other properties in Mr. Patel's portfolio were of the same size and number of rooms.

Mr. Patel said the room count was from 80 to 200 rooms, on lots of 2 acres or so, as these are suburban locations. He said he'd also submitted a survey of the site from a hotel expert, who suggests this site is typical for an urban location. Mr. Patel noted the site was adjacent to a Mall, which is common. He noted Hilton has looked at it, and is satisfied with the location.

Member Ferris said the side yards an issue, based on a 25 foot setback on one side versus a 2 foot setback with the project. He noted the rear yard setback, where the garage is within the rear yard setback. Where is the division between building/structure and landscaping? He noted if it was a dwelling, there might be a different situation. He noted the site was built up with retaining walls. Member Ferris noted the side adjacent to the Mall has a retaining wall. How is that calculated into the height?

Director Magoon suggested this is part of the interpretation of setback, where the landscaped area is above ground, while there is something different below ground.

Mr. Mena noted the existing grade at the property is what controls the definition of height. He suggested the grade existed, with the retaining wall there now. He noted the grade was on the site proper, not the Mall.

Member Ferris asked how the garage would be vented, noting it would protrude into the setback, with landscaping on top.

Mr. Matarano said the site and retaining wall on the side adjacent to the Mall was the building originally. He said the site conditions now are better than what was on the site before. He said it was two stories, built into the hill. He said the rear had retaining walls that were taller than what will be there with the new building. He acknowledged the new building is taller, but will be set back further from the property line than the old building. He suggested the garage would be mechanically vented, but the design has not been fully vetted. He noted the underground parking reduces the need for surface parking. He suggested the Petitioner's other projects have substantially more surface parking. He noted this also drives the need for retaining walls.

The Architect suggested the main stack for the building (in the core) was large enough to take the mechanical venting for the garage as well, and direct it out the roof, if needed.

Member Heep asked if the Fire Truck can access the Elm Street entrance.

The Petitioner's Architect said yes, both a Fire Truck and trash truck can access the site through the Elm Street entrance. He noted both would have to back out.

The Chair asked for additional Member questions or comments? Hearing none, she asked for more clarification on the retaining walls and elevations. She asked if the 52-53 foot tall hotel structure was sitting on a 10-12 foot tall "platform". She noted at the rear that there are retaining walls, and then the height was measured from there?

The Architect said the site has a platform base, but currently Elm Street slopes down towards the Mall. He noted the site would sit as previously developed with the former battery factory, which sat at street

level. So, when the battery factory was on the site, there were the retaining walls and walls of the factory that made this a “podium” of land.

Mr. Matarano said the existing conditions of the site were at the elevations of the proposed hotel. So, it's not a manufactured condition as a consequence of the proposed development. The Petitioner is not building it up, but rather developing in the site's context.

Councilor Kounelis said she was surprised that public safety was okay with a single means of access. She asked if a ladder truck could access the site. She questioned the advisability of backing a fire truck through the main access.

Mr. Matarano said the Petitioner shared the development plans with the Fire Department, which had set some vertical clearances but the Department understood that that apparatus would pull in and back out. He noted the entrance width was equivalent to a standard side street of 24 feet. He said the Department did not express any negative comments relative to apparatus backing out.

Member Ferris said Elm Street towards the park. He asked if the two story houses on Wheeler Court were in the Industrial District.

Mr. Mena responded the entire length of Elm Street is in the Industrial District.

Chair Santucci Rozzi asked for any further audience comments or questions.

Elaine Bean, 29 Warren Street, acknowledged she didn't live near the subject property. She expressed support for the neighborhood. She asked about the Special Permit. If this project is approved, what's the guarantee of relief?

Chari Santucci Rozzi explained that “Special Permit” was the name of the type of relief that the Petitioner was seeking from the Zoning Board of Appeals. She said the Board was present at the hearing to either grant or deny the request for a Special Permit. She said this was the purpose of the hearing. She said the information and plans included with the Application, and potentially conditions. She said that is part of the review and potential approval process.

Councilor Kounelis suggested the Board should consider including a condition that this property not be rented to a State Agency for transitional housing.

Chair Santucci Rozzi said such a condition is part of the recommended draft Conditions (#20) of the Planning Board report.

