



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
Michael E. Brangwynne, Member
Alexander Dale, Member
Gregory Girard, Alternate
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MINUTES

On Wednesday evening, October 25, 2023, 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.

In attendance: Melissa SantucciRozzi, *Chairperson*; David Ferris, *Member*; Christopher Heep, *Member*; Alexander Dale, *Member*; Gregory Girard, *Alternate Member*; Samuel Odamah, *Alternate Member*; Michael Brangwynne, *Member*; Also present: Larry Field, *Senior Planner*; Gideon Schreiber, *Assistant Director of Planning*; Sameena Pirani, *Zoning Clerk*; Antonio Mancini, *Zoning Enforcement Officer*.

Chair SantucciRozzi opened the meeting and introduced the Board Members and staff. Staff explained how the meeting and methods of participation for the public could be accessed remotely.

The Chair stated the continued case and the order of the cases to be heard. The motion to continue 480 Arsenal Way to November 29, 2023 was made by Member Ferris and seconded by Member Heep. The Motion was approved (6-0) with Member Ferris, Member Heep, Alternate Member Girard, Member Brangwynne, Member Dale and Chair SantucciRozzi voting in favor. She also said that Member Girard would be the Alternate for that case.

Chair said along with Member Heep she would be recusing herself from 9-11-13 Boyd St. Member Ferris would take on as Chair.

Item #1: 104 Main St

Chair SantucciRozzi said that updated material had been received and asked the petitioner to limit the presentation to the changes made since the last meeting.

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After noting the various consultants present at the meeting, Brett Buehrer, representing the applicant, went over the changes made to address the comments of the public and Board members. These included the increase in Commercial/retail from 6,197 to 6,946 sf, reduction in rental units from 148 to 137 units, (21 affordable units—one less than the original proposed; 20 rental, 1 for sale) reduction in GSF from 154,553 to 136,330, reduction in FAR from 2.51 to 2.2 and a reduction in height from 6 stories to 5 stories, from a height of 67' to 61'. The height of the first floor was increased for better access to retail and better truck access for deliveries, which was a concern previously expressed by the Board. Parking had been reduced from 156 garage spaces to 130 spaces with one surface space. He confirmed that previously described commitments related to sustainability would be maintained.

Going over the on-site community amenities, he said that the size of the plaza had been increased by 24% from 9,672 to 12,002 SF in keeping with current best practices of planning. They had created a public art installation opportunity within the pedestrian plaza supporting the City's Public Art initiative and office/gallery space to enhance the vitality of the plaza. Other changes included the reduction in FAR allowed for the preservation of the 19th century row houses and landscaping viewed as important to the community, maintaining the Cross Street scale by placing the massing in the center of the site, as well as providing more air and light. The petitioners had also implemented building setbacks to reduce the massing on Main Street and Pleasant Street. They also created space for quality retail along Main Street in response to the comments from the public and Board.

Off-site community amenities included contributions made to the Transportation Master Planning Studies of Watertown Square and Community Path, the Pedestrian and Bicycle Wayfinding Program, Street Light Improvement Program and the maintenance of the City's Bluebikes station opposite City Hall. Additionally a Pedestrian Safety and Mobility Study from Main Street/Cross street to Whooley Way and safety and mobility improvements as directed by the city along the Main Street project frontage as well as specific improvements at Main Street and Church Hill Lane were other off-site amenities included in the project.

Design modifications from the previous meeting included elimination of the sixth floor, moving the amenity space from the second floor to the fifth floor facing Pleasant Street, consolidating parking garage access from the parking court to one location on the eastern side of the building along Pleasant Street with one internal speed ramp. The loading dock would be accessed from the only garage entrance. The lobby area was enlarged and moved to have greater visibility to the drop off court. The height of the second floor of the parking garage was increased to allow box trucks to make their deliveries to the rear of the retail space. The petitioners had also been in dialogue with the neighbors and accommodated their requests. Additionally, they had been in dialogue with the post office. They were hopeful that the post office would temporarily relocate and return to the building when completed. No commitments could be made for them at this time. The plans did address their delivery needs.

Compared to the previous development program, the revised program, would result in 1 to 5 additional vehicle trips during the peak hours. This would not alter the overall findings and conclusions of the transportation analysis prepared for the project.

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Upon the conclusion of his presentation, Brett Buehrer invited other consultants on their team to highlight the changes.

Ian Ramey, representing Copley Wolff Design Group walked through the changes in the landscape plans. Based on dialogues with the westerly abutter, the active uses for the second-floor courtyard had been pulled away from the westerly side. Additionally, plantings on that side had been increased to create a buffer, the fire pit had been relocated to the central portion and lighting would be reduced to a lower level after certain hours and then turned off once courtyard activity was closed.

Another significant update was the widening of the public walkway connecting Main Street with Pleasant Street. The increase in width from 8 feet to 10 feet because of the pulling back of the building would allow room for plantings on both sides of the walkway. Also increased were the locations for public art, integrating public seating elements in those areas. The lobby had been shifted to Pleasant St. allowing room for the Office/ Gallery space near the central portion of the walkway. Vehicular parking in the turnaround has been reduced to make the plaza more open and pedestrian oriented. The size of the fifth-floor roof terrace along Pleasant Street had also been reduced.

