

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, **October 29, 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: **Melissa M. Sambucci**, *Acting Chairperson*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Richard M. Moynihan**, *Alternate Member, Acting Clerk*; **Steve Magoon**, *CDPD Director*; **Nancy Scott**, *Zoning Enforcement Officer*; **Danielle Fillis**, *Senior Planner*; **Louise Civetti**, *Clerk*. *Absent: Harry J. Vlachos, Chairman.*

Tape 1 of 3, Side A

Ms. Santucci opened the meeting as Acting Chairperson for Harry Vlachos, absent. She introduced the board and staff and discussed administrative items first on the agenda.

Mr. Moynihan motioned to approve the minutes of July 30, 2008. Ms. Elliott seconded. Voted 5-0. Approved.

Mr. Moynihan motioned to approve the minutes of September 24, 2008. Ms. Elliott Seconded. Voted 4-0. Approved. (Mr. Bailey was absent from that meeting and did not vote).

Ms. Santucci stated that two items on the agenda are for withdrawal:

Mr. Moynihan motioned to accept the petitioners request for withdrawal of a Special Permit Finding request at 177 Westminster Avenue. Ms. Elliott seconded. Voted 5-0. Withdrawn without prejudice.

Mr. Moynihan motioned to accept the petitioners request for withdrawal of an Appeal to the Determination of the Zoning Enforcement Officer for 183 Grove Street. Ms. Elliott seconded. Voted 5-0. Withdrawn without prejudice.

Ms. Scott notified the board of her inspection of 81-83 Lexington Street in which the petitioner has relocated the woman illegally living in the basement and the petitioners request to continue to next month to remove the sink and stove. Mr. Moynihan motioned to continue to November 24th as requested. Ms. Elliott seconded. Voted 5-0.

Ms. Santucci noted for 531 Main Street that there are only 4 voting members present and the board will allow a continuance if so requested until a 5 member board is present. Brian Grossman, Attorney for Omnipoint Communications requests a continuance to November for a 5 member board. Mr. Moynihan motioned to grant the petitioners request to continue to November 24th. Ms. Elliott seconded. Voted 5-0. Continued.

Mr. Moynihan swore in the audience.

Ms. Santucci formally requested Mr. Moynihan act as Clerk this evening.

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Tape 1 of 3, Side A

Mr. Moynihan read the legal notice for the first case:

Steve Shavell, 65 Shattuck Road, Watertown, MA 02472, herein requests the Board of Appeals to grant an **Amendment to Special Permit Finding**, #06-35, to extend existing northerly side second floor window dormer by 9' and to be located 9' from rear property line, where rear yard setback of existing house is non-conforming at 3' and where 20' is required at **65 Shattuck Road**, located in the S-10 (Single Family) Zoning District.

Henry Wessmann, Architect, stated that he appeared before the board two years ago to request a Special Permit Finding and Variance, which were approved, and now they have come across another renovation that is unrelated to the original approval. He explained the extension of the now mansard dormer is to create more head room in the bedroom, not more floor space. He walked the board through each of the drawings and all of the details of the proposed construction.

No one spoke from the audience. The board had no further questions.

Business mode: Ms. Santucci read from the Staff Report recommending approval with standard conditions. Planning Board also recommended approval.

Mr. Moynihan motioned to grant the Amendment to SPF #06-35. Ms. Elliott seconded. Voted 5-0. Granted.

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Tape 1 of 3, Side A, Continued

Mr. Moynihan read the legal notice:

Patricia Martocchia, 15 Fayette Street, Watertown, MA 02472, herein requests the Board of Appeals grant **Amendments to Special Permit**,

Special Permit Finding and Variance #06-07, to permit changes to approved site plan of non-conforming 4-unit townhouse project by relocating rear and side retaining wall to 0' from property line with 4' landscaped buffer; reduce side buffer to 4' to allow 1 additional parking space, where 3 spaces were permitted, reducing approved 8.5' rear yard setback to 5' and where 10' is required at **16-18 Myrtle Street**, located in the 'T' (Two-Family) Zoning District.

Amato "Mel" Martoochia, Brother-in-law to Patricia, presented to the board his rationale to support the excavation of the site. He states that while the paving crew was at the site with their equipment, they would remove the already installed retaining wall rather than have them come back to the site after the board had a chance to review the amended documents. He said their mistake was in removing the visual evidence that three sections of wall needed to be removed for the purpose of: 1. Provide more room for the vehicle exiting the garage at Unit #1 to maneuver. 2. Provide a 'ground-level' landscape buffer to allow the front of the same vehicle (not the wheels) to use as maneuvering space and to provide a place for plowed snow. 3. Provide an alternate parking space for Unit #1. Mr. Martoochia apologizes for the damage done to the neighbor's trees. He suggests placing a fence on the property line and then placing landscaping shrubbery on the neighbors' land or within the remaining 4' buffer.

