



Haverhill

Board of Appeals
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Minutes

BOARD OF APPEALS held A PUBLIC HEARING ON WEDNESDAY EVENING
July 17, 2019 AT 7:00 P.M. in ROOM 202, CITY HALL, and heard the following items:

Attending: Members Soraghan, LaPlume, Sullivan, Vathally, Brown, Bevilacqua, and Chairman Moriarty

Continued from the June 19, 2019 Meeting:

BOA-19-2 Attorney Timothy Schiavoni for Monument Square Company, LLC for 280-310 Main Street (609, 488, 1): The applicant seeks a parking variance, 206 parking spaces are required proposed 131 parking spaces in CC zone.

Member LaPlume: had questions with regard to building placements

Member Vathally: felt that the reduction of parking spaces may not be good because of the traffic.

Member Bevilacqua: Will Giovanni's be a sit down restaurant?

Atty Schiavoni: Perhaps yes, he was unable to fully disclose the exact plans of the restaurant.

Attorney Schiavoni noted that the proposed reduction in parking will have no impact on the access to existing businesses. He noted that the number of parking spaces currently on site exceeds what the businesses need, largely because customers usually park for only a brief time while picking up prescriptions at Walgreen's or lunch at Giovanni's and KFC. Also, many neighbors simply walk to the establishments. The new bank branch will provide community benefit.

The Board noted that the application met the conditions cited in Section 255-79 C. 1-5. One member dissented on the issue of Hardship Cited in Section 255-79 C. The Member also cited the heavy traffic volume entering and exiting the area.

The Board **granted** the Parking Variance on a vote 4-1.

Motion: Soraghan

Seconded: Vathally

The Board **granted** the **parking variance** on a vote of 4-1, Member Vathally voted no.

(Members Soraghan, LaPlume, Sullivan and Chairman Moriarty voted, yes)

(Member Vathally voted, no)

New Business:

BOA-19-5 Jesus Flores for 6 John Avenue (534, 26, 323-325): Applicant seeks a dimensional variance for side setbacks of 6.5' where 10' required area of 8,588 sq ft where 9,600 sq ft required in RH Zone. Second dwelling allowed by right with dimensional variance. Previously approved by BOA.

The applicant stated that the Board previously approved the Dimensional Variance; however, the applicant was unable to commence work on constructing the new dwelling. He also had to address some conservation issues. The Dimensional Variance being sought reflects no changes from the previously approved Variance.

The Board **granted** the **dimensional variances for side and area** on a vote of 5-0
(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)



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BOA-19-6 Centerline Communications for AT&T for 167 Morgan Drive (588, 1E, 167): The applicant seeks a special permit for a new above ground level free standing cellular pole in RM zone.

The Board **granted to continue** this application to the August 21, 2019 meeting on a vote of 5-0 due to the outside consultant/reviewer not being able to attend this meeting.
(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-7 Peter Yannakoureas for 32 Whittier Street (415, 149, 1 & 2): Applicant seeks a variance prior to subdivide into 2 non-conforming lots in a RH zone. Lot 1 requires a frontage variance where 60' is proposed and 75' is required. Lot 2 seeks frontage 60' is proposed and 75' is required. Lot 2 has an existing house side setback of 4' where 10' is required, a front set back of 12' where 20' is required.

The applicant proposes to construct a new dwelling for his mother on a non-conforming lot purchased in 1996. Members noted that the brief prepared by the applicant failed to address the issues related to the Variance being sought. One member noted that the applicant could construct an addition to the existing dwelling, rather than construct a new dwelling. The applicant requested a Continuance and waived the notification period.

The Board **granted to continue** this application to the August 21, 2019 meeting on a vote of 5-0
(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-8 Laura & Ron Quay for 12 Riverside Avenue (417, 180, 1A): Applicant seeks a variance for side set back in a RH zone of 5.12' where 10' is required and a rear set back of 8.77' where 30' is required for bathroom addition.

Member Soraghan: reviewed the attached photos and noticed a shed that seemed too close to the property and asked the Building Inspector if a permit would be necessary to come into compliance.

Building Inspector: Yes, a building permit will be necessary.

The applicant agreed to meet and discuss the necessary steps for a permit for the shed.

The applicant seeks to construct a bathroom addition to meet the needs of a relative with health concerns, specifically related to MS. The 5' X 9' addition will have a full foundation, will be shingled and painted to match the existing house.

The Board noted that the Variance met the conditions cited in Section 255.79-C.

