

City of Beverly – Public Meeting Ground Rules

This Open Meeting is being conducted remotely, consistent with Governor Baker’s Executive Order of March 12, 2020, in response to the outbreak of COVID-19, which allows public bodies to meet entirely remotely so long as adequate alternative public access is afforded.

- Other participants or viewers may be able to see and hear you. You have the option to turn off your video if you are participating via computer.
- Mute microphones or phones unless recognized by the Chair to reduce background noise and feedback. Mute yourself by clicking the microphone mute/unmute icon at the bottom of the screen, pressing the mute button on your telephone, or by pressing *6 on your telephone keypad. The host may mute you.
- Use the Chat function for technical difficulties and to indicate you’d speak and not for public comment.
- Wait until the person speaking has finished before speaking so we can clearly hear all participants.
- State your name and address or affiliation before speaking.
- Speak clearly, loudly, and in a way that helps generate accurate minutes.
- Regarding public comment:
 - After speakers conclude, the Chair will invite Board members to provide comment, questions, or motions.
 - After members have spoken, the Chair may afford public comment as follows:
 - The Chair will first ask members of the public who wish to speak to identify their names and addresses only; you may also write “me” in the chat function.
 - Once the Chair has a list of all public commenters, she will call on each by name.
 - Public comment is at the Chair’s discretion unless required by law (such as a public hearing).



**City of Beverly
Zoning Board of Appeals
June 23, 2021 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: Joel Margolis, Chairperson, Victoria Caldwell, Pamela Gougian, David Battistelli, Jim Levasseur

Members Absent: Margaret O'Brien, alt, Kevin Andrews. Alt.

Others Present: Steve Frederickson, Building Commissioner
Leanna Harris, Zoning Board Administrative Assistant

Location: Remote

Joel Margolis, Chairperson began the meeting at **7:00 pm.** and as a preliminary matter, stated the following:

Before beginning the meeting, I am confirming that all members and persons anticipated on the agenda are present and can hear me.

- Members, when I call your name, please respond in the affirmative.
- Staff, when I call your name, please respond in the affirmative.
- Anticipated speakers

I. MINOR MODIFICATION

Julie Tsakirgis

Original request: In a petition for a **Variance** to construct a 1-story, 4' x 10'-6" addition to the front of house, with a 16.8' front setback where 20' is required and a special permit for a right side yard setback of 5.7' where 15' is required. Garage is to be no closer to right side lot line than existing structure Also, a **Special Permit** to add a 2nd floor to an existing nonconforming dwelling with a right side setback of 5.7' and a left side setback of 10.8' where 15' is required, to add a roofed landing and steps with a left side setback of 5.9' where 15' is required, and a rear deck with a left side setback of 14.9' and a right side setback of 9.9' where 15' is required. The property is located at 16 Fosters Point in the R10 zoning district.

Variance and Special Permit approved: 10.1.2021

Kirk Boggia, (contractor) addressed the Board and stated they came into unforeseen issues. The original plan was to add onto the second floor. Originally, some of the walls were going to stay



but once he opened the house there was nothing holding them up. There was a fire 8 or 9 years ago. The sill plate is rotted and once he opened the foundation to start extending the garage the foundation walls were also lacking. Mr. Boggia stated he asked the building department what to do and they were advised to notify the Board that they want to bring the foundation and walls up to code but that it won't change the building or the footprint. They are required to supply an as-built when they are finished and it will show they are within the building permit and building code.

Mr. Battistelli stated this is certainly a minor modification.

Ms. Gougian asked if all the walls are coming down and Mr. Boggia confirmed. Ms. Gougian asked if it's a tear down and Mr. Boggia stated it is close.

Mr. Margolis asked if the exterior walls are being removed does it change the ability to move forward with permitting and Mr. Frederickson stated that its part of the reason they sent them back to the Board, they are demolishing more than 50% of the building. Mr. Frederickson stated the final product would be what the Board has already approved.

MOTION: Mr. Battistelli moved that this is a Minor Modification to have the house rebuilt and it will have no impact on the neighbors. Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

II. NEW PUBLIC HEARINGS

Emily Pinstein

requests a **Special Permit** to construct a 32'x5' shed dormer to add a bedroom and bathroom to an existing second story and a 36'x6' farmer's porch with a roof. This property is located at 2 Farms Lane in the R-15 zoning district.

