



# 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, May 19, 2021 at 7:00 P.M.

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

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

Chairman: Moriarty called the meeting in to order May 19, 2021

**Michael Sofos for 69 – 71 South New Street (Map 715, Block 692, Lots 7 & 7B)**

**\*\*\*CONTINUED TO JUNE MEETING**

Chairman Moriarty: We have a letter seeking a continuance.

Dear Chairman and Members of the ZBA:

This is a request that the hearing on the above captioned matter be continued until your next scheduled meeting in June. Should you grant this request my client agrees to waive the applicable statutory time limitation of the Board's decision on this matter.

Very truly yours,

Paul A. Magliocchetti

Attorney Paul Magliocchetti (70 Bailey Blvd): The last time we were here we talked about doing studies on a water filtration system on the site. The engineer is taking longer than we anticipated and as a result we ask for a continuance. There are neighbors here that didn't get notice of the continuance, but we do respectfully ask for a continuance to allow time to develop the plans that we said we would develop for the board.

Chairman Moriarty: Thank you. If people want to speak, please keep it short because we have a heavy agenda tonight and as I mentioned, we are just going to continue this anyways. No conversation, no discussions, and no decisions tonight other than the continuance to the June meeting. You will be notified of the new date. Entertain a motion.

Member Vathally: I would like to make a motion to continue the application for 69-71 South New Street, waiving the time frame to the June meeting...2<sup>nd</sup> by Member Bevilacqua.

Member Vathally: yes

Member Brown: yes

Member Bevilacqua: yes

Member Matias: yes

Chairman George Moriarty: yes

Granted continuance 5-0



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## **Bethany Community Services, Inc for 100 Water Street (Map 207, Block 1, Lot 1)**

Applicant seeks dimensional variances for lot area of 105,835 sf where 151,000 sf is required, side yard setback of 0 feet where 20 feet is required, rear yard setback of 10 feet where 20 feet is required and for a special permit for preexisting uses and structures to allow for the renovation of the existing 150-unit Merrivista 62+ community. (BOA-21-13).

Attorney John Smolak (North Andover): I have here tonight Jarred Stuart the Executive Director of Bethany Homes Services and Mark our housing consultant, also Joe Peznola from Hancock associates (Our project engineer), and then lastly Daryl Aldridge our project architect, all of who you have seen at our last time here. With that said as the board my recall the board approved a chapter 40B permit decision back in December 2019 for the site at 100 water street. That project involved two separate projects on the same site, the first is the renovation of the existing building which we call Merrivista One on lot 2 that was approved for up to 150 units.

\*\*Attorney shows plans and explains about them pointing where things are and where things are going\*\*\*

Attorney John Smolak: Merrivista Two was approved for up to 62 units back in December 2019 and all we are looking for is a Comprehensive Permit Decision. Both of our projects were approved for age restricted of 62+ rental housing. Since that time, Bethany has determined that because of the structure of the transaction, it was difficult to structure financing for the existing Merrivista one building, so as a result we are looking to separate both projects. The first project being the Merrivista One which we are asking for approval this evening for Variances and Special Permit under the cities zoning ordinance and then Merrivista Two if, Merrivista One is approved, then we would be asking for a substantial change to remove Merrivista One out of that 40B decision. All that is changing is that we are proposing to pull out that existing b building and permit it under the cities ordinances, there aren't any proposed changes to what the board had reviewed in terms of site layout or parking, that was all reviewed by the board back in 2019. So again with respect to Merrivista One the existing building, as you may recall when we had our Comprehensive Permit hearing it was constructed back in 1969, with existing parking and other improvements that are on the site, this building has stayed essentially the same as when constructed in the late 60's, the site is within the central commercial zoning district and the property has been used for age restricted for 62+ housing, along with some assistant living use with support and services. The Merrivista Two the lot size is 105,835 or about 2.4b acres in size, the building hasn't changed, the building was created for this project and Merrivista One is on lot 2, and for that reason we are requesting the following variances with respect to Merrivista One. First table two requires multi-family within the CC district to have a minimum of lot area equal to 2,000 sf the first unit plus 1,000 sf for each additional unit. So with up to 150 units in the existing building the number of lot area size would be 151,000 sf so the applicant is requesting a dimensional variance to allow for lot area of 105,835 sf where 151,000 sf is required for a lot area requirement for a multi-family uses in a CC district. And a side yard setback of 0feet where 20 feet is required, that has not changed since our comprehensive permit decision back in 2019 and you can't see it that clearly on the plan but there is going to be a slight extension near the bridge that will connect once the building is constructed, to provide access to both buildings so the residents at both buildings can access supportive services. The applicant is requesting a dimensional setback to 0 where 20 feet is required. We had also requested a third dimensional variance but based on discussions with Mr. Bridgewater we determined that the setback was really a side yard setback rather than a rear yard setback so as a result we have requested a withdrawal of that rear variance request. That is the description of the variance relief and the basic for the hardship is with detail and the respect of the filing with the shape of the existing building and because of the size of the building combined with the lot with he building being constructed in the 1960's you can't really move it obviously but as a result it would be impractical to reduce the lot size or the setback without raising a part of the building which is what we want to do. The relief request is a detriment because of the fact this is a long standing infrastructure for 62+ residential housing. The modifications that are



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being made in terms of renovations are only going to improve the situation. So in addition we have requester the board grant us a Special Permit extension or change of pre-existing non-conforming uses and structures, again the building was constructed in 1969, we are not changing any of the layout, but as to uses the multi-family uses including the assistant living use in some of the units which has been permitted by the state, along with he supported uses for many years and we feel that the renovations will only improve the conditions of the units. In addition, the proposed structural changes and renovations to that building both internally and externally. The renovations will give us the opportunity to upgrade the fire code and other life safety codes like we discussed back in 2019, I have spoke to the building department and the fire department and they will be happy to see that upgrade. Bethany is maintain the existing 75 parking spaces that were there and adding an additional 9 spaces for 84 spaces which is exact number of spaces that was approved back in 2019, in addition there are spaces off site additional 44 spaces that we located in these areas as part of the Merrivista Two building but as we discussed back in 2019, those parking spaces would be shared. We have done a very utilized parking study which indicated the number of spaces that would really be used today at these facilities, because the individuals at these facilities are probably in their 70's & 80's and so there isn't much use for cars at that facility based on the operational history and we had made a determination at that time that the existing parking would probably be twice as many spaces than we would use. We respectfully ask the board grant these variances as well as the requested Special Permit for the reasons I described.

Attorney Mark Bobrowski (Concord, MA): I am the attorney for the Board. Mr. Smolak and I have conversed long and hard about these complicated changes and tried to simplify them to the best of our ability. I think the variance request, you will recall that the statues that you have to show soil conditions or those types of topographical things, but at the end of that sentence it says structures as well. Since these structures predate anything that happened tonight, the auditory of tearing them apart an already have an approved Comprehensive Permit, I think qualifies for relief under section 10 verbiage of structure. Certainty with regard to the side yar setback where the building is in existence you have to create a new lot 0 vs. 20 feet because of the structures location meets the standard of test. The second one, the size of the lot 105,000 vs 151,000 sf, again the structures are in existence already, so you would have to knock the building down, that's kind of where we are at, that easily reflects substantial hardship and I agree with Attorney Smolak that there is no substantial detriment, this is purely for financing purposes, it is not going to change the nature of the project. That is my take on the request for the variances that he has listed tonight, I will leave it at that.

Chairman Moriarty: Any questions from the board for Mark or Attorney Smolak?

Member Brown: I just had a quick question about the 44 parking spots. You mentioned that there were going to be 44 additional ones, are those going to be shared for residents or is it visitor parking?

Attorney John Smolak: It is shared between our residents and support services. I am not sure if you were part of the hearing processes back in December 2019, but we did put together a parking utilization study saying that the parking would be on the adjacent parcel within 100 water street (He describes on the plan where the parking would be located). The zoning ordinance allows for shared parking, if you can't fit the 44 units on this parcel you can have them within 300 feet, so that is the reason why they are where they are, because there was no way to add the additional 44 spaces over there.

Chairman Moriarty: Any other questions or comments from the board?

VARIANCE VOTE:

Chairman: I will entertain a motion on the variance



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Member Vathally: I make a motion to approve the variance for 100 Water Street, 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes  
Member Brown: yes  
Member Matias: yes  
Member Bevilacqua: yes  
Chairman George Moriarty: yes  
Granted 5-0

#### SPECIAL PERMIT:

Chairman: I will entertain a motion on the special permit  
Member Vathally: I make a motion to approve the special permit for 100 Water Street, 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes  
Member Brown: yes  
Member Ruiz: yes  
Member Bevilacqua: yes  
Chairman George Moriarty: yes  
Granted 5-0

#### **Bethany Community Services, Inc for 100 Water Street (Map 207, Block 1, Lot 1)**

Applicant seeks request for Insubstantial Change of Comprehensive Permit Decision, dated 12.18.19 (BOA 19-38). (BOA-21-14).

Attorney Mark Bobrowski (Concord, MA): The insatiable change request are covered by the house comity appeals regulations from chapter 40B, and they are very helpful regulations in that they provide examples of substantial changes verses insubstantial changes, there is a list of 5 or 6 different changes for guidance's for boards like you. The changes here do not reach the level of substantial change, which kind of focus more on issues such as changes from rental to for sale or major changes in building size or dimensions, none of which are occurring here. The HAC regulations say that when you are presented with a request for a substantial change you have 20 days to take action on it or it will be deemed done and incorporated into the permit. Attorney Smolak is expressing a preference for this to be voted on, I get it, I just submitted some substantial changes to another town, they let it go by way of the reg, rather than taking action on it and now I'm sort of back filling here to keep the record straight, because this project is going for financing at this point in time and it is a lot cleaner if you have something on paper. So if you would vote to approve the insubstantial changes set forth in the application, we can take care of writing that up and he can have a clean paper trail.

Attorney John Smolak (North Andover): Mr. Chairman and Board Members, I think this part will be a little simpler than the first. But I appreciate the boards vote on the zoning relief. Again, as Attorney Bobrowski mentioned we are we are requesting the board make a decision on insubstantial permit. Back to the project, again we are asking the board to remove Merrivista One which we just voted on, from the Comprehensive Permit Decision and also asking the board to extend the term of the Comprehensive Permit for an additional 3 year term, we figured that it would be simple just to request that today, instead of coming back a year from now. We also have filed with the board an updated set of civil



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plans, which basically we designed to remove that project Merrivista One from that plan and request the board to approve the architectural plans and remove Merrivista One from that decision.

Chairman Moriarty: Any other questions or comments from the board?

Member Vathally: Attorney would we say in the motion wither to waive a time limit on this?

Attorney Mark Bobrowski: The regs provide in the Comprehensive Permit, they provide 3 years to pull a building permit.

Attorney Smolak, are you looking for an extension of time, under the current permit?

Attorney Smolak: Yes for an additional 3 year term.

Attorney Mark Bobrowski: An additional 3 years?

