

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 8, 2015

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Timothy Hughes, Acting Chair
Douglas Myers, Associate Member
George S. Best, Associate Member
Jim Monteverde, Associate Member
Laura Wernick, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:30 p.m.)

(Sitting Members Case BZA-007909-2015: Timothy Hughes, George S. Best, Douglas Myers, Jim Monteverde, Laura Wernick.)

TIMOTHY HUGHES: The Acting Chair will call the meeting of the Board of Zoning Appeals to order.

First order of business we're going to call case 007909. It's 119 Pleasant Street. There's a letter in the file requesting a continuance.

So the Chair would move that we continue this case.

What's our next available date as a case not heard?

SEAN O'GRADY: 11/19.

TIMOTHY HUGHES: We'll continue it to 11/19.

There is a letter. And the waiver's already been signed and it's in the file.

All those in favor of continuing this case to November 19th at seven p.m.

On the condition that they change their sign posting to reflect the new time and date. You'll have to get in touch with them, Sean.

DOUGLAS MYERS: And this is a case not heard.

TIMOTHY HUGHES: This is a case not heard.

SEAN O'GRADY: And the Monday before the Friday for submission.

TIMOTHY HUGHES: And if there are new plans, they must be in the file by five p.m. on the Monday prior to the meeting date and time. Okay.

(Hughes, Best, Meyers, Monteverde, Wernick.)

* * * * *

(7:30 p.m.)

(Sitting Members Case BZA-008064-2015:

Timothy Hughes, George S. Best, Douglas

Myers, Jim Monteverde, Laura Wernick.)

TIMOTHY HUGHES: The Chair will call case No. 008064. That would be 68 Middlesex Street.

Gentlemen.

ATTORNEY JAMES RAFFERTY: I'm used to a packed house.

TIMOTHY HUGHES: It's kind of sparse tonight. We've got two cases, you and one other one.

ATTORNEY JAMES RAFFERTY: I hope you're not getting paid by the case.

TIMOTHY HUGHES: We're getting paid the same amount that we always get paid, by the case or the night.

LAURA WERNICK: The case of the night.

TIMOTHY HUGHES: Go ahead, Jim.

ATTORNEY JAMES RAFFERTY: Good

evening, Mr. Chairman, Members of the Board. For the record, my name is James Rafferty. I'm an attorney with offices at 675 Massachusetts Avenue. I'm appearing this evening on behalf of the petitioner, Joseph Ronchetti, R-o-n-c-h-e-t-t-i. Mr. Ronchetti is to my far right. He's the owner/occupant of the property. And to my immediate right is John Altobello, A-l-t-o-b-e-l-l-o. Mr. Altobello is an architect, a Cambridge resident, and he has prepared the plans for Mr. Ronchetti.

I suspect the Board is aware from its review of the file and the property, this is a two-family house in North Cambridge on Middlesex Ave.

JOHN ALTOBELLO: Street.

ATTORNEY JAMES RAFFERTY: Street.

What we used to call the French Church but

now I think it's called Vineyard Church. If you grew up there, as Mr. Ronchetti did, you would know the neighborhood as the French Church. And it's a somewhat traditional two-family home. And Mr. Ronchetti, as I said, has lived there. His family has owned the home for his entire life, and he is actually in the process of doing some renovations to the house already. If you've been by, he has a Building Permit. He's doing some updating on renovations, new siding and the like.

He retained Mr. Altobello because the property has an attic floor, a third floor, and it has two rooms up there, but the ability to access those rooms is limited. There's a less than code compliant stairway. And the second floor

only has a single bedroom. So Mr. Ronchetti is hoping to be able to expand his family. He and his girlfriend have plans to solemnize their relationship in the near future. And as part of it, they would like to be able to make these, this increase. It represents what's before the Board as a Variance for GFA request of about 86 square feet, which is somewhat modest, but it does really unlock the potential of the third floor. It will allow the home to have two bedrooms on this, on the third floor for this duplex apartment. There are two bedrooms there now, and they're accessible, but the ceiling height and the access to them, as I said, is quite substandard. And Mr. Altobello can go through those with you.

