



# 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, July 20, 2022 at 7:00 P.M.

Those Present: Chairman George Moriarty  
Member Theodore Vathally  
Member Louise Bevilacqua  
Member Ronald LaPlume  
Assoc member Pascual Ruiz  
Assoc member Magdiel Matias

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

Chairman Moriarty called the meeting in to order on July 20, 2022

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

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

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

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

Chairman George Moriarty: Yes noting also that it satisfies 255-10.4.2 and the fact that it does not increase the nonconforming nature of the structure.

Granted 5-0

## **Bethany Community Services, Inc. for 100 Water Street (Map 207, Block 1, Lot 1)**

Applicant seeks request for Insubstantial Change of Comprehensive Permit Decision, dated 12.18.19 (BOA 19-38), (BOA-21-14) (BOA 22-    ).

Attorney John Smolak: We were last before the board last June of 2021. We are here before you this evening because of the fact we secured funding but not as much funding as we would have liked. So as a result, we are modifying our project, to reduce it in scope so as a result we are reducing the project from 62 to 48 units, and as a result of that unit count drop, we have slightly modified the bedroom unit mix to 47 one bedrooms and one 2-bedroom unit. Incidentally what we are requesting this evening is a request for an Insubstantial Change of Comprehensive Permit Decision determination from this board tonight, along with a couple of other items. So as a result of the reduction of the 14 units, we are reducing the project by one floor, we are going from 6 floors to 5 floors, resulting in a decrease in building height to 56 where 74 feet is allowed, as a result from floor area ratio .99 to .81 where .2 is allowed, essentially as a result of these changes, we are coming in to conformity with this zoning district. So in order to keep our unit count to 48, we have to make some adjustments and move some space from the common space to create the additional unit to keep the 48. In addition we have adjusted the (Couldn't hear what he said) assignments, which had been removed from the zoning ordinance, but none the less we are maintaining the requirements of the zoning ordinance at that time, so in addition to that there is a slight adjustment to the setback from 15.4 feet from the front on Water Street as a result of some adjustments to the sewer line that was to be installed, but again that is in compliance because the setback is 10 feet, and also in accordance with the comprehensive permit decision under condition of routine project it is being proposed to be assigned a new entity, that is controlled by Bethany Community Services Merrimac Place LLC which is a customary change in securing the financing



# Haverhill

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

with the same and so we are requesting the board approve that assignment. And lastly the board's decision requires the approval of final landscape and plans and allows the board to designate that authority to an agent and so we are requesting the board to authorize the director of community development to finalize the plans, kind of customary to the process. So those are the requested changes and developments and again we are requesting the board to approve the changes that I just described and make the decision as an insubstantial change and to acknowledge the assignment of the project to a new entity called Merrimack Place LLC and then lastly delegate the review of the final plans to the economic development and planning director. Thank you

Attorney Mark Bobrowski: Mr. Smolak and I have worked very well together to try to put together a draft insubstantial change decision, I provided a copy just minutes ago to Jill and to Matt. I have reviewed the request for insubstantial change, and I find it in keeping with the regulations for insubstantial change. These are very minor changes, and they are all going downhill, not uphill, so I think it fits nicely with the definition of insubstantial change provided by the rules, there are a number of examples in the rules, none of the rules for insubstantial change have been tripped here. The only addition I have is in paragraph one E of the proposed decision. There is a transfer in proposed to Merrimack Place LLC, the HDC regulations provide that that transfer has to be approved by the department of housing community development, which is the subsidizing agency, we don't have that approval yet, so I just asked Jill in drafting the decision to add a decision that says that no building permit shall be issued until the HDC provides written approval for the transfer of the comprehensive permit and she has that in an email so she will add it in and I will review it again one last time. With that I recommend to the board that you approve this as an insubstantial change subject to the addition that I just explained.

Chairman: Do we just take one vote for the entire, not the different pieces

Bobrowski: Yes

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

Member Vathally: Mr. Chairman I would like to make a motion to approve the insubstantial change for Bethany Community Services 100 Water Street. 2<sup>nd</sup> by Member LaPlume:

Member Vathally: Yes

Member: LaPlume: Yes

Member Bevilacqua: Yes

Member Matias: Yes

Chairman: Yes

Granted 5-0

## **7-13 Kenoza Ave, LLC for 3 Kenoza Avenue (Map 204, Block 48, Lots 1 & 2A)**

Prior to filing for a Special Permit for Multifamily Dwelling with City Council, Applicant seeks following dimensional variances for the construction of new 20-unit residential building in a CC zone. Requested relief include variances for lot area (16,537 sf where 21,000 sf are required), rear setback (4 ft where 20 ft is required), and lot frontage (33.09 ft where 100 ft is required). (BOA-22-26)



# 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)

Attorney Michael Migliori (18 Essex Street Haverhill): As a result of what we have heard recently, we would like to request a 2 month continuance to the September 21, 2022 meeting.

