



# TOWN OF WAKEFIELD

BOARD OF APPEALS

## MEETING MINUTES

Wednesday, July 13, 2022 – ZOOM HEARING

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law, this meeting was conducted by remote participation.

Call to Order 7:02 pm

Roll Call by David Hatfield, Chairman

### In Attendance:

DAVID W. HATFIELD, CHAIRMAN

JAMES H. MCBAIN

JOSEPH PRIDE

CHARLES L. TARBELL, JR.

THOMAS J. LUCEY, ALTERNATE

GREGORY W. MCINTOSH, ALTERNATE

### Not Present:

AMI WALL, CLERK

MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### REQUEST TO CONTINUE:

**(22-52, 22-53, 22-54, 22-55) – 356 LOWELL STREET – NOURIA ENERGY CORP.**

A request from Attorney Brian McGrail to continue the hearing until August 17, 2022. Attorney McGrail also requested to extend the time to render and file a decision until September 30, 2022.

Chip moved to continue this matter to August 17, 2022 - Joe seconded

Voting members Chip, Joe, Jim, Tom, Dave – all were in favor

Chip moved to extend the time to render and file a decision until September 30, 2022 - Joe seconded

Voting members Chip, Joe, Jim, Tom, Dave – all were in favor



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THOMAS J. LUCEY, ALTERNATE

GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK

MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **OTHER MATTERS CONTINUED:**

#### **105-109 HOPKINS STREET – WAKEFIELD VISTA APARTMENTS**

**Present:** - Ian Schenkman (Partner and Vice-President of NFMU WVA, LLC)

The fire department requested some modifications to the plan regarding the parking spaces.

Ian presented the updated plan to the Board. The Fire Department requested 5 feet on each side of the fire hydrant. Deputy Fire Chief Purcell met with Ian at the site.

Chip moved to accept the final site plan dated July 8, 2022, prepared by Mistry Associates, Inc. as the new site plan and determined that the changes were insubstantial and a minor modification. Joe seconded

Voting Members - Chip, Joe, Jim, Tom, Dave – all in favor

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### **Not Present:**

AMI WALL, CLERK

MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **OTHER MATTERS:**

#### **168 ALBION STREET – NRP GROUP – MINOR MODIFICATIONS**

Attorney McGrail said they are in the process of doing the affordable component of this project.

Condition number 22 in the decision needs a wording update.

They are requesting a minor modification to change the wording to breakdown the unit types and locations in the Final Project Plans - 12 studio and 10 one bedroom and 11 of the two bedrooms will be affordable.

Chip moved to allow the Chair to prepare a document with Attorney McGrail for this minor modification.

Tom seconded

Voting Members - Dave, Chip, Jim, Tom, Joe – all were in favor

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### **Not Present:**

AMI WALL, CLERK

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Legal Notice Read by Joseph Pride

### **CONTINUED HEARING:**

**(21-50, 21-51, 21-52) 200-400 QUANNAPOWITT PARKWAY – CCF QUANNAPOWITT PROPERTY COMPANY, LLC.**

**Purpose:** Applications for Special Permits for a multi-family mixed-use apartment community with 485 residential units, associated parking and a restaurant use. (Now at 440 Units with a restaurant)

**Attendees:** Attorney Brian McGrail, Matt D'Amico

### **Discussions:**

Attorney McGrail presented some minor changes and cleanup items in the decision.

Jim requested that in addition to a mock-up panel on-site, that there be a mockup included in the building permit set of plans.

Dave pointed out that the voting members are Jim, Chip, Joe, Dave and Tom

Chip made a motion to close the public hearing, Joe 2<sup>nd</sup> – Chip, Joe, Jim, Tom, Dave

Chip said the conditions have all been reviewed – the date they were submitted were July 8<sup>th</sup> and reviewed July 13<sup>th</sup>.

#### FINAL PLAN SETS:

- Final Site Development Plans prepared and submitted by Allen & Major Associates, Inc. dated March 16, 2021, revised through May 20, 2022
- Final Architectural Site Development Plans prepared and submitted by Cube 3 Studio LLC, dated March 16, 2021, revised through May 31, 2022
- Final Landscape Site Development Plans prepared and submitted by Copley Wolff Design Group, dated March 16, 2021, revised through May 31, 2022
- Materials & Color Selection document prepared and submitted by Cube3 Studio LLC, dated May 31, 2022

#### **VOTE: Chip made a motion to grant:**

A Special Permit and Site Plan Approval pursuant to Sections 190-23, 190-32, 190-44 and 190-45 of the Wakefield Zoning Bylaw, allowing a 440-unit multi-family Mid-rise and Garden Apartment in combination with an approximately 3,667 SF Restaurant use and a Special Permit allowing said Restaurant use, as more particularly shown on the Final Site Development Plans, Final Architectural Site Development Plans, Final Landscape Site Development Plans, and Materials & Color Selection document (the "Project").