Concluding his presentation, Ramey invited Matt Marotta from Icon Architecture to describe the building changes. Changes highlighted included access to the parking structure which would be solely via a single curb cut on Pleasant Street with access to the lower level from an interior ramp; reduction in retail by 120 SF to allow for an area for loading for the retail; increase in the ground floor height to 18 feet (floor to floor) to allow the clearance needed for box trucks deliveries for the retail space. Also highlighted was the location of the Office/Gallery space allowing greater interaction between the public and art walk; relocation of the lobby entry to Pleasant St; trash and loading all taking place off the single curb cut off of Pleasant St; moving the amenity area to the fifth floor; slight shifting of the units to work with the new footprint; reduction in the overall building height by 6 feet; Also presented was the materiality and a few of the façade penetrations in response to the request; Multiple updated perspectives including those to illustrate the 5 stories and 18 foot floor to floor ground floor retail elevation, as well as views from Main St, Pleasant Street, Cross Street, Church Hill Street, the relocated entry court, and the art walk.

At the request of the Chair, Attorney York went over the nature of Zoning relief sought in the project, clarifying that the relief sought was basically the same. Although the sixth story had been eliminated, there had been an increase in the height of the retail space to make it more viable for Watertown Square, more vibrant for the streetscape, and to better service the delivery vehicles.

Following the conclusion of the presentation, Chair SantucciRozzi announced that she would open discussion to the public. She further added that if an individual had already spoken and wished to repeat those comments, they were already in the public record and noted in the meeting minutes.

Linda Scott, 55 Olcott Street, stated that she had attended the Affordable Housing Trust Meeting on October 16 and was able to see a summary of the 104 Main Street project. At this time, there was also a discussion about the status of the post office. It was believed that support from the Affordable Housing Trust and other local housing groups in asking the post office to leave would help expedite the process.

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Based on this information, Linda Scott had one comment and several questions. She noted that the net gain in affordable housing was 7 apartments, given that 14 families would be displaced, many of whom would not be able to afford the so-called affordable units. Her questions included the following: Did O'Connor Capital actually own this property? Where was the temporary location of the Post Office, as had been previously mentioned? What was the length of the post office's holdover lease? When did the petitioners learn about this? Where would the post office be in the proposed configuration of the building? The post office was an important amenity that brought people to Watertown Square. The Watertown Square Study was underway without any post office agreement in sight. It seemed that the project was being rushed to get approved to avoid the property's involvement in this expensive and comprehensive study. She acknowledged Brett's attendance at the first Watertown Square Study meeting and thanked him for it.

At the request from the Chair, Brett Buehrer provided clarity on the affordable housing units. 15% of the units would be affordable, calculated at 21 affordable units, split between 65% and 80% Area Median Income.

Brett also clarified that they had been in discussion with the post office which became a holdover tenant with their current owner at the end of August. They had placed significant deposits on the property and were prepared to close with approval of the site plan. He added that the post office was looking at the space to determine their needs. He added that delivery options for them had been addressed in the proposed plans.

In response to the Chair's question whether a post office could be evicted, Brett clarified that they were allowed to become holdover tenants, adjusting their rent to market. Typically, the post office had no interest in being a holdover tenant. Becoming a holdover tenant would help them jump the line within the processing for new facilities. He confirmed that community support in continuing the dialogue would be helpful and was hopeful that a schedule would be made for relocation.

Joan Gumbleton, 32 Falmouth Road, expressed her concerns about the fire safety of electric vehicles parked under the apartments. She stated that although the building height had been reduced to 5 stories, it was taller than the 4 stories that had been originally proposed. At the back of the west side, the design looked "boxy" a possible eyesore for people driving down Pleasant Street. She suggested adding more greenery to "soften" it up.

Yasmina Spector, Whites Avenue, complimented the changes to the plans and the input received during the process.

Todd Larson, Chester St, urged the inclusion of more affordable units in the development, if possible, even if it meant restoring the sixth floor. He stated that tall did not necessarily mean ugly. Height should not be that much of a concern. It was affordability that was much needed in the city.

Jamie Gordan, 84 Fitchburg Street, appreciated the art walk and the increase in the public plaza space. She stated that the site would be within the Watertown Cultural District proposed area and an important project for the district. Also, that everything in the building aligned with Jeff Specks talking points at the Square's Kickoff Event, encouraging taller buildings and additional trees in the streetscape

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to make it pedestrian friendly. She added that having residential units so close to new developments such as the one on Galen Street would likely reduce car trips as it would encourage people to move closer to work. She appreciated the changes that O'Connor Capital had made to the project in response to all the feedback, especially the increased height of the retail to accommodate box trucks and hence more options for retail. She was in favor of the development and hoped that the Zoning Board would grant the special permit.

Gavin Schuler, 32 Whites Avenue, expressed his support for the project. He said that it was a beautiful work of art as shown and appreciated the changes made. He acknowledged the shortage of housing in Watertown, sharing his experiences finding housing. More housing would be better. More affordability could come with an increase in supply.

