



# 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, November 17, 2021 at 7:00 P.M.

Those Present: Chairman George Moriarty  
Member Theodore Vathally  
Member Ron LaPlume  
Member Lynda Brown  
Member Louise Bevilacqua

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

Chairman Moriarty called the meeting in to order on November 17, 2021

## **Bradford Unlimited Corp. for 815 Hilldale Avenue (Map 585, Block 430, Lot 1A)**

Applicant seeks dimensional variances to create two new building lots and construct two new single-family dwellings in a RM zone. Requested variances for new Lot 69 include lot area (11,874 sf where 20,000 sf is required), lot frontage (86 ft where 150 ft is required), and lot width (90.7 ft where 112.5 ft is required). Requested variances for new Lot 71 include lot area (11,201 sf where 20,000 sf is required), lot frontage (86 ft where 150 ft is required), and lot width (91.5 ft where 112.5 ft is required). BOA-21-35

**CONTINUED TILL JANUARY 19, 2022**

Attorney Russell Channen: We are here to ask to continue our previously filed variance application from tonight's date to January 19, 2022 and also to waive the time limitations. After the last hearing my clients as well as the owner has worked with the neighbors to address their concerns and we are expecting to file a revised plan that will hopefully address some of the concerns the board had made at the initial hearing, we need a little bit more time to do so.

Chairman: Ok to continue to the January 19, 2022 meeting. Entertain a motion

Member Vathally: I make a motion to continue the application, give extension waiving the time limits for 815 Hilldale Avenue to the January 19, 2022 meeting ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes  
Member Brown: Yes  
Member LaPlume: Yes  
Member Bevilacqua: Yes  
Chairman: Yes  
\*Granted 5-0



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## **David Adamo for 40 Brown Street (map 422, Block 151, Lot 16)**

Applicant seeks extension of variance for 6 months

**GRANTED 5-0**

Donna Knight (40 Brown St Haverhill): I have a letter there that I would like to submit. We are seeking an extension due to COVID. When we started with the project and had them come out to do all the assessments of what the project was going to be, the project exceeded our budget. So, between the budget and COVID, the cost of labor and materials, and then with the professions that we are in, our jobs were very demanding because of the COVID, we are both in the medical field and so we just didn't have the time to dedicate to the job at this time. So now that things have quieted down, we have scaled back a little bit in regards to the cost and now we have time to dedicate to the project, but we have run out of time with the decision of being granted to do the project and we are seeking a 6 month extension. We are actually getting underway with it, we have someone coming out to start cutting down the trees, so we are starting to get underway with the project.

Chairman: Great thank you. Any questions from the board? I will entertain a motion

Member Vathally: I make a motion to approve the extension of the variance for 40 Brown Street, for 6 months...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman: Yes

\*Granted 5-0

## **Robert Ferreira for 0 Scotland Hill (Map 589, Block 420, Lot 3)**

Applicant seeks a dimensional variance for 0 ft lot frontage where 200 ft is required to construct a single-family dwelling in a RR zone. BOA-21-39)

**GRANTED 5-0**

Attorney Paul Magliocchetti (70 Bailey Blvd Haverhill): I am representing Robert Ferreira who wishes to construct a single family home on property he owns of Snow Road. So, we were here last month, and the matter was continued, there was an issue with regard to the use of the right of way and the ownership of the right of way. Since that time, we have entered into an agreement with our abutter Mr. Michael Crow and his partner, we have agreed to purchase the land underneath, so based on that we are still seeking a frontage variance so the reason we are here is still the same, it is just where the variance is the dimensions are a little bit different. In this neighborhood in Haverhill the required frontage is 200 feet for a buildable lot, in this particular neighborhood because it is a cluster development it is a 75 foot frontage, so we only have 50 feet of frontage based on the width of the right of way, so we are seeking a variance for 50 feet of frontage where the 200 or 75 feet is required depending on how you view it. That is the reason we are here this evening; I will answer any questions you have. I have revised the brief accordingly we meet all the requirements for a variance in this case, and the only other thing I would like to point out and I would like to stress, is this right of way was intentionally put in there by the city to allow access to this road, so this makes this a rear situation and I think it was everyone's intent that my client be



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allowed to build on this site utilizing the right way, I think that is a very important point I would like to make to the board. Thank you very much, that is all I have to say right now.

