

**CITY of BEVERLY**  
**Zoning Board of Appeals**  
**September 27, 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.

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**Members Present:** Kevin Andrews, Chairperson, Jim Levasseur, Will Cosmas, Cory Farinella, Kellie Rivera and Mike Barone, alt.

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

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

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

**NEW PUBLIC HEARINGS**

**Harbor Sweets**

requests a **Special Permit** to add 2<sup>nd</sup> projecting and 2<sup>nd</sup> window sign, where only one is permitted. The property is located at 140 Rantoul Street in the CC zoning district.

White Light Visual addressed the Board on behalf of the applicant and stated they want to add a second blade sign on the park side to indicate that they are serving ice cream. There will be additional graphics on the park side as well. The Design Review Board has approved the designs.

Mr. Andrews stated it looks like a reasonable request and thanked Harbor Sweets for coming before the Board to ask for permission. Mr. Andrews stated where it is an angular building on a prominent corner it makes sense to have extra signage.

Ms. Rivera stated it is a reasonable request given the location and the products being sold.

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

Mr. Levasseur seconded the Motion.

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

**Motion carries.**

**MOTION:** Mr. Levasseur moved to GRANT a **Special Permit** at 140 Rantoul Street to add 2<sup>nd</sup> projecting and 2<sup>nd</sup> window sign, where only one is permitted, subject to the plans submitted and the Design Review Board approval. Mr. Cosmas seconded the Motion.

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

**Motion carries.**

**Joseph A. Zampell, Trustee of Tozer Road Trust**

requests a **Special Permit** to (1) authorize the use of the property as a self-storage facility in the IR zoning district pursuant to Section 300-42(C)(1)(i); and (2) allow for the continued accessory off street parking use in the R10 zoning district as accessory to the self-storage use. The property is located at 12 Tozer Road in the IR/R10 zoning district.

Conor Walsh, Esq. (Glovsky & Glovsky) addressed the Board and stated he is here on behalf of the Tozer Road Trust. The applicant is seeking relief to allow the property to be used as a self-storage facility.

Joseph Zampell addressed the Board and stated this building was built by his dad and uncles who also built the New England Divers building which is now the Post Office distribution building. This building was first a skating rink followed by several different occupants over the years including Johnny Appleseeds and Comcast. Mr. Zampell acquired the property in 1993. At the end of February 2021 Comcast determined they would move out of the building and Mr. Zampell was left with an empty building. A few developers felt this would be a great self-storage facility with one employee and set hours. It will have roughly 225 storage units varying in size.

Atty. Walsh stated the building does not currently conform to zoning requirements. Existing parking wouldn't change, there is adequate parking onsite. The building is located in both the IR and R10 zoning districts.

Atty. Walsh stated a storage facility will reduce daily vehicle trips by over 300. The trips to and from the property would be condensed compared to an office building. A market analysis has determined a need for this use.

Kathleen Feldman, Ward 5 Councilor submitted a letter in support of the use.

Mr. Farinella asked for more information on the lighting. Atty. Walsh stated the existing lights on the building are flood lights where the light projects out. The proposed lighting is more shielded.

Mr. Andrews asked if they have given any thought to reducing the parking area and increasing impervious surfaces. Atty. Walsh stated at this time there are no additional plans to reduce the impervious surfaces but that is not to say the applicant wouldn't consider that. Mr. Andrews stated it is an unsightly building as it is, it's a space that could use improvement. Atty. Walsh stated there is the expectation that the applicant will spruce up the exterior by painting and installing new signage.

Ms. Rivera stated it was mentioned the building has been empty for some time and asked what other uses that property could be used for. Mr. Zampell stated it could be used as a school or as a dog facility. The economic climate hasn't been very good. Ms. Rivera stated with respect to the

additional parking spaces, is it possible to limit the number of spaces so the area residents aren't disturbed at night. The applicant stated he has never received a complaint from a neighbor regarding a disturbance. Atty. Walsh stated there are set hours and they don't suspect to have people there at 2am.