Joshua Rosmarin, 29 Ashland St stated that he had followed the approval process for the past six months. He had watched the design evolve from being "boxy" to a building that was "more nicely tailored, and fit[ted] the space." He appreciated the developer's maintenance of the number of units despite the reduction in height. He hoped the Board would approve the project.

Andy, 120 Pleasant St, appreciated that the building did not provide a pool, gym, poker room and other such amenities that tend to increase the rent and be underutilized by the tenants.

Amanda Kersey, 120 Pleasant St, appreciated the way the project looked. As a renter, she wanted to know how the developer considered the local income in projecting their range of rents. She asked if they could give renters a sense of the cost for the market rate units.

Rita Colafella, 56 Cuba Street, stated that she had been attending these meetings for the past six months. She expressed her frustration with the reduction in height. Six feet—even seven feet was doable. She had lived in Watertown her whole life and urged the City to address the affordability issue. She was concerned that if this trend continued it would impact business development, school enrollment and more.

Ellen Rothman, 14 Fairview Ave, stated that while it was desirable to have more affordable housing, it was not viable for developers to provide those numbers. She appreciated the growth in affordable units since inclusionary housing first began and urged that the fight for more continue. She pointed out the clean energy in the project which would help with the City's Climate and Energy Plan adopted in 2022. It was all electric, had reduced parking, and offered bike amenities.

Ernesta Krackiewicz, 77 Riverside St, said that she had been very involved in the production of the Climate and Energy Plan and the Comprehensive Plan. This kind of project was needed to reduce vehicle miles by 50% by 2050, a goal the city had committed to. It would have pedestrian access to services and retail. It was also located near transit to reduce the number of car trips. Additionally, it aligned with what Jeff Specks spoke about in his talk a few nights ago. She recognized that many people had been forced to leave the city because of the unavailability of affordable housing. In order to foster more affordable units, she urged the Board to approve the project.

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Joshua Driesman, 127 Nichols Ave, appreciated all the changes that had been incorporated in the project in response to feedback from the community. He especially liked the walkway, the green space and the potential options for retail/restaurants, with the increased height on the ground floor. He also felt that it was important to add additional housing which would help invigorate the Square.

Peter Williams, 18 Hill St, said that he had recently moved to Watertown from Cambridge. He expressed his support for the project. He was excited about adding residential units in that location. The project dovetailed well with the vision for Watertown Square. He would like to see more affordable units, recognizing that it could only happen by allowing more height. He looked forward to seeing the project completed.

Kathi Breen urged the Board to approve the project, acknowledging that the planning process had been robust and extended. She recognized that more housing was needed in Watertown to stabilize rents and home prices. Watertown Square was the right location for such a project. It would help meet the City's obligations under the MBTA Communities Law. It would draw people to Watertown Square and vitalize the area. She appreciated the design, especially the walkway which would help tie the community together.

Elodia Thomas, 67 Marion Rd, and a 48-year long Watertown resident, said she was impressed with all the recalibrations of the project. This included the meandering walkway and the relocation of the lobby to a more prominent area. She also appreciated that delivery trucks would have better access to the retail space. She agreed with the statements made by Yasmina and Jamie; She was concerned about the post office because it was considered the hub of Watertown Square. She wanted to remind people of an article published in 2019 by the Boston Globe recognizing Watertown as one of four communities that had made significant contributions to housing in the Metropolitan Boston area. She acknowledged the hard work of the ZBA to reflect the values of this community. She had a few minor questions. Addressing concerns about the displacement of individuals residing in the apartments, she said that in some communities, Somerville for example, they had a right to return for 2 years. As a dark-sky compliant lighting proponent, she asked if the string lights, while attractive, would go off at a certain time and be replaced with bollard lights; As a nature lover she was concerned about bird crashes that the reflections could trigger. She also asked for clarification on the Live/Work and Gallery/office space marked on the plans. She applauded the community input that had been provided for this project, reflecting the community's thoughtfulness and concern for it.

Addressing her concerns about the Office/Gallery spaces, Chair SantucciRozzi confirmed that they were to be used as Office/Gallery spaces --not living spaces.

Qibin Ye, 16 Olcott Street, said the housing crisis was attributed to the interest rates, which had squeezed the market liquidity. Efforts to lower rent would help drive down the inflation. He expressed concern about the impact of this project on current property owners in Watertown. Other issues raised included the loss of retail space/restaurants and narrow sidewalks along Main Street which get worse in the snow.

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Sam Ghilardi, 17 Derby Road, appreciated the art walk which could also be used to get to the library and the Square. He supported the changes that had been made to the project, the additional housing and the additional business it would bring to the Square.

Josh Matloff, 19 Stuart Street, expressed his support for the project. He appreciated the thorough vetting process by the Planning and Zoning Board. The building would help revitalize Watertown Square and make the area more walkable. The height of the building would be an asset, creating valuable shade and a sense of place and community. The businesses would encourage people to linger in the Square. Despite Watertown's leadership in building new housing, there was still a need for more and an increase in supply would help deal with the current crisis.

