



# 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, October 20, 2021 at 7:00 P.M.

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

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

Chairman Moriarty called the meeting in to order on October 20, 2021

Chairman: We have to do one quick thing, due to a technical incident. We had a prior decision on 28 Hillside Street, and it should of had Ms. Santiago listed there along with Mr. DelGado-Lorenzo and we failed to do that. So I seek a motion to add Ms. Santiago to the decision

Member Vathally: I make a motion to amend the decision for 28 Hillside Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes  
Member Brown: Yes  
Member LaPlume: Yes  
Member Bevilacqua: Yes  
Chairman: Yes  
\*Granted 5-0

## **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)

**GRANTED 5-0**

Attorney Caitlin Masys (462 Boston St, Topsfield): As you may have seen, uploaded to the portal, there was discussion last month about receiving permits and doing certain things illegally, and the permits were found by Mr. Bridgewater, who was kind enough to upload those to the portal for the board to see. So, you can see there has been work done to the property and the permits have been pulled, I know that was a concern of the board. Additionally, I know that Mr. Tilden has tried to make contact with the neighbor, from my discussions with Mr. Tilden, what he said to me what the biggest issue seemed to be for the neighbor who is in opposition, was a measure of privacy and wanting to make sure that there would not be a second story added to the property. That is not in any way, shape or form the plan that Mr. Tilden is looking to put into place. The preposed garage is one-story and there would be no other construction, the existing



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structure would remain as is. He is even willing to agree to a stipulation in the decision that no second story is to be added to that created second unit if it is passed. I am hopeful that, that will be satisfactory to the neighbor in opposition, but I will let him speak for himself. I'm here for any questions that the board has.

Chairman: Is there a sewer line right now, going to the additional unit?

Attorney Caitlin Masys (462 Boston St, Topsfield): No, it goes to the main house.

Chairman: Which is not allowed. If we approved this, it would have to be done.

Attorney Caitlin Masys (462 Boston St, Topsfield): Yes, it would have to go for a review anyways.

Chairman: So, you are aware that you would have to install a sewer line to the street

Attorney Caitlin Masys (462 Boston St, Topsfield): Yes, I am under the impression water as well.

Chairman: Yes. Other questions from the board.

Member Vathally: Attorney two questions, how long has the applicant lived at the property?

Attorney Caitlin Masys: I know he has owned the property for 18 years and I believe he has lived at the property in one form or another for that length of time.

Member Vathally: Just explain the hardship of 255, what is the hardship in this case?

Attorney Caitlin Masys: Certainly, um so essentially the hardship consists of a couple different things. First being that the existing location of the house is in the far corner, he has all of this remaining land that goes basically unused. In terms of the rear of the property um, the lot itself is situated on a corner and when you look at it from either side, but on Burnham Street and on Groveland Street, there is enough frontage for both sides. So theoretically what Mr. Tilden could do, is he could remove the existing structure and rather than have what is existing there now, he could tear that down and build another building in the center of that lot and connect it to the first house by right, he could do that without any need for variances. That would obviously involve a lot more, it would involve construction, it would involve demolition, in order to maximize the project, it would likely be a full 2 and a half story home connecting it. So what I think Mr. Tilden was hoping for was to have the least amount of destruction as possible on the site and that would essentially be one rear setback variance, to leave the existing structure the way it is, have it connected to the existing home in the upper righthand corner, by a one-story garage.

Chairman: Thank you. Other questions or comments from the board. Ok, we have a neighbor who wants to speak.

William LeColst (25 Burnham Street): Adams property and my property abut. When Adam bought that house, with the one car garage he added on to it, now he wants to add another garage with an apartment above, so that he can attach all three pieces to the existing house. Well, the one car garage that he originally bought, he turned it into an apartment, and



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he added on to it. It is already too close to my property line. Who is to say in 10 years, what he will do with the new garage he is building with the in-law apartment. Where do you guys think he is going to put all these vehicles and these people? It is a good size lot, but it isn't that big.

Chairman: I understand and Attorney Masys you can correct me on this. The two-car garage that he is building, is not going to have an apartment above it, it is only a 2-car garage.

Attorney Caitlin Masys: That is correct.

William LeColst: The paperwork that I have says that there is going to be an apartment above it. That is what I read on the paperwork that I have. It was going to have an in-law apartment, a garage with an apartment on it.

Chairman: According to the paperwork we have, it doesn't say that. It says it will just be a 2-car garage. As the attorney just stipulated and we will build a stipulation in here, that no second story will be added to the existing unit, so it has to stay as it is.

William LeColst: And the one-car garage that he had, he turned it into an apartment, and it is already too close to the property line. That is why he wants to attach it all, so that it becomes part of the original house. I am against it.

Chairman: It is going to stay the same distance from your property, it is not going to add any distance.

William LeColst: But it is already illegal.

Chairman: But its not being changed. Any other comments you need to make?

William LeColst: No that it.

Chairman: Great thank you, I appreciate that. Attorney is there anything you would like to say.

Member Bevilacqua: Do you have any information with you that disputes this. Is Mr. Tilden here to speak today?

Attorney Caitlin Masys: Mr. Tilden is not here; I am here for him. I have no idea what paperwork he is referring to. He wouldn't have received anything from us, whatever he got would have been from the city.

Chairman: Do you know where you re4ceived the paperwork?

William LeColst: It was from the city.

Tom Bridgewater (building commissioner): It would have only been this right here, the paperwork submitted for this application.



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Attorney Caitlin Masys: I can tell you it has only been this one plan that was drawn for this project. It has always said on it, proposed one-story 2-car garage.

Chairman: If this goes forward, and I am not saying it will, but if it goes forward, he can not put an apartment above there, we are not approving that here, we can not approve that. We are also stipulating that the existing unit will not have any additions to it also that no second story will be added to that.

Attorney Caitlin Masys: Which is not a problem. We are definitely prepared to have that as a stipulation, a condition of the grant of the variance, if you so decide.

Chairman: Any other comments or questions from the board?

Member LaPlume: I was just wondering why he... A builder would love to have that, they would definitely put a 2-story garage between and build another beautiful home and sell it off, and that would be totally legal. A small garage with a little addition on the back, would definitely be the least amount, he wouldn't make any money off this at all

Attorney Caitlin Masys: He is not a developer; he is not making any money off this. Just to refresh your memory from last month, Mr. Tilden is disabled, he has a broken back, so he is not able to work. He does need to live on one-story. He intends to remain living in this unit if he allowed to. It is currently one level; he is willing to stipulate that it stay one level. He has an opportunity, and he has a place where he has been for a very long time, and he wants to continue to live there. Obviously I understand that the board has stabilities and statutes and specifications that they need to follow. He is trying to do the least disruptive thing possible, and we just hope that the board will take that into consideration, and we defer to your decision.

