

**CITY of BEVERLY**  
**Zoning Board of Appeals**  
**February 15, 2023 at 6:00 pm**

These minutes are not a verbatim transcript of the public hearing of the Board of Appeals. Reviews of the Board's Decision or outcome of the public hearing should include an examination of the Board's decision for that hearing.

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**Members Present:** Kevin Andrews, Chairperson, Jim Levasseur, Will Cosmas, and Margaret O'Brien, alt.

**Members Absent:** Pam Gougian

**Others Present:** James Butler, Building Commissioner  
Leanna Harris, Administrative Assistant

**Location:** Remote via Google Meet

**OPEN SESSION**

**Call to Order**

Mr. Andrews began the meeting at **5:32pm**.

Proposed executive session: John P. Pigsley, Sr. individually and as trustee of the John P. Pigsley Trust u/d/t/ dated February 10, 2020 and Lorna Jean Noel, individually and as trustee of the Lorna J. Noel Trust u/d/t/ dated February 10, 2020 v. Joel Margolis, Victoria Caldwell, David Battistelli, Stefano Basso, Margaret O'Brien, James Levasseur, Kevin Andrews, and Pamela Gougian, as they are members of the City of Beverly Zoning Board of Appeals and the City of Beverly, Trial Court of the Commonwealth Land Court Department Docket No. 20 MISC 000527, and Louise S. Spiridigliozzi, individually and as Trustee of the 17 Rezza Road Realty Trust II u/d/t dates March 4, 2044 and Christopher McKernan v. John P. Pigsley, Sr. individually and as trustee of the John P. Pigsley Trust u/d/t/ dated February 10, 2020 and Lorna Jean Noel, individually and as trustee of the Lorna J. Noel Trust u/d/t/ dated February 10, 2020 and David Battistelli, Margaret O'Brien, James Levasseur, Kevin Andrews, and Pamela Gougian, as they are members of the City of Beverly Zoning Board of Appeals and the City of Beverly, Trial Court of the Commonwealth Land Court Department Docket No. 22 MISC 000379

pursuant to Massachusetts General Laws ch. 30A, section 21(a)(3) (open meeting law exemption regarding discussing litigation strategy when an open meeting may have a detrimental effect on the litigating position of the public body and chair so declares during the public session).

Kevin Andrews stated the Board will be going in to Executive Session to discuss the ongoing litigation with 15 Rezza Road. The discussion might be detrimental to the case if it was heard publicly.

**MOTION:** Mr. Cosmas moved to go into Executive Session to discuss ongoing litigation regarding Pigsley vs. ZBA that may be detrimental if heard publicly, with the intent to return to public session. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Cosmas, Peggy, Levasseur, Andrews)

**Motion carries.**

## OPEN SESSION

### NEW PUBLIC HEARINGS

#### Eric Doherty

requests a **Special Permit** for expansion of a nonconforming single family dwelling. The property is located at 26 Sunnyvale Street in the R15 zoning district.

Steven Livermore (Architect) addressed the Board on behalf of the applicant and stated they are requesting a small addition on the right side of an existing ranch to create a larger bedroom and a bathroom. The existing structure encroaches into the front setback. The addition will have the same profile as the existing building. The building is well under the height limit.

Mr. Andrews asked if the side setback is in regulation and Mr. Livermore confirmed and stated they are just encroaching in the front and it will not be increased.

Mr. Cosmas asked what the percentage increase is of the addition. Mr. Livermore stated the existing square footage is 1,512 and the addition is 291 sq. ft so the total will be 1,803 sq. ft.

Ms. O'Brien asked if they spoke with any neighbors regarding the addition and if the shed will remain. Mr. Livermore stated he is unaware if the neighbors were spoken to and the shed will remain.

No one spoke in favor or against.