Attorney Smolak: yes

Attorney Mark Bobrowski: There is nothing uncommon about that. If you were to go to the housing appeals office, they would tell you that for an extension of time at the end of a pandemic, I think you can get it.

Chairman Moriarty: Any other questions or comments from the board?

Attorney Mark Bobrowski: I terms of the ultimate product this evening Mr. Chairman; I would suggest that Attorney Smolak and I work together to prepare the decisions and I will have those to you within 10 days.

Chairman Moriarty: Great, thank you very much. Entertain a motion.

Member Vathally: I make a motion insubstantial Change of Comprehensive Permit Decision 100 Water Street, 2<sup>nd</sup> by  
Member Bevilacqua

Member Vathally: yes

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: yes

Granted 5-0

## **SDSE East Broadway, LLC for 0 Seven Sister (Map 478, Block 1, Lot 60)**

Applicant seeks variance for front yard setback of 20.6 ft where 40 ft is required to construct a single-family dwelling in a RR zone. (BOA 21-11).

Attorney Michael Migliori (18 Essex Street Haverhill): This request before you tonight for a variance is something that the board has seen in many times over, I think I have been involved in at least 3 or 4 of these up on Seven Sister Road because of the cliff that exists up there over the golf course. The applicant wishes to construct a single-family home on a lot that fronts on Seven Sister Road. Due to the sever topography that exists, the applicant to try and build within the setbacks required the home would require significant work, a retaining wall, a slope, it would create a potential hazard. Which makes construction expensive, the land is in the RR zone, there is only one variance that is required, it is the front setback. 40 feet is required but because of the topography and drop off of that lot, we are requesting a setback of 20 feet 6 inches. In all other ways the home which is sited on the land complies with all other zoning laws. It is our opinion that this is extremely minimal request in nature and wouldn't have any adverse impacts on the neighborhood. This has been granted on a number of occasions in this very neighborhood, where it exists up and down the street. It is a very reasonable use of the property and due to the general neighborhood it is a desirable one, we feel that the applications and provisions of chapter would deprive the applicant a more reasonable use of the property. The variance being requested



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we feel that the variances are both appropriate and will result in a beneficial impact on the neighborhood. With that I will end my discussion.

Chairman Moriarty: The topography there is certainly a challenge, this falls under the topography. Any questions from the board?... Entertain a motion

Member Vathally: I make a motion to approve the variance for 0 Seven Sister Road 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes as it meets the requirements, sighting 255-10.2.2 (2)

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: yes sighting 255-10.2.2 (2). Specifically with conditions related to the topography, which has been mentioned by the attorney and there is a drop off there. Situating the house in a different place is a good idea to do it that way.

Granted 5-0

## **Tomasz Woronko for 0 Pleasant View Ave (Map 534, Block 28, Lot 142)**

Applicant seeks variances for lot area of 7,056 sf where 7,500 sf is required and lot depth of 90.07 ft where 100 ft is required to construct a single-family dwelling in a RH zone. (BOA 21-10)

Tomasz Woronko (13 Hillcrest Avenue): I am looking for a dimensional variance for both depth and density to build a single-family home on Pleasant View Ave

Chairman Moriarty: What are the conditions on why you need the variance?

Tomasz Woronko: It is a RH zone so 100 feet are required, I have 90. The density requires 7,500 sf, I have 7,056

Chairman Moriarty: Any other conditions of the property you want to tell us about? You are going to construct a single-family dwelling?

Tomasz Woronko: It is a single-family home for myself. I was granted a variance for this property in 2010 but couldn't execute on it in a years' time for various reasons and financing.

Chairman Moriarty: Any questions from the board?

Member Vathally: Have you changed anything from your original application or is everything pretty much the same?

Tomasz Woronko: The house size has changed, but it is still well within the setbacks and still under the coverage area.

Member Vathally: It is a 20 foot driveway?

Tomasz Woronko: That is correct.

Chairman Moriarty: Thank you. Any comments or questions from the board? Ok, entertain a motion.

Member Vathally: I make a motion to approve the variance for 0 Pleasant View Ave 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes sighting 255-10.2.2 (2)

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: Yes

Granted 5-0



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## **Glenn Belanger for 145 Elliot Street BOA 21-12 (Map 441, Block 3, Lot 3)**

Applicant seeks a special permit for construction of an accessory apartment in a RM zone. (BOA-21-12).

Glenn Belanger: I have lived here most of my life. I built an addition on the house 35 years ago, not thinking about my bedrooms in the future, all my bedrooms are on the 2<sup>nd</sup> floor and I am a disabled veteran, I have sever nerve damage in my left leg due to the injuries in the service and they are not getting any better. So, I came to a thought a while back that I need to do something about that, the stairway going up to my main bedroom is a spiral staircase so that adds to my case even more. I am asking for what I thought was an in-law apartment, but it's called an accessory apartment now, to allow me to build a small apartment for my wife and I in our future years coming, I'm going to be 71 shortly. My daughter will move into the existing house, hopefully our family can stay in Haverhill for years, long after I'm gone. I would like to do this as soon as possible because my situation is getting more dyer as the years go by.

Chairman Moriarty: Thank you. You know there is a number of different requirements for an accessory apartment? I am assuming you have talked with the building commissioner.

Glenn Belanger: Yes many times. Building commissioner, he has met all of them?

Tom Bridgewater: Yes he meets all of them

Glenn Belanger: I have plenty of land there, I live right across the street from NECO, I couldn't have better neighbors. It's an ideal situation for me. When I first moved into the area it was right after they built the college and they allowed us to tie into the sewage, so now we have city sewage there and everything. It was just a dirt driveway across the street when I first moved there. They have been great neighbors. I have great neighbors so I would like to stay there.

Chairman Moriarty: Any comments or questions from the board?

Member Brown: I just have a comment to say Thank You for your service.

Glenn Belanger: You're welcome

Chairman: Entertain a motion

Member Vathally: I make a motion to approve the special permit for 145 Elliot Street 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes meets the requirements of 255-8.1

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: Yes it meets the conditions of 255-10.2.2 (2) and as noted it covers all of the requirements of a accessory apartment.

Granted 5-0

Jill Dewey Board Secretary: Matt they referenced 2 different codes, which one is correct?

Matt Hennigan: We can talk about that once we have the training.

Jill Dewey Board Secretary: Well for now which is it, so that I can have it right on the minutes and the paperwork?

Matt Hennigan: It's ok, historically we have always said it meets the requirements of an accessory apartment. When our friend Ron is here, he mentions that it makes quote the general special permit requirements and the accessory apartment requirements, that is what is in the box at the bottom. But we will go over that when we have the training. It should always say both because the underling special permit description has never changed. The accessory apartment underlining

Member Vathally: So it is both 255-10.2.2 (2) and 255-8?

Matt Hennigan: Yes in the general description



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Member Vathally: So, they both apply?

Matt Hennigan: Yes. Moving forward you want to say both of those

Member Vathally: Ok

## **Michelle Larkin for 119 Winona Avenue (Map 647, Bloc 4, Lot 15)**

Applicant seeks following dimensional variances to create new building lot and construct new single-family dwelling in a RM zone. Requested variances for new lot (Lot B) include lot area (14,856 sf where 20,000 sf is required), lot frontage (90 ft where 150 ft is required), and lot width (lot width 93.56 ft where 112.5 ft is required). Proposed Lot A shall include existing single-family dwelling. (BOA-21-7)

Brandon Larkin: Michelle was told she had to come in person to withdraw the application. She wants to withdraw the application without prejudice. We tried to call to do it over the phone.

Board Secretary Jill Dewey: I called to confirm that they were presenting the case tonight, and Michael clarified for sure that they were. I wanted to make sure that we didn't bring everyone in here for it.

Brandon Larkin: I'm not aware, Michelle is not aware also

Chairman: Can you explain why she is withdrawing it at this point?

Brandon Larkin: I just know she is not ready to proceed, at this moment she is not ready to proceed so she is withdrawing the application without prejudice.

Chairman: That is not a good enough reason.

Board Secretary Jill Dewey: If you withdraw instead of continue, you have to start from scratch with a whole new application.

Brandon Larkin: Ok, I am withdrawing it without prejudice.

Chairman: I can't stop you from withdrawing, I can't promise without prejudice. There are quite a few people in here, do any residents want to speak?

Michael Bresnahan (104 Winona Ave): Thank you for the time to let me address this withdraw. Although I appreciate the partitioner wanting to withdraw without prejudice, this has been going on for some time now. The neighbors were here ready to present their opposition. Last month it was withdrawn without prejudice, I was here didn't speak in opposition of that. My request to the board is to withdraw it with prejudice, at least to give the neighbors some protection a little bit of time because this could be come a yoyo, this could be here every month coming back before you. I don't think it is fair to the neighborhood and I don't think it is justified by the partitioner.

Chairman: Thank you. I kind of have to agree with that, it is unfair to the board, it is unfair to the neighbors. We need solid reasons for things being withdrawn. We had one earlier today that continued, and it was clearly because there were certain studies that haven't been done which is a reasonable thing. So in absence of any clear reason, I can't stop you from withdrawing your application but I can't say it won't be without prejudice, which affects if it comes before us again, it affects the board's reaction to it.

Brandon Larkin: I know part of the reason was that she got some feedback from the neighbors and she wasn't prepared to answer all of their questions.

Chairman: We will be dealing with it as a withdrawal at this time.

Brandon Larkin: So, what we need to do to come here again.

Board Secretary Jill Dewey: Fill out the application again and pay the application fees again





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Chairman: I will entertain a motion for a withdrawal

Member Vathally: I make a motion to withdraw the application for 119 Winona Avenue 2<sup>nd</sup> by Member Bevilacqua

Chairman: I am going to make not of the fact that we are saying withdrawal and we are “not” including the phrase without prejudice

Member Vathally: yes

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: Yes

Granted to withdraw 5-0

Michael Bresnahan: Just for clarification they could come back next month?

Board Secretary Jill Dewey: They have missed the cut off date, so no.

