

Harry J. Vlachos, Chairperson

Melissa M. Sambucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

MINUTES

On Wednesday evening, **July 30, 2008** 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. Sambucci**, *Clerk*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*; **Joseph Merkel**, *Senior Planner*. Absent: **Richard M. Moynihan**, *Alternate Member*.

Tape 1 of 2, Side A

Chair Vlachos introduced the board and staff; swore in the audience; and opened the meeting at 7:10 p.m.

Approval of Minutes:

Ms. Santucci motioned to accept the minutes of April 30, 2008. Ms. Elliott seconded. Voted 5-0, approved.

Ms. Santucci motioned to accept the minutes of May 28, 2008. Chair Vlachos mentioned a date correction on the minutes printed as May 27, 2008 and corrected to May 28, 2008. Ms. Elliott seconded. Voted 5-0, approved.

Ms. Santucci motioned to accept the minutes of June 25, 2008. Ms. Elliott seconded. Voted 5-0, approved.

Chair Vlachos stated that **81 Lexington Street**, Antonio Enciso, has sent in a written request to continue to September. Ms. Santucci motioned to continue. Ms. Elliott seconded. Voted 5-0, continued.

Chair Vlachos stated that the attorney for **42 N. Beacon Street & 81 Arsenal Street**, David Ross, has sent in a written request to withdraw their petition. Ms. Santucci motioned to accept the withdrawal without prejudice. Ms. Elliott seconded. Voted 5-0, withdrawn.

Chair Vlachos stated that **71 Arsenal Street a/k/a 32 N. Beacon Street**, United Cerebral Palsy, Mr. Webster, Manager, has verbally requested a continuance to find alternative parking. Their attorney, Steve Winnick stated that they have not been successful in securing off-site parking, which is the crux of this case; therefore, they request a continuance. Ms. Santucci motioned to accept the continuation. Ms. Elliott seconded. Voted 5-0, continued. An extension agreement was provided to Attorney Winnick for signature.

Chair Vlachos asked Ms. Santucci to read the legal notice for the first case:

Michael Iodice, Manager, Chatham Park LLC, 29 Crafts Street, Suite 250, Newton, MA, herein requests the Board of Appeals grant a **Special Permit** in accordance with §5.01.1(h), Use Regs, Rowhouse/Townhouse, §9.12, Two or More Buildings on One Site and §9.03(c), Site Plan Review, Zoning Ordinance, so as to raze existing buildings on 3 lots and construct 18 residential units within 3 townhouse structures with 36 parking spaces under (at grade) and 7 surface visitor spaces on the properties located at **69, 73 & 83 Waverley Avenue**, total site area of 35,782 s.f., located in the R1.2 (Residential) Zoning District.

William York, Attorney for Chatham Park LLC, introduced their team: Doug Eguel, Project Manager; Michael Kim, Project Architect; Brian Bissel, Traffic Engineer. Mr. York said they have had a number of meetings with staff, DPW, the neighborhood, councilors, developers' conference, and Housing Partnership for the two affordable units. The proposal is for 18 townhouse units on Waverley Avenue in the R1.2 Zoning District. The 2006 proposal was for 73 and 83 Waverley Avenue and Chatham has now acquired 69 Waverley Avenue, which increases the size of the site by 43%. The relief requested is Special Permit with Site Plan Review, meeting all of the dimensional and density requirements; two affordable units; and an increase in size from 25,000 s.f. to 36,000 s.f. providing 31% open space; below 1% FAR; and

this plan does not look to maximize the development. The DPW meetings which will be incorporated into the plan consist of the intersection of Fayette and Waverley which is fairly blind. The overgrown bushes will be removed and the building set back 15', the site lines will be opened up and the curbing and granite along the front of Waverley and Fayette will be down and the corner will be pulled out from Fayette for an expansion of the sidewalk 5-7' and improve the site line. Crosswalks will be placed across Fayette and across Waverley with handicap accessibility in accordance with the DPW plan for the street.

Michael Kim, Architect, showed drawings on board and presented to the board their plan to build an appropriate housing development. 18 units in 3 separate buildings. Each designed in a 'T' and each end the units split and there is a front façade as opposed to a side. They have created an internal street with one-way entry from Waverley and exit onto Fayette. Double-loaded parking area in the back which allows 6 above required zoning. It is open parking that you drive down to. Tandem parking is allowed under each unit. The scale of the site is brought down by bringing the internal street down ½ a level and keeping the façade and eaves down ½ a level yet get a full level of parking underneath by sloping downward from both streets to the internal drive. The extensive landscape plan provides screening on both sides with evergreens and street trees including trees on the internal street and foundation plantings. The massing and architecture is similar to Mt. Auburn Street with the height/gables. The eave height is under 20'. Clapboard-type material will be used. Each unit has its own outdoor space; has 3 bedrooms on 3 levels; most are 2000 s.f. The basic unit is a 2 ½ story unit with parking underneath. The end unit is slightly different. The two affordable units are #6 and #18. They are end units with light on 3 sides and are slightly smaller. The Fire Marshall has made provisions for an 18' emergency vehicle access. The curbs will be delineated by material change but not by elevation change. There will be a grass system that will allow a vehicle to cross over it to maintain the radius (in the interior roadway). They are not approaching the limits of zoning.

