

CITY of BEVERLY
Zoning Board of Appeals
March 22, 2023 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: Kevin Andrews, Chairperson, Pam Gougian, Jim Levasseur,
Will Cosmas, Cory Farinella

Members Absent: Margaret O'Brien, alt.

Others Present: James Butler, Building Commissioner
Leanna Harris, Administrative Assistant

Location: Council Chambers City Hall, 191 Cabot Street, Beverly

Kevin Andrews began the meeting at **7:04 pm** and introduced the Board members present including newly sworn in member Cory Farinella.

I. NEW PUBLIC HEARINGS

John Hensall

requests a **Variance** to allow installation of an above ground pool 7.5' from the side property line, where 10' is required. The property is located at 254 Lothrop Street in the R10 zoning district.

John Hensall addressed the Board and stated he is requesting a Variance due to ledge in the backyard. There is only one spot in the backyard where they can comply with the setbacks but because of the ledge it would involve substantial financial hardship. The size of the above ground pool (8' x16') was reduced to fit in the spot. The property is completely fenced and there are 12' arborvitaes on the side where the pool would go.

Mr. Cosmas asked how close the neighbors are and Mr. Hensall stated the house is a little more than 10' from the side property line.

Ms. Gougian asked for clarification as to why they aren't putting the pool elsewhere and stated financial hardship isn't something the Board can consider for a Variance.

Ms. Gougian asked if the neighbors were notified and Mr. Hensall stated that the neighbors were notified in addition to the public notice.

No one spoke in favor or against.

MOTION: Mr. Levasseur moved to close the public hearing.
Second by Mr. Cosmas.
4-0 (Andrews, Gougian, Levasseur, Cosmas)
Motion carries.

Mr. Cosmas stated it is his understanding that the primary issue is the existing ledge and asked how far down the ledge starts. Mr. Hensall stated he didn't know but they would need to break out the ledge or bring in fill and move the retaining wall. It's a lot of work for a relatively small project. The homeowners did compromise and reduce the size of the pool. Mr. Hensall stated the only way to know the extent of the ledge is to dig up the yard which would add unnecessary cost to the project. Mr. Andrews stated it sounds like a topography issue to him. Ms. Gougian stated the area where the pool could go looks pretty flat to her but added that it's a nice, fairly new patio and she wouldn't want it taken up either. Ms. Gougian stated, to her, it appears to be more of an issue with removing the patio versus a ledge issue.

Mr. Levasseur stated it is a topography issue, the area where they could put the pool is on two levels.

Mr. Cosmas asked what the rear setback would be and Mr. Hensall stated they won't make the setback if it goes in another area, it will encroach more. Mr. Cosmas asked if they have already done work on the area and Mr. Hensall stated he isn't sure what was there, there is dead grass.

Ms. Gougian asked for confirmation that the arborvitaes will remain and Mr. Hensall confirmed.

MOTION: Mr. Levasseur moved to GRANT a **Variance** at 254 Lothrop Street to allow installation of an above ground 8'x16' pool 7.5' from the side property line, where 10' is required due to the topography creating a hardship, subject to the plans submitted.
Second by Mr. Cosmas.
4-0 (Andrews, Gougian, Levasseur, Cosmas)
Motion carries.

Alexander & Femino o/b/o Paul and Nancy Furnari

request a **Special Permit/Finding** to allow for a 20'x28' second floor addition and a 5'x8' covered front entry to a legally existing nonconforming single family dwelling that is 9.4' from one side lot line and 18.4' from the front lot line where 15' for side lot line and 20' front yard is required. The property is located at 3 Melvin Avenue in the R-10 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board on behalf of the applicants and stated this request is for a Finding/Special Permit so it is not the same level of review and standard as a Variance, there is no hardship to be shown. The rear of the property abuts the Danvers River. The applicants are life long residents and Mr. Furnari is the owner of Meridian Construction. Atty. Alexander stated Meridian Construction is well known for the excellence of their designs. This property received a Special Permit in 2008 during the great recession and the owner was unable to build it out before it was sold to Mr. and Mrs. Furnari. The existing nonconformity is the area of the property on the front and side setbacks, there is no rear nonconformity. After the addition is constructed, the structure will still be 44' from the rear lot

