



CITY OF BEVERLY
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CITY of BEVERLY
Zoning Board of Appeals
February 23, 2022 at 7:00 pm

These minutes are not a verbatim transcript of the public hearing of the Board of Appeals. Reviews of the Board's Decision or outcome of the public hearing should include an examination of the Board's decision for that hearing.

Members Present: David Battistelli, Jim Levasseur, Kevin Andrews, and alternate member Peggy O'Brien

Members Absent: Pamela Gougian

Others Present: Kimberly Gagnon, Administrative Assistant
Steve Frederickson, Building Commissioner

Location: Remote

Mr. Fredrickson began the meeting at **7:00 pm**
He asked for nominations for new Chairperson.

MOTION: David Battistelli moved to nominate Kevin Andrews as Chairperson.
Jim Levasseur seconded the Motion.

Votes in favor: 4-0 (Battistelli, Levasseur, O'Brien Alt., Andrews)

Motion carries

Mr. Andrews accepted the nomination and welcomed everyone to the meeting. He informed all applicants that there are only four board members present so applicants have the option to move their application to future meeting where five members would be present.

I. NEW PUBLIC HEARINGS

A. Michael Henry

requests a **Special Permit** to raze detached garage and construct an addition for 2-car garage with master bedroom above on south side of nonconforming dwelling. Addition will comply with required setbacks. The property is located at 27 Woodbury St in the R-10 zoning district.

Dana and Michael Henry have owned the property for 12 years, since 2009. It is a small house and they would like to get the most use out of the house on a small lot. They will be conforming on the south side of the property. They are not looking to do anything extraordinary.



Abutter, Jean Gamble of 31 Woodbury Street brought up the fact that the applicant's fence is about 2 ½ft over onto her property. It does affect her setbacks. She would like the fence moved to the proper location as a condition of this Special Permit. Since the garage is being razed it is a perfect opportunity to correct this. She has no other objections if the fence gets moved.

Mr. Battistelli stated that he agrees that the fence should be moved as a contingency for the permit.

Mr. Henry stated that they will move the fence to keep the neighbor happy. The fence was there with permission of a prior neighbor.

Mr. Andrews stated that it looks like the proposed new garage will be further back from the side lot than the existing garage, is that correct?

Mr. Henry stated that is correct.

MOTION: Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Battistelli, Levasseur, Andrews, O'Brien Alt.)

Motion carries

MOTION: Mr. Battistelli moved to GRANT a **Special Permit** at 27 Woodbury Street to raze detached garage and construct an addition for 2-car garage with master bedroom above on south side of nonconforming dwelling, subject to the plans submitted. With contingency that the fence be moved to the correct property line. Addition will comply with required setbacks.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries

B. Thomas J. Alexander o/b/o Thomas and Cynthia Pelletier

request a **Special Permit** to repair an existing legally nonconforming 4 residential unit building that was damaged by a third floor fire on March 26, 2021 and to increase the size of the third floor for residential purposes. The number of residential units will remain the same and the footprint of the building will remain the same. The property is located at 15 Blaine Ave in the R-10 zoning district.

Atty. Thomas Alexander spoke for owners Thomas and Cynthia Pelletier.

The owners are seeking to rebuild the property since the fire in 2021, the new property will be slightly larger on the 3rd floor. This will be a complete rehab of the entire building due to water damage from the fire. The building will continue to be 4 units. It will be slightly larger on the 3rd floor. The existing building is unit 1&2 side by side each with two bedrooms. Second floor is



units 3&4 side by side also with two bedrooms. Proposal would be that 1st and 2nd floor would remain the same with some minor changes, just completely refurbished. The 3rd floor would be

expanded to allow units 3&4 to become townhouse style units side by side with 3 bedrooms.

This easily passes the legal test in Beverly for Special Permits. This is in harmony with the zoning ordinance. The location is appropriate for this use because there are many multi-families in this neighborhood so it is in keeping with the current neighborhood. It would not be detrimental to the neighborhood. There would be no nuisance or hazard created and the building would be brought up to all modern building health and safety codes. It will be an improvement to the neighborhood. The description of the building will essentially remain the same for residential units within the existing footprint.

No one spoke in favor or against the project.

Ms. O'Brien stated that it is suitable as stated and she is in favor of it.

Mr. Battistelli appreciates the investment in the neighborhood.

Mr. Andrews stated that it is a reasonable request given the investment that is going to be needed to bring the building back to a livable condition.

