



# Haverhill

Board of Appeals  
4 Summer Street – Room #201  
Haverhill, MA 01830  
Phone: 978-374-2330 Fax: 978-374-2315  
jdewey@cityofhaverhill.com

The regular meeting of the Haverhill Board of Appeals was held on Wednesday evening, August 19, 2020 at 7:00 P.M. City Hall

Those Present: Chairman George Moriarty  
Member Theodore Vathally  
Member Louise Bevilacqua  
Assoc. Member Lynda Brown  
Assoc. Member Magdiel Matias

Also, Present: Jill Dewey, Board Secretary  
Tom Bridgewater, Building Inspector

Chairman: Moriarty called the meeting in to order, August 19<sup>th</sup>, 2020

**Francis Bevilacqua for 0 Edgehill Road (Map 684, Block 3, Lots 132 & 133A)** Applicant seeks the following variances to build a single-family home in a RM zone. Variances sought for lot area (18,029 sf where 20,000 sf is required), frontage (73.02 sf where 150 sf is required), width (101.31 sf where 112.5 sf is required), front yard (15.5 sf where 25 is required). (BOA 20-21)

Attorney Michael Migliori: Mr. Bevilacqua asked me, because he knew I was going to be here tonight if I could request a continuance on his behalf. So, if that is acceptable to the board

Chairman Moriarty: explains to the opposition in the room that the attorney for the applicant has requested a continuance. Any questions from the Board first?

Member Brown: Attorney Migliori, why is he requesting a continuance?

Attorney Michael Migliori: I am not representing Mr. Bevilacqua in this matter, he just knew that I was going to be here and asked if I could get a continuance. Actually, there he is, he can tell you.

Chairman: member Brown, was just asking why you want to do a continuance.

Francis Bevilacqua: So, the reason is, is because I have not been able to pin down John Pettis. I have reached out to him multiple times, I have gone to his office multiple times, I see him, and he says yeah I need to look into it, but I've been busy; and that is the answer I get.

Chairman: Ok, now before we vote on it are there people from the audience who want to speak about this?...Please tell us your name and address.

Elaine Fordy (Live on the corner of Longview Street and Edgehill): I have lived up there for 48 years and every time, they want to build a new house, it changes the water flow. I have had damage on the side of my



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house from all of this and I think it is ridiculous. We do not need another house up there. Also, the construction trucks are ridiculous, we get them from the city, and we are going to have more up there. We don't need that; they have ruined our road.

Chairman: Thank you, anyone else

Debbie Gatchel (40 Edgehill Road): I have owned my property for about 4 years now and I have witnessed an extreme amount of water issues up there. Where they are going to build and I'm guessing you all have probably gone over all this. All the City water goes there, all the street water goes there, from Tappan Street, Our Street, it gets icy, slippery, the thing gets flooded in the winter, it's very narrow. Have you ever walked the land? It's only one car wide. A matter of fact 2 months ago when I was coming up, there was a big construction truck that was like over in that spot, I think where they are building, and I could not even get my car by. Now we are in a pandemic, we have children on the other side, if anybody needs anything or in an emergency. I don't know how they can build there and keep their equipment off the road, I'm sure as hell not going to be waiting there while they move their equipment should something happen. We have so many problems out there, there is a water pressure problem which I think you may be aware of, I see it in Haverhill all the time, sometimes the water drops off to next to nothing. There is conservation and wetland problems there. And if you are going to put a house there and you have the water going into that basin, where is that water going to be rerouted to? That's a heck of a lot of water coming down through there. City of Haverhill can't even get the trucks out in the winter, to get the snow and ice, they have to back the trucks up. There is no turnaround, it's a dangerous dead-end. God forbid there ever a fire up there because that is a concern that I always worry about, because I don't even know where you would turn around. I had to have a moving truck come in and they could not get the moving truck up there to do a drop, they had to drop in Plaistow, so I had to go and pick it up at someone else's house to bring it down in a smaller truck, because the truck attempted to make that corner and hill and could not do it, right on the corner where they want this house. I'm reading here 15 feet off the road, I mean, what kind of driveway, is there going to be a driveway? I mean the grade would have to be so sharp and so quick. We can not have somebody parking on the side of that street, there's no width. If you start having friends and neighbors over and there are just people parking, there is just no way, you would have to get out all the time and ask people to move or call the cops, just because it's a big mess. The sand trucks have to go up backwards. You have to get running momentive just to get up that hill and around that corner. We had a stake problem too, there has been surveyors out there and I have had some stakes moved on my property. I don't know if it is related to this but on the corner adjacent to this, I don't know how they disappeared. But I did have some stakes missing and I don't know what that is all about. How about the foundation? When you look down it's a cliff, how many foundations, are they being built on pilings or how would this house be. And what about the people below, where would this water go? From not even just us and those two streets but down below. When you start stratification water everywhere, doesn't someone else inherit the water problem? That just don't seem logical to me. Is this house just being built for resale or is this house being built for someone to live in? Or is it just for a quick buck, I don't know. Looking at this I would think the back of the house would be on a cliff itself, as it would seem that the house would be awfully high. Well I just that is about all I have, and what I have witnessed in the 4 years I have been here. That's a hell of a corner, let me tell you.



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Chairman: Anyone else like to speak?

Edward Devito (7 Tappan Street): The property is lacking square footage on all sides. He has less than half in the front of the 150m required, he has like 73 and I talked to the people who are below them on Monday and they are really worried about where this water is going to go. Thank you.

Chairman: Thank you very much, anyone else?