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

Member Vathally” Mr. Chairman I make a motion to continue the application for 3 Kenoza Avenue to the September 21<sup>st</sup>, 2022 Zoning Board of Appeals meeting. 2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes  
Member: LaPlume: Yes  
Member Bevilacqua: Yes  
Member Ruiz: Yes  
Chairman: Yes

Granted continuance 5-0

## **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)

Attorney Robert Harb (17 West Street): I am here on behalf of the applicant; it has just come to my attention yesterday and today that there is some opposition to this partition. For the boards information it was quiet a while ago perhaps during COVID, we had a zoom meeting with the neighborhood association, at that time I thought we were answering most of there concerns but I understand that they still have more. I would like to ask the board with your permission, I would like to make a small presentation of the application and then have us all listen to the neighbors and as you know it is my standard operation to try and meet with the neighbors and so what we can work out, if we can't then I would ask that we continue it for one month, so that my team can work with the neighborhood association and see if there is any meeting ground we can make, we might no be able to but you know I always like to try.

Chairman: Yes, I think that is a good move, we will try to keep it short.

Attorney Robert Harb: I will keep my presentation very short. We have one giant lot; I gave you pictures. You will see on the lefthand side of the lot there is a black hot top parking lot, it is about the size of a giant parking lot. Then we have the 14-unit structure, the pictures show that back in 1880 & 1950 there was a structure on the lot in question, I went to the accessor's office, I wasn't able to find, what happened to it and when it happened. Some time between 1950 and about 1977 something happened to the building. The applicant is proposing to rebuild on the lot, yes we understand there is some density issues that another 2 units in the area, but I did review Park Street and all the other houses on the street, it is just in general a dense area, you can see hat from the applications and plans that I submitted. So I don't think I is out of



# 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 ordinary for that area to have dense, we thought it would be a better area and view than to have the giant parking lot, they really are not utilizing all of that parking. So basically, we just want to rebuild something in a lot that had something on it before, we understand we have a area a density area requirements on the large lot because we are building on the second. I believe that in the interim of a month we could possibly downsize the building so we don't have a cover issue on the new lot and then submit a new plan, that would make the existing new lot have a two-family fully conforming, I was told by the applicant that we could do that in the end. So, we are really just looking for an area variance for the existing 14-unit. I am happy to listen and take notes and mee again with the neighborhood association, if you remember we had worked with them before, I had worked with them before for the funeral home up on the corner. Basically, that is our presentation and I look forward to hearing from the neighbors.

Chairman: Great thank you. Anyone want to speak in opposition, as I say keep it somewhat brief as it is going to e continued.

Devin Fiera (12 Grant Street): I am a member of the neighborhood association. 11 Park specifically for us has been an area of concern for years, I is one of the largest apartment buildings in the Highlands, there is only a handful of others. Historically that area was large homes on small lots, that is how it was built and that was the design of the 1800's and early 1900's, this lot is one of many of those, I don't know what the big apartment building was used for historically, but the other apartment units that currently exist in the Highlands neighborhood were teacher housing and things like that, so they were smaller unit apartment buildings historically. For us 11 Park with the change of ownership years ago was a great improvement over the exterior appearance, over loitering, over police presence that was reported at that property, over tax issues, all sorts of issues. So we saw improvements pretty quickly. The zoom meeting that was mentioned was a zoom meeting for ownership and at that time it was just to meet each other, between the owner's association and the owner, there wasn't any conversation about adding an additional structure on that lot. As for us as an already dense neighborhood, that was constructed and designed that way to begin with, you are already a nonconforming 14-unit space which is a lot and you are wanting to add more to it, when we know that there have been issues and violations at the inspectional level, with this new ownership. So for us as a concern, the neighborhood association, is a trend of absentee landlords in our neighborhood, with multiple units, higher number of units and larger buildings, has been an ongoing problem. For us that is a concern with public services, it is a concern for what structures look like in our historic neighborhood. Also how can we depend on a responsible property manager, to manage the property, the trash disposal, and the parking situation. We have concerns with the proposal to put parking in front of this building if it were approved, and some of the square footage of the lot requirements. We are very happy to meet with whoever wants to meet with us, we are pretty good at that, but we do have concerns right of the bat.

Chairman: Great, thank you very much. Is there anyone else who wishes to speak briefly on the topic, again it is going to move to a continuance anyway.