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

Member LaPlume: I know it is going to go to the site plan review, but do you know the length of the driveway is going to be?

Mr. Ferreira: 300 feet

Attorney Paul Magliocchetti: It is about 300 feet, so it is in the required limits. The ordinance calls out for driveways in subdivisions, but not for a single family like this, because this isn't technically part of the subdivision, so the ordinance doesn't have a specific plan.

Member LaPlume: I was just wondering what the length was

Tom Bridgewater: It's all regs that the fire department will go over, but it is pretty level going in.

Attorney Paul Magliocchetti: And they are going to require some turnarounds as well. We actually already met and discussed some of those issues

Chairman: Other questions or comments from the board? Anyone from the public want to speak?

Michael Crow (6 Mechanic Street, Kennebunkport ME): I am the owner of the property in question and the developer of the property at Snow Road, we were here before. What they proposed I am in favor of obviously as I have entered into an agreement to allow them to own this property. I don't know if you condition variances under the assumption that you grant it, in terms of this is obviously conditioned in my mind is if they complete the purchase of the property from me. The only thing I would like to ask, and I don't know if it can be enforced or not it that work not be conducted on this property until they have an approved site plan review from the city, which is pretty normal, because the neighborhood that we built and established the final pavement went down two days ago, there is new curbing and sidewalks, and they are going to have to interrupt all of that, I just assume that it would be only right that they do work based on a site plan review. There are potential drainage issues on this right of way that could affect the neighboring property. I am support of doing this, I think it is for the good of the neighborhood and the best impact at this point, and if they ever decide to do anything further, they will have to come back to a full planning board. I think everyone's interests are protected on this.

Chairman: Thank you very much. Attorney do you want to comment on that.

Attorney Paul Magliocchetti: With regard to the conditions, I don't think the conditions are necessary for the variance, for the following reasons. #1 if we don't go ahead with the purchase and sale, this variance fails, because we are asking you for 50 feet of frontage on Snow Road based on owning this property, so if we don't purchase it we don't have a variance, so I don't think that condition is necessary. With regards to the site plan review, even the building inspector can comment,



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you can't get a building permit without going to site plan review. So both the things you said are material, but they have to happen in their natural course, so there is no need to put any additional conditions on it.

Chairman: You are agreeing with both of them though, right?

Attorney Paul Magliocchetti: Yes, we have to comply with both.

Tom Bridgewater: I spoke with the city solicitor today and he said exactly what Paul is saying.

Chairman: Any other comments or questions?

Michael Crow: I guess the only thing is, that work has been going on, on site. I think I mentioned previously about cutting of trees and I just want to make sure that it either stopes, it is an issue.

Robert Ferreira (32 Winfield Ct): I live in Haverhill, I have done some work out there probably 2 months ago, and work has ceased, and I haven't cut a tree in at least 2 or 3 months. I was advised by my attorney to use the right of way for it's intended purpose and my purpose to be able to access my property. I brought a couple of trailers in there before the curbing was up. I have not gone over or up the curbing since it has been done. But when it was flat and had no curbing I went in, I moved boulders because if I didn't the boulders would still be there. I stored some of my trailers, because I sold my house as I told you at the last meeting, and I had no storage, I couldn't afford storage. I have 15 acres so I asked my attorney said just to use it, and if they tell you you can't use it, we will address that. I order to get there; I have to cut down a could of trees and move several boulders and it took a lot of work.

Chairman: You have intention of cutting anymore trees?

Robert Ferreira: No, the trees I needed to cut are cut. I have cameras on my property because I have my equipment and personal property out there. His partner has been on my property, I saw him on video, he tore down my no trespassing signs, so I really don't want to get into a beef about this, ok. I just want to build a house, that is all.

