



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

Melissa M. SantucciRozzi, Chairperson
David Ferris, Clerk
Christopher H. Heep, Member
John G. Gannon, Member
Kelly Donato, Member
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MINUTES

On Wednesday evening, December 19, 2018 at 7:00 p.m. in the Town Council Chamber of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: Melissa SantucciRozzi, *Chair*; David Ferris, *Clerk*; Christopher Heep, *Member*; Kelly Donato, *Member*; John Gannon, *Member*; Michael Brangwynne, *Alternate*. Also Present: Mike Mena, *Zoning Enforcement Officer*; Gideon Schreiber, *Senior Planner*; Louise Civetti, *Zoning Assistant*.

Chair SantucciRozzi opened the meeting at 7:01 p.m., introduced the board and staff; reviewed the agenda and welcomed new alternate member, Michael Brangwynne.

Chair SantucciRozzi asked if all members have read the minutes for someone to make a motion. Member Ferris motioned to accept the minutes of September 27; October 24; and November 28, 2018. Member Heep seconded. Members Ferris, Heep, SantucciRozzi, Gannon and Donato voted in the affirmative, 5-0. All minutes approved.

Chair SantucciRozzi explained the order of the agenda, noting 195 Mt. Auburn Street has requested to be withdrawn. She then swore in the audience and announced Member Donato will recuse herself from the first case at 36 Arden Road due to a conflict with this case.

Member Ferris read the legal notice for the first case: **36 Arden Road**

"Mark and Doreen Dawson, 36 Arden Road, Watertown, MA 02472, herein requests the Zoning Board of Appeals grant a Special Permit Finding in accordance with Watertown Zoning Ordinance §4.06(a) Alterations to Existing Non-Conforming Structures, so as to construct a rear deck, maintaining existing non-conforming northerly side yard setback of 6', where 10' is required. S-10 (Single Family) Zoning District. ZBA-2018-26"

Mark Dawson, 36 Arden Road stated that 6 years ago, he and his wife requested to approve this deck, which they received; however, two children in college at the same time prevented them from moving forward and the petition expired.

Anthony Donato, 42 Arden Road, spoke in favor of his neighbors' request, stating their home is the one that would be most impacted and their driveway is the one mentioned in the Staff Report as being 'buffer less'.

Chair SantucciRozzi noted that the main body of the deck has shifted slightly and the landing is the only portion of the deck that is in question which is somewhat of an improvement. She added that the rear yard setback will also be met.

She read from the Staff and Planning Board reports which both were voted unanimously to approve with boiler-plate conditions.

Member Ferris motioned to approve the request for the 6 side yard setback, where 10' is required. Member Heep seconded. Members Ferris, Heep, SantucciRozzi and Gannon voted in the affirmative, 4-0. Member Donato recused. **Petition is approved.**

Documents reviewed: Plan of Land in Watertown, MA at 36 Arden Road prepared by Wade Putnam, Professional Land Surveyor, June 30, 2012; Proposed Deck Addition by Construction Design Services, drawings D-1, Deck Plan; D-2, Rear Elevation; D3, Deck Framing Plan, all dated February 25, 2012; ZBA Decision from 2012

Chair announced the continued case, 56 **Putnam Street** and asked Attorney Leitner to present the updates for his client. Attorney Leitner, representing his client, said they are seeking to increase the FAR by means of a 10x12' deck with a floor above it. He said the members have the set of plans that were approved by Mr. McLaughlin. They are not expanding the footprint at all. Some issues that were raised are that the house is 'maxed' on the lot. However, they are providing 1300 s.f. per unit, which he said is typical for a two family in Watertown. They are providing parking for six cars. This is appropriate as it is a three family as it was a three family; they are adding two trees; coming into code with the entire premises. Everything is permitted, as of right except the one room with the deck above it. They will be under the max FAR at .625.

