



# 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, December 18, 2024 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  
Assoc. Member Magdiel Matias

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

Chairman Moriarty called the meeting in to order on December 18, 2024

**Evelyn P. De Colon for 43 Jackson Street (Map 513, block 284, lot 7)**

Prior to filing for a Special Permit for Multifamily Dwelling with City Council, Applicant seeks the following dimensional variances for reconstruction of dilapidated rear section of structure to convert existing two-family dwelling into a three-family dwelling in a RU zone. Requested relief includes variances for lot area (7,535.9 sf where 11,700 sf is required), lot frontage (59.47 ft where 80 ft is required), side setback (2 ft where 10 ft is required), and open space (25.45% where 40% is minimum). (BOA 24-32)

Marcos (Engineer): Our proposal consists of a conversion from a two to a three-family in a district that allows three-families, however we are before you because we had preformed some alterations to the existing, we demolished and existing structure in the back, it wasn't safe, and the proposal is to rebuild it, actually it was started, and there was some misunderstanding at the job, and that is why we are here before you. The purpose as I said is there is two existing units, and we wish to convert it to three units, the structure in the back and it will have a new foundation according to the code and as the fire department suggested we are going to provide a sprinkler system in order to confiscate for this addition, which means that we are actually beyond the threshold for safety, that is why we are in compliance or in agreement with that suggestion to provide the fire protection to the third unit. We have a zoning density schedule that indicates the differences that we have between the existing allowable bylaw required and the existing where we need 11,7000 and we have 7,535.9 square feet, and the minimum frontage is 80 and we have 60, but that is existing, open space you need 40 and we have 25.45 which is existing, our main challenge is in the back where we are close to the neighbor, that is why we prepared a new site plan. We feel that we have plenty of space to accommodate the six parking spaces, the open space, the lot coverage are basically similar to the existing, if there has been any change it is minimal. The purpose of the conversion is the main reason why we are before you, so we are respectfully, gratefully request the approval of this partition.

Chairman: What was the dilapidated building demolished?

Marcos: It was



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Chairman: When was it taken down and demolished?

Marcos: Like a year ago ruffly, and then we started with a new foundation, it existed already but was in very bad shape

Chairman: The connection would be addressing some of those other issues. Questions or comments from the board?

Member Vathally: I am just curious, why you didn't pull any, did you pull some permits before you took the building down? Because it would have been easier to just construct it in the same footprint.

Marcos: We had a misunderstanding, the contractor and I decided at the beginning we projected just a replacement of the rotten wood, but the contractor removed everything, the carpenter removed everything and then we needed to rebuild the footing, it was in very bad shape.

Member Vathally: You went ahead and put the foundation in.

Marcos: Yes

Member Vathally: With an engineered plan?

Marcos: Yes

Tom Bridgewater: So there was a permit pulled issued July 19, 2023 for renovation of two units, including rear porch, one of our inspectors went out there to check it out and found out the building was demolished and removed, and there was a new foundation in its place, so there was a stop work order put on it and here we are now.

Chairman: I am concerned there was no permit pulled to demolish the building, and no permit pulled to put in the new foundation, so those are two concerns obviously, I am not saying it derails the application, but it is a concern. Obviously we have a permitting process in place and we expect it to be followed, that is not the boards purview, it falls under the building commissioner and certainly under developmental review. We recognize the need for more housing and again in a neighborhood that needs more housing, that would be helpful, also it is a neighborhood where any improvements up there is always good, to help with that area.

Member Soraghan: I am going to support the proposal, but I have a question for you, you have a 2 foot setback between the property line and your proposed structure, it would have been the opportunity time to kick it over and give yourself some room on the other side of the house, I mean I can understand why you kept the same footprint, but I would have supported it more if you had offset it six feet, with a 2 foot setback, you can't even put the siding on that house without

Tom Bridgewater: So when a building is that close to the lot line, basically on the plan it shows bedrooms on that side with windows, being that close the building code is not going to allow any openings on that side, so that floor plan needs to get changed, and that whole wall has to be noncombustible. The plan needs to be changed, all this stuff is building code stuff, if approved, and this is why it is a variance and not a special permit, because they tore it down, there is nothing there, so basically, they are starting new. This is step one, if approved you also have to go to city council for a special permit, and



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then if they approve it then you have to go to developmental review and all of the building code stuff that needs to be on the plans or changed will be worked out there. Also if approved, I am going to request a structural engineer, because there is certain things in the building code that block foundation, the width of the footing and all that, with the soil conditions and two-stories, the type of concrete needs to be a certain requirement, so I am going to need an engineer to write me a letter, hopefully we have pictures, if the builder took pictures, is there a key weight in there, is there steel in there, we are going to need that information, if approved.

Marcos: Understood

Tom Bridgewater: This is just step one.