Chairman: Thank you. It sounds like all 3 conditions are being met, there will no longer be anymore work done on the property, and the purchase and sale agreement has to go through

Attorney Paul Magliocchetti: The only issue about the work is on the right of way. But considering this time of year and we are going to close on this very soon. If we get this approved right now, the next step is for us to get a frontage waiver from the planning board and then this will be complete and as soon as the frontage waiver is granted and the appeal period is gone, we are then going to close with Mr. Crow and his partner. Isn't that correct Mr. Crow

Mike Crow: Yes

Attorney Paul Magliocchetti: So that is the agreement.



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Member LaPlume: And once you close, Site Plan review

Tom Bridgewater: Developmental review

Attorney Paul Magliocchetti: Absolutely developmental review. And like I said we have been there and talked to them about some of the issues

Chairman: Anymore comments or questions from the board? Or anybody? Ok entertain a motion.

Member Vathally: I make a motion to approve the variance for Scotland Hill ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes because now it satisfies 255-10.2.2(2)

Member Brown: Yes

Member LaPlume: Yes it meets the requirements for 255-10.2.2(2)

Member Bevilacqua: Yes

Chairman: Yes also sighting 255-10.2.2(2) and noting specifically that would create a substantial hardship, it would actually make the property landlocked if we weren't able to move forward with the variance.

\*Granted 5-0

## **John and Lisa Guerin for 26 Leroy Ave (Map 718, Block 667, Lot 11)**

Applicant seeks a dimensional variance for rear setback of 28.8 ft where is 30 ft is required to construct a three-season sun/screen room upon existing rear deck footprint of a single-family dwelling in a RH zone. BOA-21-41

**GRANTED 5-0**

John Guerin (26 Leroy Ave): I'm here with Lisa, we are seeking a dimensional variance 14'teenth of an inch rear yard setback which never occurred to us as we began this project, because we have an existing deck, we are building a sunroom, basically for Linda. And to build out the lower portion of our house. So, as we began this project in April, we were moving along fairly well. Everyone in the city has been very professional and very polit and because of the COVID and the lack of face to face interaction it's been a bit of a slog, but this is why we are here tonight. It never appeared to us that we needed a variance, so we would rather do it this way with the variance rather than reconfigure the project at another great expense to do that and number 2 it wouldn't fit on the deck. So, we are playing ourselves at the mercy of this board.

Chairman: Thank you, any comments, or questions from the board? Then I will entertain a motion.

Member Vathally: I make a motion to approve the variance for 26 Leroy Ave ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes as it satisfies 255-10.2.2(2)

Member Brown: Yes

Member LaPlume: Yes it meets the requirements for 255-10.2.2(2)

Member Bevilacqua: Yes it satisfies the criteria of 255-10.2.2(2)



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Chairman: Yes also sighting 255.10.2.2(2) and specifically it does not cause any substantial detriment to the public good  
\*Granted 5-0

## **Zach Cooper for 36 Oakland Ave (Map 633, Block 7, Lots 153-157)**

Applicant seeks a dimensional variance for front yard setback of 16.61 ft where 25 ft is required to construct a farmers porch onto the front of a single-family dwelling in a RM zone. BOA-21-42

**GRANTED 5-0**

Zach Cooper (36 Oakland Ave): My wife and I are looking to put on a porch on the front of the house. We are currently looking for a 8 foot variance its 16.61, currently we are physically 50 feet from the road, the road currently is 11 feet wide, but from the edge of the road to my house is actually 50 feet. Even if we put on that porch we are still going to be well within that 25 feet. Oakland Ave itself is actually a dead end street, at the end of our street there's currently 3 houses, which I believe is Fairlawn Ave, there are paper streets on the other side but there is a lot of wetlands on each side of the road, so I don't see that there is going to be any substantial need to widen the street anytime soon. The adjacent street to it which is Fairlawn Ave which I would consider more of a two-way street if you will, as mine is only one-way at 11 feet, that one is about 18 feet, so even if they decide to widen the road for some reason, even if they decided to just do it on my side that is going to be another 8 feet in, I'm still 42 feet from the edge of my house, take off the 8 feet for the porch and I'm 36 feet from the house from the edge of the porch to the road.

