



# 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, May 20, 2020 at 7:00 P.M. via ONLINE PUBLIC HEARING

Those Present: Chairman George Moriarty  
Member Theodore Vathally  
Member Joseph Sullivan  
Member Ronald LaPlume  
Assoc. Member Lynda Brown  
Assoc. Member Louise Bevilacqua

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

Chairman George Moriarty called the meeting to order and said he would run down the list and ask if the applicants were here and to ask if there was opposition or anyone in support for each case. I would like the applicant and or attorneys to speak first and then if there is anyone in opposition or in favor, we would have those individuals speak also. Then I will call on each one of the board members, one at a time to see if they have any questions or comments. Trying to make sure not everyone speaks at once, so I will call on you once at a time. Then later on we will vote to approve the minutes and move on from there.

Attorney Bob Harb: Excuse me Mr. Chairman, I didn't hear you mention, are we going to have any rebuttal in there?

Chairman: Yes, thank you for reminding me, if there is any opposition we will go back to the applicant after. The other thing is Member Soroghan normally makes the motion and Vathally seconds it. Member Soroghan is not here this evening, so if I could ask Member Sullivan when it comes time to make a motion if you could make the motion, and if member Vathally could second it.

Chairman: -64 Locust Street is the attorney or applicant here: Yes, was replied by Attorney Paul Magliocchetti  
-333 South Main Street is the attorney or applicant here; Yes, was replied by Attorney Maria Rogers  
-27 Magnolia Ave is the applicant here: Yes, I'm here replied Stacey White. Chairman that is both a finding and special permit.  
-222 Washington Street Mr. Harb is that you: Yes, replied Attorney bob Harb, and I represent the next two cases as well.... This Attorney Kimberly Zizza, and we opposition  
-55 Saltonstall Road that is Attorney Harb also: Yes, replied Attorney Harb  
-225 Rosmont Street: I am also on that one replied Attorney Harb

**Applicant: 64 Locust Street Realty Trust**  
**Address: 0 Locust Street (Map 304, Block 59, Lot 11)**



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***(Previous Approval) Applicant seeks the following variances to build a liquor store in an IG zone. Variances sought for lot area (6,910 sf proposed where 10,000 sf is required) minimum lot frontage (57 feet proposed where 100 feet is required), front yard setback (34.48 feet proposed where 40 feet is required), side yard setback (3.85 feet proposed where 25 feet is required), rear yard setback (5.99 feet proposed where 25 feet is required), total number of parking spaces (3 proposed where 16 are required), and total loading spaces (1 proposed where 2 are required). (BOA 20-10)***

Chairman: This is a previously approved application for a liquor store. Can the attorney please give me a background on this case.

Attorney Paul Magliocchetti: We do have some images to put up, do you want me to have those put up while I'm speaking? That go with my presentation.

Chairman: That is fine, whatever works best for you.

Attorney Paul Magliocchetti: ok Matt please put up the images. Hello, my name is Attorney Paul Magliocchetti with offices at 70 Bailey Blvd here in Haverhill Massachusetts. I am here this evening on behalf of the applicant Sunil Samtani, along with Matthew Juros the architect, as well as Paul Bergman the engineer who did the sight plan and filed the application. As you mentioned this was previously approved twice for the exact same variances that we are asking for this evening; this is the third time. The reason way we keep coming back, is the first time was for the approval so that my client could purchase the property as he wanted to know if it would be allowed. Then he decided to start a family, which delayed things, so he came back to you a second time and then because of the family being started, he wasn't able to get things going so that is why we are here for a third time. It is my understanding that he is at a point now where he is going to start the construction so you will be seeing the sight built up, assuming we get the approval again. We have not touched the footprint, we have not touched the parking or the access to the property, all that remains the same as it did the first two times this was approved. There are a number of different dimensional variances that go with this property. And I will reference you to the to the picture Infront of you showing the table of the dimensional variances you require. In support of this application for a dimensional and use variances we meet the requirements of 255-75 & 79, the lot is in an IG zone. The condition of the lot is very unique property, it is basically a blighted, it is a vacant lot it was the old Star Printing years ago and it burnt down in a fire in the 1980's. And basically, sat as an empty lot J&R Gutters purchased it prior and he used it to store materials there. And while the whole neighborhood was being developed and being made beatified, this lot kind of remained an eyesore in the neighborhood and now Sunil who currently owns and operates Downtown Liquors right adjacent to this lot is going to make the investment to build this building and get this sight activated and help our economy. A strict application would deprive my applicants of reasonable use of the property with a commercial building with parking and loading areas as designed with a reasonable use. He has made very efficient use of the land that he had. It is the difficult sight to build on and to maintain parking and access for loading and unloading. In his current building there is no parking and no loading and he has been operating there for six and a half years now with no trouble and I think that is very important to point out as with the new building you will have parking, he will have access to load and unload his beverages and supplies, it will actually make things a lot better than they are right now. The unique conditions are not a result of the applicant actions. The property is like I said, it is what it is and pieces haven't been sold off, it's the same as when it was the printing company. It is now a vacant lot and we are only looking to do a single story building and will sell alcohol very similar to what exists next door and he is going to have a very small tasting room



