

TRANSCRIPT OF PUBLIC RECORD
ZONING BOARD OF APPEALS MEETING
June 28, 2023

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CITY CLERK'S OFFICE
METHUEN, MA

This Regular Meeting of the Zoning Board of Appeals, was held at *The Great Hall*, 41 Pleasant St, Methuen, MA. The meeting was called to order at: 7:02PM.

Chairman Matthew D'Agostino asked for a moment of silence in memory for all those who have died for our country. Chairman D'Agostino Led the Pledge of Allegiance.

Vincenzo Pesce introduced the board members, Gene Walsh (Acting Building Commissioner), and Lori Moriarty (Board Secretary).

MEMBERS IN ATTENDANCE:

- Mr. Matthew D'Agostino, Chairman
- Ms. Laura Walta, Vice Chairman
- Mr. Vincenzo Pesce, Board Clerk
- Mr. David DiNatale, Member
- Mr. Philip Cultrera, Member
- Mr. Nick Boucher, Alternate Member

MEMBERS ABSENT:

ROLL OF APPLICANTS:

- David Pierce- Present
- Griffin Brook Drive Owner LLC & R.J. Kelley Management LLC- Present
- Linda & Mario Donatelli- Present
- Mark Murphy- Present

ACCEPTANCE OF MINUTES:

- May 25,2023

Chairman D'Agostino entertained a motion to accept the minutes.

- Motion:** Laura Walta
- Second:** Vincenzo Pesce
- Discussion:** none
- Vote:** Unanimous

OLD BUSINESS:

2023-13: David Pierce

A Variance is required under Section VI-D of the Methuen Comprehensive Zoning Ordinance, in a RR (Rural Residential) Zone for a 30' x 30'-4" addition to the right side of the existing home, that will be too close to the Right-Side Setback at **38 North St. unit lot B, Methuen, MA. (Parcel ID: 804-74-11C)**

Attorney Arthur Broadhurst came to the podium on behalf of the petitioners. They are seeking relief for a side set-back. There was initial confusion when the application was originally submitted with the size of the addition, and Attorney Broadhurst informed the board that he sent a letter explaining the specifics of the actual size. The actual size of addition is 25' x 25' (approximately 625 square feet) with a breezeway (47 square feet). The size is smaller than the actual square footage which was advertised. He also attached a drawing and floor plans, in his letter. He explained that the lot is narrow, and the opposite side of the lot is wetlands, which would interfere with building. There is also a leech field which prevents building behind the house. A 20'6" side setback would be required for the proposed addition (instead of 30') of a 2-stall garage with a breezeway. The hardship is the shape of the property.

Phil Cultrera asked for verification of the address as 38 or 38A. Attorney Broadhurst replied that the address in the deed is listed as 38A. Nick Boucher confirmed size as 25' x 25', and asked about the height of the garage. Arthur Broadhurst confirmed the height of the building is 34' to the peak. Mr. Boucher asked Gene Walsh if that was compliant with building codes, and Gene Walsh confirmed it is. Nick Boucher asked for a revised plot plan, and Attorney Broadhurst informed that the original plot plan submitted is accurate. Mr. Boucher asked if there would be a kitchen, and Attorney Broadhurst confirmed there would be a small one, and a special permit would not be required because it is within the size limit for an accessory apartment. This information was previously run by the building inspector. Matt D'Agostino asked Gene Walsh if it would be an issue that the actual size is smaller than the advertised proposal. Mr. Walsh confirmed since it was smaller, that there would not be an issue. Laura Walta asked for confirmation if it was designed as an accessory apartment. Attorney Broadhurst confirmed that it is, and can be altered back easily. Mr. Boucher asked if the height of the building included the cupola that was in the drawing, to which Attorney Broadhurst responded affirmatively. Chairman D'Agostino asked for confirmation who will be living in the accessory apartment. Attorney Broadhurst informed it would be the homeowner's daughter and her husband, to help care for her parents.

Chairman D'Agostino asked Vincenzo Pesce to read into the record a letter from an abutter, Frank Gaffney at 38 North Street. "I am strongly in favor of granting this variance to David Pierce at 38 A North St. I am a direct abutter of David Pierce to his right at 38 North St. They have been great neighbors and I have no issues with their variance petition".

Public participation opened. No one stepped forward in favor or opposition.