#### **FINDINGS**

Special Permits - Wakefield Zoning Bylaw Section 190-44

Pursuant to Section 190-44 of the Wakefield Zoning Bylaw, prior to granting a special permit, the Board must find that each the seven (7) criteria enumerated therein have been fulfilled. The Board has considered each of the required criteria in relation to the proposed project and makes the following findings:

- A. The uses requested are listed in the Table of Use Regulations as requiring a special permit in the district for which application is made. Pursuant to Section 190-23 restaurant use and Mid-Rise/Garden Apartments are designated as special permit uses in the Limited Business Zoning District. In addition, Section 190-32 establishes as a special permit use mixed use development comprised of mid-rise/garden apartments combined with other uses.
- B. The Project is essential and/or desirable to the public convenience or welfare. The combination of uses proposed will provide much-needed new multifamily residential housing opportunities including a significant affordable component, with a supporting restaurant use while removing a blighted use. Furthermore, public access and amenity areas are included as part of the use significantly enhancing public convenience and welfare.
- C. The Project will not create or add to undue traffic congestion or unduly impair pedestrian safety. The Traffic Impact Assessment submitted on behalf of the Applicant by Vanasse & Associates, Inc., which assessment was reviewed by the Board and the Wakefield Traffic Advisory Committee, show that the requested uses will not create or add to undue traffic

congestion or unduly impair pedestrian safety. Specifically, the Board finds that the 702 parking spaces and loading as proposed by the Applicant are adequate. Based on the materials submitted by the Applicant's traffic consultant, Vanasse & Associates, Inc, the Board finds that the Project will have minimal impact on traffic operations within the area and further that the local transportation network improvements proposed by the Applicant will mitigate any potential traffic impacts associated with the Project and will improve vehicular circulation in the project area. The Board also finds that the Project will improve pedestrian circulation with the introduction of a new public path, sidewalks and walkways to accommodate pedestrians in a safe and efficient manner.

- D. The Project will not overload any public water, drainage or sewer system or any other municipal system for such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare. Based on the review and input from the Department of Public Works, the Board finds that there is adequate water supply to serve the Project and, moreover , that there is adequate sewer capacity for the Project. Based on the drainage report submitted by the Applicant, the Board finds that the Project has been designed to properly address the quality and quantity of storm water runoff.
- E. The Project will not impair the integrity or character of the district or adjoining districts nor be detrimental to the public health, convenience or welfare. The Board finds that, as a result of more than two years of working with the Town, neighbors and Friends of Lake Quannapowitt, the proposed design of the Project is sensitive to and reflective of the area context. The Project Plans create a pedestrian feel and respects the natural resources in the area, with Project massing located away from Lake Quannapowitt. The Board a/so finds that the Project will significantly improve the current aesthetics of the area of the district and adjoining districts and will therefore not be detrimental to the public health, convenience or welfare, but will, in fact benefit them.
- F. The Project will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood. The Board finds that the surrounding properties are currently developed with commercial, and office uses; the addition of a new multifamily residential/mixed use development with a restaurant will be positive for this area.
- G. The proposed use will not be detrimental to the Project proposed or to the neighborhood and it will not adversely affect the zoning district. The Board finds that the mix of uses proposed will improve an underutilized site while providing new amenities to the surrounding neighborhood.

### Section 190-45 -Wakefield Zoning Bylaw

Pursuant to Section 190-45 of the Wakefield Zoning Bylaw prior to granting a special permit, the Board must consider, among other things, the three (3) criteria enumerated therein.

The Board has considered such criteria in relation to the proposed project and makes the following findings:

- 1) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements. The Board finds that the Project will have minimal impact on traffic operations within the area and further that the local

transportation network improvements proposed by the Applicant will mitigate any potential traffic impacts associated with the Project and will improve vehicular circulation in the project area.

- 2) Adequacy of the methods of disposal for sewage, refuse and other wastes and the methods for surface and storm water drainage. Based on input from the Department of Public Works and its independent review of Project Plans, the Board finds that methods of disposal for sewage, refuse and other wastes and the methods for surface and storm water drainage will be improved over current conditions.
- 3) Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the lot or tract. The Board finds that the proposed facilities and operations for Project loading and unloading have been properly addressed.

THE CONDITIONS HAVE ALREADY BEEN DISCUSSED AND PRESENTED

Joe seconded the motion

VOTING MEMBERS - Chip, Joe, Jim, Tom, Dave – all in favor

Attorney McGrail requested that the Special Permit for dimensional relief be withdrawn without prejudice

**VOTE:** Chip made the motion to withdraw without prejudice the Special Permit request for Dimensional relief.

Joe seconded the motion

VOTING MEMBERS - Chip, Joe, Jim, Tom, Dave – all in favor

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THOMAS J. LUCEY, ALTERNATE

GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK

MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **CONTINUED HEARING:**

**(22-39) 596 NORTH AVENUE – o NORTH AVE WAKEFIELD, LLC**

**Purpose:** Comprehensive Permit to Allow a 38-Unit Residential Dwelling

**Attendees:** Peter Sandorse (Architect), Elliott Brundage (Landscaping)

Joe Pride recused himself – Chair Hatfield put him in the zoom waiting room

### **Discussions:**

Tonight they just want to give the Board an update on the progress they feel they are making with the subcommittee.