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

Member Vathally: I make a motion to approve the variance for 36 Oakland Ave ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes as it satisfies the requirements for 255-10.2.2(2)

Member Brown: Yes as it satisfies 255-10.2.2(2)

Member LaPlume: Yes it meets the requirements for 255-10.2.2(2)

Member Bevilacqua: Yes it satisfies the criteria of 255-10.2.2(2)

Chairman: Yes also sighting 255.10.2.2(2) and again it is done without any substantial detriment to the public good

\*Granted 5-0

## **Broadway Realty Trust LLC for 653 Broadway (Map 548. Block 1, Lots 29, 30, 31, 32, 33)**

Applicant seeks Special Permit to determine that proposed extension of existing non-conforming use (restaurant) shall not be substantially more detrimental than the existing nonconforming use to the neighborhood in a RM zone. The restaurant is located in RM and CN zones. BOA-21-43

**GRANTED 5-0**

David Raygor (Defy Architect): I am the architect for the Grill Next Door 651 Broadway. The project is, it is currently a restaurant in a residential zone, it was approved back in 2009 to be a restaurant. We are looking at taking the second floor, which is an apartment right now, taking that off and expanding the restaurant to the second floor.

Chairman: Is the apartment on the right hand side or is it the entire top floor?





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David Raygor (Defy Architect): There is a couple of apartments but it's the left hand side.

Chairman: The other apartments are going to stay?

David Raygor (Defy Architect): Yes

Chairman: Comments from the board? What is the seating capacity going to be

David Raygor (Defy Architect): So, it is going to go up to 180 total.

Chairman: In that part of it?

David Raygor (Defy Architect): That part alone is adding like 90 seats I believe.

Chairman: The 2 other apartments are going to stay remaining? And how does it affect those 2 apartments?

David Raygor (Defy Architect): Yes. It is completely separate, and they are owner occupied, they are above the One Stop which is next door and then we have a complete separation where the restaurant is.

Member LaPlume: The building inspect already gone over parking?

Tom Bridgewater: We already went over parking, and it has enough.

Chairman: Any other changes other than just expanding the space?

David Raygor (Defy Architect): No, the only other main change which you can see on the site plan is the apartment sits directly on top of the current restaurant, and we are going to be extending out another 5 feet in the back, but it is still within all of the setbacks.

Member LaPlume: The parking along the front is that you're parking or the city.

David Raygor (Defy Architect): They gave us 12 spaces. They kind of redirected the road, we had parking across

Susan Garland (President of The Grill Next door and one of the owners of 651 Broadway): When they redid the road on 97 they moved the road over and then we gained 12 spaces in our parking lot. They kind of redirected the road, we had parking across the street, so instead of us losing the parking across the street, they kind of moved the road of 97 over so that we gained the spaces in our parking lot. So now when we repaved it last year, we repaved the whole parking lot and we have exactly 100 parking spaces in the whole parking lot.

Chairman: When you regained that land, how did you regain it, was it sold to you or was it just



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Susan Garland: No, it was given to us by the state, it was gifted to us by the state.

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

Member Vathally: I make a motion to approve the Special Permit for 653 Broadway ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes as it satisfies 255-10.4.2

Member Brown: Yes as it satisfies 255-10.4.2

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

Member Bevilacqua: Yes it satisfies the criteria for a special permit 255-10.4.2

Chairman: Yes also sighting 255.10.4.2 and notes that the proposed extension of a nonconforming building will not be more detrimental to the public good than the existing nonconforming building and the general conditions are met

\*Granted 5-0

**Minutes:** Motion made by Member Vathally; I accept the meeting minutes from October 20, 2021 2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes

Approved 5-0