



# 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, September 15, 2021 at 7:00 P.M.

Those Present: Chairman George Moriarty  
Member Theodore Vathally  
Member Ron LaPlume  
Member Lynda Brown  
Member Louise Bevilacqua

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

Chairman Moriarty called the meeting in to order on September 15, 2021

## **LOT 139, LLC for 62 Seven Sister Road (Map 478, Block 1, Lot 50)**

Applicant seeks a variance to construct a common driveway 240 ft in length where 200 ft is the maximum to provide access to two single-family dwellings in a RR zone. (BOA-21-30)

Attorney Michael Migliori (18 Essex Street): This is a situation that seems to come up often on Seven Sisters Road because of the contours of the lots and the land. My client owns two continuance lots number 50 and 51. 51 as you can see from the plan will be the beneficiary of the common driveway, because there really is no safe way to get a driveway from the house that is under construction straight to the Seven Sister Road because of the severe drop, it just wouldn't be safe, so the safest thing to do is to have a common driveway over the two lots, where lot 51 has most of the driveway. Unfortunately, we were a little bit in excess of the 200 feet that is allowed for a common driveway, so we had to come before you this evening, seeking relief from that. With respect for the variance, we feel that we have minimal nature of being granted fairly routinely in the past, it is a reasonable use of the property, it is a safe use of the property and through the neighborhood it is one that has happened a number of times up on Seven Sister Road. We feel it is a strict application of the ordinance so it would deprive the owner reasonable use of the property or make the situation a dangerous one. We wont be causing any substantial detriment or impair the purpose or intent of the chapter, but will result in a beneficial impact on the neighborhood, we are only going to have one safe driveway that comes out on Seven Sister Road as opposed to another one that would be dangerous with another one next door. With that I am available for any questions.

Chairman: Questions from the board?

Member Vathally: Attorney, any issues with the fire Department with that variance request?

Attorney Michael Migliori: No because of the fact it is a straight shot in access to both properties and both driveways, they didn't have any objections.

Chairman: Other comments or questions?... Make a motion

Member Vathally: I make a motion to approve the variance for 62 Seven Sister Road...2<sup>nd</sup> by Member LaPlume



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Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes

Member LaPlume: For the record it meets the criteria for a variance 255-10.2.2(2)

Chairman: to add to that a little enforcement with the zoning restrictions with respect to the land in particular when those kind of variances are sought.

\*Granted 5-0

## **Carl J. Wighardt, Trustee of Porter RE Trust for 679 South Main Street )Map 747, Block 2, Lot 20)**

Applicant seeks Special Permit to determine that proposed extension of existing non-conforming use (physical therapy office) shall not be substantially more detrimental than the existing nonconforming use to the neighborhood in a RH zone. (BOA-21-34)

Attorney: Timothy Schiavoni (70 Baily's Blvd, Haverhill): Mr. Wighardt is a physical therapist and currently does business as Gemini Therapy at 679 South Main Street. He would like to place an addition on his existing structure, it is approximately 20 feet in length and 36 feet in depth, it would add an additional 720 square feet to his existing therapy area. The application is for a special permit to increase a non-conforming use in a residential high density zoning district. Mr. Wighardt purchased the property in May 2013 and prior there to the Board of Appeals granted a special permit for a non-conforming use premises. Please note that for 35 years this site has been used for commercial purposes from 1986-1985 as a restaurant, 1995-2013 as a real estate office, both non-conforming uses in a RH zone. Special permit shall be granted by the granting authority upon its written determination that the proposed use of structure will not cause substantial detriment to the neighborhood or the city, considering the characteristics of the site and of the proposal in relation to the site, such as determination shall include each of the following 1: Community needs served by the proposal; There is a consistent and growing need for physical therapy services in our community, aged demographics have increased and increasing related surgical remedies are most common. Joint and hip replacements are a way of life and sports injuries impact a growing number of the younger generation and retirees, The next determination has to do with traffic and pedestrian flow and safety including parking. There will be minimal if any impact to traffic, pedestrian flow. There is ample onsite parking exceeding the requirements of the zoning bylaws, deliveries are by van. Required parking space are 7.2, special permit plan reflects 26 parking spaces, 3 of which are handicap related. Adequacies of utilities and other public services is another finding the increase of the existing building footprint is 726 sq ft will have no impact on the Adequacies of utilities or other services, the location, and services by public transportation, however most patients drive themselves or are transported by family members. The next determination has to do with neighborhood character and social structures. The location has been used for commercial purposes for over 3 decades. On the south side it abuts a strip mall of considerable size and significant activities 7 days a week, from early morning till late evening, including an axe throwing bar. The location is factually commercial in nature, it fronts 125 and on the North it abuts a beauty salon. Impacts of the natural environment a minimal increase of a finding a minimal increase of the building footprint will have no impact on natural environment. The 6<sup>th</sup> item is potential physical impact and alluding impact on city services tax base and employment, the only impact would be, minimally a positive increase to the tax base. Physical demand upon the therapists is significant and most are employed part time. The increase floor plan will likely lead to another part time physical



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therapists or assistant physical therapists and equipment that they use to service their patients. If approved the special permit will not cause substantial detriment to the public good or impair the purposes or intent of the zoning bylaws, in granting a special permit would not constitute a special privilege for the applicant given the immediate RH zoning district. Respectfully.

Chairman: Thank you, any questions from the board? What is the purpose of the addition, is it just to expand the business.

Attorney: Timothy Schiavoni: Just to expand the business, just to expand his therapy area so he can bring in more machines and maybe another assistant therapist.