## **Edge Real Estate Investment LLC for 0 Grove Street (Map 518, Block 308, Lot 8)**

Applicant seeks dimensional variances for lot area of 4,751 sf where 9,600 sf is required, lot frontage of 44.2 ft where 80 ft is required, lot width of 44.2 ft where 60 ft is required, height of 37.89 ft where 35 ft is maximum, building coverage of 28% where 25% is maximum to construct a two-family dwelling in a RH zone. (BOA 21-15)

**NOTE: when listening to the recording it is hard to tell who is speaking Joel vs Carlos as they did not state their name each time they spoke, and I do not know them to know what each sounds like. So, I guessed on each... Jill Dewey Board Secretary**

Attorney Paul Magliocchetti (70 Bailey Blvd): These two men are responsible for this project. By way of background, I am going to let them speak to you a little bit, they have done multiple projects here in the city. All of their projects have turned around dilapidated homes into really nice projects. His wife's cousin actually lives at 127 Grove Street which was a project that he did, they did other projects on Flora and I will have him mention a few others. He has a lot of experience in this city, it has turned out pretty well, not only for him but for the people who have bought the homes. This particular property is located on Grove Street, it is currently a vacant lot with a garage building on it, but it is really not being used for anything. What is interesting about this lot, when I first saw it I always scrutinize these things before I accept them, it is actually tied in with another house that is two lots over, so there is a 3-family, then a house and then this lot. It is a little disjointed, they are not connected lots, that kind of caught my attention. I did do the title history on it and it has always been that way. This really has been a standalone lot if you will for the whole history of the property. I thought I might be able to grandfather it, but it is just undersize, as you know you need 5,000 sf this particular parcel has 4,700 so a few more sf and you would have a grandfather situation here. The conditions that affect this property do not affect the zoning district in which it is located. The hardship is based on the following, the property is located in a neighborhood that has many similar homes to the one proposed, the property is currently mostly vacant, because this is a large, underdeveloped parcel I mean large for the neighborhood, most of the other lots that surround this in the neighborhood are the same size, some of them are even



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smaller, some have 3-families on the small lots. We believe this 2-family with the design they are proposing is a very understandable use of this parcel. So, the property consists of a vacant lot, again can't be grandfathered because it just undersize. If you look at this section of Grove Street you'll notice that it is a hype nick community, I guess is the best way to describe it. We have a lot of the neighbors here that are the direct abutters. I believe that the granting of the relief that we are seeking will not substantially derogate from the intent and purpose of the zoning laws in the city of Haverhill. Dimensional variance required for the construction of a 2-family home because it only has 44 sf of frontage where 80 feet is required and lot area of 4,751 where 9,600 is required, again none of this is a result of anything the current owner did or anything the previous owner did, it has been this way forever. The condition of the lot is unique to the applicants property, it is a vacant parcel that has remained undeveloped for years. If you look around it there are no other vacant parcels that have been underdeveloped. The shape and the size of the lot is the way it has always been, so no prior owner has taken anything away from this or has not broken a piece off from a larger parcel. The strict application of the zoning law would deprive the applicant of reasonable use. A two-family home in this neighborhood on a lot of this size is a reasonable use, you have to consider where it is. The unique conditions are not the result of actions by the applicant subsequent to the addition to this chapter, as I have said if you do the title rundown it has always been this way, so there is nothing new here. We are trying to put a nice property in this neighborhood. The garage that is there right now as my understanding the property owner is not taking the best care of it, there is a truck that is blocking the driveway, the garage is in disrepair. This is an opportunity to really cleanup the neighborhood and to do something for the neighbors. The grant of the variance would not constitute special privilege in consistent with limitations on other properties, as I said if you look around this, the relief we are seeking on a 2-family on a lot this size, there are 3-families on smaller lots around it up and down the street, one just next to it. Again, we do believe we meet the hardship requirement in this category. I guess at this time I would like to introduce the developer and the engineer to speak on how he came up with this design and the aspects of it. I would like to add that out in the hall, we did talk to the neighbors and one of their biggest concerns is parking. When you are talking about a densely populated area like this, parking is always a critical issue, so if you look at the design that they proposed they meet the zoning requirements, they have 3 parking spaces for a 2-family which is what the code requires. So based on the conversations with the neighbors, we have actually found a way to add 6 parking spaces to this property and the abutting properties. Let me explain, so with this property the developer has agreed that he will put a garage underneath which will allow two cars to be parked in tandem one in front of the other, so with he 2 cars parked in tandem and the other 3, you now have 5 parking spaces on this property for a 2-family home, I don't think there is any property around that has that much parking., that will be a great relief to the neighborhood, getting cars off the street. In addition, they have agreed with the owner of number 123 which is the 3-family 2 lots over they spoke with him and he has agreed to allow us to extend the driveway and add 2 parking spaces to his driveway, so he is going to be going from 3 to 5. And again, his wife's cousin owns 127 which is the house next to that, she has agreed to allow him to do the same thing and expand her driveway, which will add 2 more spaces. So, if this project is allowed we will be taking 4 cars off the street for the abutting properties and we will be having 5 spaces for this 2-family. I think that is huge, 1<sup>st</sup> of all to have the connections with the neighboring homes to do this but that would be a vast improvement to the neighborhood. It enhances traffic flow, it enhances safety for everyone involved, especially fire trucks that have to go up and down Grove Street when answering calls from the school. So that being said I would like to have my client give his presentation.

Chairman Moriarty: Can I clarify one thing? Who owns the property right now?

Attorney Paul Magliocchetti: Cesar Casado. There is a purchase and sale agreement to buy this property contingent upon the outcome

Chairman Moriarty: So, it is under agreement, because you said the garage is in bad repair.



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Attorney Paul Magliocchetti: It is not them that have it that way. I will let them talk about some of the projects they have done.

Chairman: Thank you.

Joel Rivera ( The owner of Edge Real estate Investments): I came to know Haverhill through my wife Clair who grew up in town. The last couple of years I have done several project in town, about half a dozen. On River Street, Air Street, Grove Street, Observatory Ave, Flora. My plans are to like the others when I do projects, I leave them better than they were before and not only for the house buy for the neighbors and community. My hope is to continue to do the same with this one on Grove Street and many other projects to come, as I like to work in the City of Haverhill. What we always try to do is to work with the community and figure out a way that we can solve any concerns, we can provide them with something that will be worthy for them to look at and walk by every day, when we are taking on these projects, so I just wanted you to know that, that we have the beset intensions in mind.

Chairman Moriarty: Can one of you talk about the elevation, it kind of curves down doesn't it? Could you address that for a minute.

Carlos Penena (part owner of Basic Project Management): I manage all these construction projects in the Haverhill area and all of Boston. The thing that we have with the slope on the terrain there is that we have a different of close to 7.6 feet from the front setback to the rear setback, we had a surveyor to calculate and average for that and we managed ourselves to design a project that conforms under the bylaws regulations and having us a base and a height that he gave us. By having the pronoun slop in the terrain where it preforms in that matter, the whole project.

Chairman Moriarty: Maybe I'm looking at it wrong but in the picture that shows the 3 cars, that is at the back of the building where the slop is going down?

Carlos Penena: Yes, well the slope goes down like right in the middle of the lot, back there is more or less regular.

Chairman Moriarty: Does all that build up there. I am having a hard time picturing 3 cars on the sloping

Carlos Penena: the place the cars will be is almost flat. The elevation goes from 166 to 166.67 so it is almost flat. The drastic change of height goes right in the middle of the building where we go from 175.97 to 166.98.

Chairman: So, when the cars are coming out of the garage, what is the elevation right there/

Carlos Penena: 166.04, it is the same elevation.

Chairman: Ok

Carlos Penena: Around 20 feet in the driveway is when it changes to 171

Chairman: So t6he slope starts, right where the driveway starts?

Carlos Penena: Yes

Chairman: The driveway follow the slope down?

Carlos Penena: Yes. We are proposing a garage in the basement and that is because we have a completely exposed basement, so it is like 96 from slab to the wood structure

Tom Bridgewater (Building commissioner): Can I say something? This updated plan came here today, the zoning table, the exact stories 2.5 for a 2-family you are going to propose 3.

Carlos Penena: No 2 and a half?

Tom Bridgewater (Building commissioner): It says 3 on here. Site plan page zoning table, you just gave this to me today.

Carlos Penena: That's maybe a mistake from the surveyor, but the zoning calculations I have on the first sheet are correct which we have 2.5. We are taking advantage of the attic space, we ae going to finish it and have a game room up there.

It's going to be like a Mezzanine so it is going to be open below.

Tom Bridgewater (Building commissioner): I am just going by what is on the zoning table, 3

Carlos Penena: I understand.



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Chairman: Any questions from the board? Member Vathally?

Member Vathally: Haver you done any studies on water drainage and how that is going to affect the property behind you with that much of a drastic slope?

Joel Rivera ( The owner of Edge Real estate Investments):: Actually, we had a conversation with Carlos Penena as he is the one that manages those spaces for us. And he said as the natural slope we are not going to change the natural slope or behavior of the water is going to be practically the same.

Member Vathally: So, you are not going to be building up that slope at all, it is going to be all foundation? The house looks like it is a flat piece but really it isn't

Joel Rivera: That maybe is because you have the old file, we provided new ones

Member Vathally. Ye but it goes to the slope doesn't it?

Joel Rivera: Yes but we are not changing the slope

Member Vathally: You are not touching the slope?

Joel Rivera: We are not touching the slope. We are just digging in where we need to digging in and we are leaving the slope as is.

Chairman: What is behind there? Does it slope down to Swayze Field?

Member Vathally: Yes

Chairman: Are there any buildings behind you?

Joel Rivera: No

Chairman: So, it goes right down to the field?

Joel Rivera: Yes. This is true for all the properties there.

Chairman: Any other questions from the board? Attorney did you want to say something before?

Attorney Paul Magliocchetti: No, I would like to reserve the right to speak after the neighbors.

Chairman: Ok thank you. Any neighbors want to speak?

Ed Martin (15 Grove Street): My wife Robin has lived at 15 Grove Street for 50 years; her parents have lived there forever. We don't understand why we are here in the first place because another owner at the same property attempted to build a single-family home with 2-parking spaces and it was denied by the appeals board back in 2002, I have a copy of it right here if you want to see it. On the assessors card it even says unbuildable. I have plenty of pictures. They picked our brain before we came in here so all of a sudden they have enough parking spaces; I don't understand how that came to be. We have pictures of the garage, there really is no room on either side of the houses and stuff. If you come up here when school is getting out, the Tilton school, the cars are like side by side racing each other, we have more arguments out there when that happens. I have a petition signed by a bunch of neighbors who have been in the neighborhood for between 10-25 years. We are all against it. They are just going to hit and run, yeh we don't like the look of it and they are going to make it nice but a 2-family on that lot? You turned down a single-family in 2002, how come a 2-family can go up all of a sudden. I don't know where we are going to go with that. I know the city is looking for tax money and stuff, but you have got to think about the people who have lived here all of their life's.

Chairman: I can tell you the Appeals Board does not make decisions on wither the City gets tax money or not. Hopefully we stick to the zoning requirements.

Chairman: Several of us have gone up and saw the property.

Ed Martin (15 Grove Street): Well like I said it was denied in 2002, I have a copy of it here.

Chairman: Can I see that decision... Anything else you would like to add at this time?



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Ed Martin: We just feel that this is not a good thing for our neighborhood. We have been there too long; we have seen people come and go. We are just afraid of what is going to happen, you are going to drive everyone who has grown up here out. We always have water in our back yard too, there is no way for it to drain out. Awe have it every time it rains.

Robin (115 Grove): I am the one who is going to be looking out at this house. I know they said something about parking, I have a 2-family house with a 2-car garage with parking out front and I also have a driveway aside from that which would allow another 2-3 cars. They were saying that the neighborhood most families don't have enough parking and I do.

Chairman: Anyone else who wants to speak?