Mr. Fernandez asked why they changed the dormer pallet from pitch to shed. Mr. Kim said the internal street was kept a series of hip dormers. They felt they could obtain a little more space in the upper floor. They are keeping with architectural consistency. They opted not to do that on the interior roadway to maintain the site of the historical what ever I can't even think at the moment. This is just a little too difficult to focus at the moment. They wished to create a street atmosphere on the internal drive. They have two distinct fronts.

Mr. Fernandez said he understands the head room issue but Mt. Auburn Street does not have shed dormers on the street side. There is no rear to their site. Mr. Kim showed on their plan what they consider to be the rear.

Mr. Bailey asked about the end units parking under someone else's unit and could that be a problem. Mr. Kim said that all of the 'T' units are like that and they will all be rental units.

Ms. Santucci asked what the material of the patio's are. Mr. Kim said it will be a hard-scape material as they are on-grade. Ms. Santucci asked why they are shown as open space. Mr. Kim said a loosely paved surface with a sand base, open to the sky is impervious. He said this is a very small area and they have an over abundance of open space. Ms. Santucci said there are 18 of them and if they are poured concrete...Mr. Kim said they will not be poured concrete.

Attorney York said the sidewalk and intersection improvement will include the 15' setback from the street to improve the site line; a 5' extension of the sidewalk at the corner (working with DPW) and the other corner of Fayette Street for traffic calming and allows the intersection to 'open-up'. A crosswalk will be installed across Waverley Avenue for students and handicap ramps and a crosswalk will be installed across another driveway and curb improvements across the other side of the street. The revised plan showed 7 excess spaces and a handicapped parking space as suggested by Marilyn Devaney, was included in that area as requested by the Planning board to look into. He believes this project adds a nice streetscape to the site and the sides of the building are incorporated to give a nice neighborhood feel with door fronting on those sides. This design also allows no backing into the street. It meets all of the zoning requirements; the density is at 82% of what is allowed and not at 100%. The plan is well designed, they've had input from a lot of departments and have had nice meetings with the neighborhood.

Ms. Scott asked Mr. Kim about the plans the board has received this evening and the elevation plans – there are more walkways on site plan than there are on the elevation plan. Mr. Kim said the revision to the plan dated July 11, 2008 is the handicap parking spot. Ms. Scott said there are inconsistencies between the two plans. Mr. Kim said the elevation plan came later and is the correct plan. Mr. Fernandez asked if the numbers reflect the correct plan. Mr. Kim said the walkways would create less than a 5% change in open space. The material would be a concrete paver similar to the interior sidewalk. There are grass pavers only for the emergency vehicles – these pavers would be solid pavers.

Marilyn Petite Devaney, 98 Westminster Avenue, said she lives a street away from this site. It has been an eye sore. (This project) would be a great improvement for the neighbors. This has been the forgotten area of Watertown. She doesn't recall an improvement on Waverley Avenue – even for the merchants at the end. They think about Watertown Square and Coolidge Square and they've never been able to get any grants for store fronts. They have to be vigilant against Burger Kings and other things in this area and this is something not negative. She attended the Site Plan Review (meeting) as a member of the Commission on Disability, a member for 22

years, and she asked for a handicapped space which is not required by ADA as it is residential. She thanks the developer for putting it in and also for the sidewalks with granite curbing and the aesthetics of trees and shrubs. This is the most dangerous area in Watertown to go from Fayette Street to Waverley Avenue. She likes the way it is setback as it gives more visibility. She likes the building with the pitched roof that adds character. She is in favor of it. They are losing 80,000 to 100,000 in taxes by having these vacant eyesores.

No one else spoke from the audience.

Ms. Elliott asked if the concrete sidewalk and the granite curb is being funded and paid for and installed by the developer. Attorney York said that is correct and the Town through DPW is coming to them with a plan that conceptually they have already gone through. It will include granite curbing and sidewalks all around the site and the sidewalk will be extended at the request of DPW down to a point where the entrance drive is for the housing site. The sidewalks will be kicked out to bring the design out, a crosswalk across Waverley, curbing, around the handicap accessibility and Fayette Street, opposite side will be expanded out with granite curbing, all paid for by the developer and will happen in unison with the construction.