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because he is looking to take advantage of the renaissance happening in the area and invite people to not only enjoy his store but hopefully to contribute to the revitalized of the neighborhood. Relief if approved would not cause detriment to the public good or impair the intent of the zoning ordinance the proposed use confirms with the to the parcel surrounding and the lot size and the configuring size of the building is actually better, if you look around it. The printing business across the street the existing liquor store, this has a lot more open space and a lot more parking and room for regular traffic in those other buildings that are directly across the street and adjacent to it. The grant of the variance would not constitute special privileges, it would be consistent with other properties in the district, there is nothing special here, he has gone out of his way to footprint and the size of this to maximize the use of it. And make it as reasonable as possible, I mean to be able to add parking and loading a lot of people wouldn't have gone to those lengths. The hardship in this matter is that the property is surrounded by other commercial buildings on lots the same or similar size, as well as multi family's, there's all those large apartment buildings so we believe what he is asking for is a very reasonable use. He has done everything he can to provide us some parking, to provide a loading area, so that we can meet as much of the ordinance as we can possibly meet. I'm going to have Matt Juros speak a little bit now about how he designed the building and to talk a little bit about the particular traffic and the customers coming and going in the building and then I'll have Sunil talk a little bit after that to give you a little background about what he has been up to the past few years and how he finally has come to the point where he is ready to construct this. Matt why don't to talk about the layout of the building and how it sits on the site. Matthew Juros (Fishbrook Design Studio in Haverhill): Hello, can everyone see the rendering I have up on the screen? The design has progressed since the previous approval and the intension of the progression of the design is to bring in the construction cost under budget as Paul Magliocchetti mentioned the plan footprint and site plan all remain unchanged. We have it well in the budget and it took a little bit of design to do it and I think we balanced off of the requirements pretty well. What we are doing is we are going to build a prefabricated structure, that you can order and its basically fabricated off site and gets delivered by our contractor and what we are doing is designing a façade that will face the street and it will have extensive installation and we'll also build out the whole interior building to meet proper building codes, lighting, ventilation, toilet rooms, storage and exists. So that is the concept of the building design as it has progressed. What Sunil's concept for sales is he has operated a liquor store directly next to site for 6 years and is looking at this next venture as an opportunity to take advantage of the growing interest in craft beers and local distilled spirits and those types of products are partially marketed with events. We are trying to think about this as kind of a boutique experience, its intended to be sort of urban leaded, somewhat edgy with perfectly safe but raw in finished astatic, so that's the market that we are tilted toward and that represents quite a change from what he captured in his current store. I think it is in fact an improvement to the character to the neighborhood and we are proud to be brining this new hip place to Haverhill, it's a liquor store but it much more of a sophisticated concept. I'm putting up on screen the site plan so you can see the parking.

Attorney Paul Magliocchetti Why don't we have Paul Bergman get into the specifics of the plan.

Paul Bergman (Bergman Associates Engineers, 20 Washington St Haverhill): This is the vacant lot that is immediately to the right of Sunil's business. It's a barring unimproved lot, we surveyed the property and working with Matt & Sunil I put the site plan together and as said before the building covers a good portion of the property, we left an access lane on the right side for loading to get the materials into the building, we have parking spaces out front. The building will be supplied with all street utilities coming in from locust Street once the project is under construction...



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\*\*\*\* (Jill Dewey BOA Clerk) Can't type, as more visual. Engineer continues explaining plan, which they have up on the screen and are pointing while speaking.

Attorney Paul Magliocchetti: Can I ask Sunil to say a few words.

Sunil Samtani: I have the liquor store next door. They basically explained everything, I'm just a small man investing in the city that I love and trying to work with family.

Attorney Paul Magliocchetti: I'm going to close with this, so I don't know if any of you know but where his liquor store is right now my (Attorney's) family owned that building for over 20 years. My Dad and I owned and operated Cam Machine out of there for 20 years and they we ended up selling it. And that building sits on the property, matter of fact I believe some of the building is on the abutting lot. So, I have a lot of experience being in that area. The transformation of the area has been wonderful, and us who have grown up in the city watching it can't believe it's what's happening. And I think the design he has come up with is really unique and it really complements what is happening in the area. So, on behalf of my client I am excited about it and continue to be excited about it and I hope that you agree with me tonight, thank you.

Chairman: Thank you to all of you for speaking, I'm going to go down the line and ask the board members one at a time if they have any questions or questions they would like to ask. LaPlume: No comment, Sullivan: No Questions, Vathally; No questions Mr. Chairman, Member Brown: No questions, thanks.

Chairman: Is there anyone on the line that wants to speak in opposition of this application?

Chairman asked to enter motion. Member Sullivan said I make a motion that we approve the variances for 0 locust Street, 2<sup>nd</sup>ed by Vathally

Sullivan: Yes

Vathally: Yes sighting 255-79 A-C

LaPlume: Yes sighting 255-79 A-C

Brown: Yes

Chairman: Yes

Motion passed/granted 5-0

**Applicant: Three Hundred Thirty-Three South Main Street Realty Trust**

**Address: 333 South Main Street (Map 719, Block 665, Lot 10)**

***Applicant seeks a variance for lot depth of 78 feet where 100 feet is required to divide an existing parcel and create new building lot in a RH zone for the construction of a new single-family dwelling on South Prospect Street. (BOA 20-19)***

Chairman: Can the application and or attorney, please give us their name and address.

Attorney Maria Rogers (350 Main St Haverhill): I am working with the applicant Ellen Rose

Chairman: Please talk a bit about the case asking for a variance

Attorney Maria Rogers: We have submitted for the boards review a request for a variance lot depth 78' where 100 is required. What the applicants are looking to do is subdivide their current existing lot, they purchased this lot back in 2005 and the existing structure on the lot is 333 South Main Street and back in 2005 they actually received a variance for use, this structure has been used solely as a business a mortgage company



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since that time. So, at this point they are trying to divide the lot in two so they can create a new building lot in the rear of 333 South Main St, that new structure would be sitting on South Prospect Street.

Chairman: That's right across from the school?

