



Haverhill

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

The regular meeting of the Haverhill Board of Appeals was held on Wednesday evening, January 15, 2025 at 7:00 P.M.

Those Present: Chairman George Moriarty
Member Louise Bevilacqua
Member Ted Vathally
Member Michael Soraghan
Member Lynda Brown
Assoc. Member Gary Ortiz

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

Chairman Moriarty called the meeting in to order on January 15, 2025

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

Applicant seeks a special permit to determine that proposed extension of existing non-conforming structure will not be substantially more detrimental than the existing structure to the neighborhood. Application involves enclosing existing deck by extending the rear and side facades to create a mudroom in a RM zone. (BOA 24-37)

Michael Foustoukos: I have a porch, a little deck I should say and I am just trying to close it in, I am not running any electrical or plumbing or anything like that, just for my kids shoes, somewhere to dump all that so it doesn't track all over my house, it is a small house.

Chairman: So you are just enclosing it?

Michael Foustoukos: Yes, just enclosing it.

Chairman: Nothing else, you are not changing the footprint?

Michael Foustoukos: No nothing else

Chairman: Ok. Comments or questions from the board? Entertain a motion

Member Ted Vathally: I make a motion to accept the application for 3 South Maple Ave

Member Michael Soraghan: Second

Member Ted Vathally: Yes it satisfies 255-10.4.2

Member Michael Soraghan: Yes it satisfies the conditions for special permit 255-10.4.2

Member Lynda Brown: Yes it satisfies zoning criteria for special permit 255-10.4.2

Member Louise Bevilacqua: Yes it satisfies zoning criteria for special permit 255-10.4.2



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Chairman George Moriarty: Yes, reiterating it satisfies 255-10.4.2, and its granted

Benjamin Caron for 301 Concord Street (Map 674, Block 601, Lot 4A)

Applicant seeks a Special Permit to determine that the proposed alteration of existing non-conforming structure will not be substantially more detrimental than the existing structure to the neighborhood. Application involves adding a second floor and constructing an addition onto the left side of the existing structure in a RM zone. (BOA 24-38)

Benjamin Caron: What we are hoping to do, is take the existing ranch home and add a second story to it, to increase the square footage, blending families, adding two kids, so we are kind of running out of space, and the hope is to add a second story and then add a conforming two car garage, in the space shown between the car and that little shed. So if the board will allow it, we may wish to extend to the west, north west 10 feet on that end of the building, our architect is currently in design, is trying to come up with something for us, we may not need that 10 foot to the west, we proposed it just so we have the option if we wished. The main goal is to take over the three season porch and th garage and occupy that space and raise the hole one level.

Chairman: One of the comments you got back from the city engineer, is that the existing driveway seems to approach upon the adjacent lot.

Benjamin Caron: So that is true and it has been that way for 50 years, I think a gentleman named Jimmy Walton built that house, I think he was actually a mayor or something at that time, and it was built in 1975 and that driveway has been there since day one, and it does truly approach, the good news though is that parcel to the east, all it is used for is the water and sewer line for the development that was built above us, so it can't be developed or used anyway, in fact I have been told for years that it was given back to the city for use of the water line and sewer line, in fact there is a sewer man hole that is adjacent to the black vehicle, about the nose of that black vehicle about 10 feet to the south east in that property, it is just when they built the development they did that and actually there is a water pump house across the street, that they built to get the water up to that development up above.

Chairman: the other comments we got were from the fire department; the existing structure will need to be brought up to code

Benjamin Caron: It is to code, with the exception of the smoke detectors are not hard wired because they were done in 1975, but of course we would absolutely do that, that is a nonissue. The majority of the house is going to be essentially gutted anyway, to start over to make it a pretty two-story colonial, so it is a nonissue to change the smoke detectors to hard wired.

Chairman: Comments or questions from the board?

Member Vathally: Just a quick question, I noticed on the renderings this is the existing structure, correct?

Benjamin Caron: That is the existing structure, correct.



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Member Vathally: And in the rendering of the proposed, is it pretty much going to turn into a cape?

