



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, November 19, 2025

Those Present:

Chairman George Moriarty
Member Louise Bevilacqua
Member Ted Vathally
Member Michael Soraghan
Assoc Member Magdiel Matias

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

Chairman called the meeting in to order on November 19, 2025

Cesar Casado for 0 Grove Street (Map 518, Block 308, Lot 8)

Applicant seeks a Special Permit to determine that the proposed reconstruction of a preexisting nonconforming structure, and the proposed change of use of said structure to that of a single-family residence, will not be substantially more detrimental than the existing structure to the neighborhood. The application involves proposed reconstruction of a lawful preexisting nonconforming structure and primary use of a 1930s garage (that preexisted single family zoning) into a single-family home (a conforming use) on a nonconforming lot, deficient as to lot area and frontage. (BOA 25-22)

Chairman Moriarty: I would like to start off first with the attorney representing the city, to kind of frame some of this before we start hearing the application.

Attorney Stephen Chaplin (Mead, Talerma & Costa, LLC 730 Main Street, Millis, MA): The board has before it this evening an application for a special permit to reconstruct a nonconforming structure, it is currently as I understand it, a garage free standing, on its own piece of property, which is somewhat unique, I believe it is used to house vehicles for a nearby property which is not continuous. We have the applicant which believes they are entitled to relief under zoning ordinance and their attorney will speak on that, their attorney believes they meet zoning ordinance at 5.3 and 5.3.1 and an attorney is going to speak in opposition, that as I understand contends that the board can not hear the application, because that particular individual that Attorney Magliocchetti represents believes that a variance is required. I have reviewed the project primarily as I understand it currently there are four nonconforming aspects to the existing structure, two of them pertain to the lot, two of them pertain to the structure and relative to the lot, there is a lack of requisite of frontage and there is a lack of requisite area, with respect to structure there are two setback nonconformities, as I understand the application, obviously the lot is the lot, so the area today will be the area of all time, same with the frontage, as I understand it the proposed single-family structure that is intended to be built will eliminate the setback nonconformities. So under 5.4 a variance is required when a nonconformity is increased, but I can tell from my review of the application materials and the various items and correspondence going back and forth, that the nonconformity's is not going to increase and there for the board can consider this application, and can go on to determine whether what is being proposed is substantially more detrimental to the neighborhood, than what is there today, with that said I am not an advocate for either side,, so you are going to hear from council, on behalf of the applicant as to why they believe the application is proper and why they believe the relief should be given and you will also hear some argument for council on



Haverhill

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

behalf of opposition, with many arguments as to why they feel it is not proper and if you feel persuaded by any of the arguments or have questions on any of those arguments and maybe even if you would like to do some homework on any aspect of what you hear, that is why I am here, I am happy to come up if you have more questions for me and if there is anything that you would like me to look into, I serve to the pleasure of the board.

Chairman Moriarty: Thank you very much. Nay questions from the board before

Member Vathally: I just want to make sure, us as a board tonight to hear the argument for special permit, there is some, I have a question because there was a variance application and a meeting and that I have a question because there was a variance application and that is under appeal, and I just want to make sure that we are ok it's our preview to hear the special permit, even though the variance is at this point, being contested, it is in land court, I know it is a separate entity, but we are good to go as a board to hear the special permit, even though the variance is hanging out there.

Attorney Stephen Chaplin: That is a very good question, and you are correct, you are good to go. You can hear this application this evening.

Member Vathally: Ok, thank you Sir.

Chairman Moriarty: Any other questions from the board before we proceed. OK, If the applicant wants to come up.

Attorney Jonathan Stark-Sachs (Johnson & Bornstein LLC 12 Chestnut St, Andover MA): I think the city council framed up the application about in the same way I would, it's a special permit as you said, to alter a pre-existing nonconforming garage structure and use, and to make an alteration to that garage structure and use into a conforming single-family home on a nonconforming lot and as it has already been noted, this is not a variance standard which you are all familiar with, it is a somewhat lesser, more of a legal standard it gives the board discursion to grant the permit as the cities attorney said, the only standard you will be considering is whether the changes to the nonconforming structure use, will be quote substantially more detrimental and quote to the neighborhood and to the existing structure and use, which as I said are nonconforming. Ms. Dewey can you pull up the slides that I provided

Jill Dewey: Explained we can not on the screen, but I have printed them out and each member has a copy in front of them.