Chair Santucci Rozzi closed the public hearing portion of the meeting, and opened the Board's Business session.

### **Business Session/Board Discussion**

Chair Santucci Rozzi noted Emails from Barbara Ruskin expressing concern about renderings of the hotel and neighborhood, and traffic impacts. Email from Anne Lazaro, in opposition. She also noted a letter for the record from Mrs. Collella, 42 Crawford Street, which included photos, in opposition. She noted the Board's prior hearing, and the Planning Board heard the project in May, and recommended denial by vote of 3-2. She noted the staff report recommended conditional approval. She asked for comments from the Board? Move forward? More questions, need for more information?

Alternate Member Cohen noted this reading of the Use Table is that in the Industrial zone, there are a fair number of by right uses. He suggested these wouldn't need to come before the Board at all. This is a factor in terms of the Board having control over this particular use via the Special Permit.

Member Heep is still confused by the height measurement off the rear of the property. He was struck to the proximity of the building on the non-Mall side to the lot line – only 3 feet. Significant reduction from the 25 foot setback. Significant impact on the abutter. Face of the building will be an uninterrupted 5-story wall. Other parts of the project are positive, such as the façade on Elm Street. Underground

parking a positive part of the project. Concerned about setbacks. Concept of the hotel is new to him. Struck by the fact that each unit effectively has a full kitchen. Option of loaner stovetop unit, which he suggested could be added to each unit. Seems to be more of an apartment building than a hotel to him.

Mr. Patel noted the stovetop units would be kept at the front desk, and said there would only be 2-3 available. He suggested the amenities in his proposed project were the same as the Marriott hotel, which had stovetop units in all the rooms, as well as microwaves, dishwashers and fridges.

Member Ferris commended the Petitioner on the quality of his proposal. He said it was a testament to the Petitioner and the Town's Design Review process. He suggested a hotel was not out of place at the neighborhood, but was troubled by the reduced setback, on the Mall side. He suggested the Mall would not always be a Mall, and questioned why the Board would allow a site to be essentially developed to the property line. He suggested this would create a hardship for the future abutters. He also suggested the garage was perhaps something of a setback issue as well. He said the setback issues and the height were his main issues.

Attorney Winnick responded that in the Industrial zone, at least as far back as 1976, the Town has always provided for elimination of side yard setbacks where the Petitioner can provide adequate access for emergency vehicles. He said this was typical.

Mr. Mena suggested in his tenure, he does not have the history to comment on whether elimination of side yard setbacks in the Industrial zone is common. He noted, however, the zoning allows for this by Special Permit. Mr. Mena suggested staff was supporting the elimination of the side yard setbacks, because of the location next to the Mall, a large parking lot, and adjacent uses in a transition area to mixed use. He suggested the impact was satisfactorily addressed to allow staff to recommend conditional approval.

Alternate Member Chander said the Petitioner's package was very good. He also expressed concern about limited setbacks of 2-3 feet only. At the same time, he questioned whether this would affect other development on that side. Elevations look good. Applauded remediation of the former battery factory site.

Chair Santucci Rozzi said the Applicant is to be commended for changing the design of the building from where he started. The building as proposed is very attractive. However, she said it just does not fit on the site. She said the setbacks are maxed out, and the garage is also in the setback. She said the building will sit up on a plateau, in a neighborhood of two-story structures. She understood this area was in transition, but suggested the transition would be more gradual. As such, she said the residential areas in the neighborhood were likely to stay intact for some time, and this project would impact them. Chair Santucci Rozzi said Elm Street has always been small homes and the back side of the Mall. She suggested the project may fit in the area with a smaller development footprint and larger setbacks. The FAR and development footprint were just too big. This is a small site, and the development is too much for the site. This is evident in the relief requested.

Chair Santucci Rozzi asked for any motions.

Member Ferris moved to deny the application for a Special Permit for the proposed hotel at 80 Elm Street. Member Heep seconded the motion. The Board voted unanimously to deny the proposed project and Special Permit (5-0-0).

Chair Santucci Rozzi asked for a motion to adjourn. Member Ferris moved to adjourn. Member Heep seconded the motion to adjourn, and the Board voted unanimously to adjourn (5-0-0).

Meeting adjourned at 8:54 PM.