Ms. Elliott said the Civil Engineering plans show some materials for the interior pass as concrete sidewalks, asphalt drives, and some confusion on the flush curb. Mr. Kim said asphalt drive and concrete walk for the sidewalks. Mr. Bailey asked if the curb is raised because if it is they will only have a 12' right-of-way. Mr. Kim said it should not be a raised curb even if it reads that way. As requested by the Fire Marshall, it should be at the same level. It will just be a change of material. It will be a flush curb.

Mr. Bailey asked if the drainage will slope out. Mr. Kim said the engineer will have to answer those questions.

Brian Bizell, Connolly Associates, Traffic Engineer read from his report: 18 units will result in a morning peak hour of 8 vehicle trips with 7 out and 1 in; week-day pm peak hour will have 9 vehicle trips with 6 in and 3 out and the weekday daily total is 106 vehicles. ITE is the national standard for trip generation. Ms. Scott asked if a memorandum was done. Mr. Bizell said it was dated July (Planning Board had received copies, Zoning did not).

Chair Vlachos requested that the report be stamped in and become part of the record.

Ms. Scott asked for detail on parking space 18B, underneath the deck, how are they getting in/out. Mr. Kim said there is a continuous 24' paving that access 17 – 18 and additional parking #1-6. The deck is above it and a stair runs down from it that allows the cars to access underneath it. Ms. Scott questioned the space to get into it. Mr. Kim said the dark line on the drawing is deceiving as the paving extends all the way to the right of spot #6. The deck is the full width of the unit and approx. 6' deep. There are two large concrete columns to hold up the decking.

Chair Vlachos said the Planning Staff recommended approval as the project meets the criteria in §9.03(c) and 9.05(b) with conditions and the affordable housing agreement.

Mr. Merkle said the Petitioner met with the Watertown Housing Partnership and they unanimously approved the proposed affordable units.

Chair Vlachos read from the Planning Board report and recommended their approval with conditions.

Ms. Scott would like to modify condition #9 as she spoke with the Superintendent tonight. "The Petitioner shall comply with all DPW requirements relative to implementation or improvements to the Waverley Avenue and Fayette intersection and including but not limited to 4 handicap ramps, concrete sidewalks, granite curbing surrounding the property". He wanted her to relate to the board that the petitioner is very cooperative and they are 99% there but have not finalized the plans. They intend to reconfigure the corner to make it safe and impose no parking out front but not due to this project but for a safer area for the children to walk – an unobstructed crosswalk for the children.

Ms. Scott also recommended adding some of the 'boiler-plate' conditions: The landscaping should be maintained. The dumpster has to be enclosed. No signs shall be permitted. She then asked about snow removal.

Mr. York said all of the snow removal on the site will be private. The lighter storm storage will be the grass areas and the larger storms will have the snow removed from the site. The dumpster was shown on the plan and will be screened and fenced.

Ms. Santucci asked what the proposed layout is as all of the plans are slightly different. Mr. Fernandez said the Planting Plan is dated June 9th; the site plan is dated June 13th, and we've received something today. What is the record application?

Mr. Kim said the plan should be 7/2/08. Ms. Civetti and Ms. Scott confirmed that we do not have 7/2, we have 6/9. Ms. Santucci said this plan doesn't match, either.

Chair Vlachos asked if the board wanted the petitioner to come back with a complete set of plans. Mr. Fernandez said the board requires a consistent record of the application so things do not get done that are not approved. He is in favor of the petition but would like a clear record where the plans, elevations, plantings and civil reflect the same information – knowing that in the process of design there are changes and not everyone can pick them up at the same time but the board needs to have them picked up.

Attorney York said the plans could be submitted within the week before the decision is written so the plans could be referred to for the control documents.

Chair Vlachos said he is willing to give tentative approval pending the plans coming in as the board does not meet in August and he'd like to move the project along. Mr. Fernandez suggested that the record drawings shall reflect the July 2nd plans. Ms. Santucci said that is not the plan, though and should reflect the final plan. Ms. Scott said the elevations need to reflect the same as the site plan.

Ms. Elliott stated that she is in favor of this project as it has address her concerns from the prior presentation on this property: the safety issues with the street and the odd house that would have been left in between two large buildings.

Mr. Bailey clarified that the wording on the plan should not say 'typical' curbing as it will not be curbing, it will be a change in material without changes to the elevation.