Chairman: Ok, thank you. If there are no other comments or questions, I will entertain a motion.

Member Vathally: I make a motion to approve the variance for 465 Groveland Street with the flowing stipulations that no second floor addition be added to the "existing unit" and the water and sewer be properly installed for that existing unit...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes 255-10.2.2(2)

Member Brown: Yes

Member LaPlume: Yes it does meet the criteria for 255-10.2.2(2)

Member Bevilacqua: Yes

Chairman: Yes it satisfies 255-10.2.2(2)

\*Granted 5-0

## **Jean B. Doresca for 5 John Street (Map 603, Block 465, Lot 12)**

Prior to filing for a Special Permit for Multifamily Dwelling with City Council, Applicant seeks following dimensional variances to create a new building lot for the construction of new three-family dwelling in a RU zone. Requested variances for new Lot 12A include lot area (5,993 sf where 11,700 sf is required), lot frontage (66.97 ft where 80 ft is required), lot



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depth (93.5 ft where 100 ft is required), and rear setback (21.6 ft where 30 ft is required). Proposed new Lot 12 shall include existing two-family dwelling. Requested variances for new Lot 12 include lot area (6,362 sf where 9,000 sf is required), lot depth (68.12 ft where 100 ft is required), and rear setback (10 ft where 30 ft is required). (BOA-21-32)

## DENIED 0-5

Attorney Caitlin Masys (462 Boston St, Topsfield): I am here today representing Mr. Jean Doresca, he is the current owner of the existing property, he is a 100% disabled veteran, who has moved to the City of Haverhill with his family, he has a wife and 2 children, and he currently resides at the 2-family home on the existing property. What Mr. Doresca is seeking to do is to divide the property into 2 separate lots and build a new 3-unit 3-story wood 3-family dwelling on that second lot. It requires setbacks for depth, area, side setbacks, rear setbacks, frontage, pretty much all of the setbacks and variances that you could need. He is aware that there is a lot more involved to this project than just coming before you tonight, for the variances. This would also be subject to Planning Board for frontage waivers, City Council for approval, so there are several hurdles to cross. This particular area of the city is extraordinary urban, there are within less than half a mile at least 3 4-8 unit apartment buildings. They are all on lots much smaller, than the one Mr. Doresca currently owns. If you drive through that area you'll see that the houses are usually multifamily if not 2-family, they are 3-family and as I said 4 to 8 units apartment buildings. They are all on very small lots. This is a bit of an unusual hardship coming before the board, because usually you are here saying that the lot is tiny, it's a triangle and all those sorts of things, but the hardship here is actually that the lot itself is too big of a lot in this area, it is a very urban area. Lots that formally were the size that Mr. Doresca owns now, have been continually subdivided and more properties have been put on them. The unfortunate thing for Mr. Doresca is that the prior owners of this land, did not take advantage of previous zoning bylaws that allowed for lessor requirements for frontage setbacks and that type of thing. It is an unusual situation, I think if you have driven by, I'm sure you know the area, it looks a little odd that there is this parcel, this piece of land that has nothing on it, surrounded by all these other lots and all these other houses. There does exist ample parking as you can see on the plan for the proposed units. I would also like to point out that Mr. Doresca does currently live at the existing 2-family, and he rents one unit. His intention is to, if he is granted the necessary variances here, gets approval from planning board, gets city council, the new construction that would go on the second lot, he would move his family into. He is not looking to sell this to a developer, he is not looking to have any type of immediate windfall, he intends to move into the property, and he would essentially be an on premises landlord for what would end up being 4 rental units for this area of the city.

Chairman: My first question that I would like you to address is that he is in essence creating the need for variances and part of the zoning says it can not be the action of the applicant, so how should we be looking at that?

Attorney Caitlin Masys: So in essence what has happened is over the course of time this area got developed, a lot of it happened prior to the zoning code even being adopted and then more of it happened when the zoning code was in its infancy there were a lot of things created. I'll admit it is circular logic, but he is creating the hardship, because of the hardship that was created by not building on this property, when building was happening all surrounding the lots.

Chairman: That's a hard one. The whole porpoise of the zoning creating, it is a hard one to get past to say that the prior owners didn't take advantage zoning so there for it would be a hardship for him not to be able to allow him to take advantage of something that should have been done 20-30 years ago, so it is just a hard one. Because it creates so many multiple, if it was just one variance or something or you know, it might be ok or make sense, but variances all over the place that is my quick comment on it. Any comments or questions from the board?



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Member Vathally: Alluding to what the chairman said, I had a problem from this right from the beginning, because of the area requested for both of these parcels and it is a self-imposed hardship. I just think you are asking for too much area. I drove up there and went all around it.

Member LaPlume: The way I read it also, it is creating the original lot where the original house is to become nonconforming lot.

Chairman: Creating a nonconformity is spelled out right in the zoning, the applicant can't create that. There are no other hardships like topography or soil or anything like that, that would suggest we got to lean in that direction, so I am still having a very hard time with it. Any other comments or questions from the board?

Attorney Caitlin Masys: My legal memo will stand on its own. I do believe that there are some folks here in opposition that might want to speak as well. I can understand that you know, there are specific requirements and I do see the board's position on those.

Member LaPlume: That house has always been a gem in that area, I have gone by that for 40 years and that is the one that stood out, it has always been maintained the best. I look at it again today and the windows are still excellent and maintained.

Chairman: Anyone here to speak in opposition?

Michael Schroth (20 York Street): I live around the corner. Living in that area for 14 years, I just kind of wanted to address that I could see a smaller building there, a single-family something like that. I'm in my exact area where I live, I always worry about there are single-families, 2-families and it is a pretty good mix, it is the winter. Here we have winter, and we can have a winter where there will be cars all over the street. You always have to think about parking. There has been a bunch of buildings that have been built across the street and across the intersection on Franklin out there, that are really nice, and they really add to the neighborhood. I think a 3-family here is just overpowering, overpowering in that lot. If they wanted to build something smaller and such, I would say yes, as it is a space that could be utilized that would have adequate parking and adequate space in the back yard, I think that would be fine. Thank you,

Chairman: Thank you very much, I appreciate it. Anyone else like to speak? Any other comments or questions from the board?

Member Brown: Just for the attorney, I was just thinking along the same lines, would your client be ok building something smaller?