Emily Pinstein addressed the Board and explained that she purchased the home before she was married and that is why the name is different on the application. Ms. Pinstein stated they are requesting a Special Permit to construct a farmer's porch. Their 1,734 sq. ft. home does not currently meet the 30' front setback due to a right-of-way. The house does meet all other setback and height restrictions for their district. The dwelling is already nonconforming and this addition will increase the home by 9%. The overall height of the home and footprint will not be increased. The addition adds 160 sq. ft. to allow them to add a bathroom and a bedroom. These two items together are about a 366 sq. ft. increase which is still under the 25% rule. Ms. Pinstein stated these improvements will add value and add to the sense of community in their neighborhood.

A petition signed by 9 abutters in favor and two letters of support were also included.

No one spoke in favor or against.



Mr. Margolis stated it looks pretty straight forward and Ms. Gougian agreed.

Mr. Battistelli asked for more information about the right-of-way. Ms. Pinstein stated it's a right of way that was established but has never been used. A letter submitted in support also states the same. The right-of-way is also fenced off further preventing its use.

Ms. Caldwell stated this is pretty straightforward and it was very well presented.

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

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

MOTION: Ms. Caldwell moved to GRANT a **Special Permit** for 2 Farms Lane to allow for the construction of a 32'x5' shed dormer to add a bedroom and bathroom to an existing second story and a 36'x6' farmer's porch with a roof, subject to the plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

Alexander & Femino o/b/o Richard and Kathleen Malewicki

requests a **Variance** to build a one car garage addition that is 9.6' from the rear lot line where 25' is required and the owners will demolish an existing shed that is 8.5' x 14' that is directly on the rear and side lot lines. This property is located at 55 Hillside Avenue in the R-10 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board and stated the applicants have owned the home since 1989, it is part of a 1909 subdivision and they are all nonconforming. They are looking to remove an 8.5'x14' shed that significantly encroaches the rear left lot line. The applicants are looking to build a new garage area that would replace some of the storage that was in the shed and also provide covered parking for Ms. Malewicki's mother. On top of the garage would be a deck. The Malewicki's each have a vehicle and a truck with a plow as well as Ms. Malewicki's mother's vehicle.

Atty. Alexander stated this property has a serious slope and this house is located on the steepest part of Hillside. The street is at a 10-12% grade. This hill is a chunk of ledge making the space difficult to use and creating a hardship. The yard itself is a series of terraces, there is not a lot of outside useable space. The proposed addition is 9.4' from the rear lot line but it replaces a shed that is 0' from the lot line and so there will be significantly less encroachment on abutters. It also has granite ledge that creates a hardship.

A signed petition was provided with abutters who have signed in favor including the direct abutters and the rear and side abutters who are most effected.

No one spoke in favor or against.



Mr. Margolis stated it appears the new garage is an oversized 1-car or a 2-car garage and Atty. Alexander confirmed that it is oversized 1-car garage.

Ms. Gougian asked what the size of the garage will be and Atty. Alexander stated it is 18'x 28'

Ms. Caldwell asked what the square foot of the house is and Atty. Alexander stated approximately 2,200 sq. ft. Ms. Malewicki confirmed. Ms. Gougian asked what the square footage of the garage will be and Atty. Alexander stated 504 sq. ft. Ms. Caldwell stated it seems like a lot of garage compared to the house, although it does look attractive. Atty. Alexander stated it is serving a couple of different needs with providing storage, covered parking and outdoor space on land that is very difficult to use.

Mr. Battistelli asked if ledge will have to be blasted and Atty. Alexander stated they will likely be able to use sonar tubes. Atty. Alexander stated there will not be a basement and so they won't have to go down, it will be on a slab. Ms. Gougian stated she doesn't know how she feels about approving something that may need blasting. Ms. Caldwell suggested putting a condition in the Motion.

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

Mr. Battistelli seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

Mr. Battistelli stated he is in favor of this request because they have a shed on the lot line that they are removing and the topography doesn't give them proper use of their outdoor space. They will be able to create deck space to allow them to better enjoy their property and the neighbors seem to be in favor.

Ms. Gougian asked if they will be adding paving and Atty. Alexander confirmed. Ms. Gougian asked how close to the lot line paving will come and Atty. Alexander stated he doesn't think it is any closer than the present driveway is to the lot line. Ms. Gougian stated the drawings were not very clear or informative. Mr. Battistelli stated the satellite view of this property makes it look like it is already paved. Ms. Gougian stated she feels as though it is going to be a lot of paving. Ms. Malewicki stated at this time there is heavy gravel. Ms. Malewicki stated they would angle the driveway so that the car can pull in and out of the garage but they would like to leave a permeable area to help with run off and flooding.

