



# Haverhill

Board of Appeals  
4 Summer Street – Room #201  
Haverhill, MA 01830  
Phone: 978-374-2330 Fax: 978-374-2315  
[jdewey@cityofhaverhill.com](mailto:jdewey@cityofhaverhill.com)

The regular meeting of the Haverhill Board of Appeals was held on Wednesday evening, September 20, 2023 at 7:00 P.M.

Those Present:

Chairman George Moriarty  
Member Ron LaPlume  
Member Louise Bevilacqua  
Member Lynda Brown  
Member Kassie Infante  
Assoc Member Magdiel Matias

Also, Present: Jill Dewey, Board Secretary  
Tom Bridgewater, Building Commissioner

**Richard & Laura King for 57 Woodrow Avenue (Map 635, Block 3, Lot 21)**

Applicant seeks the following dimensional variance to create a new building lot for the construction of a new single-family dwelling in a RL zone. Proposed new Lot A shall be a conforming lot that includes the existing the single-family dwelling. Proposed new Lot B shall include the new single-family dwelling. Requested relief for new Lot A sought for lot area (24,392 sf where 40,000 sf is required). (BOA-23-29)

Richard & Laura King (57 Woodrow Ave, Homeowner): I would like to subdivide off an original half acre lot that was purchased in 79 before the zoning changes, I'd like to detach that lot and sell it.

Chairman Moriarty: So you are proposing a new lot B with a new single-family dwelling

Richard King: Yes

Chairman: OK, and what is happening, lot A will keep the existing single-family dwelling

Laura King: Yes

Chairman: and it looks like the requested lot A is about almost 24,000 a little over 24 thousand square feet and 40 thousand is required. Comments or questions from the board?

Member Brown: I went to your place a couple of times and I did see that you had that horrible fire, I am just apologizing for that, its really bad, I just wanted to make sure, I didn't know if you wanted to build a house or if you wanted to deed it, because it wasn't clear before.

Richard: A family member wants to build his retirement home there.

Member Brown: So it is a family member, ok.



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Chairman: Any other questions or comments from the board? Entertain a motion.

Member LaPlume: I make a motion to accept the application for 57 Woodrow Ave, 2<sup>nd</sup> by Member Brown.

Member LaPlume: Yes it has a unique condition size and shape which would involve a substantial hardship. It meets the criteria for 255.10.2.2(2)

Member Brown: Yes it meets the criteria for zoning variance 255.10.2.2(2)

Member Infante: Yes meets the conditions for 255.10.2.2(2)

Member Bevilaqua: Yes it meets the criteria for 255.10.2.2(2)

Chairman: Yes, voting along with my colleagues that it meets 255.10.2.2(2)

**GRANTED 5-0**

## **BJ'S Wholesale Club, Inc. for 25 Shelley Road (Map 762, Block 1, Lot 7)**

Applicant seeks a variance to remove one parking space for the installation of a curb ramp in a CH zone. Total parking spaces proposed to be reduced from 470 spaces to 469 spaces. (BOA-23-30)

Todd Hay: I am the engineer on record, licensed in the state of Massachusetts, my address is 1085 Newark New Jersey. What we are here for this evening is for an application for a ramp for our club, what that happens to be is a club where the members purchase online, where they drive up to a door, on this case the Shelley Road site on the left side of the building and employees cart out goods that have been bought online for customers to pickup. What happened is, BJ's has recognized worldwide that there is an issue where there are no ramps to get the products from the door to the parking lot, and at the existing site there is not a ramp, there is actually a makeshift ramp that is there now, unfortunately is not on the plans, but I did observe it this evening. What we are seeking is to place a private 30 feet to the right of the door, the existing pickup door, there is two ramps plus a drop curb and then a parking space with striping approximately 9 foot by 18, to allow the employees to safely take product out to the customers that are picking up online orders.

Chairman: Thank you, any comments or questions or questions from the board? So you are going from 470 spaces down to 469

Todd: That is correct.

Tom Bridgewater (Building Commissioner): So in 2007 it looks like they went for a parking variance for the required spaces from the 598 to 470, so they are taking away another one, that is why they are here.

Chairman: Do you think that with the online shopping that there are fewer cars there during the day?

Todd: Yes that is correct. We observed it twice, we were out earlier this spring, the operations parking looks like its being underutilized and then the same thing this evening, the parking is looking like it is being underutilized, and I did go there during rush hour. That area those parking spaces are already dedicated for the online customers pickup, one space we



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are seeking relief so that the employees and this is just for the employees, they bring the product out to the customer in the parking lot.

Chairman: Is this the only ramp that is existing on the place?

Todd: That is the only, the scope of work there will be a wall mounted sign,, adjacent to the parking space that will indicate that there will be no parking allowed, as long as operations exist to allow the employees to bring out product.

Chairman: Great thank you. Comments or questions from the board members?

Member LaPlume: There is a comment from John Pettis

Chairman: The city engineer commented indicating that he has no objections to the variance, and noted that it will include the statement that the interior lot line is hereby removed

Todd: That is acceptable Mr. Chairman: We will put that on the plans.

Chairman: Thank you. Any other comments or questions from the board? Entertain a motion.

Member LaPlume: I make a motion to accept the application for 32 Shelley Road, 2<sup>nd</sup> by Member Brown

Member LaPlume: Yes there is unique conditions with one parking space out of 470, which is the hardship, meets the criteria for 255-10.2.2(2)

Member Brown: Yes it meets the zoning criteria for 255-10.2.2(2)

Member Infante: Yes meets criteria for 255-10.2.2(2), I think it will make it a lot safer.

Member Bevilacqua: Yes meets criteria 255-10.2.2(2), it is obviously needed.

Chairman: Yes it meets 255-10.2.2(2), a unique situation particularly for the customers and for your staff to be able to access them in a safer way.

**GRANTED**

## **Michael & Lindsay Foustoukos for 3 South Maple Avenue (Map 726, Block 1, Lots 12A & 13)**

Applicant seeks a special permit for a detached accessory dwelling unit in a RM zone. Applicant seeks Special Permit to determine that proposed reconstruction of existing non-conforming structure will not be substantially more detrimental than the existing structure to the neighborhood. Application involves the replacement of the existing garage with a new detached accessory dwelling unit on the same footprint of the existing garage. (BOA-23-33)

Attorney Don Bornstein (Johnson & Bornstein, Chestnut Street in Andover): With me are Richard Foustoukos and Alicia Barret and also their son Mike Foustokos. We are here for the accessory dwelling unit proposal on South Maple Street, the property is located in the RM district, it has an existing home on it of 1571 square feet of living area in the existing single-family home. It is also approved by an existing 2-story garage, so there is a garage on the property, that garage is in need of significant repair, there are photos in your packets, showing the state of the garage, what they wish to do is they wish to remove that garage demolish it and replace it with a structure of the same size, the same footprint, same



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height, same basic dimensions, brand new structure and they want to create an accessory apartment for their parents Alicia and Richard. It would consist on the first floor to have a studio apartment, you have floor plans and elevations for that building and the second floor would just be storage. The studio apartment would be approximately 400 square feet, so its in essence the same footprint, slightly smaller than the existing garage. Under your accessory dwelling unit bylaw adopted I believe early this year, that is currently implemented, because that is in a separate structure from the existing single-family home, it requires a special permit from this board. We have also asked out of an abundance of caution for a special permit finding by this board, because we are making an alteration of reconstruction of existing nonconforming use, I believe that has been discussed with inspector Bridgewater and I believe that he agrees with that, if he doesn't I'm sure he will correct me right now, so we are asking for 2 special permits, one an accessory dwelling unit under 8.1.2.6 and then we are also asking for a finding that what we are doing is not substantially more detrimental to the neighborhood than what exists and that would be under section 5.3 of the ordinance. That finding is easily made, the existing garage building is in significant disrepair, the new building will be a high quality structure that will provide a home for Mike's parents, that will allow Mike and his family to then live in the single-family home that would remain on the property. In your package are all the materials required by the accessory dwelling bylaw, again that includes the floor plan of the existing home, we have floor plans and elevations, our architectural elevations for the proposed accessory dwelling unit, you have a site plan that shows the property site, you have several letters of support from neighborhood residents and you have photos of that existing garage. I also believe there are neighbors in attendance here to support the application, so with that I will turn it back to the chair. Mike is here if you have questions about anything specific I have Mike here with me.

Chairman: Thank you. Yes I want to confirm that we did get a number of emails of support from your neighbors. We also got the city engineer Mr. Pettis also commenting and no objections.

Tom Bridgewater: The construction of the apartment says unfinished storage, is that going to be heated, the reason I am saying it is because there isn't any door separating the unheated, where if it says unfinished and it is heated it might be calculated in the accessory apartment size.

Mike Foustokos: At the moment we were thinking unheated, the house that we just remodeled there is no storage there either, so it would be a joint storage.

Tom: OK, so somehow you need to add when it comes through the developmental review when we talk about getting a door there and if you put it at the bottom of the stairs there needs to be a landing there and on the top where it would most likely go there is a window right there, so you'll have to modify your plans.

Mike: OK, a door sure. My architect can do that.

Chairman: Any other comments or questions from the board? Ok I will entertain a motion for the first special permit for an accessory apartment

Member LaPlume: I make a motion to accept the first special permit application for 3 South Maple Avenue, 2<sup>nd</sup> by Member Brown



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Member LaPlume: Yes it would not be substantially more detrimental than the existing nonconforming structure . It meets the criteria for 255.8.1

Member Brown: Yes it meets the criteria for 255.8.1

Member Infante: Yes meets the criteria and it is not substantially more detrimental and it's a great way to keep a family together

Member Bevilaqua: Yes it meets the criteria for 255.8.1

Chairman: Yes, it meets the criteria for the new zoning regulations 255.8.1

Chairman: entertain a motion for the second special permit for the nonconforming

Member LaPlume: I make a motion to accept the second special permit application for 3 South Maple Avenue, 2<sup>nd</sup> by  
Member Brown

Member LaPlume: Yes it meets the zoning criteria for a special permit 255-10.4.2

Member Brown: Yes it meets the zoning criteria for a special permit 255-10.4.2

Member Infante: Yes it meets the zoning criteria for a special permit 255-10.4.2

Member Bevilaqua: Yes it meets the zoning criteria for a special permit 255-10.4.2

Chairman: Yes, also siting the older zoning and 5.3.1

**GRANTED**

## **Haverhill Public Schools for 685 Washington Street (Map 556, Block 1, Lot 1)**

Applicant seeks dimensional variances for maximum height (72 ft where 35 ft is maximum) and maximum stories (4 stories where 2 ½ stories is maximum) for the construction of a new school to replace the existing Consentino Middle School in a RH zone. (BOA-23-34)

Don Walter from Whittier architects (260 Merrimac Street Newburyport MA) & Michelle Rogers: we are the architects for the Consentino School at 685 Washington Street. So the Consentino School is the existing school and the new school will be built directly behind the existing school, because of the limited site we are forced to create a 4 story academic and in order to accommodate all the classrooms we need. ""She shows and explains things on the plans"". The request that we have is that we are in a RM zone and are limited to height and number of stories, we are asking for 72 feet in one particular corner, at the end of the building that will be 70 feet but we put the extra 2 feet because sometimes we are off, and then the remaining part of the larger portion of the building will be 60 feet, out front we have a 2.5 story gymnasium and media center and those are the 2.5 stories and 35 feet, so the front part of the building will conform to your zoning, the back part of the building is 4 story academically. The stair that is 72 feet is for maintenance personal to get up on the roof and service equipment up there. Part of the reason we have to build the building on the site while the school was occupied as we looked at other locations within the city to relocate the students temporarily and there just wasn't any space available.

Chairman: What is the relationship between the size of this building and he existing building?



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Don & Michelle: The new footprint is actually smaller than the existing buildings footprint, but it is higher up and the 60 feet is actually consistent with the peak of the roof at the Silver Hill School. I believe I your packet you have some views of the proposed building

Chairman: A timeline for this?

Don & Michelle: We are gong out to bid right after the first of the year, and then construction will be about 2.5 years. Approximately 2 years the students will move from the old school into the new school and then demolition of the old school and then the fields go in and additional parking.

Jill Dewey: Pretty much what Pentucket just did

Don & Michelle: Pretty much, and we did that project.

Chairman: Comments or questions from the board?

Member Brown: I looked at the school and I went over the plans and I think one of peoples biggest questions was where it was going to be built, with so many students attend that school, so I am glad you guys spoke about that.

Member LaPume: I just wanted to state that the city engineer is in full support of this variance.

Chairman: Thank you. I wanted to point out that Mr Pettis has met with the design team, he has met with you often I guess to work out different concerns and that he is fully supportive of this. Any other comments or questions? Entertain a motion

Member LaPlume: I make a motion to accept the application for 685 Washington Street, 2<sup>nd</sup> by Member Brown

Member LaPlume: Yes it the unique condition would be the height, and without this would be a substantial hardship to the City of Haverhill. It meets the criteria for 255.10.2.2(2)

Member Brown: Yes it meets the criteria for zoning variance 255.10.2.2(2)

Member Infante: Yes meets the conditions for 255.10.2.2(2)

Member Bevilaqua: Yes it meets the criteria for 255.10.2.2(2)

Chairman: Yes, voting along with my colleagues that it meets 255.10.2.2(2)

**GRANTED**

## **Francis Bevilacqua for 0 Edgehill (Map 644, Block 3, Lots 132 & 133A)**

Applicant seeks the following variances to build a single-family dwelling in a RM zone. Variances sought for lot area (18,029 sf where 20,000 sf is required), frontage (73.02 ft where 150 ft is required), lot width (101.31 ft where 112.5 ft is required), front yard setback (15.5 ft where 25 ft is required). Requested variances previously granted December 21, 2021. (BOA-23-31)

Chairman: I should note that Member Bevilaqua is sitting out on this one



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Francis Bevilaqua (My business address is 143 Essex Street): I am not going to spend a whole lot of time, I am going to give you a brief overview and then let the neighbors speak, because I think you guys understand my part of it. I am requesting a variance for this property; I got a variance approved in December of 2021 and part of my issue is I didn't realize that after a year it expired or I would have renewed it. Part of the problem is when I got the variance approved originally it was stipulate that, before I could do anything, the city of Haverhill would have to go further along with their plans to extend drainage from the route 108 project to the back 9 and that is just taking a while and we have had a lot of strides with that, I actually met with all of the department heads at design review yesterday because I have a civil plan for construction and they met my engineer and my engineer explained what we want to do, and how we want to tie the drainage that we are responsible for below us, so I have that plan, I shared it with some of the neighbors. Basically what is going to happen is there are two catch basins that are on Edgehill Road that I am going to pickup and run a drainage line through my property down in an easement, through also a property below me, onto Cliffwood, and then the city is going to take it from Cliffwood and continue and connect into 110.

