



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, August 17, 2022 at 7:00 P.M.

Those Present:

Member Theodore Vathally
Member Louise Bevilacqua
Member Lynda Brown
Member Ronald LaPlume
Assoc member Magdiel Matias

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

Member Ted Vathally (Sitting in for Chairman) called the meeting in to order on August 17, 2022

Member Vathally: The Chairman George Moriarty is a little under the weather this evening, so I am standing in for him, but he does a wonderful job here as chairman, so I wish him a speedy recovery. I have very big shoes to fill tonight, and I want to make sure that, that gets into the minutes because he asked me to say that (Laughter from the room). So, what we would like to do is take the unopposed applications first, I will call out the agenda please signify if you are here

Qualified Opportunity Zone Investments LLC for 11 Park Street (Map 203, Block 34, Lots 6,7,7B)

Applicant seeks following dimensional variances to create a new building lot for the construction of a new two-family dwelling in a RU zone. Proposed new Lot 1-A shall include the existing 14-unit multifamily dwelling. Requested relief for new Lot 1-A include variances for lot area (18,071 sf where 33,500 sf is required) and parking design to allow parking within the required front yard. Proposed new Lot B shall include the new two-family dwelling. Requested variance for new Lot B sought for building coverage of 26% where 25% is maximum. (BOA-22-27)

**Application was continued to the September 21, 2022 meeting. Attorney requested more time to meet with the neighbors

Attorney Robert Harb (40 Kenoza Avenue): We are requesting a continuance and I have notified all of the abutters that were here last time and gave me their names and addresses. We are having difficulties with our surveyor getting the plan that we asked for him to do with the parking, the reconfiguration of the parking. We still intend on meeting with all of the neighbors as soon as we can get that plan, I advised them all that we would be asking for a continuance for a month.

Tina Maglio for 5 Seven Sister Road (Map 478, Block 1, Lot 1)

Applicant seeks a special permit to construct an accessory apartment in basement in a RR zone. (BOA 22-31)

**Application was continued to the September 21, 2022 meeting as applicant was unable to attend meeting

Nancy Hollis for 33 Alberta Avenue (Map 730, Block 780M, Lots 384 & 390)

Applicant seeks a variance for lot depth of 88.9 ft where 100 ft is required to create a new building lot (proposed Lot A) for the construction of a new two-family dwelling in a RH zone. Proposed new Lot B shall include the existing single-family dwelling (pre-existing non-conforming structure). (BOA 22-33)



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**Application was withdrawn.

New England Home Buyers LLC for 22 Niagara Street (Map 543, Block 4, Lot 5)

Applicant seeks following dimensional variances to create a new building lot for the construction of a new single-family dwelling in a RH zone. Proposed new Lot B shall include the existing two-family dwelling. Requested relief for new Lot B include variances for lot frontage (75 ft where 80 ft is required) and lot area (7,500 sf where 9,600 sf is required). Proposed new Lot A shall include the new single-family dwelling and shall be a conforming lot. (BOA 22-34)

