



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

Melissa M. SantucciRozzi, Chairperson  
David Ferris, Clerk  
Christopher H. Heep, Member  
John G. Gannon, Member  
Kelly Donato, Member  
Michael E. Brangwynne, Alternate

Telephone (617) 972-6427  
Facsimile (617) 926-7778  
[www.watertown-ma.gov](http://www.watertown-ma.gov)  
Louise Civetti, Zoning

**MINUTES**

On Wednesday evening, March 27, 2019, at 7:00 p.m. in the Town Council Chamber of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: Melissa SantucciRozzi, Chair; David Ferris, Clerk; Christopher Heep, Member; Kelly Donato, Member; John Gannon, Member; Michael Brangwynne, Alternate Member. Also Present: Mike Mena, Zoning Enforcement Officer; Andrea Adams, Senior Planner; Louise Civetti, Zoning, Clerk to the Board of Appeals.

Chair SantucciRozzi opened the meeting, introduced the staff and members; swore in the audience; reviewed the agenda; and asked for a motion on the minutes of last month.

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Member Ferris motioned to accept the minutes from February 27, 2019. Member Heep seconded. Members Ferris, Heep, Gannon, Donato and Brangwynne voted in the affirmative, 5-0 (SantucciRozzi absent). The minutes of February 27, 2019 have been approved.

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Chair SantucciRozzi announced the first case, 11 Nichols Avenue. Member Ferris read the legal notice:

**“11 Nichols Avenue**

Hudson Doyle, 86 Summit Avenue, Brookline, MA 02446, herein requests the Zoning Board of Appeals grant a **Special Permit/Site Review** in accordance with Watertown Zoning Ordinance §5.01.1(f), Table of Use Regulations, Multifamily, so as to convert an existing non-conforming structure with three residential units and one commercial unit to a four family residential structure with no interior/exterior changes. Located in the NB (Neighborhood Business) Zoning District. ZBA-2019-05”

Hudson Doyle stated that he and his father purchased the property four months ago with three residential units and one commercial unit. The listing photos showed it as a residential space and he would like to convert this to a residential unit and rent out the other three units as long term rental units. It already has separate utilities in place.

Dennis Duff, 33 Spruce Street stated that in past meetings, the density in the community is increasing and Massachusetts has the most density in the USA. We (the town) keep adding little add-ons which detract from open space. He is not in favor of this conversion. As a four family will they be required to

have a sprinkler system? Chair SantucciRozzi said she is not a code expert but believes anything with over 3 attached requires sprinklers. The board can add a condition to be certain it is up to code to be converted to a four family. Mr. Mena stated that it is not a legal unit and code for existing units is different from new units and states that four units or greater requires sprinklers. He would leave that determination to the building official.

Mr. Duff continued that this is in violation of zoning as an illegal apartment. This (board) is rewarding them for use as an illegal apartment. Chair SantucciRozzi said that the community does have illegal units and this applicant just purchased the property.

Mr. Doyle does not have anyone living in this unit and the other units will be occupied on April 1<sup>st</sup>. He purchased the property as three residential and one commercial unit.

Member Gannon confirmed the square footage of the unit is 400s.f. and asked Staff if this is a legal unit. Ms. Adams said from the Affordable Housing side, DHCD will accept units as small as 250 s.f. Mr. Mena stated that the state housing would approve less than 400s.f. and building code would approve that.

Member Gannon asked if there are any units in Watertown that small. Ms. Adams said there are studios in Muse, which is rental. The newer units may be a bit smaller (than 400s.f.) but not smaller than the minimum (250s.f.). The affordable units' minimum size was established in 2014-2015. Chair SantucciRozzi said that a bedroom size can be 70s.f or 7x10. If the town accepts micro-units, they can be counted towards the 12% requirement.

Member Gannon asked how many market-rate units are this small. Ms. Adams said they are catering to the young, upwardly mobile professional who doesn't have a car and doesn't need a lot of space as they prefer to have the urban experience live outside of the unit most of the time.

Member Heep asked if the commercial unit is abandoned or could the use be reinstated. Mr. Mena said this is in a commercial zoning district and conforms to those requirements. Staff found that this met the standard and would support this change. Ms. Adams added that if approved, this use would go forward with the property. Member Heep asked if they were to deny the request would this go back to being a commercial use that has not been there in a couple of years. Mr. Mena said that it could go back to being a commercial use.

Member Heep asked if what is being proposed requires a building permit. Mr. Mena stated the use now is not legal and in order for the change to residential to take place, a Certificate of Occupancy must be obtained at minimum. Ms. Adams stated that condition number 5, requires a Building Permit be obtained where all code requirements will be fulfilled.

Member Ferris asked about the stairway to the right of the studio to the basement exclusively and will there be access provided from the inside, as well. Mr. Doyle said there is a trap door in the ceiling of the basement and he does not know what that use was for but there will not be any changes done to the unit. The basement will only be used for storage and not for living space. He intends to live in the converted unit. Member Ferris said that if there would be living space in the basement, there would be changes required – the windows would need to be changed to egress windows, as an example.