Attorney Maria Rogers: Correct. Our proposed plan that was submitted was drawn by Merrimac Engineering in Andover MA. And on the plan the engineer included a dimensional density to outline the requirements for each of the proposed lots and it definitively shows that we meet all of the RH requirements with exception of the depth, looking to build a single-family structure on that lot. I think it's the only vacant lot on South Prospect Street currently, so I believe it would improve the area, neighborhood etc.

Chairman: Have you spoken to the neighbors on South Prospect Street to see if they are in opposition of it?

Attorney Maria Rogers: I have not heard of anyone against it.

Chairman: Good. And is the mortgage company staying out front?

Attorney Maria Rogers: Yes, that is correct, and it doesn't compromise any of their parking, so it is simply unused land.

Chairman: Is there anyone on the line that wishes to speak in opposition or in favor of this application? I'm going to go down the line and ask the board members one at a time if they have any questions or questions they would like to ask.

LaPlume: I looked at the land over there and the lot looks the same size as most lots on that street, so I didn't have difficulties.

Sullivan: No Questions, Vathally; No questions Mr. Chairman, Member Brown: No questions, thanks.

Chairman asked to enter motion. Member Sullivan said I make a motion that we approve the dimensional variance for 333 South Main Street, 2<sup>nd</sup>ed by Vathally

Sullivan: Yes

Vathally: Yes

LaPlume: Yes

Bevilacqua: Yes

Chairman: Yes

Motion passed/granted 5-0

**Applicant: Stacey White**

**Address: 27 Magnolia Ave (Map 64, Block 12, Lot 7A)**

***Applicant seeks a finding for a side setback of 11.5 feet where 15 feet is required and a special permit for construction of an accessory apartment in a RM zone. (BOA 20-11)***

Chairman: Could the applicant or attorney please give a description.

Stacey White: Hi I'm Stacey White and live at 27 Magnolia, I do not have an attorney, but I do have a contractor that you can ask questions. We are here for a finding of a set back 11.5 where 15 is required and a special permit for an accessory apartment

Chairman: Does this special permit meet all of the zoning code requirements for an accessory apartment?



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Stacey White: I believe so.

Chairman: No separate entrance on the street

Stacey White: There will be another entrance.

Chairman: But not on the FRONT of the house?

Stacey White: No

Chairman: There are 6 requirements for an accessory apartment

-The building must stay in the same character as a single family in appearance. Does it contain that?

Stacey White: Yes

Chairman: A separate main entrance must not be constructed on the front, the side with the frontage

Stacey White: No, the entrance is in the back, so it won't be facing the front.

Chairman: The apartment should not exceed more than 800 sq. feet

Stacey White: Right.

Chairman: And the conversion and construction you are talking about occurs entirely within the footprint of the building?

Stacey White: Yes

Chairman: Is it owner occupied, the single-family home?

Stacey White: No

Yes

Chairman: No separate electric or heating?

Stacey White: No

Chairman: Ok it sounds like you have met all the requirements for an accessory apartment 255-92

Chairman: Anyone in opposition of this on the line?... Ok we are going to vote on the finding first, we are going to do this in 2 separate votes. Let's vote on the finding where its 11 feet where 15 is required. Opps let me go through the board members to see if they would like to speak. Member LaPlume?

Member LaPlume; The only thing Chairman is that I would like to put in there a stipulation that in the deed it goes back to a single-family home when it's sold or when the family moves out.

Chairman: Stacey are you fine with that?

Stacey White: Absolutely

Chairman: Ok thank you. Member Sullivan? (Sullivan: No questions), Member Vathally?

Vathally: Just want to ask Ms. White, what is the square footage of that accessory apartment?

Stacey White: 500

Vathally: That's on the plan?

Stacey White: Yes .... It's between 500 & 600 but I think it's in the 500's

Chairman: Member Brown? (Brown: No comments)

Chairman asked to enter motion. Member Sullivan said I make a motion that we approve the finding for an opposed addition 27 Magnolia Ave is not substantial more detrimental than the existing nonconformity on that lot, 2<sup>nd</sup>ed by Vathally

FINDING VOTE ONLY

Sullivan: Yes



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Vathally: Yes sighting 255-79  
LaPlume: Yes sighting 255-79 A, B, C  
Brown: Yes  
Chairman: Yes

Motion passed/Granted 5-0

Chairman: Now I'll move to the accessory apartment to entertain a motion

Chairman asked to enter motion. Member Sullivan said I make a motion that we approve the accessory apartment for 27 Magnolia Ave, 2<sup>nd</sup>'ed by Vathally

Sullivan: Yes  
Vathally: Yes sighting 255-92 A-F  
LaPlume: Yes sighting 255-92 A-F  
Brown: Yes  
Chairman: Yes

Motion passed/granted 5-0

**Applicant: Christopher Zielinski + Joseph Ambrosino**

**Address: 222 Washington Street (Map 501, Block 228, Lot 32)**

***Applicant seeks a variance for lot area of 5851 S.F. where 20,000 S.F. are required to construct an 8-unit multifamily dwelling in a CG zone. (BOA 20-15)***

\*\*\* Chairman: As mentioned before we are trying to deal with because of the difficulties with doing this over the phone and online, we have been moving those cases that have opposition to a later date where we think it would be more appropriate to allow for greater input from those in opposition. So, unless I hear anything different, I would like to move 222 Washington Street, to remove it tonight and continue to a later meeting. Attorney Harb do you want to speak.

Attorney Bob Harb: So, the question was asked if Attorney Zizza represents numerous people or just one, I didn't hear her answer, maybe she didn't hear the question. And you know me, I'm always willing to work with people, neighbors and abutters to work something out. I just wasn't aware and wasn't expecting you to move it forward.