Ms. Santucci is in favor of this proposal but is seeking revised open space calculations which differ now from the landscaping, etc. and there may be less open space even though it will still be conforming. She also wants the detail on the patio to be changed and the area of the patio to be taken out of the open space calculation.

Chair Vlachos likes the plan and it is an improvement to the area. He stated that he is suggesting that the board do things in this manner (take a vote and allow the updated documents to be delivered after the meeting) as the board does not meet in August and there isn't a reason to delay this two months.

Ms. Scott said that Condition #10, the affordable housing agreement, states that it will be officially implemented prior to the special permit and she would like it changed to "will be implemented prior to the filing of the written decision". This is the way we have done this on other cases. A copy of the agreement will then be filed with the decision.

Ms. Santucci asked that the snow storage be shown in a bubbled area on the plan so there will not be issues in the future with removing snow from the site.

Chair Vlachos reiterated that if there are any changes to be made to the control documents, they have to come back to the board. There have been incidences recently where changes were made and approval not obtained by the board which has caused problems for both the petitioner and the board.

Ms. Santucci motioned to grant the special permit for the construction of the 18 units, adopting the recommendation of the Planning Board with the conditions and caveats discussed regarding the record plans. Ms. Elliott seconded. Voted 5-0, Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

MINUTES

On Wednesday evening, **July 30, 2008** 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*; **Joseph Merkel**, *Senior Planner*. Absent: **Richard M. Moynihan**, *Alternate Member*.

Tape 1 of 2, Side B, Continued

This is a continued case. Ms. Santucci read the legal notice:

Brian McDonald, Trustee, Continuous Improvement Realty Trust, 462 Main Street, Watertown, MA, herein requests the Board of Appeals to **Amend Variance, Special Permit and Special Permit Finding**, #04-61, granted January 27, 2005, permitting additions/alterations for a mixed use: 5 apartments/3 commercial units. Petitioner is requesting changes to approved plans - three-story balcony 6'x20' variance allowed 7.5' from Lexington Street, as-built 5.9'x 23', located 6.6' from Lexington Street; reduction in side yard setback to 3.1' for thicker plywood sheathing, where 3.5' was approved and where 20' is required; enlarge third floor rear dormer to 12'7"; new third floor rear balcony 3'x17' located 4' from side lot line; 3'x 26' planter erected adjacent along driveway; 1' including berm setback along driveway rear yard, where 2' was required at **34 Lexington Street** and **460-464 Main Street**, located in the LB (Limited Business) Zoning District.

Chair Vlachos explained that Ms. Santucci was not at the previous meeting and will not be voting and Mr. Moynihan is absent. There is a four member board.

Steve Winnick, Attorney for the petitioner stated that his client was called out of town on business and he was expected to be here with the architect, Paul Kruger, but he is on vacation. Harry Tarkington is an associate of Mr. Kruger's. Mr. Winnick would like to continue the matter to September for voting purposes but to use this time to get some direction from the board in addressing the issues.

Chair Vlachos stated that Attorney Winnick will still only have a four member board in September as Mr. Moynihan will be absent tonight.

Attorney Winnick said the matter is not going to be deliberated on or voted on tonight. He understands that in September there will be a four member board. Chair Vlachos said he could repeat everything in September.

Attorney Winnick said in March there were 3 principle issues: a peaked roof was flattened; a south side dormer design changed and gable look reduced and the planning staff felt should be restored to match the roof lines in the front; and a number of landscape issues and a set back issue in the rear. The petitioner is prepared to resolve the landscape and setback issue as he has entered into an agreement for a land swap of small parcels in the back allowing for the correct setback amount for their project. They would like the board's guidance for the options for the redesign of the roof and the redesign of the dormer. The architect believes the roof issue cannot be resolved – a complete reconstruction or a simulated peak, without a variance in height. The building is now at the maximum 30'. There would be an 18" additional height. The reconstruction would cost about \$100,000 and a serious technical impediment with the possibility of leakage and interior issues to the tenants. The simulated peak is feasible (about \$30,000) but would require a height variance. This board has never granted a significant height variance. If the board looks for either of these solutions, they have to know what the board will allow for height. The false peak would extend about 6' back in depth from the face of the roof and looks like a true peak but doesn't entail the dramatic invasiveness of ripping out the existing roof. Attorney Winnick distributed a design sheet.

Harry Tarkington, 4 Orchard Place, Arlington, Architect at Kruger Associates, presented 4 sheets: 1) existing conditions of south dormer as-built, 2) East elevation from Lexington Street with the flat roof (not a peak), a ridge going straight up would be 1'9" higher than the flat roof and to reconstruct the roof, you'd have to lower the entire roof plane by a 1.5' to get it within 30', the height limitation. Page 2 shows the elevations with proposed treatments to meet some of the concerns: the south elevation shows the eave continuing across the windows of the dormer and mimics the gable on the main street. The east elevation is the simulated ridge built over the flat roof and will appear to have been built that way.