Chairman: Will there be an entrance to that new proposed one story building?

Attorney: Timothy Schiavoni: No, it will be the same entrance that is now used, it will just be an extension

Chairman: Much of the parking is in the rear?

Attorney: Timothy Schiavoni: The new section does have an exit as shown on the plan.

Chairman: Ok thank you. Questions from the board?

Member Vathally: So, the entrance is going to be in the front of the building where it is right now, so no ramp entrance in the back

Attorney: Timothy Schiavoni: No ramp entrance, it is just a treatment area.

Chairman: Other comments or questions from the board? I'll entertain a motion.

Member Vathally: I make a motion to approve the special permit 679 South Main Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes as it satisfies criteria 255-10.2.2

Member Brown: Yes

Member LaPlume: Yes it meets the criteria for special permit 255-10.4.2

Member Bevilacqua: Yes it does meet the criteria 255-10.2.2 it is certainly a very worthy and important use of that space. People can't even get appointments for physical therapy

Chairman George Moriarty: Yes and I note that it meets the general conditions of 255-10.4.2 and in particular the extension of nonconforming is not more substantially detrimental to the existing nonconforming use of the property, or neighborhood.

\*Granted 5-0



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## **Adam Tilden for 465 Groveland Street (Map 442, Block 1, Lots 15 & 16)**

Applicant seeks a dimensional variance for rear yard setback of 15.5 ft where 30 ft is required to convert existing detached one-story wood framed structure into a residential unit that shall connect to the existing single-family dwelling as a result of the construction of 2-car garage to create a two-family dwelling in a RH zone. (BOA-21-31)

Attorney Caitlin Masys (462 Boston St, Topsfield): I am representing the owner Adam Tilden, he is seeking one variance for a rear yard setback. The proposed use for the property is he would like to convert it and make it a legal 2-family. There is a structure that is already in place, that has been there even before he brought the property, it is one level, the goal is to connect the 2 properties with a garage and then have the building out back become a second unit. The unit itself would be for Mr. Tilden to occupy. He is actually disabled, he has a broken back and needs to live on a first floor, so this unit in the back provides the perfect opportunity for him to continue to reside at a place he already owns and to be comfortable where he already resides. There are some existing non-conforming measurements for side and front setback, but the house has been in that location for longer than I have been on this earth. In terms of the zoning ordinance, the lot itself is actually a very large lot for the neighborhood and it just happens that the location of the existing structure is on one side as opposed to being in the center. It is unique in that the lot itself is almost a double lot for this area on the corner. The structures were constructed just on the westerly side. All the other properties in the neighborhood, there are a significant number of multifamily properties on Groveland Street. In one pass up and down Groveland Street you'll see in recent years there has been construction of 2-unit town homes on various lots as you go up and down, more practically for this particular area there are 3-family structures, 2-family structures and even a 4/8 unit apartment building all on lots that are much smaller than the owner/applicant has. There will be no detriment to the public good. The only construction that will be happening on the property will be the proposed garage that is going to connect the two properties, other than that the structure is already remaining exactly the same and it will create a second unit without knocking any buildings down, not putting up two new duplexes, making use of the property as it currently sits on the lot, with no real additions or modifications, I also think it is important to point out that where there is this structure in that back that it does exist if it was built over a little more towards the center of the lot we wouldn't even be here today, it would be a second unit as of right. It is just constructed the way it is on the lot already, that Mr. Tilden purchased. For those reasons Mr. Tilden is seeking a variance for a rear setback for 15 where 30 is required.

Chairman: What is that back building being used for now?

Attorney Caitlin Masys: It is currently being used now as an area where Mr. Tilden hangs out. But in order for it to be a legal second unit, he has to come to the board, he will be able to put in a bedroom.

Chairman: Does he currently live in the front main house?

Attorney Caitlin Masys: No, he has been for the most part been staying in that back unit because of its one level and not having to deal with the stairs.

Chairman: So, who will occupy the main house?

Attorney Caitlin Masys: He currently has people that rent that.



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Chairman: So that part is already being rented and is going to stay rented and this new garage will attach those two together?

Attorney Caitlin Masys: Correct.

Chairman: Rear yard setback of 15.5, is it part of the new garage that will be the part that

Attorney Caitlin Masys: Nope that is the existing back building.

Chairman: Ok so the existing back building is 15.5, it is already existing.

Attorney Caitlin Masys: Yes already existing, but in order to get the second unit, you have to get a variance for that. The garage will be in the middle of these two structures and will connect them.

Chairman: Will it be in front of the further back building

Attorney Caitlin Masys: Yes, it will be in front of that building.

Chairman: So, if you were looking at the street, you would see the garage first?

Attorney Caitlin Masys: Right, if you were looking from the street, you have the house on the left, there will be a short driveway then there will be the garage and then the building in the back.

Chairman: So other than adding a garage, the use of the property will stay the same?

Attorney Caitlin Masys: Yes. Mr. Tilden also has two other properties in Haverhill that are rentals. He has a great relationship with the city. I don't believe there have been any types of violations, or anything associated with the other properties, he would like to stay in Haverhill, and this provides him the opportunity to do that.

Chairman: Any questions from the board?

Member Laplume: The outbuilding or the building that he is staying in, in the rear is there a foundation in that building, or is there running water or a sewer?

Attorney Caitlin Masys: I believe it is all connected through the main house.

Member Laplume: Is there a foundation? Does it have a slab?

Attorney Caitlin Masys: There is no foundation, no basement. It is a slab.

Chairman: So, all of the utilities will be installed, if this is approved?



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Attorney Caitlin Masys: Yes that is correct.

