



# City Of Attleboro, Massachusetts

**ZONING BOARD OF APPEALS**  
GOVERNMENT CENTER, 77 PARK STREET  
ATTLEBORO, MASSACHUSETTS 02703  
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## MINUTES

**FEBRUARY 9, 2023**

In accordance with the provisions of the General Laws of Massachusetts, Chapter 40A, as amended, public hearings were held on Thursday, February 9, 2023 at 6:30 p.m. in the Municipal Council Chambers located at Government Center, 77 Park Street, Attleboro, MA 02703, relative to the following:

Zoning Board Members Present: Chairwoman Cathy Merkle, Kent Richards, Kathy Rautenstrauch, and Sandra Varrieur

Members Absent: Johnny Bender

The Board heard Case #5655, the application of Heidi Paul for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming, residential structure, the subject premises being located at 36 Fisher Avenue, more specifically Assessor 's plat #84, lot #55, located in the Single Residence -B zoning district.

Speaking in favor of the application was Travis Westman who explained that he is proposing to demolish the existing dilapidated single-family dwelling and construct a new single-family dwelling on the same footprint. He stated that there is a vernal pool within its proximity.

Director of Planning and Development Gary Ayrassian sought confirmation that the existing foundation will remain and that the new dwelling would be constructed on it.

Mr. Westman replied that when an addition was previously constructed, a concrete foundation was poured for the addition. He said that the existing foundation therefore consists of the original fieldstone and concrete. He stated that he will build the new house on the concrete foundation and on a portion of the fieldstone foundation that supports the fireplace and chimney. He explained that the portion of the fieldstone foundation that will be removed will be replaced with a concrete foundation. He emphasized that the new house will be built on the same foot print of the existing dwelling.

Mr. Ayrassian asked when the house was originally constructed.

Mr. Westman replied that the main portion of the house was likely constructed sometime in the 1800s. He stated that no one has lived in the structure for 20 years and it is dilapidated.

Cathy Merkle asked whether the property is on city sewer.

Mr. Westman answered yes.

Mr. Ayrassian sought to confirm that only a one-family dwelling is proposed.

Mr. Westman replied yes.

Mr. Ayrassian pointed out that any additional projections off of the existing foot print, like a farmer's porch, would necessitate returning to the Zoning Board for a variance.

Mr. Westman stated that no such structures are proposed and that only a small overhang over the front door is planned.

Speaking in favor was Building Commissioner Bill McDonough, who stated that the existing structure has been posted as unsafe and that his Office has been working with the owners to tear it down, as it is dangerous and a blight to the neighborhood.

He stated that the proposal will benefit to the city and the neighbors.

There being no one else to speak, the public hearing was closed.

**The Board heard the new public hearing for CASE #5654, the application of David Stebbings for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(2A) TABLE OF ACCESSORY USE REGULATIONS to keep horses at his place of residence for non-commercial purposes, said premises being located at 136 West Street, more specifically Assessor's plat #99, lot #34 and #34A, located in the Single Residence-D zoning district.**

Speaking in favor of the application was David Stebbings who handed-out updated site plans. He stated that they originally were going to propose 34'x50' horse barn towards the back of the lot. He explained that the Conservation Agent informed him however in that location, the barn would impinge on the setback of a vernal pool that is located in the rear of the property. He stated that they have since revised the barn design to be 24'x24' with a 10' porch. He stated that its proposed location is now well outside the vernal pool's setback. He stated that his property contains an area of 1.85 acres that has been an open field for a long time. He stated that the proposed horse paddock will be about 31,000 square feet.

Cathy Merkle inquired about the number of horses that they would keep on the premises.

Mr. Stebbings replied two horses. He noted that both of his abutting neighbors support the proposal.

Director of Planning and Development Gary Ayrassian asked whether the horses are intended for personal recreational use or for teaching lessons or other business purposes.

Speaking in favor was Ellen Stebbings of 136 West Street who stated that the horses will be kept for personal use and that they look forward to having their grandchildren riding them.

Mr. Ayrassian asked the proposed fencing is within the wetland boundary.

Mrs. Stebbings explained that the Conservation Commission was amenable to the design as long as the fencing is post and rail so that animals can continue to migrate. She pointed out that there is already fencing to the northwest and east of the property. She stated that the fencing that is to be constructed is delineated by a dashed line on the site plan.

Cathy Merkle asked for confirmation that the fencing is proposed to remain north of the tree line.

Mrs. Stebbings confirmed.

Mr. Stebbings stated that they are also filing an application with the Conservation Commission.

Mr. Ayrassian asked what practices will be employed to ensure odor suppression and for waste disposal.