Attorney Jonathan Stark-Sachs: If you look at the property, we don't contest it, it is a relatively small lot. You can see a couple of pictures of the garage and the two abutting properties there on either side. Just to kind of set the stage to what we are looking at here, as you can see the garage is a bit shabby, it is a single-story structure, relatively small, set close to the street. Also in your materials, I provided the existing plot plan with he garage, which if you look closer you can see what attorney Chaplin referred to, which is the structural nonconformities of the existing garage which are essentially almost a foot too close to one of the side setbacks, and a little over 10 feet too close to the street, I have also included some close ups of some of the materials I had in the application, which are the assessors card, particularly the property history indicating in the cities records, the garage was built around 1930, and we did some research into the history of the cities zoning ordinance, looked at the uses that were in effect at the time under the 1925 version of the ordinance, and in your materials as well, I pulled it out, its page 4, I think its paragraph 16, it does refer to essentially a stand a lone private garage use. Today you would think of a garage only as an accessory use associated with a property on the same lot, but



Haverhill

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

in this case, in this whole section of the ordinance, this stand a lone garage use was allowed at the time it was built, so on those two bases it is pre-existing legally nonconforming structure and use, in its current condition. Slight maybe correction I believe from what Attorney Chaplin said, I think we are looking for relief under sections 5.2 and 5.3 and in some of the sub sections there, which refer to these pre-existing nonconforming structures and uses and ability for the board to make certain adjustments to those, again you have the legal standard of whether those changes will be substantially more detrimental than what is already there today. We also have the proposed plot plan in your materials as well, which indicate that all of the dimensional requirements for this structure, as it's adjusted will be met here, it will be 20 feet from the front and 10 feet from each side and 10 feet is about what is required here, and then its quite a distance from the rear lot as well. It also complies with other things, like lot coverage and height, so it will be essentially as conforming as it could be on the current lot, which as attorney Chaplin said, will remain in its current condition with frontage and setback nonconformity, but as you said that will not be an increase of any nonconformity that exists, and will in fact eliminate at least 3 existing nonconformities in the setbacks, and then the use is sort of outdated stand a lone garage. So the proposed single-family home is pretty modest, it is 3 bedrooms, 2.5 stories, about a little over 1400 square feet of heated living space, we have proposed four parking spaces, there has been some concerns for adequate off street parking here, the ordinance as I understand only requires two, but with he concerns we have been hearing we decided to add additional parking spaces, and this is sort of a general matter, it fills in in my mind sort of a gap tooth in the neighborhood, this old 1930's which by all means really no longer belongs in this neighborhood under the current zoning, and relaces it with a nice new relatively small single-family home that can be used by residents of Haverhill and the Casados my clients, and contribute to the overall housing stock and the tax base on the town, so the elimination of the sign nonconformities and a provision of a modern modest house would not be substantially more detrimental than the existing 1930's garage. You will also see in those materials some of the elevations as well that you can look through, to see the general aesthetics of the house and as far as that goes, I think I could answer any questions you have.

Chairman Moriarty: The parking is just one car right in front of the other, for all four?

Attorney Jonathan Stark-Sachs: That is correct, yes.

Chairman Moriarty: Does that create a problem for some people in the house, they have to move cars back and forth.

Attorney Jonathan Stark-Sachs: I think it would potentially require a little coordination. I tis not going to be a multi-family house, where there'd be families with different schedules and different concerns, so I think the coordination there, could be easily done. As I said we wanted to provide a little bit more parking as that was a concern, but under the zoning ordinance it would only be required to be two, which would be a little bit more easy if that was the case.

Chairman: I know the answer to this but just to put it in the record, the existing structure will be completely raised?

Attorney Jonathan Stark-Sachs: That is correct, yes.

Chairman: I saw it on record, but I just wanted to get it said on the record. Questions from the board?

Member Vathally: With a special permit our purview has six criteria's, with a special permit that is under 255 and how is a house less detrimental than a garage?