He has paid careful attention to dormer guidelines in drafting these two dormers /and there is widespread support from the abutters to the property. Mr. Ronchetti has included in the application a file letters of support from all his abutters and a few neighbors beyond his immediate abutters. And we're happy to have Mr. Altobello just briefly address it, but we're talking about a situation today on a roof that doesn't have a dormer on it. So adding two dormers. As you can see in the floor plan, that's going to allow for two bedrooms and a bathroom on this floor. So for, for what amounts to 86 additional square feet, it really turns this into a family home, an opportunity for Mr. Ronchetti and his soon to be wife to

really raise a family and stay here in the city. And they're eager to be able to do that and have approached the Board understanding that there is a Variance involving a hardship.

The hardship really is related to the slope of the existing roof and the conditions in the third floor at the moment. They are substandard and yet they are significant portions of them are already included in the gross floor area. As the Board knows, all but five feet of that area is included in GFA. So to make it usable GFA, and that is liveable GFA, the proposal was to add these two dormers, lift up that ceiling height. And so on those two areas where the dormers will get added, that height will increase above the five feet. So that represents the 86

additional square feet. That's essentially the application.

I don't know if you want Mr. Altobello to walk through the dimensions of the dormers or whether they're apparent from the application.

TIMOTHY HUGHES: They're pretty clear.

Do you have any questions.

DOUGLAS MYERS: I had a question. I noticed that on the north side elevation between the two dormers there is a space of, it's shown as two feet.

JOHN ALTOBELLO: Correct.

DOUGLAS MYERS: And I wondered what that represented in that area back of the roof inside the roof.

JOHN ALTOBELLO: Dead space.

DOUGLAS MYERS: On the third floor

now?

JOHN ALTOBELLO: The reason for the two feet --

ATTORNEY JAMES RAFFERTY: Did we get the full question?

DOUGLAS MYERS: Now. You're saying that's the condition now, the dead space?

JOHN ALTOBELLO: The condition now is what you see in the existing. This is the existing work.

ATTORNEY JAMES RAFFERTY: So the area that's being inquired about is in this area here?

JOHN ALTOBELLO: It's just dead -- it can be used as some storage, but it's essentially unusable for habitation.

DOUGLAS MYERS: And after the

improvements are made, what will be the function or what will be the nature of the area immediately behind underneath that two feet?

JOHN ALTOBELLO: Dead space.

DOUGLAS MYERS: Also the same?

JOHN ALTOBELLO: Yeah.

The reason for that, sir, was to respect the City of Cambridge's dormer guidelines and not exceed the 15 feet. So I mean, I could have -- I could have shown that as one continuous dormer. In other words, without that break, giving Mr. Ronchetti more square footage. But to maintain the spirit of the dormer guidelines, I interrupted or made two separate dormers as opposed to one long dormer.

DOUGLAS MYERS: I understand.

TIMOTHY HUGHES: Any other questions from board members?

JIM MONTEVERDE: Yes, one.

If you can just describe, you occupy the entire --

JOSEPH RONCHETTI: Yes.

JIM MONTEVERDE: -- building?

JOSEPH RONCHETTI: The first floor -- the first floor is a smaller apartment.

JIM MONTEVERDE: Okay.

JOSEPH RONCHETTI: I've been living on the second floor. I used to be on the first floor. I've been living on the first floor.

JIM MONTEVERDE: Okay, thanks.

TIMOTHY HUGHES: But you own the whole building?

JOSEPH RONCHETTI: I own the whole

building, yes.

ATTORNEY JAMES RAFFERTY: You acquired it from a family home.

JOSEPH RONCHETTI: My grandparents bought the house in the 20s.

TIMOTHY HUGHES: That's about the only way you can stay in Cambridge these days.

Any questions, George or Laura?

GEORGE BEST: No.

TIMOTHY HUGHES: Okay.

I'm going to open this up to public testimony. Is there anyone who wants to be heard on the matter?

(No Response.)

TIMOTHY HUGHES: I don't see anyone.

There are letters in the file. They're basically form letters signed in

support, so I'm just going to read the names and addresses of the people that signed it. I've got four letters here.

