



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

## Meeting Minutes – March 20, 2019

**BOARD OF APPEALS will hold A PUBLIC HEARING ON WEDNESDAY EVENING March 20, 2019 AT 7:00 P.M. in ROOM 202, CITY HALL,** , and heard the following items:

Attending: Members Soraghan, Vathally, Sullivan, Bevilacqua, and Chairman Moriarty.

Absent: Members LaPlume and Brown

### New Business:

**1. Gagliardi Real Estate, LLC for 99-103 Cedar Street (611, 495, 21):** Applicant is seeking a special permit to increase number of dwelling units on premises from 6 units to 7 units in a CN zone. Existing parking and buildings are dimensionally non-conforming.

The applicant seeks an extension of the Special Permit to convert the former store to a single-family residence, thus increasing the number of units from six to seven. The applicant has been unable to attract a commercial/retail tenant for the site. All of the commercial/retail businesses that were on Cedar Street have closed. The area is considered undesirable for commercial/retail use, according to the applicant's Attorney.

A single-family residence meet the available parking requirement and will be less than for a commercial establishment.

### **Opposition by Sue Hancock, 34 Seventh Avenue**

- 20 people are living in one of the other apartments.
- This has created a bad parking situation.
- The neighbor has had to call the Police several times because of the living and parking situation.
- There should be a dumpster out back, because the trash barrels are constantly overflowing.

### **Rebuttal:**

- The applicant and the applicant's Attorney noted they are unaware of the twenty people residing in one unit.
- The applicant would welcome the enforcement by the City of this living arrangement, which violates the code.
- There may not be enough room in the back to locate a dumpster, because the truck would have little room to back in and out.

The applicant will work with Ms. Hancock to address issues with the trash and tenants.

The Board **granted** the extension of the Special Permit, allowing the increase from six to seven units and the conversion of the commercial use to a dwelling, on a vote of 5-0.

Motion: Soraghan  
Seconded: Vathally



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

2. **Guzzardi Family Trust for 1 Knipe Road (752, 3, 4)**: Applicant is seeking a variance, lot area of 19,130' where 22,500 is required, open space of 17.04% where 25% is required, parking set back of 1' where 20' is required.

The lot in question is an odd-shaped triangular lot. The applicant seeks to construct a small 40 X 75 foot commercial building. The specific business has yet to be identified, so it is uncertain what kind of business would locate on the lot. The applicant seeks three variances. The hardship relates to the lot size and shape. The applicant and one abutter have developed a list of nine stipulations, which the applicant has agreed to.

Attorney Bob Harb for abutter Deborah Thornton-Rodgers spoke on behalf of Ms. Thornton Rogers regarding a 9 item agreement being added as a voluntary condition should the board grant the variance. With these conditions being agreeable and made a condition should it be approved, Ms. Rogers would not object to this petition as she had concerns and these conditions address these concerns as discussed with Attorney Michael Migliori for Guzzardi Family Trust. It was brought to the attention by Ms. Thornton-Rodgers that there is a pipeline that runs through 1 Knipe Road, that deals with drainage from her site, they agreed to deal with the issues and to provide a new easement and re-location of the pipe.

\*\*signed agreement was provided to the ZBA and Board Clerk, and attached to the minutes\*\*

## Comments from Board:

I am very uncomfortable voting on this without knowing what kind of business would be located on the site, hours? lighting? The type of business? Has the applicant reached out to Joseph's Restaurant, perhaps maybe the restaurant would want to expand. Walking across 125 is very dangerous. What's required for a 3000 sq feet building is 15 parking spaces, there was confusion to what the minimum number of parking spaces as the site plan shows 24, it was stated and asked that a revised site plan will be re-submitted in the next meeting.

Q. You are asking for 24 spaces, when you only need 15. Could you eliminate the additional parking spaces?  
A. Yes, if there is only a 15-space requirement.

The attorney for the Applicant requested a Continuance to the April 17<sup>th</sup> meeting and waived the notification requirement.

## Opposition:

### Steven Rodgers, 161 Neck Road

- The location is cursed with two dangerous intersections at the beginning of the site and 125, very hazardous.
- The pipe mentioned by the abutter is a City pipe that carries storm water, but often overflows.

### Barbara Rodgers

- Opposes a marijuana shop, says it's a small area for any type of business

### Richard Lantini, Cross Trust Realty

- The condo development has caused curb cut issues, this property was a parking lot for the restaurant
- The plans do not show the man hole covers
- The irregular triangular shape of the property is difficult
- Other issues, set back, parking, and piping running through the proposed building



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

## **Katherine Rodgers, 161 Neck Road**

-Recommending the board to take their time to make a decision, and not allow a marijuana store and look at other cities and towns with issues, there is not enough land space.