Attorney Caitlin Masys: Ok so I would definitely have to go and talk to him about that. Whether or not he would, I am not sure, I think a lot of that would be depending on financials. I am sure he would entertain it but crunching numbers may or may not be a feasible thing. I mean yes if he wants to make use of the property, I understand the concerns of the board and the concerns of the neighborhood and I can certainly discuss that with him and maybe someday we could come before you again, looking for something a little more less.





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Chairman: OK, entertain a motion.

Member Vathally: I make a motion to approve the variances for 5 John Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: No it doesn't meet criteria for 255-10.2.2(2)

Member Brown: No it doesn't meet criteria for 255-10.2.2(2)

Member LaPlume: No it does not meet the general conditions of 255-10.2.2(2)

Member Bevilacqua: No

Chairman: No sighting 255, but also noting the application is creating a non-conformity which is not allowed.

\*Denied 0-5

## **Freddy Castaneda for 49 Rosedale Avenue (Map 637, Block 2, Lots 17-23, 25 & 26)**

Applicant seeks a special permit to construct an accessory apartment in basement in RM zone. (BOA-21-37)

**GRANTED 5-0**

Freddy Castaneda (49 Rosedale Avenue): I am seeking an approval for an accessory apartment in my basement, which I would say is already 90% complete. It already has trapped ceiling, it already has a sink, a bathroom. It is only lacking a shower and a complete kitchen.

Chairman: Does it meet all other stipulations that are required for an accessory apartment? Maintaining its single-family appearance, doesn't have a separate entrance on the front, shall not exceed 1200 sf or 30%, is completely within the existing footprint, and the single-family home must be owner occupied and the board of health must certify that any existing quatable water be sanitary is adequate. Has it meet all of those 6 criteria?

Freddy Castaneda: Yes

Chairman: Tom you can attest to that?

Tom Bridgewater: Yes

Chairman: Any comments or questions from the board?

Tom Bridgewater: This is kind of getting lost when we do these accessory apartments. If you get approved, after the appeal period is over gone by, you need to file for developmental review, up in engineering.

Chairman: Entertain a motion

Member Vathally: I make a motion to approve the special permit for 49 Rosedale Avenue...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes it satisfies criteria for 255-8.1



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Member Brown: Yes it meets criteria for 255

Member LaPlume: Yes it does meet the criteria for accessory apartment 255-8.1 AND 255-10.4.2

Member Bevilacqua: Yes meets the criteria for 255

Chairman: Yes it meets the criteria for 255—8.1 and it is as attested by the building inspector and applicant, it meets the 6 points that are required for a accessory apartment, they have been met.

\*Granted 5-0

## **MED Properties, LLC for 0 Curtis Street (MBL 512-297-2 & 512-298-1)**

Applicant seeks a dimensional variance for lot frontage of 47.8 ft where is 80 ft is required to construct a duplex in a RU zone. (BOA-21-40)

**GRANTED 5-0**

Attorney Paul Magliocchetti (70 Bailys Blvd): I am here on behalf of my client MED Properties, LLC, who wishes to build a duplex home on lots 1 & 2 Curtis Street. Just to give you a little bit of history on these, these were two lots that were purchased several years ago and combined they meet all the requirements in zoning in the City of Haverhill, however due to the topography of the land and the steepness of the slope, you can't build out the road to meet the 80 foot frontage requirement. He has 47 feet of frontage built out. So, if there is ever a case that meets all of the requirements for a variance, I think this is exactly why this board was designed and exactly why we should be getting it. With that being said, we meet all of the other requirements for a variance. I will keep my presentation brief and leave it at that, but I will answer any questions that the board might have, and the applicant is here as well.

Chairman Thank you very much. Any comments or questions from the board? Ok, I will entertain a motion

Board Secretary: Wait is she here with you?

Applicant: She is a neighbor

Board Secretary: Is she here is support or opposition

Applicant: She didn't know what she got the letter for.

Board Secretary: Do you have any questions for us?

Woman Neighbor: I just wanted to hear, as I am the only house on Curtis Street, so I am just curious because they started working and all of a sudden everything stopped and then I got a letter about the space and the wall, so I came here to hear what is going to happen in the future.

Chairman: Maybe you could explain it is a little more detail.

Attorney Paul Magliocchetti (70 Bailys Blvd): So to answer her question, so someone is building a duplex home across the street from them. He built the road, and a developer is building a new duplex home on the street. Has that been started





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yet? Ok so there is going to be a duplex on one side and this is to build a duplex on the other side, behind you, so behind you there is going to be a 2-family house, a brand new 2-family house, it will be 2 condominiums.

Woman neighbor: Ok

Attorney Paul Magliocchetti: And that is it. Are you ok with that?

Woman neighbor: I thought it was next to us, so I didn't know how

Attorney Paul Magliocchetti: He meets all of the setback requirements

Woman neighbor: ok, that is fine. Thank you

Chairman: Great thank you. Any other comments or questions from the board? Ok, I will entertain a motion

Member Vathally: I make a motion to approve the variance for 0 Curtis Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: Yes meets criteria 255-10.2.2(2)

Member Brown: Yes meets criteria for 255-10.2.2(2)

Member LaPlume: Yes it does meet the general criteria for 255-10.2.2(2)

Member Bevilacqua: Yes 255-10.2.2(2)

Chairman: Yes it satisfies 255-10.2.2(2) and also noted that the topography and soil conditions are such that would allow the variance to go through. Thank you.

\*Granted 5-0

## **MNS Properties LLC for 9 Blaisdell Street (Map 514, Block 291, Lot 3)**

Applicant seeks following dimensional variances to create a new building lot for the construction of new two-family dwelling in a RH zone. Requested variances for new Lot 3B include lot area (4,103 sf where 9,600 sf is required), lot frontage (48.98 ft / 44.50 ft where 80 ft is required), lot depth (92.21 ft where 100 ft is required), front yard setback (10 ft where 20 ft is required), rear setback (22.77 ft where 30 ft is required), lot width (47.05 ft where 60 ft is required) and building coverage (29.4 percent where 25 percent is max). Proposed new Lot 3-A shall include existing three-family dwelling. Requested variances for new Lot 3-A include lot area (5,812 sf where 11,700 sf is required), lot frontage (52.55 ft / 55.50 ft where 80 ft is required), and lot width (52.40 ft where 60 ft is required). BOA-21-38)