Chairman: As I mentioned, there is a lot of questions here, and as Member Soraghan said we would like to support this, but fortunately there is developmental review and city council after us, and the commissioner certainly has a list of concerns that he wants to address, he is taking on the response part of his job is to address all of those concerns during his review, and also during developmental review, so there is a lot of things we wish were a bit different on this, it would have made it a lot easier on us to work with it, but it is what it is. Any other comments or questions from the board?

Member Brown: Can we talk a little bit about what happens now with parking, because I know you have the house in the back on the other side, so how do you do that, are they parked tandem behind each other, how does that work, and how many apartments are in the other houses?

Marcos: First of all, I apologize for the misunderstanding that I had with the carpenter, that created all of this situation, if he had told me that I would have changed the permit application

Tom B: I would have sent you for a special permit.

Marcos: Exactly.

Tom B: If you came to me and said it wasn't structurally safe, I would have given you a letter and we would have taken a different path.

Marcos: Exactly.

Tom B: I understand things happen, we just need to know about it

Marcos: Our apologies to everybody. Board member, your questions regarding to the parking spaces, contrary to the left side I have that wall too close to the property line, the other side it totally different, we have ample space, we provide enough space.

Chairman: Great. Any other questions?



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Tom B: On the plan it shows two foot from the property line, if approved I am going to want an as-built on that, to make sure it is two feet which you proposed, if it comes back that it is less than two feet, you will be back here, if it comes back that it is more than two feet than you can move on to city council

Marcos: We are going to make sure that we are going to be hiring a local land surveyor, to prepare an as-built

Tom B: That will be the first thing, if this is approved.

Marcos: Definitely.

Chairman: Is there anybody in the audience that wants to speak either in favor or against this proposal?

Member Bevilaqua: Actually, I don't have a issue, I think anything that improves that neighborhood and housing is needed, I think that it's a good project, but I do have a problem with that 8% of that side setback, that is only one fifth of what it should be, all of the other numbers I think are appropriate but that 2 feet where 10 feet are required that is very little, is there no way you could shift it?

Marcos: That would be a scenario of the condition made, we will comply with it, we can move the wall if that is the case. It is up to you, you can put that condition and we will comply.

Member: If it were more than two feet

Member Brown: Tom mentioned that is would have to be no access or windows or anything on that side anyway.

Member: noncombustible

Tom B: That would have to be, that is building code

Chairman: Any other comments or questions? I'll entertain a motion.

Member Vathally: I make a motion to, but before I do Commissioner do we have to put the cavoite in the motion about the certified plot plan?

Tom B: I would that is part of zoning, absolutely yeah.

Member Vathally: But that is part of developmental review, but we should put that in there?

Tom B: Before it goes any further

Matt H: The as-built?

Tom B: Absolutely.



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Member Vathally: I would like to make a motion to accept the application for 43 Jackson Street, with a provision that a certified plot plan of the foundation regarding the setback be approved by the building commissioner

Member Soraghan: Second

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

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

Member Soraghan: Yes it satisfies zoning criteria 255.10.2.2(2)

Member Bevilaqua: Yes it satisfies zoning criteria 255.10.2.2(2)

Chairman: Yes, also noting it satisfies criteria 255-10.2.2(2)

## **Haverhill Developers LLC for 895 Boston Road (Map 754, block 2, lot 20)**

Applicant seeks a dimensional variance for a freestanding monument sign in a BRPRD zone. Requested relief sought for front sign setback (1 ft where 12.5 ft is required). (BOA 24-34)

Kurt Chillington (With Prinhton Properties out of Lowell MA): I am representing Prinhton Developers LLC the apartment community at 895 Boston Road, former DiBurro's site, we are building a large home family project, and we are looking for a setback variance for a monument sign on 125. The issue with the sign is it is a state highway and the right of way is very far back from the road, the land goes up over a berm very, very high, into the property line and then back down aggressively, we have a retaining wall there, there is really no way for the sign to be seen if we moved it in, it would be down below the visible site line from 125. I think we wrote a pretty detailed narrative, we sort of explained all of the reasons and the setbacks.

Chairman: And although it says one foot, it actually where you are putting it is

Kurt Chillington (With Prinhton Properties out of Lowell MA): It is consistent with the other sign that is already out there.

Chairman: Exactly:

Kurt Chillington (With Prinhton Properties out of Lowell MA): 50 Feet from the road

Chairman: So it is really, technically only one foot, but when you look at where it is going to be, it is actually going to be much further back

Kurt Chillington (With Prinhton Properties out of Lowell MA): Correct and it is in line with the Cederdale sign and the DiBurro's sign, and the bank sign down the road, they are all right at the setback line

Chairman: Comments or questions from the board? Anyone in the audience that wants to address this at all

David DiBurro: The only question I have it, they say the front sign, but that is a back sign, the front of the building is on Boston Road. I don't know why the sign is right next to my sign, that is my only issue



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Kurt Chillington: It meets the setback with your property line

David DiBurro: I get that, but it is 6 feet rom my sign

Kurt Chillington: It is more than 6 feet, it meets the setback of 15 feet or whatever is required.