Member Fernandez stated that the vehicle from Unit #1 would still be required to back out of the driveway with the proposed improvements.

Member Elliott stated that the 4' grass buffer will end up being driven over and the board conditioned the original approval to have snow removed from the site.

Member Bailey states that the original plan shows the capability of parking in the garage of unit #1 without any issue of getting in or out. The vehicle would have to back out of the garage.

Member Fernandez added that the grade is a slight ramp, not uphill and the plan does not show any radius.

David Hanley, 19 Middle Street states his frustration in dealing with this property for over 20 years.

Tape 1 of 3, Side B

He said the only thing the proposed changes are making easier is to sell the unit, not to make any turning radius easier as they have not been looked into by a professional. The screening of the decks was supposed to be by the planting of 8' tall arborvitae on top of land that was 4' higher than it is now. The neighbors agreed to have their chain link fence taken down by the Martoochia's as they promised a new improved fence would replace it. Mr. Hanley states that with the soil gone and their proposal of a retaining wall directly on the property line, the only place for the fence would be on top of the wall. That would be unsightly. A month ago when the soil was excavated, they damaged his trees. The town requested the Martoochia's hire an arborist to look at saving the trees. It is now too late to save the trees.

Lorraine Hanley, sister of David, said they met with the Martoochia's and nothing they agreed to was done. She would rather the board allow a variance for an 8' high fence than a variance for the side lot lines.

Sandra Hoffman, 16 Middle Street and owner of 20 Middle Street does not want to see more surface parking. The landscaping should be completed as agreed. She does not want a view of a parking lot.

Steve Magoon, Director, Town of Watertown, Community Development Department, stated that two weeks ago at the Planning Board meeting, there was discussion on the damaged trees. The town's Tree Warden confirmed that if the work to save the damaged roots had been done within a day or two, the trees could have been saved. Too much time has passed and the damage has been done.

Member Santucci said that she was on the board that originally approved this development six years ago. She was against the number of town houses proposed then and finds that today there is the same mess with a different structure. Landscaping could have been done in the front and sides of the property.

All members agreed that the site should be restored to the originally approved design and they will not support the proposed changes. Member Santucci suggests a timetable for restoring the buffers, landscaping, an arborist and the fence.

Mr. Moynihan motioned to deny the request. Ms. Elliott seconded. Voted 5-0. Denied.

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Tape 1 of 3, Side B, Continued

Mr. Moynihan read the legal notice:

Peter J. Kaloostian, 575 Mt. Auburn Street, Watertown, MA 02472, herein requests the Board of Appeals grant an **Amendment to Special Permit Finding**, #97-35, to construct a front one-story sunroom addition 13.6'x33.8' wrapping around westerly side 13.6' x10.7' increasing restaurant seating from 29 to 59 seats and further alter entrance/exit and extend paved parking area to accommodate 21 parking spaces (inclusive of 1 HP space) at Uncommon Ground **575 Mt. Auburn Street**, located in the LB (Limited Business) Zoning District.

Adam Hay and Mark Styles, representatives of Four Seasons Sun Rooms, spoke for the petitioner.

A "landscaping plan" was submitted; however, was not accepted by the board as it was a plot plan with a 'sticky' note attached with the words "Landscaping Key" written on it. The board requests that a professional landscaping plan be reviewed by Planning Staff as requested then entered into the record.

Member Fernandez stated that the architectural drawings needed to have the dimensions, curbs, material, elevation, dumpster added to it. He feels the sunroom may be too tight once the dimensions are added and the only car that should be parked near the dumpster is the owners.

Tape 2 of 3, Side A

Mr. Fernandez continued expressing that no public parking near dumpster side of building. Member Elliott requested the drawings include renderings to show the different types of material – existing and exposed. Member Santucci requested the existing and the proposed drainage be added. In general, the board agreed the drawings need to be updated with the changes as well as what is existing at the site.

Dennis Duff, 33 Spruce Street states that the landscaping plan is as important as the plot plan and should show all plant materials in their proper Latin names.

Ed Nostrum, 18 Melendy Avenue wants to be sure that Melendy Avenue has landscaping and that the parking lot does not exit onto an already congested Melendy Avenue. He requests that the petitioner shovel the snow off the sidewalk.