**DENIED 0-5**

Attorney Paul Magliocchetti (70 Bailys Blvd): For this presentation I am here for MNS Properties, LLC and the principle is here this evening beside me. He currently owns a property on Blaisdell Street and he is looking to subdivide it to add a 2 - family home to the property, now when you look at the presentation on it's face and you look at the number of variances we are seeking and it looks honorees but there are certain circumstances where you got to look at the property and where it is located, and whether or not the proposal fits in the neighborhood and I think this is one of those cases, and most notably is there is frontage on 2 different streets here, because of where this is located. So, there is a lot of access to this property, so even though it appears to be tight, there is a lot of access coming and going into the property. And by the way



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he meets the parking requirements, although it is tight, he does meet it. The variance that we are requesting I am not going to read it, it was in my brief and also in the application. As I said there are a lot of dimensional deficiencies here, but again when you look at for instance the setback 8.9 feet and 9 feet where 10 feet are required, that is really an adnominal number a humidness number. Building coverage of 29.5 % where 25% are required. So even though there is a long list of deficiencies it is not great as far as what is required and what he has, so he is right there, he is right there in the sweet spot and that is why I believe this is a really good fit for that neighborhood. I don't believe that a grant of a variance is in this case would nullify substantially delegate from the intent or the purpose of the zoning ordinance. I think that this again is one of those cases where it fits, and it just fits. People come here for variances like this, and I know you get asked for variances like this a lot, almost every month when I'm here I see someone who is trying to cram something in where it shouldn't be, but like I said this is a unique case because of the location, because of the 2 streets, because he meets the parking requirements. You know he is looking to build a 2-family home in a neighborhood that can probably use it considering the housing crunch that is going on right now. So, I am going to leave it at that. He is here to answer any questions, if you want to meet the developer/owner to see what he is all about. I will answer any questions the board might have.

Chairman: I will start off with he same one I asked before to John Street. First of all, the lot size is basically cut in half, the other variances you are right, they are minor variances, but creating 2 lots that are basically half the size as required 4103 is compared to 9600 and 5812 is compared to 11700 so that is one point for lot sizes. The second point which we mentioned before is it seems to be self-imposed creating the nonconformity, by cutting the lots in half. Can you address those issues for me.

Attorney Paul Magliocchetti: Sure. As far as being self-imposed, yes he is creating a reduction in lot size, but again if you look at the self-imposed criteria, you have to put it in context to what is around him. If you look at that neighborhood and you look at other houses that are adjoining him, all around him, not just Blaisdell, but even behind him, these are tight lots all the way around there, this is a dense neighborhood, it has been a dense neighborhood, I grew up by Tilden School. A lot of my friends lived down here on Blaisdell Street, so it has always been a tight nit close tight neighborhood. And in that regard it is self-imposed in sense of lot size, nothing else he can do about that. There is nothing, and when people come before you for variances looking for reductions in lot size, it is always self-imposed, but again you got to look at the context, you got to look more or less at what is going on around them, this fits. What he is asking for is nothing that anyone around him doesn't already have or is not close to anything around him. So that would be my response to that.

Chairman: Most of the stuff around him, was probably pre-zoning

Attorney Paul Magliocchetti: A lot of them date back yes, prior to 1976.

Chairman: Questions or comments from the board? Did the developer or owner want to speak?

Anto Sianturi (45 Howard Street Stonham, MA): We purchased a property at 9 Blaisdell Street back last year in April and we have done substantial work to both properties, basically re-due the whole house and make it more suitable for the neighborhood because it was abandoned for awhile and when I come to see the lot, I noticed that there is a possibility that we can potentially add more value to the property, having the frontage makes it a better view, and I noticed the lot also has so much space that sometimes people throw their trash in the overgrown grass, so I feel like it's an opportunity for us



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to create more housing in the neighborhood. When I talked to the engineer to address what the potential problems would be, he said parking issues, so he created a plan that will accommodate more parking for the existing house and obviously additional parking for the proposed 2-family. So, I hope I can do something with the property, and I am here for the variance, thank you.

Chairman: Thank you very much. So, there will be a 3-family on the existing lot 3A and the proposed lot 2 is going to be a 2-family.

Attorney Paul Magliocchetti: Yes 5 total. So, Mr. Chairman, I think he made a really good point. He did do a lot of work to this property, I am sure a lot of you drove by it and saw, it looks nice, so he made a big investment there and I think he showed the quality of his work, and this will improve the neighborhood. I hope you all consider that this evening.

Chairman: Any other comments or questions from the board? Anyone else like to speak?

Cheryl Fairbanks (4 Blaisdell): I have to agree he has done a wonderful job on the existing house, I toured it several times, it is a beautiful house inside. My concern is the parking. I didn't know he was planning parking, but I know right now with the 3 apartments that are there and are occupied, there is at least 4 cars from that house that park in front of 9 Blaisdell and that is my concern the parking issue. Because it is a tight neighborhood, cars park really tight together, especially in the winter and I have a hard time getting in and out of my driveway, I am lucky to have a driveway, some of us have driveways but there are several 2 and 3 apartments in that section of Blaisdell and maybe one of the tenants gets the driveway and everybody else is on the street and then there is company. That was my concern, but he did explain to me that parking would be provided, and that would eliminate the parking in front of the house, which would make it easier for me to get out, but also provide parking for the people who have moved in, in the last couple of years and that was my concern.

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

Member Brown: Attorney I totally understand after driving up in that area a few times that housing is needed, but the area is just so much smaller, and I am just having the hardest time with that portion of it, because I know housing is needed, so it is kind of like a tug

Attorney Paul Magliocchetti: I appreciate that. I want you to know I don't take every case that comes to my office and this one I am going to admit was questionable. But I sat down, and I met with him, we talked on the phone, we went through the plans, he actually changed the plan after talking to me. I am always looking out for the city as best I can. And again, the neighbor came out and she talked about the issue with parking, and you heard her say that some of the houses don't have any because it is so tight. When you are talking about housing, you got to look at the neighborhood and where it fits. This would not fit on Broadway or North Broadway or some of the other streets, where you have a little more space I could make that argument because it just would look out of place. In this particular neighborhood it fits. I am getting kind of off base with this, but I really think that the City of Haverhill is, I don't know how impactful parking will be in the future with the commuter rail and all of the development that is happening downtown and business activity. We all remember, and Ms. Bevilacqua I grew up, up the street from you, My Grandfather used to trim your grapevines, but you know we used to walk downtown, if we wanted clothes we went to Barrett's, it was a walking community up from this community to whatever you



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needed, and I think some of that might be coming back. We have Uber, we have these other things. Parking is always an issue; we are not saying there isn't going to be any cars there as there are. But I don't know how impactful it is going to be moving forward, but to answer your question, I would agree if this wasn't in this neighborhood. But I think when you balance the need for housing and you look what is around, you need to put this kind of housing, there is no land left, there is no land left in the city so when you are looking at addressing the housing shortages. These are the kinds of tough decision we have to make, its though I understand it is. Like I said, she told you he does a great job.