Chairman: I wasn't expecting to move it forward either but also if there is opposition, I prefer to give you the opportunity and your applicants to work with the people who are in opposition and maybe work out any differences or differences you have, so that when it is brought forth to the board we might be able to get a better reading on it.

Attorney Bob Hard: Ok Mr. Chairman I will be ok with that since you say it's the process of the board and I'd love to work with Attorney Zizza to see what we can do.

Attorney Kimberly Zizza: Yes, I represent 3 owners of separate properties



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Chairman: Are you ok with it; Attorney Zizza, if we move it forward to the next meeting probably?

Attorney Kimberly Zizza: Yes

Chairman: Ok we will formally withdraw it from this evening's agenda and in all likelihood, it will be moved to the June agenda, but the office will notify people about that later on. I appreciate the two attorneys for being here and if there was anyone else who was here I apologize for having you get on the line and having to defer it to another meeting, I think it would work out best for all involved to move it to give the two attorneys and people in opposition a chance to talk about it.

**Applicant: Sohan Saini + Meenu Saini**

**Address: 50 Saltonstall Road (Map 449, Block 3, Lot 18)**

*Applicant seeks a finding for the change of use from a non-conforming For Profit Dormitory to a single-family residence in the main building with an apartment over the existing garage building in a RM zone. (BOA 20-13)*

Chairman: If the attorney and or applicant is here, would you please tell us your name and address.

Attorney Bob Harb (17 West Street Haverhill): Before I continue with my presentation Mr. Chairman, as you know I always work with neighbors and abutters as I mentioned and we of had a number of meetings with some Attorneys who represent some of the neighbors and also neighbors their self's. I need to first as I told them offer two conditions on this application that the applicant would ask you to put on to help the neighbors. The first condition I told them I would ask for is that the main home, the big home on the premises not the apartment to be needs to be owner occupied. So, the 1<sup>st</sup> condition is that the main house is to be owner occupied. That satisfies the neighbors that this won't be totally rental property. Mr. Saini has no problem with that request. The Second condition is the apartment over the garage technically will not be a lodging house or a boarding house but will be an apartment. Mr. Bridgewater who I see is on this call knows, there's definitions in our code that I won't go through, about lodging houses and boarding houses, they don't have kitchens and they are not a single-family unit. This is meant to be an apartment and we are asking for it to be an apartment. I explained to some of the neighbors and their attorneys, that while we could make it a lodging house if we wanted to without coming back to the board but to satisfy their commands Mr. Saini is willing in request a second condition that the apartment over the garage will not be a lodging house or boarding house but will be an apartment those are technical terms, that's to certify the concerns of neighbors

Chairman: We will make sure that that is in the decisions and written up on the decision sheets, that those 2 stipulations are included

Attorney Harb: Thank you. Now as to the application, some of you may have been on the board when this facility used to be the Sisters of Saint Josephs Home & Montessori School for many years, was converted to approval a nonconforming dormitory for a for-profit institution. The request tonight is to simply make the main house a single-family home for the owner to owner occupy and the 3-car garage that is basically an apartment now that was used for Montessori overflow and Montessori uses classes there's a kitchen already there, there is plumbing. The applicant would like to turn that into a apartment to be able to rent. This is a single-family area, so the neighbors had concerns but with the owner being owner occupied in the main house they felt that he would have more control over the



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tenants. It's not in our request and it's not a condition that is required but the applicants concern was maybe he would put another family member in there or someone who works for him. You may know that he runs Giovanni's in town. He also is the owner of the variety store over on 7<sup>th</sup> Avenue, he has workers that sometimes needs a place to stay. So, they would be people that he would have control over. But incase he needs to rent to somebody else, that is not a condition that is required by anyone. The facility is unique, we have just about 32 parking spaces, so the neighbors are not concerned about a few extra cars because we have 32 parking spaces and not likely that we are going to have 32 cars there at all. Even since he has bought this property Mr. Saini and his neighbors appreciate this and have already started working on the grounds, working on the main structure. He is prepared to move his family who lives in Haverhill into that structure, he will owner occupy it. It's just something needs to be done with the unit that exists over the garage. I was told by others that people have been living in it who may have been caretakers, may have been staff people. There was activity in the space over the garage, so its not really new, it's just we want to make it an apartment, to take valuable use and keep it residential. Going to mover from that totally commercial for-profit into a residential. The main building is huge, this area over the garage is huge I believe its roughly 1300-1400 square feet. What would you do with it if you can't have residents in it? We are asking for a finding; we don't have to prove a hardship. Just need to show the use of this area over the 3-story garage will not be more substantially more detrimental to the neighborhood than the current use as a for-profit dormitory and place for staff to stay. I think we very well showed that, I think by working with the neighbors we showed that. They want Mr. Saini in the neighborhood, they want his family in the neighborhood. They look forward to his renovating and him finishing the renovations and to have a living person living on that site. So, the request is for a finding for a change of use from this commercial nonconforming dormitory with staff to an apartment and the main structure being a single-family which is an allowed use and is not more detrimental to the b\neighborhood or environment. The property is on city water and city sewer, so we ask your approval of the finding.

Chairman: Once question, when you say it's over a garage will the garage part remain as a car garage?

Attorney Harb: Yes. That is part of the 32 parking spaces. The only work that will be done is over the garage in those existing rooms. And in my brief, I'm not able to put pictures on my scree like Magliocchetti, but my brief showed you pictures of the rooms as they currently exist. I mean it is really already setup for somebody to live in.