Looks like Jennifer K. Goodman at 164 Pemberton Street. Can't wait to see it done she says.

Jeffrey and Lucille Howard at 90 Middlesex Street.

Christina Jacobi? Is that close enough?

ATTORNEY JAMES RAFFERTY: That's exactly.

TIMOTHY HUGHES: And it's no -- oh, yeah. There's no address here. Oh, yeah, she says -- oh, no she just references your address.

JOSEPH RONCHETTI: She's on Van Norden, so she's kind of like the back corner abutter.

LAURA WERNICK: And she supports?

JOSEPH RONCHETTI: Every single one of them.

TIMOTHY HUGHES: And then J. Michael Coughlin, 66 Middlesex Street also in favor.

JOSEPH RONCHETTI: One thing that might be a little confusing on that is that I'm 68 Middlesex Street. 90 Middlesex Street is my immediate abutter. Even though there's a great gap in the numbers there, he is my next-door neighbor.

TIMOTHY HUGHES: Interesting.

ATTORNEY JAMES RAFFERTY: And he's the abutter that faces the proposed dormer?

JOSEPH RONCHETTI: Mike on the other side, he's 66.

TIMOTHY HUGHES: And he's registered as in favor of the project.

ATTORNEY JAMES RAFFERTY: Right.

TIMOTHY HUGHES: Okay, with that I'll close public testimony.

Any discussion from the Board?

JIM MONTEVERDE: No.

TIMOTHY HUGHES: Ready for a motion?

DOUGLAS MYERS: I have some comments that I'd like to make.

TIMOTHY HUGHES: Okay.

DOUGLAS MYERS: I'm troubled, frankly, by the fact that there is requested here 21-and-a-half-foot length of dormer and that is divided by two feet. A 21-foot dormer itself would be in violation of the dormer guidelines which limit, which recommend -- this Board pays,

gives great weight to those recommendations, that a shed dormer should not exceed 15 feet in length. I'm reading now from the guidelines underneath the heading Shed Dormer: (Reading) As an option, this maximum length may be achieved through a combination of paired dormers.

That's not exactly what we have here. The dormers are not paired in the sense of symmetrical, but there is two of them. There is a pair. And I think the principle of this section is applicable for that reason. If paired, the combined length should not exceed 15 feet. Well, here we have 21 feet. And if this proposal had been presented before us as a 21-foot shed dormer, I think it would attract a lot of attention from the Board

as a shed dormer that was excessively long in violation -- incompatible with the dormer guidelines. Here, as Mr. Altobello said, the a long shed dormer is a voided by the insertion of a two-foot gap. I asked the question I did to ascertain whether or not the two-foot gap served any functional purpose in terms of the interior design of the house, and it does not. The purpose of the two-foot gap is to break a 21-foot dormer into two unequal sections for the purpose of avoiding, avoiding the dormer guidelines that would be directly applicable if the shed dormer were 21 feet in length.

Further, under the section Gable Dormers, and I realize this is a shed dormer, but I want to allude to the principles of these dormer guidelines,

because I think this has a cumulative impact, I think already, I think these dormers are suspect as being really capable of being considered one dormer that is substantially in excess of the recommended guidelines. Under gable placement it says: (Reading) Dormers added in combinations, in all cases, the distance between each dormer should be no less than one half the width of each structure.

Now I grant you that's gable dormers. And I'm not saying it's directly applicable, but I am saying that the principle is applicable. The principle of avoiding excessive dormer length and the principle of proportionality under the dormer guidelines. Here the two-foot gap is substantially less than half of the

14-foot, six section. It is notably less than half of the seven-foot section. And even if somehow you averaged the two sections together and considered dormer length on the roof as ten or eleven feet, the two-foot space is really incompatible with the spirit of the dormer guidelines.

So considering all of these things together, I really feel not only is it incompatible with the dormer guidelines, but it represents an effort to -- I don't want to be harsh, I don't want to impune anyone's motives, but let's just say to work around the dormer guidelines that would otherwise be clearly be incompatible and would otherwise I believe arouse considerable interest and skepticism on the part of this Board.

Those are my comments, Tim. Thank

you very much.