Member Brown: I saw that, that's why I wanted to go back by again. I always want to make a fare and informed decision as possible

Attorney Paul Magliocchetti: He is going to improve that neighborhood, this is going to be a nice house and it will improve the neighborhood.

Member LaPlume: Attorney I believe you sat through the John Street application, and this is almost identical. That house was beautiful, its nice and has great windows, and they were going to make it nonconforming by adding that lot, and it had parking, same as this and it was rejected. This is coming up right after it and it is almost identical.

Attorney Paul Magliocchetti: Except fort he neighborhood. John Street is tight, don't get me wrong, but it is not like this neighborhood. This is distinguishable to that, and I know that because I was listening, and I know John Street, I did some work up there for some clients. It is not the same neighborhood as Blaisdell, not the same environment. This has the second street, it has frontage on 2 streets, you got to remember this and the very important distinguish is access, because now you are talking about safety and the fire department and all the other stuff. So, this is distinguishable from John Street. Even though there are similarities, I think when you look at the neighborhood, the overall plan, the amount of parking, he is even going to improve the parking for the existing house. Remember now, this isn't just providing parking for the new house, this is improving the parking situation for the existing house, so again it is distinguishable from John Street in all these regards, these are very important factors, this is a very important decision.

Member LaPlume: The only thing I can say to that is the Board of Appeals is authorized to grant variances, only if the general conditions of 255-10.2.2(2) are found to be fulfilled, this doesn't look like it is fulfilling that criteria.

Attorney Paul Magliocchetti: I guess my only reply to that is there are very, very few circumstances were all that criteria is met. Like I said the one on Curtis Street happened to be one of those rare circumstances where it does meet it. It is a balancing test, its always a balancing test, again that is why this is a tough decision. But I believe you do have the leeway and the scope to vote in favor of this and it can be justified.

Chairman: Thank you. Any other comments or questions from the board. I will entertain a motion.

Member Vathally: I make a motion to approve the variance for 9 Blaisdell Street...2<sup>nd</sup> by Member LaPlume

Member Vathally: No it does not meet meets criteria 255-10.2.2(2)

Member Brown: No it doesn't meet the criteria for 255-10.2.2(2)

Member LaPlume: No it doesn't meet the general conditions for 255-10.2.2(2)



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Member Bevilacqua: No it doesn't meet 255-10.2.2(2). I wish you could have done something there; you are right across from one of the nicest playgrounds in Haverhill and that offsets that it is so tight I think.

Chairman: No it does not satisfy 255-10.2.2(2) sighting the criteria that it is the nonconformity that is being created by the applicant.

\*DENIED 0-5

## **Robert Ferreira for 0 Scotland Hill (Map 589, Block 420, Lot 3)**

Applicant seeks a dimensional variance for 0 ft lot frontage where is 200 ft is required to construct a single-family dwelling in a RR zone. BOA-21-39)

**CONTINUED TO NOVEMBER 5-0**

Attorney Paul Magliocchetti (70 Bailys Blvd): I am here this evening on behalf of Robert Ferreira, he has owned this parcel of land off of Scotland Hill Road for some time, he just went through a breakup in his relationship and sold his house. He needs a house to live in, so he wants to build on this property that he has owned for some time and we believe he has a right to do so. The only access that he has for this property is through a right of way that cuts off through Snow Road. When we approached the building inspector to discuss this, it was his determination that there was zero frontage for this lot, we had to address the frontage issue. In order to address the frontage issue, we devised a plan that we would build out the road through the existing right of way and extend it around 67 feet or so beyond the right of way and that would be the frontage. Now frontage in this area is required 200 feet, so that is why we are here before you tonight, we are appealing the building inspectors decision that there was zero frontage, and we are requesting relief for I believe it is 75 and a half feet as opposed to 200 feet. And similar to Curtis Street that you just heard, it is not practical and due to the topography and the site itself, it is just impractical to try and build a 200 foot road on this site. To be clear the only relief we are asking for here this evening is on the frontage because he meets all the other criteria, he meets all the other dimensional requirements. A definitive plan has to be done for this road, which cuts through Snow Road to this property, we understand that we have to go through that process, and should approval be granted for the variance this evening, we have no problem stipulating on the variance on the condition that we meet the requirements for a road and go through the definitive planning process for the road, the two things are interchangeable, they go hand and hand. Again, in speaking with the building inspector, we didn't know where to go first, but I believed it made more sense to come here first, because you can't do a definitive plan for a road unless you know how long the road is going to be and where it is going to take you. If we don't get the relief than we'd have to go to them with a 200 foot road, which would be very, very difficult to design on this parcel and I am going to have the engineer speak to you about that. Again, that is why we are here before you. So, we believe we meet all of the criteria for a variance, again all we are seeking is relief on the frontage, going from the 200 feet that is required to the 67 plus feet that we have on the plan and then we would follow this decision up with a definitive plan for the road. That is where we would have to address the issues that were pertained to the road right of way. I am going to invite the engineer right now to come up here and talk about the plan that they designed.

Mirra Cozzens (Civil Design Consultants, 344 N Main St, Andover, MA): This site is located in a RR zone, the lot area is approx. 14.5 acres. The applicant is proposing a 14 foot wide 900 foot long driveway, the grade of the driveway will be less than 7% to meet fire department regulations. As far as utilities go proposed water and sewer lines will be connected to the existing water and sewer that is located approx. 8 feet into that right of way. So, we are here seeking a variance for that zero foot frontage, there is an existing 214 foot long by 50 foot wide right of way that extends from Snow Road to our





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clients parcel, that was approved by the city and put in place specifically so that Mr. Ferreira can have access, it was also a condition of the Snow Road subdivision approval. As Paul mentioned, the applicant proposes to extend the existing right of way by approx. 67 feet into the lot and if you add up the total it equals 201.37 feet of frontage.

Attorney Paul Magliocchetti: I am going to have Mr. Ferreira come up and talk to you a little bit, so that you know a little about him and what he is trying to do here.