Walter Petrik (14 Newton Road): I live directly below the property that we are talking about. I have lived there for 18 years now. In the beginning the water situation wasn't particularly bad, however over the years it has gotten worse, maybe it is global warming, maybe its subsequent development, I don't know. But it has become so bad that the majority of our maintenance budget, has been and continues to go towards this. We have a really bad situation down there with the water. Right now, we finally seem to have it under control. My fear is the change in topography, adding hard scape or even removing trees at 0 Edgehill, will set us back. Not to our neighborhood, we can't fault Br. Bevilacqua for wanting to develop his property, however there are just too many downsides to this particular lot. Thank you.

Chairman: Thank you very much, anyone else who would like to speak?

David Geared (37 Edgehill, formally 44 Newton Rd): So, this property has been here since 1920, before any development was there. I order to, due to the perversion building up there the water has increased, and you can see it all flows down hill and there is a repercussion at the end of that. I know when we moved in 11 years ago, we had FEMA, I mean we are on a hill, because we got flooded so bad because of the water was flying into the basement. Again, I spoke to you last month in regard to the situation that is up there and there is a lot of water problems, a major water problem. All this is built on ledge from what I understand and when it rains, it has no place to go, so it basically stays on the surface, it doesn't get absorbed anymore, because of all this building that has been going up there. And what happens, all this runoff comes flying down, not just Edgehill and that part of the dead-end but also from Tappan Street coming down to Edgehill and it all funnels into this one small basin of which 73 feet of it belongs to Mr. Bevilacqua. This basin, if it isn't cleaned off by the neighbors, me, whoever after any storm, even just recently with the rainstorm all that deluge covers the catch basin. Mr. LaPlume also brought up the fact that there is a 16-inch berm of which the water catches and goes up and over this berm and the idea of the amount of water that comes down this corner. I will backup the neighbor across the street Debbie who just spoke. I saw people out there first and they were flagging the property, orange flags. I was told was told it was basically for the water, to see where the water was. Now this property has already been flagged 14 years ago by the DPT, MASS Department for Wetlands and the reason why it was declined before 14 years ago in 2007 was because of the wetlands issue. First and foremost, it was declined because the variances weren't allowing the individual to have a buildable lot. So, forget about the wetlands problem Mr. Moore and his memorandum and that closing document, number one before you come back here and with the issues, you need to come against this board and make sure you get variances for you to get a buildable lot. The lot below him belonged to Mr. Bower and this surplus land was sold by the City of Haverhill to Mr. Bevilacqua, Mr. Moore states in this document that he had ample amount of time to look up the 1996 wetlands in the City of Haverhill before he bought it. This is from 2005 so these wetlands were



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detected way before, but he still bought it. He bought some additional land off of Mr. Bower. Now what does that do to Mr. Bower home which is at 41 Cliffwood, you need 20,000 well if you look at the square footage now at 412 Cliffwood it's down to 15,000, so now we have two properties that are quote for quote not buildable, except for one thing, there was already a house built on that. So now we have squeezed something out, tried to make something else a buildable lot and it isn't happening. We haven't even dealt with the wetlands issue; we haven't even dealt with the water issue. These are the people up on top, you have listened to the people on the bottom, there is water all over this place. According to Mr. Bevilacqua the last time we were here in person, he stated that this isn't even wetlands anymore. How that came across is beyond me, I haven't seen anything like this, I haven't seen anything from MASS DEP. Before you plan on building, they should say this is protected area, the water is protected area, it's stormwater. Mr. LaPlume already admitted that coming down Tappan Street to the corner, those basins are illegally tapped into the City's sewer system, you can't do that. You can't have storm water legally pumped into the sewer system. So now we have the City of Haverhill doing something illegal as far as trying to litigate something to do with the storm water, even if it is illegal hey did it. Now we have the two catch basins at the bottom, which helped, maybe a little, but it helped. And now we are going to turn and change the topography, because someone wants to build, something, on a non-buildable lot in a wetland protected area, for what. The stakes, not only were they flagged for the water, I had a stake in 2012 I had a survey, I wanted to see where my property is and at the edge of that road, more than 5 feet, you got to go in 15 to 20 feet, before the corner of my lot is, which abuts this piece of property that we are here in question of. It's 15-20 feet in and it drops about 20-25 feet, now do to the weather and everything else, a massive tree dropped, why because of all the water and you have a cliff. You have a 2-foot diameter tree that just dropped, where is it, it's on top of my marker. How do I know, because I put a marker there in 2012 on top of the hill, why because I know if you go straight in and straight across to my other neighbors property and that's the corner lot of number 128 and that's mine. After this survey is done 15 to 20 feet of even more into my property are all of these orange flags on sticks. Now I went out and I gave this surveyor, I said look this property has been here for close to 100 years, here's the plot plans, the dimensions, everything that you know that I have already gone through. I even tried to help them. And no all of a sudden, they are gone, and I see orange stakes in my property. So, after the virtual meeting with my emailed or whatever it is with technology, but it was a conference call and I couldn't even speak. Mr. Bevilacqua gave me a call, I mentioned this to him. And I said this is a issue that I personally have or we have my wife and I that your stakes are on our property. Obviously, there is an issue here and he agreed. Now it's two months later and I haven't seen or heard anything since.

Chairman: Could you wrap it up there if you could.

David Geared (37 Edgehill, formally 44 Newton Rd): I think I have made my point. There's more, but because this is going into a continuance again, for the third month. Remember in 2006 it started in September and ended in February. It went nowhere, guess we have to go through this again. We haven't even got to the wetlands part yet. Thank you for your time.

Chairman: Thank you, anyone else who would like to speak?