The Board **granted the variances for side & rear setbacks** for the bathroom addition and to **include the shed setbacks to meet zoning requirements** on a vote of 5-0

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-9 Denise Gagnon for 46 Crystal Street (590, 444, 1): Applicant is seeking a special permit allowed in RM Zone for accessory unit/apartment.

Member LaPlume: Can the applicant have a cook top in the apartment?

Building Inspector: Yes, she can.

The applicant seeks to create an accessory unit. The exterior of the dwelling will remain unchanged and the number of people residing will remain unchanged. The unit will be in what was originally the Great Room of the house.



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The Board noted that the Special Permit met the conditions cited in Section 255-92 A-F.

The Board **granted** the **special permit for accessory unit/apartment** on a vote of 5-0 with a **stipulation to include a deed restriction, if the home is sold it would revert to its original state.**

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-12 Travis Speck for 130 Lakeview Avenue (657, 5, 1): Applicant is seeking a variance on a side set back to increase living area of 9.6' proposed where 15' is required **and front set back of 22' proposed where 25' is required* in RM Zone.

Member LaPlume: Will there be an exit stairwell?

Joel Gagnon Engineer on behalf of the applicant: There will be an exit stairwell from the 2nd floor, it will be treated as if it is a 2-story home.

Member LaPlume: It will egress to the 2nd floor and not to the outside.

Applicant: yes, that is correct, the 2nd floor there will be two exists out to the first floor.

The applicant noted that the size of the family is increasing, creating the need for additional space. The new space will be created by raising the roof, but not changing the existing footprint.

The Board noted that the Variance met the conditions of Section 255-79 C. 1-5.

The Board **granted** the **variances for side and front setbacks** on a vote of 5-0 with a **stipulation that it remain a 2-family.**

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-13 Caitlin Masys for Katherine Harrington 640 Boxford Road (775, 791, 18): Applicant is seeking a special permit for home occupation.

At the request of the applicant, the Board **granted to continue** this application to the August 21, 2019 meeting on a vote of 5-0. Applicant will be meeting with the neighbors. The Board noted that it received a letter in Opposition to the application. The applicant waived the notification period.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-14 Kim Zizza for Sohan Saini 108 Portland Street (610, 491, 6): Applicant is seeking a variance for front yard set back in a RU zone where 20 feet is required, 11 feet is provided. The addition shall meet **rear and side set backs.*

Member LaPlume wanted to remind the Attorney/Applicant about the necessary maintenance and upkeep of the property.

The applicant seeks to construct an addition to the existing two-family dwelling. The addition will meet the front and side setbacks

Q. Do you reside in Haverhill?

A. The owner of the Market on Main Street.

Q. Concerned about the condition of other properties owned by the applicant.

A. Will pass along those concerns to the owner.

The Board noted that the Variance meets the conditions in Section 255-79 C. 105.



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The Board **granted** the Variance on a vote of 5-0.

The Board **granted** the **variance for front yard setback** on a vote of 5-0.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-15 Mark Guerin for 86 Crystal Lake Road (566, 2, 7A): Applicant seeks variance for side set backs in a SC zone where 25' is required and 10.5' provided and rear set backs are 25' is required and 23.6 is provided. This is an existing footprint and applicant is raising the second floor to increase square footage.

Member LaPlume: does it have a full cellar?
Applicant: yes, in the main part of the house.

The Board noted that it received four letters in support of the Variance from neighbors on Crystal Lake Road. The father and daughter will reside in the dwelling. The applicant is raising the second floor to increase the square footage, without changing the footprint of the dwelling. The applicant will replace the drain pipe. The Health Department has approved the septic system for the property.

The Board noted that the Variance meets the requirements of Section 255-79 C. 1-5.

The Board **granted** the **variances for side and rear setbacks** on a vote of 5-0.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-16 Paul Magliochetti for Stag Tribe Capital, LLC 364 Main Street (610, 490, 6): Applicant is seeking a variance for proposed 3 unit residential building existing frontage of 43.2 feet where 100 feet is required, existing depth of 95 feet where 100 is required, existing front yard setback of 7.89 feet where 10 feet is required, existing side yard setback of 5.71 feet where 20 feet is required, existing rear setback of 11.62 feet where 20 feet is required and existing lot area of 3,780 sq. feet where 4,000 is required in CC zone.

Attorney Magliochetti explained that a special permit will be necessary for his request but un-sure if the approval was needed through the ZBA or through City Council. He asked if can present his application with both the special permit and variances. The board agreed. There was a lengthy discussion on the lack of allowable parking area/spaces.

