

**TRANSCRIPT OF PUBLIC RECORD**  
**ZONING BOARD OF APPEALS MEETING**  
**SEPTEMBER 26<sup>TH</sup>, 2007**

This Special Meeting of the **Zoning Board of Appeals** was held in the Great Hall of Searles Building, City Hall, and was posted for 7:12 PM.

**MEMBERS IN ATTENDANCE:**

*Mr. Matthew D'Agostino, Chairman*  
*Ms. Laura Walta, Vice Chairman*  
*Mr. Richard Lacroix, Vice Chairman*  
*Ms. Patricia Uliano, Member*  
*Mr. Peter Giordano, Alternate Member*

**MEMBERS ABSENT:**

*Mr. Jesse Ramirez, Clerk*

**OTHERS IN ATTENDANCE:**

*Ms. Gwen Martone, Public Recorder*

**STATEMENT BY THE CHAIRMAN:**

Matthew D'Agostino read a statement prior to the opening of this meeting advising appeal rights.

**ROLL CALL:**

Mr. Jesse Ramirez, Board Clerk, called the roll with only four (4) members present at this meeting.

**ACCEPTANCE OF MINUTES: August 29<sup>th</sup>, 2007**

The Chairman entertained a motion to approve the transcripts of meeting minutes.

**MOTION:**     *Laura Walta moved to approve transcript of recorded meeting minutes.*  
                  *Patricia Uliano seconded this motion.*

**VOTE:**         5-0-0 UNANIMOUSLY APPROVED

**REQUEST FOR SIGNIFICANT CHANGE ON A DENIED PETITION:**

**#2007-54         Sam DeSantis, 24 Boylston Street, Methuen, MA 01844**

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to subdivide a parcel of land into two (2) lots, leaving Lots A & B without the required area; and to clarify setbacks on the existing dwelling in a Multi-Family B (MB) District at **# 24 Boylston Street.**

Mr. DeSantis appeared before the Board on this request. He indicated that the change he was proposing was to construct a single-family dwelling instead of a two-family dwelling. Chairman D'Agostino questioned if there were any dimensional changes to the home. Mr. DeSantis indicated that the depth of the home was decreased allowing for more space behind the home.

**MOTION:**        *Laura Walta moved to reconsider the request based on significant change  
Richard Lacroix seconded this motion.*  
**VOTE:**            *5-0-0 UNANIMOUSLY APPROVED*

**REQUEST FOR A TIME EXTENSION ON A GRANTED DECISION:**

**#2006-71        Rosario Russo, 102 Taft Avenue Ext., Methuen, MA 01844**

Variance requested under Section VI-D of the City of Methuen Zoning Ordinance to sub-divide a parcel of land into three (3) lots; leaving Lot 5 without the required area and frontage; and the existing dwelling on Lot 4 without the required rear setback in a Residential D (RD) District at # 33 Erie Road.

The Chairman entertained a motion to grant the six (6) month extension.

**MOTION:**        *Richard Lacroix moved to approve the six (6) month extension  
Patricia Uliano seconded the motion*  
**VOTE:**            *5-0-0 UNANIMOUSLY APPROVED*

**CONTINUED PETITION: August 29<sup>th</sup>, 2007**

**#2007-59        RIT Corporation: c/o Rajender Malhotra, 8 Preston Circle, Andover, MA 01741.**

Special Permit required under Section V-D of the Comprehensive Zoning Ordinance of the City of Methuen for the outdoor storage of vehicles or boats in operable condition or under repair but not to include outdoor storage or sale of junked vehicles, boats or parts thereof in a Highway Business (BH) District at # 255 Hampstead Street.