line that abuts the Danvers River. All of the houses in the area were built prior to zoning and are nonconforming. Atty. Alexander stated, as a result, this Board has granted relief to many of the homes to expand. The proposal would create a larger house at 2,400 sq. ft. which was previously granted by this Board. The design is very attractive and very much keeps with the neighborhood, it fits very nicely. The Furnari's took the time to visit their neighbors and Atty. Alexander provided signatures from 13 abutters in favor of the proposal.

Atty. Alexander outlined the criteria for a Finding and how the proposal meets the criteria.

Atty. Alexander stated allowing the proposal will allow this property to be brought up to all current health and safety codes. It makes it a safer place for the occupants and the neighbors.

No one spoke in favor or against.

Mr. Cosmas asked what the existing square footage is and Atty. Alexander stated it is currently 750 sq. ft. and the new design will be 2,400 sq. ft. Mr. Cosmas stated that is an increase of 200% and Atty. Alexander confirmed.

Ms. Gougian asked if the driveway will be extended closer to the river and Mr. Furnari stated it won't. Ms. Gougian asked if there are any issues building closer to a waterway and Atty. Alexander stated they will be going to the Conservation Commission if they receive zoning relief. There is a 100' buffer from the coastal bank and they will need to obtain an Order of Conditions from the Conservation Commission.

Mr. Andrews stated it seems to be a reasonable request and keeps with the neighborhood.

MOTION: Mr. Levasseur moved to the public hearing.

Second by Mr. Cosmas.

4-0 (Andrews, Gougian, Levasseur, Cosmas)

Motion carries.

MOTION: Mr. Levasseur moved to GRANT a **Special Permit/Finding** at 3 Melvin Avenue to allow for a 20'x28' second floor addition and a 5'x8' covered front entry to a legally existing nonconforming single-family dwelling that is 9.4' from one side lot line and 18.4' from the front lot line where 15' for side lot line and 20' front yard is required, subject to the plans submitted. Second by Ms. Gougian.

4-0 (Andrews, Gougian, Levasseur, Cosmas)

Motion carries.

Morgan Gardner

requests a **Special Permit** to add a 2nd floor addition over rear entry of existing nonconforming house. The property is located at 23 Swan Street in the RMD zoning district.

Morgan Gardner addressed the Board and stated they purchased the property in the fall of 2019. It was a fixer upper and they have had Mass Save out there and have changed out the furnace to high efficiency natural gas. Mr. Gardner stated they were going to request this Special Permit last

year and so that is why the drawings are a year old. The home is a 100 year old home, most houses on the street are identical. It is a little over 1,500 sq. ft. Mr. Gardner stated they are looking to build a second story over the first floor. The corner piece of the addition will need columns and LV posts. It is currently a two bedroom home and they are looking to increase the square footage to create a third bedroom/office space.

Mr. Butler stated he thinks this could also be considered a Finding.

Mr. Andrews asked if they are getting closer to the sides of the property and Mr. Gardner stated they are not, they are just going up and back.

No one spoke in favor or against.

Mr. Cosmas stated it seems like a minimal request within the existing dimensions and it won't affect the character of the neighborhood. Ms. Gougian agreed.

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

Second by Ms. Gougian.

4-0 (Andrews, Gougian, Levasseur, Cosmas)

Motion carries.

MOTION: Mr. Levasseur moved to GRANT a **Special Permit/Finding** at 23 Swan Street to add a 2nd floor addition over rear entry of existing nonconforming house based on the plans submitted. Second by Mr. Cosmas.

4-0 (Andrews, Gougian, Levasseur, Cosmas)

Motion carries.

Amanda Lennon

requests a **Variance** to construct an 18'x18' deck encroaching 10.6' into the side yard set back where 15' is required. The property is located at 7 Columbus Avenue in the R10 zoning district.