## **Elizabeth Rodgers**

-The parking spaces are angled in such a way as to make it a difficult parking situation.  
-Would the applicant be open to a smaller building? Instead of 3000 square foot building?

The Board (Members Soraghan, Vathally, Sullivan, Bevilacqua, and Chairman Moriarty) **granted** the **continuance** on a vote of 5-0, application request will be placed on the April 17, 2019 meeting.

Motion: Soraghan  
Seconded: Vathally

3. **Norwood Group for 211-219 Lincoln Ave (408, 2, 5 & 5A):** Applicant is seeking a dimensional variance, parcel has 125' where 175' is required and special permit for mini-warehouse in the CH zone.

The area is 11 acres on Lincoln Avenue. The applicant seeks a Variance for frontage. The applicant would draw an Interior lot line around the CVS property, thus honoring the agreement with CVS. The applicant also seeks a Special Permit to construct a mini-storage facility within the footprint of the existing building, the former Building 19 business. The applicant proposes to invest \$8 million to renovate the building, create a new façade, and repave the parking lot. The property has been marketed for 7 years for an ideal fit and purchase but have been un-successful. They feel this has been the best offer they have received. The applicant has also agreed to designate approximately 40 parking spaces adjacent to the ball fields for people playing on the fields. In addition, the City has asked and the applicant has agreed to extend the walking path behind the buildings, extending to the end of Riverside Avenue.

The existing loading dock on the front of the property will be the access point for customers having storage unit(s). The rear loading dock, formerly used by Building 19, will not be used.

## **Joe Mendola, Senior Investment Advisor for NAI Group**

The hours of operation will be 9 a.m. to 6 p.m. There may be some limited off-hours access from 7a to 9a and 6p to 9p, but not much of that, according to the applicant's attorney. Access by customers will be controlled by a card-key security system. The applicant will install 16 external cameras around the building to discourage any illicit activity.

The attorney for the applicant and the applicant noted that, in the years since Building 19 closed in 2013, there has been no financially viable interest in the property from retail outlets. The mini-storage unit business has been the only legitimate offer, according to the applicant.

Q. What are the hours of operation?

A. 9 a.m. to 6 p.m., with maybe some limited off hours access.

Q. How many units?

A. There will be approximately 600-625 units.

Q. How many parking spaces?

A. There will be seven parking spaces: five standard and two handicapped.



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

Q. Will the parking lot be resurfaced?

A. Yes, we will repave the area in front of the building.

Q. Where will the trucks be going in the front?

A: Access will only be from Lincoln Avenue.

According to the applicant, there is little need for parking, because customers usually drop off higher quality furniture and other household items, and leave them in the storage unit for years. There is almost no back-and-forth traveling to the storage units. Therefore, at any given time, according to the applicant, there may be only 3-5 cars visiting the site.

## **Opposition:**

### **Carl Bletzer, 625 Riverside Avenue**

- Feels the 600+ storage units is a ridiculous idea for this area
- It's a dumping ground, feels drug deals go on in storage units
- Burger King was just opened and it is attracting young kids with loud music, they are racing down the street
- Finds drug paraphernalia
- There will be uhaul trucks coming down
- Those individuals who usually rent these facilities go rental to rental
- Customers of Burger King right now dump their trash
- Those loading and unloading will leave their unwanted items on the side
- Was not notified and did not know about the meeting

**(Board Clerk Note:** Verified mailing address to be correct, agendas were sent on 3/5/19)

- Feels for the past 6 years calls for upkeep and maintenance have been ignored, they have zero credibility, all of his neighbors have 100% creditability.
- Rats in the abandoned building and maybe homeless people sleeping in there.

### **Steve Mangano, 635 Riverside Avenue Unit 12**

- Concerned over access key to the storage unit
- Riverside Avenue is a dead end street, the existing dumpster face their property and when pick up occurs it's very noisy, there will be more noise.
- Concerns with the loading dock, feels those unloading will need a loading dock and the only access is on Riverside Avenue where there is a loading dock. They need to address the loading dock.
- These two issues are his issues of contention and property values, feels this will not help property values.

### **Robert Hanson, 633 Riverside Avenue Unit 6**

- What is the definition of a warehouse? What type of storage will it be? Will they be like cages?
- What can be stored in the facility? Chemicals? Paint? Will it be work material being stored? If so, this will not be good for them.
- It's bad enough as it is right now on Riverside, so if there are people driving to the back coming in and unloading this will be an issue. If they will be loading in the front that will be fine.
- There will definitely be people there during the weekend.
- All they want is something decent
- Riverside is a dead end street and when people find out they will just leave their un-wanted stuff there.
- Much rather see retail there.