Chairman D'Agostino asked Laura Walta to call the Roll

ROLL CALL VOTE:

Philip Cultrera-	Yes per plan
Vincenzo Pesce-	Yes
Dave DiNatale –	Yes per plan
Laura Walta-	Yes
Matthew D’Agostino-	Yes per plan

NEW BUSINESS:

2023-15: Griffin Brook Drive Owner LLC & R.J. Kelley Management LLC

A Variance is required for building height, pursuant to Section VI-D of the City of Methuen Comprehensive Zoning Ordinance, due to the fact that the building height will be greater than 45 feet when using the definition in Chapter 2 of the Ordinance. A Special Permit has previously been granted by the Community Development Board for a Truck Terminal in an IL Zone, Pursuant to Section V-D of the Ordinance, at **501-600 GRIFFIN BROOK DRIVE, METHUEN, MA 01844 (Parcel ID: 220-165A-9D)**

Attorney Anthony Copani came forward on behalf of Griffin Brook Drive Owner LLC, who was previously granted (2/23/2022) a height variance for 600 Griffin Brook Dr, Industrial Park (building in excess of 45’). Attorney Copani advised that the previous decision by the board was in their packets, so they can use as a guideline, and he can show photos as well to refresh their memories. The type of building is a warehouse structure. The parcel of land is a combination of 2 lots, one 501 Griffin Brook Dr. and the other is 600 Griffin Brook Dr. The total area of both lots is 22.27 acres and owned by the same person(s), and they are adjacent. At the site presently exists a warehouse structure (600 Griffin Brook). At the time of the last approval, the height proposal was to be 45 feet, and it will actually be closer to 43 feet (which includes the flat roof). The reason why they are before the board again is because over a year has lapsed and they did not pull a building permit or start construction yet, which timed out the variance. The merit of the presentation and variance is as follows. The height is the average height from the curb to the adjacent grade. Taking the slope of land into consideration, they are measuring from the curb, so it is 65 ft above grade. The board had previously voted that the slope did cause a hardship. IL zoning area is consistent with use for an industrial park. All buildings in area are in conformity as brick buildings with flat roofs. They are before the board with the same merit, same hardship, same slope, and same characteristics. The proposed use is a warehouse. Attorney Copani showed pictures to the board of 501 Griffin Brook, and the existing structure there now. Pictures show the slope and set back from the abutter. The next picture is the site of the proposed warehouse. The applicant had to go for site plan approval before the Community Development Board, and have input from Police, Fire, and the Conservation Office. Attorney Copani then referred to the Community Development approval. He stated this process delayed the project (as well as Covid related issues with tenants falling through) expiring their previous variance approval from the Zoning Board. He also mentioned the city would be advantaged with more tax revenue, from this project.

Chairman D'Agostino opened the floor to public participation. No one came forward in favor or opposition for the plan.

A letter was read from Kathy Caldwell of Community Development, about the approval they granted.

"I just read the ZBA Agenda for June 28, 2023 and I would like to clarify that the Community Development Board did not issue a Special Permit for Truck Terminal for 501-600 Griffin Brook Drive. The Community Development Board granted Site Plan Approval for the construction of a 101,250 SF warehouse building, the reuse of the existing building, and associated site upgrades which I have attached for your review. The ZBA issued a height variance on February 23, 2022 which is referenced in the CD Board's Site Plan Approval. I assume this variance lapsed?"

Chairman D'Agostino stated on the site plan it looks like a truck terminal. Attorney Copani stated that it is for deliveries, not an actual terminal. Attorney Copani referred to page 6 of the approval from The Community Development Board, under "other conditions". There is no plan for a truck terminal in the future. Attorney Copani advised a special permit would be needed for a truck terminal and that the truck terminal was speculation, but there is no current tenant for this site. Chairman D'Agostino asked Gene Walsh if a Special Permit would go before Community Development or The Zoning Board. Gene confirmed it would require both.

Nick Boucher asked the reason for the 45 ft height, if there was no tenant. Attorney Copani advised that for a warehouse they would need 45 feet for forklifts and storage, and 45 feet is allowable in an IL district. It is necessary to attract any quality tenant. Dave DiNatale asked why there would be a height variance needed to begin with. Attorney Copani stated it could be concerns with aesthetics or blocking light and privacy, and none of those reasons would affect this site. He stated that under the table of uses, it lists all uses as a matter of right. The reason for a special permit is in the middle of the road and anything considered offensive would need to go under a special permit. Nick asked if this would be a warehouse or a manufacturing site. Attorney Copani stated it could be either, anything in the ordinance as a matter of right.