Mr. Moynihan motioned to continue the case, per request of the petitioner to update his plans. Ms. Elliott seconded. Voted 5-0. Continued.

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Tape 2 of 3, Side A, Continued

Mr. Moynihan read the legal notice:

Robert Bray, 9 Gerry Street, Cambridge, MA, herein requests the Board of Appeals to grant a **Special Permit/Site Plan Review** in accordance with §5.00(f), New Construction >3 Units; §5.01.1(l), Mixed Use Development and §9.03, Site Plan Review, Zoning Ordinance, so as to raze existing building (former Casey's Pub/Apartments) and construct 5-story mixed use building with 1179 sf retail/office space at grade floor - 14 residential units above with 18 parking spaces -14 within basement garage and 4 surface parking spaces at **24-28 Arsenal Street**, located in the CB (Central Business) Zoning District.

Attorney William York, representing Mr. Bray, explained the changes in design on the plans submitted by FKA Consultants, dated October 5, 2008: X1, X2, T1, A1, A2, A3, A3-1, A4, A5, A7, A8, A9, and L1, L2 & L3 by Kim Ahern. The design is more contemporary and blends a brick ground level with wooden clapboard upper levels and a squared roof. First floor parking plan still has 4 spaces; however, the handicapped space is beside the entrance. The handicapped lift on the exterior of the building has the same dimensions, but the handle has been moved so as not to interfere with the steps. Other exterior changes include the bay windows and the balconies. Received at the meeting is plan A6, showing additional green space of 672 s.f. and corrected by Ms. Scott to reflect 671 s.f., Also, plan T1 received showing revised calculations.

Ms. Elliott asked how the handicap patrons access the units from the garage. Mr. York referenced plan A2, showing the lift on the exterior of the building. Ms. Elliott is concerned that the stairs will have to be moved closer to the street as there will need to be 12" for the rail. Mr. York stated that at the building permit level, the building inspector would require that be done and it will be.

Ms. Santucci asked about the parking. Mr. York stated that there is one deeded parking space per unit.

Ms. Santucci still questions our by-law on open space and pervious coverage and does not see how the area on the roof can be calculated towards open space. She would support a variance. She said it is a bad move for this board to start allowing open space on the roof. She believes that the area counted as building coverage not be counted as open space, as well. Mr. York reads the by-law differently and the definition of open space is open, pervious, unobstructed to the sky and used for active or passive recreation. It is intended for the use of the residents. Pervious is to prevent us from saying an asphalt area is open space. The planting along the roof will be in large planters and they need 626 square feet in planters to meet the requirement. Cambridge, Brookline, etc. allow rooftop gardens and for Watertown in this district, this should meet that requirement. Ms. Santucci said impervious is also met by this definition. Mr. York said that the board can condition that there be 626 square feet of open space on the roof and still have areas where there will be seating and decking for the residents to enjoy. Ms. Santucci asked what the 1751 represents on this plan. Mr. York said that is the area that the residents would be using and not landscaped. They are only required to have 20% open space. The only requirement for the 20% open space in this district is because it is a mixed use. A commercial use is not required to have open space. Ms. Santucci argues it is green and in planters and not infiltrating water. Open space is to provide for non-covered surface. This requirement is only for the 20% and she does not have a problem with the 844, she does not want to get into a pattern of rooftop green space. There is enough pavement in Watertown and she understands that it is downtown. With a well-crafted finding that documents this, she could be amendable.

Ms. Scott asked about the numbers – is 844 the open space? The area on the roof top is 1751, which is for tenant use. Mr. York said the space is 7354 s.f. and 735 is about 1470 or 1471 that they would need. The ground level is 844 and the roof would need 626 or 629. The plan just provided can accommodate that and still provide seating areas. The 844 is straight up green space on the ground level.

Mr. Fernandez said that a rain screen could be used to redefine (open space) based on the available technology.

Tape 2 of 3, Side B

Mr. York said that Cambridge is breaking it down in certain areas by using certain types of roof top gardens to be included in the open space. An amendment in the future if there were concern.

Ms. Santucci asked if there is a roof-drain system – are they infiltrating. Mr. York said, 'yes'.

Mr. Fernandez said impervious is a way to manage surface water, historically. It is an archaic notion of impervious as there can be various degrees of retainage so surface water can be managed in more than one manner – more than just dirt or grass.