Haverhill

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

Attorney Jonathan Stark-Sachs: I think it provides more to the neighborhood than this 1930's shabby garage, it can be used, it essentially puts and undersized lot up to more of its higher used case for the city and for the neighborhood and for the owners as well

Member Vathally: What is the owner doing with that garage right now?

Attorney Jonathan Stark-Sachs: From my understanding, he is not really using it currently. There has been some discussion, throughout the back and forth, that it may have been used for parking some neighboring vehicles, there is a three-family 123 Grove Street, the two properties have been sold together since the 1950's, but as Attorney Chaplin said, they are not continuant, they are not toughing, it may have been used at some point for extra parking for that 3-family, but to my understanding it is not currently being used.

Member Vathally: The four parking spaces that you are proposing, and yes you only need two, but the four are they going to be used for other properties, or are they specifically for that single-family home?

Attorney Jonathan Stark-Sachs: They are specifically for the single-family home and any visitors they might have.

Member Vathally: There is on street on Grove, it's allowed right

Attorney Jonathan Stark-Sachs: Yes there is on street parking

Member Vathally: Ok, thank you.

Member Soraghan: Looking at the packet Attorney Magliocchetti put together, he said tow of those parking spaces, he got a traffic engineer, he said two of the spaces are too narrow at 9 feet for door swings, the spaces that are adjacent to the fence and the house, so in essence you are providing only two spaces, which are per our codes but you are only providing two spaces

Attorney Jonathan Stark-Sachs: So I don't believe that, that is correct. I think the average parking space is about 8.5 feet wide, or 9 feet wide and that allows for door swings as well

Member Soraghan: When you are up against a building, 9 feet is not enough room. If you are in a parking field like market basket, a 9 foot stall is ok because you can open he doors, but with this proposal I agree with the engineer that the abutter provided the board that two of those spaces are not usable, so you are left with two spaces only.

Attorney Jonathan Stark-Sachs: Certainty you seem convinced, so I wont try to challenge your understanding of it, I wont deny that it may be a little tight, but I think the 10 feet would be adequate to enter and exit a vehicle.

Member Soraghan: I don't know, this guy is a professional engineer, he put together a deposition, that he made this statement. The only reason I bring it up is, you are not providing parking over and above what the zoning code requires, you are only providing two spaces.



Haverhill

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

Attorney Jonathan Stark-Sachs: I understand that, that is convincing to you

Chairman: Other comments or questions

Member Bevilaqua: I just wanted to clarify, is it still the intension of Mr. & Mrs. Casado to live there?

Attorney Jonathan Stark-Sachs: That is my understanding, yes.

Chairman: Other comments or questions? Attorney Magliocchetti do you want to speak for the opposition?

Attorney Paul Maglocchetti (70 Bailey Blvd Haverhill): There has been a lot of back and forth and we are actually into the court case, so there has been a lot of work done on the court case, I trust that you have all read my presentation, so I am not going to redo the entire piece of it. I believe there are questions regarding whether or not this property before you, I understand the opinion of the city attorney, I respectfully disagree, I think that the use matters, I think that the use back when this garage was created is at issue and I believe the current use is not clearly defined. That being said, I still question the building inspectors determination to come before you under 5.3.1. The other argument as I make in my presentation is that when you read a city ordinance, you have to look at it as a whole, which means you look at all of section 5 which means nonconforming uses, but you have to also look at other provisions that state that the city of Haverhill does not allow for use variances and that you need to meet certain requirements to actually obtain a variance and again all those were in documents I provided to the city. That being said I will let my written argument speak for itself, without getting into further detail in those regards, I do believe that 5.4 does apply, because I do believe that they are in fact reducing the reconstruction of the existing nonconformities, because the nonconformity, well it is not clear what the existing nonconformities are, because it is not clear what the current use is and where that use fits within the table of dimensional requirements. Again it kind of relates back to what my preliminary argument was with regard to the uses, you're going to determine what the actually frontage, area and setbacks are, you have to determine what the use, you look at the table and you figure out what those numbers are.

Chairman: Can I interrupt you for a second. When you are saying we don't know what the use is, the use of what?