Member Sullivan: Can you put parking in the back?
Attorney Magliochetti: No, the other house is not shown on the map, that is why they are proposing to remove a portion of the existing structure to allow for more traffic flow.
Member LaPlume: When he visited the location there was 4 cars there where will they park?
Member Sullivan: Is 5 parking spaces the requirement? Would 4 spaces be ok?
Attorney Magliochetti: yes, 4 spaces will be ok

An email was received in opposition of the application stating that parking on Main Street is already an issue

Member Sullivan: first option is to add relief to the 4 parking spots.
Member Soraghan: Perhaps have Merrimack Engineer re-draw the plot plans to reflect the 4th parking spot to the rear of the property.
Attorney Magliochetti: If you can change the configuration there would be no way, another option is if you look at the building from Main Street – if you remove that – it might work, to eliminate that spot in the front.



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Member Brown: How big is that area? 8ft? 9ft?
Member LaPlume: Are these parking spaces on the side of the house?
Member Magliochetti: No, it's on the corner.
Member LaPlume: Snow plowing – where and how can you plow? Storage? They can't get out.
Attorney Magliochetti: There is a little roo, but most will have to be trucked away.
Member Sullivan: State that at his office they had a similar configuration, and they had to have a snow blower to remove the snow to the street. The same would have to be done to this property.
Attorney Magliochetti: Agreed that they can stipulate that the snow be trucked away.
Member LaPlume: How can anyone maneuver the parking lot? It just looks so close and really tight.
Member Sullivan: Any background to how this was divided? It looks like it should have been one lot.
Attorney Magliochetti: Not sure, he wanted and intended to do research but unable to do so.
Member Brown: Wanted to clarify only 3 spaces is that possible she didn't hear –
Attorney Magliochetti: 1 ½ parking spaces is required for each unit, there are 4 units.
Member Sullivan: Relief for parking, motioned to amend the required parking, will vote on the variance first.
Member Soraghan: I don't believe the parking will work – he would like to see 4 spaces that will work.
Attorney Magliochetti: We can have 2 parking spaces in the rear, 1 in the front, and 1 in the side/front.
Attorney LaPlume: What about guests? Where will they park? There is a bank nearby and uses/shares the parking area.
Attorney Magliochetti: At this point, it is their issue to where they park.
Member Brown: The one in the front looks like it's on the sidewalk.
Attorney Magliochetti: They can designate to park closer to the home.
Member LaPlume: If you took the bump out would you have more parking on 1 story?
Attorney Magliochetti: Yes, 1 story, yes. If stipulations are added – 4 spaces if they can't make it work in the back, then they will have 1 in the front.
Member Soraghan: Suggested that a revised plot plan be resubmitted reflecting the parking changes. How would the ZBA know? For sure about the parking spaces? In the back the only option is to back out. Esthetically, it would be good for the city to rip out the small piece.

The Board granted the variance for frontage, depth, front yard, side yard, rear and lot area on a vote of 5-1. With stipulations for the parking: reduction of parking spaces from 5 to 4 and reconfigure the four spaces in the rear but if that doesn't work, use the one in the front and the 1-story extension of the south side near the 10ft right of way to be removed. The Board incorrectly granted the special permit (4-1) which is the sole purview of the City Council for multifamily dwellings greater than 2 units.

The Board noted that the Conditions for a Variance under Section 255-79C1-5 were met. The conditions for the Hardship was similarly satisfied, as were the conditions for the Special Permit. The Board noted that Mr. D. Palmer Lewis provided an email to express concern with parking as it relates to the property at 364 Main Street.

(Members LaPlume, Sullivan, Vathally and Chairman Moriarty voted, yes, Member Soraghan voted no.)

BOA-19-17 Paul Magliochetti for Med Properties, LLC 75 River View Street (436-1-24B-75): Applicant is seeking a dimensional variance for proposed 1 foot front yard setback where 20' is required and a 3 foot side yard set back where 5' is required for the shed.

The applicant requests a Variance for front and side setbacks. The storage shed is too close to the front, so there is an applicant being considered to have it removed. Many of the houses in the area are close to the road due to the unique slope of the properties. The Variance requested complies with the Condo Association Agreement.

The Board agreed that the Variance meets the Conditions of 255.79C1-5, specifically citing the slope of the property.



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The Board **granted** the **variance for front and side yard setbacks** on a vote of 5-0.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-18 Paul Magliochetti for Med Properties, LLC 178-180 Salem Street (728-704-8): Applicant is seeking a special permit to renovate an old dilapidated structure to the rear of an existing 2-family dwelling and renovate the property as a 3-unit residential building on the property in RH zone.

Joe Aresenal, 176 Salem Street – has concerns but willing to support the application.