Eric Delarenzo (DVR Real estate): we own the building at 9 Park Street. We oppose based on the planned parking, looking at one maybe two more curb cuts that will take away parking and that is our concern. Right now they are using the area to the right of the 14-unit building for parking without a curb cut, which causes them to drive across the parking lot and hit my tenants vehicles. Snow removal is a problem there in the winter, they don't do a good job managing that. That is basically our concern, there is limited parking there already.



# 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)

Chairman: Great thank you. Anyone else? Ok, Attorney Harb

Attorney Robert Harb: Thank you Mr. Chairman and the neighbors for their willingness to meet. I would ask you to continue this for one month and I will get some contact information perhaps from Ms. Fiera, and we will come back next month, hopefully we can resolve some of these issues.

Chairman: Thank you very much. Entertain a motion.

Member Vathally: Mr. Chairman I make a motion to continue the application for 11 Park Street to the August 17, 2022 Zoning Board of Appeals meeting. 2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes  
Member: LaPlume: Yes  
Member Bevilacqua: Yes  
Member Matias: Yes  
Chairman: Yes

Granted continuance 5-0

## **Zuniga LLC for 162 River Street (Map 501, Block 227, Lots 15 & 16)**

Applicant seeks a variance for required parking spaces (16 spaces are proposed where 26 spaces are required) in connection with the construction of a new restaurant building in a CG zone. (BOA-22-28)

Attorney Michael Migliori (918 Essex St, Haverhill): I am representing the owner applicant Zuniga LLC, here tonight is Del Rosario along with her father Leo Rosario, we have Frank Kiiialay and Tom from Stratton Development and Jim Handley from Civil Design Consultants, and the seller's agent Matt Cardose, if you have any questions, they are all available. My client currently operates a very successful Tacos Lipita restaurant at 194 River Street and has operated the business there for many years. My clients purchased 162 River Street in 2016 and plan to construct a brand-new restaurant on the site. The property is located in the CG district, so the use is appropriate. The proposed building includes a small 750 square foot deck seasonal, for seasonal use during summertime in addition to indoor dining. Because of the addition of the deck area and the seating, we need a variance for parking. The table of use and property regulations requires one parking space per 3 seats at the restaurant and we are looking for one parking space for every 5 seats. The plans submitted shows 16 parking spaces where 26 are required, again note that most of the patio area is not in use and while that is going on we comply with parking requirements, when the deck is taken out of the equation, and that is the only relief we are looking for, we comply with all other zoning requirements, the only requested relief is the number of parking spaces, allowing 16 where 26 is required. We believe it is a very minimal request, also I want to point out a number of things, the existing restaurant which is operating very successfully has no parking and it has not been an issue, they do a significant amount of takeout, so people are not sitting in the restaurant necessarily. I want to point out again that the current site has no parking, the fact that this site will have parking is going to be an improvement of allowing better flow, as now they will be using the parking lot instead of tying up River Street, with trucks and vendors having to deliver supplies to a facility that doesn't have any parking. I also point out that not too far away you are on Washington Street and the historic



# 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)

district and as far as I know none of the restaurants have any dedicated parking and again, they all survive, they all do well. I don't think we are going to have any issues at this site, and we feel that a strict application of the zoning ordinance would deprive the applicant/owners reasonable use of the property, conditions and circumstances exist and not created by them, we believe by a number of things I already sited that if approved this will not cause a substantial detriment to the public good or impair the purpose is in attent of the chapter, but rather a beneficial impact compared to their existing restaurant, this is going to be a big improvement. Finally saying the relief sought doesn't cause the grantor any special privilege in consistent with limitations compared to other properties in the district. Do you want to here more on the details?

Chairman: Yes sure, I would like to here more on the details.

Tom from Civil Design Consultants (Andover): As this property is right now, it is 3 existing lots a total of about 23,000 square feet with frontage on River Street, the property used to be an auto dealer with a paved parking lot. The site is located entirely within flood plain and river front area, associated with the Merrimack River and also partly in NEGHP Habitat area. Currently that area already has disturbed pavement and fog which is currently served by city water & sewer and gas & electric, there are two (COULD NOT HEAR WHAT HE SAID) on site. We are proposing a 2,000 square foot restaurant with 16 parking spaces on public water and sewer, planning landscaping and one proposed curb cut, we are proposing the building to be set on piers elevated above the base flood elevation. The bank proposed the NEGHP disturbance is indeed an existing disturbance and consists entirely of maintained lawn and a wooded stockade fence. Production and total impervious area 180 feet is proposed, additionally a rain guard is proposed and water polly problem and (COULDN'T HEAR HIM) requirements. So we are just requesting the reduction of parking from 1 space per 3 seats to 1 space per 5 seats, so that you can have the patio.