Benjamin Caron: That is kind of the design intent, we have a 20k proposal and we are already paying the guy to start, I kind of want to have approval before I give him the other 15k. But yes the design intent is to turn it into a colonial, that is the ultimate goal.

Member Vathally: Commissioner, no change with the setback requirement?

Tom Bridgewater (Building Commissioner): No, they are just building up, it will conform with the setbacks

Benjamin Caron: I actually got a letter of support from the neighbors, I had everybody sign it, with the exception of the development company to the east, because I don't know who to contact, I met that guy, I want to say 10 years ago when he flooded my basement, when he built the subdivision, all the water ran down and destroyed, did like 10k worth of damage to my basement, and he actually helped me fix it that night, he helped me divert the water, but I don't know who to get a hold of him now.

Chairman: Other questions or comments from the board? Ok, entertain a motion

Member Ted Vathally: I make a motion to accept the application for a special permit for 301 Concord Street

Member Michael Soraghan: Second

Member Ted Vathally: Yes it satisfies special permit criteria 255-10.4.2

Member Michael Soraghan: Yes it satisfies the conditions for special permit 255-10.4.2

Member Lynda Brown: Yes it satisfies zoning criteria for special permit 255-10.4.2

Member Louise Bevilacqua: Yes it satisfies zoning criteria for special permit 255-10.4.2

Chairman George Moriarty: Yes, reiterating it satisfies 255-10.4.2, and it's granted

SDS Development, LLC for 420 North Broadway (Map 548, Block 1, Lot 40)

Applicant seeks the following dimensional variance to create a new building lot (Lot 2) for the construction of a new single-family dwelling located in the RR & BP zones. Requested relief for new Lot 2 sought for lot frontage (126 ft where 200 ft is required). Proposed new Lot 1 shall be comprised of RR & BP land and shall include the existing single-family dwelling. Requested relief for new Lot 1 includes variances for lot area (36,172 sf where 80,000 sf is required) and lot frontage (126 ft where 200 ft is required). (BOA 24-39)

Attorney Caitlin Masys (345 Main Street Haverhill): I am here today representing SDS Development, which is a collaboration of Steve Allen and Mr. Sam Saleb, Mr. Sam Saleb is here and is happy to entertain any questions that the board might have that I don't address in my presentation. I do want to say up front that I did update the legal memo, the initial filing it was a little bit vague, there was still some discussions happening about where the draw of the property lines based on the zoning, whether both lots should dissect the BP zone, whether the lot line should go along the BP zones, so there was some things being worked out, but we wanted to get the application in to be able to get into this meeting. I do