Chairman: Permitted and installed

Attorney Caitlin Masys: Yes, everything would go through the building department and be permitted, so that it would be a legal second unit.

Chairman: Will there be any changes to the first unit?

Attorney Caitlin Masys: No, none whatsoever

Chairman: The driveway is already there so there is no new construction there

Attorney Caitlin Masys: No there is actually 2, there is the driveway from Groveland Street and the other is on Burnham Street. It is not really a driveway it is part of the yard, but theoretically there is 2 parking spaces.

Chairman: Other questions from the board?

Member Vathally: I am looing at the site plan, so in essence the garage is between both units, I see the entrance coming off the main house but is there an entrance from the back building.

Attorney Caitlin Masys: Yes

Member Vathally: I went up to the house and see the garage is going to open in the front. How is that going to work in the back?

Attorney Caitlin Masys: In the back it is just going to be a regular doorway. The garage will be used for parking for the main house only. The garage isn't constructed yet, the existing garage that you see, that door is going to because a wall with a doorway in it to the new garage that is going to be built.

Chairman: Other questions from the board members?

William LeColst (25 Burnham Street): My property abuts Adams. 15 years ago, Adam bought the property, there was the garage there that he is now living in, I called you guys and told you he put an addition on and is now too close to my property. He built on to that garage, he turned it into an apartment, he got permits for nothing. He put sewerage in there, he tied it into the existing house, now he lives in there in the apartment that is in the garage that abuts my property and now he wants to put a garage in front of this, where is everybody going to park? On my way here I went down Groveland Street, saw 23 cars parked illegally on sidewalks, where do you guys think he is going to putt all these cars? He has a ton of cars in his driveway now from the house that he rents, now he is going to put up a garage with an apartment above for more cars and more people, are they going to come around the corner and park in front of my house? There is a lot of issues with this, number 1 the one he is living in now is too close to my property and I told you guys that 15 years ago, nothing got done. So I am against this all the way and I will fight you tooth and nail about it.



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Chairman: What would your suggestion be, tear down the building?

William LeColst (25 Burnham Street): Yes. I think he should have to move it. He has been there for over 15 years illegally. Then he puts another driveway in on Burnham Street. He has two driveways, one for the original house and then where he made his apartment in the garage he another driveway, that is really on top of my sprinklers, I have sprinklers out there.

Chairman: Attorney do you want to address his concerns?

Attorney Caitlin Masys: My client is not the one who built anything on the property that I am aware of, there are existing structures.

William LeColst (25 Burnham Street): He did.

Attorney Caitlin Masys: I am not aware that my client has built anything on the property. It is my understanding that he has had conversations with Mr. Bridgewater and that is why we are here today. He is trying to do the right thing, get the necessary variance and make everything legal. I know something Mr. LeColst said was about building up or putting an apartment over the garage which is not the case.

Chairman: The garage will be just a one story building with just parking for cars?

Attorney Caitlin Masys: Correct. It says it on the plan proposed one story garage for 2 cars.

Chairman: Do you know how many cars are there now, between the renters and Mr. Tilden?

Attorney Caitlin Masys: Mr. Tilden is there by himself so that is one car. I believe the renters have children, but I believe they only have 2 cars associated with the family that is renting.

Chairman: Who will be using the garage?

Attorney Caitlin Masys: The home, the single family home will have the 2 garage spaces and then then the 2 additional driveway parking spaces.

Chairman: Where will MR. Tilden parking his vehicle?

Attorney Caitlin Masys: The two spaces at the rear of the lot, with a second entrance in the back of the unit.

Chairman: How many parking spaces would you say is there all together? Legal ones.

Attorney Caitlin Masys: 6



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Chairman: 2 in the garage, two in the back and two in the driveway?

Attorney Caitlin Masys: Correct

Chairman: The gentleman mentioned the second about the driveway, should he be using that, or can he discontinue using that? The one that leads out to Burnham Street. When I was there I did not see this. What condition is it? Is it grass, gravel, paved?

Attorney Caitlin Masys: It is not paved; I believe it is just graveled.

Member Vathally: The existing one story building you said was already there. So it is a existing non-conforming lot?

Attorney Caitlin Masys: Correct.

Member Vathally: So again, he has been here 15 years, you said right?

Attorney Caitlin Masys: correct but he was not the one that constructed that, he bought the property with the 2 buildings on it, so there are existing no-conforming setbacks for the main house.

Member Vathally: Right but when he bought it he was living in the main house, wasn't he?

Attorney Caitlin Masys: Yes I believe so.

Member Vathally: Ok, so it is an existing no-conforming that you want to convert into a 2-family, that he has been there 15 years. I am not sure I am understanding the hardship in this application. Because of the time he has lived in that addition.

Attorney Caitlin Masys: Right, but he didn't construct the addition. So lets say if he bought the property with just the home on it, he could have constructed this addition a little further up to the right and he could have done that by right.

Chairman: So I guess the question is, why didn't he?

Attorney Caitlin Masys: Because he didn't construct the building. That is how he bought it. He bought the property with the buildings sitting where they are at now. The only place he is building is the garage in the middle that connects the 2.

Chairman: Was he aware that he was buying something that is all non-conforming?

Attorney Caitlin Masys: I don't believe he was, and that is why it has taken this long to bring it in front of the board.

Chairman: When he decided to move in there, did he not understand that you just can't do that?

Attorney Caitlin Masys: No, I don't think he was aware.





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Chairman: I appreciate that he is trying to legalize something, but it has been illegal for how long he has been in that second part. How long has he been in there? Not all 15 years?