TIMOTHY HUGHES: Part of what I'm going to say is in response to what Doug just said. I think that if you consider the fact that this is not a symmetrical house, it's got a gable end on one side with a staircase that goes up to the third floor on that side which precludes them from doing a 15-foot on each side of the house, which the dormer guidelines would indeed allow, I'm less troubled by the fact that they're looking for more dormer space on a single side of the house because the other side of the house is not an option. It's just not a buildable option. You know, so that's why I come down in favor of the project. But since there is some controversy, I really sort of need to hear from everybody else so we

don't blind side these people. If in fact this is a design that will not carry, then we should at least give them the opportunity to continue this case and redesign. So I sort of need to hear from the other members of the board.

JIM MONTEVERDE: So I would concur with Doug's sense in that it's more dormer than the Ordinance implies and ask you to reconsider it.

LAURA WERNICK: I actually feel a little differently. I think you could very easily make a three-foot gap and six-foot dormer and then you fit within the gable, I believe, the gable guidelines. But then you're reducing your usable space. The room's already pretty tight. You've got -- it's clearly divided into two, two dormers. It reads that way

as two separate pieces. So I don't have any aesthetic objection to the appearance of the building. I think it's -- there's a compromise of making it a six-foot and a three-foot which meets the guidelines, that would be acceptable to the appellant that would -- might help things on the Board. But it also reduces his usable square footage.

JOHN ALTOBELLO: May I ask a question? So you're saying a six-foot dormer and a what?

LAURA WERNICK: Three foot.

TIMOTHY HUGHES: Three-foot space.

JOHN ALTOBELLO: Oh, I see.

TIMOTHY HUGHES: Which answers -- would answer one of Doug's objections but not both of them.

JOHN ALTOBELLO: And then we

wouldn't get the bathroom.

LAURA WERNICK: No, I would suggest that you take it out of the seven-foot section so you have a smaller dormer on -- if this was six feet and that was three feet, then you just leave the bathroom the way it is and then you just take a smaller dormer here.

JOHN ALTOBELLO: Okay, so if we had a six-foot dormer here with a three-foot gap, what would this dormer be?

LAURA WERNICK: I would say just the way it is. Three-foot gap here.

JOHN ALTOBELLO: Yeah.

LAURA WERNICK: Yeah. You have the same.

JOHN ALTOBELLO: Oh, I see.

LAURA WERNICK: You've got equivalent distance here. You're just

shaping it.

JOHN ALTOBELLO: Right, I see what you're saying.

GEORGE BEST: So what is the dimension of the bathroom now?

JOHN ALTOBELLO: Five feet wide by eight feet long.

GEORGE BEST: That's not very big.

JOHN ALTOBELLO: No.

GEORGE BEST: And if you took the foot off of that, what would be it then?

LAURA WERNICK: It's not touching the bathroom.

ATTORNEY JAMES RAFFERTY: Under that proposal the bathroom would be unchanged.

GEORGE BEST: Okay, so it would be the main room.

JOHN ALTOBELLO: It would be this

bedroom.

TIMOTHY HUGHES: She's suggesting shortening up this by a foot.

DOUGLAS MYERS: What could be done if the dormer were revised to be a single shed dormer of a length closer without, without at all saying that a certain number of feet is requisite, but without less than 21 feet?

JOHN ALTOBELLO: At what dimension for example, 20 feet?

DOUGLAS MYERS: No. You know, I'd leave that -- I'd say somewhere in the middle at most.

JOHN ALTOBELLO: Between 15 and 20.

DOUGLAS MYERS: 15 and 21, what it is. I mean that would, that would kind of, to me, that would be a more forthright

way of dealing with this. You'd come in with one dormer and it would be of a dimension that is closer to compliance with the guidelines and would be frankly addressed on that basis and hopefully it would give you a good deal of what you want on the third floor.

ATTORNEY JAMES RAFFERTY: I mean....

DOUGLAS MYERS: That's not a dicta, you understand?