Robert Ferreira (Currently reside at 32 Little Field Ct in Haverhill): Good evening. This property my brother and I purchased in 1988, I was just out of college and at the time there was no development up there. We planned on some day building a house for each other and living in a beautiful area. My brother passed away 2 years ago, and I really didn't know where I was going with our lifelong dream plan that we wanted, and my sister-in-law was an agreement to sell the property to me at a fairly reasonable price that I could afford. I would like to live out my dream of building a house out there. I used to reside at 34 Rolling Meadow Lane, I had to sell my house July 14<sup>th</sup> and I was currently homeless as I told my attorney for 6 weeks, because I could not get a lease. There was no housing that I could afford and lucky I got something in West Meadow which really happens, I have a 12 month lease there. And I have the dreams of being able to build a house on a piece of property that I have owned for 33 years, and I would like to be able to get some type of relief to do that. That is my story.

Chairman: Thank you. Can you clarify something for me, on this plan that we have here in front of us, is the proposed building on there?

Attorney Paul Magliocchetti: Yes (points it out) and this is the driveway and that is the proposed road and the frontage right there.

Chairman: The building is going to be that far into the property, with a 200 foot driveway and then the extension of the right of way there. How about the right of way, give some clarity about that, can you talk a little more about that. Are the neighbors on either side of the right of way, aware of the right of way?

Attorney Paul Magliocchetti: Yes they are. Snow Road and that subdivision was passed some years ago I believe it was 2014 or 15. At the time that they proposed the Snow Road subdivision, part of the subdivision control law in Haverhill, was that you can not leave a parcel landlocked. So, if the city engineer determines that the parcel is landlocked, in order to get your subdivision plan approved you have to allow for access and in order to allow that access this right of way is part of that subdivision plan that was proposed to the City of Haverhill. I actually have a similar situation up off of Broadway, I believe its Del Ray Drive or Del Haven, its Mr. Palmisano's development, he did the same exact thing to allow access to another property that is adjacent the Old Dudley Farm. So, this is very consistent, and it is something the city of Haverhill has been doing for some years now. So that right of way was part of the subdivision plan that was approved by both the Planning Board and the City Council, and it was specifically referenced in the minutes and the details in the votes of both the Planning Board and the City Council. Now how did this start, that's the overview so when the special permit was applied for the Snow Road subdivision and the plans were submitted, the department heads all give their comments. John Pettis in his opinion gave a comment that there had to be access to that back parcel because he determined it to be landlocked and that's what the ordinance says, if the city engineer says it can't be landlocked, you have to give access. So, when they went before the Planning Board, the engineer that was involved and the attorney represented to the





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Planning Board, that they would put a right of way that was for the benefit of the owner of the parcel in back Mr. Ferreira, so that he could access the property incase he ever wanted to develop it in the future. I want to quote now 'Attorney Migliori' ok, what he stated to the council when this was approved, this is the developers attorney back in 2004 at the special permit hearing. Attorney Migliori confirmed because Collin LePage who was voting on this brought up the issue of the right of way, he wanted to make sure that he was going to have access to his property, so he questioned the developer. Attorney Migliori confirmed, and this is quote 'If any adjacent property wanted to do something on their property, that is supposedly landlocked (which is Mr. Ferreira's property) "Then there would be right of way, assuming they get all of the other approvals they need, that is a right of way, so they have access"...His attorney representing that said that and that was part of the decision. Now that being said, the right of way is there and it is for his benefit and if he is going to develop it, their own words, its his to use. That bring us to where we are today, that using the right of way so he can access his property, which is what was intended by the City of Haverhill and was part of the decision for the special permit to that development. The deeds that were recorded for this specific right of way lies between lots 3 & 4. The deeds to lots 3 & 4 specifically reference the definitive subdivision plan and it specifically references the easement plan for the drainage was also for lot 3, includes, it say right on it. I do have packets for the board containing these documents, would you like them? (Handed them out). So, in that packet I gave you, right on top is the deed for lot 3 and you can see it doesn't even give you as you see in some other deeds, they'll give you meets and bounds, you know Northerly 100 feet by land of so and so Southerly, this doesn't do that, all it does is reference the plan and the plan that is referenced, the applicable plans that are part of what is referenced here, are attached to the back of your packet. If you look to the back of your packet there are 4 plans that were included as part of the subdivision proposal for this parcel and in everyone of those plans, except for the first one which shows where this parcel is in general, but they all show that quote on quote right of way, it is always laid out it is always identified, there is no question that there is a right of way there, it is recorded at the registry of deeds, it is incorporated in the deeds of lots 3 & 4 that are recorded at the registry of deeds. Further in the packet, I also included the deed for lot 4 so there would be no question. It is only 7 or so pages in but it is for Chaylen Patel and he has the same references to the plan that I talked about. I also have the minutes to the Planning Board, so it is very clear, and the City Council as well. Again, Attorney Migliori made no mistake about it, if Mr. Ferraria wanted to build no problem, no problem he has the access. All of these documents are recorded at the registry of deeds.

Chairman: So going back to the actual frontage that you are creating, you are creating it right off of the right of way?

Attorney Paul Magliocchetti: Correct, but to be clear the issue with the right of way I believe is more suited for the definitive plan for the road, because that's really where that is going to fit. We can't do that until we know how much of an extension we need to build going on to his lot and that is really why we are here today. We need to know if you will allow him to have the 67 foot, I call it a tail because it is at the very end, because it is almost impossible. It is just not practical from a cost perspective of 200 feet in, because if we did the subdivision plan first, we would have to do a plan for 200 feet, which it just doesn't make sense in this case for one house and that is why we are asking for the relief that we are asking for tonight. I know there has been a lot of confusion about why we are here and what we are asking for, I hope that adds some clarity.

Chairman: Let me just read something, we did get an email from John Pettis to the building commissioner, and he did say that he took a quick look at the plan and he believes for this project to have frontage on a right of way, that first the definitive plan would have to be approved by the planning board indicating it. And a Board of Appeals filing does not



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appear to be appropriate until that step has been completed, so his opinion the definitive plan should be coming first and then come back to us for the variance.

Attorney Paul Magliocchetti: Again, I wish I had the opportunity to talk to him, I think he would have seen my point, because as I said, to do a definitive plan without the relief we are seeking we have to do the 200 feet, because that is what is required by zoning and now we have to come before you for relief to get it reduced, so we are going back and forth 3 times as opposed to doing it twice. This would only be conditioned upon the definitive plan, so I don't know if you considered that.

Chairman: What if it were done the other way around, if you submitted the definitive plan but in the definitive plan you say the Board of Appeals will be asked to have a 70 foot

Attorney Paul Magliocchetti: Then he is going to say come to the board and then come back. This is what comes first.

Chairman: I don't know if that is what he would say Building Commissioner has anyone done that with a definitive plan?