Chairman: And all of the appropriate cautionary procedures, with cars parking underneath below, with carbon dioxide getting through, that sort of health concerns will be attended to I hope. I just wanted to bring that to your attention.

Attorney Harb: I'm sure the building inspector will require that kind of coverage, and because we have some many parking spaces as you mentioned it's always possible to shut off the parking spaces in the garage and have no parking in there. Because we'd still have 29 other spaces on site.

Chairman: I just get worried; you hear about cars and the carbon dioxide seeps up into the area. As you mentioned the building commissioner and building code will probably require all kinds of cautionary things in there, I just want to make sure that you and the applicant are aware to pay special attention to that also. I also want to remind the board that since this is a finding, it requires 3 out of the 5 votes on this. Is there anyone on phone or online that is speaking in opposition to this?



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Chris Baranski: Hi yes, I'm at 33 Westland Terrace and I abut the property. I have two questions. One would be if the property was sold at a later date, do those stipulations that were stated up front continue on?

Chairman: That's a good question. Building commissioner? Tom do you have a comment on that.

Tom Bridgewater (Building inspector): That's a really good question. Not sure if you can put something in there, I don't know if you have a right to do that.

Attorney Harb: Mr. Chairman, I'm willing to give you my thoughts on that. If you would like.

Tom Bridgewater: Please

Attorney Harb: That is a question, I was asked by an attorney that I was questioned an\bout with this application. In my opinion the conditions of the zoning variance or finding would go with the property as all zoning matters follow the property. If the next owner decided he wanted to rent out the main home and not live in it that the building commissioner would be in his right to give them a cease and desist about renting the apartment, because the allowance was subject to that condition. And I know with such property it is always with subject to conditions of the board, conditions set forth by the board. So, to answer the gentleman, I believe Yes.

Chairman: Did you have another question?

Chris Baranski: I did the second question I had was, the property will only be ONE apartment unit right?

Attorney Harb: Over the garage yes and a single-family house the main structure yes. It's not 3 apartments or 4 it's just one over the garage.

Chris Baranski: Ok so one single apartment and one unit?

Attorney Harb: Yes

Chris Baranski: And my last question is in terms of this property, no business can be run out of this property correct?

Attorney Harb: Well to be honest with you Chris I haven't review that because it's zoned for residential use. I don't know what could be run out of it. The purpose of the applicant is just to live in the main home with family and then rent out over the apartment. The building department and commoner could probably answer that. I would think since it's a residential use, that if somebody wanted to put a business in it that they would have to go back before the board. Am I correct on that Mr. Bridgewater?

Tom Bridgewater: You are absolutely correct on that. Once it goes back to residential use, that's it.

Chris Baranski: Ok thank you very much for your answers. I appreciate it.

Chairman: Well thank you for joining the meeting. We appreciate your input. Anyone else wish to speak on behalf or in opposition or comments on it, before I ask the board members? Board members do you have any questions or concerns? LaPlume: no, Sullivan: No, Vathally: No, Member: Bevilacqua: No. And member Brow, you are not voting but do you have any questions? Brown: No.

Chairman asked to enter motion. Member Sullivan said I make a motion that we include the 2 stipulations first condition being that the main house be owner occupied. And the second condition that the apartment over the garage is not to be used as a lodging house or boarding house. I approve the finding for 50 Saltonstall Road based on conformance with 255-57, 2<sup>nd</sup>, ed by Vathally

Sullivan: Yes

Vathally: Yes sighting 255-57 B+C



# Haverhill

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

LaPlume: Yes sighting 255-57  
Bevilacqua: Yes  
Chairman: Yes

Motion passed/Granted 5-0

**Applicant: Bradford Unlimited Corp**

**Address: 225 Rosemont Street (Map 541, Block 617, Lot 86)**

*Applicant seeks following dimensional variances to create new building lot and construct new single-family dwelling in a RM zone. Requested variances for new lot (Lot A-Hazel Street) include lot frontage of 70 feet where 150 feet is required, lot width of 66.45 feet where 112.25 feet is required, lot area of 11,082 S.F. where 20,000 S.F. is required, and side setback of 10 feet where 15 feet is required. Proposed Lot B-Rosemont Street shall include existing single-family dwelling. Requested variances for Lot B include lot area of 13,103 S.F. where 20,000 S.F. is required, and rear setback of 3 feet where 5 feet is required for an accessory structure (shed). (BOA 20-14)*

Chairman: Would the applicant or attorney please unmute and introduce yourself.

Attorney Bob Harb (17 West St Haverhill, MA): I represent the applicant, many of you are familiar with us, we have been before you and you have seen the results and the work of Bradford Unlimited. Now this is a unique situation in a part of town that my Dad used to live in on Rosemont Street almost across from this property. As you can tell from the brief the prior owner actually got a variance back in the 60's and a building permit which surprised me because most people don't get a building permit if they aren't going to act on it. Well the prior own acted on the variance, all the way to get a building permit. We found a copy of that and I attached it in my brief. Basically, there's plans on record and plans were created in the 60's so this very long and somewhat narrow lot split in half. Although it may be narrow, I submitted to you an interesting plan from 1891 that subdivided this area and created Hazel Street and showed the lots on both sides of Rosemont Street. And you can see when they were developed in 1891, they were meant to be separate lots, once Facing Hazel and the other facing Rosemont. We are basically wanting to go back to the 64 variance and also the 1891 plan. I did research on some of the lots in the area quite a few of them do not have the area or width, because you can tell they were usually developed from the 1891 plan. So, due to the fact that they had gotten a variance but neglected to build for whatever reason. We are basically going back to saying we want to get that variance back and put one house a brand-new house in the neighborhood facing Hazel so traffic will exit on Hazel and not on Rosemont and leave the house on Rosemont the way it is. The existing house has been there since at least the 60's that's 60 something years, so there's some preexisting nonconformities for the existing lot. We have tried to do the best we can with the new designed house for this lot, that will face Hazel Avenue. We believe that our conditions here are unique because of the because of the 1891 subdivision, because the variance that was approved in the 60's and because the lot was not built upon. There are other lots that have Hazel addresses and Rosemont addresses. We believe a strict application of the zoning ordinances would deprive this owner of reasonable use of the land variance. The whole back part of the land towards Hazel would likely remain vacant and it's pretty hard and difficult for people to maintain that in this day and age. Thirdly we believe that it is not the fault of anything the applicant has done, or the owner has done, we just want to go back to 1891 and the 1963 or 64 variances. This won't be a detriment to the public good, we would