Attorney Gregory Eaton, 89 Main Street, Andover, MA 01810 appeared before the Board on this petition. According to Attorney Eaton, the petitioner is currently operating a self-storage facility on the premises and is now requesting permission to have outdoor storage for vehicles, boats, etc. He explained that only a portion of the site would be utilized for this purpose and indicated that the areas earmarked for outdoor storage are shown as the deeply shaded areas on the submitted plan. He further explained that this use would allow citizens of Methuen and others to park their vehicles and boats at this site where they may not be able to at their own homes as this is the only zoning district that allows the outdoor storage. Additionally he stated that this use would not create undue traffic congestion or pedestrian safety concerns as this would not be a daily operation, that vehicles and boats would be move on and off the premises seasonally. He further indicated that this would be only for operable vehicles and acknowledged that there are some questions with the current use of the property. He attributed this to an over zealous manager who contracted to allow the storage of vehicles over the past year and indicated that his client is in the process of having those vehicles removed from the property. He further indicated that this task should have been completed by today but that the tow truck broke down resulting with 6 or 7 vehicles still on the lot.

At this time Chairman D'Agostino opened the hearing to public participation with no one speaking in favor of this petition. Speaking in opposition to this petition were the following individuals:

**Nirah Shomar, 247 Hampstead Street Methuen, MA 01844**

Ms. Shomar indicated that last month there were three other sets of neighbors were here in opposition to this petition. Additionally she stated that she was surprised to here that this property was located in a business

district. She said that she knew that Route 97 was a business district but that the entire length of Hampstead Street is residential. At this time she stated that she had a petition with signatures from her neighbors who were in opposition.

She indicated that she has not lived at this location very longer and that some of the house may have been constructed after the self-storage facility was constructed but that she, along with some of her neighbors, takes exception to having these vehicles stored there. She further indicated that the most objectionable vehicles were commercial vehicles, which she described as "great big, ugly trucks." She indicated that she has pictures showing these vehicles on the property. She indicated that she and her neighbors view this as a residential area and that the trucks are parked where they are very visible to the people living there. She further indicated that some of the neighbors believe that this has added to the criminal element, that there have been break ins that they believe came from people lurking in amongst the cars. She4 further indicated that the vehicles stored there are not done in an orderly fashion and that they have weeds growing up as tall as the vehicles. Additionally she indicated that the property that is directly adjacent to this site is protected wetlands. She further indicated that part of the wetlands is on her property and that she is very careful with her landscaping making sure that no invasive or foreign plants or pesticides are introduced to the wetlands. She expressed concern that with out of use vehicles just sitting on the site there is the potential for oil, gasoline and other harmful fluids to invade the wetlands.

**Mike Nowak, 247 Hampstead Street, Methuen, MA 01844**

Mr. Nowak indicated that their back yard does directly abut the self-storage facility sharing an approximately 60 ft. length of fence. He further indicated that several years ago they put in foundations along that fence which they thought were going to be more storage shelters. He stated that they never actually built the structures and that this appears to be where they are storing the vehicles. He further stated that he believes that there is a fundamental difference between self contained, closed storage units and the outdoor storage of cars and vehicles. Her also sited the criminal element associated with this concept and indicated that Sebastian's Restaurant has had 2 breaks in the past 2 months that they attributed to these vehicles being there. He further stated that any criminal viewing such a site knows that there are tires, stereos, batteries and other car parts to be taken and that this is an obvious attraction. Additionally he stated that this is definitely an eyesore with them allowing the weeds to grow in and around the vehicles. In closing he made reference to Attorney Eaton's comment that the cars have been there for a year and he is worried that this appears to be an attempt to go with possibly it is easier to ask for forgiveness than it is to as for permission. This situation has existed for a year and if no one strongly and strenuously objected then this could be a passive approval that slides through without serious consideration.

Having no further discussion Chairman D'Agostino closed public participation.

Vice Chairman, Laura Walta read the following correspondence into the record:

- 1) Letter in opposition dated 8/27/2007, from Nirah Shomar, 247 Hampstead Street
- 2) Letter in opposition from Hampstead Street residents
- 3) Letter dated 8/27/2007, from Joseph T. Giarrusso, Jr., Conservation Officer
- 4) Letter dated 8/22/2007, from Jerry Deschene, Building commission.

A copy of each of these documents can be found in their entirety attached to the rear of the minutes on file in the Office of the City Clerk, 41 Pleasant Street, Methuen, MA 01844.