MOTION: Ms. O'Brien moved to close the public hearing.

Mr. Battistelli seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries

MOTION: Mr. Battistelli moved to GRANT a **Special Permit** at 15 Blaine Ave to repair an existing legally nonconforming 4 residential unit building that was damaged by a third floor fire on March 26, 2021 and to increase the size of the third floor for residential purposes, subject to the plans submitted. The number of residential units will remain the same and the footprint of the building will remain the same.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries

Mr. Andrews also acknowledged Mr. Margolis' long service on the board, he as recently retired from the Chair and board after 20 years of service. Also to Ms. Caldwell who also gave many years and professional legal opinion to this board



C. Armando & Kathleen Martins

request a **Special Permit** to add a roof over existing front steps, construct a 12' x 16' deck at rear of house, and to cantilever the bedroom 2' to the rear of a nonconforming dwelling. Additions will be no closer to the lot lines than the existing structure. The property is located at 10 Evelyn Rd. in the R-15 zoning district.

Mr. Armando Martins spoke, he wants to essentially rebuild the house, with the same footprint. This is a small ranch house that was two levels, the Special Permit would be to raise one of the levels so that it is all on the first floor. Also, to extend the bedroom in order to add a full bathroom with egress to the back deck by a slider.

No one spoke in favor or against.

Ms. O'Brien stated that it is a worthy project.

Mr. Battistelli asked what work has been done on the house.

Mr. Martins stated that they had applied for a permit and had approved plans so they did not originally realize that they needed a special permit to complete the project. They had already gone to the Conservation Committee for the deck and that was approved. When they went to the building inspector to get a variance for the overhang on the front steps, they were told that they needed a Special Permit. He did not understand why since the plans were approved. The house had already been essentially torn down. He has stopped all work and wants to go through the correct legal process to finish.

Mr. Battistelli stated that he thinks that the work will be an asset to the neighborhood. Mr. Andrews agreed that it will fit in nicely.

MOTION: Mr. Battistelli moved to close the public hearing.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries.

MOTION: Mr. Levasseur moved to GRANT a **Special Permit** at 10 Evelyn Road to add a roof over existing front steps, construct a 12' x 16' deck at rear of house, and to cantilever the bedroom 2' to the rear of a nonconforming dwelling, subject to the plans submitted. Additions will be no closer to the lot lines than the existing structure.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)



Motion carries.

D. Mark B. Glovsky, Esquire o/b/o Joan L. Mullen

request a **Special Permit** pursuant to section 300-82C, to allow the division of a non-conforming property into (2) lots, the construction of a new single-family dwelling on a new eight (8) acre lot with the existing non-conforming carriage house and enlargement of the existing carriage house by the addition of a three-bay garage. The property is located at 973 Hale Street in the R-90 zoning district.

Atty. Mark Glovsky spoke on behalf of Joan Mullen who purchased the property since 1976. It consists of 29 acres of land on easterly side of Hale Street near Manchester Beverly line. In addition to the 29 acres, she also owns another 8 acres which are depicted on the site plan that was submitted, separated from main parcel by chubbs creek and consequently identified as separate assessors lots. However, that does make the total approximately 37 acres.

The property at the moment is a 26 room single family dwelling constructed in late 1800, there is an accessory carriage house that was built in 1915 according to building inspector records. The property is non conforming in two respects:

The main house and carriage house are two dwelling units on one lot in a single family zoning district.

The accessory building, carriage house, is in the front yard.

The proposal is to modify the nonconforming property essentially substituting a new nonconforming property pursuant to section 300 82C and modifying the carriage house, which is nonconforming, by adding an addition to it.

After living on the property for more than 45yrs, Ms. Mullen who lives by herself and wants to move from the 26 room structure. She loves the property and wants to improve and protect it to the extent she can. She has made many improvements over the years and wants to continue to maintain the property. She is also successfully growing oysters in Chubbs creek and would like to continue that.

She is proposing to divide the property into two lots, Lot 1 would be approximately 11 acres, with the 26 room main house which has 14 bedrooms. Lot 2 would be 8 + acres and would be a new 3 bedroom dwelling. Plans where submitted for this. She also wants to add a 3 bay garage to existing nonconforming carriage house. Ms. Mullen is hoping that the proposal will minimize the further division of the property and will result in maintaining the open space for years to come.

This is the 1st of 3 steps required to complete this project. Step 2 would be a Special Permit from the Planning Board because Lot 1 is a pork chop lot and



that can only be created with a Special Permit from the Planning Board.
The next step would be going back to the Planning Board for an approval to divide the two lots.

