



# Town of Canton, Massachusetts

ZONING BOARD OF APPEALS

MEMORIAL HALL

801 WASHINGTON STREET

CANTON, MA 02021

TEL: (781) 575-6589 FAX: (781) 575-6574

Minutes of the meeting of February 23, 2023

PRESENT: Gregory L. Pando, Chairman  
John R. McCourt  
Michael Khoury

ALSO PRESENT: Ingrid Hartfiel, Recording Secretary

NOT PRESENT: Matthew Carlton, Alternate  
Barbara J. Saint Andre, Alternate

Chairman Pando opens the meeting at 6:00 pm and reads the agenda, stating there are four scheduled hearings, two informal hearings, and two continued hearings.

## **Moss Hill Investments, LLC and SJCP 362, LLC – 362 Turnpike Street – 2-23-SPA-SP-V**

Chairman Pando opens the hearing and reads the petition. Attorney Paul Schneiders is representing the petitioner and is joined by owners Brain Gault and Chris Peterson and Luke DiStefano from Bohler Engineering. The Petitioners are seeking Site Plan Approval and other zoning relief to raze the existing 99 Restaurants building at 362 Turnpike Street and replace it with a 127,120 sq. ft. self-storage warehouse facility with approximately 1,000 units and operated by CubeSmart. The building would be four stories tall with a height of 45'4". The site is located in an Industrial district and warehouse use requires a Special Permit. Petitioners intend to use 18,000 sq. ft. of paved area in the southeast corner of the site for outdoor storage for vehicles, boats and recreation vehicles. A landscape buffer would be provided even though it is not required. The parking requirement is one space per 1,000 sq. ft. or one space per three employees. A Special Permit is requested for a wall mounted sign measuring 124 sq. ft. This dimension is over the maximum permitted size of 100 sq. ft. The maximum height allowed for a building in an Industrial zone is 40'. The Petitioners are requesting a Variance for an additional 5'4" in height for a total of 45'4". A second Variance is requested to allow two parapets across a portion of the building to shield rooftop equipment from view. These parapets will extend approximately 30% of the total horizontal area of the roof.

Chairman Pando states that the Route 138 Corridor committee has met and finds this area of town has the lowest impact on residential districts. The Permit Advisory Committee recommends going up to five stories in an Industrial district. Luke DiStefano of Bohler Engineering gives an overview of the site plan as a redevelopment of the property with a four-story self-storage facility, 10 parking stalls and larger U-Haul spaces on the west and south side. Storm water will collect into catch basins and underground filtration system. Utilities will be underground. The rear parking area will remain as is for RV and boat parking.

Mr. McCourt has no questions. Mr. Khoury is fine with the presentation. Chairman Pando asks if the pylon sign will be removed from the site. *Yes, it will be removed.* No one in the hall speaks on the petition. The Petitioners will meet with the Planning Board on April 5<sup>th</sup>. Chairman Pando continues the hearing to April 13, 2023. He requests sets of 11x17 Site Plans for the next meeting.

**601 Neponset Street, LLC – 601 Neponset Street – 9-23-ENCU-SP-V**

Chairman Pando opens the hearing and reads the petition. Attorney Paul Schneiders is representing the petitioner and is joined by Mr. Michael Sheehan, Director of Real Estate for Feeney Brothers Utility Services, the company that uses the property at 601 Neponset Street. The Petitioner is seeking a Special Permit for alteration of a non-conforming use so that a maximum of twelve commercial vehicles and three personal vehicles can be parked overnight in a Single Residence 'C' district. Feeney Brothers is a utility contractor providing services to regional utility companies and employs over 700 workers in the Northeast. The site plan submitted shows the location of 77 parking spaces. The Petitioner only needs 15 spaces for overnight parking. For the past six years, the building has been used for offices and is currently used by Feeney Brothers as an office and training site. The numerous restaurants and offices using the property have all been non-conforming uses for the past 50 years. The Petitioner is requesting a Special Permit for alteration of a non-conforming use for overnight parking of 15 vehicles.

Mr. McCourt has gone to the site during daytime hours and has found nothing there. He feels storing vehicles there would be fine, but emergency use during overnight hours may cause an issue. Mr. Khoury is not aware of any past issues caused by restaurants at this location. He would like to hear from the abutters. Mr. Sheehan, representing the Petitioner, says they can remove emergency vehicle use in their petition. The stored vehicles could be swapped during day hours. Trainees are brought to this location from the Boston office with daytime maintenance of the vehicles. Mr. Khoury clarifies that daytime maintenance is simply drop-off and pick-up from the site and not actual maintenance work on the vehicles.

Chairman Pando asks if anyone in the hall wishes to speak on the petition.

Loretta Connolly of 26 Apple Blossom Way is opposed to the request. She has lived in the neighborhood for the past 18 years. The wetlands are in between her neighborhood and the Petitioner's property. Vehicles being parked there would be unsightly and more vehicles would be snuck in.