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apologies that it was late, the update probably the most important part is the intent of the applicants, they are Mr. Saleb is seeking to subdivide the property and separate a lot that has an existing house on it in the corner, that currently is preexisting nonconforming due to its location in the front corner of that particular lot. The intent for the remaining lot 2, would be simply to construct a new single family home for that area and in accordance with comments made by the engineering department earlier today, any approval made tonight, the application would certainly accept any restrictions that the lot two is limited to simply construction of one single family home and no further development, so that s the intent of the applicant to put a single family home there and they are willing to accept any restrictions that they might want to impose. This particular property is very unique, it is sort of sandwiched, well first of all it is dissected by the zoning line between BP and RR, which in itself is sort of a unique problem, additionally the BP line and I have uploaded a picture of the zoning overlay so you can see where this little area of the city, there is BP zone there is RH zone, there is RM, it is all kind of cobbled together, some of the lots have the zoning line go right along the property line, so that there is no dissection and it doesn't create an issue, I think also part of the confusion with filing this application and the building inspector can back me up on this, when I was in his office we were looking at this property less than two moths ago, we were sitting right in his office and there was already lot lines drawn, showing this as two separate parcels, and that was right up until I think three days after I met with him that you go back to the GIS system and those lines were removed. This particular lot has been subdivided multiple times, there have been lines added and taken away and added and taken away, the last time that particular house was on its own separate lot, it was latterly 100 x 100, so it was a 12000 square foot parcel of land that the existing house sat on. These properties on North Broadway have been there for a significant amount of time and they were all derived from much larger parcels and at the time, when this was zoned for rural residential land, this area was mostly farms, it has sense been developed in the rear to be more commercial property and changed to a BP zone, Computer Drive, Research Drive, that is where the Target is and there are several manufacturing plants there. So while the zoning may have made sense at the time, to have it be rural residential, the development of the property around it sort of made these parcels that are sort of stuck in between, sort of not the most economic use of the land. In my most recent memo I, usually a zoning line is drawn along property lines or along the center line of a street, and that is intentional as in an effort to prevent problems where you have one lot, that is dissected by a bunch of different zones. Unfortunately this particular area there is 3 parcels next to each other that the zone dissects and then the next four parcels, the zoning line is along the property line and then the zoning line, latterly the house across the street if you took this exact area and just flipped it to the other side of North Broadway, by right they could put in at least 3 houses, there have been two subdivisions put in there. So there was a lot of thought put in to the plan that is being presented to you tonight in terms of were to exactly locate those lines, what variances to ask for, it seems that the area is a bit of a problem, that is the largest variance that they are looking for, area for the existing home, but given were the property is located in the upper right hand corner, there is plenty of space there. The idea was to ask for as few variances as possible and when it came to the frontage, they could have made one lot completely conforming with 200 feet of frontage, but that would have only left the second lot with maybe 50 feet, so it seems the safer thing to do here was to take the full frontage and just divide it in half between both lots maximizing the space for both as opposed to having one with 200 feet of frontage and one with only 50 feet of frontage. Also the building commissioner and myself have gone back and forth on this project quite a bit, because there are a few complicated factors and I think he and I are on different opinions about that note 12 on the table of dimensional variances, which would determine exactly what standard should apply, I do from legal prospective think an argument can be made at this particular note that states, existing residential uses shall be subject to the regulations for this particular type of dwelling in the RH district could be applied here to the existing house, which would allow my clients to do what they are proposing to do right now, so the property itself given its location and some possible confusion in the zoning table verses the zoning code, I think creates enough of a question in here that what my clients are



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seeking to do is certainly reasonable for the area, it doesn't derogate from the existing zoning or the intent of the zoning ordinance, and it certainly is not going to be detrimental to the neighborhood, adding just one single family home on a significant size lot, where the only variance being sought in that instance would be for frontage

Chairman: What is happening with the existing house, that is on the new lot 1?

Caitlin Masys: It is going to be renovated and updated and then sold as a single family

Chairman: Ok, by the division you are talking about, yes you have created frontages that are equal to each other for lots 1 and 1 A, but lot 1 now only has 36000 square feet, where 80000 is required for lot area, so there is quite a reduction

Caitlin: It is and it was not done arbitrarily, it was done in an effort to sort of go along the lines of, we didn't want the property line be exactly along the zoning line, because that would have made the property even smaller, but if we had just drew a line straight down the middle, then we would be needing variances for area for both lots, it would have increased the need for variances for both instead of keeping one conforming in terms of area, and asking for a variance for the other.

Chairman: The thing I am wrestling with is that you are asking for a variance for lot area for something that was created by the applicant, rather than pre-existing, so you are creating the problem, the need for the variance and the zoning argues against that often times, that it shouldn't be something that has been self-imposed or self-created, so how do we deal with that.

Caitlin: So it is self-imposed, however the intent of the zoning ordinance to have a certain amount of area, is for keeping open space, and this particular proposal, the space would still be open behind, it is not like the area is being taken away from behind that property would become usable in some other manner, if we drew a line right along the zoning line it would be even smaller, but we would have had a better hardship argument there, so we are trying to come up with a design that would require the least amount of relief from the code that's written. So even though it does significantly reduce the area it is not reducing it in a way that the area is going to be used for something else, and in fact it would be really difficult to use that portion for anything else anyway, given the topography of the land, there is significant variations in elevation from the front to the rear of this parcel

Chairman: The other comment that was made by the conservation department is on lot two, if anything is done with the land back there, the conservation director is saying it may actually need a field delineation of wetland resource area boundaries, so right now there is nothing proposed behind lot two

Caitlin: Correct

Chairman: Part of lot two but behind

Caitlin: Right! They would have to go through all the appropriate channels, that is correct.