Abutter

Does not want a lot of cars at the new 3-unit residential

There is no place to put snow if it is approved

Will they be able to put 15 cars? The way it is now there's a lot of cars.

If more cars they need to go on the other side of the building.

Member Brown: What is the existing parking now?

Applicant: it is broken up now, will pave designated areas, perhaps 6 spaces, willing to place a barrier in between – bushes or a fence.

Board suggested a few stipulations to be included in the condo documents:

1) no loud noise after 10p

2) no dogs/pitbulls

3) no renters, that the units be owner occupied.

Other Stipulations:

4) build retaining wall ie: fencing, bushes, shrubs, landscaping, etc at the preference of abutter Joseph Arsenault

5) applicant agreed to place all of the parking on the north side away from the neighbor.

The property has a two-family dwelling with a barn. The applicant seeks to remove the barn. The Special Permit request relates to a 3-unit residential building. The dwelling will be condo owners, not renters. A neighbor expressed strong concern for the noise created by those dwelling at the property in the past. The applicant noted that extensive repairs will be made, parking in the rear will be added, and barrier of shrubs will be installed.

The Board **granted** the **special permit** on a vote of 5-0.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-19 Donald Borenstein for Steven M. Benjamin 0 Tenadel Avenue (647, 4, 42): Applicant is seeking dimensional variances to allow for the construction of a new single family home on a lot with 100' of lot frontage where 150' is required on Tenadel Avenue and 10,155 sf of lot area where 20,000 sf is required in RM Zone. Variance for Lot Area and Frontage.

Member LaPlume: The other homes looked smaller on Tenadel, Winona looks a little different comparing to Tenadel.

Attorney Borenstein: Provided a handout that compared the homes on Tenadel and Winona.

Member Soraghan: What is the status of the portion of Tenadel Avenue as it relates to frontage? When will it be completed?

Attorney Borenstein: Tenadel is currently under construction that will connect the rest of the block together, the road will be completed because it provides the frontage and access to this property. The Planning Board in April 2019 approved the frontage waiver for the construction on Tenadel.

The applicant seeks to construct a single-family dwelling on property at Tenadel Avenue. Most of the properties in area are non-conforming and mostly smaller than the proposed lot.



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The Board **granted** the **variances** for **lot frontage and lot area** on a vote of 5-0, noting that the application met the conditions in 255-79 C1-5.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

BOA-19-21 Paul Magliochetti for Krista Blum 206 Primrose Street (600-449-5 and 600-472-1): A dimensional variance is required for the proposed 5th 4th residential unit *(4 residential units, 1 commercial for a total of 5 units.) The existing dimensional deficiencies are as follows: lot area of 3,311 where 10,000 are required, a front yard setback of 1 foot where 20 feet are required, frontage of 50 feet where 80 feet are required, depth of 69 feet where 100 feet are required, a side yard of 1 foot where 10 feet are required, a width of 52 feet where 60 feet are required, and a rear yard of 1 foot where 30 feet are required. To convert a portion of 1st floor commercial space into residential in RU & IG zone.

Attorney Magliochetti: Wanted to clarify a few items on the application as it related to the brief. Currently there are five units, 3 residential units on top, 2 commercial units on the first floor. Now in order to do that, some of the requirements change as far as dimensions, parking and we are also going to need a special permit. During an inspection, the inspector noticed someone living in one of the first floor commercial units. Years ago, one of the commercial units on the first floor was converted to residential as the business owner on the first floor had been using the commercial unit as his living space. They are before the board to legitimize that apartment that was created about 10 years ago. Nothing else is changing beyond legitimizing the one unit on the first floor being used as residential. They are also requested a special permit for use in the IG district. All of the dimensions are exactly the same.

Member Laplume: Parking is across the street, it's grass, is that ok?

Attorney Magliochetti: They will check with the City Engineer, and willing to comply with the necessary requirements.

Member Brown: how long have they used the commercial space as residential?

Owner Krista Blum: at least 10 years.

Member Laplume: There is another single family home that is very close – The egress is very narrow

Attorney Magliochetti: Exiting has been there since the building has.

Owner Krist Blum: The egress is for the second floor.

Member Soraghan: Lot 1 parking spaces will remain ^ (inaudible)

The Board **granted** the **variances and *special permit** on a vote of 5-0.

(Members Soraghan, LaPlume, Sullivan Vathally and Chairman Moriarty voted, yes)

OTHER MATTERS:

Approval of minutes for the June 19, 2019 meeting.

Motion: La Plume

Seconded: Vathally

The Board **approved** the **meeting minutes for the June 19, 2019** on a vote of 5-0.

Advertise: July 4, 2019
July 11, 2019