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be building a single-family home on a large part of empty land that would face Hazel Avenue. It would not be a special privilege, as I mentioned other lots in the area numerous lots in the area don't meet area or frontage requirements. I submitted as I try to do to help you is the Haverhill retroactive map and you can see all of those small little lots, with single-family homes on them. Our use is allowed in this area, so we feel that the application meets all the requirements of 255-79 C 1-5 especially because of the prior variance and the plans on record, it really divides this lot in half like they wanted to do in the beginning. So, I ask of your approval of the requested variance.

Chairman Moriarty: Thank you Mr. Hard, I appreciate that. Any questions from the board or anyone in opposition on the line first.

Geared Rogers: Yes Mr. Chairman my name is Geared Rogers from 221 Rosemont Street

Chairman: Can you tell us what your issue is?

Geared Rogers: Yes, I abut the property at 215 Rosemont. We have had a serious surface water problem in our neighborhood for years I have been here 25 years and during the winter melt off I get 10 to 15 gallons of water per minuet water flow through my property and it's all coming from my neighbors above me. The grades of these properties all go from Hazel to Center and Rosemont to the center and I'm at the bottom of this V and I'm getting all their water, and my fear is with another foundation that will divert the water even more, what am I going to get then? And I am opposed and would like to put in my vote as a NO.

Chairman: Attorney Harb would you like to rebuttal on this please?

Attorney Harb: Yes Mr. Chairman & Members as you are aware, we always have neighbors ask about drainage and water. I'm sorry that this gentleman on Rosemont has this issue but as the building inspector and commissioner will confirm we have to build the lot and slope it, so there is zero increased run off zero, they need to prove that to the building inspector. So I'm not saying the gentleman wont still get water but he wont get anymore water because of the development of a single-family home on this lot and I am trying to find the sketch of where the house will be located, I believe it's closer to the front of the lot and not the rear, so if the gentleman 221 is correct and the sloping goes toward Hazel than I think we are not going to cause any damage by doing that. The building inspector can confirm through engineering that zero increase of run off which is a requirement of the state law.

Geared Rogers: A lot of my neighbors aren't aware of it; they have pipes buried in the ground to divert the across their properties down to the property below them. This has ruined my garage it has ruined my driveway and now you are talking about putting another house in and when that cellar in that house leaks and they are pumping their water out of the house and into the yard, where is it going to go it will be coming down to my house. I have enough water; I have water continually from September to May 10 to 15 gallons a minute. That's a lot of water and it winds up going out on Rosemont Street and that's why you see so much ice at the bottom of the hill. And then I have the City coming and putting all kinds of salt on the hill which kills my lawn. It's a disaster for me. So, what am I supposed to do? Am I supposed to sue my neighbors over it? I think that's eventually what will happen, because no one is doing anything about it. Some say it's not a problem, but they are not living at the bottom of this.

Attorney Harb: Mr. Chairman, I did review the plan that we submitted showing the location of the building. The building is at maximum approximately 50 feet from the road at Hazel and our lot is 160 something feet deep. So, if the slope goes towards Hazel as I believe the gentleman said and he is probably correct, the water would run towards Hazel, it's not going to run towards Rosemont.



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Geared Rogers The water for that property that you are talking about, runs directly into my back yard, the grade runs directly into my back yard. I'd be happy to show you anytime if you would like to stop by. But there is a serious water problem and I don't know how to get the city to fix it. I'm going to have to get all these neighbors together to fix it. Because if they don't there's going to be some sort of a lawsuit going on and I don't want to go that route.

Chairman: What I'd like to propose is that you go back and talk with this neighbor and any of the other neighbors to see if there is anything else to deal with this issue. I know as you suggested that the state requirement is that there can't be more run-off that is currently there. It might be helpful if you go back and talk with the neighbors. I know you have done that in the past on many occasions and have been very good about doing that.

Attorney Harb: I am sure my client would go talk with this gentleman...I'm sorry I missed his name. I do have his street address. My client would normally go around and talk to everybody but because of Covid-19 he didn't want to get shot going door to door. I am sure we can set up a meeting after the hearing with him or at least call him on the phone. We would keep the social distancing and see what we can do.

Mr. Ken Stine of 57 Oliver Street addressed the board. I am opposed. I am not an abutter; I am uphill from Hazel. I am on the side of Rosemont that abuts Hazel Street. My concern is the zoning is changing and we are cutting frontage space in half. It is setting a precedent. There is a vacant lot next to me that would fit that same category if that person decides to build. A new house was built across the street from me. It was filled in with grading. It put the property higher and I got water run-off running right into my garage with mud. I would hope the builder that is going to build this new one takes some understanding with the neighbors around him and what they are doing to the neighbors. The street is a mess. It is not up to grade. It is not up to standards for a public road. Its not wide enough and we are going to have more traffic in the neighborhood.