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Jessica Dainis (42 Edgehill Rd): I am curious where Mr. LaPlume is because he had an awful lot to say about the whole water issue at length speaking as an expert and was very much against this. And I am just curious about why he is not here tonight.

Chairman: I don't want to get in to his personal, it was a personal issue.

Jessica Dainis (42 Edgehill Rd): Ok but he spoke at length from an engineer's prospective, as to why this absolutely would not work. And I am a little curious about why we are having a continuance after continuance after continuance and again I am missing his presence. Again, how long did he speak last time 15 20 minutes.

Chairman: Again, nothing nefarious about it, he has a personal health issue.

Jessica Dainis (42 Edgehill Rd): Ok I'll back off that. It's such a small skinny road, dead-end, around a corner, with huge trees and no frontage. There is no way you can get a dump truck right there and not block the road, there's no way you can get a crane there and not block the road. And if you go back up it to Tappan and say you are going to put all of your machinery there and by the way probably destroy the road. None the less you can't stop a vehicle there is\n front, there is no place down below on the property, there's no place left, there is no place right, it has to be right there on that little road, so no. Thank you

Chairman: Thank you. Is there anyone else who would like to speak? And if you could touch up on a different topic. I think we have got a fair amount of information about water and the narrowness of the road and things like that. So, if it's something different, than that would be helpful.

David Adams (31 Edgehill): I live in the abutting property. I will probably be the dead horse about the drainage and also building our there certainly won't give the city any opportunities to litigate problems with the drainage. But there is a lot more overflow than I think Mr. Bevilacqua understands.

Chairman: Thank you, I appreciate that. Anyone else?

Roland Gatchel (40 Edgehill Road): When I hear this stormwater being tied into the city's sewerage, I know that during the winter, we get a real bad sewage smell, way up on the hill. I don't know if that had anything to do with it but maybe this sewer smell is coming up through the basin because there has to be a trap for that. I just wanted to bring it up.

Chairman: Thank you, I appreciate that. Anyone else? I will give Mr. Bevilacqua a chance to rebut this. This is for a continuance, so we are not making any kind of final vote here tonight. I appreciate peoples concerns about having something continued too many times, it's difficult I know, and it often causes people to have to come back. But part of our reason to do that is to make sure that there is an ample opportunity for both neighbors and the applicant to address some of these kinds of issues that get raised here and I agree with you that Member LaPlume is the most knowledgeable about the whole situation. Not saying what the vote would be here tonight, but it certainly would be helpful if Member LaPlume was here and we hope that he will be here, healthy and available next time.





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Francis Bevilacqua: I don't want to keep going back into the weeds with this whole thing. There is some misinformation being talked about out there, but I'm not going to get into that. The whole reason why this is going to be continued is because I haven't had a opportunity to meet with John Pettis who is the head of engineering here in the city. My whole strategy to get something done here is to get the city on board and create some kind of solution to help with some of the drainage out there.

Chairman: Can you remind us of the specific issue you and John were going to talk about? Is it the drainage issue?

Francis Bevilacqua: Yes, correct. And the thing is that I can't continue to allow the water to keep entering my lot. The catch basins that were there originally that were put it, I don't know maybe roughly 10 years ago I don't really know, that was the city. Because, they know that it is not fair that the water just dumps into this piece of property. So that is my goal is to meet with John Pettis and to try to come up with something and to get that water out of the sewer system and to bring it into a system that goes where it should have done originally. I do agree with the neighbors in the sense that they do have a lot of issues up there and that the city has yet to address any of them. I understand their frustration there, that makes a lot of sense. I feel bad that they have been dealing with a lot of these things it just seems like they have been falling on deaf ears. My goal isn't to fight with them, it's to create like be a catalyst with the City, to like to make a solution there so that there aren't any problems. It doesn't make sense for me to build a home on a lot that would create a problem to someone that would live there. So my goal all along is to be able to come up with something, to help the people around me and not hurt them.

Chairman: Earlier one of the questions was, is this going to be owner occupied?

Francis Bevilacqua: No, this is what I do for a living. I'm a builder, this is how I make my living.

Chairman: That is allowed, obviously. We can not reject something for that reasoning. The fact that you haven't been able to meet with Mr. Pettis and the fact that Member LaPlume is not here, we will let the board members decide if that is a reasonable reason for approving a continuance.

Member Brown: Do you have an idea when you will be meeting with John Pettis?

Francis Bevilacqua: If it was up to me, I would have done this already. John is a hard guy to pin down and it wasn't for a lack of trying. I can show you I have multiple emails, I have multiple phone calls, I have actually gone to his office and just showed up a couple of times and have been unsuccessful.

Chairman: Thank you, if there is no more questions or comments from the board

Debbie Gatchel: Can I ask you something... So when I was checking out this property, this property belonged to the City of Haverhill when he purchased it, so perhaps that's why the water, why the city chose to drain it that way, I'm just guessing since the City of Haverhill owned it. If you read the deed it says that you wouldn't



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gain anything and blah blah blah and the reason for buying this and you weren't affiliated with anyone blah blah blah. But now when he mentions this and trying to change this water, if you see it and look at it, where would you suggest it go? Where do you suggest you put all that water?

Chairman: Once he has that conversation with Mr. Pettis, he will know better.

Debbie Gatchel: Because I am just curious as to where he can put that water. We are all looking at it. Like I said it was 4 years ago when I bought my property there in that neighborhood, and I'm like wow

Chairman: When he comes back in September if that doesn't meet our satisfaction, then

Debbie Gatchel: And another curiosity I have is I was looking at the taxes and of course I know with the taxation and the City taking it up to 2015, is that because you complained to the City about the water? Is that why?