Chairman: Great. I just want to read very quickly from the city engineer, he provided us some feed back and he has worked with the property owner to come up with shared cost to handle the stormwater runoff across the site, much of it from the city roadways, I also met with him and the design engineers and the city conservation agent and the stormwater work will be a benefit to much of this area, eventually tying into the new stormwater pipe recently installed as part of the reconstruction of route 110 route 108 intersection. So the city engineer is strongly in favor of tis application and appreciates the fact that you worked very hard with them to come up with a solution.

Fran Bevilaqua: It is going to be a significant cost to do that, but I feel like that is obviously what we need to do. The part of the history is that there is no drainage on that street at all and I actually had to advocate with the city to install the catch basins that are over there now, and they installed them but the problem is that they are connected to the sewer system, so we are going to take them out of the sewer system and create drainage, real drainage for that roadway and also there is going to be a holding area for water on my property, with a way, there is going to be a pipe connected to that holding area, so that any water that ever gets beyond those catch basins will be caught before it gets to the property below me.

Chairman: Thank you. Any comments or questions before we hear from neighbors?

Member LaPlume: I wasn't at the meeting but could you describe the pipe, the size of the pipe?

Fran Bevilaqua: We talked about a 12 inch pipe, so it is going to connect, there are two catch basins that we're gonna take those out of the sewer and connect them to the line drainage pipe, down to a man hole and then that man hole is going to come out at a 90 into the holding area, and then that main pipe is going to come down a 15 foot easement down my lot, down the lot below me on to Cliffwood, and there is a catch basin on Cliffwood, so we are going to connect that all together.

Member LaPlume: When I looked at that, it was 3 years ago and it was going into one man hole, there was a sewerage manhole with a 6 inch pipe I think going out, and there was 2 other manholes and there was two other 6 inch pipes, so they are trying to put 18 inches down a 6 inch pipe, that is why it was overflowing onto your property. Commissioner, does he have to come back in front of Developmental review?



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Tom Bridgewater: Yes he does, absolutely.

Member LaPlume: Ok, so the only comment that I would have, I don't know because I have just had a lot of problems with water, I have had problems with water before and I have a commercial piece of property and I have a 12 inch pipe and it is not handling it. I have been there for 25 years and it is not handling it, and just beyond cleaning it up and doing what I had to do, and it's just crazy, so it is something that you might want to look at with your engineer.

Fran Bevilaqua: Yea, we are. That is actually the size that the city engineer requested, so we are open to anything.

Member LaPlume: OK, thank you.

Chairman: Any other comments or questions? Ok, we will hear from anyone from the audience that wants to speak.

David Girouard (37 Edgehill Road): I abut the property to the north east curve. So I just found out 5 minutes before this meeting, that some of the information that I was going to bring to you has changed. One of them was, this parcel 664- 132 and 133A according to the diagram in the application has 18,029 feet in it, that is not right, if you go down the street according to the records that we have here legally 11,948 recorded in 1931 and that is for parcel 132, 133A is 5972 and that was recorded in 2005, if you add those two together and its 17821 and per the application was 18029, so there was a difference of 2010 square feet, but come to find out that changed, so it is not really relevant at the moment. I just thought I lost 200 square feet by this whole mess. Again looking at some of the numbers, the property was purchased in 2005, so in 2020 when this all started, the applicant admitted he owned the property for 15 years, I agreed with that, you look at the application now, its 3 years later, and he says on his application that he has owned the property for 20 years, again I am looking at numbers. So lets look at the required frontage 150 feet, 73 that he has already and he wants a variance for that difference, if you look at this catch basin, I have a picture of it, if you look at this catch basin and measure it, its 7 feet back, 12 feet wide from the front and as you have already mentioned Member LaPlume, it is 16 inches high from the berm in the back, I purposely took this picture at the end of a rain fall on August 30<sup>th</sup>, about a half inch of rain fell that day and this is the result of that corner, this is the new improved drainage that alleviated the wetlands in this area, you can see, I didn't bring in the pictures or the video of the August 8<sup>th</sup> rain fall, so LaPlume probably still remembers and everybody else in the city remembers the amount of rainfall that came down here, I am just saying if you take 73 feet and knock off 12 feet which is right in front of his property, you are down to 60 something feet, that is how much space off of Edgehill, if you look to the right of that catch basin, you can see there's very little land as well as the narrowness of the road itself. Member Brown in 2020 also mentioned she traveled this area, it was very difficult with her very little sports car, number one to even turn her vehicle around. If you look at the immense concerns from member LaPlume from 2020 regarding the height of this berm and he wanted to consider the amount of water going over, a picture shows a thousand words, that is how much water is flying over this berm, almost a foot and a half high and this thing is like pounding and again this wasn't the torrential one on August 8<sup>th</sup>. Member Brown same thing, you drove bye in a rainstorm and you said it was pretty bad, it was really tough, this is your quote "it was really tough trying to maneuver around the narrow road" really concerned about the impact it would have on me with all of the construction vehicles and believe me I think you are going to hear a lot about this. I am sure that because you would be dealing with a 90 degree corner, anybody in that neighborhood already knows that if you left your driveway and you tried to leave or tried to come home, we have already experienced the amount and size of these construction vehicles coming down this road, either you are going to have to backup on to Tappen Street or you are going to have to sit there in your driveway, or you are just going to have to backup down



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Longview which is the beginning of all this, which is absolutely no room between these construction vehicles and another vehicle no matter what size, and Mr. LaPlume you've had an excavation business, I can't in words explain how loud these trucks when they dump gravel or whatever and they slam that gate at the back trying to get that last piece of stone out and it goes bam, BAM, BAMB, four or five times every single truck seven in the morning till six at night, now we are experiencing all this right now, never mind how much fill this individual wants to put in this thing, where there is no space to get off the road and put this fill in. According to the December 2021 meeting and this board approved this variance as long as it was quote on quote, these are your words "it was funded and started before any of this construction was going to start, any water issues being distressed are all water, if you ever seen what this water does when the temperatures drop and it starts changing, any vehicle that tries to plow in that corner wont even get close to it, it comes out at least 15-20 feet away from the corner, that's as close and its down to one lane, and that is winter time. In regards to the wetlands on the north and east side of this piece of property at 132, any fill anything that is going to disrupt this property or add to this property, water will just push to less resistance in fact more than likely, I know he is concerned with people down hill From him, well I am his neighbor, I am on the lefthand side of it, what happens to all the water that is going to be on my side of it now I have to have water because he wants to build a wall and everything else. This applicant is embellishing the numbers, well they have changed a little bit, and he stated this project is in the best interest of everyone, but I am sorry, if you read all of your minutes from 4 meetings you've heard from over 12 families that have been in front of you, every single abutter, every single one in that neighborhood and not one, not one is in favor of this project, they are concerned about their health, their safety, the environment, the disruption of what's going on and we already seen it, so any promise that they will provide a safe street and a nice easy transition is a boldface lie, because I am telling you life on that hill is completely changed because of construction by this individual.

Chairman: Thank you. We will hear from anybody else who wants to speak. And if you could introduce any new issues that would be helpful.

Eric Denoncourt (41 Edgehill): First of all some of the plans that we saw tonight wert on file for review when I went to the town city hall this afternoon.

Jill Dewey: Sometimes they all might not be viewable online to the public, but if you came into the office you can view the whole file.

Eric Denoncourt (41 Edgehill): I came into the office

Jill Dewey: Anything he submitted is there

Eric Denoncourt (41 Edgehill): He referenced some plans tonight that I didn't see

Chairman: Ok, well lets debated that one later. What is the subject of issues, inform the board about it.

Eric Denoncourt (41 Edgehill): Well that is why the application on file is incomplete. A little review of Mass general law 40A for a variance, may be granted if unique conditions exist, again the application states, acquiring property from the city is a unique condition, I don't see that as a qualifying unique condition, because allowed unique conditions are soil, shape and topography, not acquisition of property. Unique condition of wetlands, the applicant is creating that unique condition by



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building a house, that is the side of a hill, every house built there has topography, there is nothing unique on that block relative to topography, shape I don't see anything unique about shape, then the fact that he is asking for a variance for the size to be smaller than what is allowed. I will go further into some of my research, I went through, the plans on this whole street Edgehill Road any Tappen were approved as ANR's, approval not required, approval not required lots are if the property meets the existing zoning frontage and lot size, this lot doesn't meet the zoning frontage and lot size therefore this would be subject that you have control upon, if it was less than the allowable zone. Also in Mass general law 40A section 10 relief may be granted without substantial detriment to the public good, I think you are going to hear from myself and several others, that there clearly is public detriment, I recommend that this board deny this application. Thank you.

Chairman: Thank you. Anyone else want to speak?

Jessica Danis (42 Edgehill): I think it is pertinent to bring up the Vin fend property that is being built at the top of the hill there, in regard to any reassurance that we are provided, in terms of say the road not being blocked, the applicant here acquired the property and is building a Vin fend home, which is considered residential, however its for traumatic brain injury patients, so it is that clause between commercial or whether it is actually nursing home, but it is considered to be a house, so therefore he can get it up. People are over there working July 4<sup>th</sup>, working on Sundays.

Chairman: Excuse me, working on what property?

Jessica: The Vin Fend property

Chairman: Which is separate than the property before us?

Jessica: It is separate; however, it is regard to our insurances by Mr. Bevilaqua, that things will be conducted in a proper way

Chairman: We have to focus on the Edgehill one, we have to, because the other one is not in front of use at this time

Jessica: Ok, so even if he is not in compliance and all sorts of other stuff with this one he is building, which is right up the road a few homes up from the property he wants to build on now

Chairman: Well if you want to tell us what out of compliance things he is doing.

Jessica: Sure they are working on Sundays, the workers are there on Sundays and they were there on the 4<sup>th</sup> of July, that is not in compliance, correct? When it rains there are nails running down on the street, there are cigarette butts in our yard, my yard and in the neighbor's yard. What else, things like that. Oh roads being blocked, and the road is all torn up. So speaking to what David said, that road is already torn up and now he wants to get up there and put something else in. So no it is not safe, and if there was a place for parking that is one thing., but when you are going around that little corner , no it is not safe, and emergency vehicles can't get up there if something was blocking that road, and no I am not very impressed by you know the fish rotting by the head, I am not going over there and I am not yelling at the workers there, that is not appropriate, but the construction is not properly managed.



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4 Summer Street – Room #201  
Haverhill, MA 01830  
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Chairman: Thank you. Any other comments or questions?

Steve (10 Tappen): One of the things I want to mention, we talked about the 150 foot frontage and he has less than half, so that puts it out of compliance, the sidelines are out of compliance, the width, the only compliance he matches is the depth of the property, to me the house doesn't belong, in this area, it was non buildable when it was purchased and it remains non buildable, we are trying to make money on a piece of property that was bought for a song and a dance, and you are making a profit on it because it was non buildable, there are plenty of buildable lots in this city, that could be built on legally. Thank you.

Chairman: Thank you very much. Is there anyone else?

Deb Gatchel (40 Edgehill): I just want to reiterate a few things that have already been said, about the excessive water, I is extremely bad and dangerous, plows, fire trucks, no way you can get up that street without going backwards, I don't even know how he is going to take care of his new development how that was pulled off, because there isn't any water pressure, I mean it is crazy, he built this new thing up there with whatever kind of people are living in it, god forbid if there was ever a fire, that is all I can say. That drain that we are talking about, I recently got out of my car to collect out some of the sticks and debris, the thing was jam packed full, just jam packed, I just get so frustrated every time I drive around it, its filled with sand, everything. The street is extremely narrow=, pedestrians cannot walk it easily, dogs, children, bikes, I have a granddaughter that tried to go up and down it, that corner is bad. The roads deteriorating so bad right there and right around it, and I don't know if there are any plans for anyone to redo it or service it or do something to straighten it up. I guess the only statement to make is I understand the gentleman has to make a living, but you can; do it off the backs by putting the burden on the rest of the people and this is getting ridiculous, there has to be some limitations unfortunately. OK, thank you.

Chairman: Thank you very much. Commissioner, you wanted to make some comments.

Tom Bridgewater (Building Commissioner): I just wanted to say, if they are working on Sundays or holidays, call the police, they will call me and we will go out there. Don't hesitate

Deb: Ok thank you.

Chairman: Mr. Bevilaqua, do you want to rebut?

Fran Bevilaqua: I don't necessarily want to rebut, I just want to clarify some things. The owner at 45 Edgehill Road has hired me to build him a building, I have nothing to do with the ownership of that property, so I think because of my involvement in that property, I feel like that is being used against me and I don't think that is fair. One misconception, whenever there is a construction project on any street, it is probably not the most convenient for everybody, but if you look at the plan and the actual work that I plan on doing, it is at a considerable cost to me, and this idea that I am going to get rich on this project is false, it is completely false, I have way more money into this project than what people understand, just over time the money I bought it for and all the improvements that I have to do to make the drainage on that street better. So the site contracts I am talking about is like 60 thousand for me just to install the drainage work that needs to happen, for me to get the project improved, that is not a small amount of money. The other thing is that because of there's



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no drainage on that road, the neighbors do have a legitimate right, when it comes to the issues that they have had to deal with over the years, but what I am latterly proposing is to settle and make that better, I know it sounds like some of the people don't believe me, but I have engineering that can show you what I am doing and it kind of shows that it will change, it will improve the system that is there.

Chairman: Any comments or questions from the board?

Member LaPlume: When you install the drain and catch basins, is it just one or is it two or

Fran: There is wo there

Member LaPlume: ok, there's two, now the paving around them is that all going to be taken care of also?