Ms. Santucci questioned why the drain system is not on the plans if it is designed. Perk tests have not been done. The architect stated that the water is going to the storm drains through a separator. Mr. York said that they can go into the storm drain from the roof system with the proper infiltration required by building. Ms. Santucci stated that the roof is 'clean' and they do not need to go through a separator. They can just have a roof drain system and put the water back into the ground, which could serve the purpose of green space. Mr. York said they could try to drain it into the other 844 sf of landscape area, if that would help.

Mr. Magoon stated that one of the challenges of mixed uses is that the residents don't like to live in the store and the patrons do not like to shop in the house. The structure appears to work as a residential space, but does not appear to work as a commercial space. Mr. York explained that the use that will go there is a professional use – not a beauty parlor or a restaurant, but a medical office or

insurance office. Mr. Magoon said the façade should show differently for commercial vs. residential. Mr. York disagreed and said the architectural design of the building shows the first level, the level where the office use would be, as a different texture than the rest of the building. Mr. Magoon clarified that there isn't signage in the elevations. Mr. York said under the bylaw they will have to go through Planning for that to be sure it fits with the building and the by-law. Mr. Magoon asked that conceptually, they add that. Mr. York said they would do that as part of the permit process for signage. Mr. Magoon suggested that be done on the plans in the future for a visual aid.

Mr. Moynihan said the Staff report was favorable to the previous iteration of this project and are they still in favor. Ms. Fillis said the previous director's opinion is noted in the report distributed. She is in favor, however.

Mr. Fernandez said the Chair had expressed concern at the previous meeting on massing of the building. The new design tried to revision the size, which has not changed; by removing the mansard roofing allows the front of the building to be 4 stories high instead of 5. Making the elevation deeper by adding trim and bay windows breaks down the scale of the 4 stories. The second version has improved across the board and he is in support of it.

Dennis Duff, 33 Spruce Street agrees with some of the comments that this proposal is 1000% better than the prior proposal. He compliments Mr. York as ingenious in finding open space – aside from impervious and drainage, etc., open space, also referred to as green space is also for the public's visual relief. On top of a roof is not visual relief for the public walking through the square. He has a fear that open space will be covered up by roof top gardens. That could be a requirement in addition to open space. He still has a concern with the parking and although he understands smart growth, there is 14 units with only 14 spaces and 4 commercial. People that work there will take those spaces. If the project were smaller the 14 spaces would work.

Mr. Magoon shares concerns with green space on the roof. He thinks the idea of this (open space on the roof) is an aesthetic relief is for residents of the building. They are also providing green space at the ground level. He added that they (Planning) will look at the evolution of green roofs and how they will fit into their (Zoning) requirements in the future.

No further comments were made from the audience or board. Ms. Santucci declared a business mode and noted that the Staff Report from March recommended conditional approval as well as the Planning Board at their meeting on May 19th. She

noted her comments made earlier relative to open space and recommends a condition be drafted and reviewed prior to being filed. She also wrote three conditions that she has handed to Ms. Scott to be added. One being the amount on the roof being 650 square feet (or whatever the accurate amount is) and a roof drain be designed to infiltrate the roof runoff to get some recharge and an amendment be made to the zoning analysis table (on the plans) that has the large number, stating that it equals the 20%.

Ms. Scott added the boiler plate signage condition needs to be added. She reviewed the conditions Ms. Santucci wrote and added that the plan noting the total green space of 671 sf on the roof is one of the control documents. She said that the roof is only a portion of the 20%. Does she want the roof drainage system to equal the amount that will be infiltrated or the entire roof system? Ms. Santucci suggests the entire roof as opposed to having the roof water run off into the street and into a catch basin – preferably a dry well. Ms. Scott clarified the condition that 671 sf of roof green space be maintained.

Mr. Moynihan motioned to grant a Special Permit with Site Plan Review as discussed, with the added conditions by Chair and Staff. Ms. Santucci noted the agenda states: SP/SPF instead of SP/SPR. Ms. Elliott seconded. Voted 5-0. Granted.

Mr. York commented that he appreciates the input from the board on the design issues they faced.

