



CITY OF WATERTOWN
ZONING BOARD OF APPEALS
WATERTOWN ADMINISTRATION BUILDING
149 MAIN STREET
WATERTOWN, MASSACHUSETTS 02472

Melissa M. SantucciRozzi, Chairperson
David Ferris, Clerk
Christopher H. Heep, Member
Alexander Dale, Member
Sarah Baker, Member
Gregory Girard, Alternate
Samuel Odamah, Alternate

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MINUTES

On Wednesday evening, January 22, 2025, at 7:00 p.m. in the Council Chamber of the Administration Building, the Zoning Board of Appeals held a public hearing. The meeting and public hearing were conducted in a 'hybrid' format with options for public participation both in-person and via remote means, in accordance with applicable law.

Members in attendance (In-person): David Ferris, *Acting Chair*; Sarah Baker, *Member*; Alexander Dale *Member*, Gregory Girard, *Alternate*; Samuel Odamah, *Alternate*
Recused Members: Melissa SantucciRozzi, *Chair*; Christopher Heep, *Member*;

Staff present (in-person): Gideon Schreiber, *Director of Planning and Zoning*; Sameena Pirani, *Administrative Specialist*;

Staff present (remote): Larry Field, *Senior Planner*; Tony Mancini, *Zoning Enforcement Officer*;
Also attending this hearing remotely was the City's attorney, Roger L Smerage, KP Law, his colleague Jackson Dowd and First Path's counsel, Philip Brown, Brown Counsel, LLC.

Acting Chair David Ferris opened the meeting. He introduced staff, noted the members in attendance, and reviewed the agenda. At his request staff explained how the meeting and methods of participation for the public could be accessed remotely.

The motion to approve the November 20, 2024 meeting minutes was made by Member Dale, seconded by Member Odamah. The motion was approved 5-0 with Members Dale, Baker, Ferris, Odamah, and Girard voting in favor.

The motion to approve the meeting minutes for December 18, 2024, was made by Member Dale, seconded by Member Odamah. The motion was approved 5-0 with Members Dale, Baker, Ferris, Odamah, and Girard voting in favor.

Cases:

6 & 12 Church Hill St

Motion for continuance to the Feb 26, 2025 meeting was made by Member Dale, and seconded by Member Girard. The motion was approved 5-0 with Members Dale, Baker, Ferris, Odamah, and Girard voting in favor.

77 Forest St

Motion for continuance to the Feb 26, 2025, meeting was made by Member Odamah, seconded by Member Girard. The motion was approved 5-0 with Members Dale, Baker, Ferris, Odamah, and Girard voting in favor.

9-11-13 Boyd

Member Dale read the legal notice. Phil Brown, representing First Path Daycare Center and attending remotely, introduced himself.

Attorney Brown stated that this was an appeal of the building permit and raised two issues-1) if the Building Permit incorporated the conditions in the December 20, 2023, Decision of the Planning Board and 2) if the conditions were incorporated, whether those conditions were impermissible/unreasonable under the Dover Amendment. Attorney Brown said that conditions 1-10 and 12-14 were impermissible as not subjects for regulation under Chapter 40A Section 3. There were other ways that First Path might be required to comply with such conditions, he said, but not through site plan review. Condition 11, he said, was impermissible and unreasonable.

Attorney Brown invited the Board to visit the site and view the current pickup/drop off scenario before they made their Decision. First Path operated out of the Watertown Boys and Girls Club for many years and no problems were reported with their parking operations.

Attorney Brown expressed particular concern about the condition requiring First Path to rent up to 24 parking spaces at a local garage. Attorney Brown states that this would be very costly and would drive them out of business. The letter written to the Board by Brown Counsel (dated January 22, 2025) addressed additional conditions of concern.

Following the conclusion of his presentation, Member Ferris invited staff and their counsel for input.

Attorney Smerage informed the Board of the option of a continuance of the hearing if the petitioner and their counsel were open to it.

Staff summarized the memo dated Jan 17, 2025, recommending denial of the appeal.

Upon Member Ferris's request, Attorney Smerage explained the reason for bringing up the possibility of a continuance. The City is hoping to receive a comprehensive proposal for the overall use of the Boyd St property from the applicants. A continuance, with consent from the applicant and their counsel, would give additional time to try resolve the matter. Attorney Smerage stated that, in his view, the Board's decision should not hinder the ongoing discussions between the parties.

Maksim Bolyasnny, speaking for First Path Daycare upon request from counsel, said he supported a continuance. He also stated that First Path Daycare had provided a thorough transportation study before the Planning Board established the site plan conditions, demonstrating that the day care on Boyd

St would not present any traffic concerns. Based on these results he disagreed with the statement that the petitioner had not met its burden of proving that the challenged site plan conditions were unreasonable under the circumstances. He also stated that all the conditions beyond 11 should be struck as they were not permissible to be regulated under MGL 40A Section 3.