Mr. Andrews stated it is a reasonable use and Mr. Cosmas stated it will be a productive use for the property.

Mr. Farinella asked if they reached out to the abutters in the R10 district and Atty. Walsh stated it was discussed with the Ward Councilor extensively.

Mr. Andrews stated it looks like significant tree coverage behind the building. The applicant stated there is also a fenced area.

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

Mr. Farinella seconded the Motion.

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

**Motion carries.**

**MOTION:** Mr. Cosmas moved to GRANT a **Special Permit** at 12 Tozer Road to authorize the use of the **Special Permit** to (1) authorize the use of the property as a self-storage facility in the IR zoning district pursuant to Section 300-42(C)(1)(i); and (2) allow for the continued accessory off street parking use in the R10 zoning district as accessory to the self-storage use, subject to the plans submitted.

Mr. Levasseur seconded the Motion.

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

**Motion carries.**

**Don O Real Estate Development, LLC and Saturn Realty Group, LLC**

request a **Special Permit** under Section 300-83-A(2) to construct a dormer and an expanded rear deck to the existing nonconforming dwelling and also seeking a **Finding** that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use and structure to the neighborhood. The property is located at 610 Cabot Street in the R10 zoning district.

Steve Singer, Esq. addressed the Board on behalf of the applicant and stated in the course of construction the general contractor had serious health issues and certain work went ahead without permits. During the building department's inspection, it was found that the permits were not pulled for the dormers or the deck. They were advised they needed this relief to legalize the dormer and deck. The dormer does not exceed the height requirement and the deck does not encroach any further into the set back. The additions added to the existing nonconforming structure do not expand the nonconformity.

No one spoke in favor or against.

Mr. Levasseur stated it is a modest request, it is not intruding on any neighbor.

Mr. Barone stated he is concerned that the Board does not have the authority to grant this Special Permit and cited the zoning ordinance. Atty. Singer stated the deck is a foot inside the existing dwelling footprint and the existing setback is still 4' from the deck. Atty. Singer stated he thinks the Board can still make a Finding that it is not more detrimental to the neighborhood. The deck itself is within the footprint of the existing dwelling and does not encroach into the side yard setback.

Mr. Andrews stated considering the location, the fact that it's not a significant addition and the work is done, the Board would be able to grant a Special Permit or a Finding.

Mr. Cosmas stated it doesn't seem to be making the nonconformity worse.

Ms. Rivera stated it should be noted that the Board is concerned that they are extending the nonconformity.

Mr. Cosmas stated the other parts of Section 300-83 may allow it because it is being extended into a different direction.

Mr. Andrews stated there aren't any neighbors affected by it, a deck is not more detrimental to the neighborhood than what is existing. Ms. Rivera agreed.

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

Mr. Farinella seconded the Motion.

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

**Motion carries.**

**MOTION:** Mr. Farinella moved to GRANT a **Special Permit** at 610 Cabot Street under Section 300-83-A(2) to construct a dormer and an expanded rear deck to the existing nonconforming dwelling and also seeking a **Finding** that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use and structure to the neighborhood, it will not add any new nonconformities to the property, subject to the plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 4 (Andrews, Levasseur, Farinella, Cosmas)

Vote Opposed: 1 (Barone)

**Motion carries.**

### **Christopher and Ginamarie Roy**

request a **Special Permit** to construct a 16.5'x27' pavilion addition attached to the rear of an existing garage. The property is located at 23 Pearl Street Extension in the R10 zoning district.

Christopher Roy addressed the Board and stated they are seeking to put a pavilion over an existing patio. Due to a miscommunication, the project is ¾ of the way done.

The contractor thought that the applicants had received a building permit. The pavilion encroaches about 5' from the property line.

Abutting neighbors have signed a petition in favor and it was provided to the Board.

