

City of Waltham
Zoning Board of Appeals
April 28, 2026

The Zoning Board of Appeals held a public hearing at 7:00 P.M. on Thursday, April 28, 2026 in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were John Sergi, Chair, and members Mark Hickernell, Matt Deveaux, Glenna Gelineau, Sarah Hankins and Stephen Taranto.

Sitting on these cases were Mr. Sergi, Mark Hickernell, Matt Deveaux, Sarah Hankins and Stephen Taranto.

Mr. Sergi: Tonight we have three new cases and an Executive Session later on. First order of business tonight is to approve the minutes of April 14, 2026. May I have a motion to approve the minutes of April 14, 2026, please?

On motion of Mr. Taranto, seconded by Mr. Deveaux, the board voted to approve the minutes of April 14, 2026.

Mr. Sergi: So we have approved the minutes of April 14, 2026.

The first case tonight, I'm going to go in order. The first Case tonight is 2026-08. If the clerk would be good enough to read the Petition.

The clerk then read Case #: 2026-08. Petitioner/Owner: Melissa Zafirelis, Trustee of the Melissa Zafirelis Trust. Nature Of Appeal/Petition: Variance(s). Subject Matter: To

allow for the construction of a two- family home on a non-conforming landlocked lot with no frontage or lot width. Location And Zoning District: 32 Maple Street; Residence B Zoning District. Provisions Of Zoning Ordinance Involved: § 4.11 and §4.12(10) Specific Relief Sought: Petitioner seeks front and rear yard setback and frontage relief from a proposed two-family home on a landlocked lot. In addition, Petitioner requires one variance for lot width.

Mr. Serg: May we hear from the petitioner or the petitioner's representative, please?

Attorney Bret Francis, Law Office at 10 Hammer Street, Waltham came forward and presented each member with a copy of his brief.

Mr. Francis: I am here tonight on behalf of the Petitioner, Melissa Zafirelis who could not make it tonight due to work obligations. However, I do have with me tonight the prospective buyers/builders of the proposed two family home.

Mr. Francis then read his brief into the record.

Mr. Francis: And in addition, I do have some renderings.

(Mr. Francis submitted a copy of the renderings of the proposed project to each member of the board.)

Mr. Francis: Lastly, I believe Mr. Morreale did have a chance to speak to some of the neighbors who couldn't be here tonight but do support it. If you have any questions regarding that he would be happy to come up and speak.

Mr. Sergi: Do you have a petition signed by them?

Mr. Francis: No. I have no signature sheets.

Ms. Hankins: Did you receive the correspondence from the neighbor that we got this afternoon.

Mr. Francis: I did not.

Mr. Sergi: We'll read that into the record when we go through this

Mr. Sergi: But for my edification could you explain to me what's going on here on this plan. Is this house under construction now?

Mr. Francis: That one, yes. That is not related to this.

Mr. Sergi: It's separate, right?

Mr. Francis: It's separate completely.

Mr. Sergi: Okay. And that is - - -

Mr. Francis: That is the locus.

Mr. Sergi: And is there a house on that?

Mr. Francis: There's a single family home.

Mr. Sergi: That you are going to demolish.

Mr. Francis. Correct.

Mr. Sergi: Okay. And it's going to have a common driveway?

Mr. Francis: Yes. There already is a common driveway. None of that is changing. He's willing to stay the same and nothing will change. The access to Maple Street will remain the same.

Mr. Taranto: Parking is here in the illustration, parking is through garage.

Mr. Francis: Two in the garage and two on the outside.
Then there's four required.

Mr. Sergi: This rendering you're showing me, is there a basement to this or is the garage the basement?

Mr. Francis: The builders told me there's not.

Mr. Sergi: So this is three stories and it complies with the height variance?

Mr. Francis: Correct.

Mr. Sergi: And it conforms with the neighborhood?

Mr. Francis: Yes. I think that's exactly what is being built to the south of it. It's also a two family, three story. Three stories are allowed by right in the Residence B Zoning District. We are under the height limit. We are not seeking a variance for height.

Mr. Sergi: There's not many though in that area that I saw when I went up there.

Mr. Francis: Two families?

Mr. Sergi: Well not three stories, I didn't seem too many that were that high.

Mr. Francis: I think the newer ones that come that replace the older ones will just do that.

Mr. Sergi: I'll open it up for questions. Steve?

Mr. Taranto: No. Not at this time.

Mr. Sergi: Sarah?

Ms Hankins: It looks like for the most part a lot of the dimensional requirements, the existing to proposed stay about the same except for the front, there's fifteen required. Existing has close to that at 13 but you're looking for six. I mean, that's quite a leap. So can you just walk me through that.

Mr. Francis: Well currently there is a single family home and the Residence B allows two families by right. So the petitioner met with the Bibbo brothers and we went over many designs and again it's going to be a two family home so by definition it will be larger, but it does meet, you know, we were wondering if you can sell, the house kind of faces the easement off to the east, I guess. So we thought that what has been determined as the front and rear yard might have been the side yards which would have been little bit easier relief but the determination was made that the southern lot line which runs parallel with Maple Street is the frontage, the front yard setback. So that's why it also appears so small because looking at the house, they are going to look like their side yards, but they are in fact the front and rear. They act and look like side yard setbacks which are again fifteen

feet in the zone and only five feet if you have an old lot opinion which we do not on this project.