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Chairman: And also the city engineer had suggested that and you are agreeing to it, but we want to make sure it's the stipulation that if this lot 2 would only have a single-family house on that lot.

Caitlin: Correct. I also do want to add that we have reviewed the comments of the other departments, including the fire department comment about any new structure requiring a sprinkler system. And perc testing, this is actually a part of the city that doesn't have city water sewer, it has septic.

Chairman: Yes, we are fortunate that various departments had some comments for us.

Member Soraghan: Just a comment, you are going to need a variance, if you put a single-family house on that second lot, you are going to have to come back before us, because you need a variance, is that correct?

Caitlin: No, we are seeking that variance now, the only variance would be for frontage.

Member Soraghan: Oh ok, so in the future there will be no side setbacks?

Caitlin: No, there is none.

Tom Bridgewater: So, if approved the house would have to go into that front portion lot, and in the RR zone, it would have to follow all the setback requirements for the RR zone, which I believe are 40 feet off the front, 40 feet off the rear and 25 feet off the sides, I can check all that

Caitlin: I think the plan says all the side backs, and any structure would have to go in that envelope

Member Soraghan: Ok, alright. For the second time, I don't like the way the lot is split, you are creating an odd shape lot

Member Vathally: Alluding to what the chairman indicated, I am having a hard time with your hardship. Can I ask you when was the lot purchased?

Caitlin: The lot was purchased just last year

Member Vathally: ok, at the time of the purchase, were you aware of the zoning requirements in that area, where you need to now reduce all this area for your proposal, did you know it was all one lot?

Caitlin: No, actually when the applicant and I was not involved, when the applicant purchased the property, but as I stated previously, in the GIS system the property, there were lot lines there, they thought that they were buying a lot that had a house on it, and then another lot.

Member Vathally: But did they confirm that, that was multiple lots or just one lot? Is it a mistake after the purchase

Caitlin: It was a mistake after the purchase, that they discovered yes.



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Member Vathally: They didn't do the due diligence to understand that, that was one lot

Caitlin: I think they did, and they were given an incorrect opinion at the time.

Member Vathally: From where?

Caitlin: From an engineer that they had consulted with

Member Vathally: Ok, but Commissioner just to verify and reiterate, the lot in question is one lot

Tom Bridgewater: It is one lot, yes it is.

Member Vathally: And again alluding to the chairman, it just appears to me that it is a self-imposed hardship. I understand the topography and the shape and etc. but I am just going back to if it was purchased this year, and it was purchased as one lot. Another question

Caitlin: I think that this, again is a situation that the board has been seeing more and more due to some change over with the city solicitor and the opinions related to some of the zoning, this is another example of there being interior lot lines and up to a certain point in the recent future, a lot of times these were treated as actually being two separate lots if they had two separate lot numbers with the accessors office, and I think there has only been recent clarification between the city and the various departments and the city solicitor and it is within the past year, which subsequent to my clients purchase of this property, that a clear determination has been made, that even if there are different parcel id's and things have been treated separately, interior lot lines are to be erased.

Member Vathally: Ok, but when the property was purchased

Caitlin: There are plans on record that showed it as two separate lots

Member Vathally: does the deed show it as two separate lots?

Caitlin: Yes. The deed describes the property as two separate lots.

Member Vathally: So the deed and the zoning are not simpatico

Caitlin: Yes to an extent, there is definitely confusion when it comes to the zoning verses the deed verses the interior lot line and it's become an issue, just within I'd say the last 6 months and I have been here before with some projects for you that have come under similar circumstances, because people thought that they were buying two lots, and I do have a copy of the deed here if you would like to see it, it does describe the land separately as parcel one and parcel two

Chairman: Could you show it to use

Member Vathally: Attorney when you were made aware or your clients, that it is now one lot



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Caitlin: My clients came to me seeking to sell the lot that had the existing house on it, and from my prior experience in front of this board and with some recent zoning changes, IU advised them that I didn't think that that was possible and that it would require coming before the board and getting the appropriate approvals.