Chair reviewed the sets of plans – the smaller set is what was approved by Peter McLaughlin. She asked Mr. Mena to clarify that the calculations are over the ½ story. Mr. Mena explained that there are not any changes to the third floor. There is one dormer that was approved over the stairs to meet building code requirements. It does not add to the ½ story.

Member Ferris asked about the new dormer that doesn't add to coverage, is that at an existing stairway? Mr. Mena said the stairway did exist. He said the three family is grandfathered and the third unit was on the third floor.

Member Ferris said he is uncomfortable with the basement living space. Some of the windows have egress windows but a required egress is through a mechanical room. He asked if the egress could change. Attorney Leitner stated that these plans have been approved by the Inspector of Buildings.

Jim Chen, Architect said the egress is a dog-house bulked through a common space and they could put a door on it to the mechanical space. There are gas hot water tanks in there.

Member Ferris said the bedrooms in the basement have egress windows but the Livingroom does not have the proper amount of daylight (8% perhaps?) it may have been existing space but it has a new use now and is required to be brought up to code. He then asked about the crawl space and the posts that go into the ground with block in between them. Mr. Chen said the contractor put the posts on the footing itself and the CME in between it. He suggests that Mr. Chen work this out with the Inspector of Buildings.

Mr. Chen confirmed that the plans dated 11/26/18 are the correct plans. Member Ferris attempted to determine how the staircases worked for each apartment – front and rear egress. He said the plans are challenging. Mr. Chen said the door at the front goes up the stairs to the second floor and is a common space. The main entrance is on the side.

Member Ferris said it is convoluted and taking what was built as a two-family to the maximum. Mr. Chen said they want to have the same amount of living space in each unit. Member Ferris said it was unique that the only boiler area is the hot water area in the basement. The mechanical equipment occurs within each dwelling unit. Mr. Chen will fit the mechanical units under the stairs in the third unit.

Member Donato is glad that a window was added to the dormer. She is glad that Member Ferris brought up the (natural) light in the family room and she does understand that it is permitted but is still asking the question. She asked what they have decided for a finish at the front above the stone veneer. Mr. Chen said it is a Hardy Panel material and was done by the contractor - he did not design that. Atty. Leitner said the thought (around that) was to break up the front façade so there isn't clapboard all around and that is why the first and second stories are different and why the gable has the clapboard. They are willing to change the second story if the Board prefers clapboard – it is aesthetic and everyone has an opinion about it but it is not integral to what they are seeking tonight.

Member Heep stated that he was not at the last meeting and will not be voting on this case.

Member Gannon asked about the survey and the proposed parking and asked if the curb cut was applied for yet? Attorney Leitner said they can obtain that through DPW as of right.

Member Gannon asked Staff to explain the discrepancies. Mr. Mena explained that he visited the site and highlighted areas on the plans that were discrepancies between what was being built vs. what was on the approved plan. The building official, Peter McLaughlin issued a Stop Work Order until the petitioner provided updated plans that the building official approved without any issues regarding egress or window wells, etc. and lifted the Stop Work Order to allow them to continue to work. They also revised their plans seeking the addition that is being reviewed this evening.

Member Gannon asked if the document that showed changes to the pictures relative to the building permit plans, has been changed since their last meeting. Mr. Mena said it is changed.

Chair SantucciRozzi said she appreciates the complex plans and asked the architect about the traditional building material and the owner advised the building to change the material – she asked if these are appropriate for the exterior of this structure. Mr. Chen said it is awkward for this area but they are made for the exterior of homes.

Chair asked if they have ended up with additional exterior stairs due to the reconfiguration of the interior. Attorney Leitner said they are only adding one exterior stair. The other stair was moved to the side. Nothing in the rear but the doghouse door.