Attorney Robert Harb (40 Kenoza Avenue): Before I start I wanted to give to the clerk, I have four notifications of abutters to abutters and close abutters across the street, who have no opposition and no objection to the building of a single-family, so I would like to submit that. I know the board gets a lot of paper, but in one of the attachments to my brief I showed the city GIS map and all the places there, so I just thought it would be helpful to tell you, 2 of the people at the top of Niagara heading north which is one house away from us on either side of the street, another one is across the street and then we have one directly to the south of our property, so those are the four almost contiguous people that are not in objection to this. I will briefly go through the brief I submitted, and I will also give you another reason why I think it is appropriate. I think I will start with the other reason first because although it is referenced in the brief, I think its most important, this property is made up of three lots 3, 4 & 5 on the old map that I submitted to you, the house sits to the right on the lot 3 and a little bit of lot 4, all the lots are 50 feet frontage and about 100 feet depth, if these lots were held separately three single family or duplexes could be built, they would all be grandfathered. If you even take one of the lots on the far left out, that is 50x100, that if it was held by it self we could build a duplex on it, it would be a small duplex but you could do one, by right as a record lot of record, however only because they are contiguous and owned by the same owner we can't do that. So that creates an exceptional hardship in addition to what I am going to go over, which is the topography which is like a major reason why we are asking, don't make us attach a new house to the existing duplex to make it a triplex is the topography doesn't make any sense. I am sure all of you have gone and looked at the property, all of it is pretty flat that we proposed to build on and then that thing sort of goes up, the house is higher up, there is a drop and it doesn't make any sense to try and make this a 3-family, a 3-family with approval of city council could be built on this lot,, so all we are asking as I put in my brief is the current code would allow with a special permit would allow 3 units on this property, I makes no sense topography wise to go for the 3 units, although at the bottom of the hill there are multifamily' s , the developer is trying to accommodate the neighborhood and up where he is there is a lot of single-family, so instead of making this a 3-family, he is proposing to build a new single-family on the left of the existing house, so we wind up in total with the same area and as I said they are all 50 foot frontages, if you took the middle lot and added it to the existing house, that would meet current zoning for a triplex and then I have the separate lot that would have been a grandfathered lot other than it has along with lots 3, 4 and 5, so we think we have plenty of hardship here, we think this new lot will fit into this neighborhood, a lot of the abutters and direct abutters, they are not in objection to this, we are going to wind up with the same density we would have if we put a 3-family, the applicant would with a new family a new house on that lot on the level ground (I put some pictures in) so you can see, we believe it will fit, the bottom of the hill is multitis but most of it is singles, we think that we are going to fit in with the neighborhood. We gave you the building plan, it looks like a great house, we showed you the plan with all the 3 lots, we believe that this would be appropriate for you to approve this and technically under 40A we feel that the circumstances are unique, if you look at the topography, if you look at the 3 lots together, where if one was separate we could build a duplex on it, but we are only asking for a single it will make the density the same, we wouldn't be able to utilize this property in consistent with all the other lots, unless we have this



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variance and it makes no sense to try and put a 3-family with that topography, I'm sure it could be done, but it just doesn't make sense for this area, this isn't the result of anything the applicant did, he would like to help the neighborhood to build up and give us some more housing, this is not going to be a detriment to the public good, that single-family will fit, the lot for the single-family will be totally compliant. So we don't think this is a special privilege because this lot is unique as for the numerous reasons I've mentioned, including again I state the topography of the lot. So I didn't get a chance to fully speak to the neighbor in the back that had some questions, I did give her a set of plans of the new building, because she hasn't seen that, but we are here to answer any questions she might have or the builder is here and can answer any questions she might have, which might put her mind at ease. I am here if you have any questions, I would ask you approve the variance request.

Member Vathally: The proposed lot will now be a conforming lot as you say for a single-family house, about 2,000 square feet of area. With the 3 lots together do you have a contingency planned that maybe would reduce that square foot requirement (Recording cut off for a bit) dwelling or is it because of the hardship with topography?

Attorney Robert Harb: well because of the drop, Mr. Stapinski set up the lots and split them 75 feet frontage, 75 feet frontage, he thought that was the appropriate place to put the lot line. If we move the lot line more to the left as you look at the house on the right and then move it left, I'd make my new lot more nonconforming. We had to decide because of topography and the code, where do we put the line and it makes sense if you ask me and I talked with the developer, it makes sense to have a conforming single-family, so at least that is conforming. Then the variance on the opposite end for the single, we would like the single to conform.

Member Vathally: Will there be a driveway for the proposed single-family?

Attorney Harb: The answer is yes and a 2-car garage under

Member Vathally: Questions from the board? Would you like to speak in opposition.

Susan Coppola (9 Cheaver Street): No I don't want to speak in opposition, I am just wondering can I glance at the plan?

Attorney Harb: The woman in the back has the larger plan, maybe she can pass it to you when she is finished

Susan Coppola (9 Cheaver Street): My concern with this area, I am diagonal I have the tan 2-family. My concern is this area is wetlands, it was tagged wetlands, those tags were moved and we have buildings there now. The houses they build, they did put in a drainage table around them that goes out to Cheaver Street, but that also diverted the water from the back of those houses into my property, my concern is now if another house goes up on the other side, the water that comes down those hills is again going to end up on my property. Right now as it stands, the land there is saturated, I can't walk there until August, that would be my concern is what are you going to do to address the water table or the drainage or the drainage channel, because I know that I don't think anything was done for the water to drain out to Niagara, they did the houses on Cheaver Street, but that is only collecting the water around the houses, there is nothing for what was coming down the back of the houses, and I don't need more water. That is my big objection to anything going there, it is going to divert the water in another direction and the water is going to end up in my backyard.