Attorney Eaton returned to the podium and stated that this Special Permit request is for going forward and not for what happened in the past. He indicated that his client is actively pursuing removing the vehicles from the property. He further indicated that only operable boats and vehicles would be allowed to be stored on the property in very limited areas and not where they are presently parked. He reiterated the fact that they believe the majority of the properties in this area are in fact commercial in nature and located in a Business Highway District.

As to the residential property that abuts this location he explained that the entire is fenced in and access is only through the front gate and that this was not a 24 hr. operation. he said that it is possible that the fence could be masked to protect the view of the residential properties. Chairman D'Agostino questioned the petitioners motive for towing the vehicles at this time, alleging that they are not being towed as a favor but because they are in fact in violation. Atty. Eaton stated that his client is removing them because he cannot get the owners to do so and that it is not cost effective to store vehicles when you are not getting paid.

Vice Chairman Laura Walta questioned how one ascertains that a vehicle or boat is operable and if someone is actually qualified to make that determination. Atty. Eaton suggested that the criteria should be that the car would have to be driven in and if it were towed, then a manager would have to make the determination by taking it off the tow truck and start it up and drive it around the parcel. She further stated that outdoor storage was prohibited for a good reason and questions why would the petitioner not prefer to have indoor storage where they could be seen. He suggested that the size of the various bays available might not accommodate every boat and vehicle and that outside storage would be less expensive than indoor storage and more desirable.

Board Member Patricia Uliano described this area as a "gateway" into Methuen and as such, she does not think that this is the best location to have outdoor storage. She indicated that she understands the business reasons why the petitioner has requested the Special permit but she does not believe that it justifies locating it at one of the "gateways" into Methuen. She further stated that except for this parcel, the rest of the properties in the neighborhood exemplify the residential character of Hampstead Street. With reference to the abutting commercial properties she stated that it is a strip mall with no overnight storage of vehicles on the premises.

Additionally she stated that this item was on last month's agenda but was continued to this evening because they did not have a full Board. She believes that anyone acting in good faith would have made an attempt to clean the site of violations prior to this evenings meeting and not come here and make a statement that they were attempting to clean up the property but couldn't because the tow truck broke down. Lastly she questioned if the petitioner had attempted to contact any of the abutters to see what their concerns were and how they may be able to resolve them.

Attorney Eaton stated that they have not been able to clean up the site because of the leases with the individual owners. He explained that there is an auction process for individuals who do not pay their bills but that they can also remove the vehicles with the owner's permission. He stated this time frame as being 60 to 80 days and that there are only seven vehicles remaining.

At this time the Petitioner, Rajender Malhotra came to the podium. Mr. Malhotra stated that they normally only parked 15 to 20 cars on the site but because the property was not performing, the manager took it upon himself and entered into a lease with Alan Bielevitch allowing him to park numerous cars there for a flat rate. He stated that the manager never specified a number and that it why there were so many vehicles. Mr. Malhotra further stated that his hands were tied until such time that Mr. Bielevitch did not pay his rent. Once this occurred then they were able to commence action and start moving the cars. He explained that he has had problems finding a location that would accommodate over 37 cars.

Chairman D'Agostino indicated that he understood the petitioner's dilemma but that's a problem of maintaining the business and that this problem spiraled out of control after they allowed only for or five vehicles to be parked on site illegally. Mr. Malhorta further explained that now that the cars are removed he would be working to clean up the site and making it a clean facility once again. He agreed that the facility did have as junky appearance but is confident that now that the owner is cooperating he will be able to maintain the property once the existing vehicles are moved and that there would be control exercised over the storage of future vehicles.

**ROLL CALL:**

Mr. Richard Lacroix – no  
Ms. Laura Walta – no  
Mr. Patricia Uliano, – no  
Mr. Peter Giordano - no  
Mr. Matthew D'Agostino – no

**VOTE:** 0-5-0 UNANIMOUSLY DENIED

**NEW BUSINESS:**

**#2007-60 Charles & Camille Farelli, 93B North Lowell Street, Methuen, MA 01844**

Variance requested under Section VI-B, Paragraph 13; of the Comprehensive Zoning Ordinance of the City of Methuen to construct an addition for a three (3) season room that will be too close to wetlands in a Residential B (RB) District at # 93B North Lowell Street.