The benefits of this proposal are outlined in the application.

Ms. Mullen did send the entire zoning board application to all abutters. Five responded by supplying supporting letters which were submitted along with the application.

Joan Mullen apologizes that she was traveling and unable to attend the meeting.

No one spoke in favor or against this proposal.

Ms. O'Brien said it seems like a very nice plan and she has no objections.

Mr. Battistell stated that he is having trouble with the lot lines.

Why is frontage only 75'?

Has Essex County Greenbelt approved the plan?

Atty. Glovsky responded that the property that is labeled Essex County Greenbelt was actually given to them by the Mullens about 25 to 30 years ago. That was Mullen property that they have preserved

The existing driveway will be terminated so that traffic will not go by her front door or the pond, there will be a new driveway that will serve Lot 1. Ms. Mullens would like to protect the pond. Atty. Glovsky stated that Essex County Greenbelt has not indicated that they object to the plan.

Planning Board will need to allow reduced frontage with a Special Permit.

Atty. Glovsky restated that the property is non-conforming in two respects:

The main house and carriage house are two dwelling units on one lot in a single family zoning district.

The accessory building, carriage house, is in the front yard.

Mr. Battistelli stated that he is in favor as this will not harm the neighborhood.

MOTION: Mr. Battistelli moved to close the public hearing.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries.

MOTION: Mr. Levasseur moved to GRANT the **Special Permit** at 973 Hale Street to allow the division of a non-conforming property into (2) lots, the construction of a new



single-family dwelling on a new eight (8) acre lot with the existing non-conforming carriage house and enlargement of the existing carriage house by the addition of a three-bay garage, subject to the plans submitted.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries.

E. Jason Consalvo

requests a **variance** to construct a two-story addition to the rear of a nonconforming dwelling. Addition will have side yard setback of 5'6" where 15' is required. Addition will not create new nonconformity. The property is located at 35 Ellsworth Ave in the R10 zoning district.

Mr. Consalvo addressed the board. He stated that the reason for the request is that they are only 5' 6" from the existing lot line in northeast corner of property. He wants to extend off the back of the house, off the northwest corner of the house to add an attached garage and master suite above. They will be removing the existing detached garage as part of the process and consuming the back deck area. They are looking to add space to stay in the city, want opportunity to expand to accommodate their family.

There is a letter from Brendan Egan of 31 Ellsworth Ave included with application. He has no objections to this project.

Mr. Consalvo stated that he has spoken to all of his abutters and did not have any objections.

Mr. Andrews stated that it is important to know how the shape of the lot is a hardship.

Mr. Consalvo responded that the lot is long and rectangular. Moving addition further from the lot line would create an inability to pull into the constructed garage. Moving closer to 1 Nursery Street lot would create a crowding that would defeat the purpose of the zoning requirements. Mr. Egan lives on a double lot so there is an entire empty lot between them.

No one spoke in favor or against.

Ms. O'Brien stated that the addition looks very large. What if the neighbor decides to use the extra lot? If that was subdivided it would become more dense.

Mr. Frederickson stated that the lot is not large enough to build on and the owner would need board approval to build a house on that lot.

Ms. O'Brien stated that she does not have a concern if that is the case.

Mr. Andrews asked how much sq ft they are adding



Mr. Consalvo responded:

1600 additional sq ft

800 finished

200 breezeway

Current living space is 1900 sq ft total

Mr. Andrews asked what siding is planned?

Mr. Consalvo responded some type of shingle style siding.

Mr. Andrews stated that he can support this project.

MOTION: Mr. Battistelli moved to close the public hearing.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries.

MOTION: Mr. Levasseur moved to GRANT a **Variance** at 35 Ellsworth Avenue to construct a two-story addition to the rear of a nonconforming dwelling, subject to the plans submitted. Addition will have side yard setback of 5'6" where 15' is required. Addition will not create new nonconformity. Size and shape of lot create a hardship.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries.

II. OTHER BUSINESS

A. Approval of January 26, 2022 Meeting Minutes

MOTION: Mr. Andrews moved to approve the minutes.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries

B. **MOTION: Ms. O'Brien moved to adjourn the meeting at 8:13pm.**

Votes in favor : 4-0 (O'Brien Alt., Battistelli, Levasseur, Andrews)

Motion carries

Kimberly Gagnon, Administrative Assistant
Board of Appeals of the Zoning Ordinance