Attorney Paul Maglocchetti: The current structure, what that is being used for, because

Chairman: We heard that it is currently not being used at all

Attorney Paul Maglocchetti: I am getting there, you are reading my mind. In their petition, their application, they are saying it is a garage, it is being used as a garage, but what does that mean? Back in the 1925 ordinance that they provided in their packet, it says to store a motor vehicle or a horse drawn vehicle, back then. So it was definitely to store vehicles, that was the definition of a garage and that was allegedly why this was constructed. So currently under the code, it say the garage was referenced in two areas, and again it is in my argument, it is either an accessory use to the primary use of the property, so if you had a regular house and you had a garage next to it, the garage would be an accessory use, to that, there is no other building on this, so it can't be an accessory use, we are saying it actually is an accessory use for the three family two lots over and I think if you look at the history of those of us that have lived here forever, and I think the



Haverhill

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

neighbor will testify, it was historically used for parking for the owners of that home, I am going back. For the past few years, I mean even according to their response on the court documents, it really hasn't had a use, they are adamant that they don't use, they are adamant that they don't use it for parking for the house on 123, so it doesn't have a use, if it is a structure without a use, how is it not conforming, it is like how do you determine what detentions apply, that it is nonconforming to.

Chairman: Let me interrupt here for a second. Why does that matter if it is going to be torn down anyway?

Attorney Paul Maglocchetti: Because it matters because if 5.4 applies. If you look at my presentation on page 3, if you look at what I presented on #2, and the applicant did not include 5.4 in what he presented to the board, but I included it, and it says applicant admits section 5.4 which says variance required, and this applies to the earlier section ok, it says accept is provided 5.4 and below, the reconstruction, extension or structural change to the nonconforming structure, which is what is going on here, in such a manner to increases an existing nonconformity or create a new nonconformity, which is what I am alleging right here, including the extension of an exterior wall on the same nonconforming distance within the required yard, shall require the issuance of a variance from the board of appeals, that is not what was applied for here and that reverts back to the original case that we are in land court fighting about, again as I have argued in the land court, with all do respect I feel that the proper, that they have not met the standard required for a variance and that has been argued in the courts. Again when you look at that section of the code as a whole, I don't know how you get around that and again we respectfully disagree with each other in that interoperation, but that is my interpretation of it and I believe it is the one that make the most sense. That being said I will move on and I am going to address, not having addressed our question whether we are properly here with the special permit, there are two other things, well one other thing and I am not sure the answer, I was actually waiting for an update if you give me a second. There is some statutory authority that talks about if the city or municipality takes over a property, which happened here, in the 1950's, I am not sure the dates, I did a lot of research before coming here, I didn't read the whole back title, but we do know in 1957 the deed from the city was one of the prior owners, so at some point between 1930 and 1957, the city took it over and they did whatever with it for however amount of time and then they deeded it back. So the question is when the city took it over, did that abandon the prior conforming use? Because again we couldn't be here if there was no initial conforming use, you can't file under this 5.3 or 5.3.1 and I don't have the total legal answer, but I know what is a legal issue here, so when the city took it over, did it in fact create an abandonment of the conforming use, which them would have made it comply with he new ordinance in 1957, and the building inspector and I just had a very detailed discussion about the 1956 zoning ordnance, and again that is a question that I don't think we really, I just came up with his tonight, and I am trying to say we had a brief discussion about it, so that is another issue that needs to be addressed and clarified, before a final decision should be made in this case. It may go either way, I don't know, I believe that it did create an abandonment, and then you start fresh when it was sold in 1957

Chairman: Who and how do we determine if it created an abandonment?

Attorney Paul Maglocchetti: Well that would be the city attorney who would do the research on it and advise the board, I mean we could let him know, but it does, it is going to take a little bit of research to see if I am right or wrong. Following up on that and this is a lot more intercept than we would come before you with. The other thing is, and I am going to go talk a little about the issue at hand which is, is this use more detrimental than the current use, it is my opinion the court already ruled on this, because there was a motion to dismiss filed in the court case, and in order to overcome that motion to