Member Donato stated that although Mr. Doyle plans to live there, does he have plans to use this space

in the future for short-term rental as there is no short-term rental in our ordinance. Mr. Doyle stated that he does not have any intentions of short-term rental and is in the business of long term rental.

Chair SantucciRozzi asked if there is any opportunity to add greenery to view from the street as there is a lot of vinyl and pavement. Mr. Doyle said he didn't see an area to be converted without disrupting the parking in the rear. He mentioned the right of way. Chair SantucciRozzi commented that although there is the right-of-way and the two spaces against the house, there could be a patch of greenery added between the stairs and the parking space. Mr. Doyle said that is where that parking space would be entering and exiting its' space and where the trash and recycle barrels are kept. Ms. SantucciRozzi said the area that is marked, 'mulch' on the plan could be extended to the stairs. Mr. Doyle repeated that he has the trash and recycle bins stored there. Ms. SantucciRozzi said to put the bins somewhere else. She suggested the rear of the property and added that the barrels don't need to be stored on pavement. When Mr. Doyle stated that it would inconvenience the tenants to bring the barrel from the rear to the front each week, Ms. SantucciRozzi commented that all of the barrels are stored on the side of the property where they are seen from the street and if they (an auto) can get around the barrels, they can get around three feet of landscaping. Ms. SantucciRozzi suggested that if Mr. Doyle is living there and is the owner, he can bring the barrels around the front for the tenants. Mr. Doyle said each unit is responsible for their own trash and recycling. Member Ferris noted that the units have access to the front and rear stairway. He suggests that the rear steps and walkway has potential to store the barrels out of view of the street and extend the landscape mulched area with planting to the back of the steps. Mr. Doyle said there wouldn't be space for barrels and the walkway. Mr. Ferris suggested modifying the pavement to line them up along the back of the building and extend the walkway. He added that they are attempting to add greenery/landscaping to improve the property and keep the bins out of street view by adding a bit more paving in the back to have a walkway and the trash/recycle bins. Chair SantucciRozzi suggested on the west elevation where the stairs are, at the bump-out that they add landscaping behind that and tie it into the thin mulch area so there is greenery seen from the street – extending the mulch area to the stairs and moving the barrels so they are not visible from the street – somewhere to the rear of the property. Member Gannon added that mulch against the building may be a fire code violation. Chair added that this could be grass, plantings, etc. Member Gannon said a fire in Arlington due to mulch against the house is preventing him from agreeing to there being an extended mulched area. Chair said the area will be grass.

Chair SantucciRozzi said this will need to meet all life-safety codes pertaining to four units and a condition that there will be no living or sleeping in the basement whatsoever – no 'rec' room, etc. Storage only.

Chair SantucciRozzi closed the hearing to the public and read from the Planning Board Report and the Staff Report, noting their recommended approval and the boiler-plate conditions. They will add a condition that the building, fire and life safety codes are properly reviewed and no living and sleeping in the basement which is for storage only. The barrels need to be move to the rear of the site and not visible from the street and a landscaped area to the west of the site shall be grass.

Member Ferris motioned to approve the special permit to allow a residential structure with three residential units and one commercial unit to convert to a four family structure with no interior or exterior changes. Member Heep seconded. Members Ferris, Heep, SantucciRozzi, Donato and Gannon voted in the affirmative, 5-0. **The petition is granted.**

Member Ferris read the legal notice:

**“234 Warren Street**

Lillian Parrella, Trustee, 234 Warren Street, Watertown, MA 02472, herein requests the Zoning Board of Appeals grant an Appeal to the Determination of the Zoning Enforcement Officer that this property is a single family and not a two family, in accordance with Watertown Zoning Ordinance §9.00. Located in the S-6 (Single Family) Zoning District. ZBA-2019-04”

Attorney Ken Leitner, representing the Parrella family, submitted a copy of the determination by the ZEO, dated January 9, 2019; a copy of a Superior Court Civil Action Summary Judgement on ‘Karen Ziminski and 179 Chapman Street vs. Zoning Board of Appeals of the Town of Watertown’; and two pages of from the WZO, page 14 and 103. A written statement was not submitted. Attorney Leitner stated to the board that the summary judgement property is 200 yards from the subject property and it states that the ZEO does not have the authorization to require the removal of the kitchen.

The board determined and confirmed with the property owner’s daughter, Cynthia Parrella and son, Richard Parrella, that the structure is a single family home with a person living independently on the lower level with a separate kitchen, bath, living room and bedroom and contributing financially on a monthly basis to the care of the home.

Attorney Leitner is not disputing the subject property is being used as a two-family. Atty. Leitner stated that the person staying there cares for Mrs. Parrella, who is currently in Florida for the season. This person makes a contribution to the household expenses.

Chair SantucciRozzi confirmed that there are multiple kitchens and separate entrances.

Member Donato confirmed the components of this space (the lower level), a kitchen, living room, full bath and bedroom which by definition, supports independent living.