The Petitioner appeared before the Board on this application. According to Mr. Farelli he is requesting to add a room to the back of his house. He explained that he is reducing the size of his existing deck by 20 feet and a room in that location, 14 ft. wide by 20 ft. long with access to the deck, the main house and the back yard. He further explained that per Conservation, the addition would be constructed on sono tubes.

Vice Chairman, Laura Walta read the following correspondence into the record:

- 1) Letter dated 9/19/2007, from Joseph T. Giarrusso, Jr., Conservation Officer
- 2) Letter dated 9/19/2007, Stephen Gagnon, Assistant Civil Engineer

A copy of each of these documents can be found in their entirety attached to the rear of the minutes on file in the Office of the City Clerk, 41 Pleasant Street, Methuen, MA 01844.

Chairman D'Agostino opened the meeting to Public Participation and no one spoke either in favor or in opposition of this application. Having no discussion, Public Participation was closed and the Petitioner returned to the podium.

**ROLL CALL:**

Mr. Richard Lacroix – yes, per plan  
Ms. Laura Walta – yes, per plan  
Mr. Patricia Uliano, – yes, per plan  
Mr. Peter Giordano – yes, per plan  
Mr. Matthew D'Agostino – yes, per plan

**VOTE:** 5-0-0 UNANIMOUSLY APPROVED

**#2007-61      Rudolph A. Neve, 52 Baremeadow Street, Methuen, MA 01844**

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to subdivide a parcel of land into two (2) lots, leaving both lots without the required area, frontage and minimum lot width; and to clarify side and rear setbacks on the existing buildings in a Residential C (RC) District at # 52 Baremeadow Street.

Thomas Neve appeared before the Board on behalf of his Aunt and Uncle. According to Mr. Neve they are here this evening requesting to subdivide their property into two lots. Chairman D'Agostino questioned what style of house was proposed if this request was granted. Mr. Neve indicated that the house would be a 44 ft. wide by 28 ft. deep, two-story, colonial home with a garage in front because of the 15 ft. side set back. He further explained that they petitioners purchased the property in 1965 but the lots were created in 1914 and consisted of three lots 50 ft. wide by 100 ft. deep. He explained that the existing dwelling is located on the parcel on the original lot 9, far to the right side and that there were/are two deeds to the property. In essence they purchased two parcels at the same time and always believed that they had a lot in which they could build a home for themselves or their children. Chairman D'Agostino questioned if they were before this Board previously with this request. Mr. Neve indicated that they did but that this plan was different and the proposed lot was larger. He explained that it is their intentions to build a new home for his aunt and uncle with a master bedroom on the first floor and that their son and his family would move into the original home. Mr. Neve explained that the uniqueness to this parcel lies in the fact that even though they are requesting to reduce the area, that there are no requests for lot line variances or percent of lot coverage and that the home will be keeping in character with the other homes in the neighborhood. At this time Me. Neve presented the Board with aerial photos of the site showing that this request was in line with all the other homes in the neighborhood.

Chairman D'Agostino opened the meeting to Public Participation with Eric Teichert, 57 Baremeadow Street spoke in favor of this application. Mr. Teichert stated that he is in favor of this petition because it meets all the set back requirements, which was important to him. Additionally he indicated that he was representing family who reside at 51 and 47 Baremeadow and that they had no objections to this request. No one spoke in opposition to this petition. Having no discussion, Public Participation was closed and the Petitioner returned to the podium.

Upon questioning Mr. Neve confirmed that the new construction would not be for resale, that it is being constructed for family. Additionally he indicated that should this be approved this evening the new home will be on city sewer and that they would also tie in the existing home even though the septic system is functioning.

**ROLL CALL:**

- Mr. Richard Lacroix – yes, per plan*
- Ms. Laura Walta – no*
- Mr. Patricia Uliano, – yes, per plan*
- Mr. Peter Giordano – yes, per plan*
- Mr. Matthew D'Agostino – yes, per plan*

**VOTE:** 4-1-0 APPROVED

**#2007-62      Nemer B. Korbani, 77 Swan Street, Methuen, MA 01844**

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to construct an addition which will be too close to the front, side and rear lot lines and over the allowable lot coverage in a Business Highway (BH) District at # 77 Swan Street.