Building Commissioner Bridgewater: I don't know. But all this stuff here in this packet we never seen it and I think developmental review hasn't seen any of this. In the meeting that we had you said you were going to show that you had the rights, but we never saw to review, we need to review it especially Mr. Pettis and see what he has to say

Attorney Paul Magliocchetti: That would be more of a legal opinion and not an engineers.

Building Commissioner Bridgewater: That is a whole other thing.

Chairman: I am just reluctant to as Mr. Pettis giving us guidance that we asked for, to then ignore it. I am having am hard time, a little problem with that. I understand your concern that if we did it the other way around, you would then have to come back to us. Could they approve the definitive plan with the stipulation that you have to go before the Board od Appeals as opposed to the other way around.

Attorney Paul Magliocchetti: Then he is going through the whole process. Like I said this is one house, these plans are not cheap, they are very expensive. He is already building a lot of road and it is very expensive. If I am ponding the expense because he has to do the definitive plan and then he is going to have to revise it, depending on what the vote here is. Your vote is what controls and determines everything that happens and that if why I believe it belongs here first and I'm most positive I could convince Mr. Pettis, I don't think he cares as, as long as we do one and then the other.

Chairman: I think he does care. We did ask him, and we did get the comment he sent that the definitive plan should come first.

Attorney Paul Magliocchetti: You could make a decision contingent upon that approval. So if they say at the definitive plan stage that they don't like this, we want it to continue or something like that, than this would go away.

Chairman: Any comments from the board? Are there other people in the audience that need to address something?



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Michael Crow: I am a trustee of Scotland Hill Realty Trust, and I also got my partner George Surest who is also a trustee of Scotland Hill Realty Trust who is the owner of this property and subdivision.

Chairman: Which property?

Michael Crow: The property the 50 foot right of way land, that's being discussed, and we developed the entire hill, that was out subdivision. I didn't know if you were going to ask us, I am used to Planning board asking if I am in favor of a project and then you ask if you/re opposed.

Chairman: That is what I was doing

Michael Crow: I didn't want to jump in if there is other people.

Chairman: It is a right of way, which means it can be used. But you are saying that you own that right of way?

Michael Crow: I get a tax bill, every 3 months, like everybody else. It is listed by the cities tax records as parcel B, there is no question about its location or what it is. And I am not even here to dispute if it doesn't have an abilities to be used as a right of way, but it is a parcel that we own. When the subdivision was created it was a special permit for a cluster sized development of 10 lots and we donated 14 acres to green belt, there is some trail access around it. But before I get into all of that, there is kind of a lot of history here that was ignored Mr. Ferreira bought a house from us 25 years ago in one of our early stages houses and he lived there. We knew all a long that he had this parcel in back, as we did a second extension and then a third and we bought land from the winery people down below and we built this subdivision that is in question. We have discussed several times about us buying his land, so there is a whole bunch of questions here. He has proposed and offered for sale, this property to developers for ongoing 5 to 10 years now. He has had signs on West Lowell Avenue which there is access to Scotland Hill Road which is shown on this plan that his property fronts. He has had advertisements for

Chairman: Can I interrupt you. I am not sure that is germane to what we are talking about tonight.

Michael Crow: Well, I believe if one is talking about, I mean I read the letters from the attorney, and they are talking about rights and variance and hardships. It is really hard for me to understand there is any kind of hardship, because we offered him a significant amount of money prior to us creating this 10 lot cluster to buy his property, which he refused.

Chairman: I appreciate that, I guess I am trying to deal with the right of way and the building of a frontage right of the right of way and would that then qualify for a variance that he is seeking tonight for roughly 70 feet.

Michael Crow: I am a little confused, only because on one end they are calling it a driveway and the plans look like to me that they are calling it a driveway, but he refers to it as a roadway. A road to the City of Haverhill is created by going to the Planning Board, not creating a variance to get a driveway, because to me I don't know how you can get a variance for zero frontage, there is no frontage on a road.



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Chairman: That is the whole question.

Michael Crow: I understand, he has no frontage on a road, he doesn't have any. You know we have a parcel, whether it is a right of way or not, that right of way was created by the Planning Board to allow access, and that access means he needs to apply to the Planning Board to use that right of way, based on a subdivision plan, you need 50 feet to put a subdivision road in. So there's to me no question that the process is with the Planning Board and the length of that road, road not driveway, which is what these plans show not a driveway is subject the financial aspects of it and I don't think that it matters, there is 14 acres of land out there. We built 10 houses previously on 18 acres where this land came from. There is an opportunity to develop it as he has acknowledged by offering it for sale for a half of a million dollars to people. And he has paraded developers up there for the last year, he has had multiple meetings with the city's Planning Board, the engineering department, the building inspectors office, over the last few years, discussing a subdivision.

Chairman: Ok, again I want to stay away from that at this point. I appreciate the background. We are just trying to get clear on whether or not there is any change for frontage being put in there, therefore allowing to qualify for a variance, and of course even the variance is pretty steep. Anything else you want to add? I appreciate your comments by the way, I am not trying to cut you off. I want to make sure we are focusing on what the decision is for in front of us tonight.

Michael Crow: Well, isn't it for a decision on his request for a variance?

Chairman: No, no not yet.

Michael Crow: So, you are not entertaining that discussion?

Chairman: Not yet. I am still trying to figure out some of the issues here and I would like to get more info.

Michael Crow: So, to leave things alone, I don't deny he said, based on our hearings with the City Council, Planning board or anything my Attorney Michael Migliori said. We put in the plans because we were required to by the city, a 50 foot parcel, whether it is a right of way or parcel whatever it is labeled. But to me the Planning board controls what happens there. He has subsequently cut trees down on my land, this quote right of way, he has removed a 50 foot stone wall boundary line, which I believe is illegal, which he had no right to do, so he could bring machines in there. We have let this slide up until this point, but I know that certain city departments were pretty unhappy that he removed a stone wall along our property line, which I don't believe he has a right to do without a subdivision plan.

Chairman: Great, ok thank you very much. Other members of the audience that want to speak either in opposition or in support of this?

Jim Parker (880 West Lowell Avenue): I am an abutter to the property in question. I am just here with wholehearted support for MR. Ferreira and his partition to grant him the right to build his home on his 15 acre parcel that he has been waiting 33 years to do. It appears to be all black & white to me. Thank you.

Chairman: Thank you very much. Anyone else that wants to comment?



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Paul Brennan (2 Bly Road): I have lived there for the last 22 years, and I want to again go on record that again, this has been his dream for years. It is unfortunate that the big guys keep trying to get bigger are trying to steel his land to develop it themselves. He just wants the same opportunity as a small guy, to do that for himself, he has had a bad couple of years on the personal side of things. He deserves this opportunity.