Chair said this is maximizing the structure. She asked what the reasoning is for enclosing the back area. The massing of the structure...it is going to be 3 units and an exterior porch would be a nice feature for the unit and the structure. The rear piece will be monolithic and encompassing. Attorney Leitner said the den is 170 square feet and the railing above it would be part of the same unit and the 3rd unit is

partially on the second floor and third floor. They could not expand the third floor towards the front due to the setback so they wanted to maximize the space and keep all units at 1300 square feet; they used space from the second floor. They have lost space from the front of the property due to the gable at the front – they have limited space and could not expand the third floor. Any homeowner wants to maximize their space. Member Ferris noted that the front elevation had a porch and is now enclosed for living space. He is saying that the basement, first and second floors have the use of that space which was once porch and the third floor does not due to the setback requirements at the front. Attorney Leitner added that is why they have portions of each floor on another level.

Chair stated that she is reiterating what she said last month that this property is being max'd out and it is already max'd out as a three family. She said if it meets code and there is actually has a building permit, then...but she feels two nice, big units would have been a better way and now they're trying to make three units all good size units. Attorney Leitner said it was purchased as a three and was purchased as a three. They want a 2.7% increase and they could have dormered the third floor and made it nice. Chair questioned the house being within the requirements of the ordinance. Mr. Schreiber explained that if they have an existing area above 7', they can expand that part and you end up with awkward space – from a Staff's perspective, they are maintaining the mass of the building and they are preserving the third floor and adding a little bit of space. If this house were torn down, someone would request the .625 and they would end up with a similar mass structure to what is proposed. They have similar concern with the awkwardness of the layout and the maximizing of the three family. He added that this could have maximized the basement and the third floor. Chair appreciated the information but when they are making an entry out of a mechanical room, is embarrassing. She is not trying to take away a three family, it is a jigsaw puzzle. Attorney Leitner said they are only looking for a 17x10' room above the bump-out. This is being permitted by right all over town.

Chair asked how this is not substantially detrimental. Attorney Leitner said it is adding 170 square feet and remove the shed from the other side so it is decreasing the massing by a fairly similar percentage. They're putting it above where a deck was there previously and on the third floor they are putting a smaller deck that fits under the gable. The only feature architecturally that looks hideous is the railing that is above the height of the gable on the 10x12 deck. Mr. Schreiber said that this request is a special permit not a special permit finding so there are four criteria and the first is whether it is an appropriate application for the use. It is a non-conforming use and they are asking for a conforming special permit. It is looking at the mass in the neighborhood for criteria one and the other three are to be considered for the structure.

Member Ferris asked for clarity there is no issue for the third floor in terms of space as the dormer is for a stair and is therefore not considered. On page R1, the first floor rear stair – the door should swing out – is that not countable area (the doghouse). Mr. Mena said it is countable area for FAR; however the basement is excluded. All two families today can build out the basement for livable space without it counting towards living space for FAR calculations. Member Ferris said other existing scenarios are usually building out family rooms and other usable space in the basement and he is not in favor of granting any type of benefit to property which is already bursting at the seams.

Chair SantucciRozzi said that there is a requirement of four votes for this to pass and she is not hearing all favorable. She asked if they would like to move forward. Attorney Leitner said he doesn't think a fifth vote would change anything and they have put a lot of time into this already. He has said everything - the board is aware of two-family homes that are built-out that never make it to the board

and they are huge. They are doing everything within the building envelope and this is a request for 2.7%.

Member Ferris asked Staff what parameter would modify the proposed addition that would allow a by-right situation. Mr. Mena stated that they are over the .5% requirement now, so any modification would require relief. Member Ferris said he cannot understand what existed and what is new as there already was a building permit issued – was there no addition to the rear of the building, was it a flat façade? Mr. Mena said there was a one story addition off the back within that outline and there was not a second floor (see sheet A3, which shows the existing addition). Member Ferris said there was no foundation beneath it and no basement – it was open above and open below this addition and now the applicant is seeking to enclose part of what is below and add another full floor above and deck on top of that. Mr. Mena said (without) this, changes the second unit from a three bedroom to a two bedroom.

