



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
Michael E. Brangwynne, Alternate

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MINUTES

On Wednesday evening, June 26, 2019, 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; Christopher Heep, *Member*; John Gannon, *Member*; Michael Brangwynne, *Alternate Member*. Absent: David Ferris, *Clerk*; Kelly Donato, *Member*. Also Present: Gideon Schreiber, Senior Planner; Louise Civetti, Zoning.

Chair SantucciRozzi opened the meeting, introduced herself; the staff and members and mentioned that there is only a four member board and all votes will need to be in the affirmative or they have the option to continue to a five member board. She reviewed the agenda; swore in the audience; and requested a motion for the April and May minutes.

Member Gannon motioned to accept the minutes as written for the April 24th and May22, 2019 meetings. Member Heep seconded. Voted 4-0. Approved.

Chair appointed Member Heep as the acting clerk as requested he read the legal notice for the first case: **16 Waltham Street**

“Vahe Ohannessian, 131 Spruce Street, Watertown, MA 02472 requests the Zoning Board of Appeals grant a Special Permit Finding in accordance with §4.06(a), Alterations to Non-Conforming Structures, Front and Rear Setbacks, to extend the two-story structure within the existing nonconforming front setback of 10.8’ and a rear setback of approximately 7’. Located in the S-6 (Single Family) Zoning District. ZBA-2019-13”

Vahe Ohannessian stated that he is the architect and potential owner of this property. He is maintaining most of the original dwelling. He went through the historical process and worked with staff to come up with this design and fit a family of 6. They will demolish a bump-out on the east side and a bump-out on the front at the entry and two accessory structures where the new addition will go. The addition is less than the existing setback. He had planned to demolish the garage to meet the building coverage requirement but a portion of the lot is going to stay with the lot and have an easement. This will bring

the lot size back to what it was 7740 s.f. and he will be able to keep the garage. He is extending the front of the garage to fit one standard size vehicle.

Chair said the dimensions on the plan are different than what is on the survey. Mr. Ohanessian said he measured the property himself and the siding and foundation are probably the reason they are different. He would use the dimensions on the survey for this petition.

No one spoke from the audience.

Member Brangwynne asked if the purchase of the property was contingent on this approval. Mr. Ohanessian said he did not make the purchase contingent and he has a Purchase and Sale agreement with a closing in August and he has a letter from the owner allowing him to do all of this. He plans to make this his family's primary residence.

Member Gannon asked about the encroachment onto the neighbor's property. Mr. Ohanessian said it is inches – under a foot. Mr. Schreiber added that the neighbor owns this house, as well. He said they removed the encroachment of an addition on the rear of the garage but left this little piece. Member Gannon asked if they moved the line. Mr. Schreiber said they did not move the line; they removed a portion of the garage that was on their property. Mr. Ohanessian said there was a shed-like addition on the rear of the garage that was removed. Mr. Schreiber said it is the same owner. Chair SantucciRozzi said it is not the same owner.

Member Gannon said the windows on the first and second floor do not match on the placement of that façade. Mr. Ohanessian said they are placed there due to the vaulted interior ceiling. He added that the windows are placed due to the walk-in closets. There are things they can do with flexibility. Chair said that once the plans are approved, the design is set in stone. Member Gannon said he'd like to have further discussion on it.

Member Gannon asked what the reason is for the easement. Mr. Schreiber said that 385 Pleasant Street had a community meeting and this location, the point of the property had a billboard on it. However, it now provides ADA accessibility along the sidewalk with a crossing on Pleasant Street.

Mr. Ohanessian added that the visibility that they are concerned about will be limited. Chair asked if all of the vegetation will be kept. Mr. Ohanessian said he plans to clean up the site and plant new landscaping. He said the large tree may be part of the easement. Mr. Schreiber said he plans to speak to the owners of the other site to ask that the tree remain. Chair spoke on how she would like to see the tree would be incorporated into the design.

Chair SantucciRozzi reviewed the change request and asked if he tried to conform to the 4' required buffer. She asked if he negotiated the easement of the placement of the garage. Mr. Schreiber said the petitioner did not negotiate the garage encroachment. The property owner purchased the property, created the easement at the point and is selling the Waltham Street property. Chair stated that if the easement is not recorded then it is not an easement. Chair said it would make sense to request an easement for the garage. Mr. Ohanessian said that the P&S shows the easement and the plan as shown

which shows the garage onto their property to be recorded. They did not call it an easement but did recognize that there is an encroachment. Chair said to have the conversation with the owner about creating an easement for the encroachment of the garage.