Chairman Moriarty: Jill, will you make sure you got that gentlemen name, address and contact information, so Attorney Harb can reach out to that person.

Jill Dewey: 220 Rosemont Street could you please say your name again?

Gerard Rogers.

Jill Dewey: 57 Oliver Street, could you say your name as well?

Ken Stine.

Jill Dewey: George I got a text from someone asking if we should continue this seeing that there is opposition.

Member Joe Sullivan: My own view is I am sympathetic to the water issues but technically it is not a zoning issue that we normally don't take into consideration.



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Chairman: I'm inclined to ask that the applicant and Attorney Harb work with the neighbors on all of these issues that are there. Your ice and water issues. As attorney Harb has inquired by state law, not to increase it. And again, all of these other issues should be brought to the Cities attention as they don't fall into the purview of the requirements of the zoning board. I appreciate it and am very concerned, however we are going to move on this one given the number of things on further meetings. I am not one to continue this based on things that are not purview of the zoning board.

Attorney Harb: Mr. Chairman as you mentioned my client Defeo and his company, we always work with the neighbors. I assume Mr. Stine and Mr. Rogers phone numbers are in the phone book, if not mine is so you guys can call me or give me your phone number so we can reach out to you.

Gerard Rogers: Can I give you my phone number now, this is Mr. Rogers?

Attorney Harb: Yup

Gerard Rogers: It's 781-710-2976

Ken Stine: My number is 978-337-9107

Attorney Harb: Thank you both, I appreciate it.

Chairman: Thank you I appreciate both of you. I'm going to quickly go through the board to see if there are any questions from the board members. Member LaPlume?

Member LaPlume: I would just like to make some comments on it. Oliver Street, that new house that was put on Oliver Street we made them put in filtration and drainage systems. They also had the contractor run a new water line, the full length of Oliver Street down. If there's a problem with Hazel Street, Hazel Street there's a possibility of maybe renting a drainage down on that, again I'm not really sure. And also the water, I'm not sure how the water is down there I'm saying that for the builders purpose as well, because the other builder had to run the whole length of Oliver, I don't know if there is enough water going down Hazel for other buildings to be going in. But as far as the lot size goes virtually the same as the front of the lot goes, it's a little bit small and you know I think it's fine to put a house on it as long as they can correct the water situation.

Chairman: Thank you. Member Sullivan?

Member Sullivan: Ya I think that based on the shape and size of the parcel as it exists, I think there is a hardship here directly related to the shape of the land and I agree with Member LaPlume, that assuming that there are ways to correct that and deal with the water situation so it doesn't make it worse in the area, which again it's beyond our purview, but something I'm sure the applicant will work on, I'd be comfortable with it.

Chairman: Member Vathally?

Member Vathally: I'm inclined to agree with Member Sullivan with the hardship in this case. And with the water issue, I would hope that they have conversation with the people here., but I really don't see any problem with this application.

Chairman: Thank you. Member Brown you will be voting on this one, do you have any questions or comments?

Member Brown: Yes, just a comment, I know Attorney Harb always works with and very well with neighbors and the applicant, so I'm sure it will be resolved.

Chairman: Thank you, I confirm that too. Member Bevilacqua you won't be voting but I want to give you an opportunity to speak if you want to speak.

Member Bevilacqua: No, I have no comments.

Chairman: Ok thank you. I will entertain a motion from Member Sullivan.



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Chairman asked to enter motion. Member Sullivan said I make a motion that we approve the dimensional variances for 225 Rosemont Street, 2<sup>nd</sup>ed by Vathally

Sullivan: Yes

Vathally: Yes sighting 255-79 C 1-5

LaPlume: Yes sighting 255-79 A, B + C

Brown: Yes

Chairman: Yes

Motion passed/Approved 5-0

Mrs. Hanley: Hello Hi, My Name is Mrs. Hanley from 219 Rosemont Street. So, you just approved this, what does that mean even though it was approved? You guys can put a house on there even though the gentleman on Oliver Street and the gentleman on Rosemont Street are saying no, what does that mean?

Chairman: Well as mentioned before, there are tow things, the attorney speaking on behalf of the applicant is going to work with the neighbors to figure out how they can deal with the water situation, but because the zoning board itself is limited to voting on certain type of things and taking certain issues into count importunely water run off is not one of them, so there for when the time is right Attorney Harb and or his applicant will be meeting with the neighbors to try to resolve these issues.

Mrs. Hanley: So on Oliver Street, they tried to divert the water down Hazel, so they tried to on that new house up the street, Beautiful house don't get me wrong, but so they diverted the water from that house down on to Hazel, but the gentleman on Oliver still complains and the gentleman on Rosemont and this woman are still complaining about the water. So, they did not do a good job on that, so you all are approving this just because well gee this corporation Bradford Unlimited has more money than the gentleman on Oliver and the gentleman on Rosemont, I don't understand it.

Chairman: It has nothing to do with money, it has to do with what the factors are within the purview to the appeals board and the water run off is not one of those issues. The building commissioner is on the line here. If they are worried about that the City of Haverhill can be asked to try and work with the neighbors as well as the attorney and applicant work with the neighbors to try and work something out.

Mrs. Hanley: So these two gentleman who gave their phone numbers are did call the water department because it ran through their garage and the town said sorry we can't do anything for you. Because this Bradford Unlimited Corporation wants to put a house in a back yard and that's ok?

Chairman: The Neighbors have every right to talk, however



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Mrs. Hanley: I don't get how you can approve this. Come live with us. We live on Rosemont street and where the runoff is maybe 60 miles an hour passing each other, people die in our road and now you want to run water through our back yard. And the gentleman can put that house over there

(another woman's voice): Hello, Hello Opposition her

Chairman: We are getting too many people talking on here at once, people have to mute.