Ms. O'Brien stated it is a minimal addition and it suits the site and the design of the house. Mr. Andrews agreed and stated he doesn't see an issue and it does fit with the neighborhood. Mr. Cosmas stated it also fits with what the ordinance allows for a Special Permit.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Mr. Levasseur moved to GRANT a **Special Permit** at 26 Sunnyvale Street to construct a single story addition on an existing nonconforming structure, subject to the plans submitted. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**White Light Visual**

requests a **Special Permit** for additional signage on the west and south facades than what is provided in the Zoning Ordinance. The property is located at 97 River Street in the IG zoning district.

David Stowell (White Light Visual), addressed the Board on behalf of the applicant and stated the River Street side of the building is 254 feet long and they would like to put 2 signs on that façade representing both Designer Bath and Salem Plumbing. None of the signs are lit. The owner of the building will have siding on the facades to break up the blue and match one of their other buildings.

Ms. O'Brien asked if the Design Review Board has seen this and stated the description of the request on the application says temporary signage. Mr. Stowell stated that is an error, there is currently no signage on the building and the Design Review Board has seen the sign plans. The applicant originally wanted a third sign on the River Street side but they have since decided against that.

Mr. Andrews asked if the company is planning to remove the awnings and Mr. Stowell stated the awnings have been removed and the owner has painted the building blue. Mr. Andrews stated he doesn't have any issue with this request, the building is located in an industrial area.

No one spoke in favor or against.

**MOTION:** Mr. Levasseur moved to close the public hearing.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Mr. Levasseur moved to GRANT a **Special Permit** at 97 River Street for additional signage on the west and south facades than what is provided in the Zoning Ordinance, subject to the plans submitted and approval of the Design Review Board.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**Alexander Curran**

requests a **Special Permit** to install 2 building signs on primary facade. The property is located at 131 Rantoul Street in the CC zoning district.

Alexander Curran addressed the Board and stated the first two signs went before the Design Review Board and were approved. They are here requesting a Special Permit for a blade sign.

Jim Butler stated the applicant needs to go before the Design Review Board first for approval. Mr. Andrews confirmed and stated that is the first step.

Chris Carlow stated it is their assumption that since what they are requesting does not conform to zoning that they needed to come before the Zoning Board and then go to the Design Review Board.

Mr. Carlow asked if they could present to the Board the two signs that got approval from the Design Review Board and Mr. Butler stated that is not what they came before the Board for tonight.

Alexander Curran moved to withdraw their application without prejudice.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Ms. Cosmas moved to allow the applicant to withdraw the application at 131 Rantoul Street without prejudice. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**Glovksy & Glovsky o/b/o Jak and Sarah Letien**

requests a **Special Permit/Finding** to construct a 10'x22.5' 2-story addition to a single family dwelling. The existing single family home has a nonconforming side setback of 3.5', where 15' is required. The proposed addition will conform with setback and height requirements and will not increase any nonconformity. The property is located at 39 Crescent Avenue in the R-10 zoning district.

Miranda Siemasko, Esq. (Glovsky & Glovsky) addressed the Board on behalf of the applicants and stated they are looking for a finding to permit a conforming addition to a nonconforming single family house. Atty. Siemasko shared and reviewed the plans. The existing property is 1 ½ stories and they are proposing a 10' x 22½' two story addition. The entire roof line and parts of the existing structure will be renovated. There is 75' of frontage where 100' is required. The basement was reconfigured to be compliant with flood zone conditions. The added living space on the first floor will allow for an expanded kitchen and den. On the second floor, the number of bedrooms will not increase they are just providing more space and a master suite. When completed, the new living area will be approximately 2,300 sq. ft which is an addition of approximately 660 sq. ft. Atty. Siemasko stated they provided the Board with signatures of all immediate abutters to the property as well as four additional abutters who are in favor of the project.

Atty. Siemasko stated the other non-conforming issue is that there is only 3 ½ feet in the front setback, where 20 is required. The addition will not impact either of those items.

Mr. Andrews stated just to be clear, the addition will not increase the nonconformity and Atty. Siemasko confirmed.

No one spoke in favor or against.

**MOTION:** Mr. Levasseur moved to close the public hearing.

Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

Mr. Andrews stated he thinks both the profile and the roof line look nice and that they are trying to match the existing structure within the setbacks allowed. Mr. Cosmas stated he likes that they put in the leg work to talk to their neighbors and it doesn't seem like too much of a problem to him.