Haverhill

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

dismiss, you have to show the court that your clients are injured, that there is actual injury to my clients, we successfully demonstrate that. We hired two experts, one traffic expert, to talk about the parking issues that Mr. Soraghan pointed out, the other way we pointed out was we hired an architect to do a shadow study, and I put the decision of the court I included in my packet. The court sighted both factors, saying that they were plausible and we demonstrated it to overcome the standard. So this will be more detrimental, than my clients the neighbors on both sides of this property, so they do not meet the standard for the special permit, I don't know how you can rule otherwise, the court has already ruled on it. Now I am going to address the parking, because he did increase the parking, at least on paper they increased the parking from allegedly two spaces to four. Mr. Soraghan I believe correctly stated as our expert agreed, that the two spaces next to the house aren't really spaces, the reality is and you said it correctly, 9 feet is for when you are in a parking lot and each car is a foot and a half from the lines, when you have two walls on either side, and the easiest way to figure this out is to go there, because the shed is 10 feet from the fence. So anyone here can drive there, park the car between the shed and the fence in the middle and see if you can open your door, I mean it's that simple to actually go and test it out

Chairman: So if we the board ignored the other two spaces

Attorney Paul Maglocchetti: Well hold on one second, now they added a space, you will notice on the back. This property is a cliff, that is another phantom space. They would have to bring in an enormous amount of fill, and there is nothing showing the grades on any of these plans by the way, so I think that is very important to point out, that space to the rear is not a real space, at least currently the way it sits.

Chairman: What about the front two spaces?

Attorney Paul Maglocchetti: There is one front space, two next to the house, and then you have one on the cliff. Even if you fill the cliff to 10 feet, the passenger would be opening their door, to a cliff, I mean they would have to latterly fill in 25-30 feet behind where the house is, in order to make that a legitimate space, so there's really only one actual parking space when you look at the conditions that are there right now, and that does not meet the requirement. Another thing I would like to point out, and I did provide both the affidavits from both the architect and the parking expert and I presented it to the board. The other thing that the parking engineer pointed out, that I think is very important is that the parking tables are there, over 50% of the average homes in Haverhill have 3.4 to 4, they basically have 4 cars per household in a home of this size, so chances are when their daughter gets older, or if they have another child or if another family moves in at some point with 2 or 3 kids, that there are going to be 4 cars, and how is that going to work, because you have Tilton School right across the street, you are going to have cars, and that was one of the issues when the court looked at it as well and what the traffic engineer looked at, and he actually said in his study, you can't discount the fact that it is by a school and there's school traffic in the morning and in the afternoon when the school is coming and going, we are talking about safety of kids here. Think about it, you are there at 7:30 in the morning when the busses are coming and the parents are dropping off their kids, and now you have two people who have to leave for work, and one has to back out so, one has to follow to get out as well, in the mean time you have all this traffic going on, that is a problem, so all of these things are really detrimental to the neighborhood and detrimental to the safety of the students, the young children of those schools. The other thing I would like to point out is I was going to sight some of the paragraphs of the court decision, but I did highlight them and you could read them yourself, you have it there in front of you, but everything I said is right there in black and white according to the court. I am going to end with this because the defendant, we sent in statements of facts, the defendant prepared admissions and denials of some of the statements that we've made, and this is when they had an



Haverhill

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

attorney. The proposed single-family dwelling requires a variance from the dimensional requirements from the zoning ordinance actable to the RH district requirement of minimal lot area of 7,500 square feet and 4,751 square feet admitted. The proposed single-family dwelling requires a variance from the dimensional requirements of the zoning ordinance in a RH district a requirement of minimal frontage from 75 feet to 44 and 10 feet, admitted, they are admitting that they need a variance for this lot. The Haverhill zoning ordinance purpose is to create the general welfare of the city of Haverhill and protect the health and safety of its inhabitants. There is an elementary across the street, admitted, they admitted, the proposed development will over crowd the property, by cramming a residential structure into an undersized lot, it is currently used for parking for tenants of the petitioners multifamily nonconforming property located at 123 Grove Street, a feet made possible by waving multiple requirements, applicable to all other parcels in the RH district. They admitted that the project requires a variance, they denied that the tenants of 123 Grove Street actually park there, they admit the variance and they are denying the use to the property. The proposed development will lead to a relocation of the plaintiffs property of the property value due to the increased density in an already overcrowded neighborhood. Admitted that the project will increase the density of the neighborhood for purposes of this motion. They are admitting that it is going to increase the density of the neighborhood.