Fran: Yes, I mean if I disturbed the road in any way, I'll have to fix that

Member LaPlume: is there anything that you can do to that cured area

Fran: Part of that, like what is going on there now, is that it is not fare that water because there is no drainage on that street, my lot has been used as a catch basin'

Member LaPlume: Absolutely

Fran: And that is not fare either and I think that, that kind of gets lost in this whole conversation, and I had to work with the city to alleviate that stuff and we have had to put that big mound there, so that the water doesn't go there, but obviously it does, because there's no where else, I literally proposing a place

Member LaPlume: ok and the other part where when it goes down, you are going to have a retention area?

Fran: Exactly, with a pipe that's connected to the drainage pipe, that I am installing, so whatever gets caught in that drainage area, will get collected by that pipe and be brought down into the drainage system that goes down to the 110 project.

Member LaPlume: I would have loved to have been at that meeting today to see what kind of retention area

Fran: Well that is the plan that they are referencing. I have an updated plan, I just got yesterday, it is brand new, and that is what I asked the neighbors if they wanted to see it, and some choose to, but I can show it to anyone that wants to see it.

Member LaPlume: Do you have it with you.

Fran: I do. Do you want me to just bring it up there.

Member LaPlume: Sure



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Fran: “”He is describing this on the plan and where the retention area is and that it will be graded, and kind of like a little berm, he shows the easement that goes down the property, the two catch basins, now he describes the pipes and manholes””

Member Laplume: Is asking Fran questions about where the pipes are going and Fran explains

Eric Denoncourt (41 Edgehill): Line of order Mr. Chairman, that I believe this discussion right now is a violation of open meeting laws, since we can't see it

Chairman: Sure, ok sorry.

Member LaPlume: I just wanted to see it, I am sorry

Eric Denoncourt (41 Edgehill): I understand, but since we can't see it

Member Brown: Mr. Bevilacqua, you mentioned that some of the neighbors seen that. How many neighbors have seen that?

Fran: I just got it yesterday and when I came in here, I had offered to the neighbors anyone that wants to see it, they can.

Member Brown: Ok. So you just got it yesterday and a couple of neighbors just saw it today, and no one else has seen it yet.

Jill Dewey: That plan is for the next step, it is not for board of appeals zoning.

Fran: When I got the decision approved last time, it was kind of all contingent upon me working with the city and I wanted to show you that I have made some strides doing that.

Member Brown: I think it is really important to understand that when it comes before the board of appeals, how much is actually purview for us to vote on, and honestly sometimes issues are not in our purview to actually make a decision on, we love to obviously hear your concerns, we are all tax payers and home owners and stuff like that, we are supportive of how many neighbors have taken out of their time, this long period of time, us we really have to vote on what comes before us, I understand it gets really tough sometimes, it can get a little heated sometimes but we really want to listen to everyone and hear everyone's concerns, but we can't lose site of what is before us tonight, to vote one.

Chairman: Thank you. Any other comments

Member LaPlume: A lot of this hold up has been, the state putting in the pipes down on 110, so that's, they are just finishing it off this year, so until they follow it off and until the city engineer sees what needs to be done, it has been postponed for 2 or 3 years now. That's it.



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Chairman: Thank you

Member Bevilaqua: I just wanted to

Chairman: You can't comment

Member Bevilaqua: I just for the record

Chairman: I can't, you cant comment

Member Bevilaqua: I just wanted to

Chairman: Sssshhhh

Member Bevilaqua: I just wanted to say on record

Chairman: No you can't, you can't

Eric Denoncourt (41 Edgehill): Wait a minute, she already was involved with

Chairman: I just told her she can't

Eric Denoncourt (41 Edgehill): I know but she's already voiced something

Chairman: I am asking her to be quiet and not participate, right now, ok.

Member Bevilacqua: But I want to say

Chairman: You cannot, no, no you can't, you can't do anything.

Member LaPlume: She shouldn't be in the room.

Eric Denoncourt (41 Edgehill): That's right! Back in 2020 during the full

Chairman: Entertain a motion

Member Brown: If anybody really needs to speak, because Jill has to type the minutes, anyone who has to speak it gets really, really difficult when people shout out, so we always ask people to please come up to the podium, so it is a lot easier, it is really challenging. She does a great job and it is ot an easy job when people shout out.

Chairman: So, entertain a motion



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Member LaPlume: I make a motion to accept the application for 0 Edgehill Road, 2<sup>nd</sup> by Member Brown

Member LaPlume: I would like to say before I vote on this, that Mr. Bevilacqua will be coming Infront of the board to make determination on what he needs to do there, I will be sitting in on that meeting. So I am voting yes, it is a unique condition related to the soil condition, the site shape, the land and structure. Mr. Bevilacqua and the city og Haverhill will both benefit from this new storm system. It meets the criteria for 255-10.2.2(2)

Member Brown: Yes, because it does have the unique conditions that Member LaPlume brought out, it does meet them for 255-10.2.2(2)

Member Infante: Yes, it meets the criteria for 255-10.2.2(2)

Member Matias: Yes it meets the criteria for 255-10.2.2(2)

Chairman: Yes, and I also want to note the feedback we got from the city engineer was positive and as he noted the work that is proposed, will actually improve the drainage system situation there, and should help the entire area, so it is granted

Deb (40 Edgehill): So who do we call when it doesn't work

Eric Denoncourt (41 Edgehill): Chairman, can I ask you a question

**Chairman: Its off the record**

Eric Denoncourt (41 Edgehill): I wanted it to be noted there were members of the public that wanted to speak

Chairman: I asked four or five times

Eric Denoncourt (41 Edgehill): Several people had their hands up

## **Lifeline Baptist Church for 14 Brandy Brow Road (Map 439, Block 3, Lots 1B & 5)**

Applicant seeks the following dimensional variances to create two (2) new building lots (Lot 1 and Lot 2) for the construction of a new two (2) single-family dwellings in a RS zone. Requested relief for proposed new Lot 1 include variances for lot area (15,597 sf where 87,120 sf is required), lot frontage (120 ft where 200 ft is required) and lot depth (130 ft where 150 ft is required). Requested relief for proposed new Lot 2 include variances for lot area (21,693 sf where 87,120 sf is required), front setback (25 ft where 40 ft is required), and lot depth (94 ft where 150 ft is required). The existing church is proposed to be razed as part of the reconfiguration of the Applicant's existing parcels. (BOA23-32)

Attorney Robert Harb (40 Kenoza): I am here with pastor Chris of Lifeline Baptist church, we are asking for variances so the property can be subdivided into single-family home lots. As you will note from the plans I submitted, there is two lots and we are trying to restructure the design of the lots, one actually goes from street to street Brandy Brow to Brock Road and then to the left on Brock road is a separate lot, you will notice we are asking for a new lot line, so that the two houses will be separate, one lot will be on Brock road and the other will be on Brandy Brow, you will note and I am sure you already have members of the board that we are lacking quite a few feet in area, but I have done some research and regrettable since I moved my office back to Kenoza Avenue I used to have a 1956 zoning ordinance, I spend probably hours with the city clerk to try and find it, and I couldn't, and the reason that is important is, you'll note in my brief I spelled out that there is at least 5 other lots there, that really have around 10,000 square feet, I can't certify it to you but because



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these lots pre-existed in 1972, which was our newest ordinance before the latest one in the 2 thousands, I think that these lots met zoning back in that time, that is why the deed set these lots out to be about 100 x 100, the only reason I don't have a grandfathered lot, is there is a church on 2, on the lot to the right that went straight through and because they own the abutting lot, that's not grandfathered, that's why I can't come in on a vacant lot on Brock and say I can put a single-family here. You should also be aware the church as you can tell from the plan, y sets the two lots on the record, so its like build half on one and half on the grandfathered. So I just wanted to go back in history and explain to you why I believe that the 1936-33- & 35 Brandy Brow were undersized, they seem to be that 10,000 square feet size, so if I was a younger man back in 1956 to 1972 these lots would be conforming and I could just build a house there, but because of the change in zoning the shape of the back L on this lot, we need waivers. I did supply online and to the clerk 6 original signature of abutters that are in favor, who have no objection to this, 3 of them are direct abutters to the left and right of the property, I think that is important since we have some people here tonight in objection, our direct abutters are not in objection. You read comments from the conservation commission, we feel that topography wise and for the environment, as Mr. Moore mentioned we are going to have less pavement and less impervious area, on the two single-family lots, than we have with all the parking lots with he church and the church pushes through two lots. We are in the water shed overlay area, so by allowing two houses instead of a large church, I thin k it is going to benefit the city, the water shed. Also as you know, when we build the houses now, we put the drainage in the roof around, so this is really going to be an improvement to the area and for our water supply, the Millvale water supply. Oly other choices, because I mentioned the church has outgrown the site, originally I thought maybe they needed to reduce their size of their church, but the paster actually said now this church is too small, we have grown, his option might be well do we stay in this area with a dead end road, Bock road brining more people, they are having services tonight, that is why a lot of people are not here to speak in favor and some of the neighbors that did sign in favor, said we would rather have two single-family houses and cut down on the traffic, especially on the dead end Brock Road, it is going to be an improvement to the direct abutters, because they signed in favor of this, they really think all though they like the church and the church isn't causing any issue, but they have a lot of cars going for their services, so this is going to cut down, I feel we have just two single-family homes. The pastor is aware and I am, we really are just asking or one additional home and reduce the size of the church, because otherwise you could convert the church to a single-family and that would be allowed, because a single-family is an allowed use, but as I mentioned the pastor is an honest man and he said to me, we need to go somewhere else with a bigger church and wouldn't the neighborhood benefit by having 2 single-families instead of this large church, all the traffic, all the cars, and that made me think and I read Mr. Moore's statement with all the cars and perhaps the motor oil from the cars, getting into he pavement going into the water shed, he wont have 50-60 cars parked there in the parking lot, so again I think I am going to help the water supply with this plan, I don't think its contrary to follow the lots in the neighborhood, it is not objected by a attached abutter. The pastor didn't create the lot lines and the fact that we didn't vote to change the zoning, the zoning changed and that mensed, we can't do what we think is better for the neighborhood, with two single-family homes, they must still meet the water shed impervious area, so we have to cut down, we can't take up the whole lot, the other zoning requirements that the building commissioner would make sure we met. So I do think we meet 10.2.2(2), we didn't create these conditions, it is a reverse L shape lot, there's 2 lots that we are trying to keep as two lots, they were only merged because of the zoning ordinance, because the church is there and it crosses the line of the lots, without this we wouldn't be able to put another single-family house there, which before we would have been able to, this lot and its shape goes back over 70 years, it is an old shape, based upon the old I think subdivisions out there in 1956 and 60 range, most of those houses I mentioned I looked on the accessors records they were built in the 60's before the change in the ordinance. I don't think this would be a special privilege for the pastor and the church, because as I mentioned there's all these other houses in the area. I think this would be a benefit to the city and the neighborhood, we also understand that



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this may stop large tractor trailer trucks from going down Brock road and using his church parking lot to back up and come out, if it was a single-family house they wouldn't be able to do that, so we are going to eliminate some of the traffic from large trucks that go down the street, backup on his part and then pull out, so again I think this is a benefit. We are looking forward to hearing what the concerns are from the neighbors, hopefully we might be able to meet that. I know the pastor would like to say a few words and then we would really appreciate hearing from the neighbors.

Chairman: Thank you

Pastor Chris (14 Brandy Brow Road): I want to apologize to the neighbors who have come, I just talked to our immediate abutters and I didn't talk to anyone else, that is my mistake, I should have, so I apologize in advance, I am interested in what their concerns are because I do care. We have come to this decision not lightly and we have looked at every option, there is no other church out there right now to buy our building, I have one that wants me to give it to them, but I can't do that, we are trying to and I can't say where but there is a larger church here in Haverhill that we are trying to get, and very hopefully that works out, we are in negotiations, but we have to get as much money together that we can to make this work, otherwise that building will be repurposed and not a church, in a very central location, where we are in a very outskirt location, it is a beautiful building, it is just not a great location for a church in our modern day, 100 years ago it would have been perfect, for a local area for people to walk to, but now people don't see us, we are tucked in a corner, and there is a lot of traffic that our church brings in, about 60 cars on Sunday morning and probably 45-50 on Sunday night and Wednesday night, and our neighbors our immediate neighbors we all know, I apologize I don't know you but I wish I did, you are always welcome to come, but we get along with them very well and we like it, we hate to see it go, but at the same time it would be nice to not have all that traffic coming in and out. If there is some middle ground we can come to with the neighbors, I am willing to talk. I will turn it over to them.

Chairman: Thank you. Any neighbors want to speak?

Cheryl Sivinski Romando & Phil Romando (27 Brandy Road): we are not opposed, I think our big concern is kind of like the last discussion was drainage. So there is a covert across from the church, that is broken and the other side of Brandy Brow road my understanding from the neighbors that live right next to it, which is directly across from the church is they block it. We have a tremendous amount of water and we all have water issues and I think you could agree that

Pastor: You own the white house

Cheryl Sivinski Romando (27 Brandy Road): Yes, and that has flooded, we have been up to our waists in water in the basement. I grew up in that neighborhood, I grew up on Homestead Street. So I guess our concern is we don't want anymore push towards us

Phil Romando: So in other words, maybe some type of engineering study done with the water flow, because we are just afraid if you raise the church or take it down, which is what they wanted to do, and then put in 2 foundations and dig, and if there is water now getting diverted more so, because we are the second house across the street from the church, so we are just worried about if we have more water diverted towards us, like everybody said it has been a bad year for water. This year we normally pump say 8 months out of the year anyway, that is how high the table is, this year we have probably been pumping 12 months out of the year, so we actually put a fence in, I extended the chain link fence, I dug 2



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feet down to put the post in, that is how high the water table is right now where we are, so we just basically would like to see some type of engineering study done with the water flow, so it doesn't become putting in two brand new foundations and all of a sudden water is now worse than what we already have.

Cheryl: we can't take anymore

Phil: But as far as you know houses going in and whatever they feel they need to do, that is not the issue, we want to make sure it doesn't cause more of an issue for everybody else.

Cheryl: If Somebody could look at that culvert, my understanding from the Shrows that live right next to it, is that the concrete was broken, too big for him to do anything with and that the other side of the highway there blocking

Phil: There is a horse jumping stable there, and from what he told us, that guy or woman or whoever is blocking the other end of the culvert that runs underneath 110

Cheryl: So we would just like it looked at, that would be appreciated

Chairman: Thank you very much.