ATTORNEY JAMES RAFFERTY: I understand. Understood. But I do think it does lead to an interesting, you know, analysis which is if there's a hierarchy of design preferences as contained within the guidelines, which as we know are guidelines and not embodied in the Ordinance, the separation of the

dormers -- and I may be responsible for this because in meeting with the clients and in this case as well, I've always found that the Board was less amendable to shed dormers, even at compliant 15-foot shed dormer, which the guidelines would find to be acceptable, I think is breaking that mass in the roof line has and the experience I've had here has been better received than having a monolithic single dormer, and we've got lots of examples of unrelenting shed dormers which led to the creation of the guidelines which actually were created by the Historic Commission, that's the genesis of the guidelines to address this issue, because as we all know, it's perhaps our most popular form of expansion for the large stock of two-family houses that we see in the city.

Most of which are located in neighborhoods that wouldn't have been down zoned so that nearly any addition now requires a Variance, whereas historically that had not been the case and it might have been one of the unintended consequences. And at the time those down zonings occurred, particularly in this neighborhood, the answer was well, we'd rather support you getting a Variance but to control future development. In those days I think those arguments didn't pay adequate attention to the hardship. I would say in this case, I understand the view that -- I would strongly suggest that, you know, there's no effort here to, you know, be anything other than forthright. I mean, the idea of creating the two dormers is a reflection of that preference as stated in

the guidelines, not to do an end run around it. I do recognize that the guideline collectively does exceed the accumulative suggestion in the guidelines. As the Chair noted, to get to this point and then we would welcome the opportunity -- it would appear that the adequate support doesn't exist for the proposal. I'm just wondering if there's any consensus as to what our revised proposal would be necessary whether Ms. Wernick's comments are consistent with a less than supportive member at this point, it would be helpful.

DOUGLAS MYERS: I've spoken a lot and I really don't want to -- I don't want to -- I made a suggestion. I'm flexible with regard to my suggestion certainly. My basic position is clear. I haven't

heard anything that really would lead me to want to change that.

ATTORNEY JAMES RAFFERTY: Right.

DOUGLAS MYERS: And I really don't want to dictate a design feature.

ATTORNEY JAMES RAFFERTY: Right, right. I was just testing a concept versus a single dormer versus two dormers. And I may have in sharing my experience in the Board's preferences historically, I advocated for two dormers. But if the suggestion is that -- I mean, I guess the one thing that bristles me is the notion that that's more forthright that this is something less compliant. I mean, I --

DOUGLAS MYERS: It's the total footage, I mean, that gave rise to my basic objection. And that's -- we're dealing with 21 -- again, I don't want to

impune anyone's motives. I said that in the beginning.

ATTORNEY JAMES RAFFERTY: No, I know.

DOUGLAS MYERS: There's 21 and a half feet of dormer. In my opinion that is not justified by the two-foot gap. That's all I'm saying.

ATTORNEY JAMES RAFFERTY: Understood.

DOUGLAS MYERS: My approach is the total -- viewing the total length of dormer on the roof.

ATTORNEY JAMES RAFFERTY: But I also know in analyzing these cases, the Board -- there is some, at least I advise clients, I think there is some relationship between the amount of relief and the extent to which one adheres to the

guideline. In some dormer cases the GFA increases are significant. They're in the hundreds of square feet and they're on structures that are already significantly over. This structure is slightly over and the increase here is less than 100 square feet. And in my experience that has been a factor in weighing the extent to which the relief being sought is seen as reasonable. But I respect the fact that we haven't convinced at least one member, and I didn't know if it's the type of change that you think that if we went to the next case could be adjusted this evening or whether you would think a resubmittal would be required?

LAURA WERNICK: Actually prefer the two. The two dormers to a single dormer. I agree with what Mr. Rafferty's

saying.

JIM MONTEVERDE: I would leave it to your design, your use of the space, your description of how it impacts you and your use of the building to decide which way you want to go and be as compliant as you can with the guidelines.

TIMOTHY HUGHES: But it's your opinion that 21-and-a-half feet is too much dormer for that side of the house?

JIM MONTEVERDE: Yeah, correct.