Philip Cultrera inquired if there would be any changes in parking or the roads. Attorney Copani advised rigorous thought and planning went into the approval process at the Planning and Development Board. All city departments were involved and there were design changes made based on information from those departments.

Chairman D'Agostino asked Gene Walsh if the vote before them is just for the height variance. Gene confirmed it is and said that anything zoned for IL would be allowable in that building. Chairman D'Agostino asked if they would have a say in what would go into that building if it wasn't allowed in the city Zoning Ordinance and Gene confirmed that to be true. Attorney Copani reminded members that Board of Health, Building, CMR, State, and Conservation regulations would still need to be followed, even with the height variance approval, for any business going into that site.

Nick Boucher asked if other permits were pulled for this address or upgrades done at this property. Attorney Copani stated that there is an existing building at 501, and there is a proposed tenant going in there. His understanding is that there is an agreement signed with the City including tax incentives for a research and development company. He displayed on the screen, a 15-year tax incentive spelled out in detail, signed by The Mayor and approved by The City Solicitor. Copani was not aware what the company does. Member Pesce speculated that the Mayor probably did the tax incentive because after 15 years the city would obtain significant tax dollars. Attorney Copani stated any commercial/industrial development in that area would be good for the city's tax base, the economy and the general public. Attorney Copani believes it is for component parts for solid state batteries, and that the document speaks for itself, which is beyond his area. He reiterated that the request before them was just a height variance.

Laura Walta expressed concern that the height variance is the first step, and once you open the door, they have no control on what business will go into the site. Attorney Copani did not believe that to be true. Laura Walta was concerned about batteries being made at that location. Attorney Copani reiterated that all regulations would need to be followed. Chairman D'Agostino also addressed that he was concerned about controlling anything out of the ordinary and stated they can vote on those issues when the time comes, but he doesn't want to stray on the application before them. Vincenzo Pesce also stated they can't control other departments. Chairman D'Agostino said he needs to have confidence in the Police and Fire and other City Departments, that they have done their due diligence. Vincenzo Pesce is ready to move forward with the variance and believes that the hardship has been proved. Attorney Copani said the proof is in the fact that they had to go through Community Development and many other departments to have their plan approved. Laura Walta appreciates the fact the chairman brought the conversation back to the application at hand.

ROLL CALL VOTE:

Philip Cultrera-	Yes per plan
Vincenzo Pesce-	Yes per plan
Dave DiNatale-	Yes per plan
Laura Walta-	Yes per plan
Matt D'Agostino-	Yes per plan

2023-16: Linda & Mario Donatelli

A Variance is required under Section VI-D of the City of Methuen Comprehensive Zoning Ordinance for a proposed addition (6' x 13') on the Stanley Road side that does not have the required 25-foot setback in a RA Zone at **22 KIMBALL ROAD, METHUEN, MA 01844 (PARCEL ID:612-59-17)**. Survey plan dated 5/26/2023 shows 20.4 feet to the proposed addition.

Linda Donatelli introduced herself and her husband Mario, and advised the board that their kitchen needs to be updated. It was last updated in the 1980's. The kitchen is off the side door entrance, where the parking/garage is located, and is the main entrance to the home that they use. They live on a corner lot, so the side variance is more than it normally would be (25 feet instead of 20 feet). When they go through the side door there is a 3' x3' landing, then it goes straight to the basement, which is a hazard. They are looking to add an entryway to make it safer for their mother who is elderly (83 years old), and lives with them. The other side of the house, would not be financially feasible to move the kitchen to. They can't extend towards the garage because there is a sewer line. The existing kitchen does not have room for a table and was originally a porch that was enclosed, so it is an awkward L shape. There is only 10 feet of counter space for the entire kitchen. The additional would be 6' x 13'. It would consist of a new entryway and a doorway, and a pantry area which would be part of the kitchen. The Stanley Road side is a bypass to a private driveway, and there is no abutter on that side. The applicants don't feel that the addition would affect the neighbors. It is also not the full length of the house, and just a small addition. Vincenzo Pesce asked who drew the sketch. Linda responded that she drew the sketch and they had a surveyor do the site plan. (Michael James Design). Member Pesce asked if there would be a chimney and fireplace. Linda advised there is no chimney or fireplace in the new addition, it is in the room abutting the kitchen.

