

CITY of BEVERLY
Zoning Board of Appeals
June 28, 2023 at 7:00 pm

These minutes are not a verbatim transcript of the public hearing of the Board of Appeals. Reviews of these Minutes 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, Margaret O'Brien, alt., and Cory Farinella

Member Absent: Jim Levasseur

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 **7:00 pm.** and introduced the Board members present.

I. NEW PUBLIC HEARINGS

Charles Wall and Tara Duffy

request a **Special Permit** to demolish an existing covered porch at the rear of the house on a nonconforming lot and construct a new 195 square foot covered porch in the same area. The property is located at 28 Whitney Avenue in the R10 zoning district.

Mario Tricomi (25 Whitney Avenue) addressed the Board on behalf of the applicants and stated they are looking to build a 195 square foot covered porch in the same area.

No one spoke in favor or against.

Ms. O'Brien stated last month the Board realized the request didn't require a Variance and that it was better suited as a Special Permit.

MOTION: Ms. O'Brien moved to GRANT a **Special Permit** at 28 Whitney Avenue to demolish an existing covered porch at the rear of the house on a nonconforming lot and construct a new 195 square foot covered porch in the same area, subject to the plans submitted. Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Joseph and Hillary Lacirignola

request a **Special Permit** to encroach 8.1' into the front setback, where 30' is required and a **Variance** to encroach .7' into the right side setback, where 15' is required for a porch and deck addition. The property is located at 47 Webster Avenue in the R15 zoning district.

David Jaquith, Architect addressed the Board on behalf of the applicant. Mr. Jaquith stated this request was originally granted in April of 2021 but has since lapsed. The applicant is here with the same drawings as previously seen. The porch and deck addition encroaches 8.1" into the front setback and .7" into the right side setback.

Mr. Andrews stated his feelings about the project haven't changed.

No one spoke in favor or against.

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

Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

MOTION: Mr. Farinella moved to GRANT the request at 47 Webster Avenue for a **Special Permit** to encroach 8.1' into the front setback, where 30' is required and a **Variance** to encroach .7' into the right side setback, where 15' is required for a porch and deck addition, where 15' is required for a porch and deck addition, subject to the plans submitted. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Mark and Catherine Attia

request a **Variance** to construct a new 15' high garage to replace prior garage within the required side and rear setbacks. The property is located at 139 Valley Street in the R10 zoning district.

Mark Attia addressed the Board and stated they are requesting a Variance to allow the construction of a garage to sit on an expanded footprint of the existing garage. The driveway in the rear of the house is quite narrow and moving the garage further into the property line would make it impossible to turn a car into a single car garage. The expanded footprint will allow for egress into the garage.

No one spoke in favor or against.

Ms. O'Brien stated she thinks it is reasonable for the garage to go up higher due to the size of the house. The hardship is clearly the position of the house on the land.

Mr. Attia stated all the rooflines will match across the existing house and the new garage.

Mr. Andrews stated he thinks it will be a great improvement to the property.

MOTION: Ms. O'Brien moved to close the public hearing.
Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

MOTION: Ms. Gougian moved to GRANT a **Variance** at 139 Valley Street to construct a new 15' high garage to replace the prior garage within the required side and rear setbacks, subject to the plans submitted. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Handly & Cox o/b/o Kreshnick and Elona Remi

request a **Special Permit** to add a third dwelling unit to an existing 2-family residential structure on a nonconforming lot. The property is located at 425 Cabot Street in the RMD zoning district.

Marshall Handley, Esq. (Handly & Cox) addressed the Board on behalf of the applicants and stated this is an existing owner occupied 2-family home in the RMD zoning district. There is a large existing attic that the applicants are looking to add a third dwelling unit which is a permitted use. The property is currently nonconforming due to the size of the lot and there is no change in the footprint or the height of the building. There will be dormers added. There is adequate parking on the site providing two spaces per unit. It is a fairly dense multi-family neighborhood, the properties all benefit by a playground across the street. The lots in this district are fairly small and largely occupied with parking. Atty. Handly stated the request is consistent with the state's focus on intensifying residential uses.