Member LaPlume: If you could call 311 tomorrow, this would be the fastest way, and tell them about the culvert and tell them they should notify engineering, I will be down to see it and I will refer it to

Cheryl: I left Rob Moore a message today, I didn't know if that was the right person

Member LaPlume: That is a start. Engineering this is what I do, I will be out there, I will take a look at it, I will refer it to the engineer

Cheryl: That would be amazing. We are not opposed, it is just the water

Chairman: Thank you very much. Anybody else?

George and Patricia Lambert (52 Bock road): We oppose it because it doesn't even come anywhere near the square footage needed for the land, you are supposed to have what 87,000 for one lot, they don't even have half that and they want to put two lots in, so they are missing 170,000 square feet, and they only have like around 40, they have less than an acre. I went for a variance too, back years ago, and I was just under the 80,000, and then they upped it to 87,000, I was just under a few feet, but this is way, way under. The way the water table is over there, it is a very high water table and you talk about putting all the water under the ground, that is just going to raise the water table higher, because everyone over there has septic's, what is everyone going to have a 10 foot high septic? I guess that is about it.

Patricia Lambert (52 Bock road): I would just like to comment that a couple of neighbors have shared wells, so I don't know where they will be getting their water from also



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Chairman: Great, thank you very much. Anyone else want to speak, if not Attorney Harb do you want to address those issues

Attorney Robert Harb: I appreciate all of the neighbors comments, as Mr. Lambert said he has about 74,000 square feet and he needed a variance, maybe not as much as ours but, I have tried to explain to you why we have two lots already that are undersized because they were legal when they were created, only the zoning ordinance when we eliminated the lot line, for zoning purposes only, is why they can't be built upon, and it is consistent with those other lots. So I think we have met the hardship, with two lots. Think of it like this, I am not asking to create new lines to make one lot into two, I have two lots, I am just redesigning the line, so it is a little different than if I came in here and said well I am going to subdivide as the perimeter is one, it has two, you can even see that on our plan. So I think we meet the hardship for the area, especially with all the other lots. I like everybody even the pastor am concerned about water, I had a similar case awhile ago and I think Mr. LaPlume came up with a suggestion about in that other case about the water, if it is with the wish of the board to grant the variance, I would ask, maybe you could put a condition on, that at the time or even prior to development review, that whoever is building needs to get an engineers report for the water and submit it. What the neighbors may not understand, but I know you all do, is that we have a zero tolerance for any increase of water running off by the law, but it would perhaps help the city engineer if a report was done concerning the water, and if something needed to be done and recommended to help with that culvert or whatever, perhaps whoever is building the house can take care of that, and that I think would help, it won't hurt the situation, and then we are not building to create anymore problems for the people and neither does the pastor want them to have problems, as mentioned they do have a house on that road and water is an issue, but if we can help, the church wants to help, so maybe a condition about a report, I don't know what we would call this so, the water hydraulic engineer or just an engineers report, to submit to our city engineer to help him out in development review at the time of development review.

Tom Bridgewater: I would say an engineers report.

Attorney Harb: An Engineers report is required to be submitted at the time of what we are now calling developmental review, the pastor says that would be fine, he certainly doesn't want to cause any trouble for anyone in the neighborhood.

Chairman: Thank you. Any other comments or questions from the board?

Member Bevilaqua: I just want to get into context about this, so your congregation has now grown?

Pastor/: Yes

Member Bevilaqua: Great, that is always good to hear. So do you have a place that you are going to go to, I don't mean the place that you are going to buy, but you have to go to a place

Pastor: we are not going to ... the way we are going to do this, is we are not going to do anything until we have a set place where we are going to, in contract. Part of all of this is to determine what we can and can not do and that affects what the value of our land of our properties, so my offer to them is kind of contingent upon on what I can do and not do and so we have a frame work in place, but there is no official documentation, then we would set the closing dates with whatever contractor, it would be discussed in advance, where we would close with them and then buy a new place, maybe work out



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a rental situation where they know you can't start till we go, we would work it all out in advance with the contractor. I have already talked to a couple of guys who are favorable to that idea, we might have a month layover after we sell, pay one month's rent and then move into the new building

Member Bevilaqua: So you need to demolish the church

Pastor: Correct, we sell and then they would after we move into the new one. This is so much for me, I have learned so much about architect and engineering and I didn't know that this was going to be so expensive when we started it, but man we have spent a lot of money, just to find out what we can and can not do. Most important to me are two things that are really important to me, one I don't want to do anything that would affect our neighborhood or our church negatively, because we have awesome neighbors and we have a great relationship with everybody, I just wish I could get a few of them to church but outside of that they're great people, I love them, and I think they like us, the ones that I talked to did, I hope you guys like us, and right now someone is storing a trailer on our property because they were getting paved and they couldn't have it on there so it has been there for 3 weeks and I said no problem, we have a great relationship, so I don't want to do anything negative to them. The second thing, I have to take care of our church and I have to take care of our church people, so they have to know where they are going, when they are going, they need to know the financials of everything that is going to happen, I have taught a lot of meetings on this and I said look, I am in a ball park, I don't have an exact number but I have a ball park and so we would go to this place and that would be set, and then that would happen afterwards, we would not go anywhere interim, we would go straight to where we are going.

Chairman: OK, thank you very much. Any other comments or questions from the board? I'll entertain a motion.

Member LaPlume: I make a motion to accept the application for 14 Brandy Brow Road, 2<sup>nd</sup> by Member Brown

Member LaPlume: Yes, we have a condition that they have to submit a report by an engineer on the drainage slash water for these lots before the developmental review

Member Brown: Yes as it meets the criteria for 255-10.2.2(2)

Member Infante: Yes it meets the criteria for 255-10.2.2(2)

Member Bevilaqua: Yes it meets the criteria for 255-10.2.2(2)

Chairman: Yes it meets the criteria for 255-10.2.2(2) and noted the L shaped configuration going on. So it is granted with that stipulation mentioned by member LaPlume.

## Other Matters

### **Lisa Frotten for 21 Flora Street (Map 413, Block 145, Lot 39)**

Applicant seeks to appeal the decision of the building inspector that the fence on the property is in violation of City of Haverhill Zoning, Chapter 255, Sec. 255-10.1.1 and table K of accessory use 15 A.B.

Lisa & Harold Frotten: I am here to appeal a building department complaint that was based on the neighbor, the complaint was that there was a 20 foot high fence on my property that abutted the neighbor's property, in actuality the structure is 10 feet. The neighbor is actually, we are on 21 Flora, so we have next to our house a lot because there is a corner house on Flora & Mechanic, so even though they are at 20 Mechanic Street they are actually neighbor because there is my driveway, a fence and then their property, it is kind of a weird setup.



# Haverhill

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Chairman: To make sure we all, I should have said this first. My understanding is the building commissioner has indicated you have a fence which is above the allowable height, so he is indicating the fence needs to be taken down.

Lisa & Harold Frotten: Ok, well my appeal has to do with reclassifying the structure, this has kind of been the problem since it was erected. What I built that for was for a 3 to 4 year bad relationship we have with neighbor disputes, they have against the fence which is in my driveway, they have 4 structures that are 9 feet tall and a pool

Chairman; I have seen them. What do you want to classify your structure as

Lisa: It is a privacy screen, temporary structure. If theirs can be temporary structures Sir

Chairman: Again as Member Brown mentioned a little earlier, we have to deal with what is in front of us, if there is something wrong with their property, if they are violating something, we would deal with that separately, we need to deal with this which the building commissioner has indicated, he has said it is a fence and it is taller than a fence is allowed

Lisa: It is next to a fence, it is not a fence, there is a fence right there, a fence is for a border, it doesn't start on the bottom like a fence

Chairman: I saw a picture of it

Harold: Did you see what it looked like on the other side of it, what it is blocking

Chairman: That has to be dealt with separately, we have to deal with what is in front of us. Is there or is there not a fence, the building commissioner has called it a fence and therefore as indicated it has to be taken down.

Lisa: these people have not only caused me to have no privacy, which is intrusive in Massachusetts, but also the son was on probation because he physically threatened my husband and my son. We are just trying to get some peace sir, I have no peace

Chairman: We understand that, but we have to deal with what is in front of us, we are not the police so we can't deal with

Lisa: But you are classifying as what it is not and that is my problem.

Chairman: It looks like a fence to me.

Lisa: well why did Tim Wicks say it could be construed as a privacy screen, but it would have to be attached to a deck. Why am I getting different conflicting information from the building department

Tom Bridgewater: Well Tim Wicks went out there, he went out there to view the complaint and he came back and said it appears as a fence, so he took pictures of it, I went out there and also spoke to you, I am classifying it as a fence. You can get a permit and knock that down to 6 feet which is allowed by zoning.



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Lisa: there is a fence right near it that is 6 feet

Tom B: I am just saying Haverhill zoning only allows

Harold: we will have to deal with the neighbors another way.

Lisa: So why can't it be construed as a temporary structure.

Tom B: Because it looks like a fence. To me it is a fence

Lisa: So they have gazebos there, you construed them as temporary structures. They are into the ground, they are not just floating there. This is something in the ground

Tom B: This is a fence, this is what the issue here is about, I am classifying it as a fence. It doesn't meet the zoning code, it is too tall.

Lisa: So could it be a flag pole? Is there a zoning law against flag poles? I am not taking it down, I am telling you right now

Chairman: You haven't said anything that makes us believe it's not a fence, to me it looks like a fence

Lisa: It is not on the ground, a fence starts on the ground, and it is used for border, there is one behind it

Chairman: I have seen the pictures, to me it is a fence, to the building commissioner it is a fence. I don't see enough evidence to indicate we should overrule the building commissioner.

Lisa: So if I took it and attached it to my deck, which is 8 feet off the ground and I went another 8 feet, is there a zoning code which inhibits me from doing that?

Tom Bridgewater: Well your deck would have to meet the setbacks in that zone.

Lisa: The deck was on there when I bought the property

Tom B: The deck was right where that fence is? You could put that 6 foot fence on top of your deck.

Lisa: So it will be 14 feet now, instead

Tom: It is off of the deck, you can put a privacy fence on your deck and it can be 6 feet.

Lisa: But the deck starts off at 8 feet

Harold: So 14 feet to the top



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Lisa: so that will make a difference, that the structure there is not a fence

Tom: The deck is attached o your house.

Chairman: That is the option you have available. As it stands now, the commissioner has determined it's a fence., I is up to this board to see if we agree with him, we will take a vote on it.

Lisa: In all do respect sir I have lived there 6 years and I am trying to work from home, I have to go out there everyday and the people are ridiculous, with foul moths, smoking weed, drinking all day every day seven days a week

Chairman: Call the police

Lisa: I have done that, and that is what caused the threats. This is eliminating that.

Chairman: We don't have the powers to deal with that

Lisa: So there's no exceptions to anything, even though its not harming anyone, even though its there, we as the victims don't get any relief, cause that is what you are saying

Chairman: The commissioner has determined it's a fence

Member Bevilaqua: So the building commissioner is an expert and he is the final adjudicate on this. You would have another option, you could put evergreens, evergreens look good

Lisa: and those take a long time to grow, plus I'm not paying \$300 on a bush. I have invested over 3 thousand dollars and I erected a beautiful piece, I didn't just throw up anything, as a privacy screen, I didn't know because it had bamboo, so if I attach something with material that is not even pleasing to the eyes, is that not considered a fence?

Chairman: we are dealing with what's in front of us and what is in front of us is a fence.

Lisa: Well I am asking because you make the rules, so if I use that as a flag pole and I take the bamboo down, am I allowed to put flags on there, is there a flag pole ordinance

Chairman: That is another issue you will have to deal with the building commissioner

Tom: I don't see a flag pole ordinance

Member LaPLume: You just talk to the commissioner and he said you could put a fence up on top of your deck, he is a reasonable man, I have worked with him for years now. Why don't you talk to him after we make our decision and you can talk about solutions, I think he can work with you.



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Lisa: It is not really going to help on top of the deck because my back door comes out and that's why I have a problem.

Member LaPlume: Talk to the commissioner and see what you can come up with.

Member Bevilaqua: There was a far more (couldn't hear word) one we had before and the people had to take down their fence, it was also 9 feet.

Lisa: Physical threats to my son and husband is another story and he is on probation

Chairman: Again that is a ;police matter

Member Bevilaqua: That is not in the purview of this board.

Member Brown: I saw we take a vote on this. I understand what you are saying but I can't say enough that we have to vote on what is in front of us. \*\*she talks about things she planted between her and her neighbors house that were beautiful\*\*\* But its kind of muffled, so I can't hear word for word. Tom is a great peon to work with, but I just wanted to give you some other options that look beautiful

Lisa: They have also aggravated other neighbors, the lady who had the house before us, and the mayors sister who lives beside me. They have been bullies in this neighborhood for way too long. I am just trying to conduct peace, I am not trying to violate anything, And I have spent a lot of money, I can't use  $\frac{3}{4}$ 's of my property because it abuts them, I have ring cameras, but they can see into my kitchen. I have no peace in my own home and I am jut trying to put something in, so I don't have to go out to let me dog out in the back and hear things, or the sound, I am trying to work upstairs I need the income

Member Brown: I understand. Your home should be peace

Lisa: I have none

Member Brown: I really suggest you speak to Tom a little more. He is really great and I am sure the two of you can come up with something.

Lisa: I just don't want to use the municipality services, the police the building services, I have had 5 violations on me in the 3 months, I don't want to always open my door and they are just complaining, doing things to just annoy me, and then I have the building inspector at my door on July 5<sup>th</sup> after the long weekend, I have had the health inspector at my door at 8:30 in the morning after a long weekend, saying I have trash barrels with rodents near the trash, he found nothing, it was a baseless complaint. I don't use municipalities like that, I have other things to do.

Tom B: we answer every complaint

Lisa: I understand now, but I have to say I don't complain baselessly



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Chairman: Lets pass on a vote here if we can. Entertain a motion

Member LaPlume: IU make a motion to accept the application for 21 Flora Street, 2<sup>nd</sup> by Member Brown

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The vote is to uphold the building commissioners decision that it is a fence and therefore must be taken down.