Chair closed the public hearing after asking the audience for comments. She read from the planning board report and staff recommendation which were both approved. They heard this case two months ago and are back here again. She opened this up to the board for discussion or a motion.

Member Ferris is not comfortable with the application. He would be comfortable with the volume at the rear with the first floor component. There are issues with the basement not having enough glass and feels things are shoved together. He would be comfortable with the first floor enclosing the rear addition.

Member Ferris motioned to deny the application for 56 Putnam Street. Member Gannon seconded. Members Ferris, Gannon, SantucciRozzi and Donato voted in the affirmative. The petition is denied by a vote of 4-0.

Chair SantucciRozzi announced the next case: **36 Arlington Street and 570 Arsenal Street**. She also confirmed that Member Heep was not at the last hearing for this continued case and therefore, the petitioner will be required to have all four members that are voting to be unanimous.

Attorney Winnick stated that he will keep his statement brief since there was a lengthily discussion with the board at the last hearing. He said the two petitions for relief are separate but are integrated via the parking on one site for the use on the other to be allowed. The site design, landscaping and operational issues were brought up at the last meeting and this meeting is to review those details. He introduced the team and asked the chair to advise him before the board votes if all four are not unanimous. The existing tenants, Gym-It, a health and fitness facility and the sports medicine office area which uses a small percentage of square feet. They based the project on assumed tenants, one being Dollar Tree which has now fallen off as a use and now a tile retail use is proposed which has a very small traffic demand. This would be the best case scenario for a retail component at this location.

Matt Harrington, Owner, Gym-It and representing 36 Arlington Street LLC, stated that the board has a packet of information that includes site information, a parking memo by VHB and site and landscaping plans by VHB. He told the board about who they are. His dad, Mark and his older brother are partners in this business venture. He brought in full size copies of the plans and confirmed that the board hasn't any questions on it. Chair SantucciRozzi asked the board if everyone has had a chance to review all of the additional information and then encouraged Mr. Harrington to get to the updates to the site.

Mr. Harrington spoke on the letter from their partners in the easement, illustrating the parking arrangement in the easement was beneficial to both of their businesses (allowing hotel guests access to the gym) and confirming that it has worked well up to this point. The major changes are that they are introducing a major client who is in holding until they see what happens at this meeting. They have had difficulty finding clients that are willing to wait for approvals. The Tile Shop is a national retailer with sites locally in Natick, Shrewsbury and Warwick, RI. A combination of showroom and warehouse space, consisting of about 17,000 s.f. showroom and 5,000 s.f. warehouse. This is not an everyday use and is considered a specialty retail use. It will mesh well with the peak demands of Gym-It. They have provided renderings with updated windows, if desired by the tenant. The landscaping plan is detailed and will clean-up the front of the building and add landscaping and trees around the loading dock and improve the curb for the upstairs of the main entrance. A couple of questionable parking spots that may have been on the neighbors' property have been moved without eliminating them. They have improved the trash receptacle by creating an enclosure at the northwest corner of the rear parking lot. In addition to the landscaping, this will provide a much improved look to the site. Snow removal was discussed at the last meeting and their new trash location will prevent the snow contractor from pushing the snow into the wetland area and they have instructed the company to remove the snow from the site when necessary.

Chair encouraged the explanation of the new parking layout and the loading dock as she does not see how a tractor-trailer could fit. Mr. Harrington stated that they have the landscaping plan showing an overlay of a full size truck that does not encroach on the landscaping or the street – it would back in, pull past the space and then back in. They have done this several times when they relocated their business. The two spots in front of the loading docks are not counted in their parking count. They could be used, when necessary at peak times when there are no deliveries scheduled.