Chairman: Questions or comments from the board?

Member Vathally: The existing restaurant now you have seating inside?

Attorney Migliori: Yes for 40 inside

Member Vathally: How close is this inside dining are you going to have to the parking lot

Tom from Civil Design Consultants (Andover): "Showing on the plan", so the parking lot is going to be here and the outside dining would be on this patio in the rear of the building overlooking the river.

Member Vathally: So there is not going to be an issue with a noise barrier or any buffers that need to be put in for protecting properties next to this proposed lot.

Tom from Civil Design Consultants (Andover): There shouldn't be a need, and then also along the river bank we are proposing a wooden stockade fence.

Member Vathally: So it is just parking. Is there going to be any plan for a buffer around the parking? Does it abut a property next to that lot and is it residential?



# 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)

---

Tom from Civil Design Consultants (Andover): It does about a residential property.

Member Vathally: Are there plans for any buffer area, along that line, to buffer the property next door? I am looking at the noise situation in that area, with parking and things like that. Is there any kind of beautification you can do around the parking lot?

Tom from Civil Design: There hasn't been, but there certainly can be or a fence or something.

Member Vathally: Could you tell me your hours of the outside deck dining?

Attorney Migliori: The restaurant will be open from 10 in the morning and no later than 9 with the intention of closing the outdoor dining earlier than the formal place.

Member Vathally: Is there alcohol at the property?

Attorney Migliori: NO

Member Vathally: So 9:00 would be the closing, where I am going with this is the noise factor in that parking lot. If we are going to give this relief, that that would be a consideration for the neighbors, that is what I am looking at.

Attorney Migliori: And we can follow up on that as we go through the design and site plan approval process, we would be happy to do that. Again this is kind of a low key operation, again there is no alcohol, there is no music, it is a lot of quick coming and quick going. We would be more than happy to address those through Mr. Bridgewater and the rest of the department heads, when we do the site plan approval

Member Vathally: Because the alcohol would be a consideration, because you know what happens downtown in the evening

Attorney Migliori: Yes understood.

Member LaPlume: I am with you on everything you said, it sounded really good. The outdoor seating, now if you removed the outdoor seats, not the deck, you would have enough parking spaces. Is it a possibility during the winter time to move some of those are those picnic tables?

Attorney Migliori: It is not going to be used during the winter

Member LaPlume: But I am just thinking to give more room in that area for like parking cars there.

Attorney Migliori: I don't think so and, in the winter, when we have fewer tables there is going to be significant parking on site.



# 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)

---

Member LaPlume: You are absolutely right, if you think about it, this isn't Florida, you have wind days, rain days, cold days, you have snow days. So how much parking would you need, I agree.

Attorney Migliori: Again I think a lot of the folks live in the neighborhood are going to be walking.

Chairman: Other comments or questions?

Member Bevilacqua: is this restaurant going to replace the one that has no parking?

Attorney Migliori: Yes, their lease is expiring

Member Bevilacqua: So you are basically moving the restaurant

Attorney Migliori: Yes, and they are building a brand-new building, it is going to be more attractive, it is going to have some outdoor dining, a river view. It is definitely an improvement to what is there now and what they had before, I think everybody wins in this situation.

Member Bevilacqua: When I drove by there it seems like a restaurant that really caters to the neighborhood, I saw people walk in and walk out, so I think it's a place where people call from their house and go pick it up and take it home.

Attorney Migliori: Exactly.

Member Bevilacqua: I did park and saw several people walk in and then walk out with packages/bags

Attorney Migliori: Yes, a big part of their business is takeout

Chairman: Other comments or questions from the board?

Frank Killary (Stratton Development Management, my office is in North Andover): So they currently have no alcohol at the restaurant and they are not immediately planning on it, but they may consider something in the future, having beer. We just want to be upfront. But it is not planned at the moment, but they don't want to say never.

Chairman: Ok, thank you other comments or questions?

Attorney Migliori: The only thing I want to add is, I think Mr. Coruso left but what he wanted to talk about for some reason and I am not sure why, but currently there is one hour parking on Rive Street and he is opposed to it. So he asked me to let the board know, he would like to see that changed.