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

## **Roberta Alicata, 637 Riverside Avenue**

-They are talking about a walking trail in front of their house, feels this will destroy their home, she does not want a walking trail in front of their home. [Note: The Chairman clarified this issue. He noted that the City was requiring the applicant to perform the improvements as a condition of approval.]

-If you look at the stores now, they want to keep the theme of the mall. They want the neighbors to use what's in the parking lot.

- Asked about how the units will be constructed inside the building and how customers will access those units.

## **Michael Pernell, 631 Riverside Avenue**

-Was not notified, never received anything.

**(Board Clerk Note:** Assessor's list shows a billing address in Andover, agendas were sent on 3/5/19)

-Would like to see what the proposed project will look like.

-He watched an 80 feet truck pull out of the Dollar Store and almost took out the fence trying to swing out of the parking lot

## **Gary Evans, 637 Riverside Avenue #16**

-Was not notified, never received anything

**(Board Clerk Note:** Verified mailing address to be correct, agendas were sent on 3/5/19 to Janet Evans)

-As he is aware the shopping center is owned by 3 owners he guesses that one of the issues of the shopping center has is because there are 3 owners.

-Nothing has been done to the property and has been since it closed, that is not being a good owner.

-As far as a variance is concerned he feels that the hardships have not been met in the presentation so far.

-As far as the special permit is concerned he would ask that he ask them to take a hard look as to the conditions, it may be the conditions be the hours of operation, the conditions can be possibly controlling the traffic better, maybe put a large fence to block off the property from the rest of the shopping center.

-He goes to Salisbury and the shopping strip center there he sees the uhaul trucks and storage areas, at one time the government would go into these town and had a program on how to redevelop the areas, and feels Haverhill has done a lot of things right downtown – and that's putting store fronts on the first floor, restaurants you get activity going. One of the problems they pointed out is they put dead space, and that's what this is. This is going to be dead space, it's not going to be generating traffic for the other tenants.

-Market Basket is an anchor, he wishes another store would go in too, and be able to beef the place up.

-The big tells about this property is how it has been treated, if he had a neighbor and left his property like that he would be embarrassed. Nothing has been done.

-He would rather have this or nothing possibly, would he rather have retail?

-If he wanted to make any property look good, you would have to drop the price.

-It's a function of price, effort, what has been done.

-As far as a variance is concerned I don't see the elements

-As far as a special permit, his request to the board is to look at this really hard, get their studies done and put the conditions of operation on there, hours, lighting – what is the lighting going to be? what is the landscape going to be? What are the traffic patterns going to be? What are they going to do to prevent drugs? Property just being abandoned. Prevent people from coming in there for whatever.

-Haverhill has a lot space, one of the detriments to a lot of the cities is allowing properties to just sit there and not take care of it.

-It's a positive because it's something, in his next breath it doesn't meet the criteria for a variance and if there is a special permit he would encourage to have the board review very carefully all the conditions – and his only thought is to segregate the entire area from the rest of the shopping center and not let it become like the shopping center in Salisbury.



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

-Speaking to the variance you cannot create your own hardship, as far as the special permit he thinks its incumbent upon on the owners and applicants to inform the community on what's going on and what they want to do. He asks if the board is going to allow a special permit that you allow the residents to participate in setting the conditions or at least let them know what is going on with the conditions, or at least consider them fully as they would anyways, what he has seen in his experience if you don't go thorough analysis with lights, traffic – I don't know what the police have said. Have they spoken to the police? What is the police departments input as far as crime or no crime. He believes the traffic will be less, and believes it is inconsistent with the area as a retail area and will be dead space. He encourages the development and believes in communication and a solution that works and putting in the criteria that is going make this work and not make it fall in between the cracks. That's what happened with this property, it was not maintained.

## **Joe Talbott, 633 Riverside Avenue**

-The back part of Building 19 jets out in the back of the other bulidngs? Will it level off?  
-What about homeless people living there?

>One resident asked that the applicant install a fence out front to separate the building off from the other businesses in the area. [Note: The applicant stated that the three owners of the property have a joint easement agreement across the whole parking lot; therefore, no obstruction, such as a fence, is allowed.]

