



CITY of BEVERLY
Zoning Board of Appeals
April 26, 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 and Cory Farinella

Member Absent: Margaret O'Brien, alt.

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

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

Kevin Andrews, Chairperson began the meeting at **7:04 pm**. and introduced the Board members present.

I. NEW PUBLIC HEARINGS

Matthew Coutu

requests a **Special Permit** to replace an existing 14'x8' three season porch with a 14'x12' sunroom. The property is located at 34 Bertram Street in the R10 zoning district.

Nate Cospers (Sunrooms) addressed the Board and stated the existing house is too close to the lot line. They are proposing to remove the existing three season porch and replace it with a 14'x12' sunroom in the exact same place. The new structure is deeper than the existing structure but it will not be any closer to the side or rear setback. Neighbors on either side have similar additions and are similarly close to the lot line. It's not possible to shift the sunroom over due to an existing bulkhead. The sunroom addition is keeping with the feel of the neighborhood.

Mr. Andrews asked for confirmation that the existing nonconformity will continue and no additional increase will occur because the rear setback is met and Mr. Cospers confirmed.

Ms. Gougian stated it looks like a simple request.

No one spoke in favor or against.

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

Mr. Cosmas seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Mr. Cosmas stated the sunroom only pushes further into the area where there is plenty of setback left, they are dealing with the dimensions they already have. Mr. Andrews agreed.

MOTION: Mr. Levasseur moved to GRANT a **Special Permit** at 34 Bertram Street to replace an existing 14'x8' three season porch with a 14'x12' sunroom, subject to the plans submitted. Ms. Gougian seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Morgan Katz

requests a **Variance** to construct a detached 32'x14' single car garage closer to the side lot line than allowed. The property is located at 150 Hale Street in the R10 zoning district.

Morgan Katz addressed the Board and stated she is requesting to build the garage closer to the property line than allowed. There is an alley on that side, not a residential neighbor. On the other side of the alley is a commercial lawn care business. The garage would add a little privacy to the backyard, protection for her car and also provide extra storage for tools, etc.

No one spoke in favor or against.

Mr. Andrews asked for confirmation that the garage would be next to the dirt road and Ms. Katz confirmed.

Mr. Andrews asked what the garage will be sided with and Ms. Katz stated the same vinyl siding as the house.

Ms. Gougian stated the garage looks like it comes a less than a foot from the property. Mr. Butler stated it is .9' from the house.

Mr. Andrews stated given its proposed location he doesn't have a problem with the setback.

Mr. Farinella stated if you look at the curb cuts it looks like if they planned to make that paper road a road, it would still be a car length away.

Mr. Cosmas stated it looks as though the dimensions as well as the size and shape of the lot create a hardship.

Mr. Butler stated the Building Code requires the proposed garage be 5' from the house for fire protection.

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

Mr. Cosmas seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Ms. Gougian asked Ms. Katz if she considered putting the garage further back into her yard and Ms. Katz stated she would like to not take up more of the yard.

MOTION: Mr. Levasseur moved to GRANT a **Variance** at 150 Hale Street to construct a detached 32'x14' single car garage closer to the side lot line than allowed due to the shape and size of the lot as well as the orientation of the house on the lot creating a hardship, subject to the plans submitted. Mr. Farinella seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Russell Pyle

requests a **Variance** to relocate existing stairs from the side of the porch to the front and extend existing porch over where the stairs would be. The property is located at 117 Valley Street in the R45 zoning district.

Russell Pyle addressed the Board and stated the plans are to extend the existing porch and relocate the stairs so that the stairs lead directly into the front door. The door and stairs would be more in line for EMTs, etc. The house is old and has had a lot of work done to it over the years, originally it was probably a side door into the house. Mr. Pyle stated they are requesting a Variance because they do not have the setback required from the landing to the street. The existing is 7.6' where 30' is required and they are requesting 5'.