Chairman: Again, why don't we leave these issues till September. If there are no other questions, I will entertain a motion.

Member Vathally: I make a motion to continue the application for 0 Edgehill Road to the September 16<sup>th</sup> meeting, waiving the notification period. 2<sup>nd</sup> by member Brown.

Member Vathally: Yes

Member Brown: Yes

Member Matias: Yes

Chairman: Yes

Chairman: So, the continuance is granted 4-0

Debbie Gatchel: Unbelievable

Elaine Forty: I just want to know if we have rainstorms and these people's properties gets damaged, who's going to pay for that? We keep continuing and continuing. This is ridiculous, oh and he's gone (Speaking about Mr. Bevilacqua).

Jessica: I just have a quick question, how many continuances are excepted, what is the rules or standard? What's the norm?

Chairman: There is no limitation on it

Jessica: Really no limitation



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Chairman: At some point the board relies that they have covered everything and all of the issues that need to be covered or there is no progress being made to resolve them. I don't want to prejudge what will go on.

Jessica: Ok, just wanted to know what the standard was, what the norm is.

Debbie: What happens when there are threats and bribery trough the whole thing?

Multiple woman from the audience: There's already been some (coming from multiple voices)

Elaine Forty: There has already been some bribes from Bevilacqua

Chairman: Are you accusing the board members of being bribed?

Elaine Forty: No, no, no not the board members. I know that Mr. Bevilacqua or his partner have approached people with different things. Like they can build a...(Pause)...Single-family

Chairman: Thank you, I think we have heard enough from the public and the members of the board at this point and time.

## **219 Lincoln Ave Trust for 219 Lincoln Avenue**

Applicant seeks to extend expiration date for a variance that was approved on March 20, 2019 and extended an addition 6 months on March 18, 2020.

Attorney Norman Greenberg (233 Needham Street, Newton): I represent 219 Lincoln Ave Trust. I am hear seeking an extension of a variance that this board granted last year. This is the old Building 19 property. The reason for the variance is simply for the fact that we need to subdivide the property, it is a frontage variance. There is 346 sq. feet of frontage and we need 350 feet as 175 is required per lot. Nothing has happened since. We have potential buyers and it has been slowly dragging alone due to the current pandemic situation. So, the subdivision of the property has not occurred yet. We hope to get before the planning board in the next month or so, there are plans being drawn up. In the meantime, I need to prevent the variance from expiring.

Chairman: The prior use for this, was going to be a storage facility?

Attorney Norman Greenberg: Yes, and it still the case.

Chairman: You have two new buyers?

Attorney Norman Greenberg: I believe there was once buyer the last time I was here. That buyer backed out of the deal. I am now dealing with a second buyer and we have been for several months now.





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Chairman: And the second buyer is asking for the same use to use it as a storage facility?

Attorney Norman Greenberg: Yes, that's correct, the exact same use. We are not looking for any change in the variance, we are just looking to extend it.

Chairman: Ok thank you. Any questions from the board?

Member Vathally: I have a question. You mentioned there are plans in operation for this second buyer? I mean are you going to have pretty good excision by the six months?

Attorney Norman Greenberg: Yes. They certainly slowed down due to the COVID-19 to say the least. But beyond that, they were seeking approval from the City Counsel, that was denied. So that is what they were concentrating on and now that is no longer going to accrue. So now we are back to subdividing the property. We are working on additional set of plans. There are no changes, it doesn't involve any new construction or anything. It just involves the subdividing of the property. The CVS in front will be one lot, and the rest of the property will be a second lot.

Member Vathally: I remember that application very well. Ok, thank you.

Chairman: Any other questions?... I will entertain a motion

Member Vathally: I make a motion to extend the variance for 219 Lincoln Avenue for an additional six months, which was original approved on March 20, 2019, 2<sup>nd</sup> by Member Bevilacqua

Chairman: Six months will bring us to February

Member Vathally: Yes

Member: Bevilacqua Yes

Member Brown: Yes

Member Matias: Yes

Chairman: Yes

Chairman: So, the extension is granted 5-0

**New England Power Company d/b/a National Grid for 48 Cross Road (Map 732, Block 779, Lot 2)** The Applicant seeks a variance from the prohibition of barbed wire fencing and the 6 ft maximum height restriction for non-residential properties in a residential zone to install a new fence to be 9 ft in height (8 ft fence plus 1 ft of barbed wire) in a RH zone. (BOA 20-37)

Joshua Lee Smith (Bowditch & Dewey 311 Main Street Worcester MA): Good Evening, I am outside council for National Grid.



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Chairman: Tell us a little bit about what you are proposing and why.