Jesse Porch, 11 Broadway Street, said that as one who frequents the Square and library, he was in favor of the walkway. He looked forward to the Watertown Redevelopment Project and would like to see more housing. He saw this project as a good model for moving forward.

After confirming that there were no more hands raised for comments via Zoom, Chair stated the members who would be voting on this petition: Member Ferris, Member Heep, Member Brangwynne, Alternate Girard and Chair SantucciRozzi. Limiting the testimony only to those members who had previously sat on the matter, the Chair invited comments from the Board. All the members supported the changes proposed and expressed their appreciation for the applicant's responsiveness to their comments.

Member Heep thanked the applicant for the "much-improved" project. Most of his previously expressed reservations had been addressed and he was ready to provide his support for the project.

Member Ferris also thanked the applicants for the additional views and through-wall mechanical elements in the façade provided in response to his request. He said that there were a lot of positives for this development including the walkway, and catenary lights to make that passage. Addressing the fire safety concerns raised by one of the residents, he asked the applicant if the building would be fully sprinklered, and the applicant confirmed. Additionally, he confirmed that any "reasonably visible" rooftop elements would be screened. He appreciated the additional ceiling height of the retail.

Member Ferris confirmed that on the fifth-floor units on Main Street, there were outdoor balconies. He also confirmed the applicant's commitment to put in appropriate equipment to notify pedestrians using the sidewalk along Pleasant St of vehicles exiting the garage. Commenting on the area previously labeled as Live/Work space (09/20/2023) and later confirmed as Office/Gallery space (10/16/23), he suggested modifying some of the landscaping around it. He proposed a combination of plantings and open space that could become a destination, allowing uses such as retail/retail pop-ups to further animate the walkway. He also appreciated the latest comments received from David Gamble.

Member Girard appreciated the changes made to the artwalk. He observed that the walkway approaching Main St was subsumed by the restaurant space. Brett Buehrer explained that this area had been shaped by trying to create a meaningful balance between two sets of comments— to create an inviting entrance to the walkway and create a viable restaurant space on the corner. He also confirmed

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that there would be an approved seating plan for the outdoor space to ensure that the table and chairs did not encroach the public way.

In response to Member Girard's request to consider the possibility of bringing the Art Walk out to Pleasant St, Brett explained some of its challenges such as the requirements for handicap parking, buffering for the for-sale units and the high level of activity already in that area.

Member Brangwynne echoed the comments of the Board members and expressed his appreciation for the hard work and participation of the members of the public.

Chair SantucciRozzi thanked the applicants for their responsiveness to comments from the Board and public. She especially noted improvements to the walkway, the garage access, and the increase in retail height and seating availability.

Following the resolution of comments and questions from the other Board members, Chair SantucciRozzi reiterated Watertown's leadership in producing multi-family housing and requiring 15% affordability. She expressed her commitment to support multifamily housing especially with affordable components.

Confirming with staff that the conditions would be updated to address the changes discussed and the testimony given by the applicant, Chair SantucciRozzi closed the public hearing.

In response to Member Ferris's request for additional trees along Main Street, Ian Ramey stated that three trees were struggling, and treatment would be provided for them. He also explained the limitations of adding more trees on Main Street. However, there would be 5 additional trees along Pleasant Street.

Both Member Ferris and Chair SantucciRozzi confirmed that a condition would be added to allow the three designated commercial office/gallery spaces and the exterior spaces associated with it to be used for retail/retail pop ups to better activate the plaza.

Attorney York confirmed that the list of control documents would be updated.

Chair SantucciRozzi also asked that the information presented on public amenities match up with the conditions.

Concluding her comments, Chair SantucciRozzi said the Board had received a staff memo dated October 20, 2023 providing the Department's determination as to application of the "Housing Choice" language in Chapter 40A, Section 9 of the General Laws to the 104 Main Street special permit application. Under the new language, certain Special Permit motions now require a simple majority rather than two-thirds vote to pass. The Chair said this determination would be used and that any motions must be structured accordingly.

The following motions were made, with the required vote threshold and the vote indicated as to each:

1. Conditional Approval of the requested Special Permit with Site Plan Review pursuant to **§5.01 (k)(2) mixed use development under §9.03 and §9.05**, based on the finding that the proposed project

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meets the criteria set forth under §9.05, with the general purpose of the Ordinance outlined in §1.00 of the Watertown Zoning Ordinance, with the conditions discussed. Member Heep moved, member Girard seconded (simple majority required). The motion was **approved unanimously (5-0)** with Chair SantucciRozzi, Member Ferris, Member Heep, Member Brangwynne, and Alternate Member Girard voting in favor.

2. Conditional Approval of the requested Special Permit for **Parking Relief under §6.01(e & f)** with the general purpose of the Ordinance outlined in §1.00 of the Watertown Zoning Ordinance, with the conditions discussed. Member Heep moved, member Girard seconded (simple majority required). The motion was **approved unanimously (5-0)** with Chair SantucciRozzi, Member Ferris, Member Heep, Member Brangwynne, and Alternate Member Girard voting in favor.
3. Conditional Approval of the requested Special Permit for **Dimensional Relief under §4.06(a), § 4.10, § 5.05(f), and § 9.12** with the general purpose of the Ordinance outlined in §1.00 of the Watertown Zoning Ordinance, with the conditions discussed. Member Heep moved, member Ferris seconded (two-thirds majority required). The motion was **approved unanimously (5-0)** with Chair SantucciRozzi, Member Ferris, Member Heep, Member Brangwynne, and Alternate Member Girard voting in favor.