Mrs. Stebbings stated that they are proposing a manure pile on the rear side of the property, which is the furthest point away from any neighboring houses. She stated that they intend to compost the waste, as they have many friends with gardens who would benefit from the compost. She stated that pine shavings will be mixed in with additional natural composting materials to minimize odors.

Mr. Stebbings stated their intent to keep the paddock clean and frequently remove any waste to the compost pile.

There being no one else to speak, the public hearing was continued.

**The Board heard the continued public hearing relative to Case #5647, the application of W.B. Construction & Development, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.2 EARTH REMOVAL for an earth removal operation to accommodate site grading associated with the construction of three 60'x100' one-story buildings each containing 6,000± square feet of floor space, with a maximum of four units in each building, to be occupied by building trade uses, craft shop uses, or light industrial uses and a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.9(D) GENERAL PARKING AND LOADING SPACE STANDARDS to exceed the maximum permissible entrance/exit driveway width of twenty-five (25') feet, the subject premises being located at 0 County Street, more specifically Assessor's plat #104, lot #27, located in the Industrial zoning district .**

The Board read the Form Z2 - Request for an Extension of Time to March 31, 2023, submitted by attorney Edward Casey on behalf of W.B. Construction and Development, Inc., relative to the petitioner's special permit and variance application for property located 0 County Street.

Cathy Merkle made a motion to grant an extension of time to March 31, 2023 relative to the special permit and variance application filed by W.B. Construction and Development, Inc. for property located 0 County Street. Kent Richards seconded the motion. All voted in favor to grant an extension of time to March 31, 2023.

Speaking in favor was attorney Jack Jacobi who reminded the Board the proposed earth removal operation involves a net removal of approximately 8,800 cubic yards of earth to be trucked approximately 1/3 of a mile up the road to 1400 County Street where the material will be used as fill at Mr. Ward's residential development that is under construction at that site. He stated that three waivers are also being sought. He stated one waiver asks to allow excavation within 4-feet of the high groundwater table, a second asks for a waiver to be allowed to excavate within 50-feet of adjoining property lines, and the third waiver asks for a waiver to allow for the northwest corner of the lot to be graded with a slope of 1:1 instead of a 2:1. He stated that this portion of the slope will be reinforced with rip rap. He stated that a variance of 13-feet is also being sought to exceed the maximum permissible driveway width of 25-feet. He pointed out that the only proposed lighting on the wide will be the lighting on buildings, in deference to the neighbors. He stated that all of the other lighting that they proposed such as the pole lighting in the parking lot has been removed from the site plan. He noted that they are also proposing plantings on the property line along County Street. He stated that the Conservation Commission granted a stormwater management permit at their previous meeting and that the Planning Board closed its public hearing on Tuesday night.

Staff confirmed that the Conservation Commission granted a stormwater management permit.

He asked the Board to close the hearing and consider rendering a decision.

There being no one else to speak, the public hearing was closed.

**The Board heard the continued public hearing for Case #5653, the application of Luis Oliveira for a variance pursuant to §17-8.9 VARIANCES from the minimum front yard setback requirement under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct a garage onto an existing single-family dwelling, the subject premises being located at 111 Juniper Avenue, more specifically Assessor's plat #166, lot #1M, located in the Single Residence -C zoning district.**

the Board read the letter from Bob and Suzanne Westwater, Kevin and Christine Callahan, and Lisa Kilfoyle, dated February 7, 2023, citing support for the variance application of Luis and Ricki Oliveira for 111 Juniper Avenue. Kent Richards stated that he made a site visit and noted that although the lot is oddly shaped, the addition is exceedingly large.

There being no one else to speak, the public hearing was closed

**The Board heard the continued public hearing for Case #5646, the application of Laurel Knoll Land Trust for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-10.2 EARTH REMOVAL for an earth removal operation associated with a proposed two-lot definitive subdivision plan entitled “LAUREL KNOLL”, the subject premises being located at 0 MacDonald Lane, more specifically Assessor’s plat #101, lot #9, located in the Single Residence -D zoning district.**

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith, LLP who updated the Board on the proposed earth removal and that the resulting modifications to the stormwater system requested by the Planning Board are still being designed. He asked the Board to continue the public hearing to March 9, 2023.

There being no one else to speak, the public hearing was continued.

**The Board heard the continued public hearing for Case #5650, the application of Canna-Farm LLC for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.15 MARIJUANA BUSINESS USES to establish a marijuana business (cultivation and manufacturing), the subject premises being located at 1 Turner Street, more specifically Assessor’s plat #1, lot #12, located in the Industrial zoning district.**

Mr. Ayrassian informed the Board that the applicant has not yet met with the Police Chief to review their security plans.