Carlos Pervaro (107 Grove Street): We just had an issue with our other neighbors, they were building a fence, they did the drainage completely wrong and how you were mentioning how the backyard does slope. When we first moved in there to know over the years 4 or 5 the slope and erosion has taken a good 6 feet out. There is a dead tree that will be a major issue once construction starts. When it does rain, our issues that the other neighbors are having, our whole side is getting carved in, that whole side with rainfall we are losing more and more dirt going down. Last time it rained it took almost a week for the water to dissipate, when it does rain the water does settle there and there is not a way to drain down. Once construction does happen there will be a lot more issues. We have an older house and once they start building up, they are going to be really close to us. Obviously we are not going to be able to open the windows and shake hands, but it is going to be pretty close to where we are. Obviously the sun situation, we get light whatever. I haven't see the official design plans or how they plan on doing the parking situation, but I don't believe in the size or width that they have, that they would be able to put a parking garage there with all those parking spaces that they say. With the water, how are they going to redirect that, it is just going to keep puddling there. Unless they build some sort of drainage that goes away from the back yard from either side, then they are going to have the same situation that we have with water. That is all I have to say.

Chairman: Thank you very much, I appreciate you speaking. Anyone else? Attorney do you want to respond?

Attorney Paul Magliocchetti: Again, we are going to be increasing off street parking. It is very unusual to have that opportunity and to have a developer who is willing to do that, I mean that speaks volume about who you are dealing with here and how he cares about issues. We can not address all of their concerns and I am not going to pretend that we can. With regard to the water and drainage, that is the reason I continued the matter earlier today. There are systems we can put in place and we can make a condition of the approval that they satisfy the city departments with regard to drainage. But whatever the water problem is, it is there with or without this house. We are not asking for a variance for a side yard setback, so this house sits in the center of the lot, we are asking for frontage and area, all the setbacks are met. They are making very efficient use of this space. This house will add to the aesthetics of the neighborhood. I know they have concerns, that we are going to build it, sell it and get out of there, that is not their MO. If you look at the other properties that they have done, the multi-families they have sold to 1<sup>st</sup> time homebuyers. They sold it to people that want the opportunity to own a home and they need that monthly rental income to help them pay their mortgage. These are quality builders who try to work with the community as they demonstrated tonight. Again, we talked about this, if the board thought it would help we would consider making these condos instead of a 2-family, if that were something the board thinks would help. We don't really think it will have an impact but if that is something the board would like us to do, I would ask my clients to consider it. If you have any specific questions about any of the issues that were raised, they are here to talk about them with you. We believe we have addressed all the issues that we can address. We believe that this project fits, we believe that we meet all of the criteria required for a variance here. I have nothing but respect for them. I grew up here, this is my neighborhood too, I grew up on Lyons Street, right behind Tilton School. I play my friends who used to live in one of these houses. I am here to answer any other questions you might have, but that is all we have for a presentation.



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Chairman: I do want to make the observation that who is going to live in these is not a condition that the board looks at. So, if a developer sells the property it is not in our purview. I would ask though that you mentioned that you would change this from a 2-family to condos, what would change with that?

Attorney Paul Magliocchetti: Well one of the concerns raised was that they were going to flip it and be an absentee landlord which is a problem but that is a problem with the existing 3-family there, so that would address that problem because now you are selling the condominium units, so you are going to get homeowners, and people who have a vast interest in the property. That would address their concerns about having absentee landlords that aren't going to take care of the property. You are going to have people who care about the property. Right now, with the prices of coindexes you are looking at about \$325k-350k per unit. So, if someone is going to make an investment in one of these they are going to want to take care of it, so that is why I am putting it out there to address what their concern was.

Chairman: Thank makes sense thank you. Any questions from the board?

Member Brown: Tom do you have anything in your books that says this is an unbuildable lot?

Tom Bridgewater: I haven't seen anything. But Paul can I ask you something, just so we are clear you are not going for any side setback variances 4.2.4 with bay windows that's showing here I think 7.1 to the side lot line, it is 2-stories that goes up that is more than, so it sticks out. It's 10 foot long which meets all zoning requirements and a 7 foot one, I can't read it, I just got this today, I think it says it only sticks out 2 feet

Carlos Penena: On the right side we have the 11/10 bay, it could be 3 feet into the setback to the bay

Tom Bridgewater: It is a little more than a bay....Tom reads the code chimneys, bay window, balconies, open fire escapes, don't project more than 3 feet. And this goes up 2 floors.

Carlos Penena: We can certainly address that. It is not allowed in Haverhill to have a bay window that meets the floor or 2 story, but when I was designing this I didn't find that in the code. We have design based like this that goes all the way to the floor but if that is not the case in Haverhill, we can certainly make change.

Tom Bridgewater: It is a little more than a bay window.

Carlos Penena: But if I just take it up, the floor and raise it 2 feet, it is not a bay, it is not square footage, I mean it is a bay if I just raise it 2 feet.

Tom: Even if you raise it 2 feet, but you are going two floors with it, it is not just a bay window.

Carlos: It is a 2 story bay. If you could see this floor plan furnished you will see that there is no use to it, other than to bring light into the building. We are not married with having a bay there, but we think it certainly adds some beauty to the building, we don't want to have a box there, we want to have something nice.

Tom: I agree it looks nice

Carlos: We can certainly get rid of that, that is not going to affect our use.

Tom: I'm not sure if it meets zoning, that's all.

Attorney Paul Magliocchetti: But if they agree to raise it 2 feet, it meets zoning. So, we will stipulate that it won't be going up 2 floors. That the base of the bay will be 2 feet up on each floor and that will alleviate that problem with zoning.

Carlos: I can tell you as an architect that it is not going to be the best look, but it is something solvable. It is a matter of breaking it, the bottom.

Tom: If it turns into a bay, you are allowed to do it.

Carlos: So, do you want us to make it a bay in each floor or just erase it from the first floor and leave it as is on the second?

Tom: No. Each floor

Carlos: Ok perfect, thank you.

Chairman: Other questions or comments from the board?



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Member Vathally: See I just have a problem with the total area here. I'm trying, I'm really trying but the total area 4751 with 9600 is double, so I am just uncomfortable with this. I get the setbacks, I get that. I have a problem with the total area that is requested.

Attorney Paul Magliocchetti: In my response to that, I appreciate that, and my response is again, you know zoning changes all the time and the 9600 years ago was 8000, you know it just keeps changing so you have to put it in the context of the neighborhood where the property sits. When you drive by the property or where on the property if you look around the property, you are not going to find properties much larger, you might find a few here and there but for the most part almost every property around there, even the one that is the 3-family up the street is on the same size lots. You have other multi-families on similar size lots. There are some that are even smaller than this. So, again you have to look at it in the context of where you are. If this was a different kind of neighborhood, like I just did a project on Whitney where we did a bunch of duplexes in a new neighborhood, all those met zoning and that is a different context. I am just trying to explain that that is what the codes says, that is why we have these variances for situations like this. Like I said if this was just a few feet larger 5,000 it would be grandfathered and you would be in the same place, you would be building this house on this lot, if it was just a 4 foot strip down the side. That is about all I can say in response to that, all I can say is put it into context of where it sits. I appreciate your concern.

Chairman: Any other comments or questions from the board?

Member Bevilacqua: I'm a little concerned about the prospective that it was denied for a single family. This is the first we are hearing of it tonight that it was denied for a single family years ago and called an unbuildable lot.

Chairman: I noticed the names on it and none of us were there.

Attorney Paul Magliocchetti: I would like to respond to that quickly. First point I am going to make, is with a single family with 2 parking spaces so I am sure they were considering traffic and parking on the street among other things, because there were issues here if you remember back in 2002 I'm sure you can attest, there were issues on that road and the prior landlord was not a great landlord so there was a track record and as a board, you consider this. So, I'm sure a lot of these had to factor in, I am sure the parking and traffic was a issue and again I can't stress enough, we are taking cars off the street if we get this, we are helping that situation, this is highly unusual that we are able to do this, I can't stress this enough. I am only guessing that was one of the issues that it was denied. Again, this is an eyesore right now, something needs to happen here to make this a better place and improve the neighborhood, this is our proposal to make that happen.

Chairman: As I have mentioned several of us have gone up there and looked at the property.

Member Brown: Attorney can you speak a little bit more on, you said, and I was up there. There is a house in the middle and then there is a house to the left and that is where you are proposing to add the 2 extra parking spots right, if I am looking at the garage?

Attorney Paul Magliocchetti: If you are looking at the garage two houses up there's 123 it is a 3-family, so that is going to be lengthened and in the front there is space for another one, so we are adding 2 spots there #123 if you look on Google Maps

Member Brown: So, I was looking at 123, they have the

Attorney Paul Magliocchetti: The picture you have, they have their cars parked there, there is that black car towards the front, do you see the space to the side of that, that is going to be one and then in front of those spaces there is room in the back there. So, they are going to extend the driveway down. This house is a 3-family that only has 3 spots, so you know they have people parking on the street. They are now going to have 2 extra spots to take 2 cars off the street. That is the same thing they are going to do at 127, that is another 3-family that currently only has 3 spots, that will have 5 when this is done.



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Chairman: Just to be clear, this is not really affecting this application.

Attorney: It is for the overall neighborhood. For ours 5 spots for a 2-family is highly unusual

Chairman: Other questions or comments?

Ed Martin: The house that they are speaking about, the 3-family, that they can add the driveway, there are 7 cars in that house, there is parking spaces for 4 right now. The driveway was put in illegally by one of the former owners without permits anyway. They would have to tare down a wall and move a patio and all kinds of stuff and that is right up against our property line now. The gentleman who put in the driveway just put in railroad ties and they are leaning against my fence right now. All of a sudden, like I said they picked our brains before we came in here and there was no mention about parking, we knew nothing of this project, we didn't even know who Edge Real estate Investment was. As far as we were concerned Cesar Casado owns that property, so we didn't know where this was going until our hallway meeting. Again, there is no way that it is going to alleviate the problem, even if they put the parking underneath their house, what is to say those two families don't have 5 or 6 cars or 7 cars? They are still going to be on the street, there is no way of you knowing who buys that house how many cars there are going to be. So, they can have all the parking spaces they want, there's no way to know. This is just not a good thing; they are making it sound good.

Chairman: 2 things, one as I was just saying a few moments ago the adding of the parking spots on the other properties is a admiral thing but at least from the decision point of view at least for me it doesn't factor into my decision about this property per say. The other is we don't know how many cars the new tenants would want but once again what does the zoning require for the number of parking spots and does this meet it for a 2-family. That's what we have to conform to, just to clarify those 2 points. Any other comments or concerns or does the Attorney want to respond to anything at this point.

Attorney: We are all set. The only thing is what he said about the railroad ties, that is what they're going to fix, they're going to fix that, that is part of this, so again it is a benefit. They are fixing a bad situation.

Chairman: Thank you. Entertain a motion

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

Member Vathally: No, I am voting no as a general condition I don't feel that 255-10.2.2(2) was satisfied this evening.

Member Brown: yes

Member Matias: yes

Member Bevilacqua: No

Chairman George Moriarty: no

Denied 2-3

**Minutes:** April 21, 2021 meeting. Motion made by Member Vathally, I accept the meeting minutes from March 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: Yes

Member Brown: Yes

Member Matias: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes





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The regular meeting of the Haverhill Board of Appeals was held on Wednesday evening, May 19, 2021 at 7:00 P.M.