Chairman: Ok thank you. If there are no other questions or comments I will entertain a motion

Member Vathally" Mr. Chairman I make a motion to approve the variance for 162 River Street, . 2<sup>nd</sup> by Member LaPlume



# Haverhill

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

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

Member: LaPlume: Yes it meets the criteria for a variance 255-10.4.2 it meets the conditions of a hardship

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

Member Matias: Yes

Chairman: Yes and it meets the criteria cited by my colleagues

Granted continuance 5-0

## **Paul Bergman for 875 Kenoza Street (Map 441, Block 3, Lots 17 & 18)**

Applicant seeks a variance for frontage on Sunrise Street of 45 ft where 150 ft is required to create a Through Lot in a RM zone. (BOA 22-24)

Paul Bergman (875 Kenoza Street): I came before this board about 5 or 6 years ago with this same plan, the board at that time approved it unanimously and shame on me for not having the plan recorded down at the Salem registry, so the approval lapsed. A couple of months ago, I approached the Building inspector Tom Bridgewater and his first question to me was, Paul why do you want to do this, I will; explain briefly why. On the plan before you, it is actually my home at 875 Kenoza Street, I built that house back in 85/86, the home up on Sunrise Street was built by my dad in 1958, I was born and raised there. Up until a few years ago my mother was living there, she has dementia and moved in to Penoko. Our daughter is living in the home now, and the sole reason for this plan and the subdivision of the land is to make this through lot, so that when my mother passes away and the house gets sold, it is to prevent anyone from putting a huge addition on to the western side of the existing dwelling, I understand that a through lot is supposed to have a required minimum frontage on both streets of 150, this plan does not, it would have frontage of 45 on Sunrise. But again this subdivision of land is not to build anything, it is just to prevent that addition that I mentioned.

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

Member Vathally: Mr. Chairman I make a motion to approve the variance for 875 Kenoza Street, . 2<sup>nd</sup> by Member LaPlume

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

Member: LaPlume: Yes it meets the criteria for a variance 255-10.4.2

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

Member Ruiz: Yes

Chairman: Yes and it meets the criteria cited by my colleagues

Granted continuance 5-0

## **Anthoula Noukas for 90 Margin Street (Map 507, Block 250, Lot 11)**

Applicant seeks Special Permit to convert existing (non-conforming structure) two-family dwelling into a three-family dwelling in a RU zone. (BOA 22-25)



# 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)

Anthoula Noukas (Main Street in Boxford): In April of this year I purchased a house on 90 Margin Street and I am seeking a special permit, to convert an existing 2-family into a 3-family unit. When I purchased the house, the previous owner had taken all these steps in 2018 in front of the members here, he was granted his application, but he didn't take it any further and didn't record it at the Salem Registry. He had cancer and unfortunately he past away last year. So the last board of decision, before some of these board members here, it was installed that he had to get an egress floor down and a parking area to be paved and marked and I did that last month. This house has been a 3-family for about 30 years, and I am trying to make this a legitimate 3-family home and pay the proper property taxes and so forth. The current tenants on the second floor and third floor have been there for 10 years, the tenant of the first floor has been there 38 years, so there are no changes to anything in the neighborhood or anything that is non existing.

Chairman: Thank you. Questions from the board?

Member Vathally: How many parking spots do you have?

Anthoula Noukas: I was requested to have 5 but I could probably fit about 10 cars.

Member Vathally: Are they striped off right now>

Anthoula Noukas: They are not, but we will do that.

Member Vathally: The other requirement from the last, I actually remember this, has that been inspected as far as the stairs that went in?

Tom Bridgewater: I am looking at it right now, ya there was a final done on the stairs on August 3<sup>rd</sup>, 2020

Member Vathally: Is there anything else that needs to be done, updated, based on the approval? Other than the steps and the parking, where there any other takeaways from that approval?

Anthoula Noukas: No

Tom Bridgewater: They will have to go through Developmental Review

Chairman: Any other questions or comments?

Member Vathally: Mr. Chairman I make a motion to approve the special permit for 90 Margin Street . 2<sup>nd</sup> by Member LaPlume

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

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

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

Member Matias: Yes it meets the criteria for special permit 255.10.4.2



# 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)

Chairman: Yes and it meets the criteria cited by my colleagues 255.10.4.2 and I also want to note that the building inspector goes through all of these things ahead of time for us.

Granted continuance 5-0

**Paula Desmarais for 120 Homestead Street (Map 439, Block 1, Lot 1)**

Applicant seeks a special permit for construction of an accessory apartment in a RS zone. (BOA-22-29)

Paula Desmarais (120 Homestead Street): I am here seeking a special permit to add an accessory apartment to my existing home.

Chairman: Building Inspector, you have checked her for the 6 points that are necessary?

Tom Bridgewater: Yes we did.

Chairman: Thank you. Comments or questions from the board? Can you tell us a little more about this, what is it you are planning to do?

Paula: Well I am planning on building an addition on the back of my garage, forming an ADU, one floor, that I will live in.

Chairman: You are going to live in the accessory unit?