Joshua Lee Smith (Bowditch & Dewey 311 Main Street Worcester MA): Good evening chairman and respectful members of the board. I am here tonight partitioning from the board a number of variances. One with respect to the prohibition of barbed wire fencing and the second with respect to the maximum height permitted with respect to nonresidential fences in this particular district. Just by way of background, this property as you can see here on the plan that was submitted with the application, the picture on your left the area is highlighted in orange, this is an approximately a 40 acre site. It is located in the RH zoning district; this is a residential neighborhood. This is an unmanned substation and it is as I said about 40 acres in size. The substation itself has been in operation for over 70 years so it has been in operation for decades. I highly suspect that the substation itself predates a lot of the houses in the neighborhood. Over time, over the many decades that it has been in operation it has gone through a number of upgrades. Obviously, maintenance and repairs. The imprints for this particular project involve simply a fence replacement project. Its due largely, based on National Grids internal policies with respect to safety and security. Mandated in part by ICER New England and part FERC. As to have certain standards as far as to in this case is security fencing. Many of the sites that National Grid either owns and or operates with respect to these unmanned substations have security fences that are 7 feet with 1 foot of barbed wire so a total of 8 feet. That is the current height of the fencing, that is located at this particular substation today. The company over the past 2-3 years has embarked on a pretty robust overhaul with respect to its many substations and assets. Not only in the commonwealth but also in New England and everywhere else that they have these types of substations. Based on security reasons, terrorism and vandalism. And mandated by many agencies, as I mentioned FERC as well as ICEC New England. This project here is as I said a replacement project, a glorified maintenance project. The fence that was there now, will for the vast majority of it will remain, in terms of the fence line being exactly the same. There will be a couple of small bump outs which I have indicated in the application that I have submitted, to accommodate holes which will allow for the installation for additional security equipment in the nature of cameras. All and all the fencing that is being replaced is going to be pretty much the same exact fence line in terms of the footprint. But the substation yard will essentially remain the same, the difference is, it will be one-foot taller which is the relief we are requesting today. I will point out that the company did seek and obtain back in 2005 as they were going through another more substantial overhaul of this particular substation in which they expanded the yard and added transformers and other substation weighted equipment. They obtained an exemption from the Department of Public Utilities which included the fencing. So right now, the fencing at the entire site is exempt from zoning. In an abundance of caution, my client wanted to submit this application to the board and go through the process with the city as in respect to the city in seeking this fence replacement, that is what we are doing here tonight. So, it's basically not too complicated, it's a retrospect project. The fencing itself is chain-link and will continue to be chain-link, I believe the type of weaving may be tighter than what currently exists today, again another security measure. Otherwise is simply a replacement of what is there today. I will open it up to any questions you may have.

Chairman: I do have two questions. One being does the existing fence have barbed wire on it also.

Joshua Lee Smith: Yes, it does.



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Chairman: So, the nature of the fence is just going from 7 feet to eight feet and then the additional one foot of barbed wire, that is already on the existing fence?

Joshua Lee Smith: Yes

Chairman: Secondly you mentioned the poles, where the poles already there?

Joshua Lee Smith: There are some poles there now, of course.

Chairman: But the two bump outs? Are the poles necessitating the bump outs already there?

Joshua Lee Smith: They are not there

Chairman: When you say a slight bump out, what is slight?

Joshua Lee Smith: The dimensions as set forth in my application includes approximately 10x50 and 5x120. The plan on the right is the official variance plan, that the company surveyor provided. When you look at that plan, you can't even see the bump outs. We have labeled them so that you can see them and show where they are, but they are pretty deiminases.

Member Vathally: Pretty much the same as you mentioned. I read that in the brief about the 6-foot fence and then the 7 foot. So, it pretty much is technically an additional foot is what you are asking for. Where there, did you have any security issues prior to this proposal, with security issues as reason for the additional foot?

Joshua Lee Smith: Again, this location has been in business for 70 plus years, I would have imagined that there would have been issues at some point in time. Here with me and I apologize for not introducing them previously. Here with me from the company are VJ Modavei who is the project manager and Hector Bargados who is the project engineer.

Chairman: Could one of them answer Member Vathally's questions about wither there has been any security issues, not back 70 years but in the past 2 years or so.

VJ Modavei (Project manager at National Grid): So, speaking for the last few years not at this particular location, I am not aware of any previous vandalism or acts of terrorism, however FERC and ICEC have ask that specific substations that they would like to see a more robust security measures based off the number of customers that those substations provide power for.

Chairman: So, this is more in response for company policy. Not specific actions related to this site?

VJ Modavei: That is correct.



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Chairman: Thank you, any other questions from the board.

Member Bevilacqua: Is this a practice that National Grid is setting for all of its locations?

Joshua Lee Smith: Yes, as you can imagine the company has thousands of these sites, they are prioritizing them, I would suspect and that shows which ones to do first. But yes, it is not just an internal company policy as Mr. Madavei has indicated previously that it is expected by ICEC of New England as well as FERC, but yes, they are doing it statewide.

Chairman: If this was approved this evening, when would the construction start?

Joshua Lee Smith: My understanding is that construction, and this is kind of a fluent thing and especially with COVID-19, but it is expected the 3<sup>rd</sup> week of October or some time in the Fall. And the duration of the project will be aimed to be completed by around February.

Chairman: Any questions from the audience members?

Cynthia Essler (67 Cross Road): I live across the street. Is it just the existing fence that is there now? It's not going to be coming up on the street or anything, it's just what is there now.

Joshua Lee Smith: That is correct, as I mentioned the vast majority of the fence proposed will be in the same exact space it is now, in the same footprint. The yard itself is only being expanded by those two small areas that I have mentioned previously. From my neighbors prospective, and by the way my client did meet with, try to meet with a number of neighbors and was able to meet with at least one in person, it is difficult obviously with what is going on right now (speaking about COVID-19) and have taken photographs and for those that are familiar with the site, it really is remote, which is part of the need for this heightened security and the remoteness about it. It needs to be open air, we can not have it be completely enclosed, because we need to see if anything has compromised the fence and security, they need to have it be open. They met with neighbors, those who could. They said that the only area that really neighbors can see this really clearly and again it has been there for 70 plus years is where there is a railroad line. It is a pretty significant distance from the fence line to the closest residents. We don't hide the fact that it is in a residential area, but it just has been there for so long. The size of the equipment frankly and the transformers and all the other equipment that is there is pretty large and significant and the fencing hails in comparison, so there are not even going to notice a one-foot difference and frankly that one foot difference, one might interrupt that as being an improvement to the visual impact because it will add some cover additional screening for some of that larger equipment.