The motions having been approved by the required majority, the Special Permit is GRANTED.

Item #2: 94 Stoneleigh Road- The legal notice was read by member Ferris:

Meredith Packer & Tiago Silva request the Zoning Board of Appeals grant a Special Permit Finding in accordance with §4.06 (a) Alteration of Non-Conforming Structures to allow a new roof and second story on a single-family structure within non-conforming side yard setbacks. Located in the Single Family (S-10) Zoning District. ZBA-2023-09.

Architect Anat Beck-Nachtigal from Derek Rubinoff Architects representing the petitioners provided a brief overview of the project and the nature of relief sought. The house was currently a single-story, with an entrance through the basement. The low-pitched roof would be replaced with a new roof and second story. The existing house had a frontage of 50 feet where 80 feet is required. The side setbacks were 8.7/10.8 where 10/15 feet was required. The addition would be over the existing footprint of the house. Hence, relief for side setbacks was being requested, with no change in open space and building coverage. No changes were proposed on the first floor other than the creation of a stairway to the second floor, where a master suite, bedroom, bathroom, and bonus space would be constructed.

Following the conclusion of the presentation, Chair opened discussion to the Board.

Member Ferris asked about the new siding material. Architect Beck-Nachtigal confirmed that siding that was not brick shall be complimentary or matched in terms of new construction.

Member Ferris also confirmed that the birch trees in the front yard would remain and not be impacted by the new construction. He also confirmed that the overhanging eaves on the main roofline and dormers would be managed so that the dormer overhang would be subordinate to the main roof.

Member Odamah asked if there were any other examples in the area that had inspired the addition.

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Architect Beck-Nachtigal explained that currently the house looked similar to the one on the left. The proposed house would allow it to become more connected with homes to the right.

Chair SantucciRozzi appreciated the breaking of the massing.

Chair opened the meeting for public comments.

Chair read the letters addressed to the Zoning Board of Appeals and sent via email by the residents of 98 Stoneleigh Road and 90 Stoneleigh Rd. Both abutters expressed their opposition to the approval of the application. Their reasons included loss of privacy due to the addition being in the line of sight of their bedrooms, loss of natural light, its impact on their property value and the addition not being in harmony with the neighboring buildings.

Chair SantucciRozzi expressed concern about the failure to notify neighbors of their plans for reconstruction.

The residents of 98 Stoneleigh Road also attended the meeting remotely, via Zoom. In response to the Chairs questions regarding concerns for privacy on the other side, they responded that there was more space between the houses on the other side.

Applicant Merdith Packer stated that the current windows of their house were already looking into the house.

Member Ferris addressed these concerns by noting that the massing of the design was sensitive to the privacy concerns. Architect Anat Beck-Nachtigal, representing the petitioners also confirmed that the side of the roof was blocking the views to the neighbor's property.

After confirming that there were no additional comments from the public, Chair SantucciRozzi requested a motion to approve the request for a special permit finding to alter the structure within non-conforming side yard setbacks with conditions. In response to the concerns about the removal of trees during construction and portions above the first floor with new siding, Chair SantucciRozzi suggested the incorporation of additional language in the conditions:

- 1) There shall be no tree removal on the parcel as part of the construction of the addition.
- 2) Related to siding, siding that is not brick shall be complimentary or match.

Member Dale made a motion to approve the application for a special permit finding to alter the structure within the non-conforming side yard setbacks with conditions. Motion was seconded by Member Ferris. Motion was passed unanimously (5-0), with Member Ferris, Member Heep, Member Brangwynne, Chair SantucciRozzi and Member Dale voting in favor.

Item #3: 221 Acton Street

The legal notice was read by Member Ferris:

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221 Acton Street-Edward and Claudia Hall request the Zoning Board of Appeals grant a Special Permit Finding in accordance with §4.06 (a)Alteration of Non-Conforming Structures to allow a full second story, a half-story attic and new roof within existing non-conforming front and rear yard setbacks. Located in the Single Family (S-6) Zoning District. **ZBA-2023-10.**

After introducing themselves and their architect David Boronkay (remote) representing Slocum Hall Design Group, petitioners Edward and Claudia Hall provided a brief overview of the project and the nature of relief being sought. They were requesting the Board to allow a full second story, a half story attic for storage and a new roof within existing front and rear yard setbacks. The project would not impact the existing footprint of the house or result in any changes to the setbacks.

They had purchased their home in 2014 when they had one child. They now had two boys. The house was built around 1935 and they would like to improve it with updates. To show their commitment to the Watertown community they had chosen Watertown based businesses to support this project.

Following the conclusion of their presentation, Chair SantucciRozzi opened discussion to the Board.