Ms. Scott asked what the total height would then be as the maximum height in that zone is 40'. Mr. Tarkington said he understands that the flat roof is 4' below the height limitation. Ms. Scott repeated that he had said 30' but the height maximum is 40' and she wants to be sure they are using the correct calculations. Mr. Tarkington said it is 136.24" to the flat roof and the average grade is 40'. Adding 18" to that for 12-15' across the top (not the entire length of the roof).

Mr. Fernandez asked regarding sheet 707, does it make sense to extend it the length of the dormer instead of to the middle of the dormer. Mr. Tarkington said to look at the 4th sheet and you never really see where the ridge ends. Mr. Fernandez stated that you may be able to see it driving up that road. Mr. Fernandez asked if the concern is regarding the flat roof. Ms. Scott clarified that this board did not approve a flat roof. Mr. Bailey clarified that they couldn't dig the garage as deep as they wanted so they built up and cut the roof off. Attorney Winnick said raising the roof and rebuilding it is not feasible. The simulated roof could be feasible at a significant cost that will require a height variance and will not change a whole lot. If the board thought that it was essential to the aesthetics of the project that that be achieved then the board would have to grant the variance.

Attorney Winnick said if the front of the building is more than 40' that would not allow this to be built by a Special Permit Finding because it is a commercial project and it would need a Variance. They would have to grant the Variance which would set precedence for other projects. He thinks the focus should be on the dormer as they can achieve some improvement. They would run the eave straight across that would achieve the gable look and would be consistent with the existing gables.

Mr. Fernandez asked what the non-conformance was on the dormer. Atty. Winnick said it deviated from the original design. There wasn't any issue with setback. The Planning Staff felt that the deviations from the original design took away from the consistency of the original gables.

Mr. Fernandez asked about the balcony. Atty. Winnick said it was added but is in conformance. Mr. Fernandez asked why they are here if they did not violate any zoning guidelines. Atty. Winnick explained that it is different than what the board approved for control plans. Mr. Bailey said the dormer was added by choice of the contractor.

Mr. Fernandez said he is concerned with setting precedence by granting a height variance without gaining a whole lot. It is not the prettiest project and with the false roof, it remains so. He doesn't see the value of setting precedence for this variance. Attorney Winnick said if the change in looks, it would be a closer call.

Ms. Santucci said there were some findings granted and this is substantially more detrimental to the neighborhood – the existing.

Mr. Fernandez said this is not a landmark addition and wonders why the roof is so prevalent.

Chair Vlachos commented that it doesn't look finished.

Tape 2 of 2, Side A

Chair Vlachos asked Ms. Scott's opinion on granting a height variance for an already built structure. Ms. Scott said the problem is the board would be granting a variance for something that he created - self-inflicted. Mr. Fernandez said people can build something and then come in and ask for a variance. Ms. Scott said a simulated roof may look better but the board must be prepared to grant a variance on all 4 criteria points. Mr. Fernandez said the 'Hollywood' effect with false elevations would not alter the quality of the end product. Attorney Winnick agreed and added that the planning staff correctly thought it would be better if it were restored to a peaked roof. This was a project that was approved, improved an eyesore, and could have been a higher-end project. The board has to decide if putting them through the exercise of not achieving that much would give the desired effect. The dormer can be done and they will be ready in September to do that.

Mr. Bailey said they made an effort to stay within the boundaries of the roof height but the dormer was a blatant effort to ignore the plans. The dormer should be modified. Mr. Fernandez said the client is in the business and knew he should have come back to the board as well as Mr. Kruger, who is also in the business knew to follow the control documents. Attorney Winnick said his client thought these were field changes that did not trigger a need to come back to the board and that may be hard to believe knowing the three of them (MacDonald, Kruger, Winnick) all served on the Planning Board. The client was acting as his own general manager. It does not make sense to grant a height variance to put on a false peak.

Mr. Fernandez will not vote in favor of a variance for height.

Attorney Winnick said if the board agrees, they will come back with plans for the dormer and landscaping.

Ms. Santucci asked what will happen if the amendment does not pass. Ms. Scott said the board would vote to allow the existing flat, non-peak and then determine that they want the changes to the dormer as proposed and the landscape completed.

Chair Vlachos does not agree on approving the extreme no matter how disgruntled he is about it. Attorney Winnick said they will come back with a full redesign of the dormer and demonstrate the progress made in completing the landscaping and take the matter up in September.