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

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

Chairman: Moriarty called the meeting in to order May 19, 2021

**Michael Sofos for 69 – 71 South New Street (Map 715, Block 692, Lots 7 & 7B)**

**\*\*\*CONTINUED TO JUNE MEETING**

Chairman Moriarty: We have a letter seeking a continuance.

Dear Chairman and Members of the ZBA:

This is a request that the hearing on the above captioned matter be continued until your next scheduled meeting in June. Should you grant this request my client agrees to waive the applicable statutory time limitation of the Board's decision on this matter.

Very truly yours,

Paul A. Magliocchetti

Attorney Paul Magliocchetti (70 Bailey Blvd): The last time we were here we talked about doing studies on a water filtration system on the site. The engineer is taking longer than we anticipated and as a result we ask for a continuance. There are neighbors here that didn't get notice of the continuance, but we do respectfully ask for a continuance to allow time to develop the plans that we said we would develop for the board.

Chairman Moriarty: Thank you. If people want to speak, please keep it short because we have a heavy agenda tonight and as I mentioned, we are just going to continue this anyways. No conversation, no discussions, and no decisions tonight other than the continuance to the June meeting. You will be notified of the new date. Entertain a motion.

Member Vathally: I would like to make a motion to continue the application for 69-71 South New Street, waiving the time frame to the June meeting...2<sup>nd</sup> by Member Bevilacqua.

Member Vathally: yes

Member Brown: yes

Member Bevilacqua: yes

Member Matias: yes

Chairman George Moriarty: yes

Granted continuance 5-0



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## **Bethany Community Services, Inc for 100 Water Street (Map 207, Block 1, Lot 1)**

Applicant seeks dimensional variances for lot area of 105,835 sf where 151,000 sf is required, side yard setback of 0 feet where 20 feet is required, rear yard setback of 10 feet where 20 feet is required and for a special permit for preexisting uses and structures to allow for the renovation of the existing 150-unit Merrivista 62+ community. (BOA-21-13).

Attorney John Smolak (North Andover): I have here tonight Jarred Stuart the Executive Director of Bethany Homes Services and Mark our housing consultant, also Joe Peznola from Hancock associates (Our project engineer), and then lastly Daryl Aldridge our project architect, all of who you have seen at our last time here. With that said as the board my recall the board approved a chapter 40B permit decision back in December 2019 for the site at 100 water street. That project involved two separate projects on the same site, the first is the renovation of the existing building which we call Merrivista One on lot 2 that was approved for up to 150 units.

\*\*Attorney shows plans and explains about them pointing where things are and where things are going\*\*\*

Attorney John Smolak: Merrivista Two was approved for up to 62 units back in December 2019 and all we are looking for is a Comprehensive Permit Decision. Both of our projects were approved for age restricted of 62+ rental housing. Since that time, Bethany has determined that because of the structure of the transaction, it was difficult to structure financing for the existing Merrivista one building, so as a result we are looking to separate both projects. The first project being the Merrivista One which we are asking for approval this evening for Variances and Special Permit under the cities zoning ordinance and then Merrivista Two if, Merrivista One is approved, then we would be asking for a substantial change to remove Merrivista One out of that 40B decision. All that is changing is that we are proposing to pull out that existing b building and permit it under the cities ordinances, there aren't any proposed changes to what the board had reviewed in terms of site layout or parking, that was all reviewed by the board back in 2019. So again with respect to Merrivista One the existing building, as you may recall when we had our Comprehensive Permit hearing it was constructed back in 1969, with existing parking and other improvements that are on the site, this building has stayed essentially the same as when constructed in the late 60's, the site is within the central commercial zoning district and the property has been used for age restricted for 62+ housing, along with some assistant living use with support and services. The Merrivista Two the lot size is 105,835 or about 2.4b acres in size, the building hasn't changed, the building was created for this project and Merrivista One is on lot 2, and for that reason we are requesting the following variances with respect to Merrivista One. First table two requires multi-family within the CC district to have a minimum of lot area equal to 2,000 sf the first unit plus 1,000 sf for each additional unit. So with up to 150 units in the existing building the number of lot area size would be 151,000 sf so the applicant is requesting a dimensional variance to allow for lot area of 105,835 sf where 151,000 sf is required for a lot area requirement for a multi-family uses in a CC district. And a side yard setback of 0feet where 20 feet is required, that has not changed since our comprehensive permit decision back in 2019 and you can't see it that clearly on the plan but there is going to be a slight extension near the bridge that will connect once the building is constructed, to provide access to both buildings so the residents at both buildings can access supportive services. The applicant is requesting a dimensional setback to 0 where 20 feet is required. We had also requested a third dimensional variance but based on discussions with Mr. Bridgewater we determined that the setback was really a side yard setback rather than a rear yard setback so as a result we have requested a withdrawal of that rear variance request. That is the description of the variance relief and the basic for the hardship is with detail and the respect of the filing with the shape of the existing building and because of the size of the building combined with the lot with he building being constructed in the 1960's you can't really move it obviously but as a result it would be impractical to reduce the lot size or the setback without raising a part of the building which is what we want to do. The relief request is a detriment because of the fact this is a long standing infrastructure for 62+ residential housing. The modifications that are



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being made in terms of renovations are only going to improve the situation. So in addition we have requester the board grant us a Special Permit extension or change of pre-existing non-conforming uses and structures, again the building was constructed in 1969, we are not changing any of the layout, but as to uses the multi-family uses including the assistant living use in some of the units which has been permitted by the state, along with he supported uses for many years and we feel that the renovations will only improve the conditions of the units. In addition, the proposed structural changes and renovations to that building both internally and externally. The renovations will give us the opportunity to upgrade the fire code and other life safety codes like we discussed back in 2019, I have spoke to the building department and the fire department and they will be happy to see that upgrade. Bethany is maintain the existing 75 parking spaces that were there and adding an additional 9 spaces for 84 spaces which is exact number of spaces that was approved back in 2019, in addition there are spaces off site additional 44 spaces that we located in these areas as part of the Merrivista Two building but as we discussed back in 2019, those parking spaces would be shared. We have done a very utilized parking study which indicated the number of spaces that would really be used today at these facilities, because the individuals at these facilities are probably in their 70's & 80's and so there isn't much use for cars at that facility based on the operational history and we had made a determination at that time that the existing parking would probably be twice as many spaces than we would use. We respectfully ask the board grant these variances as well as the requested Special Permit for the reasons I described.

Attorney Mark Bobrowski (Concord, MA): I am the attorney for the Board. Mr. Smolak and I have conversed long and hard about these complicated changes and tried to simplify them to the best of our ability. I think the variance request, you will recall that the statues that you have to show soil conditions or those types of topographical things, but at the end of that sentence it says structures as well. Since these structures predate anything that happened tonight, the auditory of tearing them apart an already have an approved Comprehensive Permit, I think qualifies for relief under section 10 verbiage of structure. Certainty with regard to the side yar setback where the building is in existence you have to create a new lot 0 vs. 20 feet because of the structures location meets the standard of test. The second one, the size of the lot 105,000 vs 151,000 sf, again the structures are in existence already, so you would have to knock the building down, that's kind of where we are at, that easily reflects substantial hardship and I agree with Attorney Smolak that there is no substantial detriment, this is purely for financing purposes, it is not going to change the nature of the project. That is my take on the request for the variances that he has listed tonight, I will leave it at that.

Chairman Moriarty: Any questions from the board for Mark or Attorney Smolak?

Member Brown: I just had a quick question about the 44 parking spots. You mentioned that there were going to be 44 additional ones, are those going to be shared for residents or is it visitor parking?

Attorney John Smolak: It is shared between our residents and support services. I am not sure if you were part of the hearing processes back in December 2019, but we did put together a parking utilization study saying that the parking would be on the adjacent parcel within 100 water street (He describes on the plan where the parking would be located). The zoning ordinance allows for shared parking, if you can't fit the 44 units on this parcel you can have them within 300 feet, so that is the reason why they are where they are, because there was no way to add the additional 44 spaces over there.

Chairman Moriarty: Any other questions or comments from the board?

VARIANCE VOTE:

Chairman: I will entertain a motion on the variance



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Member Vathally: I make a motion to approve the variance for 100 Water Street, 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes  
Member Brown: yes  
Member Matias: yes  
Member Bevilacqua: yes  
Chairman George Moriarty: yes  
Granted 5-0

#### SPECIAL PERMIT:

Chairman: I will entertain a motion on the special permit  
Member Vathally: I make a motion to approve the special permit for 100 Water Street, 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes  
Member Brown: yes  
Member Ruiz: yes  
Member Bevilacqua: yes  
Chairman George Moriarty: yes  
Granted 5-0

#### **Bethany Community Services, Inc for 100 Water Street (Map 207, Block 1, Lot 1)**

Applicant seeks request for Insubstantial Change of Comprehensive Permit Decision, dated 12.18.19 (BOA 19-38). (BOA-21-14).

Attorney Mark Bobrowski (Concord, MA): The insatiable change request are covered by the house comity appeals regulations from chapter 40B, and they are very helpful regulations in that they provide examples of substantial changes verses insubstantial changes, there is a list of 5 or 6 different changes for guidance's for boards like you. The changes here do not reach the level of substantial change, which kind of focus more on issues such as changes from rental to for sale or major changes in building size or dimensions, none of which are occurring here. The HAC regulations say that when you are presented with a request for a substantial change you have 20 days to take action on it or it will be deemed done and incorporated into the permit. Attorney Smolak is expressing a preference for this to be voted on, I get it, I just submitted some substantial changes to another town, they let it go by way of the reg, rather than taking action on it and now I'm sort of back filling here to keep the record straight, because this project is going for financing at this point in time and it is a lot cleaner if you have something on paper. So if you would vote to approve the insubstantial changes set forth in the application, we can take care of writing that up and he can have a clean paper trail.

Attorney John Smolak (North Andover): Mr. Chairman and Board Members, I think this part will be a little simpler than the first. But I appreciate the boards vote on the zoning relief. Again, as Attorney Bobrowski mentioned we are we are requesting the board make a decision on insubstantial permit. Back to the project, again we are asking the board to remove Merrivista One which we just voted on, from the Comprehensive Permit Decision and also asking the board to extend the term of the Comprehensive Permit for an additional 3 year term, we figured that it would be simple just to request that today, instead of coming back a year from now. We also have filed with the board an updated set of civil



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plans, which basically we designed to remove that project Merrivista One from that plan and request the board to approve the architectural plans and remove Merrivista One from that decision.

Chairman Moriarty: Any other questions or comments from the board?

Member Vathally: Attorney would we say in the motion wither to waive a time limit on this?

Attorney Mark Bobrowski: The regs provide in the Comprehensive Permit, they provide 3 years to pull a building permit.

Attorney Smolak, are you looking for an extension of time, under the current permit?

Attorney Smolak: Yes for an additional 3 year term.

Attorney Mark Bobrowski: An additional 3 years?

Attorney Smolak: yes

Attorney Mark Bobrowski: There is nothing uncommon about that. If you were to go to the housing appeals office, they would tell you that for an extension of time at the end of a pandemic, I think you can get it.