Jo Ann McCarthy of 14 Apple Blossom Way is opposed to the petition. She has lived in her home for the past 30 years. The site is in a single residence zone. Ms. McCarthy does not want the non-conformity increased. There are wetlands right there. Noise and lights come through to Apple Blossom Way. As an office use instead of restaurant use, there was less noise and shorter operating hours. Now, if the emergency vehicle use is granted, it is more intrusive. This is a neighborhood. Let's not add anything more to it.

Russell McFatter of 9 White Sisters Way is the president of the Chapman Ridge Homeowners Association consisting of 49 homes. They are concerned with decreased property values if this use is permitted nearby. A restaurant in the area adds an amenity for residents. This proposed overnight parking use is not an amenity for residents; it is a relay station and training location that would not add a beneficial impact to their subdivision. Chairman Pando would be disinclined to permit overnight parking in a residential zone. He says he would not vote in favor of this petition if it went to a motion and suggests the Petitioner withdraws without prejudice. Attorney Schneiders requests a continuation to the next zoning meeting to allow him to discuss other options with the Petitioners and the abutters. Chairman Pando agrees to continue the hearing to March 9, 2023.

**Leonard Green – 126 Turnpike Street – 10-23-ENCB-SPA-SP-V**

Chairman Pando opens the hearing and reads the petition. Leonard Green is the Petitioner and owns property and 124 and 126 Turnpike Street. He requests to convert a pre-existing non-conforming two-family dwelling into a six-unit dwelling in a Single Residence ‘B’ district. Mr. Green has submitted seven abutter’s letters supporting the petition. Several of his abutters have two-family or multi-dwelling properties including Orchard Cove Senior Living located across Turnpike Street. Chairman Pando explains it is not the Board’s responsibility to inform the Petitioner of what provisions to request. Currently he has a two-family dwelling in a single residence district. The only way to have a single residence zoning district changed to a General Residence district is to go to Town Meeting. Mr. McCourt states the Board has no resource or by-law to grant allowing this request. Mr. Khoury states the zoning code adopted by the Town of Canton limits what can be granted. The Board is not permitted to “Spot Zone” individual addresses. He recommends consulting with an attorney to see how and what he can pursue for his specific request. Chairman Pando asks if anyone in the hall wishes to speak.

Christine Sullivan of 38 Farm Street says Mr. Green is a good neighbor but she does not support the petition. She wants to protect the neighborhood and the current zoning district. Chairman Pando recommends withdrawing the petition without prejudice. If the Petitioner comes back to the Board with a new petition, the refiling fee would be waived.

Mr. McCourt makes a motion on behalf of Leonard Green of 126 Turnpike Street to withdraw the petition without prejudice. Mr. Khoury seconds. **Vote 3-0 Approve.**

**Nextgrid Hakea, LLC/John Flatley Company – 15-45 Dan Road- 11-23-SPA-SP-V**

Chairman Pando opens the hearing and reads the petition. Ms. Melinda Costello, P.E. of Weston & Sampson and Mr. Daniel Serber of Nextgrid Hakea, LLC are representing the Petitioners. They are requesting to construct two 148’x 266’ solar canopies with a maximum height of 20’ on the property. They have been to the Planning Board and have received a positive recommendation with a letter dated November 22, 2022.

Chairman Pando states this is a good site for this project as it will not be visible from passing cars on Dan Road and Turnpike Street. Solar canopies are considered structures

and Chairman Pando confirms that the setbacks are met. Ms. Costello states the setbacks are marked with Z O lines on the Site Plan submitted by Weston & Sampson Engineers, Inc. of Reading, MA, dated November 10, 2022.

Chairman Pando reads the positive recommendation letter from the Planning Board. Mr. McCourt is fine with the request. Mr. Khoury has no issue with the request. He confirms this request is a modification of Site Plan Approval and a Special Permit under Section 10.4.2. No one in the hall speaks on the petition.

Chairman Pando would like to review a previous decision for solar canopies granted to North End Motors that included a decommissioning bond in the written decision. He continues the hearing to March 9, 2023.

**Daniel O’Sullivan – 65-67 Bolivar Street**

Chairman Pando opens the hearing and explains this is an informal hearing requesting *Minor Modification to extend time for performance from the original 2021 decision, case number 23-20-ENCB-SP-V*. Attorney Suzanne Matthews is representing the Petitioner. The Petitioner has been attempting to get a tenant out of the property for the past two years with no success. The Site Plan Approval will expire on March 10, 2023 and they would like to extend the time to coincide with the expiration date of the Special Permit of March 10, 2024. All members of the Board of fine with this request.

Mr. McCourt makes a motion on behalf of Daniel O’Sullivan of 65-67 Bolivar Street to consider this a Minor Modification of the Site Plan. Mr. Khoury seconds. **Vote 3-0 Approve.**

Mr. McCourt makes a motion on behalf of Daniel O’Sullivan of 65-67 Bolivar Street to extend performance time for the current Site Plan Approval that expires on March 10, 2023 to March 10, 2024. Mr. Khoury seconds. **Vote 3-0 Approve.**

**Town of Canton/Town Planner**

Chairman Pando states this is an informal hearing to discuss residential mitigation fees. Mr. Gene Manning, Interim Town Planner, has requested this hearing be continued to March 9, 2023.