David DiBurro: I get that, but there is an emergency access into that development on the back side, where they want to put their sign. I don't know if that is going to confuse people, that they enter through my property into their lot, which will have a gate.

Kurt Chillington: It is probably 25 feet down from your sign

David: But they have 350 feet of frontage and they put it 6 feet from my sign

Kurt: That's not

Member Brown: Are you asking Mr. DiBurro, to move their sign a little further

Daid D: Well it should be down there, near the intersection, you know what I mean, they have to take Boston Road to get into their property.

Kurt: We have a sign on Boston Road as well.

David DE: But you want to go on 125, so why wouldn't it be down near the lights to direct them onto Boston Road, instead of up near mine.

Chairman: It feels like it is a marketing issue, how do you promote knowledge for business and I think the idea of having a sign someplace along there, which is really setback further than the one foot, is the issue we would be most concerned about, so

David DiBurro: Yea I don't have a problem with the setback, I just don't know why it was so close

Chairman: I appreciate your concern, I am wondering if that is something the two of you could work out

Kurt: And we will meet the required setback whatever the ordinance sides

David DiBurro: I just don't know why its so close

Chairman: Maybe the two of you can have that conversation, why is it so close and

Kurt: There is a retaining wall all around the inside , that is the only bermed area



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David: Well they have that intersection down below, where they can put that sign, to direct them onto Boston Road

Chairman: That is something the two of you I hope could work out.

David: oh Ok, no problem. I don't have a problem with the sign, I don't have a problem with the setback

Chairman: I appreciate everything

Member Soraghan: In your narrative you said you are not sure whether you fall with the commercial or the residential code.

Kurt: Correct, so we talked with Tom Bridgewater and he considered it a CH zone for setback

Member Soraghan: I was going to say, use the more restrictive setback

Kurt: The least we could use was a CH

Member Soraghan: Ok

Chairman: OK, any other comments or questions. Entertain a motion

Member Vathally: I make a motion to accept the application for 895 Boston Road

Member Soraghan: 2<sup>nd</sup>

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

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

Member Soraghan: Yes it meets zoning criteria 255.10.2.2(2)

Member Bevilaqua: Yes it meets zoning criteria 255.10.2.2(2)

Chairman: Yes, also noting it satisfies criteria 255-10.2.2(2)

## **Bradford Unlimited Corp for 13 Westland Terrace (Map 448, block 2, lot 10)**

Applicant seeks the following dimensional variance to create a new building lot for the construction of a new single-family dwelling in a RM zone. Proposed new Lot 10A shall be a conforming lot that shall include the proposed single-family dwelling. Proposed new Lot 10 shall include the existing single-family dwelling. Requested relief for new Lot 10 sought for lot area 19,162 sf where 20,000 sf is required). (BOA 24-35)

Attorney Russell Channing (Kenoza Rd, Haverhill): I am here with Steve Defeo on behalf of Bradford Unlimited Corp, which is the applicant for the requested variance. I have previously uploaded a letter from a neighbor in support of the petition, Mr. Defeo has also obtained a signature approval, which I wasn't able to upload, If I could submit that as part of the application.



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Chairman: I will note, that we did receive it, I will just read the first line. The reasons for communication is to express our 100% support for the above variance and it is from a resident living on 25 Westland Ter. And then there are about 10 signatures in support.

Attorney Russell Channing: Briefly, this is a request for a variance for less than 5% of area. Right now the house at 13 Westland Ter, which I indicated in my brief has been owned by the Kenyon family since 1963, the property has been in a dilapidated condition for a number of years, in fact as I indicated in the brief the power has been shut off for quite some time since spring of 2023 there has been no power to the property. I also submitted a copy of a photo of the area, and my offices are on Kenoza, and until MR. Defeo mentioned it to me, I would drive by there not even realizing that there was land there, because it is so overgrown, but what basically this application would do, is it would allow for a creation of a new lot that would meet all current zoning requirements, proper frontage, proper area, what we are asking to do, is have the remainder lot that being t, he existing property would need frontage, but it would have roughly 19,162 sf where 20,000 sf is required, my calculations had it at 95% something percentage as far as the square feet is concerned. We believe that under these circumstances where by allowing this to go forward would allow the existing property to basically come back to life again, to allow the property to go back and fix it up and create a new home on that area in question, it is an appropriate use, it is good for that area, it is good for the city and as you can see Mr. Defeo as he does with most of his properties, he canvases the area speaks with everyone and he did not find anyone who was opposed to this project, it clearly takes an eyesore from the area and brings it back to life again. So for all of those reasons, and again I am here to answer any questions, but for all those reasons we believe that this is a good project for the city and we would ask for the board's approval.