Mr. Pyle stated style wise it will be consistent with the neighborhood. The railings and trim will be replaced with the exact same style so that it looks like it is original.

Mr. Cosmas asked for confirmation that his concern is safety and Mr. Pyle confirmed and stated it would be impossible to get a stretcher in or out of that existing front door.

There are three letters from abutters in support of this request.

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

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Mr. Cosmas stated safety is an important consideration and Mr. Andrews agreed. Mr. Farinella stated it is really just the stairs that are coming out five feet, not the porch.

MOTION: Mr. Levasseur moved to GRANT a **Variance** at 117 Valley Street to relocate the existing stairs from the side of the porch to the front and extend existing porch over where the stairs would be due to the orientation of the house on the lot as well as the lot shape creating both a hardship and safety concern, subject to the plans submitted.

Mr. Farinella seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Angel Rivera

requests a **Special Permit** to construct an addition 8.7' from the side lot line, where 15' is required. Addition will come no closer to the property line than existing structure. The property is located at 12 Conway Street in the R10 zoning district.

John Crowell (Deerfield Architects) addressed the Board on behalf of the applicants and stated the property is a single family home located on a dead end street. It is currently a one story cape and they are hoping to add a second story and fill in an indent of the house. The addition will keep in line with the existing house and will be no closer to the setbacks than the existing house.

Mr. Andrews asked if they will be continuing the nonconformity along the front and side but not closer to the property lines and Mr. Crowell confirmed. Mr. Andrews asked if the height is within the 35' height limit and Mr. Crowell confirmed and showed the Board the elevations.

No one spoke in favor or against.

Mr. Andrews asked Mr. Crowell to describe the entrance they are constructing and Mr. Crowell stated they will be moving the front entrance to the existing bump out. It will be a full glass door with side lights on the sides and the roof will either be metal or shingled.

Ms. Gougian asked what the height measurement is from the base to the grade and stated it is not shown on the plans. Mr. Crowell stated it will be significantly under the 35' height requirement and it will be shown on the building permit plans. Ms. Gougian asked if there will be a garage and Mr. Crowell stated there will not.

Mr. Andrews stated the architect has done a great job with the design, it looks like a great change for the house and it will really dress up the front.

Mr. Farinella stated he noticed the house behind it is a 2-story and asked if this addition will be similar. Mr. Crowell stated the back of the house has a grade change so that house is higher.

Mr. Andrews asked what the front setback is and Mr. Crowell stated 15.5' to the front corner of the house and it is a 2' setback so they will be 17.5' where 20' is required and it doesn't increase the existing nonconformity.

Donald Reed 10 Conway Street stated he has no problem with the plans.

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

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Mr. Andrews stated he thinks it will be a nice to change to the property.

MOTION: Ms. Gougian moved to GRANT a **Special Permit** at 12 Conway Street to

construct an addition 8.7' from the side lot line, where 15' is required. Addition will come no closer to the property line than existing structure and no new conformity will be created, subject to the plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Andrew and Terry Moore

request a **Special Permit** to replace an existing 5.34'x15' covered porch with a 8'x15.2' covered porch. The property is located at 30 Northern Avenue in the R10 zoning district.

Andrew Moore stated he would like to replace the existing porch with a 15'x8' porch that will be extended 5' on either side but still have a 10' setback from the street. The neighbors on either side will not be affected.

Mr. Andrews asked if they thought about continuing outward and requesting more. Mr. Moore stated that was his original thought but after discussions they decided this design would be more practical.

Ms. Gougian asked if they will maintain the existing curve of the porch roof and the builder said no, that it was not possible but instead they are going to come straight out with a shingled roof to match the shingles on the existing roof. It won't be a flat rubber roof. The trim will be all white and they will keep the lattice.

Mr. Andrews asked if the side setback will be met and the builder confirmed and stated they are looking for 3' feet in the front. Mr. Andrews stated the current porch looks small for the house and the change will be more to scale.