There being no one else to speak, the public hearing was continued.

**The Board heard the continued public hearing for Case #5651, the application of 42 County Street LLC for special permit pursuant to §17-9.0 SPECIAL PERMITS from the provisions of §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the required minimum number of off-street parking stalls, §17-9.0 SPECIAL PERMITS under §17-5.1 OFF-STREET PARKING REQUIREMENTS to reduce the required dimensions of off-street parking stalls, §17-9.0 SPECIAL PERMITS under §17-5.6(A) LOCATION OF PARKING AND LOADING SPACES to allow the use of off-site private parking stalls located within three hundred (300') feet of the principal lot, §17-9.0 SPECIAL PERMITS under §17-5.7 MUNICIPAL PARKING LOTS to allow the use of off-site municipal parking facilities located within one thousand (1,000') feet of the principal lot, §17-9.0 SPECIAL PERMITS under §17-12.0 FLOOD PLAIN DISTRICT to accommodate work/excavation within the 100-year floodplain and floodway, as well as for variances pursuant to §17-8.9 VARIANCES from the minimum lot area, from the maximum building height, and from the minimum side yard setback requirements pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS in association with the construction of a nine story, 80-unit mixed residential/business use; the subject premises being located at 42 County Street, more specifically Assessor’s plat #31, lot #243, located in the Central Business zoning district.**

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith, LLP who asked the Board for an extension of time to April 30, 2023.

Cathy Merkle made a motion to grant an extension of time to April 30, 2023. Kent Richards seconded the motion. All voted in favor to grant an extension of time to April 30, 2023.

Attorney Jacobi distributed handouts and explained that his client has determined constructing a 9-story building was going to be too expensive to finance because of steel construction and that they decided to

propose a 6-story building. He stated that while they are now proposing a pedestal construction building which means the ground level will be constructed of steel and the five levels above the floor above will be wood construction and thereby saving approximately \$4MM. He stated that the number of residential units will be reduced from 80 units to 60 units, as a result. He stated that as the height of the proposed building is now less than 70-feet, they no longer need enhanced fire protection in the architectural design. He stated that the revised design also obviates the need for height and side yard variances. He stated that the off-street parking requirements will be reduced from 55 to 36. He explained that they have commenced negotiations with a private owner to lease those spaces. He stated that they have had to delay their filing with the Conservation Commission but they hope to do so by March 1<sup>st</sup>. He stated that each of the five floors will have 10 one-bedrooms and 2 two-bedroom units. He stated that the one-bedroom units will vary in size from 668 to 873 square feet while the two-bedroom units will range from 1,144 to 1,156 square feet. He stated that the redesign will reduce the demand on municipal water and sewage systems. He distributed a traffic report to the Board and stated they intend to bring their traffic engineer to the next meeting to present.

Mr. Ayrassian asked whether the statistics regarding the revised number and size of units, as well as the water and sewer consumption values have been submitted in writing.

Attorney Jacobi answered yes, in the memo he submitted. He noted that tonight's presentation is intended to be an update, rather than a comprehensive presentation. He noted that the building materials and landscaping have yet to be finalized and that they have really only focused on the basic structure to this point. He stated that despite the change in height, the site plan has remained relatively the same. He pointed out the five commercial parking spaces identified for the retail use. He reminded the Board that the double-stacked spaces underneath the building would be rented to units with two cars and that the remainder of the parking spaces will be provided off site. He noted that the Planning Board had some concerns regarding the exit driveway on to County Street and the potential hazard to pedestrians and so they are looking into traffic calming measures, like a speed table or mirror. He noted that they are still proposing a roof top space with a pergola facing the Ten Mile River. He stated that the air handling units will be on top of the roof. He stated that his client is considering naming the housing development "The Cornerstone".

Kent Richards noted that he has seen some places put lights in the crosswalk that strobe when cars approach to notify pedestrians, which may be helpful.

Attorney Jacobi stated they plan to further design the front entrance to make it more inviting for people to visit the commercial tenant. He reviewed the simulated drone flight footage.

Sandra Varrieur inquired whether red brick is proposed for the building.

Attorney Jacobi stated that they have not yet finalized the materials or colors. He noted that the balconies facing County Street and Advance Auto Parts will be recessed, while the balconies facing the Ten Mile River will project out from the building.

Mr. Ayrassian observed how the walkway pulls viewers from the Judy Robbins Park to Balfour Riverwalk and is an excellent example of urban planning. He stated how nice it was to see the development in that area coming together.