Attorney Caitlin Masys: Not all 15 years.

Member LaPlume: I would like to ask the commissioner, since we have a dispute here and we don't know the answers to it. If this person did approach you for a building permit would you be looking at, this gentleman claims a sewer was put in, changes were made to this as it was originally just a garage. Do you have any access to any of that?

Tom Bridgewater (building Commissioner): Well, we certainly if this gets approved would have to investigate that and see. I don't know what is there now, I don't know if he is living in it, I don't know if there is a kitchen in it, I just don't know. Until we get out there, is it just a room he is hanging out in, did he add a bathroom without permits, I don't know the permit history on it. We could do an investigation on it and see.

Attorney Caitlin Masys: Even if the variance was to be granted, that just brings us to the next step of having to have the application for the necessary permits and signoffs and all of that.

Tom Bridgewater: Developmental review.

Attorney Caitlin Masys: Correct. And so, if something is there it could be teared out. I personally have not been inside the property so I can not speak what's in there or not.

Chairman: I just an torn on this one to be honest with you. I go back to the fact that he moved into there according to you and the gentleman and he installed sewer lines to it without a permit.

Attorney Caitlin Masys: That I am not aware of

Chairman: I don't normally like to kick these things down the road, but would you entertain what the board wants, would you want to continue this so we can get a few more answers about this, the building commissioner just said he could investigate some of this. I would like to find out is there a kitchen in there, is there a bathroom in there, is the sewer line put in without a permit all of that stuff. I don't like that second driveway, I am not saying I am on any legal grounds, but it sort of disturbs me too. I don't know how the rest of the board members feel, would they be willing for a continuance?

Member Brown: Yes I would be. I have too many questions about him moving into that one particular house and renting out the main house.

Member LaPlume: Commissioner, would you be able to investigate any of that?

Tom Bridgewater (building Commissioner): Absolutely

Chairman: Ok if you would request a continuance



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Attorney Caitlin Masys: Sure, at this time I would like to request a continuance for this application until the October meeting.

Chairman: and you waive the notification period.

Attorney Caitlin Masys: Yes correct.

Chairman: Thank you very much. Make a motion.

Member Vathally: I make a motion to continue application request for 465 Groveland Street, waiving the time requirement to the October meeting 2021...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes

Continue 5-0

## **Felix Garcia for 115 South Pleasant Street (Map 708, Block 660, Lot 6)**

Applicant seeks Special Permits to convert existing (non-conforming structure) two-family dwelling into a three-family dwelling and to determine that proposed extension of existing non-conforming structure will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. Applicant also seeks dimensional variance for lot frontage of 71 ft where 80 ft is required for conversion to three-family dwelling in a RU zone. (BOA-21-36)

Felix Garcia (27 Marathon Way Manchester, NH): I am the owner applicant. I have a large map that I will point to and have provided you all with 11x17 copies. The red rectangular is the referenced property at 115 South Pleasant Street, on the east side we have South Main Street, north of the property we have Merrimack Street, west is South Lincoln Street and south is South Elm Street. Turn to the next page, what we have here is a beautiful Victorian house, the house from the City of Haverhill's accessors data base was built in the 1900's, it is a beautiful house, the front portion is 2.5 stories, the back/rear of the property is 2 stories and there is one portion that is one story, and I will explain what is going on there. It is a beautiful house, it is a nice neighborhood, it has a lot of potential and it needs a lot of work. As time passed if you don't take care of it, it just needs a lot of work. You can see the floors are all damaged, the drywall is damaged, and I think from what I understand nobody can live there, due to the deterioration of the house. Next page, So the purpose for me being here is I am applying for a variance and a special permit. For the variance the house is preexisting nonconforming, it is within the setbacks. What I want to do is square off the rear, right now it is somewhat awkward, and it goes in a zigzag and the inside is not the best. I will explain the inside layout to you, and you will see what I am proposing and how what I am proposing will make it much better than how it is now. Also in the end, what I am proposing will not make it worse if anything it will make it better. Next page, what we have here are the existing conditions, these are demo plans, these are the existing conditions 1A2.0 that is the foundation and what you will see that I am proposing is to demo that little porch in there on the rear, that is one story and it is just awkward, it was just used as storage, I don't know what we could use it for