**MOTION:** Ms. O'Brien moved to GRANT a **Special Permit** at 39 Crescent Avenue to construct a 10' x 22 ½ ' two story addition to a single family dwelling. The existing single family home has a nonconforming side setback of 3.5', where 15' is required. The proposed addition will conform with setback and height requirements and will not increase any nonconformity, subject to the plans submitted.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

### **Ernest and Susan Gabriel**

request a **Special Permit** to replace the second floor of an existing nonconforming house and add a covered front door and covered porch for second entry and access from driveway. The property is located at 12 Smithson Drive in the R10 zoning district.

Susan Gabriel addressed the Board and stated they bought the house in 2022 and they felt the second story needed to be replaced because of structural issues. The plans are very much in line with the neighborhood and they have included photos in their application. It is a nonconforming dwelling, they don't have the required frontage. They are looking to add a kitchen to the back of the house that is in a build by right area. Ms. Gabriel stated they are also looking to add a covered entry way in the driveway. Ms. Gabriel stated they have talked to their neighbors and everyone is in favor.

Tobin Shulman, Architect addressed the Board and provided an overview of the plans.

Mr. Cosmas asked Mr. Shulman if he put together the calculations in the packet. Mr. Gabriel responded and stated the calculations were done by him.

Mr. Andrews stated the drawings look great and it's a great way to add volume to a house, especially a cape. Mr. Andrews asked what the siding will be and Ms. Gabriel stated currently they have vinyl and they are going to reuse as much of it as they can.

Ms. O'Brien commended them for all the neighbor's signatures they have received.

No one spoke in favor or against.

Mr. Cosmas stated it looks like a nice design.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Ms. O'Brien moved to GRANT a **Special Permit** at 12 Smithson Drive to replace the second floor of an existing nonconforming house and add a covered front door and covered porch for second entry and access from driveway subject to the plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

### **Alexander & Femino o/b/o Lonano Property Holdings LLC**

request a **Finding** to construct a dormer on the northeasterly roof of the building which is a legally pre existing nonconforming 2-family. The building is nonconforming due to its location within the present side yard set back and front yard setbacks. The property is located at 8 Prospect Street in the R6 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board and requested to withdraw the application without prejudice.

**MOTION:** Mr. Cosmas moved to allow the applicant to withdraw the application at 8 Prospect Street without prejudice. Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

### **Stephen Capodilupo**

requests a **Special Permit/Finding** to add a dormer to existing nonconforming 2-family dwelling and replace existing 2-car garage with 4-car connected carriage house with living space above. Also requesting a **Variance** to add two 1-bedroom units to multi-family property. The property is located at 15 Liberty Street in the R10 zoning district.

Stephen Capodilupo and Stefano Basso (Architect) addressed the Board. Mr. Capodilupo stated they are looking for a Special Permit/Finding and a use Variance. Mr. Capodilupo stated he purchased the house on 11/29/2016. The whole house needed to be renovated, it was in disrepair from neglect but it still had two units rented. The property consists of 3 separate lots which are highlighted in yellow on the plan provided. One of the parcels is fronted by the Gardener Street paper road that is used by both kids and the community. Mr. Capodilupo stated the paper road does create a hardship for them.

Mr. Basso stated the applicant is looking to add a 3<sup>rd</sup> floor dormer to create two 1-bedroom units at 900 and 700 sq. ft. They are also looking to replace a detached 2-car garage with a semi attached carriage house. Mr. Basso stated the carriage house is no closer to the side yard than the existing garage.

The current garage is on cinder blocks and unsafe and not useable. There will be 8 parking spaces on site and also an area for trash and recycling. The request does add two units but doesn't change the layout of the house.

Ms. O'Brien asked who owns the lot behind the house and Mr. Basso stated it is one of the lots the applicant owns.

Mr. Andrews asked what the nonconformity is and Mr. Basso stated it is the setback. Mr. Andrews asked how many units it is and Mr. Basso stated it is currently two units.