Chairman Moriarty: Any other questions or comments from the board?

Attorney Mark Bobrowski: I terms of the ultimate product this evening Mr. Chairman; I would suggest that Attorney Smolak and I work together to prepare the decisions and I will have those to you within 10 days.

Chairman Moriarty: Great, thank you very much. Entertain a motion.

Member Vathally: I make a motion insubstantial Change of Comprehensive Permit Decision 100 Water Street, 2<sup>nd</sup> by  
Member Bevilacqua

Member Vathally: yes

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: yes

Granted 5-0

## **SDSE East Broadway, LLC for 0 Seven Sister (Map 478, Block 1, Lot 60)**

Applicant seeks variance for front yard setback of 20.6 ft where 40 ft is required to construct a single-family dwelling in a RR zone. (BOA 21-11).

Attorney Michael Migliori (18 Essex Street Haverhill): This request before you tonight for a variance is something that the board has seen in many times over, I think I have been involved in at least 3 or 4 of these up on Seven Sister Road because of the cliff that exists up there over the golf course. The applicant wishes to construct a single-family home on a lot that fronts on Seven Sister Road. Due to the sever topography that exists, the applicant to try and build within the setbacks required the home would require significant work, a retaining wall, a slope, it would create a potential hazard. Which makes construction expensive, the land is in the RR zone, there is only one variance that is required, it is the front setback. 40 feet is required but because of the topography and drop off of that lot, we are requesting a setback of 20 feet 6 inches. In all other ways the home which is sited on the land complies with all other zoning laws. It is our opinion that this is extremely minimal request in nature and wouldn't have any adverse impacts on the neighborhood. This has been granted on a number of occasions in this very neighborhood, where it exists up and down the street. It is a very reasonable use of the property and due to the general neighborhood it is a desirable one, we feel that the applications and provisions of chapter would deprive the applicant a more reasonable use of the property. The variance being requested



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we feel that the variances are both appropriate and will result in a beneficial impact on the neighborhood. With that I will end my discussion.

Chairman Moriarty: The topography there is certainly a challenge, this falls under the topography. Any questions from the board?... Entertain a motion

Member Vathally: I make a motion to approve the variance for 0 Seven Sister Road 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes as it meets the requirements, sighting 255-10.2.2 (2)

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: yes sighting 255-10.2.2 (2). Specifically with conditions related to the topography, which has been mentioned by the attorney and there is a drop off there. Situating the house in a different place is a good idea to do it that way.

Granted 5-0

## **Tomasz Woronko for 0 Pleasant View Ave (Map 534, Block 28, Lot 142)**

Applicant seeks variances for lot area of 7,056 sf where 7,500 sf is required and lot depth of 90.07 ft where 100 ft is required to construct a single-family dwelling in a RH zone. (BOA 21-10)

Tomasz Woronko (13 Hillcrest Avenue): I am looking for a dimensional variance for both depth and density to build a single-family home on Pleasant View Ave

Chairman Moriarty: What are the conditions on why you need the variance?

Tomasz Woronko: It is a RH zone so 100 feet are required, I have 90. The density requires 7,500 sf, I have 7,056

Chairman Moriarty: Any other conditions of the property you want to tell us about? You are going to construct a single-family dwelling?

Tomasz Woronko: It is a single-family home for myself. I was granted a variance for this property in 2010 but couldn't execute on it in a years' time for various reasons and financing.

Chairman Moriarty: Any questions from the board?

Member Vathally: Have you changed anything from your original application or is everything pretty much the same?

Tomasz Woronko: The house size has changed, but it is still well within the setbacks and still under the coverage area.

Member Vathally: It is a 20 foot driveway?

Tomasz Woronko: That is correct.

Chairman Moriarty: Thank you. Any comments or questions from the board? Ok, entertain a motion.

Member Vathally: I make a motion to approve the variance for 0 Pleasant View Ave 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes sighting 255-10.2.2 (2)

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: Yes

Granted 5-0



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## **Glenn Belanger for 145 Elliot Street BOA 21-12 (Map 441, Block 3, Lot 3)**

Applicant seeks a special permit for construction of an accessory apartment in a RM zone. (BOA-21-12).

Glenn Belanger: I have lived here most of my life. I built an addition on the house 35 years ago, not thinking about my bedrooms in the future, all my bedrooms are on the 2<sup>nd</sup> floor and I am a disabled veteran, I have sever nerve damage in my left leg due to the injuries in the service and they are not getting any better. So, I came to a thought a while back that I need to do something about that, the stairway going up to my main bedroom is a spiral staircase so that adds to my case even more. I am asking for what I thought was an in-law apartment, but it's called an accessory apartment now, to allow me to build a small apartment for my wife and I in our future years coming, I'm going to be 71 shortly. My daughter will move into the existing house, hopefully our family can stay in Haverhill for years, long after I'm gone. I would like to do this as soon as possible because my situation is getting more dyer as the years go by.

Chairman Moriarty: Thank you. You know there is a number of different requirements for an accessory apartment? I am assuming you have talked with the building commissioner.

Glenn Belanger: Yes many times. Building commissioner, he has met all of them?

Tom Bridgewater: Yes he meets all of them

Glenn Belanger: I have plenty of land there, I live right across the street from NECO, I couldn't have better neighbors. It's an ideal situation for me. When I first moved into the area it was right after they built the college and they allowed us to tie into the sewage, so now we have city sewage there and everything. It was just a dirt driveway across the street when I first moved there. They have been great neighbors. I have great neighbors so I would like to stay there.

Chairman Moriarty: Any comments or questions from the board?

Member Brown: I just have a comment to say Thank You for your service.

Glenn Belanger: You're welcome

Chairman: Entertain a motion

Member Vathally: I make a motion to approve the special permit for 145 Elliot Street 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: yes meets the requirements of 255-8.1

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: Yes it meets the conditions of 255-10.2.2 (2) and as noted it covers all of the requirements of a accessory apartment.

Granted 5-0

Jill Dewey Board Secretary: Matt they referenced 2 different codes, which one is correct?

Matt Hennigan: We can talk about that once we have the training.

Jill Dewey Board Secretary: Well for now which is it, so that I can have it right on the minutes and the paperwork?

Matt Hennigan: It's ok, historically we have always said it meets the requirements of an accessory apartment. When our friend Ron is here, he mentions that it makes quote the general special permit requirements and the accessory apartment requirements, that is what is in the box at the bottom. But we will go over that when we have the training. It should always say both because the underling special permit description has never changed. The accessory apartment underlining

Member Vathally: So it is both 255-10.2.2 (2) and 255-8?

Matt Hennigan: Yes in the general description





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Member Vathally: So, they both apply?

Matt Hennigan: Yes. Moving forward you want to say both of those

Member Vathally: Ok

## **Michelle Larkin for 119 Winona Avenue (Map 647, Bloc 4, Lot 15)**

Applicant seeks following dimensional variances to create new building lot and construct new single-family dwelling in a RM zone. Requested variances for new lot (Lot B) include lot area (14,856 sf where 20,000 sf is required), lot frontage (90 ft where 150 ft is required), and lot width (lot width 93.56 ft where 112.5 ft is required). Proposed Lot A shall include existing single-family dwelling. (BOA-21-7)

Brandon Larkin: Michelle was told she had to come in person to withdraw the application. She wants to withdraw the application without prejudice. We tried to call to do it over the phone.

Board Secretary Jill Dewey: I called to confirm that they were presenting the case tonight, and Michael clarified for sure that they were. I wanted to make sure that we didn't bring everyone in here for it.

Brandon Larkin: I'm not aware, Michelle is not aware also

Chairman: Can you explain why she is withdrawing it at this point?

Brandon Larkin: I just know she is not ready to proceed, at this moment she is not ready to proceed so she is withdrawing the application without prejudice.

Chairman: That is not a good enough reason.

Board Secretary Jill Dewey: If you withdraw instead of continue, you have to start from scratch with a whole new application.

Brandon Larkin: Ok, I am withdrawing it without prejudice.

Chairman: I can't stop you from withdrawing, I can't promise without prejudice. There are quite a few people in here, do any residents want to speak?

Michael Bresnahan (104 Winona Ave): Thank you for the time to let me address this withdraw. Although I appreciate the partitioner wanting to withdraw without prejudice, this has been going on for some time now. The neighbors were here ready to present their opposition. Last month it was withdrawn without prejudice, I was here didn't speak in opposition of that. My request to the board is to withdraw it with prejudice, at least to give the neighbors some protection a little bit of time because this could be come a yoyo, this could be here every month coming back before you. I don't think it is fair to the neighborhood and I don't think it is justified by the partitioner.

Chairman: Thank you. I kind of have to agree with that, it is unfair to the board, it is unfair to the neighbors. We need solid reasons for things being withdrawn. We had one earlier today that continued, and it was clearly because there were certain studies that haven't been done which is a reasonable thing. So in absence of any clear reason, I can't stop you from withdrawing your application but I can't say it won't be without prejudice, which affects if it comes before us again, it affects the board's reaction to it.

Brandon Larkin: I know part of the reason was that she got some feedback from the neighbors and she wasn't prepared to answer all of their questions.

Chairman: We will be dealing with it as a withdrawal at this time.

Brandon Larkin: So, what we need to do to come here again.

Board Secretary Jill Dewey: Fill out the application again and pay the application fees again



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Chairman: I will entertain a motion for a withdrawal

Member Vathally: I make a motion to withdraw the application for 119 Winona Avenue 2<sup>nd</sup> by Member Bevilacqua

Chairman: I am going to make not of the fact that we are saying withdrawal and we are “not” including the phrase without prejudice

Member Vathally: yes

Member Brown: yes

Member Matais: yes

Member Bevilacqua: yes

Chairman George Moriarty: Yes

Granted to withdraw 5-0

Michael Bresnahan: Just for clarification they could come back next month?

Board Secretary Jill Dewey: They have missed the cut off date, so no.