Mr. Fernandez recommended voting tonight. Ms. Elliott recommended a straw vote. Attorney Winnick said the 4-person board will need to vote unanimously.

Ms. Elliott said she is not prepared to vote for a height variance but she does like the dormer redesign, setback changes and landscaping (option 3). Mr. Fernandez agrees and will be prepared to vote. Mr. Vlachos asked for a motion.

Ms. Scott said that we do not have a control plan. Attorney Winnick requested a period of time before the decision is recorded to provide a full set of control plans after the vote.

Chair Vlachos requested to continue the case to September. Attorney Winnick agreed.

Mr. Fernandez motioned to continue the case to September. Ms. Elliott seconded. Voted 4-0, Continued.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

MINUTES

On Wednesday evening, **July 30, 2008** 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*; **Joseph Merkel**, *Senior Planner*. Absent: **Richard M. Moynihan**, *Alternate Member*.

Tape 2 of 2, Side A, Continued

This is a continued case. Ms. Santucci read the legal notice:

Michael J. Penta, Trustee, Penta Auto Body Company, Inc., d/b/a Perfection Auto Body, 483 Pleasant Street, Watertown, MA herein requests the Board of Appeals to **Amend Special Permit #92-18** granted November, 1992 and **Amended SP #01-28**, granted July, 2001 to reconfigure the exterior parking of two former B&M Railroad properties permitted for a maximum 122 vehicle storage and allow for an increase to 169 vehicle spaces in the rear of **483 Pleasant Street**, located in the I-3 (Industrial) Zoning District.

Michael J. Penta, Trustee, Penta Auto Body Company, Inc., d/b/a Perfection Auto Body, 483 Pleasant Street, Watertown, MA herein requests the Board of Appeals to **Amend Special Permit #98-47**, granted January, 1999 for Motor Vehicle Body Repair so as to increase number of indoor vehicle storage from permitted 10 to 31 spaces at **10 Bridge Street**, and further amend Conditions #8 & 9, where maximum of 7 vehicles is permitted in front of 483 Pleasant Street building to allow increase number of vehicles to 18 vehicles, located in the I-3 (Industrial) Zoning District.

Dave Sheehan stated that the last meeting focused on the front parking area; island size; placement of a couple of cars on the lot; and the business not being in compliance with licensing. As a result of the meeting, several changes were made. They hired a full-time lot person to greet the customer, move the car to the rear of the building and maintain the rear lot. The car drop off at night now includes putting the cars on the service side or the body side – wherever they belong. They had an engineer draw up the turning radius in the front and eliminated a couple of parking spaces. They now have an alley way to the rear of the building to bring the cars directly to the rear and to bring up cars from the rear (on the east side of the building) on the driveway that goes in between the building and the restaurant. It is on their property. Ms. Scott said it is a separate lot but owned by the Penta's. Mr. Sheehan continued and stated that now a car has to be driven out onto Pleasant Street to get into the rear lot and this plan would eliminate that. They've complied with all of the requests from the board. Mr. Sheehan is requesting the new parking plan

with all cars on the easterly side of the lot able to move out and two cars on the westerly side of the lot be tandem parked.

Ms. Elliott asked how they have complied with their current permit since April. Mr. Sheehan said they have hired a lot attendant, kept the number of cars down to 7. Ms. Elliott said she drives by the site twice a day and has only seen 7 cars on the lot twice and that was within two weeks after the April meeting and that was it.

Mr. Sheehan said you have to understand the business and they have someone moving cars constantly. There isn't 7 cars on the lot every single moment but there are 7 spaces on the license and those are the only cars that are sitting there. When people pull into the lot, it takes time to move those cars to the back lot. They can not park cars waiting to get into the paint shop, they have to move 5 cars out to get one car in sometimes. At times there are more than 7 cars but he wouldn't consider that as cars being parked there. Ms. Elliott referred to photos taken earlier today by Ms. Scott showing 9 cars on the right side and 6 on the left by customer service and two in the middle although one was being moved. That was at 6:15 this evening. Ms. Elliott asked if she drove by now would the cars still be there. Mr. Sheehan said he would hope they wouldn't be. When a customer is picking up a car, it is brought to the front. Ms. Elliott said there are 17 employee spaces. Mr. Sheehan said the 20-25 employees don't all drive.

Chair Vlachos asked about the hours for the attendant. Mr. Sheehan said his hours are 7 a.m. to 6 p.m. 5 days a week and ½ day on Saturday. He moves between the service department and the body shop. He is stationed in the front but he is on his feet all day as he has to straighten out the back lot. He communicates with the managers of the service and auto body shops to coordinate where the cars should go. He reiterated that they have to process the cars in the front and there are not more than 7 cars that stay there – there may be more than 7 cars that are being processed.