Member Gannon said he has concerns with the visual of the windows on the façade as you come up Waltham Street. Member Brangwynne asked if he could balance the windows. Mr. Ohanessian said he could add a panel window that mimics the size and shape at the top and bottom to have it appear symmetrical. Mr. Schreiber suggested a window in the closet. Mr. Ohanessian said the storage space in the closet would be compromised. Member Brangwynne suggested changing the interior design. Chair suggested screening the view with vegetation. Mr. Ohanessian said this is the only part of the lot that allows an area for the children to play in and he would consider along the edge of the property. Chair said to consider keeping the hedge up to the edge of the house.

Chair closed the public hearing and announced their business mode. She reviewed the Planning Board report and added condition #7 regarding adding the hedge from the easement to the corner of the house. She recommended against rebuilding the garage wall by wall. She proclaimed that they can add the condition to do his best to provide an easement for the rear of the garage and she advises him to do that.

Member Heep motioned to approve the request for Special Permit Finding with the additional conditions discussed. Member Brangwynne seconded. Voted 4-0.

Documents reviewed: Building Permit Plan, McKenzie Engineering, 6/7/2019 And, the plans set updated as of 6/7/2019: Site Plan, Sheet A1, Boston Architects and Buildings, Inc., Addition Project, 5/14/19, signed and stamped by Vahe Ohanessian; Perspective Views, Existing and Proposed 3-D, Sheet A2.1; Perspective Views, Existing and Proposed, 3-D, Sheet A2.2; Floor Plans, Existing and Proposed, Sheet A3; Elevations, Existing and Proposed, Sheet A4.1; Proposed Elevations (*sic*), Sheet A4.2 (*Sheet actually shows existing and proposed elevations*)

Member Heep read the legal notice for 15 Fuller Road:

“Timothy and Julie Cunningham, 15 Fuller Road, Watertown, MA 02472 requests the Zoning Board of Appeals grant a **Special Permit** in accordance with §5.04, Floor Area Ratio greater than 0.5; and a **Special Permit Finding** in accordance with §4.06(a), Alterations to Non-Conforming Structures, Distance between Structures, to build a replacement first and second floor covered porch, maintaining non-conforming setback and increasing building coverage and FAR. Located in the T (Two-Family) Zoning District. ZBA-2019-11”

Ken Leitner, Attorney representing Tim and Julie Cunningham, said the Cunningham’s purchased this property in 2015 and have done a total gut rehab. They occupy the property with their children and now are looking to improve the outside of their property, changing the FAR and the setbacks. They are rebuilding their deck. They received a building permit to remove the deck as it was falling off, back in October. Staff has made some great suggestions but they are looking to add 80 square feet of coverage. This will provide a view of Victory Field without obscuring anyone else’s view. They had an existing deck on the second story and stated that they are going to maintain a 6’ setback on the first level and the first part of the deck will be open. They are making a minor hip roof and tying it into the existing roof. The

covered roof of the deck is about 12.5' by 13.5' and ½ of that had been covered by a roof before. The additional space is about 80 s.f. and they think it is appropriate. They received letters in support from the abutter who would be affected. The extra coverage is on the second story. There is no vehicle or pedestrian nuisance. They have the same driveway. It is appropriate, they used to frame them parallel to the house and this will be framed properly. They are looking for increasing the building coverage from .63 to .65 and the lot coverage from .38 to .40. In the narrative it says .357 but the architect couldn't use the prior deck as it was already off.

Chair clarified that the building coverage is smaller as the deck was removed already when the surveyor came to the property.

Chair asked about the proposed plot plan which shows the existing open space and impervious coverage and they do not equal 100% (91.4%). She asked what is missing there and stated the proposed does equals 100%. She asked where the increase of 25.7 to 31.3% in open space is coming from. Atty. Leitner said the patio was there prior and in front of the deck. Chair confirmed that the patio is remaining. She stated that the increase in open space is significant at over 5% on a 5000 s.f. lot. She asked if the other figures are accurate. She stated there shouldn't any increase in open space if everything above the existing patio is a deck. Atty. Leitner said the stairs were previously a deck. Mr. Schreiber stated they may be using the driveway as open space as the impervious coverage and building coverage add up to 108... Chair questions the accuracy of the numbers on this plan. She said they are missing 8% of the lot in the calculations. Mr. Schreiber said the side yard and front yard meet the open space requirement so he did not question the plans. Chair again asked where the increase in open space is. The architect said there were two sets of stairs and perhaps the open space is the removal of one set. Atty. Leitner said that they meet the requirement of open space and they do not change the improvement they are seeking to construct, they are safely above the .15 – he added that sometimes these figures do not add up to 100% due to the person doing the calculations and what they are stating is open space.