Chairman D'Agostino opened up to public participation. No one came forward in favor or opposition.

ROLL CALL VOTE:

Philip Cultrera-	Yes per plan
Dave DiNatale-	Yes per plan
Nick Boucher-	Yes per plan
Laura Walta-	Yes per plan
Matt D'Agostino-	Yes per plan

2023-17: Mark Murphy

A Fence Ordinance Waiver is required under Chapter 9, Sections 9.88 & 9.89 of the Comprehensive Zoning Ordinance of the City of Methuen, for a Fence that will be 8 feet high which is over the allowed height of 6 feet in a front & rear yard at **1 STONEYBROOK ROAD, METHUEN, MA 01844 (PARCEL ID:808-75-14B).**

Mark Murphy, 21-year resident of Methuen introduced himself. He has been living for the past 8 years at 1 Stoneybrook. He is asking for a variance for an 8-foot fence. He lives off of Howe Street. There had previously been 130 feet of shrubbery that was approximately 16-18 feet high, and 12 feet wide that he removed in November, in the location he is proposing the fence. He re-landscaped the land and has an inground pool and has had a site survey done. The plan for the fence is well within his property lines. The Police department came out and approved the plan. Mr. Murphy is looking to eliminate the maintenance of the significant shrubbery. Mr. Murphy stated that he has

met 20-30 of neighbors who have seemed to like the work he has done. *Local Fence Co.* from Methuen would be installing the fence if approved. Chairman D'Agostino asked if the reasons for the fence included privacy and noise, and Mr. Murphy agreed. Mr. Murphy stated the main reason for fence is for his inground pool. Philip Cultrera wanted to know why he is asking for 8-foot fence instead of 6 foot. Mr. Murphy stated privacy was a main reason. His neighbors have a 2-story home and he is in a single-story ranch. The shrubs that were there were 12 feet wide and 16-18 feet high. In actuality the proposed fence would be ½ of what he had there originally, for size. The proposed fence would be 9 feet from the sidewalk, not at his property line. The previous shrubs were at the sidewalk. There will be a setback now, where there wasn't any before. The fence will also be angled at 45 degrees, at the corner, so not to impede traffic views when coming out onto Howe Street, providing the ability to see when there is pedestrian traffic. Mr. Murphy asked to approach the board with pictures he had on his phone with what was previously there, and he was welcomed.

Chairman D'Agostino opened public participation. No one stepped forward in opposition or in favor.

Dave DiNatale asked what was previously on the Howe Street side, was it open or shrub? Mr. Murphy responded that there were shrubs 12 feet wide and 16-18 feet high on that side too. Mr. Murphy had to have the stumps ground up because they were so significant. He stated there were over 40 stumps ground up. Also, in the middle of the shrubs was a chain link fence that needed to be removed. Dave DiNatale asked if the applicant felt it was a "one for one" from what he had, to what he is asking to put there. Mark agreed and stated with the slopes on his property, the fence would be just over 5 feet in some places. Vincenzo Pesce asked about color, and the applicant confirmed the fence will be white vinyl. Vincenzo Pesce also asked about the size of the pool, and commented on the work that he has noticed driving by. Mr. Murphy stated it was 30' x 10' that was there since he bought the house. Member Pesce also asked the applicant to maintain the 45-degree angle to keep the site line clear. Laura Walta also appreciated the 45-degree angle in the plan, preventing a blind spot.

ROLL CALL VOTE:

Dave DiNatale-	Yes per plan
Philip Cultrera-	Yes
Vincenzo Pesce-	Yes
Laura Walta-	Yes per plan
Matt D'Agostino-	Yes per plan

ADJOURNMENT:

There being no further business before the Board, Chairman D'Agostino called for a motion to adjourn:

Motion: Vincenzo Pesce
Second: Laura Walta
Vote: unanimous
Discussion: none

Chairman D'Agostino adjourned the meeting at 8:02pm.

Respectfully Submitted,
Lori Moriarty
City Clerk III HHSI