Member Vathally: That is the variance though Mr. Maglocchetti, that is pertinent to the variance, correct? You are arguing a special permit right now.

Attorney Paul Maglocchetti: Yes, but these admissions are applicable that this house is more detrimental than the current use, that's why I am only sighting certain ones that effect whether or not the house is more detrimental than the garage. The proposed development of the property will cast shadows on the abutting properties, eliminating sunlight on their side and back yards affidavit of Matthew Juros, again I provided that to you, and I sent you a video of the shadow study, and again he court said that, that is a real impact. They are going to have windows on their house over looking windows on the neighbors houses on both sides, and because the increase height they are going to have reduced sunlight, a lot of reduced sunlight and shadowing throughout the day. My client Robin Martin has lived there all her life and she is going to lose sunlight on that side of the house for almost a whole day and that is a detrimental impact to them, and they admitted it, they admit that the project will affect sunlight as shown in the rendering provided, they didn't deny it. The proposed development eliminates the privacy of the owners at 115 and 107, due to the windows on the side of the proposed home, only 10 feet from the property line. Admitted that the project will be located approximately 10 feet from the property line, abutting the plaintiffs properties and that the proposed home with eh windows facing across from each other, again it is detrimental to my clients the owners on both sides. Of course this is more detrimental than having a garage that has no use right now, they can't even clarify what the use is. And then we get into he driveway, the paved driveway is actually 9 feet, 10 feet total according to their plans and they admit that the driveway is approximately 10 feet with 9 feet of pavement, so again that is very, very tight, and the engineer said you cannot fully open the doors to get out. There are a couple others here that they admitted. I am going to end with this, based on information provided by the plaintiffs the nearby Tilton School may result in temporal increases and on street parking demand along Grove Street, admitted, they admit that there is going to be increased parking demand caused by the school and that this is going to have an impact, so even if you decide or determine that this is properly before you, when you look at the standard whether the development of this house is more detrimental than the existing use, I don't know how you can say that it is not, it just really is stretching what that property can handle. And I ask, when you asked Attorney, their attorney what makes the house less detrimental, there is no clear answer, he is talking about how it improves house in the neighborhood and in the city, well that is fine, but you have to look at its impact on the neighbors and on the street and on the school across the



Haverhill

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

street and it was not addressed, I gave you the answers that were admitted to in a court document. I am going to conclude my statement with that, because I think I addressed all the issues that I need to address, but I believe my clients might want to get up.

Chairman: Thank you very much, if any wishes to come up and speak and then I will give the applicants attorney a chance to come up and rebuttal.

Robin Martin (115 Grove St): I abut the property, I have lived there since I was in second grade. The house is now in my name, both my parents are deceased. I would like to keep the property as it is at zero Grove Street, because I will be impacted by sunlight, the shadowing and loss of privacy, and how would you like to look right in to another house, I have had this property in my family for I don't know how many years because I moved there when I was very young, but I don't think a house should be allowed, the lot is too small and I wish you could understand that. Thank you.

Chairman: Thank you very much. Anyone else want to speak?

Maria Sardin (107 Grove St): My house will be impacte3d by the windows, because I have a kitchen window and two windows in the cellar and one window in the bathroom. In front of the windows the natural light and I but this house 19 years ago and I have a little garden and a backyard. And not this house by the other side the house, in the backyard a neighbor burnt fence, supposably the city engineer checked the wall. There is water in the backyard. In the front yard I have a hard time with parking. Believe me I have no choice, but I don't like to see another house next door in front of my windows. Another thing is, my house is an old house and there are trees and I am not responsible for any damage during demolition or construction. In front of the school, sometimes it is very tough, winter time is the worst time for getaway from the car, the driveway. The street is very impacted with the cars, sometimes they block me in the driveway and I am not able to leave the house when they are picking up or dropping their kids at school. Somebody have to do something. The garage is not usable, because they don't want it to be usable, instead the car is in the street, it is suppose to be put in front of the garage, but sometimes it blocks the driveway. Another thing is, one more house there, my car is there, it is more impact for me and the other neighbors, because winter time sometimes its park on that side and other times its park on the other side. With more cars sometimes there wont be enough space, because everybody, my car is pulled in my driveway, but I have a son come visit me, he don't have a space so he parks in the street, and other people who park on the street aren't able to park their cars when we have snow, because sometimes they put a lot of snow in front of my driveway, I have a hard time leaving the house. That's it, you just consider the best you can.

