

TOWN OF WATERTOWN

Board of Appeals

149 Main Street

Watertown, MA 02472

Harry J. Vlachos, Chairman
Melissa M. Santucci, Clerk
Stuart J. Bailey, Member
Deborah Elliot, Member
David Ferris, Alternate
Suneeth P. John, Alternate

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MINUTES

On Wednesday evening, **March 10, 2010** at 7:00 p.m. in the Lower Hearing Room of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos, Chairman; Melissa Santucci, Clerk; Deborah Elliott, Member; David Ferris, Alternate Member; Suneeth P. John, Alternate Member; Steve Magoon, Director, Community Development and Planning; Nancy Scott, Zoning Enforcement Officer; Danielle Fillis, Senior Planner; Louise Civetti, Clerk to BOA.** Absent: **Stuart Bailey, Member.**

Chair Vlachos opened the meeting in the Lower Hearing Room at the Town Hall and noted the absence of television cameras and microphones as this was not our regularly scheduled hearing date and not our regular meeting room. A snowstorm in February prompted the rescheduling of a couple of meetings.

Chair Vlachos swore in the audience and proceeded to the agenda, asking first for the approval of minutes.

Ms. Santucci motioned to accept the minutes of the May 27, 2009 meeting as written. Ms. Elliott seconded. Voted 5-0, approved.

Ms. Santucci motioned to accept the minutes of the August 12, 2009 meeting as written. Ms. Elliott seconded. Voted 5-0, approved.

Ms. Santucci motioned to accept the minutes of the September 30, 2009 meeting as written. Ms. Elliott seconded. Voted 5-0, approved.

Ms. Santucci motioned to accept the minutes of the October 28, 2009 meeting as written. Ms. Elliott seconded. Voted 5-0, approved.

Chair Vlachos noted the Zoning Board of Appeals did not meet in November, December or January.

Chair Vlachos asked for a motion regarding the Cases Pending to be withdrawn:

72-74 Forest Street, Timothy Michaud, Special Permit Finding.

Ms. Santucci motioned to allow the request to withdraw without prejudice. Ms. Elliott seconded. Voted 5-0, granted.

11 Irving Street, Robert Airasian, Manager, 11 Irving Street LLC, Special Permit Finding.

Ms. Santucci motioned to allow the request to withdraw without prejudice. Ms. Elliott seconded. Voted 5-0, granted.

Chair Vlachos stated that although the following case is a Continued Case, it is being withdrawn and the board will vote on this first before taking the one actual case coming before the board tonight.

162 Spring Street, Donald S. Berg, Variance.

Ms. Santucci motioned to allow the request to withdraw without prejudice. Ms. Elliott seconded.

Voted 5-0, granted.

Ms. Santucci read the legal notice for the one Case Pending:

Kamel Alhady, 55 Springfield Street, Watertown, MA, 02472, herein requests the Board of Appeals to grant Special Permit(s) in accordance with §5.05(r), Floor Area Ratio (FAR) Exceeding .5 but less than .625 and §6.02(j), Attached Garage and Driveway located within Building Front Yard, Zoning Ordinance, so as to raze existing 2-car garage, construct building addition with attached at-grade one-car garage and driveway in building front yard for conversion of a single family to two-family dwelling on lot having less than 7500 sf proposing FAR of .53, where up to maximum .625 is permitted at **29 Frank Street** located in the T (Two-Family) Zoning District.

Kamel Alhady, Petitioner, 55 Springfield Street, Watertown appeared before the Board. He indicated that he and his partner Naim El-Khoury (a/k/a George) purchased the property in December, 2009. They intend to convert this single family property having 6,772 sf to a two-family by constructing an addition with a connector having a single-car garage at grade and living space (under 210 sf) above it. The proposal creates a minor increase over the by-right .50 FAR (Floor to Area ratio) to .524 slightly under .53, which is one of two special permits requested. The additional special permit allows the garage and driveway within the front yard. He passed the Board a third proposal (site plan is noted as "Proposal C") that he had determined would also be an option for him to do as-of-right with a building permit only. The Board is in receipt of Proposals A & B, which were included and attached to a memorandum dated March 5, 2010 from the Zoning Officer.

He stressed to the audience that he has lived in Watertown for 17 years; has 3 children in the public schools; has been a realtor and a developer in Watertown and has additional family living in Watertown. He understands the neighborhood characteristics and therefore, would not build something to take advantage of the area.

He explained each of the 3 options he could build as-a-matter-of-right; however, he feels the small additional square footage of living space or .5245 (.53 %) is not an unreasonable request of the board to grant but if not granted impacts his architectural plans if he had to remove it. The area of the garage would be removed as well as the garage, since the ordinance requires the sharing of a common wall at least 50% of its height and depth, excluding space used for accessory uses, i.e., garage.

George Mavrogiannidis, 266 Warren Street, Waltham stated that he and Mr. Alhady work as realtors for Century 21 Adams, Belmont. He indicated that they have met with Planning/Zoning and have changed the plans- the roof line, at the town's request. He said the first architect was let go and the new architect met with the town and came up with the proposed plans. In his opinion the by-right options would not look as nice as this proposal and would take up more green space by having all of the parking (4 spaces) in the rear yard.