MOTION: Ms. Caldwell moved to GRANT a **Variance** at 55 Hillside Avenue to demolish a shed on the lot line and build an oversized 18'x28' one car garage addition that is 9.4' from the rear lot line, where 25' is required due to the size, shape and topography of the land creating a hardship, subject to the plans submitted.

Mr. Battistelli seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.



YMCA of the Northshore

requests a **Special Permit** to erect a driveway sign to replace a previous driveway sign. This property is located at 254 Essex Street in the R-15 zoning district.

The Director of operations at the Sterling Center stated they received approval to replace a sign that was destroyed by a hit and run. They are seeking a Special Permit for the change in the lighting plan for this sign. The sign has historically been a ground flood and now it will be internally lit from behind. It will be more understated and the illumination will be turned off by 10pm.

Mr. Margolis stated this is a great replacement of something that was out of date.

No one spoke in favor or against.

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

Mr. Levasseur seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

Ms. Gougian asked if the neighbors on the corner who would be the most impacted by the sign have okayed the plan designs. Mr. Margolis stated he presumes they have.

MOTION: Mr. Levasseur moved to approve the **Special Permit** to replace a previous driveway sign that will be internally back lit, subject to the plans submitted and as approved by the Design Review Board. Mr. Battistelli seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

Anchor Sign o/b/o Dollar Tree

requests a **Special Permit** to install two 60" raceway mounted LED store logo disks to the front southeast and right northeast building elevations. This property is located at 50 Dodge Street, a/k/a 48 Dodge Street in the CG zoning district.

Valerie O'Kane (Anchor Sign) addressed the Board and stated they are requesting a Special Permit for two 60" medallions. The Design Review Board approved the design unanimously. The logos are consistent with Dollar Tree's national branded logos. Robin Gasser was also present at the meeting for questions.

Scott Przybycien, 5 Conant Street stated he lives directly across the street from the new Dollar Tree and he is against the signs. The current signage has his backyard completely lit and to add more lighting is unacceptable. Ms. O'Kane stated the Design Review Board put a contingency in their approval that the signs would be turned off by 10pm. Mr. Przybycien stated the signs have not been turned off and Ms. O'Kane stated she can take care of that.



Ms. Caldwell stated they received a memo from Darlene Wynne stating the can lights were never approved.

Ms. Gougian asked if the store closes at 9pm why do the lights stay on until 10pm and Ms. O’Kane stated for the customers that are still in the store. Ms. Gougian asked if the parking lot lights aren’t bright and Ms. O’Kane stated it is for in/out of the building. Ms. Gougian stated the illumination from the lights is so bright she can see it with her eyes closed. Ms. Gougian stated a half hour after closing would be sufficient. Ms. Gougian asked how long the driveway lights will stay on and Ms. O’Kane stated she was unsure.

Jessica Ricciuto 4 Chipman Road stated they are also against the lights. There is already enough light pollution in a residential area, it looks like daylight all night and it is unnecessary.

Ms. Gougian stated she agrees with the lighting complaints, she doesn’t need headlights at night when she drives through there.

Ms. Caldwell referred back to the Memo from Darlene Wynne and stated the can lights weren’t approved by the Design Review Board and she is concerned about allowing this tonight with a history of not playing by the rules. Ms. Caldwell stated she would like to see efforts made to show good faith and compliance before they allow this. Ms. Gougian agreed. Ms. O’Kane stated the can lights were preexisting and they can talk to the landlord about having the scoop lights turned off as well.

Mr. Margolis asked if they could do the signs without illumination and Ms. Gasser stated they can look into that. Mr. Margolis stated that would likely be a favorable solution.

MOTION: Ms. Caldwell moved to continue the application for 50 Dodge Street to the July 28, 2021 meeting, subject to signing a Waiver and Agreement. Ms. Gougian seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

OTHER BUSINESS

Approval of May 26, 2021 ZBA Minutes (Levasseur)

MOTION: Mr. Levasseur moved to approve the Minutes.

Mr. Battistelli seconded the Motion.

Votes in favor: 5-0 (Margolis, Caldwell, Gougian, Battistelli, Levasseur)

Motion carries.

Approval of April 28, 2021 ZBA Minutes (Andrews) HELD.



MOTION: Mr. Margolis moved to adjourn the meeting at **8:15pm.**

Mr. Battistelli seconded the Motion

All in favor.

Motion carries.

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