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Tape 2 of 3, Side B, Continued

Mr. Moynihan read the legal notice:

Richard Merson, President, United Cerebral Palsy of Metro Boston, Inc., 71 Arsenal Street, Watertown, MA, herein requests the Board of Appeals to grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Structure, Side and Rear Yard Setbacks, Parking and **Special Permits** in accordance with §5.05(d) Reduction in Side Yard setbacks and §6.01(g), Required Parking on Another Lot; **Variance** §5.04, Table of Dimensional Regulations, Rear Yard Setback; so as to permit construction of 1-½-story office and attic addition (2,097 sf), above existing 'L' shaped building having 2,630 sf. Proposed addition 21'-2"x46'-2"x78'-6"x28'-10"x57'-4" will maintain existing easterly side yard setback of -0.8' – 0', westerly side yard setback of 0'-2', where 15' is required on each side and maintain non-conforming rear yard setback varying 13.1'-17.7', where 20' is required. Providing one handicap parking space at front, maintaining 4 existing non-conforming parking spaces and request to provide auxiliary parking of 5 required spaces at 75 North Beacon Street for the property at **71 Arsenal Street a/k/a 32 North Beacon Street**, located in the LB (Limited Business) Zoning District.

Attorney Steve Winnick, representing UCP, said the board heard the case in June and all members are in a position to vote tonight even though Mr. Vlachos is absent. He summarized the project stating that they are adding a second story to the one story structure. One issue raised by the board is parking. There are 13 non-conforming parking spaces at the location and their intent is to create 4 conforming spaces on site and supplement the parking with auxiliary parking, which they did not have then. They have located auxiliary spaces at the United Methodist Church on Arsenal Street. It is close to Patten Street, a cut through street between Mt. Auburn and Arsenal Streets. The parking is within 200 yards of UCP. A lease arrangement has been signed for 9 spaces on the left side lot. The church also has a lot on the right side with an additional 20 spaces. The church has 43 (20 and 23) spaces. There are

18 leased spaces on the left side and the church uses the right side. They are only requiring the use of the spaces from Monday thru Friday, 9 a.m. to 5 p.m. This will bring their total parking availability to 13 spaces (4 on site and 9 off-site, including 1 HP at the site). Their intension is to have their employees park in the off-site parking areas.

Mr. Webster, Manager of the UCP, stated that the administrative staff occupies the building. There are 10-12 staff that go out to the field. There is an Executive Officer, a Chief Financial Officer, different program directors, but an average of 12-13 staff that are there on a daily basis. Ms. Santucci said there were only 4 consistent staff at the last meeting. Mr. Webster said they come into the building and then leave. Ms. Santucci said again, that he stated there was only a CFO, CEO, COO, a payroll and a bill person are the only ones there all the time. Mr. Webster said there is a difference between staff that are there 9-5 and others that come in, go out to see a client, come back, check their e-mail, print something and then are out the rest of the day. He doesn't classify them as occupying a space Monday thru Friday, 9 a.m. to 5 p.m. Ms. Santucci noted that there was an article in the newspaper about company cars. She asked where these cars will be parked. Mr. Webster said at night, they would be on their property and during the day, they would be out to see clients. They take public transportation to work or will park their personal cars in the auxiliary lot. Ms. Santucci asked if he was concerned that in five years, he may not be compliant with zoning and would not be able to operate the building. Attorney Winnick said the parking will have to be replenished at another location, if that should happen and that can be conditioned.

Ms. Santucci asked what length of time they estimate the construction taking. Ben Rogan, Highland Development, General Contractor, estimates the construction time to be 6 – 8 months.

Ms. Santucci asked if they have worked with the neighbor as she has written several letters to the board.

Attorney Winnick said there were design issues raised by the board last time and one was whether there is an attic with a second means of egress. He has had meetings with the building inspector and they are not clear if they are required to have additional plans, but the revised plans to be submitted for control plans, has a fire escape built in as an option. They will submit that if required. In addition, a hallway will provide a pass way out but through an office. That has been redesigned to provide a straight shot out to the outside exit.

Mr. Winnick stated that the abutter, the owner of the Chinese Restaurant sent a letter in July with a list of issues. She said there are cables and wires that run across her property that serve their site. No wires will cross her site as a result of the project. They are the ones burdened by those wires as they run across their property to serve her property. She is also concerned about 6 feet of wall that is 6 inches away from their wall and debris gets in there and it is difficult for her to

remove. They are prepared to close that gap in an appropriate way, if she agrees that is what she wants to do. They will make the area available to her during the construction for her to clean it out or do whatever she wants to do on her piece of the wall. She has not been at the last several meetings and he doesn't know to what extent she is still invested in these issues, but they have tried to deal with them.

Ms. Santucci said a new letter (from Tammy Young, China Rainbow Restaurant) is addressed today, October 29th, so her concerns are still valid. Ms. Elliott added that she is working (at the restaurant) and cannot be here.

Attorney Winnick stated that he had not seen the latest letter. However, she also has concerns about the effects of snow that will pour onto her property. He said they are adding heat strips and a snow guard, which cause the snow from the roof to gather and be directed to gutters that send the runoff to the rear of their property, away from her site, to a detention basin. Her concern about the snow is addressed in the design of the building. He mentioned that she had a concern about shading on her property...