**340 Pine Street Realty Trust/George Pickering, Trustee – 340 Pine Street – 3-23-SPA-SP-V**

Chairman Pando opens the hearing and explains this hearing is continued from the January 26, 2023 meeting. The Petitioners are requesting Site Plan Approval to construct an 18,750 sq. ft. contractor’s warehouse and office building and a Special Permit for reduced parking. Mr. Paul Brodmerkle, P.E. of Site Design Professionals, LLC is representing the petitioner and is joined by Petitioner, Mr. George Pickering. Mr. Brodmerkle gives an overview. He states the site is 8.1 acres with an existing building located approximately 300 feet off of Pine Street. They are proposing an additional building in the center of the site and mirroring the existing building. They are proposing 60 parking spaces around the

new building. Utilities can hook up to existing lines on the property. Use as a warehouse is as of right in this industrial district.

Mr. Charles Ronald of 350 Pine Street is in the hall as an abutter. He does not support the project and states there is a lot of noise, traffic and cars from Mr. Pickering's property. Mr. Ronald has not documented these complaints with anyone. He states the water run-off goes right to his driveway. Mr. Pickering states that the proposed project will improve the drainage in that area.

Mr. McCourt says he will visit the site. Mr. Khoury requests a list of current tenants from the Petitioner for the next hearing.

Chairman Pando continues the hearing to March 23, 2023.

**Bill Peterson/C.F. McCarthy's/Gilmar Cassiano, Steven Carey, and Donald Malkin – 614 Washington Street – 5/23-Mod SPA-SP-V**

Chairman Pando opens the hearing and explains this is a continuation from February 9, 2023. Mr. Bill Peterson, architect of Derby Square Architects of Salem, MA is representing the petitioner along with Mr. Gilmar Cassiano and Mr. Steven Carey. They are proposing a design to construct a new second story deck and stairwell on the back side of an existing building. The Petitioners had submitted a survey of the rear lot annotating where the dumpsters are located on the lot and current parking practices. The survey also shows a non-functioning open gate that accesses Revere Court. The parking space count is currently 15 and with the proposed deck, two spots would be lost. The six dumpsters on the lot are noted to have either skids or wheels. The Petitioner's dumpster is located at the bottom of the proposed deck stairs and to the left. Petitioners intend to add three more bollards near the deck and also increase the deck screening to 6' in height.

Mr. McCourt states the rear lot rendering helps with determining feasibility. He asks the Petitioners if they looked over the requests from the abutter's letter regarding hours of operation. Mr. Peterson says the request for dining hours is too restrictive. Petitioners are requesting hours for deck use as Monday-Friday 11:00 AM - 11:00 PM and Saturday-Sunday from 10:00 AM - 11:00 PM. There would be no live entertainment and speakers would face the building on a low setting.

Mr. Khoury agrees with Mr. McCourt and confirms that the proposed deck location is on three parcels. *Yes.*

Tina Shea of 630 Washington Street is in the hall and speaks on the petition. She says the drawings are good but questions the actual location of the dumpsters on the lot. Chairman Pando says the Petitioners have no control of the dumpster locations, only their dumpster. The plan will be marked as Exhibit A. Chairman Pando recommends discussing the location of dumpsters with the property owner. Ms. Shea asks if there will be a lot of excavation with this project. *No, only for the six footings supporting the deck.* Ms. Shea says she is in support of this project.

Mr. McCourt makes a motion on behalf of Bill Peterson/C.F. McCarthy's/Gilmar Cassiano, Steven Carey, and Donald Malkin of 614 Washington Street to approve a modification of Site Plan to allow construction of a second story deck as per the Site Plan

submitted by F. O. Waterman and Associates, Inc of Canton, MA, dated August 31, 2022, Site Plan by Derby Square Architects of Salem, MA, dated January 9, 2023, and Existing/Proposed Site Plan by Derby Square Architects of Salem, MA, dated February 21, 2023 with the following conditions:

- Privacy fence on the deck be brought up to 6' in height
- Petitioner's dumpster location to be at the bottom of the stairs and left of the deck
- Hours of Operation for the deck Monday-Friday 11:00 AM – 11:00 PM and Saturday-Sunday 10:00 AM – 11:00 PM
- Special Permit for outside dining

The Board reserves the right to amend or modify this decision.

Mr. Khoury seconds. **Vote 3-0 Approve.**

Mr. McCourt makes a motion to accept the minutes from the meeting of February 9, 2023.

Mr. Khoury seconds. **Vote 3-0 Approve.**

Chairman Pando states the next meeting is scheduled for March 9, 2023.

Mr. McCourt makes a motion to adjourn the meeting at 8:14 PM. Mr. Khoury seconds.  
**Vote 3-0 Approve**

Respectfully submitted,

Gregory L. Pando  
Chairman