John Doherty, 8 Pearl Street stated he is an abutter on the paper street and he is in favor of building the garage, however, he has a problem with it going from a two unit to a multi-unit dwelling. It is out of character for the neighborhood.

Mr. Basso stated they haven't done a lot of research into developing the paper road but it is his understanding that it can be done and it would be the owner's cost to bring utilities down the road. Mr. Capodilupo stated they aren't looking to do that.

Mr. Doherty stated he has been in the neighborhood for thirty years and it was his understanding that the paper street could not be changed, that a previous owner sold it to the city.

Alan Battistelli, 12 Pearl Street stated he is a direct abutter to the back of this project. Mr. Battistelli stated he gets along with all of his neighbors but he is opposed to the project because of the increased units, it is not in keeping with the neighborhood. There is a limited number of 2-family dwellings in the area.

Gloria Salvenalli, 5 Liberty Street stated she is one house away from the potential project and she feels the house and the project is too large for this neighborhood. Ms. Salvenalli stated she is concerned about the four apartment units. Liberty Street is a small street and it doesn't fit this neighborhood. Ms. Salvenalli stated she is concerned that down the road the applicant could become an absentee landlord.

Mr. Capodilupo stated he understands her concerns but these are only 1-bedroom units with one or two people max. Mr. Basso stated most houses in the neighborhood have 3 or 4 bedrooms on a 5,000 sq. ft. lot.

Judith Doherty, Pearl Street stated her concern is that even though they are 1-bedroom units there could be a couple in each unit which could be 2 cars per unit. Ms. Doherty stated to her, the drawings look like they would have a big impact.

Quentin and Julie Walsh, 10 Pearl Street stated their house is right behind this house and they are against them building so much as it will devalue their property. Ms. Walsh stated the applicant has done a great job over the years, but this just seems like a large project that would impact their backyard as well.

Joan Fairbank, 11 Liberty Street, stated the applicant has done an incredible job with the house. Ms. Fairbank stated she was living there when the City offered some of the paper street to all of the neighbors so they wouldn't have to maintain it, however, it would have to be a right of way that could not be closed off. Ms. Fairbank stated whatever the applicant does will be done first class but she does understand the other neighbor's concerns. Ms. Fairbank stated the applicant has her support.

Mr. Butler stated the property is located in the R10 zoning district where multi families aren't allowed. Mr. Cosmas stated they aren't allowed to grant a use Variance in an R district.

Mr. Basso stated they are allowed to seek a use Variance in an R district when there is a nonconforming house. Mr. Basso stated the Board approved a use Variance at 23 Washington Street. Ms. O'Brien stated each case is an individual and the Board has always stated they do not set precedent.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Cosmas seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

Mr. Cosmas stated they cannot approve a use Variance in an R district and this project is increasing the density. It seems like an awful lot to be asking for at once. Mr. Cosmas suggested maybe there is another route they could go through like the Planning Board.

Mr. Andrews asked the Board if the applicant could add a third unit within the envelope of the existing building. Mr. Cosmas stated it would be less detrimental but that is not what the request is.

Ms. O'Brien stated given the neighbors who have spoke against the project, she agrees that putting a third unit on the third floor would be much less impactful than the garage with the unit above which seem like a sizable structure.

Mr. Andrews stated the garage is connected but it is a bit of a stretch, there are no walls, or plumbing, etc. Mr. Andrews stated they want to increase housing where they can, but this doesn't match with the neighborhood.

Mr. Levasseur stated he agrees with Ms. O'Brien about the third floor unit and that the garage almost looks like a second house on the property.



Mr. Basso asked if they could continue and come back with revised plans next month. Mr. Butler stated they would be coming back to go from a 2-unit to a 3-unit request.

**MOTION:** Ms. O'Brien moved to reopen the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Ms. O'Brien moved to GRANT a continuance for 15 Liberty Street to the March 22, 2023 meeting, subject to signing the Waiver and Agreement.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**Nicholas DiFranco and Lauren Ward**

requests a **Special Permit** to convert the finished attic into a full second story on an existing nonconforming dwelling. The property is located at 9 Parsons Street in the R10 zoning district.