ATTORNEY JAMES RAFFERTY: The suggestion by one board member with regard to a change in one of them, is that, is that -- I'm not looking -- but I -- well, I am but I'm also mindful of the Board's time and everyone else's time, but it's a very helpful suggestion and we could make those changes and return another evening,

but I guess I'm thinking that if --

JIM MONTEVERDE: So as opposed to us suggesting or dictating what the solution may be, again, I'd prefer personally to leave it to you all to determine how best it serves the occupant, the owner, and what you propose.

DOUGLAS MYERS: I wouldn't want to leave the impression that if it comes back with 18-and-a-half feet and two dormers or 19 feet because 18-and-a-half feet was discussed tonight, that somehow we are morally obligated or we've led you into a position where you thought we would approve it --

ATTORNEY JAMES RAFFERTY: Oh, no.

DOUGLAS MYERS: -- because we countenanced 18 feet tonight in one member's proposal and, therefore, if it

comes back at 19 feet, that's not so far away from that. I really agree with what Mr. Monteverde just said and I'll stop there.

ATTORNEY JAMES RAFFERTY:

Understood.

I just want to say that I wouldn't have left here with any sense that there was a moral obligation on the part of the Board, and I was just grateful for the helpful suggestion and I was just trying to test whether that was -- whether there was any consensus or a sense of consensus. But I respect the fact that -- I mean, I get a very strong sense that in the case of one board member who is not supportive that it wouldn't be, and I've heard that message. So I appreciate the candor of the comments and I guess at this point we

would, with the Board's consent, request a continuance. I think we're going to need to.

TIMOTHY HUGHES: That would be great and I'll make that motion in a second. But I would put one more idea in the head of the architect, and the idea that would be that is it possible to get this space over underneath the gable someplace and make your dormer include the bathroom and go straight through.

JOHN ALTOBELLO: Unfortunately not because there's only five feet from floor to ceiling from floor to peak and floor to peak. And unfortunately --

TIMOTHY HUGHES: That is unfortunate.

JOHN ALTOBELLO: -- there is no way to gain space.

TIMOTHY HUGHES: That is
unfortunate.

Okay, I'll make a motion to continue
this case. We're not even going to talk
about the Special Permit at this point
because it doesn't seem like a good thing
to do.

When can we all get together again?

SEAN O'GRADY: 11/19.

TIMOTHY HUGHES: November 19th.

Is everybody available on the 19th of
November?

DOUGLAS MYERS: Yes.

JIM MONTEVERDE: Yes.

LAURA WERNICK: Let me just check.

TIMOTHY HUGHES: The chair would
move that we continue this case as a case
heard until November 19th at seven p.m. on
the condition that you sign a letter of

waiver for a time of decision, and that the posting be changed to reflect the new time and date. And that any new plans be in the file by five p.m. on the Monday prior to the meeting on the 19th.

All those in favor of the continuance?

(Show of hands.)

TIMOTHY HUGHES: Five in favor.

(Hughes, Best, Myers, Monteverde, Wernick.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

* * * * *

(8:00 p.m.)

(Sitting Members Case BZA-008129-2015:
Timothy Hughes, George S. Best, Douglas
Myers, Jim Monteverde, Laura Wernick.)

TIMOTHY HUGHES: The Chair will
call case No. 008129, 11 Blanchard Road.

Can you give us a clue as to what
you want to do? Actually, just spell it
all out for us.

JULIETTE EHLERT: I have to say
who I am first?

TIMOTHY HUGHES: Yes, go ahead.

JULIETTE EHLERT: Juliette Ehlert,
E-h-l-e-r-t. And my husband Rob Ehlert.
We live at 11 Blanchard Road.

We are looking to add a second story
to our existing non-conforming house. It
was built non-conforming in 1954. So once
Zoning already existed, they built it
non-conforming. It is slightly askew on

the lot and that's what makes it non-conforming. We are about seven inches off of the setbacks on one of our neighbor's side. Everything adds up to 25, but we are under ten feet on one side.

So we are looking for a Variance in order to add that second floor.

We still fall within the FAR with the addition. The part of the house that is non-compliant is the front corner of our garage. We are not building over it. So we're not making the non-compliance part of it worse. We're actually lowering its profile. And also on the side of hardships, the hardship is we --

TIMOTHY HUGHES: Lousy contractor.