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Attorney Harb: I appreciate the neighbors concern, and she is probably not aware of but I will mention it for the record, is that if there were wetlands on this property, the applicant would have to go to conservation, if there was any, but we don't think there is any. More important her issue about drainage, we have a law in Massachusetts that says he can not increase the drainage at all, not a millimeter of whatever water is running now, based upon the waters act. All plans, I am not saying this to the bored but to the lady, all plans have to be approved by the city engineer, who reviews all plans and all drainage, so he'll make it a point, to make sure all the neighbors that there is no runoff increase at all, at all, to comply with the MASS law. So I think with the city engineer, the engineer the applicant has designing the plans, I don't think that will be a concern. Because we will follow the law and the city engineer in review. But I thank you for your comments.

Member Vathally: Thank you. Any further questions

Woman (23 Niagara, across the street): I just wanted to know when construction was proposed?

Man: Most likely the fall

Susan Coppola (9 Cheaver Street): You were stating that the land is pretty flat, yes the land is pretty stable there as opposed to us living on a hill, but the idea of a water table is that if you are going to be pulling out the land that is holding the water now, it is only going to add more because we have no soil holding the water that is there. Do you get my drift that the soil that is there is absorbing the water, but if you take it out, it has to go somewhere.

Member Vathally: I think what Attorney Harb alluded to earlier, is that engineering and review has to look at that property. Just because we pass or don't pass this tonight, it still has to go through proper channels to make sure that they are able to build on that property.

Susan: So this is kind of premature right now?

Attorney Harb: Step one in a long list of steps.

Susan: I'll get notified when those other steps come?

Attorney Harb: I don't know if the building inspector will or if they usually notify people but you can always call the city engineer, because they will have to file with them, as our current code requires a developmental review, abutters don't always get notified of it but the city engineer just requires a developmental review, for him to see the plans and to see how the engineer plans to take care of drainage, and what I have learned is conservation is going to ask, if there is a roof drain that is going to run into a drywell, as your roof cant just drain down your gutters like they used to do, cant just let them flow out, now they have to be channeled into the ground. And if he goes into the water table than that will be an issue that he will have to handle, when he digs the hole the Building Commissioner and engineer will be watching.

Susan: So I don't get notified.

Tom Bridgewater Building Commissioner: If you leave your name and number I will certainly make a curtesy call to you, as it is going through the design processes and site plan processes.



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Tom Bridgewater: I stated earlier that code for that area is one per one bedroom unit, 1.5 spaces for a dwelling unit with 2 bedrooms, 2 spaces in a dwelling unit of 3 bedrooms or more.

Member Vathally: Thank you commissioner. If there are no other questions from the board, I will entertain a motion.

Member LaPlume: Mr. Chairman I make a motion to approve the application for 22 Niagara Street, 2nd by Member Brown

Member Louise Bevilacqua: Yes it satisfies the criteria for a variance 255-10.2.2(2)

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

Member Ronald LaPlume: Yes it satisfies the criteria for a variance 255-10.2.2(2) unique land conditions substantial hardship

Assoc member Magdiel Matias: Yes it satisfies the criteria for a variance 255-10.2.2(2), they neighbors can be happy to know that they are going to have a beautiful building in that neighborhood, a lot of designs have come across this boards table that Mr. (Didn't catch the name) has had his hand in and they are always beautiful, you will have a gorgeous structure there that will make that area beautify, which that are is already beautiful but this will make it even more beautiful.

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

GRANTED 5-0

TET, LLC for 99 Emerson Street (Map 107, Block 1, Lots 14A & 15)

Applicant seeks Special Permit to convert with no exterior structural changes existing (non-conforming structure) five-family dwelling into a six-family dwelling in a CC zone. (BOA 22-35)

attorney Robert Harb (40 Kenoza Ave, Haverhill): I am here with the manager o TET LLC the applicant. This is a case of requesting a special permit as was aplicible under our old ordinance for an increase of a multi-family dwelling with no outside exterior changes. We have an attic in an existing 5-family he wants to convert the attic into a smaller unit, the 6th unit, we have substantial parking, since we meet the code with no outside changes, all the existing setback nonconformities are just that, they are preexisting nonconforming, under our code 1042 for special permits, this proposed use wont cause any detriment, never mind substantial detriment to the city or location, that Emmerson as you know is full of multi-family dwellings, they have sufficient parking. We do need more housing in town, the traffic and pedestrian traffic isn't being changed, we have public utilities water and sewer, the character of the neighborhood of course is multi-family all down Emerson Street, there is no impact to the environment because there is no outside changes, the parking exists. The project will increase our tax base and we will have no adverse impact on our city services. So he understands that brining a 6-unit in would subject him to whatever he needs to qualify with the fire department and he has accepted to doing whatever he needs to do to meet code with that. And I think everything else is aplicible to the request, no exterior changes, we are in a CC zone, which allows multi-family and allows you the opportunity and the power to grant this extra unit. We don't think it is a hardship to anyone in the neighborhood, he has talked to the abutters directly, one sent a text message, and I haven't got to the point to know how to take a test message from a phone and print it copy it and sent it to the board, but I tell you I seen it, so one of the neighbors did send me a text, but I don't text and he talked to another