## **Edge Real Estate Investment LLC for 0 Grove Street (Map 518, Block 308, Lot 8)**

Applicant seeks dimensional variances for lot area of 4,751 sf where 9,600 sf is required, lot frontage of 44.2 ft where 80 ft is required, lot width of 44.2 ft where 60 ft is required, height of 37.89 ft where 35 ft is maximum, building coverage of 28% where 25% is maximum to construct a two-family dwelling in a RH zone. (BOA 21-15)

**NOTE: when listening to the recording it is hard to tell who is speaking Joel vs Carlos as they did not state their name each time they spoke, and I do not know them to know what each sounds like. So, I guessed on each... Jill Dewey Board Secretary**

Attorney Paul Magliocchetti (70 Bailey Blvd): These two men are responsible for this project. By way of background, I am going to let them speak to you a little bit, they have done multiple projects here in the city. All of their projects have turned around dilapidated homes into really nice projects. His wife's cousin actually lives at 127 Grove Street which was a project that he did, they did other projects on Flora and I will have him mention a few others. He has a lot of experience in this city, it has turned out pretty well, not only for him but for the people who have bought the homes. This particular property is located on Grove Street, it is currently a vacant lot with a garage building on it, but it is really not being used for anything. What is interesting about this lot, when I first saw it I always scrutinize these things before I accept them, it is actually tied in with another house that is two lots over, so there is a 3-family, then a house and then this lot. It is a little disjointed, they are not connected lots, that kind of caught my attention. I did do the title history on it and it has always been that way. This really has been a standalone lot if you will for the whole history of the property. I thought I might be able to grandfather it, but it is just undersize, as you know you need 5,000 sf this particular parcel has 4,700 so a few more sf and you would have a grandfather situation here. The conditions that affect this property do not affect the zoning district in which it is located. The hardship is based on the following, the property is located in a neighborhood that has many similar homes to the one proposed, the property is currently mostly vacant, because this is a large, underdeveloped parcel I mean large for the neighborhood, most of the other lots that surround this in the neighborhood are the same size, some of them are even



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smaller, some have 3-families on the small lots. We believe this 2-family with the design they are proposing is a very understandable use of this parcel. So, the property consists of a vacant lot, again can't be grandfathered because it just undersize. If you look at this section of Grove Street you'll notice that it is a hype nick community, I guess is the best way to describe it. We have a lot of the neighbors here that are the direct abutters. I believe that the granting of the relief that we are seeking will not substantially derogate from the intent and purpose of the zoning laws in the city of Haverhill. Dimensional variance required for the construction of a 2-family home because it only has 44 sf of frontage where 80 feet is required and lot area of 4,751 where 9,600 is required, again none of this is a result of anything the current owner did or anything the previous owner did, it has been this way forever. The condition of the lot is unique to the applicants property, it is a vacant parcel that has remained undeveloped for years. If you look around it there are no other vacant parcels that have been underdeveloped. The shape and the size of the lot is the way it has always been, so no prior owner has taken anything away from this or has not broken a piece off from a larger parcel. The strict application of the zoning law would deprive the applicant of reasonable use. A two-family home in this neighborhood on a lot of this size is a reasonable use, you have to consider where it is. The unique conditions are not the result of actions by the applicant subsequent to the addition to this chapter, as I have said if you do the title rundown it has always been this way, so there is nothing new here. We are trying to put a nice property in this neighborhood. The garage that is there right now as my understanding the property owner is not taking the best care of it, there is a truck that is blocking the driveway, the garage is in disrepair. This is an opportunity to really cleanup the neighborhood and to do something for the neighbors. The grant of the variance would not constitute special privilege in consistent with limitations on other properties, as I said if you look around this, the relief we are seeking on a 2-family on a lot this size, there are 3-families on smaller lots around it up and down the street, one just next to it. Again, we do believe we meet the hardship requirement in this category. I guess at this time I would like to introduce the developer and the engineer to speak on how he came up with this design and the aspects of it. I would like to add that out in the hall, we did talk to the neighbors and one of their biggest concerns is parking. When you are talking about a densely populated area like this, parking is always a critical issue, so if you look at the design that they proposed they meet the zoning requirements, they have 3 parking spaces for a 2-family which is what the code requires. So based on the conversations with the neighbors, we have actually found a way to add 6 parking spaces to this property and the abutting properties. Let me explain, so with this property the developer has agreed that he will put a garage underneath which will allow two cars to be parked in tandem one in front of the other, so with he 2 cars parked in tandem and the other 3, you now have 5 parking spaces on this property for a 2-family home, I don't think there is any property around that has that much parking., that will be a great relief to the neighborhood, getting cars off the street. In addition, they have agreed with the owner of number 123 which is the 3-family 2 lots over they spoke with him and he has agreed to allow us to extend the driveway and add 2 parking spaces to his driveway, so he is going to be going from 3 to 5. And again, his wife's cousin owns 127 which is the house next to that, she has agreed to allow him to do the same thing and expand her driveway, which will add 2 more spaces. So, if this project is allowed we will be taking 4 cars off the street for the abutting properties and we will be having 5 spaces for this 2-family. I think that is huge, 1<sup>st</sup> of all to have the connections with the neighboring homes to do this but that would be a vast improvement to the neighborhood. It enhances traffic flow, it enhances safety for everyone involved, especially fire trucks that have to go up and down Grove Street when answering calls from the school. So that being said I would like to have my client give his presentation.

Chairman Moriarty: Can I clarify one thing? Who owns the property right now?

Attorney Paul Magliocchetti: Cesar Casado. There is a purchase and sale agreement to buy this property contingent upon the outcome

Chairman Moriarty: So, it is under agreement, because you said the garage is in bad repair.



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Attorney Paul Magliocchetti: It is not them that have it that way. I will let them talk about some of the projects they have done.

Chairman: Thank you.

Joel Rivera ( The owner of Edge Real estate Investments): I came to know Haverhill through my wife Clair who grew up in town. The last couple of years I have done several project in town, about half a dozen. On River Street, Air Street, Grove Street, Observatory Ave, Flora. My plans are to like the others when I do projects, I leave them better than they were before and not only for the house buy for the neighbors and community. My hope is to continue to do the same with this one on Grove Street and many other projects to come, as I like to work in the City of Haverhill. What we always try to do is to work with the community and figure out a way that we can solve any concerns, we can provide them with something that will be worthy for them to look at and walk by every day, when we are taking on these projects, so I just wanted you to know that, that we have the beset intensions in mind.

Chairman Moriarty: Can one of you talk about the elevation, it kind of curves down doesn't it? Could you address that for a minute.

Carlos Penena (part owner of Basic Project Management): I manage all these construction projects in the Haverhill area and all of Boston. The thing that we have with the slope on the terrain there is that we have a different of close to 7.6 feet from the front setback to the rear setback, we had a surveyor to calculate and average for that and we managed ourselves to design a project that conforms under the bylaws regulations and having us a base and a height that he gave us. By having the pronoun slop in the terrain where it preforms in that matter, the whole project.

Chairman Moriarty: Maybe I'm looking at it wrong but in the picture that shows the 3 cars, that is at the back of the building where the slop is going down?

Carlos Penena: Yes, well the slope goes down like right in the middle of the lot, back there is more or less regular.

Chairman Moriarty: Does all that build up there. I am having a hard time picturing 3 cars on the sloping

Carlos Penena: the place the cars will be is almost flat. The elevation goes from 166 to 166.67 so it is almost flat. The drastic change of height goes right in the middle of the building where we go from 175.97 to 166.98.

Chairman: So, when the cars are coming out of the garage, what is the elevation right there/

Carlos Penena: 166.04, it is the same elevation.

Chairman: Ok

Carlos Penena: Around 20 feet in the driveway is when it changes to 171

Chairman: So t6he slope starts, right where the driveway starts?

Carlos Penena: Yes

Chairman: The driveway follow the slope down?

Carlos Penena: Yes. We are proposing a garage in the basement and that is because we have a completely exposed basement, so it is like 96 from slab to the wood structure

Tom Bridgewater (Building commissioner): Can I say something? This updated plan came here today, the zoning table, the exact stories 2.5 for a 2-family you are going to propose 3.

Carlos Penena: No 2 and a half?

Tom Bridgewater (Building commissioner): It says 3 on here. Site plan page zoning table, you just gave this to me today.

Carlos Penena: That's maybe a mistake from the surveyor, but the zoning calculations I have on the first sheet are correct which we have 2.5. We are taking advantage of the attic space, we ae going to finish it and have a game room up there.

It's going to be like a Mezzanine so it is going to be open below.

Tom Bridgewater (Building commissioner): I am just going by what is on the zoning table, 3

Carlos Penena: I understand.



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Chairman: Any questions from the board? Member Vathally?

Member Vathally: Haver you done any studies on water drainage and how that is going to affect the property behind you with that much of a drastic slope?

Joel Rivera ( The owner of Edge Real estate Investments):: Actually, we had a conversation with Carlos Penena as he is the one that manages those spaces for us. And he said as the natural slope we are not going to change the natural slope or behavior of the water is going to be practically the same.

Member Vathally: So, you are not going to be building up that slope at all, it is going to be all foundation? The house looks like it is a flat piece but really it isn't

Joel Rivera: That maybe is because you have the old file, we provided new ones

Member Vathally. Ye but it goes to the slope doesn't it?

Joel Rivera: Yes but we are not changing the slope

Member Vathally: You are not touching the slope?

Joel Rivera: We are not touching the slope. We are just digging in where we need to digging in and we are leaving the slope as is.

Chairman: What is behind there? Does it slope down to Swayze Field?

Member Vathally: Yes

Chairman: Are there any buildings behind you?

Joel Rivera: No

Chairman: So, it goes right down to the field?

Joel Rivera: Yes. This is true for all the properties there.

Chairman: Any other questions from the board? Attorney did you want to say something before?

Attorney Paul Magliocchetti: No, I would like to reserve the right to speak after the neighbors.

Chairman: Ok thank you. Any neighbors want to speak?

Ed Martin (15 Grove Street): My wife Robin has lived at 15 Grove Street for 50 years; her parents have lived there forever. We don't understand why we are here in the first place because another owner at the same property attempted to build a single-family home with 2-parking spaces and it was denied by the appeals board back in 2002, I have a copy of it right here if you want to see it. On the assessors card it even says unbuildable. I have plenty of pictures. They picked our brain before we came in here so all of a sudden they have enough parking spaces; I don't understand how that came to be. We have pictures of the garage, there really is no room on either side of the houses and stuff. If you come up here when school is getting out, the Tilton school, the cars are like side by side racing each other, we have more arguments out there when that happens. I have a petition signed by a bunch of neighbors who have been in the neighborhood for between 10-25 years. We are all against it. They are just going to hit and run, yeh we don't like the look of it and they are going to make it nice but a 2-family on that lot? You turned down a single-family in 2002, how come a 2-family can go up all of a sudden. I don't know where we are going to go with that. I know the city is looking for tax money and stuff, but you have got to think about the people who have lived here all of their life's.

Chairman: I can tell you the Appeals Board does not make decisions on wither the City gets tax money or not. Hopefully we stick to the zoning requirements.

Chairman: Several of us have gone up and saw the property.

Ed Martin (15 Grove Street): Well like I said it was denied in 2002, I have a copy of it here.

Chairman: Can I see that decision... Anything else you would like to add at this time?



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Ed Martin: We just feel that this is not a good thing for our neighborhood. We have been there too long; we have seen people come and go. We are just afraid of what is going to happen, you are going to drive everyone who has grown up here out. We always have water in our back yard too, there is no way for it to drain out. Awe have it every time it rains.

Robin (115 Grove): I am the one who is going to be looking out at this house. I know they said something about parking, I have a 2-family house with a 2-car garage with parking out front and I also have a driveway aside from that which would allow another 2-3 cars. They were saying that the neighborhood most families don't have enough parking and I do.

Chairman: Anyone else who wants to speak?

