

**CITY OF WALTHAM
ZONING BOARD OF APPEALS**

December 8, 2015

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, December 8, 2015, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando, and members Glenna Gelineau, Mark Hickernell, Edward McCarthy and John Sergi.

The Chair called the meeting to order at 7 P.M.

Mrs. Rando: Tonight we have two new cases before us: Case 2015-23. M. Joyce Hoagland and Mary J. Chaisson. 22 Circle Drive and Case No. 2015-24, Keith M. Gilbert, Trustee of the Winter Street Trust. 385 Winter Street.

The first action this evening would be for a motion to accept the minutes of December 1st.

On motion of Mr. Sergi, seconded by Ms. Gelineau the board voted to accept the minutes of December 1, 2015.

Mrs. Rando: Will the clerk please read the petition in Case 2015-23?

The clerk then read the Petition of M. Joyce Hoagland and Mary J. Chaisson in an application to amend prior variance. Petitioners seek permission to amend a prior variance (Case 99-33) to allow the construction and use of a conforming farms porch in the

front yard and otherwise to continue to use and maintain the property in its current condition. Location and Zoning District: 22 Circle Drive, Residence A-4 Zoning District.

Mrs. Rando: May we hear from the Petitioner or the Petitioner's representative, please?

Deborah A. Sawin, Esquire, 564 Main Street, Waltham came forward.

Ms. Sawin: I am here tonight representing the petitioners and Joyce and Mary are with me as well. I do have a brief and packet of exhibits. (Ms. Sawin submitted her brief to each member on the board.)

Ms. Sawin then went over her brief, along with photos, plan and exhibits with board members. (Ms. Sawin also submitted the original petition of the abutters who are in favor of this project.)

Mrs. Rando: I did look at the signatures. There are signatures on both sides in favor.

Ms. Sawin: Yes, all the ones in green here (referring to the plan).

Mrs. Rando: How about the Deamicis?

Ms. Sawin: The two behind, Deamicis and Landry. Did not go to Cannistraro. They didn't refuse, they - - -

Mrs. Rando: So all you are looking for actually is about nine percent in the lot coverage?

Ms. Sawin: Correct.

Mrs. Rando: Do you have a rendering of what the farmers porch would look like?

Ms. Sawin: I do not but it will be a covered farmers porch.

Mrs. Rando: Are there any questions? There were no questions from the board.

Is there anyone in the audience that is in opposition to this? Seeing none, is there anyone seeking information? Seeing none, is there anyone in favor? (Three people raised their hands in favor.)

All right, you may continue with your Proposed Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to waive the reading of the Proposed Findings of Fact since they have been on file in the Law Department and the board has had a chance to read them.

Mrs. Rando: You may continue with your Proposed Decision.

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to waive the reading of the Proposed Decision since it has been on file in the Law Department the board has had a chance to read it.

Mrs. Rando: Do I have a motion on the Proposed Findings of Fact?

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted that the Proposed Findings of Fact be adopted by the the board.

Roll Call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. McCarthy, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Proposed Decision?

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted that the Proposed Decision be adopted by the board.

Roll Call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. McCarthy, yes and Mrs. Rando, yes.

Mrs. Rando: It is granted.

Mrs. Rando: Would the clerk please read the petition in Case No. 2015-24?

The clerk then read the petition of Keith M. Gilbert, Trustee of the Winter Street Trust in an application for a variance - Front yard setback. Subject Matter: To allow the construction and maintenance of a vestibule addition to an existing hotel building at 385 Winter Street, Waltham, MA. Location and Zoning District: 385 Winter Street, Limited Commercial District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative please?

Attorney Richard F. Dacey, 707 Main Street, Waltham came forward.

Mr. Dacey: I represent the petitioner, Keith M. Gilbert in the matter of a variance in Case No. 2015-24. I did submit a packet of information which looks like it made it to your table.

My first order of business is to apologize for the absence of Mr. Gilbert. He had a family medical emergency tonight. He is available by cell if we need him and instructed me to soldier on. If it became important to speak with him directly, there isn't any time urgency associated with this variance tonight. Since it does need city council approval, we will probably not build this until the spring. So, again his personal apology for not being here but if it becomes important ,we can certainly arrange it, otherwise I will proceed to present the case and see how it goes.

(Mr. Dacey then went over the booklet containing photos, brief, and plans with the board. He then read his brief into the record.)

Mr. Dacey: I did mention, and it is a fact, that if this variance were granted, it would require a trip to the City Council because the City Council's Special Permit, very much and very similar to your rules and regulations, incorporate a plan and if there were any changes at all in the plan it requires a reaffirmation by the City Council. So that you should expect if this variance were to be granted, the next step in the process would be to file for an amendment with the City Council and they have been told that this would qualify for the expedited amended procedures to the Special Permit since we are not changing the number of rooms, we are not changing the number of parking, we are not changing any major physical facility that was incorporated in the Special Permit. We remain under the FAR limitation that they imposed even with this additional hundred and ten square feet. So that we do expect that although the City Council would have to review this and approve an amendment to the City Council Order that it will be of an informal and hopefully expedited nature and we will not be going through the regular arduous process of Special Permit just for this small piece.

Mrs. Rando: Attorney Dacey, could you have gone in front of the City Council and ask them for a modification of the existing Special Permit and show them what you wanted to do before you came before us?