Chairman: Any other questions?...Any questions from the board?...Ok I will entertain a motion

Member Vathally: I make a motion to approve the variance for 48 Cross Road, 2<sup>nd</sup> by Member Bevilacqua



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Member Vathally: Yes  
Member: Bevilacqua Yes  
Member Brown: Yes  
Member Matias: Yes  
Chairman: Yes

Granted 5-0

**Colleen McCann for 0 Arthur Street (Map 531, Block 376A, Lot 7)** Applicant seeks a finding (lot area of 6,400 sf where 7,500 sf required and lot depth of 80 ft where 100 ft required) to rebuild house that was destroyed by fire in a RH zone. (BOA 20-20)

Chairman: I want to remind the board that this is only a finding. So, it only needs 3 votes, but I will ask all 5 of you to vote.

Attorney Michael Migliori (18 Essex Street Haverhill): Good evening Chairman & Members of the board, my name is Michael Migliori and I am here tonight to represent Colleen McCann. This matter as you may recall was on the agenda last month July at which time, we agreed to continue the matter so that we could look into addressing a problem that the neighbor was concerned about. What we have before you this evening is a request for a finding. History of the property is the property was lost in a fire. Ms. McCann became ill and had some other family matters took up a significant amount of time and so that the time period passing in which you could reconstruct the house without having to come before the board passed. So, we are back requesting a finding, as I indicated last month, this house will be more conforming than the original house that burned down, because that sat right on the property line and had a number of deficiencies to the zoning ordinance. So, the biggest issue that the neighbor had was that since the house burned down, water coming down the street started to go through the property where the house was. Prior to that point and time, it is my understanding that it would flow further down the street and even know there was a catch basin there, I don't know if it wasn't properly cleaned or whatever, but the neighbor would have some water issues. We met with the city engineer and as of last month we have initially suggested a significant drawn gee installed to alleviate the water. And then I think it was Mr. LaPlume who raised the issue of perhaps an additional catch basin, would also impact the city situation. So, we met with the city engineer and you can see on the plan, there is a proposed catch basin at the front left portion of the lot, that is a new catch basin that we are going to have installed and give to the city the easement so that the drainage can go back into the existing drainage behind the property. So, between these two improvements, the significant amount of berming that is going to done and the proposed brand-new catch basin, we feel that we can take care of whatever the problem was that the neighbor was concerned about. We are in agreement to do those things and we will certainly enter those in as record for the finding. I think unless there are any questions that I have updated you respect.

Chairman: I just wanted to note for the record that we do have an email from Mr. Pettis to Attorney Migliori and it states





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Letter from Mr. Pettis: I understand from Ron LaPlume that the stormwater issue adjacent to the lot that one of your clients is looking to develop. I hereby confirm that if the city is given an easement across the we will have a CB installed in the roadway and a stormwater pipe installed within the easement, for outlet to the brook.

Chairman: Any questions from the board members?...Are there any members of the audience that would like to speak?

John Mendonsa (2 Arthur Street): I am looking at the plans and I went to City hall to talk to John Pettis and I know him well, and he told me well I didn't get to talk to him, but what the builder told me is where they are going to put the storm drain in, and it isn't going to do anything, because the water comes right into the center of the property. You looked at the videos last month, we have videos from previously when the house was still there that show the amount of water that is coming down the street. This has been a problem since I moved there in 1981 and we have tried to address the city to do something and all they kept doing and saying, is just putting it off, and putting it off, we'll do a berm, we will do this. I built my own wall; I built my own berm to keep the water away from my property. Once the house did get torn down it regraded everything, there is a pool say 4 inches of water were the house was, running down to the right side into the brook that is dry right now because we have had little rain, but it is always a brook, it is wetlands. And I know there was a guy from conservation marking the wetlands and I talked to him, there was an engineer there RAM engineering doing all the site work and everybody has said that there is a problem there that has to be taken care of. I think he said I can see where the water pool is and where it runs. I am just happy the way it is now, but they are talking about a berm, a berm is only going to direct the water to me, what doesn't go into the storm drain. There's got to be at least what a 36-inch pipe that would have to go underground there, to catch that amount of water. We have showed you the video, I don't know if you remember it. My son has it on his phone, we have one from previous years to where there were heavy rains during Christmas time so there was all the snow melting, the heavy rain and the water is 8-inches deep, half the width of the street. You know, ummm, I wat to see a plan and I would like to talk to John Pettis too. I went to the city to talk to him and they said the only way you can get a hold of him is through his email. So that is my fight on this and plus conservation, I know the law and it's 50 feet from the wetland and they are trying to put 37 feet from the flagged wetland. Everything would have to be moved, there is laws. I mean the city is probably going to allow a small lot but are you going to allow conservation? That's my argument.

Chairman: Thank you. Other people want to speak?... Mr. Migliori, do you want to address the issues brought up by that gentleman?

Attorney Michael Migliori: Certainly, you know the Board is probably well aware of what is in the boards purview and some thinks our outside. This is not necessary in the board's purview, well one thing that I think is outside the boards purview at the same time, ever since I been representing clients here, I have always asked them to work as well as they can with neighbors requests and complaints. I think we have come up with a very resealable solution to address the situation. I know our neighbor would like to see the lot just sit there and not be used, but unfortunately that is not really viable for my client. We believe we have gone to great length to try to address his concerns and we believe it will work.