No one spoke in favor or against.

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

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

MOTION: Mr. Levasseur moved to GRANT a **Special Permit** at 30 Northern Avenue to replace an existing 5.34'x15' covered porch with an 8'x15.2' covered porch, subject to the plans submitted. Mr. Farinella seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Margaret Carey

requests a **Special Permit** to construct a single story addition with a footprint exceeding 25% of existing structure. The property is located at 15 Davis Road in the R10 zoning district.

Bill Nolan (Savoie Nolan) addressed the Board on behalf of the applicant and stated they are looking to add a single story addition for a bedroom. Mr. Carey has been diagnosed with Parkinsons and dementia and they really want to stay in their house. The existing bedrooms are on the second floor. The addition will meet all the current setbacks and would be able to be done by right if not for the existing nonconformity. It is a very small house and the footprint will be increased slightly over 25%.

Ms. Gougian asked what the current square footage is and what is being added. Mr. Nolan stated the existing house is 899 sq. ft. and the proposed addition will be 310 sq. ft. Mr. Andrews stated it is a reasonable request and Mr. Cosmas agreed.

No one spoke in favor or against.

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

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Mr. Cosmas agreed that it is a reasonable request and stated it doesn't increase any nonconformities and there is an understandable reason for the request.

MOTION: Mr. Cosmas moved to GRANT a **Special Permit** at 15 Davis Road to construct a single story addition with a footprint exceeding 25% of existing structure, subject to the plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries

Alexander & Femino o/b/o Watts Street, LLC

requests a **Variance** to construct a 3-unit dwelling on a presently vacant lot that had a 3 unit building which burned down. The lot has 5,076 sq. ft. of area and 50' of frontage where present zoning provides 65' of frontage and 12,000 sq. ft of area. The proposed building would be located approximately on the same location as the destroyed building with a front yard setback of 8.4' where present zoning provides for a 20' front yard setback. The property is located at 19 Simon Street in the RMD zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board and stated he is here on behalf of Watts Street, LLC who owns Toscana restaurants in both Beverly and Peabody and they have done a fair amount of investing in Beverly. This request was heard 10/27/2021 and variances were granted. The first variance was for the lot that does not conform to existing zoning. It had been the location for a 3-family dwelling that burnt down in the 70s. All that is there is the foundation. The lot doesn't comply with today's current zoning in terms of area and frontage and so they sought and received a variance to subdivide the lot. The request was also reviewed by the Planning Department, Fire Department and the Board of Health. Atty. Alexander stated action on a variance must be taken within one year of its date. The lot variance was granted in October 2021 and the Waiver of Frontage allowed by the Planning Department is dated

1/11/2022. The applicant wants to put the building in the same location as the one that burnt down in the 70s. Atty. Alexander stated the setback requirements are more stringent now than when all of the buildings in that neighborhood were built. The front setback is 8.4' and today's requirement is 20'. The proposed dwelling will be a 3-decker with 3-bedrooms on each level.

The construction work needed to begin prior to 10/27/2022 but it didn't get done due to supply chain issues during Covid. Atty. Alexander stated this project has been reviewed thoroughly by the City and everything is exactly the same as before.

Ms. Gougian asked for clarification on the parking and Atty. Alexander stated parking will be located behind the building in a lot that will have 18 spaces providing 2 spaces per unit.

No one spoke in favor or against.

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

Mr. Farinella seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Mr. Andrews stated he remembers voting for this before and he thinks it does make sense to fill in the 'missing tooth'.

Mr. Cosmas stated the remains of the old foundation appear to be a single wall and Atty. Alexander stated they are going to dig down and excavate everything. Mr. Cosmas asked for more information on the hardship and Ms. Gougian stated the previous variance states the hardship was the shape of the lot.

MOTION: Ms. Gougian moved to GRANT a **Variance** at 19 Simon Street to construct a 3-unit dwelling with a front yard setback of 8.4' where 20' is created due to the shape and size of the lot creating a hardship, subject to the plans submitted.