Chairman: Thank you

Member Bevilacqua: Are you saying that they didn't know, I mean they didn't have council when they made the purchase.

Caitlin: They did, and they relied on the opinion of an engineer and council at the time, that led them to believe they were purchasing two separate distinct parcels of land.

Chairman: The deed does show it as two parcels.

Tom Bridgewater: Well if you turn around and look right here, these I believe are for tax purposes only, all these have different numbers on them, as you see the lot line goes right through the house, this is right across the street. As I click on here, if you look at this number here 534-4-102 it's all the same map, block and lot number, even though there are different, I think these are for tax purposes only, I can't be sure, we have had this discussion many of times and she is right it is very confusing, and when they first came into my office it was carved off as a separate lot, I can't remember if it had the same map block and lot, which made it one, but I think when engineering as they filed for the variance found out and they removed that lot line and now it made it all one lot, but she is correct, I remember that house was carved off on a smaller parcel and it had two separate parcel IDs.

Caitlin: And it was a much smaller parcel than what I am doing.

Member Vathally: Do we know when that was done commissioner?

Tom B: I want to say that it was done in 2009 and engineering never changed it on the GIS.

Member Vathally: So the old lot line was still there when it was purchased last year.

Caitlin: Correct.

Member Vathally: and just recently removed.

Caitlin: Correct, as recently as within the last two months, as I was sitting with the commissioner discussing this project in December and it was still there.

Tom B: I think, like I said, I think once they applied, as engineering saw it and removed it immediately, that's what I think happened.

Caitlin: Just 14 years too late.



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Member Brown: I have a question for tom. Tom if this was a separate lot, what would be needed for a variance?

Tom B: If this was a separate lot, the way it was and there were the two parcels, I would assume, the way it was, I don't know what the frontage was on the lot with the house, but if it was only 50 feet, they wouldn't need anything.

Member Brown: So before it was changed, you wouldn't need any type of variance.

Caitlin: I think there would be one small variance needed for frontage.

Tom: She would of needed a 48 foot variance.

Caitlin: And that would have been the only variance needed

Member Brown: In driving through there a couple of times, it is very challenging because you have the RR BP on your side and across the street is RM, challenging beyond belief, I was a little like wow what is going on, I did see obviously the issue, the issue obviously is the severe shortage of that area, but I wanted to ask that question if it was a separate lot what would you need and it looks like you wouldn't need much of a variance, so you kind of have to weigh those couple of things right now.

Tom B: And after they had it divided up, I went to the city solicitor to make sur they could calculate the area and the business park zone for the variance, because I wasn't sure if they could calculate it and she confirmed yes they can.

Chairman: You wanted to speak and then we can let the others.

Caitlin: He is the applicant, but we can let the others

Chairman: Ok, come on up

Richard Demarko (Husband of one of the trustees, 362 North Broadway): This is my sister in Law, who was also a trustee for 362 North Broadway

Marsha Ellison (Trustee):

Richard Demarko: I'll have to start by saying I'm walking into this more confused now than I was when I walked in the door, my assumption was that the existing lot is as defined and it appears to be a conforming lot to the rural residential requirements of the city, and based upon that I am questioning why the board would consider splitting up a conforming lot, into two nonconforming lots, one of them as Mr. Vathally said was virtually half the size of what a conforming lot would have, with it being 36,000 square feet and the other lot, lot two would be 74 feet short of the 200 foot frontage required by rural residential, so I am not sure I have an objection I am just trying to understand what rules the board of appeals works with, when dividing a lot that would be considered conforming as it is today, to two nonconforming lot sin the future and if



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there is a specific criteria, I would like to know if the application has met all of the criteria to meet the requirements for you to approve for two nonconforming lots, are there specific requirements that have been proposed and met.