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today's date, so we want to get rid of that. Below that we have the 1<sup>st</sup> floor plan, on the right side that is the main entrance, you will go in and you will see nice decorative stairs that you can access the second floor and then you will have your living room, next to it the dining room, then bedroom, kitchen, bedroom, these are stairs that go down to the second floor and this right here is the little one story storage, and this spot right here is also storage. It is somewhat difficult to have a family live here in today's date because, yeah you have one bedroom and another bedroom here and that is pretty much it, but what can I do with these two spaces, it is tough to say. But what I am proposing, and you will see is to square it off and if you go to page A1.0 you will see what I am proposing, so again it is going to make it look a lot better, it is going to be symmetric. The first floor you can see we are going to have an open concept, the dining room and living room will be converted to bedrooms, when you walk in the first floor you will see the living room first and then right there you will see the kitchen because it is open concept, on the right side of the kitchen you will see the dining room and then going a little bit more towards the rear there is a small bedroom which could be an office space and then you are going to have your master bedroom, master bathroom and a walk in closet, so this is the first floor plan, it is pretty efficient, much more efficient than what we had. Then on the next page is the second floor, similar layout, you will have the 2 bedrooms at the front of the house and then moving towards the rear you are going to have your living room, dining room, kitchen, and a nicer bedroom in the back with a nicer bathroom and a walk in closet. Again, with the variance I am able to make this much nicer in the inside, but also the outside it will be aesthetically pleasing as well. And then on the 3<sup>rd</sup> floor, I guess whoever had it used it for radio, amateur radio, it is a nice space for a family, it is around 640 square foot space, the only thing is there is no second means of egress so we will be providing a second means of egress and because we are doing a lot of work to this house we are going to trigger a level 3 alteration so we will have to put in sprinklers and I just got done getting a proposal, so if everything goes well with this today we will be installing sprinkler system to make it safe. Not only that but the separation between apartments will make sure that is one hour rated, so again safety comes first. The next page we have before and after renderings and some before and after existing conditions pictures. My favorite color is olive, so I went with that. The first image you see is the existing condition of the back side of it, that is what I was talking about that is awkward, this outline is just one story and then you have the building itself that is two stories, it just doesn't look right and what I am proposing will square it off. And then the image A3.0 that is just the front and side view, you can compare the before and after is not going to change the character, it is still going to have character, it is still going to look good, if anything it is going to look better and is going to look newer. Then you have your elevations at the bottom of your front, your side views and your rear view. Again, I am here for the variance to change to do the work at the rear side of the house and then also convert the 2-family into a 3-family and again we will make sure we have sprinkler system and a second means of egress for the third floor to make it safe. Definitely we will be working with the neighbor next door because we are close, we will make sure we coordinate, and I talk to them and give them my number and tell them to call if they have any concerns. I will be overseeing the property, I know we will be close to their property, and we are going to keep it clean everyday after we are done doing some of the work, that day we will make sure that it is clean. That is pretty much it, the rest is structural drawings.

Chairman: Where is the driveway?

Felix Garcia: Good question. The driveway is going to be on the right side if you are looking at the house. We will be providing 2 parking spots per unit, there will be 6 in total. You can find that on the third page. You can see it on the site plan, at the rear we are going to keep the grass and do some nice landscaping. The person who will be living there will be my father, he will be living on the first floor, it will be for my father and mother so they can be in a better place, a better neighborhood. Any questions or concerns?



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Chairman: Questions from the board?

Member LaPlume: So, the application is Felix Garcia, is that you? Are you Garcia Engineering?

Felix: Yes

Member LaPlume: I tell you; you did one heck of a job on these plans. I haven't seen something as good as this and as detailed as yours, so I commend you on that. Let me ask you, what are you going to do with the trash?

Felix: We will be providing, I know that every area municipal is different, and I am not sure how Haverhill does it but definitely with the guidance of the City of Haverhill, if there is trash barrels per apartment then we will definitely have a trash barrel for each apartment and then my farther is going to be living there he is going to be

Member LaPlume: What is the square footage? There are going to be 3 apartments correct. What is the sq footage of 1, 2 and 3, the last one you mentioned was 600 and some on which is small.

Felix: First floor will be 1360, second floor will be 1253 and the third floor will be 636

Member LaPlume: If we vote on this and pass it, it still has to go before the developmental review correct. Thank you very much.

Chairman: I just want to alert that we have to do three votes on this. A special permit to convert the 2-family to a 3-family, a special permit for the proposed extension that should not be more detrimental and then the third vote would be for the variance. First are there any other questions?

Member Bevilacqua: Mr. Garcia did you say your father is going to live in one of these apartments?

Felix: Yes my farther, my mother and my brother and sister will be living on the first floor.

Member Bevilacqua: Is your father going to be serving as the property manager?

Felix: Yes. He is going to be living there and I will be visiting him for Thanksgiving & Christmas, but he will be living there, and he will be taking care of the property. Him and I will be taking care of it, I mean I will be assisting him and putting cameras to keep it safe. If he needs a landscaper, I will get him a landscaper, but he is going to be making sure that trash is getting disposed correctly, if there are any complaints he will try to help out the 2<sup>nd</sup> and 3<sup>rd</sup> floor like a landlord kind of thing. He will definitely be managing the property.

Member Bevilacqua: You did a good job, it is the most meticulous comprehensive plan, it is just beautiful.

Felix: Thank you. I am a structural engineer, that is what I do. I have other jobs as well, but I have been working as a structural engineer for like 6 years now, so I have learned a lot.



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Member Brown: I have a question about your parking. How are you going to deal with that, I know you said you will have parking for 6 right? Are you going to keep it that straight and kind of around back?

Felix: If you look on the site plan, and this was done by my surveyor so if it needs modifications we will do it. You could pull in and park, it is going to be at a diagonal. I might have to talk to him, this my not be the best thing, because now I am thinking that to be on a diagonal may not be the best thing. We also have that turnaround at the back also.

Chairman: Other comments or questions? Ok I will entertain a motion.

\*Special permit to convert the 2-family into a 3-family

Member Vathally: I make a motion to approve the special permit #1 to convert the 2-family into a 3-family for 115 South Pleasant Street ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes and I would acknowledge that it meets the conditions of 255-10.4.2 and particular it really adds to the neighborhood character and he is improving the existing building that is in severe disrepair and I think in fact that it serves the needs of the community by adding a much better site there and I would go along with what other people have mentioned about the tremendous work that you have done to prepare for this and make our decisions a lot easier so the special permit is granted for the conversion from a 2-family to a 3-family.