Paula: Yes. The plan is to have my daughter, son-in-law and 2 grandsons move in to the main part of the house.

Chairman: What is your timeline on all of this?

Paula: I am not sure actually, because I wanted to get through this part first, to make sure we got approval and have the plans drawn up before we got a decision.

Chairman; Any comments or questions from the board? I will entertain a motion

Member Vathally: Mr. Chairman I make a motion to approve the special permit for an accessory apartment 120 Homestead Street . 2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes it meets the criteria for accessory apartment 255-10.4.2 and 255-8.1

Member: LaPlume: Yes it meets the criteria for a special permit 255-10.4.2 and 255-8.1

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

Member Ruiz: Yes

Chairman: Yes and it meets the criteria cited by my colleagues 255.10.4.2 and I also want to note that the building inspector goes through all of these things ahead of time for us to make sure it meets all 6 criteria.

Granted continuance 5-0



# 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)

## **Andrew Zielinski and Brian Cormier for 10 Salem Street (Map 705, Block 647, Lot 17)**

Applicant seeks Special Permit to determine that proposed alteration of existing non-conforming structure will not be substantially more detrimental than the existing structure to the neighborhood. Application includes conversion of existing single-family dwelling into a two-family dwelling in a RH zone. (BOA-22-30)

Attorney Robert Harb: I am here with both owners Andrew Zielinski and Brian Cormier. This is a unique situation, under our current new code that was passed about a year and a half ago, we are asking for a special permit, which in the former rules would call it a finding, but the code was rearranged and now calling it a special permit. We are asking to be able to convert a single-family, which was a 2-family, back to a 2-family. I submitted some pictures that were taken of the interior of the property. There used to be, when you enter the front door there used to be two sets of stairs and the upstairs and down stairs were separated by walls, so the left side and right side of the house were separate units. According to Bert Barrett who was the trustee of the trust that was held in the Barret family for umpteen years, he says they had a fire once and his mother said take the stairs out and make it a one family, so he took the stairs out and you can almost see from the picture we have you going up and down the stairs, you can see where they probably were, and all the applicant probably really would do is put back in the stairs and the separation wall and meet all the codes for doing that. A two-family is allowed in this zone and was allowed before, the section of the code in which we ask the special permit, with the building commissioner and his assistant reviewed it and said yup that is the section of the code you should be under section 5.0. So because there is no change to the outside of the building, there is no change in the lot, the only thing we are doing is putting in a stairway to make it a 2-family again, which it already was, we are asking you under section 5.0 and following to say that this change isn't more detrimental than the existing structure, there is no change in the structure. There is no exterior changes to the footprint, we are asking you to find that this does not increase the nonconforming of this structure. It doesn't change the setbacks, frontage or anything, it is the same lot that has been in existence for many years and it is not more detrimental to the neighborhood, we also believe in addition to the 5.0, we met the requirements of 10.4.2 for a special permit since now it is a special permit not a finding. This proposed use back to a 2-family really is characteristic to the house, it is a giant house. The pictures will show you that its just putting back the way it was. We do need more housing, it is an allowed use, there is plenty of parking there, there are no wavers, no variances requested, we have public water, public sewer, the design of the building has been there, we are not changing the building, we are not adding anything, we are just putting some stairs back in there, and walls on the inside, no impact to the environment, and it is going to help the city, with no impact on city services because it is only going from a one to a two which it was before and already had the city services. So we would ask for your approval of this finding under 255.0 and following and let us go back to a 2-family.

Chairman: Thank you. Any questions from the board?

Member LaPlume: I noticed when it was put up on the board it didn't say 10, it said 10-12

Attorney Harb: The accessor had 10-12, they had to put it back to 10

Member Vathally: Is this listed with the city as a single-family.

Attorney Harb: Yes, so we will be giving more tax to the city by moving it back into a 2-family.



# 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)

---

Member Vathally: So before the fire I was a 2-fmily.

Attorney Harb: That is correct. After the fire they took the stairs out and told the city they were making it single-family.

Member Vathally: So the footprint stays the same, everything stays the same.

Attorney Harb: Yes, everything stays the same, except for a little bit of work inside. I am sure that there are fire codes from the dividing wall that they will have to meet and then rebuild the stairway. The outside door I am told is going to stay the same, you are going to see the front of the building and one door, you walk in the door and then it will separate.

Member Vathally: Are the utilities separated?

Attorney: Some of them are and some not, but with your approval they will be separated.

Member Vathally: Parking?

Attorney: We have sufficient parking, it shows on the plan that we have 4 spaces.

Chairman: Any other comments or questions?

Member LaPlume: Aren't they going to do any updating on the outside of the house?