Member Ferris sought out that the timeframe the secondary kitchen, living room and bath had been added. Attorney Leitner stated they were there since the property was built in 1970 and different people have lived there over the years.

Member Ferris confirmed that the building permit issued in 1991 was for a window to be converted to a door for a family room and it appears that this is when the separate unit was added. He mentioned that the contribution to the household expenses sound like rent and the property is operating as a two-family. Attorney Leitner stated the person living there pays \$500 per month and assists with the care of the property. Member Ferris said they are living in a separate dwelling unit.

Member Gannon stated that the property is being assessed as a two-family because it is being used as a two-family.

Mike Mena, Zoning Enforcement Officer stated he had a conversation with the owner’s daughter during his physical inspection of the property and confirmed with her at that time that the area being used as a bedroom is a concern for life-safety without the proper egress for a bedroom and he was denied access

to certain parts of the basement. There has not been building permits issued for a separate kitchen or bath. Attorney Leitner states the property was constructed with a separate kitchen and bath. Mr. Mena stated that the records for the property indicate it was built as a single family dwelling and assessed as a single family dwelling from 1970 through 1991. This property was not constructed as a two-family.

Member Gannon added that since there was not access to certain areas of the basement, there is not an idea of the total square footage being used as a separate unit.

Member Brangwynne stated that the Ziminski property does not have a tenant living in the space determined to have a second kitchen.

Atty. Leitner said they are only disputing that the ZEO does not have the authority to have the property owner remove the kitchen elements. He said the kitchen elements are there for convenience and Mrs. Parrella may go up and down the stairs to use both kitchens although she is 90 years old.

Mr. Mena said the building compliance issues with the Ziminski case prevented the town from appealing the summary judgement. This property is designed to have a separate unit and they fully intend to use it as a separate living space. If it is to be a single unit, the basement kitchen will need to be removed and a shared kitchen be enforced. Chair asked if the bathroom would need to be removed.

Richard Parrella said he grew up in this house. He is disappointed with the town as this is a single family house with four bedrooms and one man living there. His mom is away and is 91 years old so the other 3 bedrooms are empty. Mr. Mena stated that the appeal states it is a two-family. Mr. Parrella said why can't it continue as it is. Chair SantucciRozzi asked why the man sleeps in the basement without an egress. Mr. Parrella said there is an egress 15 feet away. Mr. Mena said the area where this man is sleeping does not have an egress and if there were an emergency, this person could not get out of the bedroom.

Attorney Leitner said the Zoning Enforcement Officer does not have the right to order the removal of the kitchen. He would like the board to bring this to a vote. Mr. Mena said they intend to have non-family living in the basement independently. Chair said they have to do something to eliminate independent living down there. Attorney Leitner said he wants to have the board vote as they are appealing the ZEO has the right to order the elimination of the kitchen.

Dennis Duff, 33 Spruce Street stated that Mr. Mena does a wonderful job in Watertown. He stated that some people may be wondering why the office of the Zoning Officer is being challenged. People today want 2-3 family houses. He spoke about density in the community.

Cynthia Parrella, the owner's daughter clarified that she was not asked to have the occupant present when Mr. Mena inspected the property and she wasn't asked to have him present tonight. They trust him living at the house and providing a service as a caretaker with his nominal fee contributing to the heat and ongoing care of the property. The permit that was pulled in 1991 was regarding the other side of the house for a patio area her parents had put in. She said Mr. Mena asked about a door in the basement and asked where it led to – it is a split level house and her mom was sleeping upstairs. He asked for her to send photos, which she did. Her mom is in Florida for the winter. She leaves after Christmas. She wanted the tone to be clarified that Mr. Mena was not denied access.

Attorney Leitner said they do not intend to remove the kitchen (in the basement).

Chair closed the hearing and noted that they have heard from the attorney for the applicant and they understand what has been going on at the property for some time. They have the report from Mr. Mena regarding what has been found for zoning and building code violations; the series of permits and photos. She asked for a motion.

Member Ferris added that he is uncomfortable with residents sleeping in basements without appropriate egress and this scenario of someone living there independently that has been going on since 1991 and as a home health aide staying there for over 30 years (is also uncomfortable).

Member Ferris motioned to deny the appeal of the Zoning Enforcement Officer regarding the two-family status. Member Heep seconded. Members Ferris, Heep, SantucciRozzi, Donato and Gannon voted in the affirmative, 5-0. **The petition is denied.**

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Chair SantucciRozzi announce the last case is 195 Mt. Auburn Street, which requested to be withdrawn. She asked for a motion to accept the withdrawal without prejudice. Member Heep motioned. Member Gannon seconded. Members Heep, Gannon, SantucciRozzi, Ferris and Donato voted in the affirmative, 5-0. **195 Mt. Auburn Street is withdrawn without prejudice.**

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**Member Heep motioned to adjourn. Member Gannon seconded. Voted 5-0. The meeting ended at 8:15pm.**