Chairman: I will now entertain a motion for the special permit for the extension which will not be more detrimental

\*Special permit for the extension which will not be more detrimental

Member Vathally: I make a motion to approve the special permit #2 for the extension of the existing nonconforming structure for 115 South Pleasant Street ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes sighting criteria for 255-10.2.2

Member Brown: Yes

Member LaPlume: Yes meets the criteria for special permit 255-10.4.2

Member Bevilacqua: Yes meets the criteria for 255-10.4.4

Chairman George Moriarty: Yes it meets the criteria that the extension of the existing nonconforming structure and as I said before it dramatically improves both the house and the neighborhood. So, the second special permit is approved,

Chairman: I entertain a motion on the variance

\*Variance

Member Vathally: I make a motion to approve the variance for 115 South Pleasant Street ...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes sighting criteria satisfies for 255.10.2.2(2)

Member Brown: Yes

Member LaPlume: Yes meets the criteria for a variance 255.10.2.2(2)

Member Bevilacqua: Yes satisfies the criteria for 255.10.2.2(2)



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Chairman George Moriarty: Yes and notes the dimensional variance for lot frontage of 71 feet where 80 is required for the conversion to the family dwelling in the RU zone meets that criteria for 255-10.2.2(2). So the 2 special permits have been granted and the variance has been granted

## **Nemesio Rodil, Jr for 50 Centre Street (Map 466, Block 195, Lot 14A)**

Applicant seeks a dimensional variance for front yard setback of 16.84 ft where 40 ft is required to construct a farmers porch onto the front of a single-family dwelling in a RR zone. (BOA-21-29)

Nemesio Rodil (50 Centre Street Haverhill): What I am trying to do is a farmers porch in the front of the house. The reason I am here is the setback, I believe from the street or from the house.

Chairman: So, it is a variance to build and open farmers porch 7 feet by 32 feet in the front of the property.

Board Clerk Jill Dewey: There are 4 houses on the street and the other 3 all wrote a letter of support.

Chairman: Questions from the board.

Member Vathally: I was up at your property; it is a beautiful house. You face by Walnut; you face the cemetery right and I think it is going to look beautiful, it is going to look really nice, so I certainly support this application.

Chairman: Ok I will entertain a motion.

Member Vathally: I make a motion to approve the variance for 50 Centre Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes as it satisfies criteria 255-10.2.2(2)

Member Brown: Yes

Member LaPlume: Yes it meets the criteria 255-10.2.2(2)

Member Bevilacqua: Yes meets the criteria 255-10.2.2(2)

Chairman George Moriarty: Yes also acknowledging 255-10.2.2(2) and noting that it is desirable and without a substantial detriment to the public good.

## **John & Margaret Sandlin for 431 Kenoza Street (Map 469, Block 187, Lot 18)**

Applicant seeks a special permit for construction of an Accessory Apartment in a RR zone. (BOA-21-33)

Chris Crump (CWB Design based out of Newburyport): we are here tonight looking for approval for special permit for an accessory apartment. The house is a conforming house on the property in a RR district, it meets all the code requirements for the site. We are adding on an accessory apartment on the right hand side of the structure, the addition will meet all zoning requirements for that district. The current living space inside the house is 3262 sf of living space, 1908 on the first floor 1354 on the lower floor and the accessory apartment has a maximum of 1200 sf or 30% of the existing living space basically 30% would be 979 sf the proposed accessory apartment is 947 square feet, so it fits underneath the 30%. We feel that the building retains its characteristic single family appearance, there is a separate main entrance that does not



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face the lot frontage. The single-family home will be owner occupied with no separate electric or heating services. A new septic system has been designed, it is currently for a 3 bedroom, but they redesigned it for a 5 bedroom, and it has been submitted to the city, to the building inspector and health department. It will be installed prior to the certificate of occupancy.

Chairman: Thank you very much. Questions from the board? Just to reactivate to the board as you have just gone over, it meets the 6 criteria's that are required for an accessory apartment as contained in 255-8.1, you have gone over all 6 of those and you meet them according to the regulations here.

Chairman: So, if there are no questions, I will entertain a motion.

Member Vathally: I make a motion to approve the special permit for 431 Kenoza Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes as it satisfies criteria 255-10.4.2

Member Brown: Yes

Member LaPlume: Yes it meets the criteria for an accessory apartment 255-8.1

Member Bevilacqua: Yes meets the criteria for a special permit 255-8.1

Chairman George Moriarty: Yes and as I just renovated the 6 major points that are required for a special permit for an accessory apartment was met and it serves the community needs and its impact on the environment will be inevitable and it retains the character and social structures of the neighborhood.

## **Bradford Unlimited Corp. for 815 Hilldale Avenue (Map 585, Block 430, Lot 1A)**

Applicant seeks dimensional variances to create two new building lots and construct two new single-family dwellings in a RM zone. Requested variances for new Lot 69 include lot area (11,874 sf where 20,000 sf is required), lot frontage (86 ft where 150 ft is required), and lot width (90.7 ft where 112.5 ft is required). Requested variances for new Lot 71 include lot area (11,201 sf where 20,000 sf is required), lot frontage (86 ft where 150 ft is required), and lot width (91.5 ft where 112.5 ft is required). (BOA-21-35)

Attorney Russell Channen: I am here representing Bradford Unlimited as well as the owners of the property Chesley and Marie Maslowski, who signed an authorization that was filed as part of the partition. Also present is Paula Maslowski, who is not only a local attorney, but the Maslowski's daughter who is here on behalf of the Maslowski's as well. We have submitted a number of plans; we have submitted a revised plan as well as a revised brief. This is property located off of Oliver Street in the Hilldale Avenue section that has been owned in the Maslowski family for over 50 years. The area in question is over 4 acres, the revised plan that is being presented to the board is looking to do is to take a portion of the land located on Oliver Street and identify it as lots 69 and 71, to allow for the construction of single family homes on lot 69 and 71, the property is located in the RM zone and as a result normally the required frontage 150 feet as well as area of 20,000. The current application that has been presented to the board for lot 69 shows lot frontage 86 where 150 is required and roughly 11,800 square feet where 20,000 is required. Lot 71 the current plan shows frontage of 86 where 150 is required and lot area of 11,200 where 20,000 is required. What I can tell you is that after this application was submitted, notices as you know have gone out to the neighbors. Mr. Defeo has which as you know he has done in the past is if they have concerns, Mr. Defeo will go out and talk with the neighbors, in