Chairman: there are five or six requirements, one in particular is it detrimental to the existing neighborhood, is it conformed to the existing neighborhood, is it unique to this particular property or is it issues sharded by a number of different properties, so I think what we have to take in to account, you know people have a piece of property and they want to be able to use it in a reasonable way, and if we strictly say no you can't, because you don't have a conforming lot, then we are denying them the opportunity to take advantage of the property that they have. We try to follow those requirements as we look at it to see what is at stake here, what is being proposed, and one of the things that bothers me right now is the confusion that not one in particular but the city seems to have, by all having these plans that are not accurate and having lot lines and tax lines, so when we just looked at this deed here it clearly shows that it is two properties, and if that were true then as Member Brown has suggested, they wouldn't even have to have come before us, they bought a piece of property that looked like it was two separate lots, that they could come in here or might not even have to have come in here for that, but in fact when more research was done they found out that, that was not the case, that it is not two lots, so now they are stuck with a piece of property that they cannot do anything with, if we strictly followed all the rules/requirements, these are flexible requirements, that we as a board have to apply to any application that is before us.

Richard Demarko: So on lot one where the existing house is today, it has been there for as long as I can remember, I remember the original owner of it, so that is an existing property and an addition was made to that lot of land years ago, which now puts it into a totally conforming lot in rural residential, the combination of the two lots made it compliant. So now we are here standing before you wondering how it is that the city would subdivide them into two nonconforming lots, what's the rationale for doing it, and all the criteria associated with a nonconforming lot being requested has all of those criteria been met?

Chairman: And the rationale is, one of the things it says in zoning is we do not want to penalize owners of property by following those kinds of rules completely if there is good reason to apply a variance, and that's why they are called variances, they vary from the conditions that are outlined in the zoning and if they are unduly prevented from making good use of their property because of a strict adherence, the zoning regulations allow us to offer to approve a variance in that regard, and that is what we are looking to hear. Particularly as I said because the city's documentation is so confusing and people bought it thinking they had two lots, and with two lots they wouldn't have to come before us, it wasn't until they went further with the city on this, that they found that it is not two lots, it's one lot, so yes we are creating two nonconforming lots, but it is because, well partially stems from the confusion of the city's records or where lot lines are and which ones were lot one lines and which ones were lot 2's lines, so that is my dilemma as a member of this board.

Marsha Ellison (Trustee): So I would like to challenge the assertion that there was confusion after the purchase of the property, my husband and I considered purchasing that property and we hired a realtor to look into it and spoke to the owner, the original owner's grandson and discovered pretty quickly that a subdivision was not going to be allowed, so I would challenge that, I would also agree this would be maybe a self-imposed hardship, so I would like the board to take a look at that. I can tell you the history of why maybe the confusion with the lots, the original owner Mr. Willet came to a settlement with my parents when they obtained the land and acquired the 2.38 acres, that now encompasses the whole



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Chairman: So the confusion wasn't with you, when you were looking into it, but unfortunately the new owners there was confusion, and we looked at the document that says that there are two lots, and unfortunately that created confusion, should do diligence as Mr. Vathally mentioned, gone further and found something different, but at that point that's what happened anyway.

Marsha Ellison (Trustee): I would also like to address the back lot that is part of the trust, it does flood, it is a wetland and it is mostly seasonal, but there is quite a bit of water that is collected there, so we would be looking to find out what the impact would be of building a second house, we oppose on that property for future sale, future use, so I am hopping the board

Chairman: Conservation Commissioner commented on that also, he looked at it, he commented on it. He was ok with a single family in the envelope where they were showing it was going to be, but clearly said if they tried to do anything, not just build, but if they tried to disturbance of the land beyond it there, they would have to do some testing there first, because as you say it is wetlands, there is things going on there, so with that we put a stipulation that the only thing that can be done there would be the single family house. Other comments from eh board?

Richard Demarko: So help me understand hardship. I go out and buy a piece of land and do diligence, I buy the property, it has a house on it, my intension was to buy the house and upon buying the house, I decide that it is not the house I want, I want to subdivide the property and put up another house for myself, is that a hardship?