Ms. Santucci asked about the adjacent property and if it was included in the decisions as part of the access and circulation for this project. She noticed more repair vehicles at the gas station and blocking this road for access to the back. Mr. Sheehan said the clean-up shop is there (in the basement). Ms. Santucci said there is too much going on to maintain functionality within the limits of the special permit. The property next door is a pizza shop and their property shouldn't be used for circulation for the auto body shop. Ms. Scott said the circulation for the pizza shop originally started at the left side (westerly) and went around the building to the right side (easterly) where the parking is. She asked when the gate went in on the pizza property. Mr. Sheehan said it was in on the 2001 plans.

Mr. Bailey asked about the parking at the gas station. Mr. Sheehan said there are 12 spaces on the gas station side that go towards the back. On the auto body side, there are 4

spaces that back-up to that and there are 2 cars that stack-up for the 6 mechanics to take a car when ready. The spaces along the island are transient – for people coming in. He did not want to stack-park cars for customers. The island sizes were enlarged at the request of the planning board and will be landscaped. This is a busy business. Mr. Penta has been around for 30 years and his business has grown but he has also increased his property 10 times. The front lot has never had an increased in the number of cars even though he has doubled the lot size. He bought a house, torn a down and built an addition.

Mr. Fernandez explained that the front lot can not accommodate more than 15 cars, but the issue is that they are always well over the 15 cars – no matter what time of day it is. Mr. Shannon said they have made quite the effort to correct the problem that has been around for a long time. They are not asking for more than 15 cars – they are asking for more than 7. There are 6000 square feet and the board is asking for 1 car for every 900 square feet. Ms. Santucci said it is an entrance and circulation of a very busy place with all types of vehicles accessing it.

Chair Vlachos said their options are to deny the relief; come up with an amended form of relief; or wait and see if it is in compliance with the requirements now. The photos today color their thinking. There are vehicles coming in and out continuously.

No one spoke from the audience.

Mr. Fernandez said he did not hear the petition in April and will not be voting tonight. Chair Vlachos stressed the requirement of having all 4 members vote unanimously in order for this to pass.

Ms. Elliott asked for the petitioner to restate what they are requiring relief for. Chair Vlachos said there are two amendments to two special permits. One in July 2001 permitted for reconfiguring exterior parking for the former B&M railroad properties from 122 to 169 spaces and the other for the parking in the front of the building under conditions 8 & 9 stating that only 7 vehicles allowed in the front and they want 15 – originally for 18. The petitioner has not been complying with the 7 vehicle permit or the 122 in the rear and the board is reluctant to grant more if the current permit is not adhered to.

Mr. Bailey said he'd like to approve the 15 spaces with a condition that if the petitioner went over 15, the board removes the grant. Ms. Scott said that if the board approves 15 spaces, they stay forever. Mr. Bailey said he'd like to see a 6 month review of the 15 cars and if they do not pass, then it will go back to 7.

Chair Vlachos asked what Mr. Sheehan would recommend the board do if they witnessed more than 15 cars at any one time. Mr. Sheehan said to cut it right back to what it was (at 7 spaces). They are only looking to have the right amount of cars to run the business.

Ms. Elliott would not support this. The board has provided a chance to comply with the 7 spaces since April.

Ms. Scott suggested allowing the 'chance' to extend to October. Mr. Sheehan said that trying to run the business keeping just 7 cars in the front is almost impossible. He asked for the 'shot' to be given with the 15 spaces and the parking plan he has presented. If the board thinks this will work, give them a shot at it. He added that 15 spaces is a reasonable amount for this business that has been here for 30 years.

Chair Vlachos said if the board voted tonight and one member voted against, the entire request would not pass.

Ms. Santucci said she would not support the request in the front and the rear as this business is too intense for this property. The business can not be managed within the confines of this property.

Tape 2 of 2, Side B

Ms. Santucci continued and stated that she would have to see some major changes for her to change her mind. She has not seen the effort that they said they have put into this. The pizza shop is not part of this use and on a separate property and perhaps the pizza shop should be removed for this business to function.

Chair Vlachos stated they would have at least two votes against this tonight. He suggests continuing the case until they can prove what they have done to improve the property. Ms. Scott said there have been changes from what was carried on years ago. The reason there were 7 cars on the special permit was because they were repairing cars out in front of the property. The board's intention was to limit what was going on out front, not to make it so that it was part of the auto body business out front. The changes they have made recently are working, they just have to go a little further. Chair Vlachos confirmed that they are headed in the right direction but a longer time-line of success is warranted.