Member LaPlume: Yes, I support the building commissioners ruling

Member Brown: Yes

Member Infante: Yes

Member Bevilaqua: Yes I support the building commissioners

Chairman: Yes

Fence must come down

August 20, 2023 meeting minutes accepted via vote



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The regular meeting of the Haverhill Board of Appeals was held on Wednesday evening, September 20, 2023 at 7:00 P.M.

Those Present:

Chairman George Moriarty  
Member Ron LaPlume  
Member Louise Bevilacqua  
Member Lynda Brown  
Member Kassie Infante  
Assoc Member Magdiel Matias

Also, Present: Jill Dewey, Board Secretary  
Tom Bridgewater, Building Commissioner

**Richard & Laura King for 57 Woodrow Avenue (Map 635, Block 3, Lot 21)**

Applicant seeks the following dimensional variance to create a new building lot for the construction of a new single-family dwelling in a RL zone. Proposed new Lot A shall be a conforming lot that includes the existing the single-family dwelling. Proposed new Lot B shall include the new single-family dwelling. Requested relief for new Lot A sought for lot area (24,392 sf where 40,000 sf is required). (BOA-23-29)

Richard & Laura King (57 Woodrow Ave, Homeowner): I would like to subdivide off an original half acre lot that was purchased in 79 before the zoning changes, I'd like to detach that lot and sell it.

Chairman Moriarty: So you are proposing a new lot B with a new single-family dwelling

Richard King: Yes

Chairman: OK, and what is happening, lot A will keep the existing single-family dwelling

Laura King: Yes

Chairman: and it looks like the requested lot A is about almost 24,000 a little over 24 thousand square feet and 40 thousand is required. Comments or questions from the board?

Member Brown: I went to your place a couple of times and I did see that you had that horrible fire, I am just apologizing for that, its really bad, I just wanted to make sure, I didn't know if you wanted to build a house or if you wanted to deed it, because it wasn't clear before.

Richard: A family member wants to build his retirement home there.

Member Brown: So it is a family member, ok.



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Chairman: Any other questions or comments from the board? Entertain a motion.

Member LaPlume: I make a motion to accept the application for 57 Woodrow Ave, 2<sup>nd</sup> by Member Brown.

Member LaPlume: Yes it has a unique condition size and shape which would involve a substantial hardship. It meets the criteria for 255.10.2.2(2)

Member Brown: Yes it meets the criteria for zoning variance 255.10.2.2(2)

Member Infante: Yes meets the conditions for 255.10.2.2(2)

Member Bevilaqua: Yes it meets the criteria for 255.10.2.2(2)

Chairman: Yes, voting along with my colleagues that it meets 255.10.2.2(2)

**GRANTED 5-0**

## **BJ'S Wholesale Club, Inc. for 25 Shelley Road (Map 762, Block 1, Lot 7)**

Applicant seeks a variance to remove one parking space for the installation of a curb ramp in a CH zone. Total parking spaces proposed to be reduced from 470 spaces to 469 spaces. (BOA-23-30)

Todd Hay: I am the engineer on record, licensed in the state of Massachusetts, my address is 1085 Newark New Jersey. What we are here for this evening is for an application for a ramp for our club, what that happens to be is a club where the members purchase online, where they drive up to a door, on this case the Shelley Road site on the left side of the building and employees cart out goods that have been bought online for customers to pickup. What happened is, BJ's has recognized worldwide that there is an issue where there are no ramps to get the products from the door to the parking lot, and at the existing site there is not a ramp, there is actually a makeshift ramp that is there now, unfortunately is not on the plans, but I did observe it this evening. What we are seeking is to place a private 30 feet to the right of the door, the existing pickup door, there is two ramps plus a drop curb and then a parking space with striping approximately 9 foot by 18, to allow the employees to safely take product out to the customers that are picking up online orders.

Chairman: Thank you, any comments or questions or questions from the board? So you are going from 470 spaces down to 469

Todd: That is correct.

Tom Bridgewater (Building Commissioner): So in 2007 it looks like they went for a parking variance for the required spaces from the 598 to 470, so they are taking away another one, that is why they are here.

Chairman: Do you think that with the online shopping that there are fewer cars there during the day?

Todd: Yes that is correct. We observed it twice, we were out earlier this spring, the operations parking looks like its being underutilized and then the same thing this evening, the parking is looking like it is being underutilized, and I did go there during rush hour. That area those parking spaces are already dedicated for the online customers pickup, one space we



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are seeking relief so that the employees and this is just for the employees, they bring the product out to the customer in the parking lot.

Chairman: Is this the only ramp that is existing on the place?

Todd: That is the only, the scope of work there will be a wall mounted sign,, adjacent to the parking space that will indicate that there will be no parking allowed, as long as operations exist to allow the employees to bring out product.

Chairman: Great thank you. Comments or questions from the board members?

Member LaPlume: There is a comment from John Pettis

Chairman: The city engineer commented indicating that he has no objections to the variance, and noted that it will include the statement that the interior lot line is hereby removed

Todd: That is acceptable Mr. Chairman: We will put that on the plans.

Chairman: Thank you. Any other comments or questions from the board? Entertain a motion.

Member LaPlume: I make a motion to accept the application for 32 Shelley Road, 2<sup>nd</sup> by Member Brown

Member LaPlume: Yes there is unique conditions with one parking space out of 470, which is the hardship, meets the criteria for 255-10.2.2(2)

Member Brown: Yes it meets the zoning criteria for 255-10.2.2(2)

Member Infante: Yes meets criteria for 255-10.2.2(2), I think it will make it a lot safer.

Member Bevilacqua: Yes meets criteria 255-10.2.2(2), it is obviously needed.

Chairman: Yes it meets 255-10.2.2(2), a unique situation particularly for the customers and for your staff to be able to access them in a safer way.

**GRANTED**

## **Michael & Lindsay Foustoukos for 3 South Maple Avenue (Map 726, Block 1, Lots 12A & 13)**

Applicant seeks a special permit for a detached accessory dwelling unit in a RM zone. Applicant seeks Special Permit to determine that proposed reconstruction of existing non-conforming structure will not be substantially more detrimental than the existing structure to the neighborhood. Application involves the replacement of the existing garage with a new detached accessory dwelling unit on the same footprint of the existing garage. (BOA-23-33)

Attorney Don Bornstein (Johnson & Bornstein, Chestnut Street in Andover): With me are Richard Foustoukos and Alicia Barret and also their son Mike Foustokos. We are here for the accessory dwelling unit proposal on South Maple Street, the property is located in the RM district, it has an existing home on it of 1571 square feet of living area in the existing single-family home. It is also approved by an existing 2-story garage, so there is a garage on the property, that garage is in need of significant repair, there are photos in your packets, showing the state of the garage, what they wish to do is they wish to remove that garage demolish it and replace it with a structure of the same size, the same footprint, same



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height, same basic dimensions, brand new structure and they want to create an accessory apartment for their parents Alicia and Richard. It would consist on the first floor to have a studio apartment, you have floor plans and elevations for that building and the second floor would just be storage. The studio apartment would be approximately 400 square feet, so its in essence the same footprint, slightly smaller than the existing garage. Under your accessory dwelling unit bylaw adopted I believe early this year, that is currently implemented, because that is in a separate structure from the existing single-family home, it requires a special permit from this board. We have also asked out of an abundance of caution for a special permit finding by this board, because we are making an alteration of reconstruction of existing nonconforming use, I believe that has been discussed with inspector Bridgewater and I believe that he agrees with that, if he doesn't I'm sure he will correct me right now, so we are asking for 2 special permits, one an accessory dwelling unit under 8.1.2.6 and then we are also asking for a finding that what we are doing is not substantially more detrimental to the neighborhood than what exists and that would be under section 5.3 of the ordinance. That finding is easily made, the existing garage building is in significant disrepair, the new building will be a high quality structure that will provide a home for Mike's parents, that will allow Mike and his family to then live in the single-family home that would remain on the property. In your package are all the materials required by the accessory dwelling bylaw, again that includes the floor plan of the existing home, we have floor plans and elevations, our architectural elevations for the proposed accessory dwelling unit, you have a site plan that shows the property site, you have several letters of support from neighborhood residents and you have photos of that existing garage. I also believe there are neighbors in attendance here to support the application, so with that I will turn it back to the chair. Mike is here if you have questions about anything specific I have Mike here with me.

Chairman: Thank you. Yes I want to confirm that we did get a number of emails of support from your neighbors. We also got the city engineer Mr. Pettis also commenting and no objections.

Tom Bridgewater: The construction of the apartment says unfinished storage, is that going to be heated, the reason I am saying it is because there isn't any door separating the unheated, where if it says unfinished and it is heated it might be calculated in the accessory apartment size.

Mike Foustokos: At the moment we were thinking unheated, the house that we just remodeled there is no storage there either, so it would be a joint storage.

Tom: OK, so somehow you need to add when it comes through the developmental review when we talk about getting a door there and if you put it at the bottom of the stairs there needs to be a landing there and on the top where it would most likely go there is a window right there, so you'll have to modify your plans.

Mike: OK, a door sure. My architect can do that.

Chairman: Any other comments or questions from the board? Ok I will entertain a motion for the first special permit for an accessory apartment

Member LaPlume: I make a motion to accept the first special permit application for 3 South Maple Avenue, 2<sup>nd</sup> by Member Brown



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Member LaPlume: Yes it would not be substantially more detrimental than the existing nonconforming structure . It meets the criteria for 255.8.1

Member Brown: Yes it meets the criteria for 255.8.1

Member Infante: Yes meets the criteria and it is not substantially more detrimental and it's a great way to keep a family together

Member Bevilaqua: Yes it meets the criteria for 255.8.1

Chairman: Yes, it meets the criteria for the new zoning regulations 255.8.1

Chairman: entertain a motion for the second special permit for the nonconforming

Member LaPlume: I make a motion to accept the second special permit application for 3 South Maple Avenue, 2<sup>nd</sup> by  
Member Brown

Member LaPlume: Yes it meets the zoning criteria for a special permit 255-10.4.2

Member Brown: Yes it meets the zoning criteria for a special permit 255-10.4.2

Member Infante: Yes it meets the zoning criteria for a special permit 255-10.4.2

Member Bevilaqua: Yes it meets the zoning criteria for a special permit 255-10.4.2

Chairman: Yes, also siting the older zoning and 5.3.1

**GRANTED**

## **Haverhill Public Schools for 685 Washington Street (Map 556, Block 1, Lot 1)**

Applicant seeks dimensional variances for maximum height (72 ft where 35 ft is maximum) and maximum stories (4 stories where 2 ½ stories is maximum) for the construction of a new school to replace the existing Consentino Middle School in a RH zone. (BOA-23-34)

Don Walter from Whittier architects (260 Merrimac Street Newburyport MA) & Michelle Rogers: we are the architects for the Consentino School at 685 Washington Street. So the Consentino School is the existing school and the new school will be built directly behind the existing school, because of the limited site we are forced to create a 4 story academic and in order to accommodate all the classrooms we need. "She shows and explains things on the plans". The request that we have is that we are in a RM zone and are limited to height and number of stories, we are asking for 72 feet in one particular corner, at the end of the building that will be 70 feet but we put the extra 2 feet because sometimes we are off, and then the remaining part of the larger portion of the building will be 60 feet, out front we have a 2.5 story gymnasium and media center and those are the 2.5 stories and 35 feet, so the front part of the building will conform to your zoning, the back part of the building is 4 story academically. The stair that is 72 feet is for maintenance personal to get up on the roof and service equipment up there. Part of the reason we have to build the building on the site while the school was occupied as we looked at other locations within the city to relocate the students temporarily and there just wasn't any space available.

Chairman: What is the relationship between the size of this building and the existing building?



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Don & Michelle: The new footprint is actually smaller than the existing buildings footprint, but it is higher up and the 60 feet is actually consistent with the peak of the roof at the Silver Hill School. I believe I your packet you have some views of the proposed building

Chairman: A timeline for this?

Don & Michelle: We are going out to bid right after the first of the year, and then construction will be about 2.5 years. Approximately 2 years the students will move from the old school into the new school and then demolition of the old school and then the fields go in and additional parking.

Jill Dewey: Pretty much what Pentucket just did

Don & Michelle: Pretty much, and we did that project.

Chairman: Comments or questions from the board?

Member Brown: I looked at the school and I went over the plans and I think one of people's biggest questions was where it was going to be built, with so many students attend that school, so I am glad you guys spoke about that.

Member LaPume: I just wanted to state that the city engineer is in full support of this variance.

Chairman: Thank you. I wanted to point out that Mr Pettis has met with the design team, he has met with you often I guess to work out different concerns and that he is fully supportive of this. Any other comments or questions? Entertain a motion

Member LaPlume: I make a motion to accept the application for 685 Washington Street, 2<sup>nd</sup> by Member Brown

Member LaPlume: Yes it the unique condition would be the height, and without this would be a substantial hardship to the City of Haverhill. It meets the criteria for 255.10.2.2(2)

Member Brown: Yes it meets the criteria for zoning variance 255.10.2.2(2)

Member Infante: Yes meets the conditions for 255.10.2.2(2)

Member Bevilacqua: Yes it meets the criteria for 255.10.2.2(2)

Chairman: Yes, voting along with my colleagues that it meets 255.10.2.2(2)

**GRANTED**

## **Francis Bevilacqua for 0 Edgehill (Map 644, Block 3, Lots 132 & 133A)**

Applicant seeks the following variances to build a single-family dwelling in a RM zone. Variances sought for lot area (18,029 sf where 20,000 sf is required), frontage (73.02 ft where 150 ft is required), lot width (101.31 ft where 112.5 ft is required), front yard setback (15.5 ft where 25 ft is required). Requested variances previously granted December 21, 2021. (BOA-23-31)

Chairman: I should note that Member Bevilacqua is sitting out on this one



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Francis Bevilaqua (My business address is 143 Essex Street): I am not going to spend a whole lot of time, I am going to give you a brief overview and then let the neighbors speak, because I think you guys understand my part of it. I am requesting a variance for this property; I got a variance approved in December of 2021 and part of my issue is I didn't realize that after a year it expired or I would have renewed it. Part of the problem is when I got the variance approved originally it was stipulate that, before I could do anything, the city of Haverhill would have to go further along with their plans to extend drainage from the route 108 project to the back 9 and that is just taking a while and we have had a lot of strides with that, I actually met with all of the department heads at design review yesterday because I have a civil plan for construction and they met my engineer and my engineer explained what we want to do, and how we want to tie the drainage that we are responsible for below us, so I have that plan, I shared it with some of the neighbors. Basically what is going to happen is there are two catch basins that are on Edgehill Road that I am going to pickup and run a drainage line through my property down in an easement, through also a property below me, onto Cliffwood, and then the city is going to take it from Cliffwood and continue and connect into 110.