Member Girard was impressed with the relocation of the stairway to its new space next to the garage.

Member Ferris stated that the plans seem “pretty aggressive” for this “tight neighborhood.”

Board members also noted that the expanded second floor overhangs both the front and rear existing first floor, appearing “top-heavy,” which was a concern.

Member Ferris also observed that the attic space had skylights, windows and hardwood floors questioning its intent as a storage place, as had been labeled. If the space were to be used as a hangout place/sleeping area as the petitioner had suggested, it would require egress windows which had not been proposed.

Member Ferris also noted the absence of egress windows in the area noted as bedroom/hangout space in the basement. He stated that for approval the drawings needed to depict what would be built. Architect Boronkay stated that the intention was to install the egress window well if the basement room was to be used as a bedroom. These were schematic drawings that were being used to convey design intent to get through the special permit finding process.

Member Dale shared Member Ferris’s concerns about the potential for a chain reaction to the setbacks. He also asked what the fuel source for the heating would be. Petitioners responded that they were open to the option of electric.

In response to Member Odamah’s question, the petitioners confirmed their intent to include egress windows to meet code in the basement. The intent of the attic was mostly for storage which currently was limited to a small portion of the basement. The windows were proposed to provide natural light. They also overlooked the park where their children love to play.

Chair SantucciRozzi stated that she was having difficulty understanding the drawings. Looking at the rear elevation, she noted that the stair tower was more characteristic of a multifamily home-not a single family; she expressed concern about the indent and shingles at the transition from the second to the

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third floor. Regarding the window wells, she noted that if placed in the rear, they would result in tightening the already limited yard space. The different type, inconsistent location, and size of the windows, and changes in the roofline were other concerns. She also noted the shallow rear roof. Looking at the proposed and existing east elevation, it seemed that little was being preserved.

Chair also noted that the front elevation had many ins and outs. Member Ferris said it would be helpful to have a 3-dimensional view to understand this better. Chair said that since it was a corner lot, a lot more of the bulk in the rear would be visible. It was also concerning that it was only 6 feet from the rear lot line. Concluding that the proposed project would be more detrimental to the neighborhood, she offered to give the petitioners an opportunity to revisit the plans.

Looking at the Stair-Hall Section, Member Ferris suggested modifications to the risers that could lead to a lowering of the fascia board. Overall, it seemed that some of the design elements and changes were contrary to the relief sought.

Following the conclusion of the Boards deliberations, Chair SantucciRozzi opened the meeting for public comments.

Nancy Ballantyne, 77 Evans St, stated that her driveway abutted the petitioner's backyard. She was completely unaware of the addition and expressed her concerns about not being informed. She also stated the impact the addition would have on the light coming into her house.

Member Ferris suggested that using the roofline to simulate a gambrel and dormer, commonly seen in the neighborhood, would be one way to maximize the space and obtain two stories.

After confirming that there were no additional comments from the Board and public, Chair requested a motion to continue to the regularly scheduled meeting on November 29. Motion to continue was made by Member Heep and seconded by Member Ferris. Motion was passed unanimously (5-0), with Member Ferris, Member Heep, Member Brangwynne, Chair SantucciRozzi and Member Dale voting in favor.

9,11 & 13 Boyd Street

First Path Daycare Inc. d/b/a First Path Day Care Center (Owner: The University Prints Building, LLC) requests the Zoning Board of Appeals grant an Appeal to the Determination of the Zoning Enforcement Officer (ZEO) in accordance with §9.19 of the Watertown Zoning Ordinance (WZO) specific to the application of §5.01(2)(a)(1) of the WZO and M.G.L. c. 40A, sections 8,13, 15, 16, and 17 to reverse the determination of the ZEO made on August 14, 2023 that the conversion of a portion of a mixed-use site for the proposed daycare project requires site plan review approval by the Planning Board prior to a building permit being issued. Located in the Two-Family (T) Zoning District. ZBA 2023-11

Chair SantucciRozzi recused herself from the case, turning the chair to Member Ferris. Member Heep also recused himself. Both left the meeting room.

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Member Ferris listed the members who would be participating and voting on the hearing: Member Brangwynne, Member Dale, Member Ferris, Alternate Girard and Alternate Odamah.

Upon request from Member Ferris, Member Dale read the legal notice.

Evans Huber, representing the petitioner First Path Daycare detailed the case. First Path Daycare had been in Watertown for the past 25 years, located at the Watertown Boys and Girls Club. Due to other plans for the space, the childcare facility had been forced to find a new location at 9-11-13 Boyd Street. Based on the determination of the Zoning Enforcement Officer, Tony Mancini, a site plan review needed to be completed for this site prior to the issuance of a building permit.

The petitioners believed that based on the Watertown Ordinance, site plan review was not required, given the Dover Amendment protected use for childcare facilities and that the conversion space was less than 4000 SF. Documentation from their architects and engineers indicated that the space being proposed was less than 4000 SF.

According to Attorney Huber, there was a “factual disagreement” between the client and the Zoning Enforcement Officer’s determination. According to staff more than 4000 SF was being converted for the new childcare use. Attorney confirmed that 350 SF had been designated as “storage” and not included in the calculation. Huber stated that the petitioners had already indicated in their application that they did not intend to utilize the storage area for their use.