Mr. Sheehan asked for the board to unofficially allow 15 cars in the front as it is difficult to limit the business to 7 cars and shuffle all of them around. Chair Vlachos didn't think the board would be willing to provide 15 unofficial spaces in the front, otherwise they'd just vote to approve it. The board wants to see more success with the program they have initiated.

Ms. Scott suggested to continue to October. Mr. Sheehan agreed and asked for the continuance to be longer. Ms. Santucci stated that there should be provisions and asked what enforcement the board could have on continued violations. Ms. Scott said it would have to go through licensing but to enforce the special permit, the courts state that instead of fines the board would rather the compliance to their conditions. There is leverage at the licensing board level. The licensing board is not pursuing anything at this time as Penta is working on it and trying to get the increase (in parking) through his board.

Mr. Bailey asked if the outdoor work is gone is there a middle number the board could agree on. Chair Vlachos asked the board members if they thought that 7 was too low. Ms. Elliott said no. Ms. Santucci asked why the Penta's did not appeal the decision at the time the board conditioned them to 7. Ms. Scott said it was quite a while ago – before 2001 when they added the B&M lots. Chair Vlachos said hiring a lot attendant is a positive step in the right direction. Ms. Scott did not recommend hiring an attorney and they need to keep working with the lot person to try to get the number of cars down. Mr. Bailey again suggested another 'middle ground' number. Chair Vlachos said if they can comply with 7, then maybe they can comply with 10. Ms. Civetti said they limited the number to 7 over 23 years ago and the business has grown since then. Ms. Elliott said they still only have 3 bays there. Mr. Sheehan said 23 years ago they had 2 bays and 7 parking spaces. They have since purchased and torn down a house and doubled the size of the building. Ms. Scott said they were still working on cars outside 6 months ago. Mr. Sheehan said they stopped that immediately and they have enough room to operate.

Chair Vlachos asked Mr. Sheehan if he understood the issues and what the board is looking for so when he comes back to the board the next time, he is prepared and has overcome the objections with reconfiguration.

Ms. Scott suggested continuing to November as 6 months is too long a period of time and asked if there is a number that they could shoot for. Chair Vlachos stated that they should comply with the current requirements. He reiterated that he would go for a number in between 7 and 15 but...

Mr. Sheehan said he put Jersey barriers up in the front on the easterly side so customers wouldn't pull in there. He made an entrance and an exit. He originally put cones up but they were driven over. His proposed parking plan of 15 allows an alleyway to the back of the building without going out to Pleasant Street which eliminates traffic going in and out and cut the traffic by more than half. He requested again that the board allow more than 7 spaces without officially voting. Ms. Scott said they have worked with the planning staff on 11 spaces and 9 spaces. Mr. Sheehan said they worked on a plan for 13 cars without stacked parking. Ms. Scott said they have allowed stacked parking for storage. Chair Vlachos suggested that the board's position is that this would be voted down and if he chooses to come back in November, he should comply with the requirements. If he requires further assistance, he can speak with the planning staff or the zoning staff. Ms. Scott suggested reviewing the plans from the planning staff and try to implement one of those for the time period. They'll agree on one of the plans.

Ms. Santucci motioned to continue the case to November. Ms. Elliott seconded. Ms. Scott reminded the petitioner that an extension will need to be signed. Voted 4-0, continued.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

MINUTES

On Wednesday evening, **July 30, 2008** 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*; **Joseph Merkel**, *Senior Planner*. Absent: **Richard M. Moynihan**, *Alternate Member*.

Tape 2 of 2, Side A, Continued

OTHER BUSINESS:

Ms. Scott read from a letter from Ray Dupuie, Captain, Watertown Police Department, regarding a possible strike by Verizon workers. This property came before the board and the board conditioned the Nichols Avenue gate should never be opened. The workers are requesting the gate be open temporarily for the strike. In 2003, in anticipation of a strike, the workers made the same request and the board approved the gate opening.

There will be police detail, no left turn, etc. Chair Vlachos remembers voting on this in the past and is in favor of it.

Ms. Santucci motioned to approve the temporary opening of the gate. Ms. Elliott seconded. Voted 5-0, approved.

Ms. Scott then explained the addendum to the Zoning Ordinances that were handed out tonight titled, "Pleasant Street Corridor District".

Chair Vlachos reiterated that the board does not meet in August and will meet on September 24, 2008, when there will be board officer elections.

Ms. Scott mentioned that the Aggregate site on Grove Street has already submitted a petition to reinstate their concrete plant use.

Ms. Santucci motioned to adjourn. Ms. Elliott seconded. Voted 5-0, approved. Meeting ended at 10:00 p.m.