Amanda Lennon and Robert Ianuzzi addressed the Board and stated their yard and the houses next to the them are on a hill. There is a very old flagstone patio that has run its course and so they would like to put a deck over it and make the area a little larger. They would like to make the deck 18' and go 10' on the side. The topography is just odd due to the houses being on the hill. The construction of a deck on posts is just the easiest thing for them to do.

Ms. Gougian asked for clarification of the relief they are looking for and Mr. Butler stated the side setback. It will still be 10.6' from the property line were 15 is required.

Mr. Andrews stated it sounds like a reasonable request.

Mr. Cosmas stated they are just talking about the square and Ms. Lennon confirmed and stated they just want to cover up what is there.

No one spoke in favor or against.

MOTION: Mr. Levasseur moved to close the public hearing.
Second by Mr. Cosmas.
4-0 (Andrews, Gougian, Levasseur, Cosmas)
Motion carries.

MOTION: Mr. Levasseur moved to GRANT a **Variance** at 7 Columbus Avenue to construct an 18'x18' deck encroaching 10.6' into the side yard setback where 15' is required due to the topography and the slope of the land creating a hardship, subject to the plans submitted. Second by Ms. Gougian.
4-0 (Andrews, Gougian, Levasseur, Cosmas)
Motion carries.

II. CONTINUED PUBLIC HEARINGS

Alexander & Femino o/b/o Carlos Delgado

requests a **Variance** to construct 3 new dwelling unit buildings on a 3,473 sq. ft. lot in the RHD district which is 1,158 sq. ft. per dwelling unit where the zoning ordinance calls for 3,000 sq. ft. per unit. The front yard setback which is currently 8.2' would be maintained where the zoning ordinance calls for 15' and the parking would be within the required 5' setback. The property is located at 28 Bow Street in the RHD zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board and requested a continuance to allow more time to revise the plans.

MOTION: Mr. Cosmas moved to continue the hearing to the April 26, 2023 meeting, subject to the Waiver and Agreement. Second by Ms. Gougian.
4-0 (Andrews, Gougian, Levasseur, Cosmas)
Motion carries.

Stephen Capodilupo

requests a **Special Permit/Finding** to add a dormer to existing nonconforming 2-family dwelling and replace existing 2-car garage with 4-car connected carriage house with living space above. Also requesting a **Variance** to add two 1-bedroom units to multi-family property. The property is located at 15 Liberty Street in the R10 zoning district.

MOTION: Mr. Cosmas moved to continue the hearing to the April 26, 2023 meeting, subject to the signing of the Waiver and Agreement. Second by Mr. Levasseur.
4-0 (Andrews, Gougian, Levasseur, Cosmas)
Motion carries.

OTHER BUSINESS

- A. Approval of February 15, 2023 Meeting Minutes (Levasseur)

MOTION: Mr. Levasseur moved to approve the Minutes of the February 15, 2023 meeting. Second by Ms. Gougian.

Votes in favor: 4-0 (Andrews, Levasseur, Gougian, Cosmas)

Motion carries.

- B.** Delegation of authority to Chair of the Zoning Board of Appeals to review and approve executive session meeting minutes dated February 15, 2023.

MOTION: Mr. Levasseur moved to delegate the Chair of the Zoning Board of Appeals to review and approve executive session meeting minutes dated February 15, 2023.

Second by Mr. Cosmas.

Votes in favor: 4-0 (Andrews, Levasseur, Gougian, Cosmas)

Motion carries.

- C.** Distribution of monthly ZBA packages (Butler/Harris)
The Board discussed obtaining the applications digitally or as hard copies.
- D.** Changing meeting time (Butler/Harris)
The Board discussed changing the meeting start time and decided to keep it at 7pm.

MOTION: Mr. Levasseur moved to adjourn the meeting.

Second by Ms. Gougian.

Votes in favor: 4-0 (Andrews, Levasseur, Gougian, Cosmas)

Motion carries.

Leanna Harris, Administrative Assistant
Board of Appeals of the Zoning Ordinance