Chair SantucciRozzi said the architectural drawings (page A1.1) the existing FAR is .63 and the proposed is .65 and the application says .58 and the proposed is .62. Atty. Leitner said the initial application did not include the space in the attic and where the deck was and there is a subsequent change to the application – the control plans are correct. Chair asked if the existing FAR was calculated using the porches that were there and the plot plan did not. Atty. Leitner agreed that was correct. He said the plot plan has to take actual measurements and the deck was already taken down. They had filed for a demolition permit first as the porch was unsafe. They should have said at the time that they were rebuilding the porch, then (all measurements) it would have been the same. Chair clarified that the .63 is the FAR of when the porch was there. She added that in the future, it should be one or the other but not both. She added that she is having a difficult time understanding where the additional open space came from. She understands that it is conforming or hopes it is conforming but the increase would offset maxing out the FAR. You would need a Special Permit if you were not already (non-conforming). She asked the other members.

Member Gannon asked what the remedy would be. Chair said she doesn't know what numbers are accurate or inaccurate. If the open space is accurate, then the impervious coverage is off. Are they increasing the open space? It is a small lot and 5% is a lot. It is important to have accurate information. This makes a difference as they want to alter the structure to the maximum allowed. She wants to know what the FAR is without the addition. Was the porch condemned? The non-conformity is now gone. Atty. Leitner said they spoke to the Building Department before they came forward. Chair said if the porch was that unsafe, it would have been condemned and this would be a non-issue. She added that if everyone took down structures and then came in to ask for an extension of their non-conforming structure, that would not be how it works. Atty. Leitner said the permit process is tricky as you can make notes on your demo permit about building permit. Chair said it is different if you are building in-kind but this is going for something else.

Member Heep proposed that the applicant submit a plot plan that adds up to 100%. Member Gannon agreed and asked if the petition should be continued to next month. Member Heep stated he would not be at the July meeting and that would mean this is delayed to August. He would be comfortable that the applicant submit this to the Staff as a condition of approval. Member Gannon stated he could go forward this evening. Atty. Leitner asked if the open space is remaining the same, would the board move forward. Chair said she would have them come back. Mr. Schreiber said that the open space is not increasing as he has been to the site and the structure is getting bigger and the amount of land is not changing. He thinks the mistake is that they (the civil engineer) added instead of subtracted, if it is decreasing at all.

Atty. Leitner stated that they would like to get a deck built this summer. If they have to come back in August... Chair said if the open space is not increasing like they are representing and they are requesting to maximize the FAR, it is important to have accurate information. Atty. Leitner said they will ask the surveyor what his interpretations were to increase the open space calculation. He said everything has changed by 2% - the lot coverage; FAR and the open space may have gone down 2%. He has worked with staff since December and if they are comfortable to put it upon staff for the approval. Chair said the open space calculation is concerning. One of the calculations is not right if the open space is not increasing. Atty. Leitner said some surveyors interpret differently and it is shy 100%. Chair said the more they talk, the more she is questioning the accuracy of all of the numbers as there are different numbers on the application, as well. The application, the architectural plans and the plot plan are not looking at the project in the same way – one is based on the deck being there and one is based on the deck not being there.

A woman said that she was here two weeks ago and everything was approved and she has been talking to Gideon and she doesn't understand. Mr. Schreiber said it is not their job to correct the surveyor. He noticed the inconsistencies and he did not have this one corrected. He said there were changes to their plans but that doesn't give excuse to why this is happened. Atty. Leitner said they are not looking for excuses. He added that the surveyor will determine how he interpreted the numbers. He said they do not misrepresent things – they want to get it to where they (the board) are comfortable.

Member Heep motioned that they continue the petition to the August meeting. Member Gannon seconded. Voted 4-0 to continue to August.

Chair announced the last case is to withdraw without prejudice an application for 28 Nyack Street.

Member Heep motioned to withdraw. Member Gannon seconded. Voted 4-0.

Mr. Schreiber said that Nyack will come back requesting a different relief that is in keeping with the Special Permit Finding process.

Member Heep motioned to adjourn. Member Brangwynne seconded. Voted 4-0. The meeting ended at 8:10 pm.