JULIETTE EHLERT: Well, yes, it was built wrong in the first place.

TIMOTHY HUGHES: Surveyor and

contractor combination.

JULIETTE EHLERT: Yes. And our lot is very sloped. It's a walk-out ranch currently. And we investigated just demoing the non-compliant part and because the foundation is exposed, it would require us going about 30 feet back into the house, including the foundation for seven inches. Because it's just that much skewed. So that doesn't seem to be a good idea. So we're here.

ROB EHLERT: I wish I was here in the fifties when it was built.

JULIETTE EHLERT: And looking for the Variance and there's a Special Permit as well because we're replacing the windows from 1970s vinyl to more modern energy efficient windows.

TIMOTHY HUGHES: And you're

replacing windows in that wall that's in the setback?

JULIETTE EHLERT: Yes, yes.

TIMOTHY HUGHES: And that would be what the Special Permit's for?

ROB EHLERT: That's the garage, right?

JULIETTE EHLERT: Yes.

ROB EHLERT: That would actually be walled in.

TIMOTHY HUGHES: You're eliminating a window?

ROB EHLERT: Oh, I'm sorry.

TIMOTHY HUGHES: Do we need a Special Permit to eliminate a window?

JULIETTE EHLERT: The plans still have a window.

ROB EHLERT: It's in the garage.

TIMOTHY HUGHES: Okay.

Any questions from the members of the Board?

(No Response.)

TIMOTHY HUGHES: I have one question: Has the neighbor affected by the change in the windows weighed in on this project?

JULIETTE EHLERT: Yes, we have a letter from them with no objection.

TIMOTHY HUGHES: Okay. Because I don't have it.

JULIETTE EHLERT: Yeah, we didn't get it.

TIMOTHY HUGHES: I don't have it in the file. Okay, I'll open this up to public testimony. Seeing no one here, I'll take any letters that you have.

JIM MONTEVERDE: Wait a minute you're a valuable reporter.

TIMOTHY HUGHES: He actually did speak in one case.

JIM MONTEVERDE: That's right.

TIMOTHY HUGHES: And you're going to give me one that's e-mailed to you to read into the record.

JULIETTE EHLERT: Yes.

TIMOTHY HUGHES: I'll read -- there's only two of them so I'll read this one, too. This is the neighbor that's affected by the Special Permit?

JULIETTE EHLERT: Yes.

TIMOTHY HUGHES: (Reading) It appears that the number of the houses on Blanchard Road, ours included, were constructed in the 1950s in a location that was slightly different from what was shown on the plot plans. We feel that this small area in the past should not

prejudice the ability of the Ehlerts, our next-door neighbors, to achieve their build out at 11 Blanchard. Suzie and Peter White.

JULIETTE EHLERT: Yes.

TIMOTHY HUGHES: And next by next-door neighbor what is their address, do you know?

ROB EHLERT: 12.

JULIETTE EHLERT: 12. It's in the --

ROB EHLERT: Well, we're on the line. So every house is.

TIMOTHY HUGHES: I see it on the letterhead.

ROB EHLERT: It's sequential.

TIMOTHY HUGHES: And I have an e-mail that just came in.

JULIETTE EHLERT: She was planning

to be here.

TIMOTHY HUGHES: Okay. To Juliette and Rob, it says: (Reading) I fully support your plans for expansion of your home. It will be beautiful and improve our whole neighborhood. And it just says Carrie.

JULIETTE EHLERT: She's at 10.

TIMOTHY HUGHES: She's at 10. And Carrie's last name?

JULIETTE EHLERT: Bloomfield.

TIMOTHY HUGHES: Carrie Bloomfield at 10 Blanchard Road.

And that's the sum total extent of the stuff in the file.

Any discussion.

DOUGLAS MYERS: It is the very essence of de minimus.

TIMOTHY HUGHES: It really is.

JULIETTE EHLERT: Yes, if only that existed in the code.

JIM MONTEVERDE: Actually it seems like someone -- some surveyor made an error in the first house lot and it just rippled through all of them.

TIMOTHY HUGHES: Oh, yes. That's possible.

ROB EHLERT: They were all built at the same time.