Ms. O'Brien stated her only issue would have been the parking but if the parking is available then she doesn't have any issues. Ms. Gougian stated the parking looks pretty tight. Atty. Handly stated there will be new parking spaces for the new unit located in the back where there is currently a lawn. The parking shown on the site plan won't change but there will also be two additional spaces in the rear. Ms. Gougian asked where the trash will be located and the applicant stated along the side of the building. Atty. Handly stated the trash hasn't been a problem.

Mr. Andrews asked if the height will remain the same and Atty. Handly confirmed. The building will now be sprinklered.

No one spoke in favor or against.

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

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Mr. Butler asked for confirmation that there is enough room in those parking spots to back the cars in. The applicant confirmed and Atty. Handly stated it has worked so far.

MOTION: Ms. O'Brien moved to GRANT a **Special Permit** at 425 Cabot Street to add a third dwelling unit to an existing 2-family residential structure on a nonconforming lot subject to the plans submitted. Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Daniel Eslinger and Emily Lund

request a **Special Permit** to build a second floor on an existing single family structure, not expanding the footprint. The property is located at 10 Woodbury Drive in the R10 zoning district.

Dave Gray (Contractor) addressed the Board and stated they are requesting a Special Permit to work within the existing footprint of the single family home and add a second story to add bedrooms upstairs. Almost all the houses on that street are nonconforming in the front. Behind the house is a right of way that belongs to the community center and then beyond that it is commercial.

No one spoke in favor or against.

Ms. O'Brien stated some of the houses already have a second story and this request affects very few neighbors. It satisfies the criteria of a Special Permit.

Mr. Farinella asked if the applicants have spoken to their abutters, specifically the neighbors on the right and Mr. Eslinger confirmed.

Mr. Andrews stated the dormer makes sense and it is an attractive addition, they are maximizing what they can get from this footprint.

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

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

MOTION: Mr. Farinella moved to GRANT a **Special Permit** at 10 Woodbury Drive to build a second floor on an existing single family structure, not expanding the footprint, subject to the plans submitted. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Seaside Legal Solutions o/b/o Robert and Judith Sette

request a dimensional **Variance** on an existing nonconforming home to extend an existing deck 7.6' from the side yard setback, where 15' is required and 18.3' from the front setback, where 20' is required and 24.6' from the rear setback, where 25' is required. The property is located at 173 Lothrop Street in the R10 zoning district.

Joel Favazza Esq. (Seaside Legal Solutions) addressed the Board on behalf of the applicants and stated it is a nonconforming structure on a nonconforming lot that lacks frontage. They are looking to extend an existing deck and relocate a door. The front door faces Lothrop Street. The deck is already violating the left side setback. The attached garage is in both the rear and side yard setback. The lot itself is a weird shape with two existing structures. The back yard slopes and there is no area for a patio. There is a unique hardship based on the shape and topography of the lot and as well as the placement of the two existing structures.

Ms. O'Brien stated the house is very well kept and the request doesn't seem to be unreasonable.

No one spoke in favor or against.

Mr. Andrews stated he thinks outdoor spaces create stronger neighborhoods.

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

Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

MOTION: Ms. O'Brien moved to GRANT a dimensional **Variance** at 173 Lothrop Street on an existing nonconforming home to extend an existing deck 7.6' from the side yard setback, where 15' is required and 18.3' from the front setback, where 20' is required and 24.6' from the rear setback, where 25' is required due to the slope of the lot and the location of the existing structures on the lot creating a hardship, subject to the plans submitted. Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

John Page

requests a **Special Permit** to add a third floor to an existing nonconforming dwelling. The property is located at 22-24 Cox Court in the RMD zoning district.