Mrs. Hanley: So, you have the gentleman on Oliver Street, you have the gentleman on Rosemont Street, both of them complaining about water and because you don't live here. To drive here, drive through here, our driveway and they approved that beautiful street up there. Don't get me wrong, I would like to live there too but you are running water through their yard. These people have lived here 20 something or more years, yet you're ok with this? Why don't you come and see what is going on over here, then we have Rosemont Street the run way through Haverhill, people die on this street and you think its ok to just run water through there and we can put a beautiful house in back of someone's yard over there on the street and that's ok?

Member Brown: George can I just ask something, I know this woman (Cut off by Mrs. Hanley)

Mrs. Hanley: Yes, please can you say something

Member Brown: Hold on one moment I'm one of the members

Mrs. Hanley: Ok

Member Brown: I just wanted to ask you what is your name, I know you said you lived at 219 Rosemont

Mrs. Hanley: Yes, I am the owner of 219 Rosemont and my husband is the owner of 221 Rosemont Street. Welcome aboard

Member Brown: Ok so are you Mrs. Rogers?

Mrs. Hanley: No, I am Mrs. Hanley

Member Brown: Ok thank you

Mrs. Hanley: Why do you have a problem with that?

Member Brown: No, we are just trying to get information, because when we are on the phone like this, it's hard to know who is talking. We just like to know who we are talking to.

Chairman: I am going to have to bring this to a closure, the vote has been taken.



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Mrs. Hanley: I can't believe you approved it, you all approved it. I don't think so, I think you should put this one on hold. You all approve this because you are like, oh yah it's just water... So I think you should put this one on hold and save it for another day. And I appreciate the people next to us at 225, Mr. Mall was a wonderful person don't get me wrong, he was a gentleman, he was a great person to live next to but you know what, he passed and I feel so sorry for his family and his wife, god bless them all. But now I've got this problem, we both have this problem, my family has lived here for over 20 years, do something.

Chairman: I appreciate you speaking. We have voted on it. The attorney is going to get in touch with the neighbors to deal with the situation as best as possible. And if that doesn't resolve it, you have every right to go back to the city to say that there is problems with it and see if it can be resolved somehow.

Mrs. Hanley: You don't understand, it's too late you approved it. So the gentleman on Oliver Street you have his number, the gentleman on Oliver Street I don't know him, and I trust that he is a great person because I have seen his house, his beautiful house and he's been here along time. But you already approved it. We don't want it here and you don't care what is about what I say, you don't care

Chairman: We have done what we are required to do by the board. And I appreciate your comments, but as I said the attorney will get in touch with people.

Mrs. Hanley: Yea right, they're going to be right on the phone the next day ya COVID woo hoo. I hope they speak to the attorneys; I really hope they do. You know cause you all think we are stupid

Chairman: Give him (the attorney) a call

Mrs. Hanley: No, give us your number. Give it to us, I don't hear the attorney giving us his number. Gentleman in all history do hear the damn number coming across the damn phone.

Chairman: Attorney Harb are you still there.?

Attorney Harb: I'm here, I'm happy to tell her on the zoom what my number is, it's in the phone book

Mrs. Hanley: I'm on the phone, give it to me. Give me your number

Chairman: He is going to tell you

Attorney Harb: I would be happy to give her my number Mr. Chairman. 978-373-5611

Mrs. Hanley: And not for nothing 5611 is not for nothing, but I don't like your attitude. Give it to me nicely, don't be that ugh...

Chairman: Ok thank you



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Mrs. Hanley: Don't do that

Chairman: We can't allow this kind of thing

Mrs. Hanley: Mumbled something

Chairman: We have to move on

Mrs. Hanley: Yea move on

Chairman: We are going to vote on the minuets of the April Meeting

Attorney Harb: Thank you Mr. Chairman

Chairman: Roll Call on voting on the minuets from the April meeting.

Member LaPume: Yes

Member Sullivan: yes

Member Vathally: yes

Member Bevilacqua: Yes

Chairman: yes

Approved 5-0

Chairman: Ok the minuets from the April meeting have been approved. Therefore, I will close the meeting

Jill Dewey (Board of Appeals Clerk): George before you close the meeting, are you getting back to Kimberly Zizza? I know you said you were going to speak about that again at the end regarding 222 Washington Street

Chairman: What I wasn't sure of is if we were going to be in person by June, that I don't know

Jill Dewey: So, Kimberly what we will do is we will alert you and send out abutters notifications again prior to that meeting so you will receive a letter stating when the next meeting date is for that property.

Chairman: And the only reason I don't say it is June is because we don't know if we will be doing it in person or online

Jill: And you can always call me at the planning office and ask to.

Chairman: Ok I want to thank all of the board members



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Mrs. Hanley: Excuse me George, excuse me George, hello George not to bother you but question will this attorney be calling the gentleman from Rosemont or the one from Oliver or should they reach out to them, because we have their number now. We are just wondering the best way to follow up on this.

Chairman: Attorney Harb tends to follow up, so I'm sure he will follow-up, but they are certainly welcome to call him also.

Mrs. Hanley: Oh, you are welcome to come to 221 Rosemont Street to see their garage and their driveway. To see how wonderful everything is over here with the water running through over here.

Member Bevilacqua: Motion to agurin

Chairman: Motion to agurin. I appreciate it, thank you, we all live in Haverhill to by the way so we know about some of these issues

Mrs. Hanley: Have a great day

Vathally: I send the motion to agurin

Chairman: Thank you