Chairman: Every situation is difference, so it is hard for us to make a blanket decision on anything like that. We look, we try to stick obviously within the framework of the zoning laws, but we also understand that every piece of property is different. Most of these properties as you know, were divided up long before zoning regulations came into existence, that is part of the issue here, if we were starting from a blank slate, we could carve up all the lots across the city in a proper way depending on what zone its in, but unfortunately pieces of property have all been carved up in different ways prior to zoning coming in there, so when we have to look at it, we have to take into consideration each one of the individual cases

Member Brown: Mr. Demarko, I just want to ask you, what are your concerns and the other members of the trust, what are your concerns about a single family home coming into the neighborhood?

Richard Demarko: Well it is more than the trust, I am trying to understand Haverhill zoning and I guess I am under the impression, that the zoning was put in place for a certain reason when it was zoned. I expect that there are probably reasons why Appeals boards are in place, for questions like this, but I just don't really understand what the exact requirements are for coming before the board to say I want to take something that was zoned and make it nonconforming and in understanding how that can actually be done. As an abutter we are going to follow whatever findings you have with respect of this property and we are not going to argue with it or appeal it or make a big deal or it, we are just trying to understand the rationality the city has, that you can take a piece of property and bust it into two nonconforming lots, that is the bottom line.

Member Brown: George/Chairman really explained it really well. In this case it is really challenging, because you do have the different zoning, usually you don't have that to deal with, usually it is just something straight like frontage or something like that, but this is a unique situation, we really do have to look at a lot of things, look at each case as in individual case,



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but being an abutter I am sure the trust being in your family a long time obviously you have a right to have concerns. But I do want to backup when the chairman said everyone is a individual case and we try are best to really understand both sides when they come before us, to hear your concerns and to address them as best as we can.

Richard Demarko: I mean we have met the owner, he is a very nice guy, got a wonderful wife, a nice son there, this is not a personal attack on them, we understand the position that they find their self's in, it is just trying to make sure that all of the l's were dotted and T's were crossed with respect to a decision that is being made to subdivide it.

Member Brown: And as you found out tonight, we all found out tonight that the deed said two lots.

Richard Demarko: And I think we are more confused now, because we don't know whether it is one lot or two lots as it stands today and I think that brings up a whole different set of concerns on your end because of where do you divide

Member Brown: Absolutely

Marsha Ellison (Trustee): Also we hope that any decision that is reached is well articulated, so that it is clear going forward what president is set here that it would be outlined or what the reasoning is. Thank you.

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

Jill Dewey: Does the attorney get to rebuttal?

Attorney Masys: I don't have much to add, I think are memo and discussions here tonight

Chairman: Entertain a motion

Member Vathally: Attorney Masys I just want to speaking for myself, that honestly reviewing this application for this evening, I was not in favor of it, I wasn't going to support it, this is an unfortunate situation with this deed here, and it kind of ties our hands, I am speaking for myself, I am going to support this application tonight because it is a shame that it was so much confusion and the purchase, but initially I didn't hear the hardship behind the argument and I had a problem with it, and this saved it, because of the mass confusion, so with that I just want to go on record saying that, but Mr. Chairman, I would like to make a motion to accept the application for 420 North Broadway, with a stipulation that restricts the applicant from building anything other than a single-family home on that lot.

Chairman: Thank you

Member Soraghan: I second.

Member Ted Vathally: Yes it satisfies variance criteria for a ghardship 255-10.2.2(2)

Member Michael Soraghan: Yes it satisfies the conditions for variance 255-10.2.2(2), I would also just amend Member Vathally's condition that it is lot 2 that is restricted to a single-family

Member Lynda Brown: Yes it satisfies zoning criteria for a hardship for 255-10.2.2(2)



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Member Louise Bevilacqua: Yes it satisfies zoning criteria for variance, it was a hard one with consideration for the neighbors 255-10.2.2(2)

Chairman George Moriarty: Yes, reiterating it satisfies 255-10.2.2(2) reiterating what Member Vathally Said, the records being so mixed up it created a hardship and it created a opportunity for people to not take advantage of property that they bought in good faith, so it is granted. Thank you very much.

The board voted to approve the meeting minutes from the December 20, 2024 meeting (all members approved)