Ms. Elliott said she has concerns regarding the parking. Atty. Winnick said that our people do not park in her parking lot. There may have been an isolated incident where the van parked briefly but they will now have an HP van space on their property to meet that need. They have had an on-street parking space but none on site. Generally, the proposed parking is superior to existing parking. They will be able to park 9 cars off-site instead of shoe-horning them onto the property.

Ms. Elliott asked if anyone has had a conversation with the neighbor. Atty. Winnick said an attempt was made but she said she was too busy to meet and there has not been any communication since. Mr. Webster said he went over to address the issues she raised and he set a time of 3:05 or 3:10 as she opens at 3:00 and he brought the architect and the developer and she was taking a delivery and had customers. She said she was going on vacation for a couple of weeks and would not have any time in the near future to meet.

Ms. Elliott said that was back in June and why wouldn't there have been another attempt to meet before she opens when she doesn't have customers and is trying to run her restaurant. They seem to be addressing her concerns, but why not speak to her about them. Mr. Webster said he did try once after that. Ms. Elliott suggested having lunch there. Mr. Webster said he does not prefer the food she prepares and they are trying to be good neighbors.

Mr. Fernandez asked if the Building Inspector said he would take it into advisement because he needed to review (the fire escape) or because he is going to come back and say you need a second means of egress. Mr. Winnick said they showed it to him for proof of the building code for the attic, but he wanted time to study that and then come to a conclusion. They put on the proposed revised plans, the fire escape, to address that issue and redesigned the hallway for a straight shot out to the exit. The plans have not been submitted as yet but are available. The architect will review them and submit them to the board.

Ron Jared, Architect, demonstrated the modifications to the plans made due in part from the comments made by the Building Inspector and the board. He showed a plan and said there are two exits and if there were a blockage, these would not be adequate to get out of the building. Another exit from the second floor through an office has been changed to a straight corridor. Now there are 3 unimpeded exits from the first floor. The second floor intercommunicating stair could serve as a second means of exit as an enclosed stairway; however, the interpretation on that by Ken Thompson, Building Inspector, will need review that. They have added an exterior exit on the backside of the building. The revised set of plans, A1 specifically.

Tape 3 of 3, Side A

Mr. Jared showed the change to the 2nd floor showing the three exits, the exterior metal stairs, the middle and the fire enclosure on the far side going to Arsenal Street. This will not exit into a parking space. Ms. Santucci stated that she believes the code was changed to reflect fire escapes as not meeting the requirements. Mr. Jared said the code says we can use a 44 inch stair or a fire escape. The 44 inch stair has to be protected, not enclosed. They could put an awning on it. Fire escapes do not require protection. They will have that feedback from the Inspector when they submit their building plans. They can not provide another interior stair, there isn't any room. They want to avoid enclosing the center stairway. The choice is a fire escape or an exterior exit stair, but in either case, it does not interfere with parking on the North Beacon Street side. Ms. Scott asked about the planter and the doorway on the ground level and asked about having a platform and then the stairs. Mr. Jared said the platform would not be over the door way and it would be slightly more towards the Hess gas station. The stairway would be 10'. Ms. Santucci asked if there is a back-up plan if the stairway is required and it aesthetically is awful. Mr. Jared does not want to change the middle stairway and there isn't enough room to put another stairway on the interior. They need an intercommunicating stair that is open visually to bring the view from the first floor to the second as they do not want to have a set of offices off a hallway. There is also a handicap elevator. Mr. Fernandez asked if he had revised the North Beacon elevation or is it only shown in plan as a possibility of an exterior second means of egress. Mr. Jared said it is only shown in plans. Mr. Fernandez said he would like to see it as there is a big difference between a nice stairway and a metal stair. He hopes the Building

Inspector says no to the fire escape. Mr. Jared said their drawings will be suitable and sympathetic to the area.

Ms. Santucci asked if the parking calculations were correct on the plan as it states they are required to have 13 and they are proposing 14. Attorney Winnick stated they are proposing 13.