Chairman: Thank you very much.

Ed Martin (115 Grove Street): I have lived here 30 years now. Mr. Perry, one of the original owners way back when, used to park his car in that driveway, 82 years old, he used to walk over to there. I used to rent the garage, I used to park a trailer on the side of the garage because it was a trailer. Right now that garage is full, there is a contractor, either he is not claiming rent or he is a friend or something, but that thing is packed, the contractor comes takes ladders out, tools, they take furniture out, so that garage is being used for something. When he was claiming before that he spent a lot of money on maintenance and taxes, since he bought the place he hasn't spent a dime there, I have pictures when the lawn used to be mowed over there by Mr. Perry and I swear he is doing this on purpose, just to make it look bad. There has been two



Haverhill

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

papers sent from the health department, that have never got responded to, because there is critters, there is rats and stuff like that. He doesn't care, he just does not care about the City of Haverhill or his tenants.

Chairman: Try and focus on the actual property

Ed Martin (115 Grove Street): Again the house is just not made for that, put in another garage, plain and simple, that's what was put there, it must have been there for some reason. But putting a house in a nonconforming lot, that is totally, totally nonconforming is ridiculous and I don't wish it in anyone else's neighborhood, but maybe you should come and see what it is like on a busy day. The pictures that she is showing now are old pictures, they don't show a lot of the parking issues and stuff like that, that is all old google stuff. The parking I can tell you, it is deplorable. We have cars from Florida living at the house next door, it is just way too many cars for one house. And rumor has it, he's told his tenants not to park over there, rumor has it, why is beyond me.

Chairman: Again I want to focus on the zoning issues we are trying to sort through and not rumors and

Ed Martin: To me the house is just not a good idea

Chairman: OK, thank you very much. Anybody else for opposition? Attorney or your client, you want to get up and address some of these issues?

Attorney Jonathan Stark-Sachs (Johnson & Bornstein LLC 12 Chestnut St, Andover MA): I would first like to point out that a lot of what we have heard from Attorney Magliocchetti was conjectured and some about what may or may not occur on the street, I would say that most of his points on the law were inaccurate, I mean I discussed previously the provision he raised with variances, which applies in the case in which there are increased or a new nonconformities that would be created through the proposal, as I discussed prior, this proposal would actually eliminate the two setback nonconformities and a use nonconformity, and it would not create any new nonconformity, the frontage and lot area are what they are, but they won't be increased if this project goes forward. So variances are not required, Attorney Magliocchetti brought up the proceedings at land court pertinent to the variance that this board previously granted, the ruling that the court was making in that situation was limited to whether the plaintiffs in that case had a standing, which is Attorney Magliocchetti said, a standard of plausibility, whether there is just an initial look that the court does that views the standing as plausible for the case to go forward, there was no final ruling on standing, those issues would remain to be heard or litigated if that case goes forward. He raised some admissions that we made as part of that motion, and for the most part I would say that I disagree with the entesis, but I would stand by those admissions, there will be some changes if the garage is now a single-family home, it will be taller and cast some shadows, which I would also point out, if you look at my first photograph that I provided, which was from late winter of this year, so not incredibly outdated, you can see that there is a large evergreen tree which covers up a large portion of that southern side of 115 Grove Street currently, it has been there for what I assume is many years, so we can only operate on the assumption that the blocking of the sunlight, which existed for a long time is my assumption wasn't viewed as incredibly detrimental to the use of their property or their well being, there was some, the ruling in land court was limited and preliminary and I think is really not particularly piercing and certainly is not definitive to what this court has to decide tonight, it is a completely different legal standing, a variance versus a special permit, the board never looks to question a standing, that is a question completely for courts to look at. Once the board's decision is appealed and that becomes an issue and standing again is a preliminary issue where it