JIM MONTEVERDE: Or whatever the radians are, if one is off they're all off.

TIMOTHY HUGHES: I'm going to need to make two motions, one for the Variance and one for the Special Permit. We'll take up the Variance first.

The Chair would move that a Variance be granted for a conforming addition to a

non-conforming structure. I will note that the -- a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner for the following reasons:

Since the house was non-conforming as built in 1954. We would not be allowed to make any additions to the house site having flex -- boy, this typing is terrible. Flexibility with the FAR allowance. The house is too close to the property line on one side by about seven inches. In order to correct those seven inches, about 30 feet of house and foundation would need adjustments. I would say that was a hardship.

The hardship is owing to the following circumstances relating to the

soil conditions, shape or topography of such land or structures, and especially affecting such land or structures, and especially affecting such land or structures but affecting generally the Zoning District for which it's located for the following reason:

The house was built non-conforming after Zoning regulations were in place. It was built out of square with the property lines and had it been square, it would be conforming. A slight rotation puts it too close to the property line by a few inches, and the hardship is due to the topography of the land.

Desirable relief may be granted without either substantial detriment to the public good for the following reasons:

The proposed works conforms to all

Zoning Regulations and would not need review of the structure we're conforming.

The scope and quality of the work will match that of the neighborhood.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of this Ordinance for the following reasons:

The scope of the non-conformance is minimal and should have become caught when the house was originally built.

All those in favor of granting the Variance?

(Show of hands.)

TIMOTHY HUGHES: That's five in favor.

(Hughes, Best, Myers, Monteverde, Wernick.)

TIMOTHY HUGHES: I should say the

Variance is granted on the condition that the work be carried out with these plans.

These plans are the final plans?

JULIETTE EHLERT: Yes, as submitted Monday.

TIMOTHY HUGHES: Construction documents dated February 10th from Miller Design, LLC and initialled by the Chair.

Okay, the Variance is granted.

Let's move on to the Special Permit. I'm going read another whole Special Permit.

Okay, granting the Special Permit:

The Chair would move that a Special Permit be granted for the alteration of windows on an existing first floor and new windows on a proposed second floor. Windows in a setback I expect.

Requirements for the Ordinance can

and will be met for the following reasons:

The house was built non-conforming.

It does not meet the requirements for setbacks by a few inches.

The work requested here is to enlarge and/or replace existing vinyl windows on the first and second floor throughout the house.

Traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character for the following reasons:

We're replacing the existing windows, 70s era white vinyl with high quality fiberglass windows. We believe this will improve the appearance of the house and not impact the neighborhood negatively.

Continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

A majority of the windows facing abutters are being replaced, not altered. So the adjacent properties will not be adversely affected. One window facing a neighbor will be enlarged, but it faces their backyard not their house. The windows facing our backyard abutted by Fresh Pond Golf Course will be modified the most, but it will not impact the course since our house is shielded by trees.

It's going to make it easier for a golf ball to come flying through your windows.

ROB EHLERT: Unfortunately.

TIMOTHY HUGHES: You understand that of course, right.

JULIETTE EHLERT: We're taking that risk, yes.

TIMOTHY HUGHES: I think it's a risk worth taking.

Nuisance or hazard would not be created to the detriment of the health, safety, and welfare of the occupant of the proposed use or the citizens of the city for the following reasons:

The existing windows are drafty, hard to open. The replacement windows would be more resilient and more energy efficient.

And the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate

from the intent and purpose of the Ordinance for the following reasons:

The new replacement windows are confined within the existing body of the house. If the house had been built conforming originally, the replacement of these windows would not require a Special Permit at all.

So all those in favor of granting the Special Permit -- oh, on the condition that the work proceed with the aforementioned plans and construction documents in the Variance.

All those in favor?

(Show of hands.)

TIMOTHY HUGHES: That's five in favor. Go forth.

ROB EHLERT: Awesome. Thank you.

TIMOTHY HUGHES: Motion carries.

(Hughes, Best, Myers, Monteverde,
Wernick.)

* * * * *

(Whereupon, at 8:10 p.m., the
Zoning Board of Appeals
Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of October, 2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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