Carlos Pervaro (107 Grove Street): We just had an issue with our other neighbors, they were building a fence, they did the drainage completely wrong and how you were mentioning how the backyard does slope. When we first moved in there to know over the years 4 or 5 the slope and erosion has taken a good 6 feet out. There is a dead tree that will be a major issue once construction starts. When it does rain, our issues that the other neighbors are having, our whole side is getting carved in, that whole side with rainfall we are losing more and more dirt going down. Last time it rained it took almost a week for the water to dissipate, when it does rain the water does settle there and there is not a way to drain down. Once construction does happen there will be a lot more issues. We have an older house and once they start building up, they are going to be really close to us. Obviously we are not going to be able to open the windows and shake hands, but it is going to be pretty close to where we are. Obviously the sun situation, we get light whatever. I haven't see the official design plans or how they plan on doing the parking situation, but I don't believe in the size or width that they have, that they would be able to put a parking garage there with all those parking spaces that they say. With the water, how are they going to redirect that, it is just going to keep puddling there. Unless they build some sort of drainage that goes away from the back yard from either side, then they are going to have the same situation that we have with water. That is all I have to say.

Chairman: Thank you very much, I appreciate you speaking. Anyone else? Attorney do you want to respond?

Attorney Paul Magliocchetti: Again, we are going to be increasing off street parking. It is very unusual to have that opportunity and to have a developer who is willing to do that, I mean that speaks volume about who you are dealing with here and how he cares about issues. We can not address all of their concerns and I am not going to pretend that we can. With regard to the water and drainage, that is the reason I continued the matter earlier today. There are systems we can put in place and we can make a condition of the approval that they satisfy the city departments with regard to drainage. But whatever the water problem is, it is there with or without this house. We are not asking for a variance for a side yard setback, so this house sits in the center of the lot, we are asking for frontage and area, all the setbacks are met. They are making very efficient use of this space. This house will add to the aesthetics of the neighborhood. I know they have concerns, that we are going to build it, sell it and get out of there, that is not their MO. If you look at the other properties that they have done, the multi-families they have sold to 1<sup>st</sup> time homebuyers. They sold it to people that want the opportunity to own a home and they need that monthly rental income to help them pay their mortgage. These are quality builders who try to work with the community as they demonstrated tonight. Again, we talked about this, if the board thought it would help we would consider making these condos instead of a 2-family, if that were something the board thinks would help. We don't really think it will have an impact but if that is something the board would like us to do, I would ask my clients to consider it. If you have any specific questions about any of the issues that were raised, they are here to talk about them with you. We believe we have addressed all the issues that we can address. We believe that this project fits, we believe that we meet all of the criteria required for a variance here. I have nothing but respect for them. I grew up here, this is my neighborhood too, I grew up on Lyons Street, right behind Tilton School. I play my friends who used to live in one of these houses. I am here to answer any other questions you might have, but that is all we have for a presentation.



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Chairman: I do want to make the observation that who is going to live in these is not a condition that the board looks at. So, if a developer sells the property it is not in our purview. I would ask though that you mentioned that you would change this from a 2-family to condos, what would change with that?

Attorney Paul Magliocchetti: Well one of the concerns raised was that they were going to flip it and be an absentee landlord which is a problem but that is a problem with the existing 3-family there, so that would address that problem because now you are selling the condominium units, so you are going to get homeowners, and people who have a vast interest in the property. That would address their concerns about having absentee landlords that aren't going to take care of the property. You are going to have people who care about the property. Right now, with the prices of coindexes you are looking at about \$325k-350k per unit. So, if someone is going to make an investment in one of these they are going to want to take care of it, so that is why I am putting it out there to address what their concern was.

Chairman: Thank makes sense thank you. Any questions from the board?

Member Brown: Tom do you have anything in your books that says this is an unbuildable lot?

Tom Bridgewater: I haven't seen anything. But Paul can I ask you something, just so we are clear you are not going for any side setback variances 4.2.4 with bay windows that's showing here I think 7.1 to the side lot line, it is 2-stories that goes up that is more than, so it sticks out. It's 10 foot long which meets all zoning requirements and a 7 foot one, I can't read it, I just got this today, I think it says it only sticks out 2 feet

Carlos Penena: On the right side we have the 11/10 bay, it could be 3 feet into the setback to the bay

Tom Bridgewater: It is a little more than a bay....Tom reads the code chimneys, bay window, balconies, open fire escapes, don't project more than 3 feet. And this goes up 2 floors.

Carlos Penena: We can certainly address that. It is not allowed in Haverhill to have a bay window that meets the floor or 2 story, but when I was designing this I didn't find that in the code. We have design based like this that goes all the way to the floor but if that is not the case in Haverhill, we can certainly make change.

Tom Bridgewater: It is a little more than a bay window.

Carlos Penena: But if I just take it up, the floor and raise it 2 feet, it is not a bay, it is not square footage, I mean it is a bay if I just raise it 2 feet.

Tom: Even if you raise it 2 feet, but you are going two floors with it, it is not just a bay window.

Carlos: It is a 2 story bay. If you could see this floor plan furnished you will see that there is no use to it, other than to bring light into the building. We are not married with having a bay there, but we think it certainly adds some beauty to the building, we don't want to have a box there, we want to have something nice.

Tom: I agree it looks nice

Carlos: We can certainly get rid of that, that is not going to affect our use.

Tom: I'm not sure if it meets zoning, that's all.

Attorney Paul Magliocchetti: But if they agree to raise it 2 feet, it meets zoning. So, we will stipulate that it won't be going up 2 floors. That the base of the bay will be 2 feet up on each floor and that will alleviate that problem with zoning.

Carlos: I can tell you as an architect that it is not going to be the best look, but it is something solvable. It is a matter of breaking it, the bottom.

Tom: If it turns into a bay, you are allowed to do it.

Carlos: So, do you want us to make it a bay in each floor or just erase it from the first floor and leave it as is on the second?

Tom: No. Each floor

Carlos: Ok perfect, thank you.

Chairman: Other questions or comments from the board?



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Member Vathally: See I just have a problem with the total area here. I'm trying, I'm really trying but the total area 4751 with 9600 is double, so I am just uncomfortable with this. I get the setbacks, I get that. I have a problem with the total area that is requested.

Attorney Paul Magliocchetti: In my response to that, I appreciate that, and my response is again, you know zoning changes all the time and the 9600 years ago was 8000, you know it just keeps changing so you have to put it in the context of the neighborhood where the property sits. When you drive by the property or where on the property if you look around the property, you are not going to find properties much larger, you might find a few here and there but for the most part almost every property around there, even the one that is the 3-family up the street is on the same size lots. You have other multi-families on similar size lots. There are some that are even smaller than this. So, again you have to look at it in the context of where you are. If this was a different kind of neighborhood, like I just did a project on Whitney where we did a bunch of duplexes in a new neighborhood, all those met zoning and that is a different context. I am just trying to explain that that is what the codes says, that is why we have these variances for situations like this. Like I said if this was just a few feet larger 5,000 it would be grandfathered and you would be in the same place, you would be building this house on this lot, if it was just a 4 foot strip down the side. That is about all I can say in response to that, all I can say is put it into context of where it sits. I appreciate your concern.

Chairman: Any other comments or questions from the board?

Member Bevilacqua: I'm a little concerned about the prospective that it was denied for a single family. This is the first we are hearing of it tonight that it was denied for a single family years ago and called an unbuildable lot.

Chairman: I noticed the names on it and none of us were there.

Attorney Paul Magliocchetti: I would like to respond to that quickly. First point I am going to make, is with a single family with 2 parking spaces so I am sure they were considering traffic and parking on the street among other things, because there were issues here if you remember back in 2002 I'm sure you can attest, there were issues on that road and the prior landlord was not a great landlord so there was a track record and as a board, you consider this. So, I'm sure a lot of these had to factor in, I am sure the parking and traffic was a issue and again I can't stress enough, we are taking cars off the street if we get this, we are helping that situation, this is highly unusual that we are able to do this, I can't stress this enough. I am only guessing that was one of the issues that it was denied. Again, this is an eyesore right now, something needs to happen here to make this a better place and improve the neighborhood, this is our proposal to make that happen.

Chairman: As I have mentioned several of us have gone up there and looked at the property.

Member Brown: Attorney can you speak a little bit more on, you said, and I was up there. There is a house in the middle and then there is a house to the left and that is where you are proposing to add the 2 extra parking spots right, if I am looking at the garage?

Attorney Paul Magliocchetti: If you are looking at the garage two houses up there's 123 it is a 3-family, so that is going to be lengthened and in the front there is space for another one, so we are adding 2 spots there #123 if you look on Google Maps

Member Brown: So, I was looking at 123, they have the

Attorney Paul Magliocchetti: The picture you have, they have their cars parked there, there is that black car towards the front, do you see the space to the side of that, that is going to be one and then in front of those spaces there is room in the back there. So, they are going to extend the driveway down. This house is a 3-family that only has 3 spots, so you know they have people parking on the street. They are now going to have 2 extra spots to take 2 cars off the street. That is the same thing they are going to do at 127, that is another 3-family that currently only has 3 spots, that will have 5 when this is done.





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Chairman: Just to be clear, this is not really affecting this application.

Attorney: It is for the overall neighborhood. For ours 5 spots for a 2-family is highly unusual

Chairman: Other questions or comments?

Ed Martin: The house that they are speaking about, the 3-family, that they can add the driveway, there are 7 cars in that house, there is parking spaces for 4 right now. The driveway was put in illegally by one of the former owners without permits anyway. They would have to tare down a wall and move a patio and all kinds of stuff and that is right up against our property line now. The gentleman who put in the driveway just put in railroad ties and they are leaning against my fence right now. All of a sudden, like I said they picked our brains before we came in here and there was no mention about parking, we knew nothing of this project, we didn't even know who Edge Real estate Investment was. As far as we were concerned Cesar Casado owns that property, so we didn't know where this was going until our hallway meeting. Again, there is no way that it is going to alleviate the problem, even if they put the parking underneath their house, what is to say those two families don't have 5 or 6 cars or 7 cars? They are still going to be on the street, there is no way of you knowing who buys that house how many cars there are going to be. So, they can have all the parking spaces they want, there's no way to know. This is just not a good thing; they are making it sound good.

Chairman: 2 things, one as I was just saying a few moments ago the adding of the parking spots on the other properties is a admiral thing but at least from the decision point of view at least for me it doesn't factor into my decision about this property per say. The other is we don't know how many cars the new tenants would want but once again what does the zoning require for the number of parking spots and does this meet it for a 2-family. That's what we have to conform to, just to clarify those 2 points. Any other comments or concerns or does the Attorney want to respond to anything at this point.

Attorney: We are all set. The only thing is what he said about the railroad ties, that is what they're going to fix, they're going to fix that, that is part of this, so again it is a benefit. They are fixing a bad situation.

Chairman: Thank you. Entertain a motion

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

Member Vathally: No, I am voting no as a general condition I don't feel that 255-10.2.2(2) was satisfied this evening.

Member Brown: yes

Member Matias: yes

Member Bevilacqua: No

Chairman George Moriarty: no

Denied 2-3

**Minutes:** April 21, 2021 meeting. Motion made by Member Vathally, I accept the meeting minutes from March 2<sup>nd</sup> by Member Bevilacqua

Member Vathally: Yes

Member Brown: Yes

Member Matias: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes



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