Peter Sandorse explained that they have changed the floor plans, right, left and side elevations and used different materials to soften up the building.

The balconies have all been removed and as the building shrank it put more living space in and also the balconies were a concern of the neighbors.

Elliott Brundage presented a preliminary landscape plan based on comments from Jim and Tom during the subcommittee meetings. Chip wondered if there should be an amenities area, especially since the balconies have been removed. He suggested grills and/or communal areas. Elliott said that it had been discussed and he proposed some ideas. Chip suggested a grander entrance.



Dave reminded them to think about where the snow was going to go.

Greg likes the statement that Chip wants a grand entrance but noted they are trying to have the building blend in with the neighborhood.

**Public Testimony:**

None

**Plans Presented:**

- Elevations and floor plans by Phoenix Architects, dated July 11, 2022
- Preliminary Landscape Plan by Elliott Brundage, dated July 6, 2022

Chip moved to continue to August 17, 2022 and Tom seconded.

Voting members - Chip, Tom, Jim, Greg, Dave – all in favor

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### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **CONTINUED HEARING:**

**(22-62, 22-63) 200 WATER STREET – RD&D, LLC**

**Purpose:** Finding and a Special Permit to change, extend and/or alter a structure or uses and for reductions in parking

**Attendees:** Attorney McGrail, John Ogren, Dennis Cataldo (owner), Jay Bradly (architect)

### **Discussions:**

Brian said since the last ZBA hearing they went to the Conservation Commission meeting and they are still working out issues in the back of the lot, they will create rain gardens and a more natural area.

John Ogren discussed and presented changes on the site plan since the last hearing. They are still working with the Engineering department on test holes and their storm water questions have been resolved. The rain garden has been revised on the site plan based on the Conservation Commissions comments. The Commission would like the stone dust removed and be left in a natural state in the back of the property. Chip wants a two rail fence to distinguish the area and to define it so no one will park there.

There is a retaining wall that borders the rain garden, it is about 2 feet high down to being flush on the parking lot side.

Jim reminded them that they have to come back regarding signage.

Chip asked about exterior lighting – a few down lighting fixtures will be installed at the entrances. Chip said they want to know exactly what the exterior lighting will be and the hours that the lighting will be on. There was much discussion regarding lighting.

Brian presented conditions. It was suggested that the lighting specs be included and Jim suggested the lighting be on the building permit plans.

**Public Testimony:**

None

**Plans Presented:**

- Existing and proposed Site Plans prepared by John Ogren, Hayes Engineering, revised through July 7, 2022
- Architectural Plans prepared by J. Bradley, dated July 7, 2022
- Colored Perspective Renderings, prepared by J. Bradley Architects, dated May 5, 2022

**VOTE:** Chip made a motion to grant the Finding per the plans listed below:

Site Plan prepared by Hayes Engineering dated April 18, 2022 revised thru July 7, 2022

Architectural Plans prepared by J. Bradley dated July 7, 2022

1. As it relates to the proposed public safety building use of the property (that being ambulance service) and the proposed changes, extensions, or alterations to the property and the building thereon. Motion for a Finding under Article IX, Section 190-50B of the Zoning Bylaw that the proposed changes, extensions, or alterations to the preexisting nonconforming buildings, structures or uses on the property shown on the Site Plan and Architectural Plan are not substantially more detrimental than the existing nonconformities to the neighborhood. With said Finding being made with reliance on the following conditions as it pertains to the public safety building use that shall be complied with:
  - A. Conformity With Plans/Changes: The project shall be constructed in conformance with the Site Plan and Architectural Plan. Prior to applying for a building permit the Applicant shall submit a detail of the building materials and colors to be reviewed and approved by a designated Board Member.
  - B. Prior to applying for a building permit, the Applicant shall submit a complete set of building plans to the Board for review and confirmation of compliance with this decision. The plans submitted to the Board shall be the same plans and details submitted to the Building Inspector for the issuance of a building permit. The purpose of this submittal is for the Board to confirm the building permit plans are the same as the Site Plan and Architectural Plan.
  - C. The Board retains jurisdiction and shall have the authority to approve administratively any minor amendments to this decision that do not materially alter the terms of this decision. If, in the Board's judgment, a proposed change is material, then a new hearing shall be required to amend this decision. Jurisdiction to decide any disputes or

make any necessary clarification(s) of this decision and conditions contained herein, which cannot be resolved by the Zoning Enforcement Officer, shall be retained by the Board.