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Chairman: The gentleman had mentioned that where the storm drain berm is being proposed, is not where the real water problem is?

Attorney Michael Migliori: I haven't heard that, I mean you know, my understanding and with having the matter reviewed by John Pettis, that he indicated that this would help the situation. I don't think John Pettis would have signed off on something like this if he thought it was a waste of time or waste of money. It will help the situation.

Chairman: And what about the issue of the 50 feet from the conservation area?

Attorney Michael Migliori: I don't know anything about that. I don't know if they are talking about, I mean if we have to go to conservation, then we will be at conservation. But I don't know anything about the conservation.

Chairman: Commissioner do you want to speak to this.

Commissioner Tom Bridgewater: If it is approved here, then it will go to site plan and conservation will address all the conservation issues on the site plan. It won't go any further if they can't get conservations approval.

Chairman: You mentioned that this might not be in the purview of the board and I think in some way it isn't, but certainly under 255-79 C, it asks if relief will not cause substantial detriment to the public good. Flooding waters, um is not the applicant's fault obviously, but if the resolution isn't helping that out than that seems that it would hurt the, be detriment to the public good.

Attorney Michael Migliori: But again, it is our understanding that this will improve, if not resolve the situation.

Member Brown: I have a question for Mr. Mendonsa. You mentioned that you spoke to someone, I didn't quite hear what you said... Did you say you couldn't speak to John or you weren't able to speak to John? What did you say, I wasn't sure?

John Mendonsa (2 Arthur Street): I talked with the builder and he showed me the plan with what they want to do, and I said that is not going to work. Because the way the water pulls in there. No one has seen it, all we have is videos and we know where the water comes from, it comes from up the hill behind Throse and

Member Brown: I remember seeing it. But who said the proposed berm wasn't going to work?

John Mendonsa: I did

Member Brown: That is what I wanted to know.



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John Mendonsa: Talking with the guy from RAM engineering, he said you can see there's a big problem here, because there were two surveyors out here, taking all the grades. So, they can see without even showing a video.

Member Brown: I do remember seeing the video last month.

John Mendonsa: You all saw the video last month, and that is just on a heavy rain. Do you want to look at other videos?

Member Brown: No, I remember the videos, I just wanted to get clarification on who you spoke to and what they said

John Mendonsa: It's not going to work; I mean it would have to be a big area to catch all that water. And he was saying they are going to regrade the road.

Member Brown: I have taken a drive through there a few times, I know what it looks like. Unfortunately, I have not been up there in a rainstorm. But I just wanted to reach out about that conversation you said you had with the surveyor or who that was.

Chairman; Other comments from the audience?

Mellissa Strawhecker (9 Arthur Street): I just want to say, and this has nothing to do with Colleen personally, the problem is with Arthur Street. The flooding on Arthur Street has been going on for years. And the renovate to build this house is not going to solve it, the water problem on this street, so I don't know what we are talking about. The problem comes from Broadway, there is a run up on Broadway, it comes right behind our houses and that is what floods the street. So, until you fix that problem, this whole berm or whatever your drainage is not going to help. You are still going to be flooding.

Chairman: Thank you. Other questions or comments?

Jane Devo (5 Arthur Street): Until you live there, you don't know. Everybody on Jacks side of the street has water in their basement. Mellissa had to put a lot of work into her back yard for the water that comes down from Broadway. It's a huge problem, and I know we are a little street. And again, this has nothing to do with Colleen and her family, that is not why we don't want this to happen. It's just in the winter the mailman can barley get down the street, because there are ice dams and trails from people, it's just a disaster. It spills out on to Pilgrim and to the stop sign where all the kids stop to drive up to the high school. We have gone in front of the City Council; we have gone in front of the Mayor. And they never take care of it and this doesn't sound like it is going to take care of the problem either and that's the problem. It needs to be addressed and it needs to be taken care of. That's all I have to say.

Chairman: Thank you. Any other comments or questions?



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Sean Luke (16 Tremont St): I keep hearing how it has nothing to do with us. It has everything to do with me. You want me to keep the property and keep paying for it and to let it sit there. That property has been there, I have had to deal with it, I have had to deal with it more than these people have. Our house was on the other side of his, so he can sit there and cry about water all he wants. We are willing to put in berms; we are willing to put in drains. Really this is getting old. I am wasting my money here, it's getting old.

Chairman: Thank you. Any other comments or questions?

Colleen McCann (16 Tremont St): I know it is not the neighbor's fault and it has always been a problem coming from City Streets. I have owned the property over 15 years. For years I have been fighting to get my son home Brazil, I have been fighting Cancer and I have been fighting to sell my house and you get sick of fighting, when it is not my fault. All I want to do is be able to sell this property, so I can buy a new house for my kids and my granddaughter and be settled for the rest of the life I have left. My kids could have a future. I ask you please, please have the City do something with the street and please help me sell my house, my land. Thank you.

Chairman: Thank you. Any other comments or questions?

Member Vathally: I have a question for the Attorney Mr. Migliori. It just appears to me that the issue is the street itself and not the property and I'm curious what happened before the fire?

Attorney Michael Migliori: The same thing. The water used to collect in the driveway. It was the same way. We thought we could help improve the problem in the neighborhood around this, not all the way up the road to Broadway and Pilgrim we can only do so much. It's nothing new.

Member Vathally: Yes, nothing new, as it seems to be a street problem not this properties problem.

Attorney Michael Migliori: Right, it has nothing to do with the property.

Member Vathally: Ok, that was my question.