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fact I believe there is an email that has been presented to the Members this evening from John Pettis in response to a neighbor that had a water issue. That was a letter that was submitted to the clerk and Mr. Stein. Mr. Defeo and myself meet with Mr. Stein as well as with John Pettis today. We addressed his concerns and in fact the email that John Pettis provided to the board clearly indicates that if the board approves this application that in fact it becomes a win, win for the neighbors up in the area because it would allow for the city to increase the roadway. Right now, although there is a 50 foot right of way, the street right now is only roughly 18 feet, by allowing it would allow the city to go in there and right now there is a crown in the middle of the street that would allow the city to address that crown, create a new berm and address water flow problems to the neighbors. So again, it is one of those situations where we have met with the neighbor who had a water concern and we brought the city engineer out there and he has looked at the issues, and again if the board allows it, his issues would be addressed. In fact, he is not here this evening because he is satisfied with that discussion.

Chairman: Can I interrupt you here, I think in all likelihood we are going to be asking you to continue this to another meeting and I want to make sure other people get a chance to voice some of their concerns and if the board has any questions also, which would allow you then during the time between now and October to address some of those concerns.

Attorney Russell Channen: What I can do then to limit those conversations at this point is just to limit to you what I have put in my brief. There is some precedents for what we have requested, for a property next door at 64 Oliver Street which I have provided a copy of that decision to the board, as well as 20 Hazel. I can also tell you again, I think MS. Shrybny is here and has some concerns. Paula Maslowski on behalf of her parents, there was this issue with a 50 foot right of way, the Maslowski are unamenable depending upon the concerns of Ms. Srybny or anyone else. To reduce that 50 foot right of way will insure, not only no development in the in the remaining property, but by reducing that 50 foot right of way would conversely increase the frontage and also increase the lot area which would lessen the percentage that we are looking for in the variance. The Maslowski's are amenable to making this project work, we have already addressed this with some of the other neighbors and again I think there is some precedents to allow for this type of a request before the board and I will reserve my time.

Chairman: Ok thank you. I would like to ask 2 questions and then let the people talk. This is listed as 815 Hilldale, but the two new properties will be listed as Oliver Street.

Attorney Channen: That is correct with the map block and lot with the assessors office

Chairman: So, the house that is existing on 815 is not part of this.

Attorney Channen: Correct but if you look at lot 69 & 71 on the assessors map, they are part of what is known as 815 Hilldale

Chairman: I want to move on this as we are continuing it, but first I want everyone to get a change to speak. Please tell me your name and address.

Kathy Srybny-Bucci (821 Hilldale): I have lived there for 21 Years. I built my house there and at the time I had to comply with the zoning laws. So, my question to you is, neither one of these lots even come close to 150 feet, if you have zoning laws than you have zoning laws. If you are going to let this go, you are passing you





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are letting presidents go for anyone to do anything they want. 150 Feet, that is what is on the books than that is what it has to be, not 86, they are not even close to what they are supposed to have as far as the square footage they are supposed to have 20,000 square feet, they don't even have 12,000 square feet on either one of these lots. So, I am asking you that this doesn't get approved, or one house lot 150 foot frontage and they the square lot itself and that is all I ask.

Chairman: Ok thank you very much. Did you want to speak?

Attorney Paula Maslowski (359 Main Street): My parents are the owners of the property. The property is on Oliver Street as Attorney Channen has mentioned, the property is an open field, bordered by trees on Oliver Street. Attorney Channen and I have spoken, and Attorney Channen's client has exhibited an interest in building two lots. We have had discussions about those lots being built per your permission, and the lots do allow for more houses to be built similar to Mr. Defeo's prior designs. So, I would ask that the board consider Attorney Channen's presentation, but also just to be specific, these are only 2 lots on Oliver Street. To avoid the confusion my grandparents lived at 815, they purchased the property in the 1950's. My father and my grandfather have the same name. As my grandparents passed away, my parents received the property. My parents live at 775, which is on the other side of the field, where these lots are located. I am happy to answer questions, but I think the application speaks for itself and Attorney Channen is correct the lots as I read it you previously granted other variances of similar size in the very neighborhood.

Chairman: Thank you very much. Any questions from the board?

Member Vathally: As far as the precedent attorney I just want to comment on that. Every application is a signature application, so a precedent really for any other application may not apply for the application being presented because there is separate criteria involved, topography, soil, hardship etc.. So, from my perspective I really can't cite a precedent because each application is different.

Attorney Channen: Thank might not been the best choice of words I used; I apologize. When I looked at the application for 64 Oliver Street and I looked at the variance request, the amount of frontage as well as the amount of lot area was consistent with what we were asking on lot 69, in respect to any other issues that may have been presented to the board. We were just basically looking for something relative, again we weren't looking well my perspective is we weren't asking for more than what you provided on Oliver Street not knowing that there may have been other issues.

Member Vathally: I understand but reading your brief again this is based on this application, that is what we are discussing and that is what you are presenting. Secondly, I guess I am a little confused cause I went up to that property and as the chairman mentioned it was 815, I pulled in to the 815 lot with the house, so is that lot to the right? That open field lot.