Chairman: Thank you. Any comments or questions from the board? Anybody in the audience who wishes to speak in support or opposed? Entertain a motion

Member Vathally: I make a motion to accept the application for 13 Westland Terrace

Member Soraghan: 2<sup>nd</sup>

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

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

Member Soraghan: Yes it meets zoning criteria 255.10.2.2(2)

Member Bevilaqua: Yes it meets zoning criteria 255.10.2.2(2)

Chairman: Yes, also noting it satisfies criteria 255-10.2.2(2) Also noting it improves that junction of the area.

## **Kelly Simard for 44 Mount Dustin Avenue (Map 527, block 8, lot 84)**

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 partial second floor onto the existing structure in a RH zone. (BOA 24-36)

Caitlin Masys (Downey Law Group 345 Main St Haverhill): I am here today representing the owner and applicant Kelly Simard, she was not able to attend this meeting, but if there are any questions I am familiar enough with the project, I should be able to answer anything that may come up. It is unfortunate that Mr. Bridgewater was called away cause I think



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his input could have been useful for this. Essentially there was some disagreement among the building commissioners with interpenetration with language and the end result was they thought it best to have a missamard come to the board and seek a special permit. SO there is an existing one story house at 44 mt Dustin Avenue, she is not looking to expand the footprint at all, she is just looking to add an additional story to the top, so nothing will change in regards to setbacks or coverage or area or anything, she is just building up, but building up technically is an alteration or extension of the building, so in order to allow for a building permit to be issued, we need the boards approval of a special permit, where the board finds that the proposed alterations are not substantially more detrimental to the existing conditions. AS I stated the footprint of the building is not being changed whatsoever, it is just being added upon on top. The setback in question is 15.1 feet from Hannover Street, there is a quirk in the zoning code about corner lots and side setbacks, the setbacks from the street on both sides have to be equal to the front setback, so technically there should be 20 feet, a 20 foot setback from the corner to Hannover Street, right now it is 15.1 and that is preexisting nonconforming. In all other respects everything is preexisting nonconforming and there is nothing that needs to be addressed. The reason why the proposed addition is not substantially more detrimental is the conversation I had with the building commissioner, his example was if you put a second story on, now you are above, you can look down on your neighbors, look into people's yards and that sort of thing, its not an issue here as the side setback is to Hannover Street, so you are 5 feet closer to the street not to a neighbor, not to someone's bedroom, not to someone's front yard, backyard, side yard, you are simply 5 feet close to the street. So I don't believe adding a second floor would propose any detriment to the neighborhood. The other setbacks they are 39 feet from the rear so you are not going to be looking into someone else's yard there. They meet the requirements for 020 feet from Mt Dustin and 10 feet on the side to the neighbors. I believe Miss Simard did upload some signatures in support of this application, there should have been 4 or 5 signatures of immediate neighbors who were in support of the issuance of this special permit. If I am not mistaken, I believe there are some neighbors here who would like to speak in support.

Chairman: Sure, and the purpose of the addition of the second floor is just to expand space for the

Attorney Masys: Yes, so Miss Simard is a Sigle mother of twin girls, they are now freshman in college but it is a little bit beyond the time for them to continue to share a bedroom. It is a small house, so she would just like to add a little more space, so she can stay in the same house, in the same area, she has relatives who own across Mt Dustin Street, so they very much want to stay in that house and stay in that neighborhood.

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

Member Vathally: What is the height of the proposed structure?

Caitlin Masys: Sure, it is only going to be one story up so it so it would be above, is less than 35

Member Vathally: Thank you

Caitlin: In fact it is not even going to be a full second floor

Chairman: Other questions from the board? Any neighbors want to speak?



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Joelean Martin (39 Mt Dustin): Our view is directly across from the house and we think this is a great idea. The twin daughters, one is going to medical school and the other is a state diving champion, so this is a good family and we are happy to have this in the neighborhood.

Chairman: Anyone else. Entertain a motion

Member Vathally: I make a motion to accept the application for 44 Mount Dustin Avenue

Member Soraghan: 2<sup>nd</sup>

Member Vathally: Yes it meets the criteria for special permit 255-10.4.2

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

Member Soraghan: Yes it meets zoning criteria for special permit 255-10.4.2

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

Chairman: Yes, so it is granted. It actually is not detrimental, it actually adds to the neighborhood, and it brings closeness to family.

Board voted to approve the meeting minutes from the November 2024 meeting (all members approved)