- D. The parking area in the stone dust area over the bridge shall be limited to 8 parking spaces for employees, guests and customers. No vehicles will be left in that area after 8:00 p.m. Further, there will be no lights installed in the area over the bridge that will wash on to Park Crossing Condominium property.
- E. Prior to the request for a certificate of occupancy, the Applicant shall deliver to the DPW Engineering Division for its review and approval a drainage easement for the section of culvert pipe not currently within the existing drainage easement to allow Town access to maintain existing 48" culvert. No easement shall be required if it is not accepted by the Town.
- F. Prior to the request for a Certificate of Occupancy, the Applicant shall provide for review and approval as-built drawings in CAD and PDF form including the location of all drainage, sewer, water, roadway, gas and electric infrastructure. A letter shall be prepared by a professional engineer, noting all changes between the as-built conditions and the approved plan and storm water report including a statement that all work has been completed within substantial compliance of the decision.
- G. Due to the project being located within a section of Water Street that is under moratorium, patch in roadway resulting from the proposed curb cut shall be blended with the surrounding existing pavement. Infrared pavement micro surfacing technology shall be used to blend the surfaces to the satisfaction of the Town Engineer.
- H. No test hole information was witnessed by the Town Engineer for the property. Soil conditions and estimated high groundwater levels shall be field verified by the Town Engineer at the location of all infiltrative Best Management Practices prior to the issuance of a building permit. If required by the Town Engineer, the Applicant shall update the plans and drainage report based on the results of the test holes and maximize the vertical separation between the bottom of mulch and identified estimated high groundwater levels.

Joe seconded the motion

Voting members - Chip, Tom, Jim, Joe, Dave – all in favor

**VOTE:** Chip made a motion to grant the Special Permit:

- 2. As it relates to the proposed public safety building use of the property (that being ambulance service). Motion to grant a Special Permit, pursuant to Section 190-36C of the Wakefield Zoning Bylaw and Site Plan Approval in conjunction therewith, for any necessary reductions in the requirements and/or standards for off street parking and loading under Article VII of the Bylaw as shown on the Site Plan including:
  - a. Section 190-37D ----Allowing the width of the aisles to be as shown on the Site Plan.

- b. Section 190-37E ----Allowing the setback of off-street parking areas to be closer than 7.5 feet to the building and reducing the requirement of a 15- foot-wide landscape strip separating the open parking areas from the street line as shown on the Site Plan.
- c. Section 190-371 ---- Allowing the width of the driveways serving parking facilities to be as shown on the Site Plan and allowing the two driveways be spaced closer than 100 feet to each other as shown on the Site Plan.
- d. Any other necessary reductions in the requirements and/or standards for off street parking and loading under Article VII of the Bylaw related to the project as shown on the Site Plan.

### **FINDINGS**

- A. The use requested is listed in the Table of Use Regulations as requiring a special permit in the district for which application is made.
- B. The requested use is essential and/or desirable to the public convenience or welfare.
- C. The requested use will not create or add to undue traffic congestion or unduly impair pedestrian safety.
- D. The requested use will not overload any public water, drainage or sewer system or any other municipal system for such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
- E. The requested use will not impair the integrity or character of the district or adjoining districts nor be detrimental to the public health, convenience or welfare.
- F. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

Furthermore, the Board finds that the application of the standards for off- street parking and loading under Article VII proves to be infeasible and the reductions are supported by evidence of infeasibility due to lack of suitable land, design considerations or other similar factors. The granting of such special permit will not adversely affect the health, safety, convenience, character or welfare of the neighborhood or district or of the Town.

### **SAME CONDITIONS AS THE FINDING**

Joe seconded the motion

Voting members - Chip, Tom, Jim, Joe, Dave – all in favor

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THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **CONTINUED HEARING:**

**(22-67, 22-68) 1 HICKORY HILL ROAD – DAVID H. BARRETT**

**Purpose:** Finding and Variance to raze and rebuild a legal non-conforming 3-family

**Attendees:** Attorney McGrail, John Ogren, Joe Barrett

### **Discussions:**

Attorney McGrail explained since the last hearing they have straightened out questions the Engineering Department had. The Board also had landscaping questions so Mr. Barrett hired a landscape architect.

John Ogren presented changes to the site plan because of the Town Engineering requests: An erosion control, stock pile area, revisions to proposed water services and an infiltration system has been connected to storm water system also a storm water pollution system was included.

Brian presented the landscape plan prepared by Jim Emmanuel.

Chip was satisfied but wants to be assured that any trees that they could not save would be replaced by landscaping or some kind of replanting.

Tom would like a tree protection plan in the decision.

The Town Engineer would like the wall on lot one moved back, it is now encroaching on Town property, it is going to be part of a condition, Brian explained.