Randy Hart, VHB said he gave a detailed presentation at the last meeting and will be brief tonight. He reviewed the specific parking times and number of spaces utilized at different times and noted the peak of the peak times were max'd at 98%. They also did hotel parking at the peak of Gym-It and 61% of the supply was utilized. The hotel parking is not generating at the level provided. They went out to the Natick Tile Shop and counted the number of parking utilized. The peak was 4 vehicles at 4 pm. This will be a low parking generator and therefore a wonderful fit for this site. He then showed graphs showing the data he collected and the fact that all of the parking is not utilized at peak times. He said they've added a curb to the loading area, as requested along with more landscaping and two parking spaces for trucks. The trash bin is on rollers and will be coordinated so there is no pick up during peak times. The landscape plan speaks for itself – they've added thin landscaping to the front to see through and around the perimeter to give a nicer feel to the area.

Chair SantucciRozzi said she likes the island but questions the radius for the loading dock. Mr. Hart said the truck will be along the side of the building. Chair asked how a truck would maneuver without impeding Arlington Street. Mr. Hart said they have to back in from Arlington Street. He will provide the turning radius to the board after. Chair said she would rather have the truck delivery without the island but would like to see the site plan showing the truck movement.

Member Gannon asked if the entire site was a health club before. Mr. Harrington said since they have occupied the building, they have only utilized 50% of the building and no other uses in the building aside from the sports medicine, which is within their gym. Mr. Gannon clarified that 50% of the building has been vacant. He then asked about the traffic studies on one tenant and does any retail use qualify to go in there like an Amazon fulfillment center? Mr. Schreiber explained that a tenant must show they meet

the requirements of the zoning. It cannot be any use due to the way the conditions are written. Potential tenants are reviewed by the Transportation Planner for every site in town that is required and this site will now have a Transportation Demand and Management program requirement. There is a review built-in before a tenant occupies a space and if the tenant has an unexpected growth or becomes popular, then there are other conditions that will create a successful management plan like valet parking or shuttles, if there were complaints – Zoning and Planning would work it out. Mr. Mena reiterated that the permit is for 17,000 square feet of retail use which requires one parking space for every 350 square feet and 5,900 square feet of warehouse which requires one parking space for every 1200 square feet; which requires a total of - if another use went in, the parking analysis must be met. There is also another level – the Transportation Demand Management plan and an annual review, which, if necessary would trigger another view by the board. Mr. Schreiber added that in the past, this site had valet parking in the back but that was an overburdened situation and this Petitioner does not want that.

Member Gannon asked VHB about their studies based upon the proposed use of a site and does that mean that any retail use meets these requirements. Mr. Hart explained that if there is a land use category that is more comprehensive and included a retail use like a tile shop, they would use a standard publication which gathers information data from all of those sites which would be a good resource. They have looked and there isn't a standard fit and this is more of a warehouse than it is a retail facility. When there isn't data, they do empirical studies, which they did on the tile store on Route 9 with other retail stores around it. They went there and counted the cars parking there for the tile shop for four hour intervals.

Member Ferris said he appreciates the landscape plan, elevation and floor plans and asked that if they are adding more windows, they respect the style of the building.

Member Donato thanked them for the supplemental information and asked what their plan is for a situation where it becomes above normal traffic. Mr. Harrington said they have an agreement with the hotel that if there is too many vehicles at the site, that all of the tenants would get together and hire a professional to handle it the best way. Mark Harrington clarified that the easement with the hotel requires them to valet (they would hire a professional valet company ahead of time). They anticipate having defined peak periods.

Member Donato asked about delivery times and does the board want to add a condition for this. Mr. Schreiber stated that staff did not place specific times on this as it is not residential. Chair SantucciRozzi suggested that restrictions would be so the delivery trucks do not impede traffic during rush hour timeframes – they could deliver all night.