In response to Member Ferris’ concern about how the storage area would be used, Attorney Huber stated that it would be physically cut off and not accessible to the childcare facility. Given their time frame to vacate their existing space, Huber stated that the petitioners had deliberately chosen to keep the space below 4,000 sf to avoid delays from the process of a site plan review. He also said that the only area of overlap between the Dover Amendment and the Watertown Zoning Ordinance for site plan review would relate to parking. He also added that the City did not have a parking requirement for childcare facilities. If the regulations for schools were applied with one parking space per staff, the requirement would be 13 spaces. He confirmed that the site did not have adequate parking. However, his client had been in touch with the manager of the parking garage about a mile down the street, to lease the required number of spaces on a monthly basis.

Addressing the City’s concern about the petitioner’s incremental approach to evading the intent and purpose of the WZO, Attorney acknowledged that these were legitimate. However, this would be an “over interpretation” of the law and applicable to any conversion of less than 4,000 SF. To address these concerns, he offered to have it conditioned that if any expansion took place to take the total of the childcare facility over 4000 sf that they be subject to a site plan review.

Attorney Huber also confirmed that the measurements questioned by staff had been completed by their architects and engineers using laser technology. In calculating the square footage, they had included two thirds of the thickness of the one-foot exterior wall around the whole perimeter.

Attorney Huber said that there were various parts of the building that were not included in the proposed conversion, including the cross-hatched areas shown on the plans (basement and second

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floor). Access to the childcare facility was limited to two stairways. Once in that space, there was no access to any other portion of the building—the other stairways would not allow access to the space used by the childcare facility.

Attorney Huber added that while the other concerns raised by the City were valid and appropriate topics for consideration under site plan review, they were not topics to be regulated by the City in a use protected by the Dover Amendment. Parking was the only issue that could be regulated, and the petitioners were willing to comply with the zoning ordinance by providing parking at the same level required for a school. If a special permit process was required by the City to address parking, this is explicitly prohibited by the Dover Amendment.

The Attorney would like the city to recognize their status as a Dover Amended use and reverse the determination of the Zoning Enforcement Officer and grant the building permit with certain conditions. This would include the following: 1) the finished space would not exceed 4000 sf, to be certified before the certificate of occupancy is issued. 2) the build-out shall be completed such that there would be no access from the childcare space to any other portion of the building. 3) The petitioners would maintain the required number of parking spaces for the program at the nearby garage. 4) Any future expansion of the space which took it over 4000 sf including the currently proposed space would be subject to site plan review. While they may not be required to agree to this condition, they did not want the Board to feel like they were trying to incrementally evade site plan review.

Concluding his presentation, Attorney Huber reiterated that the concerns raised by the City were legitimate, but not ones that the city could impose on a use protected by the Dover Amendment, with the exception of parking,

Staff provided a brief overview of their written report.

Mr. Mancini stated that this was a Dover Amendment use and reasonable conditions were allowed. The determination required site plan review to identify and address the site issues through reasonable conditions. The petitioner had provided limited information about the site and its plans. Other than one residential unit and one parking space, it seemed that the entire site was being converted to the new use. The use would preempt the site assets, including mechanical systems, utilities, circulation, and parking. Site plan review would look at the entire site, given these concerns. It was also noted that even if the project scope was viewed more narrowly, space more than 4000 sf was being converted. Based on staff calculations the gross floor area amounted to about 4,334 sf (area of building at exterior walls or mid-point of demising walls) This did not include the 300 sf storage area, residential unit for staff and the elevator shaft.

Attorney Huber questioned the way the square footage was being calculated by staff, stating that it was not consistent with the definition of Floor Area in the bylaw. He also added that the City was not doing a fair reading of the bylaw by saying that they were effectively turning the whole site into a childcare facility. At some point, the currently vacant space would be used for something else or expanded to the childcare facility with a site plan review. For now, they were limiting their conversion to less than 4000 sf to speed up obtaining a building permit.

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In response to Member Ferris question about the intended use of the other areas, besides the storage space, Attorney Huber said that they were currently vacant. They would either stay vacant or be converted to childcare use, subjected to the zoning requirements. In addition, there were two second floor apartments.

Member Ferris asked if a different use or user would impact the site plan review process. Staff responded that this information had not been provided. They also described the other uses and parts of the building.

Member Ferris also sought clarity on the use of the second-floor units and the parking for that. It was his understanding that one of the units would be dedicated to a staff member who would commit to having one parking space. This was confirmed by the attorney who further added that this question was a red herring and not relevant to the matter at hand as it was agreed that the site did not have sufficient parking. Moreover, converting a portion of the place to the proposed childcare use was still within the ordinance. He also added that the other uses of the building are not relevant to the legal question of whether converting less than 4000 sf to a childcare facility needed a site plan review.

Member Ferris opened the meeting for public comments.