Chairman: Great. I just want to read very quickly from the city engineer, he provided us some feed back and he has worked with the property owner to come up with shared cost to handle the stormwater runoff across the site, much of it from the city roadways, I also met with him and the design engineers and the city conservation agent and the stormwater work will be a benefit to much of this area, eventually tying into the new stormwater pipe recently installed as part of the reconstruction of route 110 route 108 intersection. So the city engineer is strongly in favor of tis application and appreciates the fact that you worked very hard with them to come up with a solution.

Fran Bevilaqua: It is going to be a significant cost to do that, but I feel like that is obviously what we need to do. The part of the history is that there is no drainage on that street at all and I actually had to advocate with the city to install the catch basins that are over there now, and they installed them but the problem is that they are connected to the sewer system, so we are going to take them out of the sewer system and create drainage, real drainage for that roadway and also there is going to be a holding area for water on my property, with a way, there is going to be a pipe connected to that holding area, so that any water that ever gets beyond those catch basins will be caught before it gets to the property below me.

Chairman: Thank you. Any comments or questions before we hear from neighbors?

Member LaPlume: I wasn't at the meeting but could you describe the pipe, the size of the pipe?

Fran Bevilaqua: We talked about a 12 inch pipe, so it is going to connect, there are two catch basins that we're gonna take those out of the sewer and connect them to the line drainage pipe, down to a man hole and then that man hole is going to come out at a 90 into the holding area, and then that main pipe is going to come down a 15 foot easement down my lot, down the lot below me on to Cliffwood, and there is a catch basin on Cliffwood, so we are going to connect that all together.

Member LaPlume: When I looked at that, it was 3 years ago and it was going into one man hole, there was a sewerage manhole with a 6 inch pipe I think going out, and there was 2 other manholes and there was two other 6 inch pipes, so they are trying to put 18 inches down a 6 inch pipe, that is why it was overflowing onto your property. Commissioner, does he have to come back in front of Developmental review?



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Tom Bridgewater: Yes he does, absolutely.

Member LaPlume: Ok, so the only comment that I would have, I don't know because I have just had a lot of problems with water, I have had problems with water before and I have a commercial piece of property and I have a 12 inch pipe and it is not handling it. I have been there for 25 years and it is not handling it, and just beyond cleaning it up and doing what I had to do, and it's just crazy, so it is something that you might want to look at with your engineer.

Fran Bevilaqua: Yea, we are. That is actually the size that the city engineer requested, so we are open to anything.

Member LaPlume: OK, thank you.

Chairman: Any other comments or questions? Ok, we will hear from anyone from the audience that wants to speak.

David Girouard (37 Edgehill Road): I abut the property to the north east curve. So I just found out 5 minutes before this meeting, that some of the information that I was going to bring to you has changed. One of them was, this parcel 664- 132 and 133A according to the diagram in the application has 18,029 feet in it, that is not right, if you go down the street according to the records that we have here legally 11,948 recorded in 1931 and that is for parcel 132, 133A is 5972 and that was recorded in 2005, if you add those two together and its 17821 and per the application was 18029, so there was a difference of 2010 square feet, but come to find out that changed, so it is not really relevant at the moment. I just thought I lost 200 square feet by this whole mess. Again looking at some of the numbers, the property was purchased in 2005, so in 2020 when this all started, the applicant admitted he owned the property for 15 years, I agreed with that, you look at the application now, its 3 years later, and he says on his application that he has owned the property for 20 years, again I am looking at numbers. So lets look at the required frontage 150 feet, 73 that he has already and he wants a variance for that difference, if you look at this catch basin, I have a picture of it, if you look at this catch basin and measure it, its 7 feet back, 12 feet wide from the front and as you have already mentioned Member LaPlume, it is 16 inches high from the berm in the back, I purposely took this picture at the end of a rain fall on August 30<sup>th</sup>, about a half inch of rain fell that day and this is the result of that corner, this is the new improved drainage that alleviated the wetlands in this area, you can see, I didn't bring in the pictures or the video of the August 8<sup>th</sup> rain fall, so LaPlume probably still remembers and everybody else in the city remembers the amount of rainfall that came down here, I am just saying if you take 73 feet and knock off 12 feet which is right in front of his property, you are down to 60 something feet, that is how much space off of Edgehill, if you look to the right of that catch basin, you can see there's very little land as well as the narrowness of the road itself. Member Brown in 2020 also mentioned she traveled this area, it was very difficult with her very little sports car, number one to even turn her vehicle around. If you look at the immense concerns from member LaPlume from 2020 regarding the height of this berm and he wanted to consider the amount of water going over, a picture shows a thousand words, that is how much water is flying over this berm, almost a foot and a half high and this thing is like pounding and again this wasn't the torrential one on August 8<sup>th</sup>. Member Brown same thing, you drove bye in a rainstorm and you said it was pretty bad, it was really tough, this is your quote "it was really tough trying to maneuver around the narrow road" really concerned about the impact it would have on me with all of the construction vehicles and believe me I think you are going to hear a lot about this. I am sure that because you would be dealing with a 90 degree corner, anybody in that neighborhood already knows that if you left your driveway and you tried to leave or tried to come home, we have already experienced the amount and size of these construction vehicles coming down this road, either you are going to have to backup on to Tappen Street or you are going to have to sit there in your driveway, or you are just going to have to backup down



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Longview which is the beginning of all this, which is absolutely no room between these construction vehicles and another vehicle no matter what size, and Mr. LaPlume you've had an excavation business, I can't in words explain how loud these trucks when they dump gravel or whatever and they slam that gate at the back trying to get that last piece of stone out and it goes bam, BAM, BAMB, four or five times every single truck seven in the morning till six at night, now we are experiencing all this right now, never mind how much fill this individual wants to put in this thing, where there is no space to get off the road and put this fill in. According to the December 2021 meeting and this board approved this variance as long as it was quote on quote, these are your words "it was funded and started before any of this construction was going to start, any water issues being distressed are all water, if you ever seen what this water does when the temperatures drop and it starts changing, any vehicle that tries to plow in that corner wont even get close to it, it comes out at least 15-20 feet away from the corner, that's as close and its down to one lane, and that is winter time. In regards to the wetlands on the north and east side of this piece of property at 132, any fill anything that is going to disrupt this property or add to this property, water will just push to less resistance in fact more than likely, I know he is concerned with people down hill From him, well I am his neighbor, I am on the lefthand side of it, what happens to all the water that is going to be on my side of it now I have to have water because he wants to build a wall and everything else. This applicant is embellishing the numbers, well they have changed a little bit, and he stated this project is in the best interest of everyone, but I am sorry, if you read all of your minutes from 4 meetings you've heard from over 12 families that have been in front of you, every single abutter, every single one in that neighborhood and not one, not one is in favor of this project, they are concerned about their health, their safety, the environment, the disruption of what's going on and we already seen it, so any promise that they will provide a safe street and a nice easy transition is a boldface lie, because I am telling you life on that hill is completely changed because of construction by this individual.

Chairman: Thank you. We will hear from anybody else who wants to speak. And if you could introduce any new issues that would be helpful.

Eric Denoncourt (41 Edgehill): First of all some of the plans that we saw tonight wert on file for review when I went to the town city hall this afternoon.

Jill Dewey: Sometimes they all might not be viewable online to the public, but if you came into the office you can view the whole file.

Eric Denoncourt (41 Edgehill): I came into the office

Jill Dewey: Anything he submitted is there

Eric Denoncourt (41 Edgehill): He referenced some plans tonight that I didn't see

Chairman: Ok, well lets debated that one later. What is the subject of issues, inform the board about it.

Eric Denoncourt (41 Edgehill): Well that is why the application on file is incomplete. A little review of Mass general law 40A for a variance, may be granted if unique conditions exist, again the application states, acquiring property from the city is a unique condition, I don't see that as a qualifying unique condition, because allowed unique conditions are soil, shape and topography, not acquisition of property. Unique condition of wetlands, the applicant is creating that unique condition by



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building a house, that is the side of a hill, every house built there has topography, there is nothing unique on that block relative to topography, shape I don't see anything unique about shape, then the fact that he is asking for a variance for the size to be smaller than what is allowed. I will go further into some of my research, I went through, the plans on this whole street Edgehill Road any Tappen were approved as ANR's, approval not required, approval not required lots are if the property meets the existing zoning frontage and lot size, this lot doesn't meet the zoning frontage and lot size therefore this would be subject that you have control upon, if it was less than the allowable zone. Also in Mass general law 40A section 10 relief may be granted without substantial detriment to the public good, I think you are going to hear from myself and several others, that there clearly is public detriment, I recommend that this board deny this application. Thank you.

Chairman: Thank you. Anyone else want to speak?

Jessica Danis (42 Edgehill): I think it is pertinent to bring up the Vin fend property that is being built at the top of the hill there, in regard to any reassurance that we are provided, in terms of say the road not being blocked, the applicant here acquired the property and is building a Vin fend home, which is considered residential, however its for traumatic brain injury patients, so it is that clause between commercial or whether it is actually nursing home, but it is considered to be a house, so therefore he can get it up. People are over there working July 4<sup>th</sup>, working on Sundays.

Chairman: Excuse me, working on what property?

Jessica: The Vin Fend property

Chairman: Which is separate than the property before us?

Jessica: It is separate; however, it is regard to our insurances by Mr. Bevilaqua, that things will be conducted in a proper way

Chairman: We have to focus on the Edgehill one, we have to, because the other one is not in front of use at this time

Jessica: Ok, so even if he is not in compliance and all sorts of other stuff with this one he is building, which is right up the road a few homes up from the property he wants to build on now

Chairman: Well if you want to tell us what out of compliance things he is doing.

Jessica: Sure they are working on Sundays, the workers are there on Sundays and they were there on the 4<sup>th</sup> of July, that is not in compliance, correct? When it rains there are nails running down on the street, there are cigarette butts in our yard, my yard and in the neighbor's yard. What else, things like that. Oh roads being blocked, and the road is all torn up. So speaking to what David said, that road is already torn up and now he wants to get up there and put something else in. So no it is not safe, and if there was a place for parking that is one thing., but when you are going around that little corner , no it is not safe, and emergency vehicles can't get up there if something was blocking that road, and no I am not very impressed by you know the fish rotting by the head, I am not going over there and I am not yelling at the workers there, that is not appropriate, but the construction is not properly managed.



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Chairman: Thank you. Any other comments or questions?

Steve (10 Tappen): One of the things I want to mention, we talked about the 150 foot frontage and he has less than half, so that puts it out of compliance, the sidelines are out of compliance, the width, the only compliance he matches is the depth of the property, to me the house doesn't belong, in this area, it was non buildable when it was purchased and it remains non buildable, we are trying to make money on a piece of property that was bought for a song and a dance, and you are making a profit on it because it was non buildable, there are plenty of buildable lots in this city, that could be built on legally. Thank you.

Chairman: Thank you very much. Is there anyone else?

Deb Gatchel (40 Edgehill): I just want to reiterate a few things that have already been said, about the excessive water, I is extremely bad and dangerous, plows, fire trucks, no way you can get up that street without going backwards, I don't even know how he is going to take care of his new development how that was pulled off, because there isn't any water pressure, I mean it is crazy, he built this new thing up there with whatever kind of people are living in it, god forbid if there was ever a fire, that is all I can say. That drain that we are talking about, I recently got out of my car to collect out some of the sticks and debris, the thing was jam packed full, just jam packed, I just get so frustrated every time I drive around it, its filled with sand, everything. The street is extremely narrow, pedestrians cannot walk it easily, dogs, children, bikes, I have a granddaughter that tried to go up and down it, that corner is bad. The roads deteriorating so bad right there and right around it, and I don't know if there are any plans for anyone to redo it or service it or do something to straighten it up. I guess the only statement to make is I understand the gentleman has to make a living, but you can; do it off the backs by putting the burden on the rest of the people and this is getting ridiculous, there has to be some limitations unfortunately. OK, thank you.

Chairman: Thank you very much. Commissioner, you wanted to make some comments.

Tom Bridgewater (Building Commissioner): I just wanted to say, if they are working on Sundays or holidays, call the police, they will call me and we will go out there. Don't hesitate

Deb: Ok thank you.

Chairman: Mr. Bevilaqua, do you want to rebut?

Fran Bevilaqua: I don't necessarily want to rebut, I just want to clarify some things. The owner at 45 Edgehill Road has hired me to build him a building, I have nothing to do with the ownership of that property, so I think because of my involvement in that property, I feel like that is being used against me and I don't think that is fair. One misconception, whenever there is a construction project on any street, it is probably not the most convenient for everybody, but if you look at the plan and the actual work that I plan on doing, it is at a considerable cost to me, and this idea that I am going to get rich on this project is false, it is completely false, I have way more money into this project than what people understand, just over time the money I bought it for and all the improvements that I have to do to make the drainage on that street better. So the site contracts I am talking about is like 60 thousand for me just to install the drainage work that needs to happen, for me to get the project improved, that is not a small amount of money. The other thing is that because of there's



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no drainage on that road, the neighbors do have a legitimate right, when it comes to the issues that they have had to deal with over the years, but what I am latterly proposing is to settle and make that better, I know it sounds like some of the people don't believe me, but I have engineering that can show you what I am doing and it kind of shows that it will change, it will improve the system that is there.

Chairman: Any comments or questions from the board?

Member LaPlume: When you install the drain and catch basins, is it just one or is it two or

Fran: There is wo there

Member LaPlume: ok, there's two, now the paving around them is that all going to be taken care of also?

Fran: Yes, I mean if I disturbed the road in any way, I'll have to fix that

Member LaPlume: is there anything that you can do to that cured area

Fran: Part of that, like what is going on there now, is that it is not fare that water because there is no drainage on that street, my lot has been used as a catch basin'

Member LaPlume: Absolutely

Fran: And that is not fare either and I think that, that kind of gets lost in this whole conversation, and I had to work with the city to alleviate that stuff and we have had to put that big mound there, so that the water doesn't go there, but obviously it does, because there's no where else, I literally proposing a place

Member LaPlume: ok and the other part where when it goes down, you are going to have a retention area?