Nicholas DiFranco addressed the Board and stated they are looking to convert the existing attic to a full 25'x 28' second story, which is an additional 332 sq. ft. They are looking to garrison the front of the house with 1' over the first floor as it is more aestically pleasing and it will give the home more character. Mr. DiFranco stated the design keeps with the neighborhood. The house is currently nonconforming on the front setback, it is currently 12.8' and after the project it will be 11.8'.

The applicant submitted signatures from several abutters in favor of the project.

Mr. Cosmas asked what the increased square footage will be and Mr. DiFranco stated it is currently 1,380 and it will increase to 1,712 sq. ft.

No one spoke in favor or against.

Mr. Andrews stated he thinks the house will look better than it does now, it will add interest to the front.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

Mr. Cosmas stated it fits the request for a Special Permit and it looks like it will fit in with the neighborhood.

Mr. Andrews asked what it will be sided in and Mr. DiFranco stated cedar.

**MOTION:** Mr. Cosmas moved to GRANT a **Special Permit** at 9 Parsons Street to convert the finished attic into a full second story on an existing nonconforming dwelling, subject to the plans submitted. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

### **MINOR MODIFICATION**

Original Request June 2022:

#### **Alexander & Femino o/b/o James Clarizia**

request for a **Variance** to divide the existing property, which consists of 2 lots under the approved subdivision plan for this neighborhood, into the same 2 lots as originally approved, 1 having 90.66 feet of frontage and 8,775 sq. ft. of area and the other having 70 feet of frontage and 7,000 sq. ft. of area where present zoning provides for 100 feet of frontage and 10,000 sq. ft. of area. The existing house would be located 8 feet from the proposed side lot line where 15 feet is required. The property is located at 17 Jordan Street in the R-10 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board and stated the lot with the house on it has already been sold. The applicant is looking to significantly reduce the size of the house being built from 42' x 28' to 30' x 28' which is 28% smaller.

Ms. O'Brien stated she is happy it is being reduced, she wasn't in favor of it.

No one spoke in favor or against.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Ms. O'Brien moved to GRANT a **Minor Modification** at 17 Jordan Street and reduce the size of the house being built from 42' x 28' to 30' x 28', subject to the revised plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

### **CONTINUED PUBLIC HEARINGS**

#### **Diana Alan**

requests a **Special Permit** to add a 3' x 4' roof over new exterior stairway. Roof will be no closer to left side lot line than the existing house. The property is located at 27 High Street in the R6 zoning district.

**MOTION:** Ms. O'Brien moved to withdraw the application at 27 High Street without prejudice. Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**Patrick Terry and Carol Fossa**

requests a **Special Permit** to add a 2nd floor to a nonconforming detached garage for an accessory apartment, and a **Variance** to allow an accessory apartment in a detached structure. The property is located at 6 Wedgemere Road in the R15 zoning district.

Patrick and Michael Terry addressed the Board.

Jim Butler stated the application is just for a Special Permit, not a Variance.

Mr. Terry stated they are going to connect the garage to the main house with a breezeway and convert the existing garage to an ADU for his son to live in.

Mr. Cosmas asked if the door to the breezeway is on the same side of the house as the front door and Mr. Terry confirmed. Mr. Cosmas asked if there was an affidavit submitted that the unit would be occupied by a son. Mr. Andrews stated they typically make it part of the Motion.

No one spoke in favor or against.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

Ms. O'Brien stated it looks like a minimal request but it would be prudent that if the relative moves out that the unit goes back to nonliving space but they can come back before the Board.