**Public Testimony:**

None

**Plans Presented:**

- Site Plan, prepared by Hayes Engineering, revised dated July 8, 2022
- Landscape Plan, prepared by James Emmanuel, dated June 16, 2022
- Stormwater Pollution Prevention Plan & O&M Plan, dated July 7, 2022
- Elevation Plan, prepared by Shane Structures, no date
- Letter from Hayes Engineering to Wakefield Engineering Department, dated July 8, 2022

**VOTE:** Chip made a motion to approve the Finding based on the following plans:

- Site Plan prepared by Hayes Engineering dated February 3, 2022 revised thru July 8, 2022
- Architectural Plans prepared by Shane Structures dated June 22, 2022.
- Landscape Plan prepared by Lames K. Emmanuel dated June 16. 2022

As it relates to the proposal of the division of the property into two separate lots and the proposed razing and reconstruction of a legal non-- conforming three family dwelling on one of the lots and the construction of a new single-family dwelling on the other lot as shown on the plans. Motion for a Finding under Article IX, Section 190-50B of the Zoning Bylaw that the proposed changes, extensions, or alterations to the preexisting nonconforming buildings, structures or uses on the property shown on the Site Plan and Architectural Plan are not substantially more detrimental than the existing nonconforming use to the neighborhood. With said Finding being made with reliance on the following conditions:

- A. Conformity With Plans/Changes: Lot 2 on the Site Plan shall be constructed in conformance with the Site Plan, Architectural Plan, and Landscape Plan.
- B. Prior to applying for a building permit for Lot 2 on the Site Plan, the Applicant shall submit a complete set of building plans for Lot 2 on the Site Plan to the Board for review and confirmation of compliance with this decision. The plans submitted to the Board shall be the same plans and details submitted to the Building Inspector for the issuance of a building permit. The purpose of this submittal is for the Board to confirm the building permit plans are the same as the Site Plan, Architectural Plan, and Landscape Plan.
- C. The Board retains jurisdiction and shall have the authority to approve administratively any minor amendments to this decision that do not materially alter the terms of this decision. If, in the Board's judgment, a proposed change is material, then a new hearing shall be required to amend this decision. Jurisdiction to decide any disputes or make any necessary clarification(s) of this decision and conditions contained herein, which cannot be resolved by the Zoning Enforcement Officer, shall be retained by the Board.
- D. Prior to the request for a Certificate of Occupancy for Lot 2, the Applicant shall provide for review and approval as-built drawings in CAD and PDF form including

the location of all drainage, sewer, water, roadway, gas and electric infrastructure. The plans shall also include the as-built volume of the proposed stormwater BMPs and appropriate spot grading to verify the as built drainage patterns match the design plans and stormwater calculations. A letter shall be prepared by a professional engineer, noting all changes between the as-built conditions and the approved plan and stormwater calculations including a statement that all work has been completed within substantial compliance of the approval.

- E. If the new structures results in an increase in the number of bedrooms, the DPW requires that the Applicant submit a sewer inflow/infiltration (1/1) fee to compensate the removal of a 4:1 ratio from the sewer system flow. This fee is \$450 per additional bedroom to the property. The fee shall be paid to the DPW Engineering when applying for the sewer service ROW/Utility Permit.
- F. The Site Plan shows that stone retaining walls along the frontage of Lot 1 encroach on to the town right of way shown as Greenwood Street on the Site Plan. In the event the walls collapse, or the owner of Lot 1 voluntarily razes and rebuilds the walls, they shall be rebuilt at the sole cost and expense of the owner of said Lot 1 and entirely within the lot lines of Lot 1 and no longer encroaching on the town right of way. In addition, prior to the issuance of a Building Permit for either Lot 1 or Lot 2 the Applicant shall voluntarily make a \$5,000.00 contribution to the Town of Wakefield (the "Town ") only if it is accepted by the Town, pursuant to M.G.L. Ch. 44, § 53A, to be used by the Town if the Town decides, with no obligation to do so, to remove the encroaching walls and/or rebuild them entirely within the lot lines of Lot 1.
- G. Prior to the issuance of a Building Permit for either Lot 1 or Lot 2 the Applicant shall deliver to the DPW Engineering Division for its review and approval a non-exclusive easement along the frontage of Lot 1 that is 10 feet in from the town right of way line shown as Greenwood Street on the Site Plan for the limited purpose of allowing the Town, if the Town decides, with no obligation to do so, to remove the encroaching walls and/or rebuild them entirely within the lot lines of Lot 1. No easement shall be required if it is not accepted by the Town.



H. This decision and the conditions stated herein shall be referenced in any deeds pertaining to Lot 1 and Lot 2.

Joe seconded the motion

Voting members - Chip, Joe, Jim, Tom, Dave – all in favor

**VOTE:** Chip made a motion to grant a Variance from the requirements of Article VI and Table 2 related to the reconstruction of the legal nonconforming (3) three family dwelling on Lot 2 as follows:

- A. Article VI, Section 190-31C1 of the Wakefield Zoning Bylaw, allowing less than 60% of the front yard to be maintained as open area on Lot 2 as shown on the Site Plan.
- B. Table 2 of the Wakefield Zoning Bylaw, allowing the new three (3) family dwelling on Lot 2 to be three (3) stories.
- C. From any other requirements of Article VI and Table 2 to allow the reconstruction of the new three (3) family dwelling on Lot 2 as shown on the plans.

**Unusual Circumstances Affecting Land or Structures.** The three-family dwelling being razed is in substandard conditions and is currently three (3) stories. The Property has unique topography with slopes, rocks and ledge.

**Hardship.** The Board finds that compliance with the Bylaw proves to be infeasible, and the requested relief is supported by existing conditions including topography with slopes, rocks and ledge.