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries

Alexander & Femino o/b/o 9 Swan Street, LLC

requests a **Special Permit/Finding** and a **Variance** to rehab and repair a single family structure rendered uninhabitable by fire damage and add to it by constructing an addition that is 5' from the side lot line, where the preexisting legally existing structure is 4.1' from the side lot line and zoning provides for a 10' side yard setback and a dimensional variance to allow for 3 residential units at 1,977 sq. ft. of land per unit, where the zoning ordinance provides for 4,000 sq. ft. per unit. The property is located at 9 Swan Street in the RMD zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board on behalf of 9 Swan Street, LLC and stated the property burnt down in March 2022 and the property has been rendered inhabitable. The property is located in the RMD district. The purpose of the RMD district is to

provide for multiple family residences at medium density which is defined as 3 or more units. This request is within the purpose of this zone. It has been designed to comply with the requirements for parking and the setbacks are less nonconforming than the preexisting nonconforming building. By building out the addition it financially provides for the property to be enhanced.

Mike Becker, Principal owner of the property is also present.

Mr. Cosmas stated the RMD district also permits single family dwellings and asked how this is the minimum relief being requested. Mr. Becker stated the inside of the house is a complete burnout. Mr. Cosmas stated they are asking a lot for a dimensional variance and asked if a 2-family home would work. Mr. Becker stated that is possible although the three family does work well, each unit gets a garage and there is plenty of green space.

Atty. Alexander stated building a 3-family would produce the revenue needed. There would be two off street parking spaces per unit.

Mr. Cosmas asked for confirmation that there will be 3 townhouses and Mr. Becker confirmed.

Mr. Andrews asked if there are other multi-families on this street and Mr. Levasseur stated there are. Mr. Andrews asked if there will be a place for snow storage and trash. Mr. Becker showed on the plan where snow will go and stated trash will be inside of the garages.

Ms. Gougian asked what size the garages are and Mr. Becker stated they are 2-car garages. Ms. Gougian stated she can't fit anything in her garage when there are two cars in it. Mr. Becker stated there will be an area near the stairs.

Kevin St. Pierre, 7 Swan Street stated his home is to the right of this property. They moved in October 2020 and they have had issues with this property with the backyard being overgrown and then the fire in March happened. The house has sat burnt for over a year, there is still broken glass and a temporary orange fence that is still sort of up. It is definitely an eyesore and so in terms of something being built, it would be better than a burned-out house. Mr. St. Pierre stated this proposed house would be facing their house and there is nothing like this on the street. When they originally bought their house, they felt they had enough privacy with where the existing house was. There is a maple tree at the back of the property that provides shade and privacy and they don't know what their plans are if they plan to take it down. Mr. St. Pierre stated he is not in favor of the current design.

Mr. Cosmas stated he thinks this request is asking for way too much, the building is way too big. There is a neighbor present who is against the design and who was not spoken to previously. Mr. Cosmas stated he thinks a two family would help cover the costs of rebuilding.

Ms. Gougian stated typically Atty. Alexander comes to the ZBA with a color-coded lot map showing every neighbor in support of the plans being submitted.

Mr. Andrews stated he also thinks the proposal is too big for the lot and Mr. Farinella agreed.

Atty. Alexander requested a continuance to address both the Board and the neighbor's concerns.

MOTION: Mr. Levasseur moved to GRANT a continuance for 9 Swan Street to the May 24, 2023 meeting, subject to signing the Waiver Agreement.

Mr. Cosmas seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

Axcelis Technologies, Inc.

requests a **Special Permit** to install (3) freestanding directional signs and (6) wall-mounted dock ID disk signs at a new construction warehouse facility to provide safe separation of commercial trucks and delivery vehicles from personal vehicles carrying visitors and staff. The property is located at 105 Sam Fonzo Drive in the IR zoning district.