**MOTION:** Mr. Cosmas moved to GRANT a **Special Permit** at 6 Wedgemere Road to connect the existing garage to the main house with a breezeway and convert it to an ADU for his son to occupy, conditioned on the owner filing an affidavit within the 20-day appeal period, subject to the plans submitted. Ms. O'Brien seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**Alexander & Femino o/b/o Carlos Delgado**

requests a **Variance** to construct 3 new dwelling unit buildings on a 3,473 sq. ft. lot in the RHD district which is 1,158 sq. ft. per dwelling unit where the zoning ordinance calls for 3,000 sq. ft. per unit. The front yard setback which is currently 8.2' would be maintained where the zoning ordinance calls for 15' and the parking would be within the required 5' setback. The property is located at 28 Bow Street in the RHD zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board on behalf of the applicant and stated in view of the fact that there are only four members tonight and that they had planned to meet with the neighbors who have concerns, they would like to request a continuance.

Sandra Cook, abutter stated about a month ago Atty. Alexander arranged a meeting with the neighbors and the applicant was a no show. It was annoying and now it is annoying that this is being put off again.

Suzie LaMont, abutter stated she is also annoyed with the applicant and the continuance. Ms. LaMont stated she sat for an hour at the November meeting and to have this happen again is frustrating.

Sandra, 26 Bow Street stated she would like to be a part of the next meeting with Atty. Alexander and Mr. Delgado.

**MOTION:** Ms. O'Brien moved to approve the continuance for 28 Bow Street to the March 22, 2023 meeting, subject to signing the Waiver and Agreement.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**Alexander & Femino o/b/o Nathan M. Seavey and Monica D. Seavey**

request a **Variance** to resubdivide 2 lots from the original subdivision. Lot A to have 8,046 sq. ft. of land and 35' of frontage and Lot B to have 7,662 sq. ft. of area and 85' of frontage where the zoning ordinance calls for 10,000 sq. ft of area and 100' of frontage. The new house to be built on Lot B conforms with all zoning setbacks. The property is located at 9 Kernwood Avenue in the R10 zoning district.

Tom Alexander, Esq. (Alexander & Femino) addressed the Board on behalf the applicants and stated they did a full presentation on this application at the November 2022 meeting. They are looking to resubdivide this lot into two lots. Atty. Alexander stated this is an old subdivision of 33 lots and almost all of them are smaller than what they proposing. Mr. Seavey met with the neighbors and went through different location options and at the end of the day the neighbors agreed that it was in the right location and they have signed the petition in favor.

Mr. Cosmas stated on the plan the existing dwelling straddles the two lots and Atty. Alexander stated they have redrawn the lot lines to accommodate the existing dwelling to provide it more space. Mr. Cosmas asked how this squares with the Zoning Ordinance that prevents subdividing to create a nonconformity.

Mr. Cosmas stated the plans look like a nice development. Mr. Cosmas asked if the lots were already merged and Atty. Alexander stated they are seeking to create two lots. Mr. Cosmas asked what the hardship is and Atty. Alexander stated the location of the structure is at the far end of the lot and in this neighborhood every single house lot is the size of what they are proposing and so this is more in keeping with the zoning.

Ms. O'Brien stated a Variance would also allow reasonable use of the land.

**MOTION:** Ms. O'Brien moved to close the public hearing.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

Mr. Andrews stated it was great that they were able to work it out with the neighbors and make use of a property that is already in a developed area.

**MOTION:** Ms. O'Brien moved to GRANT a **Variance** at 9 Kernwood Avenue to resubdivide 2 lots from the original subdivision. Lot A to have 8,046 sq. ft. of land and 35' of frontage and Lot B to have 7,662 sq. ft. of area and 85' of frontage where the zoning ordinance calls for 10,000 sq. ft. of area and 100' of frontage. The location of the existing house creates a hardship. The new house to be built on Lot B conforms with all zoning setbacks, subject to the plans submitted. Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

### **OTHER BUSINESS**

Approval of November 30, 2022 Meeting Minutes (Andrews)

**MOTION:** Mr. Andrews moved to approve the minutes from the November 30, 2022 meeting. Ms. O'Brien seconded the Motion

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

**MOTION:** Ms. O'Brien moved to adjourn the meeting at **9pm**.

Mr. Levasseur seconded the Motion.

Votes in favor: 4-0 (Andrews, Levasseur, Cosmas, O'Brien)

**Motion carries.**

Leanna Harris, Administrative Assistant  
Board of Appeals of the Zoning Ordinance