**Substantial Detriment and Derogation.** The Board finds that the requested relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw. There is currently a three (3) story building on the Property.

**SAME CONDITIONS AS FINDING**

Joe seconded the motion

Voting members - Chip, Joe, Jim, Tom, Dave – all in favor

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JAMES H. MCBAIN

JOSEPH PRIDE

CHARLES L. TARBELL, JR.

THOMAS J. LUCEY, ALTERNATE

GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK

MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **CONTINUED HEARING:**

**(22-69, 22-70) o GREENWOOD STREET, A/K/A o CHERRY LANE – NGHI LUU**

**Attendees:** Nghi Luu

**Purpose:** Variance to reduce front yard setback and a Variance to allow a third story

### **Discussions:**

Mr. Luu said the table on the site plan has been cleaned up.

Mr. Luu also said that the Conservation Commission said that having a parking space on the side of the house that was not paved would be fine and would meet requirements.

Mr. Luu said he has a civil engineer and is working with the Town Engineer on their comments and will adjust his site plan according to their comments when he applies for his building permit.

Chip said he is struggling with Mr. Luu building a house between a road and a river and cannot see the hardship. He feels it is an unbuildable lot.

Chip pointed out that for a Variance he has not pointed out the hardships. Mr. Luu said the hardship is the topography. He also pointed out that it is an intermittent stream and not a river.

Mr. Luu said if this Board does not approve this he will withdraw without prejudice and build it by right.

Dave asked if Mr. Luu's surveyor is attending this meeting tonight. Mr. Luu stated he is not. Dave said the plan is not stamped and Mr. Luu said he updated the plan himself, he reassured Dave that his surveyor did the updates and that it was just an oversight that the plan was not stamped.

Tom asked Mr. Luu if he could build this without this Board's approval and Mr. Luu said yes. Tom said that proves this is not a hardship.

Dave told Mr. Luu that the Board is struggling with a hardship because he can push the house back and build it by right.

Chip said it comes down to one thing that he has not proposed a hardship and satisfied a hardship for height and front setback. It is Chip's opinion he does not meet the criteria. He has created his own hardship. The bylaws are the bylaws and they have to follow them.

**Plans Presented:**

- Proposed Plot Plan, prepared by PFS Land Surveying, Inc., no revision date, plan not stamped
- Elevations, prepared by Design by Sami LLC, no date

Mr. Luu requested to withdraw his applications without prejudice.

Chip moved to allow the withdrawal without prejudice.

Joe seconded

Voting Members - Joe, Jim, Tom, Chip, Dave – all in favor

## **MEETING MINUTES**

Wednesday, July 13, 2022 – ZOOM HEARING

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law, this meeting was conducted by remote participation.

Call to Order 7:02 pm

Roll Call by David Hatfield, Chairman

### **In Attendance:**

DAVID W. HATFIELD, CHAIRMAN  
JAMES H. MCBAIN  
JOSEPH PRIDE  
CHARLES L. TARBELL, JR.  
THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **NEW HEARING:**

**(23-1) 23 PLYMOUTH ROAD – JANET L. ELWELL, INDIVIDUALLY AND TRUSTEE OF THE ELWELL FAMILY NOMINEE TRUST**

**Purpose:** Special Permit to Add an Accessory Apartment

**Attendees:** Attorney Brian McGrail, Janet Elwell, Peter Sandorse

### **Discussions:**

The Elwell's would like to add an accessory apartment to their single family dwelling. Brian explained that the lot is in the single residential district and meets all the requirements of the bylaw. The Elwell's added the addition by right (Phoenix Architect's designed it) – needed no relief. Now they are looking for a S/P under our bylaw.

The apartment meets the requirements of the bylaw.

Janet explained that she and her two boys live in the main house and her parents will live in the accessory apartment.

Jim pointed out that this addition is still under construction. Jim wondered if a CO has been issued. Jim wondered if there should be more of a timeframe before people claim their addition to become an accessory apartment.

Tom thinks it meets the criteria.

Chip thinks this meets the by-law and they cannot deny it.

Brian said she built the addition at her own peril and if the Board does not grant the Special Permit she will use the building as another use.  
Chip feels it was a go-around but it meets the bylaw.

**Public Testimony:**

None

**Plans Presented:**

- Letter of Support from the abutters
- Floor Plans and Elevations prepared by Phoenix Architects, dated May 11, 2022

Chip moved to grant a Special Permit to allow the accessory apartment as presented tonight and in place of surety a letter will be given to the Building Department on a yearly basis as to who is living there.