Claire Holland, 20 Boyd Street, said that she had lived at this address since 1986. The building had 2 apartments and the businesses associated with it had been small with no customers, and one to three employees if the basement was included. Parking space had been shared, with employees using the space during work hours and the residents using the space after. She added that the proposed project would be a major change to the building's use. She was especially concerned about traffic and the safety of children at drop off/pick up, given the absence of street parking on the side of the building.

Member Ferris opened the meeting to questions from the Board.

Member Brangwynne asked two questions: 1) given that there were proposed alterations to the site—nonconforming parking and site access—would this trigger a site plan review? and 2) assuming that it was truly a conversion of less than 4000 sf, would there be separate independent trigger of site plan review that relates to the parking change?

Staff said yes and explained how Section 6.01 (parking) of the Watertown Zoning Ordinance typically operates. With respect to the parking requirement, daycare facilities were considered a school, and the number of staff members was one trigger (with the number of children of driving age an additional trigger). In the absence of a site plan review process that would grant Dover Amendment uses more flexibility for options like offsite parking or reduced parking, Section 6.01 would apply to a by right use and require on-site parking in this situation (which the site could not accommodate).

Upon further questioning by Member Brangwynne, Attorney said that if they were converting more than 4000 sf, they would no longer have the benefit of section 5.01 (2) (a) (1). However, they would be protected by the Dover Amendment from a site plan review. Looking at the city's ten site plan review criteria, those issues are not permissible subjects for regulation under the Dover Amendment. Site circulation, for instance, is not a permissible area of regulation. While some regulations could be

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required, site plan review and a special permit process are not permissible for Dover Amendment uses. He said that denying the building permit because of the absence of parking for 13 spaces would be prohibited by the Dover Amendment if an off-site alternative for those spaces was arranged. As said earlier, they were prepared to lease a location to meet parking needs.

To provide clarity on the parking requirements, staff read the intent of the parking requirements described in the Zoning Ordinance. The parking regulation section includes site circulation. Further, that site plan review would not cover all ten criteria but be limited to the criteria permitted under the Dover Amendment and a staff memo would identify these for the Planning Board.

Staff also clarified that as stated in the Ordinance, the Planning Board shall be the determining authority in the event of a conflict in interpretation as to the category of the principal use, or as to gross floor or open lot area in a given use and that this was specifically to determine the gross floor area and parking requirement for a specific use. This could be done through interpretation or site plan review process.

In addition, staff described the two types of parking situations for off-site parking. It could be combined parking for aggregate uses on adjacent lots, not specifically allowed by right, or shared parking on the same site, except that the SPGA may grant a special permit for off -street parking areas to be provided on another lot; and any such parking lot shall not be otherwise used or diminished in size unless the SPGA finds the lot is no longer required by the principal use it serves. This clarified that without the site plan approval process by the SPGA, the parking would be limited to the lot it served—not an option here. In this respect, site plan review would provide more flexibility for a Dover use to comply.

Member Brangwynne recognized the time sensitivity of the matter and the significance of the protected use. He also added that he was familiar with the Dover Amendment. While he agreed that the City was limited in its powers to regulate this use, it was his understanding that parking could be regulated through the site plan review process. By asking that the Zoning Board of Appeals set conditions as part of its decision, it seemed to him that the ZBA was being asked to step into the shoes of the Planning Board, which would be the site plan reviewing body.

Responding to Member Odamah's question about the outdoor play space for the day care, Attorney explained that this is regulated by the Department of Early Education and Care and the playground at the end of Boyd St would meet the Department's requirement.

Member Dale asked about the size of the residential units. He also expressed concern that it might be converted for use by the childcare facility. Attorney Huber reiterated that his client would keep its use to less than 4000 sf.

Member Girard asked about the current size of their business. Aleksandra Pikus, program director for 25 years, stated that the new program would be licensed for 64 children with 6 classrooms, including an infant room. The current program had 60 children enrolled and this number had remained steady for the past 22 years. The program did not foresee expansion.

Member Ferris said he had the safety concerns for this site. He also questioned whether the project was below 4000 sf. He noted that the size and area of the new elevator were not clearly illustrated in the

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plan. He expressed concern about the potential use of the storage space. In response to his concern for access to the storage area through the connecting door, Attorney committed to removing the door, making it not usable.

Member Ferris also pointed out that 42 out of the 64 spaces had no windows, and no access to natural daylight. Other site plan issues include fire safety of the building, traffic on Boyd St., drop-off, and pick-up plans with no options for parking on that side of the Street or pulling onto the site.

Member Ferris asked if any member was prepared to make a motion. Member Brangwynne, seconded by Member Girard moved to affirm the Zoning Enforcement Officer's decision and deny the appeal. The motion was approved unanimously (5-0) with Acting Chair Ferris, Member Brangwynne, Member Dale, Alternate Member Girard, and Alternate member Odamah voting in favor. The petition is DENIED.

Addressing staff, Member Brangwynne asked that the next steps, which would likely be a site plan review, be expedited given the petitioners concerns for time.

Motion to adjourn was made by Member Dale, seconded by Member Girard. Motion to adjourn was approved unanimously (5-0) with Acting Chair Ferris, Member Brangwynne, Member Dale, Alternate Member Girard, and Alternate member Odamah voting in favor.