Mr. Korbani appeared before the Board on this petition. He indicated that he is requesting this variance so that he can expand the bakery to the rear because his baking facility is too small. He further explained that the front portion or existing building would be used as his showroom for products. Chairman D'Agostino questioned if there were any difference between this plan and the one presented to the Board several years ago. Mr. Korbani indicated that financially he had been unable to complete this renovation prior to the variance elapsing. He explained that he is proposing the same footprint that was previously granted and that the only difference is that this plan does not include a diner. The whole addition will be exclusively for the bakery.

Chairman D'Agostino read into the minutes a Memo in support of this expansion, from Chief Clifford Gallant, Methuen Fire Department. A copy of this document can be found attached to the rear of the Minutes on file in the office of the City Clerk, 41 pleasant Street, Methuen, MA 01844.

Chairman D'Agostino opened the meeting to Public Participation and no one spoke either in favor or in opposition of this application. Having no discussion, Public Participation was closed and the Petitioner returned to the podium.

**ROLL CALL:**

*Mr. Richard Lacroix – yes, per plan*

*Mr. Patricia Uliano, – yes, per plan*

*Mr. Peter Giordano – yes, per plan*

*Ms. Laura Walta – no*

*Mr. Matthew D'Agostino – yes, per plan*

**VOTE:** 4-1-0 APPROVED

**#2006-63      McKesson Corp., One Post Street 28<sup>th</sup> Floor, San Francisco, CA**

Waiver requested under Paragraph A of the Methuen Municipal Code, Section 9-89; Ordinance Regulating Fences; to erect an eight (8) foot fence with barbed wire that is over the allowable height in a Limited Industrial (IL) District at # 29 Aegean Drive.

Mr. Richard Rondeau from McKesson Corporation appeared before the Board on this petition. He indicated that they are requesting to construct an 8 foot high fence on their property that would consist of a 7 foot chain link fence with a 1 foot barbed wire segment. He explained that a portion of the existing fence is aged and rusting, particularly in the shipping and receiving area of their property. Additionally, he indicated that this upgrade is a request by their corporate security because of the nature of their business. They are in the pharmaceuticals industry, and as such need to protect their assets along with the narcotics and control drugs that the DEA requires them to maintain.

He describes the fence as being entirely within their property lines allowing the abutters full use of their properties. He indicated that the closest the fence would be to a property line is 6 to 10 feet. Additionally he stated that both the Police and Fire Departments would continue to have 24 hrs. access to the property for emergencies and routine patrols.

Chairman D'Agostino questioned if they were intending to block off the entrance to the main offices. Mr. Rondeau indicated that that was correct. That the fence would be an automated system that would remain open during normal business hours. After hours the gate will be secured and accessed via card access and Knox Box for the fire department.

Chairman D'Agostino opened the meeting to Public Participation and no one spoke either in favor or in opposition of this application. Having no discussion, Public Participation was closed and the Petitioner returned to the podium.

**ROLL CALL:**

*Mr. Richard Lacroix – yes, per plan*  
*Ms. Laura Walta – yes, per plan*  
*Mr. Patricia Uliano, – yes, per plan*  
*Mr. Peter Giordano – yes, per plan*  
*Mr. Matthew D'Agostino – yes, per plan*

**VOTE:** 5-0-0 UNANIMOUSLY APPROVED

**BOARD BUSINESS:**

Chairman D'Agostino informed the Board that Vice Chairman Walta received an e-mail complaining about big box stores like Target. Ms. Walta stated that the individual had concerns with the mess associated with Target during construction. At this time she explained that the Zoning Board only hears appeals to the zoning ordinance and that projects such as Target, receive approvals from the Community Development Board and that concerns, such as this should be addresses to that Board.

**ADJOURNMENT:**

**MOTION:** *Laura Walta moved to approve an 8:30 PM adjournment.*  
*Richard Lacroix seconded this motion.*

**VOTE:** 5-0-0 UNANIMOUSLY APPROVED

Respectfully submitted,

Gwen Martone, Public Recorder  
Methuen, MA 01844