Joe seconded the motion

Voting Member - Chip, Joe, Tom, Dave – all in favor  
Jim voted NOT in favor

## **MEETING MINUTES**

Wednesday, July 13, 2022 – ZOOM HEARING

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Roll Call by David Hatfield, Chairman

### **In Attendance:**

DAVID W. HATFIELD, CHAIRMAN  
JAMES H. MCBAIN  
JOSEPH PRIDE  
CHARLES L. TARBELL, JR.  
THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **NEW HEARING:**

**(23-2) 37 STARTK AVENUE – WILLIAM MCLAUGHLIN, JR., ROSEMAIRE MCLAUGHLIN & WILLIAM E. MCLAUGHLIN, III**

**Purpose:** Determination and/or Finding to Construct an Addition

**Attendees:** Attorney Brian McGrail, Bill McLaughlin, John Ogren

### **Discussions:**

Mr. McLaughlin Jr. passed away a couple of weeks ago it was his desire to live together. He will be removed from this relief if granted.

William McLaughlin, III would like to move in with his mother and help her. There will be no accessory apartment, just an addition for him to live in.

Brian presented floor plans – the addition will be constructed in the back of the house and the detached garage will be attached with a bedroom above it.

The site plan was presented.

They only need a Finding to put the addition on, the zoning table was reviewed.

The side yard is only 9.9 ft. but the garage is only 7.3 ft. so they are going to be encroaching the setback when they connect it. Frontage is already a non-conformity.

John Ogren said there will be less impervious area because pavement will be removed.

They are looking for a Finding because of the Balata ruling they do not need a Variance.

They have support of all the neighbors.

**Public Testimony:**

None

**Plans Presented:**

- Site plan prepared by Hayes Engineering, dated May 12, 2022
- Letter of Support signed by the abutters

Chip moved to grant the Finding that the nonconformity is exaggerated however it is not more substantially detrimental to the neighborhood Joe seconded the motion.

Voting Members - Joe, Jim, Tom, Chip, Dave – all in favor

## **MEETING MINUTES**

Wednesday, July 13, 2022 – ZOOM HEARING

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Call to Order 7:02 pm

Roll Call by David Hatfield, Chairman

### **In Attendance:**

DAVID W. HATFIELD, CHAIRMAN  
JAMES H. MCBAIN  
JOSEPH PRIDE  
CHARLES L. TARBELL, JR.  
THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **NEW HEARING:**

**(23-3, 23-4) 98 KENDRICK ROAD – MICHAEL DAVID ST. BERNARD & KELLY ST.  
BERNARD, DEBORAH A. MALOY**

**Purpose:** Variance & Special Permit to add an accessory apartment

**Attendees:** Attorney Brian McGrail, John Ogren, Jason Bradley (architect)

### **Discussions:**

The St. Bernard family is seeking a Variance and Special Permit to add an addition for an accessory apartment.

There is some urgency – Kelly and Michael have taken over the property, Debbie has just been diagnosed with breast cancer and will live in the apartment. Kelly is a nurse and will take care of Debbie.

John Ogren presented the site plan showing the proposed accessory apartment. Brian presented the dimensional controls – this is a large lot, well over the requirements. One of the aspects of the relief is the lot width by 3 feet. Brian explained that a Variance for lot width requirements and the accessory apartment cannot involve the enlargement of the building and it does. They also are asking for a waiver because it is over the 25% if they consider the garage habitable area. If it is not considered habitable then it is under 25%. The bylaw does not define habitable area. Greg said that this Board has come across this question before.



This garage will only be for cars and not an extension of the addition.

Brian said that Section 6 of the Bylaw says the Board does not have to grant a Variance for the 25% it can be part of the Special Permit.

Chip questioned the Board if they are changing their opinion on allowing petitioners to add on to their homes to make an accessory apartment. Greg feels that if someone comes before them for a Variance and has a hardship it is up to this Board to weigh the circumstances and take each petitioner's request separately. Chip likes when they come to this Board first before they build it rather than petitioners building it first then come to the Board. Tom feels that each lot and circumstance should be looked at individually.

Brian said that hardship is the family circumstance and lot width by only 3 feet, it is a large lot. The abutting neighbors have signed a letter of support.

**Public Testimony:**

Annette Sukkar – 2 Galvin Circle

No concerns, but wanted to comment that she is glad to learn this process.

**Plans Presented:**

- Site Plan prepared by Hayes Engineering, dated May 2, 2022
- Floor Plans with calculations, prepared by J. Bradley Architects, dated June 9, 2022
- Letter of Support signed by the abutters

**Jim deferred his votes**

**VOTE:** Chip made a motion to grant the Variance from the requirements that are necessary for an accessory apartment use under Section 2 and 7 of Section 190-22 to support the proposed addition, including the lot width as shown on the site plan presented tonight by Hayes Engineering. Joe seconded the motion

Voting Members - Chip, Joe, Tom, Greg, Dave – all in favor

**VOTE:** Chip moved to grant the Special Permit to allow the accessory apartment and waive the surety and allow a yearly letter to the building department. Joe seconded the motion

Voting Members - Chip, Joe, Tom, Greg, Dave – all in favor

## **MEETING MINUTES**

Wednesday, July 13, 2022 – ZOOM HEARING

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Call to Order 7:02 pm

Roll Call by David Hatfield, Chairman

### **In Attendance:**

DAVID W. HATFIELD, CHAIRMAN  
JAMES H. MCBAIN  
JOSEPH PRIDE  
CHARLES L. TARBELL, JR.  
THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **NEW HEARING:**