Chairman: Thank you. Any other comments or questions? Attorney Magliocchetti if you could address the issue the Mr. Crow said about just building a road?

Attorney Paul Magliocchetti: That is the next step. It is labeled on there, like I said this is a plan just for this. The driveway if you look at the plan, from the house to that rectangular strip, that starts at the end of the right of way that comes up, that is the driveway.

Chairman: I am asking about a road?

Attorney Paul Magliocchetti: We intend if y\we get what we are seeking tonight, so that we know how long, we intend to do a definitive plan for the road from here (pointing to plan), all the way to here. Now we may ask for some waivers, we do not know what that is going to intel, but it is just one house. But this will be a road that the City of Haverhill approves. From here all the way to here.

Chairman: And how far is that?

Mirra Cozzens (Civil Design Consultants, 344 N Main St, Andover, MA): About 265

Chairman: Other questions or comments from the Board Members?

Member Bevilacqua: Could you just explain, as it does say post office box in Methuen, but he lives in Haverhill now on West Meadow Hill

Attorney Paul Magliocchetti: At the time when we filed the application, he just had a post office box in Methuen. But he is living now in Haverhill West Meadow, he is a Haverhill guy. I just want to say for the record that I appreciate Mr. Crows candor, I think we are on the same page with regards to doing the definitive plan, no one is disagreeing to that. It is just a mater of what we do first and I believe we need this decision first, and nothing happens if we can't build this road, nothing happens, nothing. All we are asking for tonight it instead of 200 feet into his property, 67 feet, that's it, that is all we are here for.

Member LaPlume: Attorney Magliocchetti could you help me out with this, I have had a few right of ways in a number of lots and I owned the lots on both sides of both of the right of ways and sold them to other lots, so Mr. Crow and this is what I don't understand is he supposedly pays taxes on it the right of way, but does somebody have to buy this right of way before they use it?

Attorney Paul Magliocchetti: No, because again if you look at the minutes, this is continually looked at, at the time was an easement, it was continually referred to as a easement, when you do a right of way the actual owner, like you said if you





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own the lots on both sides when you create a right of way, you own the right of way until it is developed, so once the road is developed on this, he is not going to get the tax bill on it anymore as it is just going to be a road and then that becomes if the city accepts the road, then it becomes the cities property and comes off his tax bill. We are not there yet, until the road gets built out, we are not there yet, that is why he is paying taxes on it. There are rights of way all over the place and they are specifically intended to benefit someone and in this case it was intended to benefit Mr. Ferreira, but that is the answer to your question. As soon as the plan gets approved and the road gets built, he will stop getting the tax bill on it.

Member LaPlume: Thank you

Chairman: Other comments or questions?

George Surest (Co-owner of this right of way): I just hear a gentleman indicate that the tax bill will not stop, even if it was made into a road unless it is purchased. Can anybody here address that?

Chairman: I am not a tax person; I cannot address it no.

George Surest (Co-owner of this right of way): Can I know the answer before a decision is made?

Chairman: You won't get it tonight; I am not a tax person.

George Surest: Will we get an answer if whither or not a tax bill will continue coming to us?

Chairman: Again, I am not a tax person, so I don't want to presume or to make any comment on it.

George Surest: Ok that's why I am asking, can you wait until that decision is made?

Chairman: I can't comment on that. I am not a tax person. Attorney I may have this wrong but if Mr. Pettis email to us and the hearing of this tonight, if feels as though it really should go back to the Planning Board and to create that other plan, I know you really wanted too, I know they say if could go either way. If we vote on this tonight though and don't approve it.

Attorney Paul Magliocchetti: Well unless we come with a revised plan a substantial change and come back before you to extend it a certain amount, I don't know what amount is a substantial difference.

Chairman: I am not commenting for the whole board by the way. I am just commenting about my own reading of this so far

Attorney Paul Magliocchetti: I will need a minute to talk to my client about what he wants to do. But we are really willing to link this to the definitive plan, I don't know how much more I can tell you

Chairman: Sure and I think I understand that, but I am reluctant when I another official from the city gives us guidance that says the definitive plan should come first, I am reluctant to ignore that guidance, that is why we asked for it.





# Haverhill

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Attorney Paul Magliocchetti: I would strongly recommend my client continue but can the chairman call or text Mr. Pettis right now to see if we are allowed to do a definitive plan without going to 200 feet. Because that is really the issue here, so he is saying to do a definitive plan, but he doesn't make it clear

Chairman: We did get a text from him at almost 7:00, basically 2 hours ago so I am not sure I want to

Attorney Paul Magliocchetti: Can I just reach out to a recess so I can talk to my client

Chairman: Sure

(Brief brake)

Attorney Paul Magliocchetti: I really wish you would allow this variance and let us go forward but I am getting the sense that that is not going to happen, so based on that what I would like to do is continue this for 30 days, that will give us the opportunity to talk to the city engineer and the plan review team to discuss how we can do a definitive plan and by next month we will have a definite decision as to what comes first the chicken or the egg.

Chairman: And you could have conversations with the 2 gentleman Mr. Crow and Mr. Surest about the status of the right of way and whether it should be purchased and all of those sort of things and there is even some question about the 200 foot driveway, that is further down the line but that is an issue too in terms of turnarounds and all that sort of stuff for the fire department. So I think there is a lot of unanswered questions, that I think if we took a vote tonight I think it would be jeopardizing what I think to be a very well worth it project and I imagine it is something good for the applicant.

Attorney Paul Magliocchetti: We will try to get it right. "To Mr. Crow" are you still represented by Attorney Migliori?"

Mr. Crow: In this matter we are not represented

Attorney Paul Magliocchetti: You are not?

Mr. Crow: If you want discussions come to me.

Attorney Paul Magliocchetti: Ok, that is why I was asking.

Mr. Crow: If I need to see Mr. Migliori I will

Attorney Paul Magliocchetti: Ok. I will give you my card and you can give me a call and we can discuss it.

Chairman: You are requesting a continuance for 30 days and waiving the time period. November 17<sup>th</sup> Board of Appeals meeting waiving the time period, thank you. Motion to accept the continuance.

Member Vathally: I make a motion to approve the continuance for 0 Scotland Hill to the November Board of Appeals meeting waiving any time limit....2<sup>nd</sup> by Member LaPlume



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Member Vathally: Yes  
Member Brown: Yes  
Member LaPlume: Yes  
Member Bevilacqua: Yes  
Chairman: Yes  
\*Granted continuance 5-0

**Minutes:** Motion made by Member Vathally; I accept the meeting minutes from September 15, 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