Attorney Channen: Yes, but again that lot, if you looked at the GEO Map for what is considered 815 Hilldale, it is 4.24 acres and the house is on 815 Hilldale, but the property goes all the way to Oliver and these are what is known as lot 69 and 71, which is behind it. I would be more than happy to, and I don't know if I put it as part of my presentation, but I can send in the GEO map that shows the huge parcel of land and again when I go online to do this application, I look up lot 69 to try and look for that address, it is all part of 815 Hilldale Avenue.



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Member Vathally: Ok

Chairman: So, the best way to actually look at it is not from the Hilldale Avenue side, but rather the Oliver side.

Attorney Channen: Correct. The property has been staked, the lots have been staked so if anybody goes up Oliver Street, on the left side you'll see the stakes.

Member Vathally: So, the variances you are asking for are based off Oliver Street looking in, not from Hilldale looking back.

Attorney Channen: That is correct.

Member Vathally: Ok, thank you.

Chairman: Any other questions?

Member LaPlume: Ok so when you go on Oliver Street, there has been a new house built within a year, I did a couple of inspections out there the builder Marc Fichel, do you know what the size of his lot is?

Attorney Channen: Yes in fact if you look at exhibit B in my brief that is one of the cases that I have referenced. In that application the size of the lot was 11,978 square feet and 20,000 id required for that area. There was a lot frontage of 128.5 for that lot. Variances were approved by the board a few years ago for lot frontage of 128.5 and 11,978 sf. The one on Hazel Street was similar.

Chairman: Any other comments or questions?

Member Bevilacqua: So basically, what we have here, is we have 2 lots that total a little over 23,000 square feet. We have 2 lots, one that is 11,800 and one that is 11,200, so the 2 lots together total about 23,000 sf

Attorney Channen: That is correct, what I can tell you is again we are going to be asking for a continuance and I will ask the board as to when they need the plans submitted to be on the next meeting, we expect to be presenting at the next meeting a new plan that shows additional frontage and additional lot area.

Member Bevilacqua: Well because as it is you got just 3,000 more than what you need for one house. So if this was a request to build one house, there would be no problem.

Attorney Channen: We wouldn't have to be here.

Member Bevilacqua: But you want to build 2 houses on just 3,000 more square feet than you would really need for one house.

Attorney Channen: Well, I mean if it was one house, with all due respect we wouldn't have to be before the board.

Member Bevilacqua: Right!



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Attorney Channen: But again, we are going to be submitting a new plan, that is going to show additional frontage and additional lot area. What I tried to do was to suggest to the board by way of previous applications before the board members, again considering 64 Oliver Street which is in fact a direct abutter, the application that was approved by this board was for a similar lot size of 11,978 sf, with frontage of 128 sf. What we hope to present to members of the board at the next hearing are 2 lots with additional frontage above and beyond what we submitted today and additional frontage as well.

Chairman: Not to speak for Member Bevilacqua but it brings a question of why not just make it a single lot.

Attorney Channen: Well, there is excess land, but also there is cost involved as far as tying things in and with the street improvements that we have to make, the sewer and the cost associated with all this

Chairman: Just putting it out there cause one thought and Member Vathally has made this point, yes we have approved other things but each one is slightly different and here is a case where you could have a lot that by right has 20,000 sf feet as Member Bevilacqua has stated without having to come before us at all, so why come before us and split it in half, but I hear what you are saying the cost of developing the road and developing the other things is a consideration that you are hoping we will take in account.

Attorney Channen: Thank is correct.

Member Bevilacqua: And Member Vathally point that each case is decided on the merits of that case, is correct. But as you know we were here a few months ago about Jasper Street and it was a similar request for in terms of space for lot wise, all though it was actually less. But the point is, knowing that neighborhood, that neighborhood is medium density, but people will argue that upper Hilldale becomes rural. So, you could do this and not come before this board or anybody if you wanted to put one house on it.

Chairman: Since we have all kind of agreed that you're going to request a continuance, I want to take all of that into consideration. Member LaPlume?

Member LaPlume: Attorney, the developer also put a house last year that we approved on Hazel Street, just round the corner, do you have the square footage on that?

Attorney Channen: I do, in fact as part of my application what I can tell you is it was identified as 225 Rosemount Street and for that property the variance approved for lot area of 11,082 sf where 20,000 is required and 70 feet of frontage where 150 feet was required.

Member Brown: I think one of the issues is, you need a variance for everything right? You are kind of creating your own hardship kind of thing, because you need a variance for everything, frontage

Attorney Channen: For the most part, it is frontage and area, so I wouldn't say everything. Again, those are the 2 things that we would be asking the board and again what we are hoping for with a new plan, that is going to be submitted that reduces the percentage request, hopefully the board will take that into consideration.

Member Brown: When do you want to come back, is it next month?



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Chairman: Do you want to do next month, or do you want to move beyond then?

Chairman: Would it be a problem to move it to November?

Attorney Channen: No problem.

Chairman: Ok why don't we do that. It gives you more time to talk to the people

Attorney Channen: I request for the record that this application be continued to the November session, and I waive the time.

Chairman: Entertain a motion

Member Vathally: I make a motion to continue application request for 815 Hilldale Avenue, waiving the time requirement to the November meeting 2021...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes

Continue 5-0

**Minutes:** Motion made by Member Vathally; I accept the meeting minutes from August 18, 2021 2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes

Member Brown: Yes

Member LaPlume: Yes

Member Bevilacqua: Yes

Chairman George Moriarty: Yes

Approved 5-0