Attorney: They always do, these gentlemen do a lot of renovations in town as you know. I am sure they are going to take care of the outside. Mr. Zielinski what are you going to do on the outside?

Chris Zielinski (580 Hilldale Ave Haverhill): So our plans is to paint the exterior, vinal siding is not allowed in that area as it is in the historic district. Last week we met with the historic board, it was approve to update the windows, that is what we are going to do as far as the exterior goes. It has a new roof; the decks are in good shape. Basically, what we are doing to the exterior, we have already done a substantial amount of landscaping over there, that is it for the exterior.

Chairman: Than you. Any other comments or questions?

Member Vathally: How much parking do you have now?

Attorney Harb: I believe the plan shows 4 spaces, actually it shows more than 4, but the Building Commissioner won't let me count stacking. So we have 4 spaces on South Chestnut, but we can only count 2 because the zoning says we can't stack them, and then there is 2 on Salem, so in reality we have 6, but in code we have 4, cause you can park in the front yard of the 2-family. The plan shows 6 spaces, and I am told that is how they have been parking there now.

Member Vathally: So off street parking how much?

Attorney Harb: 6 Total



# 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)

Chairman: Any other comments or questions? Entertain a motion.

Member Vathally: Mr. Chairman I make a motion to approve the special permit for 10 Salem Street . 2<sup>nd</sup> by Member LaPlume

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

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

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

Member Matias: Yes it meets the criteria for 255-10.4.2

Chairman: Yes and it meets the criteria for 255 section 5.0 as well as section 255.10.4.2 as well as all 7 eliminates.

Granted continuance 5-0

## **Harold Smith for 57 Pear Tree Road (Map 459, Block 5, Lot 30)**

Applicant seeks renewal of special permit for accessory apartment in a RR zone that was originally granted April 16, 2008. (BOA 22-22)

Harold Smith (57 Pear Tree): The accessory apartment, I got the lady to move out after 2 years, it cost me a lot of money, and I did everything the board wanted me to do. I am here to get this approved as an accessory apartment.

Chairman: Commissioner, you have looked at this property I believe?

Tom Bridgewater: Yes this was approved accessory apartment, which had a 5 year restriction on it. Harold came back a few years ago and it was denied by this board and we sent a letter to dismantle the apartment, unhook the sink which he did, unhook the stove by permits which he did. It has been tied up in court the past few years, because he couldn't get the tenant out of there. The stove is unhooked with a permit, the sink is unhooked with a permit, the tenant is out, the apartment was inspected, and now he is here to renew it. This meets all of the requirements, all 6 of the requirements.

Chairman: Comments or questions from the board?

Phyllis LeBlanc (53 Pear Tree Road Haverhill): So basically MR. Smith is requesting a special permit for an accessory apartment, that was originally granted in 2008 to Patricia Dunnovan, to have the space to take care of her Mom. It has been my understanding that the permit would no longer be valid once the house was sold, which it was, therefore that should have been terminated. Mr. Smith did apply in 2019 for an accessory apartment and it was denied. So basically, my question is, is this going to become a rental unit? Can he rent this out as a rental unit, with a kitchen in there as an accessory apartment?

Tom Bridgewater (Building Commissioner): There is no restrictions on it, so if he wants to rent it out, he can rent it out. It is an accessory apartment, the in-law is just a term



# 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)

---

Phyllis: So he can rent out?

Tom Bridgewater: He could rent it out, to you, to me, to anybody.

Phyllis: Could he put a stove in there

Tom Bridgewater: Absolutely, it is an accessory apartment.

Phyllis: So what was the purpose of removing the stove in the first place?

Tom: AS the 5 year restriction was up, it was no longer valid. We sent a letter to him to remove the stove or go back to the board, which he did both.

Phyllis: So in 2019 a lot of the residents did come here to oppose, were against. There was an email sent, that detailed why a lot of the people don't want to come to the board, because of possible retaliation from Mr. Smith

Tom Bridgewater: I don't get into that, I just look at he zoning.

Chairman: If there is any type of retaliation, you can report that to the police.

Phyllis: I think they should.

Chairman: Ok, thank you very much. Any other comments or questions?

Phyllis: Also there has been a lot of police activity at Mr. Smith's house in the past several years. So you have to wonder, who is he going to rent this unit to, is there going to be more crime or activity that is not going to make us very safe in out home.

Chairman: I will ask Mr. Smith to address that.

Harold Smith: That is when Katie Regan lived at the house, and since she is incarcerated, and I have no idea when she is getting out and from what I understand she is not allowed to come back to the house.

Chairman: It is your house, so you don't have to let anyone come back. Are you going to be careful about who you rent it to?