Ed Daly, 18 Frank Street, spoke in opposition to the petition citing Frank Street is tiny and already too congested. This proposed design would bring more traffic; is historically inconsistent –large- and the 9 neighbors present tonight were not consulted on the design. Mr. Daly referenced the memorandum to the Board from the Frank Street residents, dated March 9, 2010, attaching a signed petition in opposition from all of the residents on the street. He suggests that the petitioner consider a single family addition which the petitioner could sell and make a profit and then move on. The Board should address the spirit of the law and not just by-right as all of the neighbors are opposed. He also has concern with the two street trees and suggests that the Tree Warden be consulted.

Chairman Vlachos and Member Ferris explained that with the presentation of the 3 by-right options, in some instances those could be more imposing, closer to the street, more asphalt, less open space and neighbors and the Board have no recourse. Chairman Vlachos indicated in his opinion this is one of those instances. Member Ferris indicated that change in neighborhoods is some times difficult when an area of open space is then filled in.

Member Ferris asked petitioner if he could cut down the square footage to come into compliance with the .5 FAR. Mr. Alhady indicated that the living space over the garage, which is required per the Ordinance, is the area that exceeds the FAR. Eliminating other living space in the new unit reduces the dwelling unit to approximately to 1652 square feet (1862-210) which is not a viable option in the market for a 3-bedroom 2 bath condominium.

Louise Hunter, 41 Frank Street, said the Petitioners never met with the neighbors and she is upset that they were not able to review the plans ahead of time. She would like for them to build something less intrusive and to consider their opinions. She also wants to know if the driveway will force the removal of at least one of the street trees. The easterly driveway has an existing 18" circumference street tree. The plot plan shows the westerly side of that driveway to come within the middle of this tree.

Member Santucci suggested making the actual curb/street opening to the driveway smaller to protect the tree. Chairman Vlachos suggested imposing a condition. Member Elliott stated the compacted soil with the construction equipment, etc could save the tree but in two years, the tree could still die, which will have to be replaced at that time. Ms. Scott suggested limiting the driveway widths to 8.5' maximum. Mr. Magoon stated they should utilize the design of the driveway to maximize the protection of the trees in consultation with the Tree Warden. The Board finds that a condition to protect the street trees is required and will be part of this approval. Member Elliott suggests that if a street tree is removed, replacement tree(s) be at least a 3" caliper.

Cecilia Lenk, 81 Boyd Street, District B Town Councilor, said that the neighbors had contacted her she attempted to get a meeting together for Monday and this could have been avoided if they had met earlier. The existing house was built around 1915 and is historic in nature. She is concerned with both trees and would like the Tree Warden to be involved. Watertown cannot afford to lose any trees.

Esoos Bobnar, 42 Frank Street, is in opposition with the design as it is not in keeping with the character of the neighborhood. The driveway will impact the two mature trees. He suggests postponing approval of this until the Tree Warden is consulted.

Mark Hunter, 41 Frank Street, said his house is to the left and is concerned with the snow removal as the snow will be pushed into the street and he will be impacted.

Irene Samourian, 45 Frank Street, has health issues and would appreciate it if they could keep the dust and dirt down during construction.

Tania Rizzi, 25 Frank Street, said she is a new neighbor and her home has the same character as 29 Frank Street and they were attracted to this neighborhood because of the mix of single and two family homes. Now she has general concerns as the developer states there is not more time to discuss.

Member Ferris posed a question asking what the neighbors would want.

Ms. Hunter said the garage is a problem as it takes away the charm. She doesn't want to see town houses or condo types here as it doesn't fit in the neighborhood.

Chairman Vlachos, Member Santucci, Member Ferris and Member Elliott again stated the proposals as-of-right are, in their opinion are more intrusive. Required 4-car parking is necessary, which results in a large expansive amount of asphalt, if the garage is not permitted. Member John echoed the sentiments of his fellow members – the proposed plan is far better than the by-right designs presented. Board notes that additional conditions agreed to by the petitioner include hardi-plank siding, driveways constructed of pervious materials. These conditions would not be imposed in the by-right proposals. Chairman reminds the audience that the Board is addressing only the plans having the garage in front and an increase of FAR. Ms. Santucci stated that at times the by-right proposals do not make sense – in this case the proposed design is better for the neighborhood, the relief is de minimis.

The Board discussed the proposal and reached a unanimous decision, as did the Planning Board, whereby the requested Special Permits are appropriate in this instance and can be approved with conditions as imposed and noted in the Planning Board report together with the newly discussed conditions on the street trees.

Member Santucci motioned to grant the Special Permit request for §5.05(r) to allow .03 % increase in FAR and with conditions discussed. Member Elliott seconded. Vote 5-0, Granted
Ms. Santucci motioned to grant the Special Permit request for §6.02(j) to allow single stall parking and with conditions as discussed. Ms. Elliott seconded. Vote 5-0, granted.

No further cases presented before the board.

Ms. Santucci motioned to adjourn. Ms. Elliott seconded. Vote 5-0. Meeting adjourned at 8:30 p.m.