## **Rebuttal:**

-The storage business will not be using Riverside Avenue. All of the access will be solely through the front of the building.  
-There is no intention on using the back-loading dock, it will not be used for access to the storage units.  
-If it could be done they could put some sort of fence at the end of Riverside Avenue where it dead ends, there are a couple of businesses, he is not sure if the other businesses use the rear portion of their buildings or for deliveries. Not sure if it would impact those businesses.  
-All of the rental agreements will clearly spell out that the only access will be on Lincoln Avenue  
-Riverside Avenue is muddy, bumpy, not paved and makes no sense to go down Riverside Avenue.  
-The applicant noted that the work on the abandoned building will be a great improvement to the site, eliminating many of the problems cited by the residents, such as rats, homeless people possibly sleeping in the building.  
-The applicant will install 16 external cameras as security measures around the building, especially in the rear. That should eliminate or curtail illicit activities in the back of the building.  
-The walking/biking trail already exists, it's behind the building, will be cleaned up, and will have easy access. The City is requiring improvements by the applicant as a condition of approval.  
-Any other use would most likely utilize the existing loading docks, there will be large trucks going down Riverside Avenue.  
-The unit will be climate controlled, 80 percent of the items in the storage units will be furniture and other household goods.  
-20 percent may be contractors storing some items in the bins.  
-Customers will be storing furniture and other items they want to retain. Often these are items from a family member who has died.  
-The applicant noted that the property has parking easements that they must honor across the whole lot, including the areas near Market Basket and the other businesses in the lot.

Q. Have you had any conversations with the Fire Department about access to the rear of the property? And if a fence will be installed if necessary and warranted.



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

A. The applicant has had no conversations yet with the Fire Department about access to the rear of the property but will connect with the appropriate individuals regarding the matter and provide a key. If they can put up a fence they certainly would.

Q. Will this still have to have a Site Plan review?

A. Yes, a Site Plan review will be needed.

Q. What can be stored?

A. 80% percent household goods, 20% may be contractors, landscapers storing equipment etc., or commercial use.

Member Comments:

Concerned that around the country spaces are being leased out to marijuana facilities, this is something they do not want to see in this area, agrees with the security measures, 24-hour surveillance which will help deter illegal and drug activity. As far as fencing off the rear of the property is the Fire Department aware?

## **Comments from Norman Greenberg, Attorney, represents the ownership of the property 233 Newton, Needham**

- Familiar with the prior use of the property
- Been trying to find replacement since the closure in 2013
- At one time retail was a priority but there has always been interest in self storage
- Have had several interested buyers, every single one has been self storage
- No one wanted to turn it into retail
- Some interest in splitting up the property but due to the building it was not an ideal fit, not near the highway.
- If they were able to find a tenant it would be smaller tenants
- They began to entertain offers from Self Storage, they had one deal that fell through, then NAR Norwood came forward with an offer.
- They wouldn't even be there for the fact that they are not interested in purchasing the CVS property, right now it's one property - In order for them to even sell the property without CVS, they would have to draw a line around CVS -- CVS has a defined lease premises so they are aware exactly of the space they are leasing. They cannot allow them to use the area that has a ground lease
- They had a previous buyer that would buy the entire property and would not have to go before the ZBA but in this case its necessary, as an alternative they could have built condos. They prefer to do it this way, it's been vacant because they were unable to find anyone.
- Offers were ridiculously low or none
- They have an opportunity to develop it now and a quite business
- If you put retail the trucks will go to the back of the loading dock
- There may be a little inconvenience as it is with the shopping center nearby
- Feels it's a good and quite operation.



# Haverhill

Board of Appeals  
Phone: 978-374-2330 Fax: 978-374-2315  
lpatel@cityofhaverhill.com

The Board (Members Soraghan, Vathally, Sullivan, Bevilacqua, and Chairman Moriarty) **granted** the Dimensional Variance for the frontage and the Special Permit for usage on a vote of 5-0. The Board determined that the request for a Special Permit was consistent with the rules and regulations as they relate to Special Permits. With Stipulations:

1. No use of the dock and no access on Riverside Avenue
2. The business hours of operation to be 9a to 6p, extension of hours of 7a to 9a and 6p to 9p on a case by case
3. Provide formal easement for public parking adjacent to Riverside Park
4. Provide a formal easement for public access and trail development across land of the applicant along the Merrimack River frontage to connect Riverside park trail system and Riverside Avenue.

Motion: Soraghan  
Seconded: Vathally

4. **Scott Kallery, 22 Calumet Street for (529, 11, 126):** Applicant seeks variance for addition in a BP Zone, which follows RH Zone. A side set back of 6.93' where 10' is required and 10.50' rear set back where 30' is required.

The applicant seeks to construct a four-season room to his existing dwelling.

The Board (Members Soraghan, Vathally, Sullivan, Bevilacqua, and Chairman Moriarty) **granted** the Variance on a vote of 5-0.

Motion: Soraghan  
Seconded: Vathally

## **OTHER MATTERS:**

The Board **approved** the January meeting minutes and the February meeting minutes on a vote of 5-0.

**-Adjourn-**