John Krol (Deer Hill Architects) addressed the Board on behalf of the applicants and stated the property is an existing duplex and they are looking to add a third unit that will be solely used by one unit. It will be 3 stories and wrap over the other unit. The RMD zone allows the building to be three stories and under 35'. It is a nonconforming lot. They are too close to the front setback and also the neighboring house on School Street. The front of the house has 5.1', where 20' is required but the third floor will not come out as far as the existing house. The house is also nonconforming on the left side due to an addition that was built. The existing hip roof style will be changed to make a fully functional third floor.

The Pages stated they spoke with each of the neighbors and have submitted signatures in favor of the project.

Mr. Andrews stated this neighborhood is already dense but the request fits with the neighborhood.

David Hannable, 22 Cox Court stated they are in favor of this project. It is a good addition to the neighborhood, it blends in nicely.

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

Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

Mr. Andrews stated it is a great project and it is nice to see families staying in the neighborhoods they grew up in.

MOTION: Mr. Farinella moved to GRANT a **Special Permit** at 24 Cox Court to add a third floor to an existing nonconforming dwelling, subject to the plans submitted.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

II. MINOR MODIFICATION

Original Request June 2022:

Alexander & Femino o/b/o James Clarizia

request for a **Variance** to divide the existing property, which consists of 2 lots under the approved subdivision plan for this neighborhood, into the same 2 lots as originally approved, 1 having 90.66 feet of frontage and 8,775 sq. ft. of area and the other having 70 feet of frontage and 7,000 sq. ft. of area where present zoning provides for 100 feet of frontage and 10,000 sq. ft. of area. The existing house would be located 8 feet from the proposed side lot line where 15 feet is required. The property is located at 17 Jordan Street in the R-10 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board on behalf of the applicant and stated previously they were in front of this Board for the new house. The builder decreased the size of the building and the Board approved a minor modification for that. When the builder was out at the site, the owner to the right voiced concerns regarding how close the structure would be to her. The builder moved it away from her lot by two feet so it is now further away from her at 17'. Atty. Alexander stated unfortunately it does not comply with the recent modification and so he suggested they come back before the Board. They are seeking a minor modification to allow the approved house to move two feet further from the side lot line.

Mr. Butler stated all the setbacks comply.

No one spoke in favor or against.

MOTION: Ms. O'Brien moved to close the public hearing.
Mr. Farinella seconded the Motion.
Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)
Motion carries.

MOTION: Ms. Obrien moved to GRANT a **Minor Modification** at 17 Jordan Street to approve one side of the structure going from 15' to 17.1' and the other side going from 25' to 22.9', subject to the new plans submitted. Mr. Farinella seconded the Motion.
Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)
Motion carries.

III. CONTINUED PUBLIC HEARINGS

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 requested to withdraw the application without prejudice.

MOTION: Ms. O'Brien moved to withdraw the application at 15 Liberty Street without prejudice. Mr. Farinella seconded the Motion.
Votes in favor: 4-0 (Andrews, O'Brien, Gougian, 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) stated they first came before this Board in April but since there are only 3 members that can vote tonight, he requested a continuance.

MOTION: Ms. O'Brien moved to GRANT the request to continue to the Monday, July 31 meeting. Mr. Farinella seconded the Motion.
Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)
Motion carries.

Glovsky & Glovsky o/b/o Daniel and Daniella Mammola

request **Variances** from the requirements of Section 300-27 to permit construction of an accessory garage in the "front yard", to reduce front yard setback from 20' to 8', side yard

setback from 15' to 7' and to allow height of 22 1/2' and maximum size of 816 s.f. (vs. 10' height limit and 100 s.f. size when located within the side yard). The property is located at 91 Lothrop Street in the R-10 zoning district.

MOTION: Ms. O'Brien moved to GRANT the request to withdraw the application at 91 Lothrop Street without prejudice. Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

IV. OTHER BUSINESS

A. Approval of May 24, 2023 Meeting Minutes (Farinella)

MOTION: Mr. Farinella moved to approve the Minutes.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

MOTION Ms. O'Brien moved to adjourn the meeting at **8:26pm**.

Mr. Farinella seconded the Motion.

Votes in favor: 4-0 (Andrews, Gougian, O'Brien, Farinella)

Motion carries.

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