No one spoke from the audience. Mr. Fernandez asked if they could vote without the plans. Ms. Scott said they would not have the control documents. Mr. Bailey said they have voted before without the control plans. Mr. Fernandez said he is sure they will be required to have a second means of egress. The question is whether they will need a fire escape or an exterior stair. Ms. Santucci said a different town, a different inspector stated that code does not qualify a fire escape as a second means of egress. Mr. Fernandez said he believes it is possible to have it either way. Mr. Winnick said the final control plans are not in front of the board but only consist of the optional fire escape and the redesign to the corridor. The board could make these conditions and move forward with a vote. Ms. Scott asked if the board could have them prior to writing the decision. Ms. Santucci added they should correct the parking and reflect a 5 year plan with a 5 year renewal. Mr. Winnick will be sure the corrections are made. Ms. Scott said if there will be an exterior stairway, she will bring it back to the board before the permit is issued. She added that the church has to apply for an open-air license. Mr. Winnick said that was fair.

Ms. Santucci expressed her concern regarding any other user would work in this building and wishes to condition the use of the building. Mr. Winnick said we cannot condition the special permit to a particular user. Ms. Scott said this could be conditioned at the change of tenancy or use to come back to the board. Ms. Santucci is concerned with a parking problem. Ms. Scott said the parking is based on the square footage, not the use. She asked what the board would consider if they found a parking problem in the future. Ms. Santucci said there should be a condition for review of their parking lease 6 months prior to the expiration of their 5 year lease to show proof that they have auxiliary parking.

Ms. Scott confirmed the condition should indicate that there will always be 9 off-street parking spaces. Mr. Fernandez added there should be 3 and 1 on-site, as well.

Ms. Scott would like to address the abutter, reach out and work with her. Mr. Fernandez asked if they will be installing a utility pole so their wires are supported by their pole. Mr. Rogan said the wires come across 71 Arsenal Street then go across the back of her property, then continue on to the abutter on the other side of her.

He said all of the wires coming into UCP will come off of the pole that is right out front of their building.

Mr. Fernandez said a sit down talk with her explaining all of the issues would be the right thing to do. Mr. Rogan said when they rebuild that wall, to get the fire rating, they will lay it on the deck and sheathe it and then tilt it up into place and it will be finished. When that wall is down, they will have the opportunity to repoint her wall or do whatever she needs to have done as far as maintenance in that area. Mr. Fernandez said if she agrees to it, block that 6 inch void space. Mr. Rogan said it would only be a matter of sheathing it off and putting a rubber roof over it. Mr. Fernandez said she needs to understand how they are mitigating her concerns. Ms. Scott asked Mr. Winnick to facilitate that meeting. She said it is important that he help explain so she feels comfortable with what is going on. Mr. Winnick said that was reasonable and he had discussed this with Mr. Webster earlier. He would like the board to vote tonight and they will definitely set up a meeting to tell her we have addressed her concerns in a way that is meaningful to her. Mr. Moynihan requested that a letter be sent to Ms. Scott that the meeting occurred. Ms. Elliott added that she would like to know what happens at the meeting. She added that during construction, to be mindful of what they are putting near her property and to clean up and be a good neighbor. Mr. Fernandez asked if a temporary barrier will go up. Ms. Scott said that is necessary. Mr. Rogan said they will fence it off. Mr. Fernandez suggested they explain to her they will control debris and dust.

Ms. Santucci asked where in the by-law is the auxiliary parking. Ms. Scott said it is by Special Permit. Mr. Winnick said it has been done many times in the past and SuperFitness is one example.

Mr. Moynihan motioned to grant the Special Permit for parking on a separate lot. Mr. Fernandez seconded. Voted 5-0. Granted.

Mr. Moynihan motioned to grant the Special Permit to eliminate side yard setback requirements. Ms. Elliott seconded. Voted 5-0. Granted.

Mr. Moynihan motioned to grant the Variance for section 5.04, table of dimensional regulations, rear yard setbacks. Ms. Elliott seconded. Voted 5-0. Granted.

Mr. Moynihan motioned to grant the Special Permit Finding under section 4.06, a, expansion and alteration of a non-conforming structure. Ms. Elliott seconded. Voted 5-0. Granted.

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, **October 29, 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: **Melissa M. Sambucci**, *Acting Chairperson*; **Stuart J. Bailey**, *Member*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Richard M. Moynihan**, *Alternate Member, Acting Clerk*; **Steve Magoon**, *CDPD Director*; **Nancy Scott**, *Zoning Enforcement Officer*; **Danielle Fillis**, *Senior Planner*; **Louise Civetti**, *Clerk*. *Absent: Harry J. Vlachos, Chairman.*

Tape 3 of 3, Side A, Continued

Other Business:

319 Arlington Street - Bart Mitchell, Mitchell Properties and Coolidge School LLC - Modifications to Control Plans

Bart Mitchell distributed a drawing titled: 'Site Layout Plan', C1-01, October 15, 2008 by tat, The Architectural Team; explained the redevelopment of the former Coolidge School to the 38 apartments at the same site. Construction started in March '08 and will be finished in March '09. It is a historic rehabilitation that preserves exterior features and some interior features like the woodwork in the hallways and cabinetry. The site plan that was approved by the Zoning Board. It was then reviewed further

by the town engineers, fire department, and accessibility code enforcement. Items that needed to be improved: a 6' rise in 12' coming up the drive from Arlington Street which would be a problem for the fire department and department of public works as it would not be a safe entrance to the site and would impede visibility and side walk accessibility. They changed it to a gradual grade at a considerable expense. A turning radius in front, changed the parking to head-in across from the building instead of parallel parking partly next to the building and partly across – with no loss of parking spaces. During construction, the neighbor to the east on Arlington Street was concerned regarding the property line as it goes beyond the existing fence. The fire department wanted the driveway to be as wide as possible and intended to go straight down the lot line. On the ground vs. paper, the fence would be moved a couple of feet into the neighbors property, which they use even though it is not their property. They worked it out by widening the drive from the lower western edge of the drive, without taking over the property that the neighbor had always used as if it were their own. The Civil Engineers noted that the back parking area drainage would not work if the flow of water is blocked by the raised planted ends and would create large ice dams in the parking lot. They reconfigured the striping, preserving the two planted islands with trees, the green space close to the building and the green space at the far end of the lot while allowing the water to drain across. The last issue was concerns from neighbors regarding the dumpster. They had proposed it be located at the north corner of the site and that would be adjacent to several properties and not close to the trash collection in the building. They relocated the dumpster closer to the trash unit in the building and not close to any apartments and significantly further from neighbors.

Ms. Scott asked Mr. Mitchell to explain the stairway change. Mr. Mitchell stated that public schools built early 19th or 20th century, were built with large civic pride expressed in the staircase up to the main floor of the building, often with a lower floor. The main entrance was up the grand staircase without any exterior entrance on the lower level. They could not complete the rehab without changing the entrances and they are required to have entrances to the first level of the building. Financial support for the project is through historic tax credits. Although the grand stair was not the original, it was redone sometime in the 70's, the building is eligible for national recognition. They needed to rebuild the stair similar to the original stair and not the one built in the 70's. They had to change the grading to come down gently with a ramp on one side and three steps down on the other. The first floor has the door bell and mail boxes. The grand stair will not be the main entrance.

Mr. Fernandez asked how they navigated the limit on openings to historic buildings. Mr. Mitchell said the National Park found this acceptable because from the street it is the same grand staircase, but the main entrance is below it. They deemed it a necessary obligation to come up with a creative solution. They were also given permission to lower some of the sills on the lower level.

Ms. Santucci asked about the change of configuration to the parking as it appears there is less green. Mr. Mitchell said he does not have the calculations but he can

get them. He pointed to several spaces that expanded but did not change and one that specifically changed to save a big tree. He noted that there is more green space at the end of the spaces where there had been cement before. There will be landscaping around the dumpster and a pad will be added for the dumpster.

Ms. Scott asked the board if they felt these changes required a full amendment. She recommends that it does not and they go forward with this decision. She will write the modification with the plan handed in tonight as the control document and when the landscaping percentage is determined, she will add that in.

Tape 3 of 3, Side B

Mr. Moynihan motioned to accept this site layout plan dated October 15, 2008 showing changes as enumerated in Ms. Scott's memorandum dated October 27, 2008. Ms. Elliott seconded. Voted 5-0. Granted.

Harry J. Vlachos, Chairperson

Melissa M. Sambucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

MINUTES

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Tape 3 of 3, Side B, Continued

Other Business:

Ms. Scott asked the board if this case could go forward as presented by her as she does not know why the petitioner has not shown. She explained that at 24 Whitney Street, there is an adjustment of 8.2' as opposed to 8.3' for the side yard setback, which had been approved by the board of appeals.

Mr. Moynihan motioned to accept the change. Ms. Elliott seconded. Voted 5-0. Granted.

Ms. Santucci mentioned that the next meeting will be Monday, November 24, 2008 and the December meeting will be voted on. She asked that the December meeting be changed to Monday, January 5, 2009.

Ms. Elliott motioned to move the meeting to Monday, January 5, 2009. Mr. Moynihan seconded. Voted 5-0.

Mr. Bailey motioned to adjourn. Ms. Elliott seconded. Voted 5-0.

The meeting ended at 11:15 p.m.