Attorney Jacobi pointed out that this section of the river is not in very good condition and that their filing with the Conservation Commission will propose an eradication plan for the invasive Japanese knotweed as well as to restore the river bank and adjacent retaining wall. He stated that doing so will immensely enhance the view from the Dumas walkway. He stated that this building will be at relatively the same height as others in the area when one factor in the slope. He noted that the Bronson building will remain the tallest in the area.

Sandra Varrieur asked whether the units at Renaissance Station North and One Wall Street are completely rented.

Attorney Jacobi replied that they have over 90% occupancy.

Kathy Rautenstrauch asked whether commercial tenants have been procured for both buildings.

Mr. Ayrassian answered yes, and stated that there is a dental office in one building and a physical therapy office in the other.

Attorney Jacobi requested a continuance to March 9, 2023.

There being no one else to speak, the public hearing was continued.

**The Board heard the continued public hearing for Case #5639, the application of Abram Agayby for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS to accommodate an electronic message center on an existing sign, the subject premises being located at 289 County Street, more specifically Assessor's plat #44, lot #594, located in the General Business zoning district and Single Residence -A zoning district.**

Cathy Merkle noted that the applicant was not present.

There being no one else to speak, the public hearing was continued.

**The Board held a business meeting.**

The Board reviewed pending minutes.

Cathy Merkle made a motion to approve the pending minutes of December 15, 2022. Sandra Varrieur seconded the motion. All voted in favor to approve the pending minutes of December 15, 2022.

The Board tabled the pending minutes of January 12, 2023.

**The Board discussed Case #5653, the application of Luis Oliveira for a variance pursuant to §17-8.9 VARIANCES from the minimum front yard setback requirement under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct a garage onto an existing single-family dwelling, the subject premises being located at 111 Juniper Avenue, more specifically Assessor's plat #166, lot #1M, located in the Single Residence-C zoning district.**

Kent Richards made a motion to grant a variance pursuant to §17-8.9 VARIANCES of ten (10') feet from the minimum front yard setback requirement of thirty (30') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the Myrtle Court right-of-way to construct a 19'x44' addition consisting of a mudroom, a two car garage, and a master bedroom and bath above onto the existing one-family dwelling located at 111 Juniper Avenue, as shown on the site plan. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition. The motion failed and the variance was denied.

**The Board discussed Case #5655, the application of Heidi Paul for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming, residential structure, the subject premises being located at 36 Fisher Avenue, more specifically Assessor's plat #84, lot #55, located in the Single Residence -B zoning district.**

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming residential structure, as shown on the site plan, entitled "MORTGAGE INSPECTION PLAN", drawn by Paul T. Grover, R.L.S. of Colonial Land Surveying Company, Inc., P.O. Box 350, Humarock, MA 02047, dated January 13, 2021. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. Cathy Merkle made a motion to grant a special

permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming residential structure, as shown on the site plan, entitled "MORTGAGE INSPECTION PLAN", drawn by Paul T. Grover, R.L.S. of Colonial Land Surveying Company, Inc., P.O. Box 350, Humarock, MA 02047, dated January 13, 2021. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5647, the application of W.B. Construction & Development, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.2 EARTH REMOVAL for an earth removal operation to accommodate site grading relative to the construction of twelve (12) commercial units in three (3) buildings and a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.9(D) GENERAL PARKING AND LOADING SPACE STANDARDS to exceed the maximum permissible entrance/exit driveway width; the subject premises being located at 0 County Street, more specifically Assessor's plat #104, lot #27, located in the Industrial zoning district.**

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-10.2 EARTH REMOVAL for an earth removal operation to accommodate site grading relative to the construction of twelve (12) commercial units in three (3) buildings, as shown on the site plan entitled "COMMERCIAL DEVELOPMENT 0 COUNTY STREET ATTLEBORO, MA", dated September 6, 2022 and revised through December 20, 2022, drawn and engineered by James R. Borrebach, R.P.E. of OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048. Kent Richards seconded the motion. A discussion followed. All voted in favor. Cathy Merkle made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of thirteen (13') feet from the maximum permissible entrance/exit driveway width of twenty-five (25') feet, pursuant to §17-5.9(D) GENERAL PARKING AND LOADING SPACE STANDARDS to allow a thirty-eight (38') foot wide driveway entrance/exit driveway width, as shown on the site plan entitled "COMMERCIAL DEVELOPMENT 0 COUNTY STREET ATTLEBORO, MA", dated September 6, 2022 and revised through December 20, 2022, drawn and engineered by James R. Borrebach, R.P.E. of OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board reviewed all remaining correspondence.

The meeting adjourned at 8:17 p.m.