Boyd Morrison (Gamble Design) addressed the Board and stated the signs are very small, they are strictly for getting trucks into the site and directing them to the loading area. The directional signs would be on Sam Fonzo Drive.

Ms. Gougian stated this request came before the Design Review Board and it was approved unanimously.

Mr. Petkavich, 60 Trask Street stated he lives behind the building and asked for clarification as to where the signs will be located and if they will be lit. Mr. Morrison showed the neighbors a map with the location of each sign.. He also confirmed that the company sign would be the only sign that was illuminated. It was not part of this plan as it did not require ZBA approval - that the company sign was "by right".

Linda Briggs, 54 Trask Street stated she is concerned about seeing the signs from her property and asked to confirm which ones will be illuminated.

Robert Gates 61 Trask Street also expressed concerns regarding the signs.

MOTION: Ms. Gougian moved to close the public hearing.

Mr. Cosmas seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

MOTION: Ms. Gougian moved to GRANT a **Special Permit** at 105 Sam Fonzo Drive to install (3) freestanding directional signs and (6) wall-mounted dock ID disk signs at a new construction warehouse facility to provide safe separation of commercial trucks and

delivery vehicles from personal vehicles carrying visitors and staff, subject to the plans submitted and as approved by the Design Review Board.

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

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.

MOTION: Mr. Cosmas moved to GRANT a continuance for 28 Bow Street to the May 24, 2023 meeting, subject to signing the Waiver Agreement.

Ms. Gougian seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

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.

Mr. Capodilupo stated they are adding dormers to the third floor and replacing the existing two car garage with a detached garage. He has owned it since 2016 and the hardship is that it is 3 lots, 15,000 sq. ft. All the properties in the area are on 5,000 sq. ft. lots. There is a paper street on the right side of the house. They are requesting one additional unit which matches the number of units to the number of the lots. The porches are also unsafe and need to be repaired.

Mr. Capodilupo showed on the map the starred houses that support the project and stated he feels the revised plans address the concerns of the abutters. The new plans provide enough parking on the property for the additional unit.

Mr. Basso (Architect) stated the feedback received from the neighbors is that 4-units was too much so they reduced it to 3-units. The house was built in 1920 with a hip roof and deep overhangs, it currently has 3 dormers on the three floors. They are keeping the architectural design of the house and connecting the two existing dormers with a shed piece in between and adding dormers on the garage side. There will be new windows installed to match the rest of the house. In the back they are taking off the covered porch and are replacing it with an open deck.

Mr. Butler asked if the property has been surveyed yet and Mr. Basso confirmed. Mr. Butler stated he is wondering if the house is nonconforming. Mr. Basso stated the plans are no closer to the side yard than what is currently there.

Alan Battistelli, 12 Pearl Street stated they are a direct abutter in the back and he is happy that the project has been toned down. Mr. Battistelli stated it is still a single family neighborhood and it is zoned that way. Mr. Battistelli stated he doesn't think adding a three family is appropriate.

Quentin Walsh, 10 Pearl Street stated he lives behind the lot and he thinks it will bring property values down if it is a 3-family house.

The applicant has requested a continuance to the May 24, 2023 meeting.

MOTION: Mr. Levasseur moved to GRANT a continuance for 15 Liberty Street to the May 24, 2023 meeting, subject to signing the Waiver Agreement.

Mr. Farinella seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

III. OTHER BUSINESS

A. Approval of March 22, 2023 Meeting Minutes (Andrews)

MOTION: Mr. Andrews moved to approve the Minutes from the March 22, 2023 meeting. Mr. Cosmas seconded the Motion.

Votes in favor: 5-0 (Andrews, Gougian, Levasseur, Cosmas, Farinella)

Motion carries.

MOTION: Ms. Gougian moved to adjourn the meeting at **9:52 pm.**

Mr. Cosmas seconded the Motion.

All in favor.

Motion carries.

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