Fran: Exactly, with a pipe that's connected to the drainage pipe, that I am installing, so whatever gets caught in that drainage area, will get collected by that pipe and be brought down into the drainage system that goes down to the 110 project.

Member LaPlume: I would have loved to have been at that meeting today to see what kind of retention area

Fran: Well that is the plan that they are referencing. I have an updated plan, I just got yesterday, it is brand new, and that is what I asked the neighbors if they wanted to see it, and some choose to, but I can show it to anyone that wants to see it.

Member LaPlume: Do you have it with you.

Fran: I do. Do you want me to just bring it up there.

Member LaPlume: Sure



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Fran: “”He is describing this on the plan and where the retention area is and that it will be graded, and kind of like a little berm, he shows the easement that goes down the property, the two catch basins, now he describes the pipes and manholes””

Member Laplume: Is asking Fran questions about where the pipes are going and Fran explains

Eric Denoncourt (41 Edgehill): Line of order Mr. Chairman, that I believe this discussion right now is a violation of open meeting laws, since we can't see it

Chairman: Sure, ok sorry.

Member LaPlume: I just wanted to see it, I am sorry

Eric Denoncourt (41 Edgehill): I understand, but since we can't see it

Member Brown: Mr. Bevilacqua, you mentioned that some of the neighbors seen that. How many neighbors have seen that?

Fran: I just got it yesterday and when I came in here, I had offered to the neighbors anyone that wants to see it, they can.

Member Brown: Ok. So you just got it yesterday and a couple of neighbors just saw it today, and no one else has seen it yet.

Jill Dewey: That plan is for the next step, it is not for board of appeals zoning.

Fran: When I got the decision approved last time, it was kind of all contingent upon me working with the city and I wanted to show you that I have made some strides doing that.

Member Brown: I think it is really important to understand that when it comes before the board of appeals, how much is actually purview for us to vote on, and honestly sometimes issues are not in our purview to actually make a decision on, we love to obviously hear your concerns, we are all tax payers and home owners and stuff like that, we are supportive of how many neighbors have taken out of their time, this long period of time, us we really have to vote on what comes before us, I understand it gets really tough sometimes, it can get a little heated sometimes but we really want to listen to everyone and hear everyone's concerns, but we can't lose site of what is before us tonight, to vote one.

Chairman: Thank you. Any other comments

Member LaPlume: A lot of this hold up has been, the state putting in the pipes down on 110, so that's, they are just finishing it off this year, so until they follow it off and until the city engineer sees what needs to be done, it has been postponed for 2 or 3 years now. That's it.



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Chairman: Thank you

Member Bevilaqua: I just wanted to

Chairman: You can't comment

Member Bevilaqua: I just for the record

Chairman: I can't, you cant comment

Member Bevilaqua: I just wanted to

Chairman: Sssshhhh

Member Bevilaqua: I just wanted to say on record

Chairman: No you can't, you can't

Eric Denoncourt (41 Edgehill): Wait a minute, she already was involved with

Chairman: I just told her she can't

Eric Denoncourt (41 Edgehill): I know but she's already voiced something

Chairman: I am asking her to be quiet and not participate, right now, ok.

Member Bevilacqua: But I want to say

Chairman: You cannot, no, no you can't, you can't do anything.

Member LaPlume: She shouldn't be in the room.

Eric Denoncourt (41 Edgehill): That's right! Back in 2020 during the full

Chairman: Entertain a motion

Member Brown: If anybody really needs to speak, because Jill has to type the minutes, anyone who has to speak it gets really, really difficult when people shout out, so we always ask people to please come up to the podium, so it is a lot easier, it is really challenging. She does a great job and it is ot an easy job when people shout out.

Chairman: So, entertain a motion



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Member LaPlume: I make a motion to accept the application for 0 Edgehill Road, 2<sup>nd</sup> by Member Brown

Member LaPlume: I would like to say before I vote on this, that Mr. Bevilacqua will be coming Infront of the board to make determination on what he needs to do there, I will be sitting in on that meeting. So I am voting yes, it is a unique condition related to the soil condition, the site shape, the land and structure. Mr. Bevilacqua and the city og Haverhill will both benefit from this new storm system. It meets the criteria for 255-10.2.2(2)

Member Brown: Yes, because it does have the unique conditions that Member LaPlume brought out, it does meet them for 255-10.2.2(2)

Member Infante: Yes, it meets the criteria for 255-10.2.2(2)

Member Matias: Yes it meets the criteria for 255-10.2.2(2)

Chairman: Yes, and I also want to note the feedback we got from the city engineer was positive and as he noted the work that is proposed, will actually improve the drainage system situation there, and should help the entire area, so it is granted

Deb (40 Edgehill): So who do we call when it doesn't work

Eric Denoncourt (41 Edgehill): Chairman, can I ask you a question

**Chairman: Its off the record**

Eric Denoncourt (41 Edgehill): I wanted it to be noted there were members of the public that wanted to speak

Chairman: I asked four or five times

Eric Denoncourt (41 Edgehill): Several people had their hands up

## **Lifeline Baptist Church for 14 Brandy Brow Road (Map 439, Block 3, Lots 1B & 5)**

Applicant seeks the following dimensional variances to create two (2) new building lots (Lot 1 and Lot 2) for the construction of a new two (2) single-family dwellings in a RS zone. Requested relief for proposed new Lot 1 include variances for lot area (15,597 sf where 87,120 sf is required), lot frontage (120 ft where 200 ft is required) and lot depth (130 ft where 150 ft is required). Requested relief for proposed new Lot 2 include variances for lot area (21,693 sf where 87,120 sf is required), front setback (25 ft where 40 ft is required), and lot depth (94 ft where 150 ft is required). The existing church is proposed to be razed as part of the reconfiguration of the Applicant's existing parcels. (BOA23-32)

Attorney Robert Harb (40 Kenoza): I am here with pastor Chris of Lifeline Baptist church, we are asking for variances so the property can be subdivided into single-family home lots. As you will note from the plans I submitted, there is two lots and we are trying to restructure the design of the lots, one actually goes from street to street Brandy Brow to Brock Road and then to the left on Brock road is a separate lot, you will notice we are asking for a new lot line, so that the two houses will be separate, one lot will be on Brock road and the other will be on Brandy Brow, you will note and I am sure you already have members of the board that we are lacking quite a few feet in area, but I have done some research and regrettable since I moved my office back to Kenoza Avenue I used to have a 1956 zoning ordinance, I spend probably hours with the city clerk to try and find it, and I couldn't, and the reason that is important is, you'll note in my brief I spelled out that there is at least 5 other lots there, that really have around 10,000 square feet, I can't certify it to you but because



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these lots pre-existed in 1972, which was our newest ordinance before the latest one in the 2 thousands, I think that these lots met zoning back in that time, that is why the deed set these lots out to be about 100 x 100, the only reason I don't have a grandfathered lot, is there is a church on 2, on the lot to the right that went straight through and because they own the abutting lot, that's not grandfathered, that's why I can't come in on a vacant lot on Brock and say I can put a single-family here. You should also be aware the church as you can tell from the plan, y sets the two lots on the record, so its like build half on one and half on the grandfathered. So I just wanted to go back in history and explain to you why I believe that the 1936-33- & 35 Brandy Brow were undersized, they seem to be that 10,000 square feet size, so if I was a younger man back in 1956 to 1972 these lots would be conforming and I could just build a house there, but because of the change in zoning the shape of the back L on this lot, we need waivers. I did supply online and to the clerk 6 original signature of abutters that are in favor, who have no objection to this, 3 of them are direct abutters to the left and right of the property, I think that is important since we have some people here tonight in objection, our direct abutters are not in objection. You read comments from the conservation commission, we feel that topography wise and for the environment, as Mr. Moore mentioned we are going to have less pavement and less impervious area, on the two single-family lots, than we have with all the parking lots with he church and the church pushes through two lots. We are in the water shed overlay area, so by allowing two houses instead of a large church, I thin k it is going to benefit the city, the water shed. Also as you know, when we build the houses now, we put the drainage in the roof around, so this is really going to be an improvement to the area and for our water supply, the Millvale water supply. Oly other choices, because I mentioned the church has outgrown the site, originally I thought maybe they needed to reduce their size of their church, but the paster actually said now this church is too small, we have grown, his option might be well do we stay in this area with a dead end road, Bock road brining more people, they are having services tonight, that is why a lot of people are not here to speak in favor and some of the neighbors that did sign in favor, said we would rather have two single-family houses and cut down on the traffic, especially on the dead end Brock Road, it is going to be an improvement to the direct abutters, because they signed in favor of this, they really think all though they like the church and the church isn't causing any issue, but they have a lot of cars going for their services, so this is going to cut down, I feel we have just two single-family homes. The pastor is aware and I am, we really are just asking or one additional home and reduce the size of the church, because otherwise you could convert the church to a single-family and that would be allowed, because a single-family is an allowed use, but as I mentioned the pastor is an honest man and he said to me, we need to go somewhere else with a bigger church and wouldn't the neighborhood benefit by having 2 single-families instead of this large church, all the traffic, all the cars, and that made me think and I read Mr. Moore's statement with all the cars and perhaps the motor oil from the cars, getting into he pavement going into the water shed, he wont have 50-60 cars parked there in the parking lot, so again I think I am going to help the water supply with this plan, I don't think its contrary to follow the lots in the neighborhood, it is not objected by a attached abutter. The pastor didn't create the lot lines and the fact that we didn't vote to change the zoning, the zoning changed and that mensed, we can't do what we think is better for the neighborhood, with two single-family homes, they must still meet the water shed impervious area, so we have to cut down, we can't take up the whole lot, the other zoning requirements that the building commissioner would make sure we met. So I do think we meet 10.2.2(2), we didn't create these conditions, it is a reverse L shape lot, there's 2 lots that we are trying to keep as two lots, they were only merged because of the zoning ordinance, because the church is there and it crosses the line of the lots, without this we wouldn't be able to put another single-family house there, which before we would have been able to, this lot and its shape goes back over 70 years, it is an old shape, based upon the old I think subdivisions out there in 1956 and 60 range, most of those houses I mentioned I looked on the accessors records they were built in the 60's before the change in the ordinance. I don't think this would be a special privilege for the pastor and the church, because as I mentioned there's all these other houses in the area. I think this would be a benefit to the city and the neighborhood, we also understand that



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this may stop large tractor trailer trucks from going down Brock road and using his church parking lot to back up and come out, if it was a single-family house they wouldn't be able to do that, so we are going to eliminate some of the traffic from large trucks that go down the street, backup on his part and then pull out, so again I think this is a benefit. We are looking forward to hearing what the concerns are from the neighbors, hopefully we might be able to meet that. I know the pastor would like to say a few words and then we would really appreciate hearing from the neighbors.

Chairman: Thank you

Pastor Chris (14 Brandy Brow Road): I want to apologize to the neighbors who have come, I just talked to our immediate abutters and I didn't talk to anyone else, that is my mistake, I should have, so I apologize in advance, I am interested in what their concerns are because I do care. We have come to this decision not lightly and we have looked at every option, there is no other church out there right now to buy our building, I have one that wants me to give it to them, but I can't do that, we are trying to and I can't say where but there is a larger church here in Haverhill that we are trying to get, and very hopefully that works out, we are in negotiations, but we have to get as much money together that we can to make this work, otherwise that building will be repurposed and not a church, in a very central location, where we are in a very outskirt location, it is a beautiful building, it is just not a great location for a church in our modern day, 100 years ago it would have been perfect, for a local area for people to walk to, but now people don't see us, we are tucked in a corner, and there is a lot of traffic that our church brings in, about 60 cars on Sunday morning and probably 45-50 on Sunday night and Wednesday night, and our neighbors our immediate neighbors we all know, I apologize I don't know you but I wish I did, you are always welcome to come, but we get along with them very well and we like it, we hate to see it go, but at the same time it would be nice to not have all that traffic coming in and out. If there is some middle ground we can come to with the neighbors, I am willing to talk. I will turn it over to them.

Chairman: Thank you. Any neighbors want to speak?

Cheryl Sivinski Romando & Phil Romando (27 Brandy Road): we are not opposed, I think our big concern is kind of like the last discussion was drainage. So there is a covert across from the church, that is broken and the other side of Brandy Brow road my understanding from the neighbors that live right next to it, which is directly across from the church is they block it. We have a tremendous amount of water and we all have water issues and I think you could agree that

Pastor: You own the white house

Cheryl Sivinski Romando (27 Brandy Road): Yes, and that has flooded, we have been up to our waists in water in the basement. I grew up in that neighborhood, I grew up on Homestead Street. So I guess our concern is we don't want anymore push towards us

Phil Romando: So in other words, maybe some type of engineering study done with the water flow, because we are just afraid if you raise the church or take it down, which is what they wanted to do, and then put in 2 foundations and dig, and if there is water now getting diverted more so, because we are the second house across the street from the church, so we are just worried about if we have more water diverted towards us, like everybody said it has been a bad year for water. This year we normally pump say 8 months out of the year anyway, that is how high the table is, this year we have probably been pumping 12 months out of the year, so we actually put a fence in, I extended the chain link fence, I dug 2



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feet down to put the post in, that is how high the water table is right now where we are, so we just basically would like to see some type of engineering study done with the water flow, so it doesn't become putting in two brand new foundations and all of a sudden water is now worse than what we already have.

Cheryl: we can't take anymore

Phil: But as far as you know houses going in and whatever they feel they need to do, that is not the issue, we want to make sure it doesn't cause more of an issue for everybody else.

Cheryl: If Somebody could look at that culvert, my understanding from the Shrows that live right next to it, is that the concrete was broken, too big for him to do anything with and that the other side of the highway there blocking

Phil: There is a horse jumping stable there, and from what he told us, that guy or woman or whoever is blocking the other end of the culvert that runs underneath 110

Cheryl: So we would just like it looked at, that would be appreciated

Chairman: Thank you very much.