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neighbor directly, so I think he has neighborhood approval, so I would ask that you approve this special permit. He is here if you have any questions.

Member Vathally: How many parking spaces if the footprint isn't changing?

Attorney Harb: There is 6 spaces out in back, so it is not changing the flow of the traffic.

Member Vathally: But total of 6 spots.

Attorney Harb: That we show on the plan, there are potentially others, but not legal parking lot, but we meet the code and show the code requirements of 6

Member Vathally: Just to confirm with the commissioner seeing how it is in a CC zone.

Tom Bridgewater: 6 Spaces, one spot per unit. 2 spaces for 3 or more bedroom units.

Member Vathally: Also this will have to go to developmental review

Tom Bridgewater: This will go to Developmental Review and then all of the building codes and fire codes will be applied.

Member LaPlume: When I asked about parking commissioner, the part in the back is going to be expanded?

Tom: They own the lot out back also, that lot line would have to be deleted.

Attorney Harb: He owns the lot out back

Member LaPlume: So is he going to expand the parking?

Tom: No he doesn't need to.

Attorney Harb: No he doesn't need to. The plan shows 6 parking spaces that exist currently now, the back is accessed through a private way, if you look to the right and it goes up, there is like 3 or 4 steps, the old steps in the back, up to it. To have to tear it apart to put additional parking isn't needed by code and it would cost a lot of money and it is on a different level.

Member LaPlume: When I drove in there today, I drove in and it is narrow, very narrow which you must know, but I get to the back and there was 3 cars parked and you couldn't put more than one more car there, so I am wondering where the 6 parking spaces are, unless you park them behind each other.

Attorney Harb: Well I am looking at the plan drawn by RAM engineering and he has the dotted lines, what you probably see there with the wall, shows that he has to move the existing wall to push it to make more parking out back, but it



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doesn't go to the other lot. So the north portion where you see the wall, he has to take the wall out to make the other space.

Member LaPlume: Let me look over there, hang on

(They point and look at the plan, and speak but not near the microphone)

Member Vathally: Sir could you come to the podium and give your name and address for the record. And explain what you were explaining to Member LaPlume so that the board is also hear. I think there was a question here that with how many feet with the removal of that wall you would now have the proper parking for the CC zone.

Todd Silvestri (33 Bradsfield Drive): The removal of that giving the 60 feet would give you the 9 feet per spot which would be a total of 54. And that stone wall that you see there is really a landscape wall, so it is about 2 feet or so high and it would just have to be removed. Most of that wall behind it is also land that I own.

Member Vathally: Commissioner with the removal of those areas, will he meet the foot requirement for the 6 spots?

Tom Bridgewater: Yes

Member Vathally: Ok.

Member LaPlume: I am not trying to put anybody on the spot, but I noticed that when they don't tell the width and they don't tell the length of the parking spaces, can he qualify, can they just write them in? That is why I questioned it

Tom Bridgewater: You can have that as an add in for sure.

Member Vathally: Member LaPlume raises a good point about we see some plans that don't give the exact size, they just list parking spots without the exact size, that is an excellent point.

Lynda Brown: I was just concerned too about the parking, because I know next door sometimes they park, because you can't park on Emerson Street.

Member Vathally: Is on street parking allowed on Emerson?

Member LaPlume: Mr. Chairman I make a motion to approve the application for 22 Niagara Street, 2nd by Member Brown

Tom: Probably not for residential. Is there no more questions from the board entertain a motion.

Member LaPlume: Mr. Chairman I make a motion to accept the application for 99 Emerson Street, 2nd by Member Brown



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Member LaPlume: Yes it meets the requirements 1-6 and satisfies the criteria for a special permit 255-10.4.2

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

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

Associate Member Matias: Yes it satisfies the criteria for 255-10.4.2

Member Vathally: Yes it satisfies the criteria for 255-10.4.2

Granted 5-0

Board approves July 2022 meeting minutes... Granted 5-0