Harold Smith: I am going to be putting up the house for sale, because I am getting too old to be taking care of it, I am 73 now and it is getting too much for me.

Chairman: If you are putting it up for sale, why are you adding an accessory apartment.



# 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)

---

Harold Smith: Because it is already built there, it has been there.

Chairman: So you are just getting the permit. Any other comments or questions

Phyllis: To my understanding Katie is also part owner of this house, her name is on the deed. So how can she not return to the house, its part her house?

Harold Smith: From what I understand, the state wont let her come back to the house.

Chairman: First address, is she part owner of the house.

Harold Smith: Yes she is. But she has already signed a paper to my lawyer saying she allows, I have total control over the property.

Chairman: Do you have a copy of those papers?

Harold Smith: No I don't

Chairman: I am reluctant to vote on this, if we don't see those papers. That should have been something we got a copy of, because if we are approving it, we are approving you to do something, at least from my point of view we don't know that you have the authority to do that since she is part owner of it. The papers she signed, are they legally binding?

Harold Smith: I have no idea, she is incarcerated from what I understand. She told me that she was signing those papers and that she had a lawyer.

Member LaPLume: Is there any way when coming before us that you know whither, they are the owners or not?

Tom Bridgewater: The deed, it has Harold's name on it and Katie Regan I believe.

Jill Dewey Board Clerk: People come here all the time with two owners but only one comes to the meeting.

Chairman: I don't know how the other board members feel, but I feel uncomfortable voting for something without having some kind of legal document, showing that she is in favor of selling it and all that.

Member Bevilacqua: I don't know if any of that has to do with zoning, I am not sure that all this issue of who is on the deed is a matter for zoning. The commissioner has stated that people can have an accessory apartment, the in-law is just an old term, we are just voting on if it meets criteria for an accessory apartment.

Chairman: Except for that Katie Regan is a person that has been a cause of some of the police activities there and she is part owner. So I don't know, you are right it doesn't completely fall under our purview, But I an uncomfortable personally with approving this without having that legal document, but that is just my vote. Anyone else?



# 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)

---

Member LaPLume: Could he, he has been in front of us a number of times, he has cleaned up all of the problems he had there and he spent money ripping out the electric line and stove, he has complied with everything, could we give him a continuance. Commissioner, how would he go about this, I don't even know.

Tom Bridgewater: I don't know, but I see his name on it. His name is on it.

Jill Dewey Board Clerk: On all of our other causes a ton of them have two owners and only one owner comes to the meeting.

Chairman: Yes but this is an unusual situation, where the other person has caused so many problems before, we never had a situation where someone has caused so many problems that the whole neighborhood is in an uproar. So for me anyway

Member LaPLume: If everything else seems to pass except that little sticking point, if we passed it and she came back and there is a problem with the police department, that has nothing to do with this. Who knows how long she is going to be in jail. These having nothing to do with us, and we are hanging him out to dry.

Chairman: If someone wants to make a motion to move on this evening.

Member Vathally: You said you want to sell the property; you want to sell the house right.

Harold Smith: Yes

Member Vathally: I understand what Chairman Moriarty is saying, I certainly understand that. Is there any reason, let's say this approves tonight and you sell the house tomorrow can you get approval from the other party

Harold Smith: I can get her approval

Member Vathally: What Mr. Chairman is looking at is, what if you have a documentation to get this approval.

Harold Smith: I have nothing, my lawyer has it and I can probably get a letter from her

Member Vathally: Could we approve this application with a contingency that we receive some notification from your lawyer that designates what Chairman Moriarty was concerned about, that there is no issue with transferring the property.

Chairman: I guess I am fine, I am also confused about why if you go to sell the property, why not just sell it as is, why create an accessory apartment? If the new owner wants to make an accessory apartment they could do that.

Harold Smith: Because without the stove and sink the house is not worth as much.

Chairman: Ok



# 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)

---

Harold Smith: I mean I have worked in real estate for 50 years and if you build an apartment and don't remodel it and once it is remodeled it is worth 20 thousand more.

Member Vathally: I see your point.

Tom Bridgewater: I think if you don't legitimize it, what typically happens is, it sells and someone is going to move into it anyways.

Chairman: I will entertain a motion

Member Vathally: Mr. Chairman I make a motion to approve the special permit for an accessory apartment 57 Pear Tree .  
2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes it meets the criteria for accessory apartment 255-10.4.2 and 255-8.1

Member: LaPlume: Yes it definitely meets the criteria for a special permit 255-10.4.2 and 255-8.1

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

Member Ruiz: Yes

Chairman: No

Granted continuance 4-1

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