Member LaPlume: If you could call 311 tomorrow, this would be the fastest way, and tell them about the culvert and tell them they should notify engineering, I will be down to see it and I will refer it to

Cheryl: I left Rob Moore a message today, I didn't know if that was the right person

Member LaPlume: That is a start. Engineering this is what I do, I will be out there, I will take a look at it, I will refer it to the engineer

Cheryl: That would be amazing. We are not opposed, it is just the water

Chairman: Thank you very much. Anybody else?

George and Patricia Lambert (52 Bock road): We oppose it because it doesn't even come anywhere near the square footage needed for the land, you are supposed to have what 87,000 for one lot, they don't even have half that and they want to put two lots in, so they are missing 170,000 square feet, and they only have like around 40, they have less than an acre. I went for a variance too, back years ago, and I was just under the 80,000, and then they upped it to 87,000, I was just under a few feet, but this is way, way under. The way the water table is over there, it is a very high water table and you talk about putting all the water under the ground, that is just going to raise the water table higher, because everyone over there has septic's, what is everyone going to have a 10 foot high septic? I guess that is about it.

Patricia Lambert (52 Bock road): I would just like to comment that a couple of neighbors have shared wells, so I don't know where they will be getting their water from also



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Chairman: Great, thank you very much. Anyone else want to speak, if not Attorney Harb do you want to address those issues

Attorney Robert Harb: I appreciate all of the neighbors comments, as Mr. Lambert said he has about 74,000 square feet and he needed a variance, maybe not as much as ours but, I have tried to explain to you why we have two lots already that are undersized because they were legal when they were created, only the zoning ordinance when we eliminated the lot line, for zoning purposes only, is why they can't be built upon, and it is consistent with those other lots. So I think we have met the hardship, with two lots. Think of it like this, I am not asking to create new lines to make one lot into two, I have two lots, I am just redesigning the line, so it is a little different than if I came in here and said well I am going to subdivide as the perimeter is one, it has two, you can even see that on our plan. So I think we meet the hardship for the area, especially with all the other lots. I like everybody even the pastor am concerned about water, I had a similar case awhile ago and I think Mr. LaPlume came up with a suggestion about in that other case about the water, if it is with the wish of the board to grant the variance, I would ask, maybe you could put a condition on, that at the time or even prior to development review, that whoever is building needs to get an engineers report for the water and submit it. What the neighbors may not understand, but I know you all do, is that we have a zero tolerance for any increase of water running off by the law, but it would perhaps help the city engineer if a report was done concerning the water, and if something needed to be done and recommended to help with that culvert or whatever, perhaps whoever is building the house can take care of that, and that I think would help, it won't hurt the situation, and then we are not building to create anymore problems for the people and neither does the pastor want them to have problems, as mentioned they do have a house on that road and water is an issue, but if we can help, the church wants to help, so maybe a condition about a report, I don't know what we would call this so, the water hydraulic engineer or just an engineers report, to submit to our city engineer to help him out in development review at the time of development review.

Tom Bridgewater: I would say an engineers report.

Attorney Harb: An Engineers report is required to be submitted at the time of what we are now calling developmental review, the pastor says that would be fine, he certainly doesn't want to cause any trouble for anyone in the neighborhood.

Chairman: Thank you. Any other comments or questions from the board?

Member Bevilaqua: I just want to get into context about this, so your congregation has now grown?

Pastor/: Yes

Member Bevilaqua: Great, that is always good to hear. So do you have a place that you are going to go to, I don't mean the place that you are going to buy, but you have to go to a place

Pastor: we are not going to ... the way we are going to do this, is we are not going to do anything until we have a set place where we are going to, in contract. Part of all of this is to determine what we can and can not do and that affects what the value of our land of our properties, so my offer to them is kind of contingent upon on what I can do and not do and so we have a frame work in place, but there is no official documentation, then we would set the closing dates with whatever contractor, it would be discussed in advance, where we would close with them and then buy a new place, maybe work out



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a rental situation where they know you can't start till we go, we would work it all out in advance with the contractor. I have already talked to a couple of guys who are favorable to that idea, we might have a month layover after we sell, pay one month's rent and then move into the new building

Member Bevilaqua: So you need to demolish the church

Pastor: Correct, we sell and then they would after we move into the new one. This is so much for me, I have learned so much about architect and engineering and I didn't know that this was going to be so expensive when we started it, but man we have spent a lot of money, just to find out what we can and can not do. Most important to me are two things that are really important to me, one I don't want to do anything that would affect our neighborhood or our church negatively, because we have awesome neighbors and we have a great relationship with everybody, I just wish I could get a few of them to church but outside of that they're great people, I love them, and I think they like us, the ones that I talked to did, I hope you guys like us, and right now someone is storing a trailer on our property because they were getting paved and they couldn't have it on there so it has been there for 3 weeks and I said no problem, we have a great relationship, so I don't want to do anything negative to them. The second thing, I have to take care of our church and I have to take care of our church people, so they have to know where they are going, when they are going, they need to know the financials of everything that is going to happen, I have taught a lot of meetings on this and I said look, I am in a ball park, I don't have an exact number but I have a ball park and so we would go to this place and that would be set, and then that would happen afterwards, we would not go anywhere interim, we would go straight to where we are going.

Chairman: OK, thank you very much. Any other comments or questions from the board? I'll entertain a motion.

Member LaPlume: I make a motion to accept the application for 14 Brandy Brow Road, 2<sup>nd</sup> by Member Brown

Member LaPlume: Yes, we have a condition that they have to submit a report by an engineer on the drainage slash water for these lots before the developmental review

Member Brown: Yes as it meets the criteria for 255-10.2.2(2)

Member Infante: Yes it meets the criteria for 255-10.2.2(2)

Member Bevilaqua: Yes it meets the criteria for 255-10.2.2(2)

Chairman: Yes it meets the criteria for 255-10.2.2(2) and noted the L shaped configuration going on. So it is granted with that stipulation mentioned by member LaPlume.

## Other Matters

### **Lisa Frotten for 21 Flora Street (Map 413, Block 145, Lot 39)**

Applicant seeks to appeal the decision of the building inspector that the fence on the property is in violation of City of Haverhill Zoning, Chapter 255, Sec. 255-10.1.1 and table K of accessory use 15 A.B.

Lisa & Harold Frotten: I am here to appeal a building department complaint that was based on the neighbor, the complaint was that there was a 20 foot high fence on my property that abutted the neighbor's property, in actuality the structure is 10 feet. The neighbor is actually, we are on 21 Flora, so we have next to our house a lot because there is a corner house on Flora & Mechanic, so even though they are at 20 Mechanic Street they are actually neighbor because there is my driveway, a fence and then their property, it is kind of a weird setup.



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Chairman: To make sure we all, I should have said this first. My understanding is the building commissioner has indicated you have a fence which is above the allowable height, so he is indicating the fence needs to be taken down.

Lisa & Harold Frotten: Ok, well my appeal has to do with reclassifying the structure, this has kind of been the problem since it was erected. What I built that for was for a 3 to 4 year bad relationship we have with neighbor disputes, they have against the fence which is in my driveway, they have 4 structures that are 9 feet tall and a pool

Chairman; I have seen them. What do you want to classify your structure as

Lisa: It is a privacy screen, temporary structure. If theirs can be temporary structures Sir

Chairman: Again as Member Brown mentioned a little earlier, we have to deal with what is in front of us, if there is something wrong with their property, if they are violating something, we would deal with that separately, we need to deal with this which the building commissioner has indicated, he has said it is a fence and it is taller than a fence is allowed

Lisa: It is next to a fence, it is not a fence, there is a fence right there, a fence is for a border, it doesn't start on the bottom like a fence

Chairman: I saw a picture of it

Harold: Did you see what it looked like on the other side of it, what it is blocking

Chairman: That has to be dealt with separately, we have to deal with what is in front of us. Is there or is there not a fence, the building commissioner has called it a fence and therefore as indicated it has to be taken down.

Lisa: these people have not only caused me to have no privacy, which is intrusive in Massachusetts, but also the son was on probation because he physically threatened my husband and my son. We are just trying to get some peace sir, I have no peace

Chairman: We understand that, but we have to deal with what is in front of us, we are not the police so we can't deal with

Lisa: But you are classifying as what it is not and that is my problem.

Chairman: It looks like a fence to me.

Lisa: well why did Tim Wicks say it could be construed as a privacy screen, but it would have to be attached to a deck. Why am I getting different conflicting information from the building department

Tom Bridgewater: Well Tim Wicks went out there, he went out there to view the complaint and he came back and said it appears as a fence, so he took pictures of it, I went out there and also spoke to you, I am classifying it as a fence. You can get a permit and knock that down to 6 feet which is allowed by zoning.



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Lisa: there is a fence right near it that is 6 feet

Tom B: I am just saying Haverhill zoning only allows

Harold: we will have to deal with the neighbors another way.

Lisa: So why can't it be construed as a temporary structure.

Tom B: Because it looks like a fence. To me it is a fence

Lisa: So they have gazebos there, you construed them as temporary structures. They are into the ground, they are not just floating there. This is something in the ground

Tom B: This is a fence, this is what the issue here is about, I am classifying it as a fence. It doesn't meet the zoning code, it is too tall.

Lisa: So could it be a flag pole? Is there a zoning law against flag poles? I am not taking it down, I am telling you right now

Chairman: You haven't said anything that makes us believe it's not a fence, to me it looks like a fence

Lisa: It is not on the ground, a fence starts on the ground, and it is used for border, there is one behind it

Chairman: I have seen the pictures, to me it is a fence, to the building commissioner it is a fence. I don't see enough evidence to indicate we should overrule the building commissioner.

Lisa: So if I took it and attached it to my deck, which is 8 feet off the ground and I went another 8 feet, is there a zoning code which inhibits me from doing that?

Tom Bridgewater: Well your deck would have to meet the setbacks in that zone.

Lisa: The deck was on there when I bought the property

Tom B: The deck was right where that fence is? You could put that 6 foot fence on top of your deck.

Lisa: So it will be 14 feet now, instead

Tom: It is off of the deck, you can put a privacy fence on your deck and it can be 6 feet.

Lisa: But the deck starts off at 8 feet

Harold: So 14 feet to the top



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Lisa: so that will make a difference, that the structure there is not a fence

Tom: The deck is attached o your house.

Chairman: That is the option you have available. As it stands now, the commissioner has determined it's a fence., I is up to this board to see if we agree with him, we will take a vote on it.

Lisa: In all do respect sir I have lived there 6 years and I am trying to work from home, I have to go out there everyday and the people are ridiculous, with foul moths, smoking weed, drinking all day every day seven days a week

Chairman: Call the police

Lisa: I have done that, and that is what caused the threats. This is eliminating that.

Chairman: We don't have the powers to deal with that

Lisa: So there's no exceptions to anything, even though its not harming anyone, even though its there, we as the victims don't get any relief, cause that is what you are saying

Chairman: The commissioner has determined it's a fence

Member Bevilaqua: So the building commissioner is an expert and he is the final adjudicate on this. You would have another option, you could put evergreens, evergreens look good

Lisa: and those take a long time to grow, plus I'm not paying \$300 on a bush. I have invested over 3 thousand dollars and I erected a beautiful piece, I didn't just throw up anything, as a privacy screen, I didn't know because it had bamboo, so if I attach something with material that is not even pleasing to the eyes, is that not considered a fence?

Chairman: we are dealing with what's in front of us and what is in front of us is a fence.

Lisa: Well I am asking because you make the rules, so if I use that as a flag pole and I take the bamboo down, am I allowed to put flags on there, is there a flag pole ordinance

Chairman: That is another issue you will have to deal with the building commissioner

Tom: I don't see a flag pole ordinance

Member LaPLume: You just talk to the commissioner and he said you could put a fence up on top of your deck, he is a reasonable man, I have worked with him for years now. Why don't you talk to him after we make our decision and you can talk about solutions, I think he can work with you.



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Lisa: It is not really going to help on top of the deck because my back door comes out and that's why I have a problem.

Member LaPlume: Talk to the commissioner and see what you can come up with.

Member Bevilaqua: There was a far more (couldn't hear word) one we had before and the people had to take down their fence, it was also 9 feet.

Lisa: Physical threats to my son and husband is another story and he is on probation

Chairman: Again that is a ;police matter

Member Bevilaqua: That is not in the purview of this board.

Member Brown: I saw we take a vote on this. I understand what you are saying but I can't say enough that we have to vote on what is in front of us. \*\*she talks about things she planted between her and her neighbors house that were beautiful\*\*\* But its kind of muffled, so I can't hear word for word. Tom is a great peon to work with, but I just wanted to give you some other options that look beautiful

Lisa: They have also aggravated other neighbors, the lady who had the house before us, and the mayors sister who lives beside me. They have been bullies in this neighborhood for way too long. I am just trying to conduct peace, I am not trying to violate anything, And I have spent a lot of money, I can't use  $\frac{3}{4}$ 's of my property because it abuts them, I have ring cameras, but they can see into my kitchen. I have no peace in my own home and I am jut trying to put something in, so I don't have to go out to let me dog out in the back and hear things, or the sound, I am trying to work upstairs I need the income

Member Brown: I understand. Your home should be peace

Lisa: I have none

Member Brown: I really suggest you speak to Tom a little more. He is really great and I am sure the two of you can come up with something.

Lisa: I just don't want to use the municipality services, the police the building services, I have had 5 violations on me in the 3 months, I don't want to always open my door and they are just complaining, doing things to just annoy me, and then I have the building inspector at my door on July 5<sup>th</sup> after the long weekend, I have had the health inspector at my door at 8:30 in the morning after a long weekend, saying I have trash barrels with rodents near the trash, he found nothing, it was a baseless complaint. I don't use municipalities like that, I have other things to do.

Tom B: we answer every complaint

Lisa: I understand now, but I have to say I don't complain baselessly



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Chairman: Lets pass on a vote here if we can. Entertain a motion

Member LaPlume: IU make a motion to accept the application for 21 Flora Street, 2<sup>nd</sup> by Member Brown

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The vote is to uphold the building commissioners decision that it is a fence and therefore must be taken down.

Member LaPlume: Yes, I support the building commissioners ruling

Member Brown: Yes

Member Infante: Yes

Member Bevilaqua: Yes I support the building commissioners

Chairman: Yes

Fence must come down

August 20, 2023 meeting minutes accepted via vote