Mr. Dacey: No. The variance is a requirement.

Mrs. Rando: Before you go in front of the City Council.

Mr. Dacey: Right.

Mrs. Rando: Mr. Sergi, do you have any questions?

Mr. Sergi: You mentioned ledge croppings. Where are they?

Mr. Dacey: The ledge is between the Holiday Inn Express and and the Thermo Electron Property. So it is my suspicion that the ledge which has been there since day one was the reason that they moved the hotel closer to the Winter Street to begin with.

There were no other questions from board members.

Mrs. Rando: For you hardship, you're just saying that it's because of the shape of the land?

Mr. Dacey: Yes.

Mrs. Rando: You're not saying that it would be helpful for handicapped people or people trying to get out of their cars with their suitcases to get out of the rain or the snow?

Mr. Dacey: It certainly will help that, but I would hesitate to suggest that a handicapped person couldn't enter the hotel right now. They can. It's just a little awkward because of the doors are hinged. What has to happen is you have to come down the walkway and push the button and then the doors hinge in. With this configuration, a handicapped person would not have to worry about the button or the eye for the door will pick up the movement. The doors will open automatically and it's a significant convenience to anyone handicapped or not who is trying to manage suitcases.

Mrs. Rando: Right. And what are you going to do with the extra room in the lobby?

Mr. Dacey: It will simply be incorporated in the existing lobby. The lobby isn't changing.

Mrs. Rando: It's not going to be a snack bar or something like that?

Mr. Dacey: No nothing. The area of the lobby will simply have the air lock removed and that area will go back to seating or it will go back to open space in the lobby. It creates a visually more attractive lobby. It creates more room for guests that are checking in in a group. They get sports team. They get all kinds of people who check in twenty at a time. And this lobby is tight because of that vestibule taking up so much of the floor space. So it's a significant improvement in function for the operation both internal and external to the doors.

Mr. McCarthy: The FAR restrictions eliminated the possibility of any type of carport?

Mr. Dacey: Yes. A port car share would be a structure. The port car shares are big enough to the point where they could not be accommodated. We are at .58 right not. We

are allowed .59 under the FAR and we have virtually no room to go. This is probably the extent to what can be done to the site.

Mrs. Rando: All right. Are there any other questions? And there is no one in the audience seeking information or in opposition or in favor. So I am ready for your Proposed Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to waive the reading of the Proposed Findings of Fact since they have been on file in the Law Department and the board has had a chance to read them.

Mrs. Rando: You may continue with your Proposed Decision.

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted to waive the reading of the Proposed Decision since it has been on file in the Law Department the board has had a chance to read it.

Mrs. Rando: Do I have a motion on the Proposed Findings of Fact?

On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted that the Proposed Findings of Fact be the Findings of Fact of the board.

Roll Call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. McCarthy, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Proposed Decision?

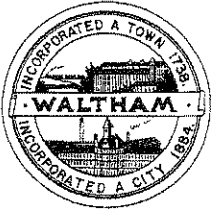
On motion of Mr. Sergi, seconded by Mr. McCarthy, the board voted that the Proposed Decision be the Decision of the board.

Roll Call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. McCarthy, yes and Mrs. Rando, yes.

Mrs. Rando: One more motion is in order.

On Motion of Mr. Sergi, seconded by Mr. McCarthy the board voted to adjourn at 7:50 P.M.

Barbara Rando Chair
10/22/15



City of Waltham
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

LEGAL NOTICE

DATE FILED: November 10, 2015

THE ZONING BOARD OF APPEALS OF THE CITY OF WALTHAM WILL HOLD A PUBLIC HEARING IN THE GOVERNMENT CENTER, 119 SCHOOL STREET, WALTHAM, MA ON DECEMBER 8, 2015 AT 7:00 P.M. ON THE FOLLOWING:

Case #: 2015-24. **Petitioner/Owner:** Keith M. Gilbert, Trustee of the Winter Street Trust. **Nature of Application/Petition:** Application for Variance – Front yard setback. **Subject Matter:** To allow the construction and maintenance of a vestibule addition to an existing hotel building at 385 Winter Street, Waltham, MA. The enclosed glass vestibule will have dimensions of 12 feet by 9 feet 4 inches containing 110 square feet. The vestibule will also have an exterior metal canopy. **Location and Zoning District:** 385 Winter Street; Limited Commercial District. **Provisions of Zoning Ordinance Involved:** Article IV, Section 4.11 – Table of Dimensional Regulations. **Specific Manner in Which Subject Matter Varies from Zoning Ordinance:** Article IV, Section 4.11 – Table of Dimensional Regulations - Limited Commercial Districts requires a front yard setback of 150 feet. The proposed glass vestibule and exterior metal canopy will be located a distance of 54.3 feet from Winter Street at its closest point. Further information and plans concerning this case may be viewed at the Zoning Board of Appeals' Office, 119 School Street, Waltham, Massachusetts 02451; Hours: Monday - Friday 8:30-4:30. **MEMBERS:** Chair Barbara Rando, Michael Cotton, Mark Hickernell, John Sergi, Glenna Gelineau. **ASSOCIATE MEMBERS:** Edward McCarthy, Oscar LeBlanc, Marc Rudnick, Michael Squillante, Sarah Hankins.