Mr. Roy stated that the pavilion will be used for shade, the property has no trees. The intention is to have no side walls, it is literally just a roof. The roofline matches the existing garage but with a 22 degree angle to match the patio footprint. The pavilion is not visible from the Pearl Street extension.

Sharon McMahon, 38 Lakeshore Ave stated there is a fence between their properties and the pavilion doesn't affect her at all. She has no objection.

Mr. Cosmas asked if the pavilion is extending from their house and Mr. Roy stated it is extending from their existing garage.

Ms. Rivera asked if the intent is to enclose the pavilion and Mr. Roy stated no.

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

Mr. Levasseur seconded the Motion.

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

**Motion carries.**

Mr. Farinella asked for clarification that the garage door provides access to the patio. Mr. Roy clarified that they cannot access it from the house.

Mr. Andrews stated it is a reasonable request.

Mr. Barone asked why they are seeking a Special Permit and not a Variance because it appears to be a setback issue. Mr. Cosmas asked if it would be considered an accessory building.

Mr. Andrews asked why this is a Special Permit and not a Variance and Mr. Butler stated the pavilion is extending the existing nonconformity.

**MOTION:** Mr. Levasseur moved to GRANT a **Special Permit** at 23 Pearl Street Extension to construct a 16.5'x27' pavilion addition attached to the rear of an existing garage, subject to the plans submitted. Mr. Farinella seconded the Motion.

Votes in favor: 4-1 (Andrews, Levasseur, Farinella, Rivera)

Votes Opposed: 1 (Cosmas)

**Motion carries.**

**Alexander & Femino o/b/o Ronald and Jennifer Jedraszek**

request a **Variance** to allow for a sunroom addition to the back of their property which will be 16.8' from the rear lot line where 25' is required. Applicant's rear lot line is abutted by 2.90

acres of dedicated open space. The property is located at 8 Emily Way in the R22 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board and stated Emily Way is a subdivision and the applicants are the last house on the left. The applicants are seeking to build a sunroom on the back of their property. This area is an open space residential design where half of the total area is devoted to open space and the other half is lots. Presently on the back of this property is a deck with a retractable awning. The deck extends to 18.7' from the back line and the proposal would be 16.8'. The visual impact on the neighborhood is minimal due to how the houses face. On the side of this property is more designated open space.

Atty. Alexander stated the lot is irregularly shaped, it's not a perfect square. The lot also has topography issues in the rear and there is a 3' retaining wall that makes it difficult to use the whole backyard. Atty. Alexander provided a map of the area and abutters who have signed in favor. The proposal is minimal and the use of the lot will remain the same.

Mr. Andrews asked for clarification that the hardship is the shape of the lot. Mr. Cosmas asked where the topography issue pops up and Atty. Alexander clarified on the site plan.

No one spoke in favor or against.

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

Mr. Levasseur seconded the Motion.

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

**Motion carries.**

Mr. Barone referred to the site plan and asked if there is a chimney on the easterly side. The applicants clarified that it is a storage closet. Mr. Barone stated he agrees that the retaining wall creates a hardship.

**MOTION:** Mr. Farinella moved to GRANT a **Variance** at 8 Emily Way to allow for a sunroom addition to the back of their property which will be 16.8' from the rear lot line where 25' is required due to the lot shape and topography creating a hardship.

Applicant's rear lot line is abutted by 2.90 acres of dedicated open space, subject to the plans submitted. Mr. Levasseur seconded the Motion

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

**Motion carries.**

**OTHER BUSINESS**

**A.** Approval of August 23, 2023 Meeting Minutes (Andrews)

**MOTION:** Mr. Andrews moved to approve the meeting minutes from the August 23, 2023 meeting, as written. Mr. Farinella seconded the Motion.

Votes in favor: 3-0 (Andrews, Cosmas, Farinella)

**Motion carries.**

**MOTION:** Mr. Cosmas moved to adjourn the meeting at **8:25 pm**.

Mr. Farinella seconded the Motion.

All in favor.

**Motion carries.**

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