Chairman: I guess I would enforce that too, that it has very little to do with what is being proposed here tonight. It seems like this is the 2<sup>nd</sup> time we have hear this, that it is the City failing to deal with water problems, wither it is due to lack of resources or water is water, I am not sure. If there are no other questions? Again, this is a finding that they are seeking. Entertain a motion.

Member Vathally: I make a motion to approve the finding for 0 Arthur Street, 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: Yes sighting 255-57 a,b,c & d  
Member: Bevilacqua Yes



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Member Brown: Yes  
Member Matias: Yes  
Chairman: Yes

Granted 5-0

Chairman: Again, we are approving this, but clearly the problem needs to be addressed by the city and I would hope the residents would talk to the city about this. As Mr. Bridgewater has mentioned this still has to go for a sight plan review with conservation, all the city departments. And I think somehow the neighbors need to get the message across to the city as this is a city problem, it is not it will not be resolved with this particular application before us, I don't think literates it or contributes anything new to the problem.

Laura A. Anderottola Family Trust for 0 Haverhill Street (Map 415, Block 149, Lot 10B) Applicant seeks dimensional variances for Rear Setback of 15 ft where 30 ft is required and Lot Depth of 64 ft where 100 ft is required to construct a single-family home in a RH zone. (BOA 20-38)

Attorney Russel Channon (25 Kenoza Ave Haverhill): I am here this evening with the homeowners and applicants. This is Laura Anderottola and we also have the builder here Mark Salvo as well, incase there are any questions concerning the proposed building on the property. I submitted to the board a revised brief that hopefully the board has had a chance to review. This is an application for a variance on property owned by the Anderottola's on Belmont Avenue this is a variance for lot 10B as I put in my brief the Anderottola's a number of years ago purchased property on Belmont Avenue and as part of that original purchase it was conditioned upon pertaining a variance for the property at 7 Belmont which in fact at this board did provide. There is currently on that property a two-family dwelling. What we are asking the board to do here tonight, is to provide a variance for the property, which is lot 10B, which if you look at the plan it is at the corner of both Belmont Street and Haverhill Street. The original variance application, we were going to seek just a frontage waiver, because the property was going to have a front door and an address on Belmont Avenue. After speaking with my clients along with the proposed builder and I believe we provided the board with a copy of the house that the builder will build, it was determined that the house could not sit or at least not look well if it sat with a frontage on Belmont and it would be too close to the setbacks, we also determined that if we tried to put in a driveway it would look better if the property sat sideways, so it would have a frontage on Haverhill Street. If fact the driveway would be on Haverhill street as well, we thought that would flow better. To have frontage on Belmont, a front door and then a driveway on Haverhill Street, we have determined that look better to have everything flow onto Haverhill Street and in doing so basically looking at the plan there is a rear set back that we are seeking I believe we are asking a variance for 15 feet where 30 feet is required and then the only other variance is for lot depth where there is 64 feet and 100 is required. From a variance standpoint again, the area has a number of single-family homes and also two-family homes. The house that Mr. Salvo proposes to build would be a nice addition to the neighborhood. Based upon the shape of the lot, we believe this variance meets the definition, standards and requirements for a variance to allow my clients the reasonable use and enjoyment of that property and for those reasons, we would ask the court to grant the revised application for a variance for both rare set back and lot depth for lot 10B.





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Chairman: Thank you. So, the depth of this lot, that is what it has been all along 64 feet,

Attorney Russel Channon: That is correct. Since we have faced the house this way. We wouldn't have needed it if the house was on Belmont. But again, with a frontage on Haverhill Street yes, nothing has changed.

Chairman: Could you explain again why the frontage should not be on Belmont?

Attorney Russel Channon: Again; in speaking with MR. Salvo as well as my client, when you looked at the property to be developed, I believe the proposed structure is, you would need to verify with the builder but I believe its 25x38. If you took that house and turned it sideways and to be able to put a driveway on Belmont Street would just be inappropriate, you wouldn't be able to get it done. You would have a house on Belmont Street 28x38 that would require a number of additional variances and then we also wouldn't be able to get a driveway on Belmont Street, so we would be looking for frontage waivers and also then to have a driveway on Haverhill Street. I believe I may have spoken with the building inspector and that may have brought up some additional issues as far as having frontage and the house on Belmont Street but the driveway access on Haverhill. So for all of these reasons we feel it would be most appropriate due to the size of the lot and the shape of the lot to just change the frontage to Haverhill Street and allow the driveway. We also think in fact, the way houses are built that it would be more attractive to a home owner to be able to drive in to the house from the driveway where the front door is located, rather than coming in on Haverhill street when in fact the front is on Belmont Street.

Chairman: Questions from the board?

Member Vathally: Question on your set \back, you are question 15 feet. What is on that back line is that a property there?

Chairman: it's my client's property, they own the neighboring property at 7 Belmont Street. They currently have a two-family home there. Ok so the abutting property they own.

Laura Anderottola: Yes

Member Vathally: Ok because, I was going to ask if there was a plan for any buffer in that setback.

Chairman; Any other comments or question from the board?...Entertain a motion

Member Vathally: I make a motion to approve the variances for 0 Haverhill Street, 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: Yes

Member: Bevilacqua Yes

Member Brown: Yes



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Member Matias: Yes  
Chairman: Yes

Granted 5-0

**OTHER MATTERS:**

Approval of minutes for the: July 15, 2020

Chairman: I make a motion to approve the minutes from the July 15, 2020 meeting

Member Vathally: Yes  
Member: Bevilacqua Yes  
Member Brown: Yes  
Member Matias: Yes  
Chairman: Yes

Approved 5-0