**(23-5, 23-6, 23-7, 23-8) 198 ALBION STREET – 198 ALBION STREET REAL ESTATE LLC**

**Purpose:** Special Permits, Site Plan Approval and Variance to Allow a 10 Unit Garden Apartment Building with a Combination of Other Uses Including retail/service establishments and/or restaurant

**Attendees:** Attorney Brian McGrail, John Ogren, Peter Sandorse, Giancarlo Tiberi (Owner)

### **Discussions:**

Brian explained that tonight will be an introduction of the project.  
What they are proposing is a mixed use project with 10 residential units.  
The density that is allowed is more than what is being proposed, under the bylaw he could ask for 20 units on the site.  
They are proposing 8 one-bedroom units and 2 two-bedroom units.  
Giancarlo has done many projects like this including in the North End.

John Ogren oriented the Board with the site.

There will be some parking underneath, total parking spaces proposing is 17 and 15 are required. The entrance would be from Albion Street and exiting would be on Lake Street.

Landscaping will be increased from what is there today, there is a decrease in impervious area on the site. They are improving drainage. There is currently two curb cuts on Albion Street they are going to close one of them.

Utilities will be overhead, but Mr. Tiberi said he is working with WMGLD and they may be run underground.

Chip pointed out that there is no parking for the commercial space. John said the space is under 1,000 sq. ft. of commercial space so there is no parking requirement. The space will be about 800 sq. ft.

Greg pointed out that if it is a restaurant they would need relief. They tabled that discussion for tonight.

John talked with WMGLD there will be no need for a transformer on a pad if it will run above on a pole.

Peter Sandorse presented the Floor Plans

The exterior elevations were presented along with proposed materials

Dave likes the look of the brick and Jim said it goes in line with the neighborhood.

Joe asked the height of the building – 41 feet, plus the elevator shaft.

Chip wondered if this was the best location with the most parking.

Peter said he feels it is the best location and so does John Ogren.

Brian said they will touch base with TAC.

Dave pointed out letters in the file from Town Departments.

**Public Testimony:**

None

**Plans Presented:**

- Proposed Elevations and Floor Plans prepared by Phoenix Architects, dated June 9, 2022
- Site Plan prepared by Hayes Engineering, dated June 7, 2022

Chip moved to continue to August 17<sup>th</sup>

Joe seconded

Tom, Chip, Jim, Joe, Dave

## **MEETING MINUTES**

Wednesday, July 13, 2022 – ZOOM HEARING

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Call to Order 7:02 pm

Roll Call by David Hatfield, Chairman

### **In Attendance:**

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JAMES H. MCBAIN  
JOSEPH PRIDE  
CHARLES L. TARBELL, JR.  
THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **NEW HEARING:**

**(23-9) 3 NELLY STREET – JCG INVESTMENTS, LLC**

**Purpose:** Determination and/or Finding to Raze an Existing Single Family Dwelling and Reconstruct a Two-Family Dwelling

**Attendees:** Attorney Brian McGrail, Jim Gusto (owner)

### **Discussions:**

Mr. Gusto has acquired the property, he would like to raze the single family dwelling and construct a two-family dwelling. This property is in the General Residential District.

Brian presented the existing and proposed site plan which was prepared by Paul Finocchio. They are requesting a Finding. They are pulling the house way back from the street.

Chip asked where the parking would be, Brian presented the architectural plans/elevations that showed two parking spaces in the front of each unit with a garage.

Chip does not like the design, he said it does not look right to him.

Dave reminded the Board they are asking for a Finding and this Board cannot design the building.

**Public Testimony:**

None

**Plans Presented:**

- Elevations and floor plans prepared by MAC Design, dated May 7, 2022
- Site Plan prepared by P.J.F. and Associates, dated May 24, 2022

**VOTE:** Chip moved to Find as presented to them this evening that although this project is enhanced and is more intensified it is not more substantially detrimental to the neighborhood.

Joe seconded the motion

Voting Members - Jim, Tom, Chip, Joe, Dave\_— all in favor

## **MEETING MINUTES**

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Roll Call by David Hatfield, Chairman

### **In Attendance:**

DAVID W. HATFIELD, CHAIRMAN  
JAMES H. MCBAIN  
JOSEPH PRIDE  
CHARLES L. TARBELL, JR.  
THOMAS J. LUCEY, ALTERNATE  
GREGORY W. MCINTOSH, ALTERNATE

### **Not Present:**

AMI WALL, CLERK  
MICHAEL L. FEELEY, ALTERNATE

Legal Notice Read by Joseph Pride

### **APPROVED MINUTES:**

Chip made a motion to approve the June 22, 2022 minutes with an amendment in the 200-400 Quannapowitt Parkway minutes to reflect the change in eligible voting members from Greg to Chip.

Joe 2nd

Chip, Tom, Joe, Jim, Greg, Dave

The meeting adjourned at 12:00 a.m.