Chair said there have been a lot of improvements since the last time they met and the landscaping plan is a visual peek into how the lot will function. She questions the loading area that she will condition. They have clarified the easement. They added elevations. She asked about carriages or is it a place where they pick the tiles and then it is delivered. A contractor will pick it up. It is not brought out the front door and over the sidewalk. It is picked up at the loading area. Max size for trucks at loading dock; snow storage; restrict tractor trailer delivery times. She added that our parking requirements are the problem – the gym requires 55 spots but they use more and this retail requires more and will use less. They have 115 spots with the easement. They are trying to backfill with the low impact retail and they want to avoid the valet-type parking.

Member Ferris said the rendering shows bituminous at the bottom of the ramp but he suggests concrete for anyone requiring the need of the ramp. Mr. Harrington said they are required to provide a certain type of concrete for that purpose.

Attorney Winnick said this case is an example of how the town needs to adapt to our town changing from a heavily industrial city to a more modern form. These situations will call for change and some tolerance. The planners had the foresight to add parking arrangements for a neighboring use that benefits it.

Chair opened the meeting to the public. No one spoke and the public hearing was closed.

Chair reiterated that there are two petitions and reviewed the draft conditions on both. In the future if there were an issue with the parking, it would start at the Staff level and if it were major, it would come back to the board. With 36 Arlington, remove condition 8.C as the landscaping plan becomes the control doc. The landscaping should be completed prior to occupancy. 8. E – snow storage, the term ‘unreasonable’ needs to be amended. No storage of snow in circulation or parking areas – they may be able to push a little bit to the edges but no storage in the front. The dumpster area is provided for and staff will weigh in on the enclosure. Delivery is by a 50’ trailer with a single cab (Mr. Harrington agreed that is all that will fit). She suggested no large deliveries 7am – 9am and 4:00 – 6:00 pm. Mr. Harrington said sometimes there isn’t a lot of choice in the delivery times and he suggested a traffic attendant that could assist the backing up during peak time. Chair said the person would have to be a police officer. She wants to keep the time restriction in the conditions and have the tile company come back to reconsider if it is an issue. Member Ferris added the delivery times include Monday – Friday and Saturdays are more flexible. Chair said if the TDM showed issues, including incorporating deliveries, they would look at that. Mr. Hart asked if they could accept other deliveries with a smaller truck during the peak times. Chair said that would be okay as the larger truck would stop traffic in both directions. Trucks less than 30’ can deliver anytime and trucks over 30’ are restricted. Mr. Mena clarified that the TDM could modify on the staff level. Chair SantucciRozzi said they’d come in to the board and not have to be advertised (Other Business). Chair ended with the shared parking plan will be recorded by both locations and 36 Arlington will have the amendment plus the site plan review.

Chair asked for a motion on 570 Arsenal Street for the shared parking permit. Member Ferris motioned to approve the Special Permit for 570 Arsenal Street with conditions discussed. Member Donato seconded. Members Ferris, Donato, SantucciRozzi and Gannon voted in the affirmative, 4-0. Alternate Member Brangwynne not voting.

Chair asked for a motion on 36 Arlington Street, a Special Permit with Site Plan Review for the gym, office, retail and warehouse and the shared parking. Member Ferris motioned to approve the Special Permit with Site Plan Review with the conditions discussed. Member Donato seconded. Members Ferris, Donato, SantucciRozzi and Gannon voted in the affirmative, 4-0. Alternate Member Brangwynne not voting.

Chair announced a withdrawal on 195 Mt. Auburn Street and asked Mr. Schreiber to speak to this. Mr. Schreiber stated that it was submitted and advertised for relief that is incorrect by the town’s perspective. It is assumed that the petitioner will come back with the corrected request. Chair asked for a motion to allow Clark Elefteriadis from Boston Body, which was a case that came before the board a few months ago, to withdraw without prejudice.

Member Gannon motioned to allow the withdrawal without prejudice. Member Donato seconded. Members Gannon, Donato, SantucciRozzi and Ferris voted in the affirmative, 4-0. Alternate Member Brangwynne not voting.

Member Donato motioned to adjourn. Member Ferris seconded. Voted 4-0, the meeting ended at 9:30 p.m.