Based on staff and Attorney Smerage's calculations, an extension agreement would not be needed as continuance to the February 26 meeting would allow a decision to be issued within 100 days of filing. Any continuance beyond the February 26 meeting would likely require an extension agreement, as 100 days from the petition filing date is March 7, 2025.

The acting Chair opened discussion to the public.

Silvester Buscemi, 141 Galen St, reported he owned the 3-family since 2001. With spaces for just 2 cars, parking was a challenge. Boyd Street currently offers only one-hour parking spots, so tenants were unable to have visitors. Visitors to the daycare have parked illegally in tenant spots. As an employer he should deal with staff parking just as the landlords were doing for their tenants.

Michelle Alpert, 139 Galen St, said she was a 20-year resident. The street was a private way, and the neighbors had accommodated all the traffic. Parking had always been limited and a constant challenge. The owners were aware of this at the time of purchase. First Path should be accommodating the parking. Also, as a daycare, the safety of the children was a concern. Families had to park and escort their children inside. Also, currently enrollment was below full capacity. While staff were coordinating the drop off/pickup now, the problem would only get worse.

Acting Chair Ferris confirmed that the parking challenges had been discussed in the meeting of the Board on petitioner's initial appeal from the ZEO's determination that site plan review was necessary, as well as the Planning Board's site plan meeting, and this was not a new issue.

Acting Chair opened discussion to the Board.

Member Baker asked about the parking on Boyd St and Galen St. Staff confirmed that there was no parking on the north side of Boyd St and one hour parking on the south side for at least the first long block. There was just 2-hour unregulated street parking on Galen St.

In response to Member Baker's request to explain First Path's assumptions about available parking for up to 13 staff members, the zoning requirements for other businesses, and why it would be unreasonable to expect First Path to provide off-street parking, petitioner's counsel stated that this was a protected use under MGA 40A Section 3. As a protected use, such regulations did not apply. He also said that this was a public street, and it would be unreasonable to require staff to use off-street parking.

Member Baker noted that the one-hour spots would not work for the duration of the staff's workday. She also said that despite the Dover Amendment, expecting parking to be provided by the property owner would not be unreasonable.

Member Baker also asked if traffic management was within the subject of "parking" and therefore a permissible regulation under Chapter 40A Section 3. Appellant's counsel stated that only the number of parking spaces was a permissible subject of regulation. The only permissible question is whether adequate parking was available for the use. Attorney Brown again invited the Board to visit the site and view the current situation before making their decision.

Attorney Smerage, in response to Member Baker's question, stated that without having looked at the question specifically, it was his opinion that site circulation—how vehicles were getting in and out of parking-- could be reasonably regulated.

Member Odamah asked where staff parked when they were in the Boys and Girls Club location. Also, if First Path's staff was given guidance, i.e., suggestions about where to park at the Boyd St location. Member Dale noted that the Boys and Girls Club had a large parking lot. Attorney Brown said he did not know whether First Path's staff was given any guidance on parking.

In response to Member Dale's question, staff explained how zoning conditions were typically incorporated into a building permit.

Member Dale also asked how the number (24) for the leased parking spaces was determined. Also, if there was flexibility in those numbers. Dale noted that the condition said, "up to 24." Staff said First Path offered 24 spaces and agreed that the condition was designed to be flexible. Bolyasnyy denied that First Path volunteered to provide the leased spaces.

Michelle Alpert, 139 Galen St, asked how First Path expected to provide 24 parking spaces in a place that offered only 8 at the time of purchase.

Bolyasnyy stated that there were initially 15 parking spaces on site. After the Galen St neighbors erected a fence the number of spaces was reduced to 5. First Path believes that it had a right to use the additional spaces that are on the abutting property and has filed suit to enforce that right.

The Board continued to discuss the options before them and their feasibility. In that regard, staff noted that in case of a continuance, the timeframe may not be sufficient to resolve all the property's zoning issues, which include uses other than the daycare facility. The Board decided to vote on the petition and not continue the case to the February meeting.

Member Dale moved to deny the appeal, and Alternate Odamah seconded the motion. The motion was approved unanimously 5-0 with Acting Chair Ferris, Members Dale and Baker, and Alternates Girard and Odamah voting in favor. The petition is DENIED. Staff said that the two members not present had recused themselves from the hearing.

Motion to adjourn was made by Member Dale, seconded by Member Girard. Motion was approved (5-0) with Members Dale, Baker, Ferris, Girard and Odamah voting in favor.

The meeting ended at approximately 8:36 PM

MINUTES APPROVED:-----