Haverhill

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

doesn't determine the outcome of a case, it just determines whether the court will hear the appeal, and in those cases, the court would still defer to the board in its decision that it made, and have a preference to uphold it on the merits as opposed to this preliminary jurisdictional question. I think there has been a lot said about parking, I mean we are trying to listen to the concerns of the neighbors here, which is one of the reasons we wanted to at least provide what we view as additional parking on the lot, there have been some statements about whether that would really be adequate to open the door, but I would submit what they are describing there as an inconvenience to the owners of the property, but is not necessarily harmful to the neighborhood at large. I would say as to some of the other concerns raised about privacy and other things that this is a densely settled neighborhood, people have windows facing each other with their neighbors and that is not always a huge issue, I imagine that the Casados would respect their neighbors privacy as anyone would expect their neighbors to do. There was some speculation about the effect of the cities taking of this piece of property in the 1950's, I would say on that point, that when the city owned the property that if it wanted to eliminate it may have also been a nonconforming use, this single free standing garage, it would have had the power to demolish that structure before they sold it to the next owner, so I don't see how that can be viewed as abandonment, it appears that it has been intermittently used throughout the years as working and I wouldn't dispute that, but I guess my point is it would not meaningfully reduce the amount of parking for the neighborhood if the garage was eliminated and adequate off street parking for the single family home was provided. I would say that also the idea that my clients would endanger the school children across the street is quite the accusation and I assume they as with everyone else would be very careful at school times coming in and out of their property, to look at the cars coming and going and shouldering and taking every duke care that they could. As to the ultimate question before the board tonight on whether this change would be substantial to a more detrimental than the current use, I would say that the reason this mechanism exists to the state and to at the local level, is to recognize that there are greater rights and lots in which have already been built on, and to modify the use of those lots, than a vacant lot which don't always require a variance, this is an alternative mechanism specifically for those types of situations, which is what we have here, so it is not a case of you always need a variance or don't need a variance in these situations, this is an alternative relief that is available to my clients and notwithstanding and that is it, there is no legal mechanism that would prevent us from coming back before the board. And then lastly, there has been some questions raised about the state of the garage and its maintenance, but I would say that if anything, that supports the idea that eliminating this old garage use, which really has no reason for the owner to really invest in it or maintain it into a single-family home, which the owner would then live in and have the incentive to maintain, be invested in the neighborhood, to be concerned about the wellbeing of the other residents and to put this piece of property into productive use, it certainly is not substantially more detrimental.

Chairman: Thank you very much. Any closing questions or responses from the board members?

Attorney Magliocchetti: I did not mean to suggest that them or anyone would intentionally hurt children at heart, so please that was not my intention, that was merely pointing out the fact that this kind of a project in this location will inherit or create that problem. I just wanted to make that clear.

Chairman: Thank you, I appreciate that. I assume all the neighbors that are close to the school are used to being careful about that. Entertain a motion

Member Vathally: I make a motion to accept the application for 0 Grove Street



Haverhill

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

Member Soraghan: Second

Member Soraghan: I'm going to vote no, I don't feel this project meets the requirements of approval of the Haverhill zoning code 255.10.4.2 and I think the permit would be more detrimental than the existing structure. My opinion is based upon the expert testimony and information provided by the abutters, I give that a lot of weight, specifically the traffic study, the parking study and the shadow study, I think they showed the detriment.

Member Vathally: I am voting yes, I feel it meets the criteria, the six criteria of 255-10.4.2

Member Bevilaqua: Yes, I believe it meets the criteria 255-10.4.2, I have driven by that property I thought 30 times, but I think it's 100 times, a 1400 square foot house will fit on that lot, it will be lovely house, what is there now is an eyesore, this is what we should be doing in Haverhill.

Member Matias: I say yes, it meets 255.10.4.2

Chairman: I also vote yes. I agree with what Member Bevilaqua just said, an old run-down garage is an eyesore and a potential for all different kinds of problems. It is a small lot, but it is a small house that is being proposed there, and I appreciate the concerns of the neighbors but we need housing, we need to improve our neighborhoods, and I am hoping that we have a good house there, that will meet some of those needs, so as chairperson I also vote in favor. So we have a vote of 4 yeses and one no and two absences, so it is granted.

The board voted to approve the meeting minutes from the October 15, 2025 meeting (all members approved)