Ms. Hankins: So, I mean, if you put a single family on there like there is on there now you would be able to stay within or at least probably stay with the thirteen which would be a lot closer to fifteen than six.

Mr. Francis: I doubt it. That's currently very small even for a single family.

Ms. Hankins: No, I understand that but you've got three stories to work with. You don't think you could put single family there.

Mr. Francis: Well, again, you say three stories but the first story has parking. You'll have your utility room on the first floor, parking on the first floor and stairwells to get up to the second floor. I think that's primarily what's going to be on those first floors which is why the district actually allows three stories because you need them.

Ms. Hankins: I have no more questions but there were some comments in the neighborhood in that hopefully that he will address.

Mr. Sergi: Matt, do you have any questions at this time?

Mr. Deveau: Not at this time.

Mr. Sergi: Mark?

Mr. Hickernell: No. He's already addressed what I was going to ask.

Mr. Sergi: Why don't we read the correspondence from one of the abutters.

Mr. Deveau: We received some correspondence today.

(Mr. Deveau read a letter dated April 28, 2026 from JTD Realty, 26 Maple Street, Waltham into the record.)

Mr. Sergi: Counselor, she's got a point. I mean the houses in that area are a little smaller. Is there any way you could build a basement and kind of make this a two story rather than three stories?

Mr. Francis: No. Because then the parking wouldn't fit in the building. You're not going to have underground parking for a two family home over there. So you're going to have to have a three story that has parking underneath so that way two of the parking spaces are contained within the house giving the land a little more structure. I would say as far as her complaint regarding 30 Maple Street, you know, there's the building department, she says it encroaches upon. If that's the case - - -

Mr. Sergi: What I'm concerned about is the character of the neighborhood. It does impair the character of the neighborhood.

Mr. Francis: All right. To get to that, then I would say, well first she mentioned that it's related to the right of that way that our relief tonight is related to the right of way, it's not really, it's a landlocked lot. And that's really what we are here for tonight. However, and again, saying that there's no unusual physical conditions, I mean, I think when you have a landlocked lot here in Waltham, I think that's pretty unusual on its face and on top of that the situation regarding the depth of the lot as well as its shape further makes it further unique that it is.

Lastly, this case as you acknowledged before, no precedent is being set by this case so I don't see that. As far as the congestion, well the lot size is over 7000 square feet and two families are allowed by right. So this is not a situation of trying to cram a two family on a lot that's too small. It's over fifteen hundred feet larger than the minimum required. We're not going over the height limit. We're not seeking more units that are allowed by the maximum allowed. It's a two family allowed in a two family zone on a lot that's sufficiently sized and we are not seeking any parking relief, we're not seeking any height relief. This is directly due to the fact that the determination was made that those are not side yards that those are rear and front yards and that no house whatsoever could be built on that without, again encroaching on these setbacks. And I don't think we are over-congesting. This is a Residence B Zone, two family zone, we're seeking a two family construction. No more!

Mr. Sergi: You are changing the character of the neighborhood with this type of development.

Mr. Francis: It's a two family zone.

Mr. Sergi: No, I know but the area doesn't have the structures such as this.

Mr. Francis: There's a lot of two families down there.

I have to disagree with that. I don't - - -

Mr. Sergi: I've been up there. I saw it.

That said, I do have my client did have a chance to speak to some of the neighbors. Maybe he could come up.

Mr. Sergi: Sure. Paul, please.

Paul Morreale, 108 Milton Street, Waltham: Ya, so, speaking about the neighborhood, I mean there's very few single families in that neighborhood. As you can see right on the corner here, (referring to the plan), this is a four family, a seven family.

Mr. Sergi: Are those three stories?

Mr. Morreale: Yes. This one is a triple decker, it has seven units in it. This place that abuts the locus is all multi family. There's at least six to eight units in that unit right there. So I think these are all multi families.

Mr. Sergi: What about the abutter's lot, where's 26?

(Mr. Morreale pointed to #26 on the plan.)

Mr. Sergi: And the current house under construction is where?

Mr. Morreale: The current house that's under construction is right here.

Mr. Sergi: And this is going to be to the right more so. The footprint of the house is to the right and is furthest away from- - -

Mr. Morreale: Correct. And there will be a substantial amount of green space in this back yard and that's not really going to change. There's still lots of light. This is not going to affect that back yard.

Mr. Sergi: Okay. Any further questions from the board?

(There were no questions.)

Mr. Sergi: Let me open it up to the audience. Is there anyone in the audience that is against this petition?

Seeing none. Is there anyone seeking information?

Seeing none. Is there anyone in favor of this petition as presented?

(Two people raised their hand in favor.)

Mr. Sergi: If there are no further questions from the audience, we are ready to take a vote. First I want to ask the counselor have you changed the findings of fact or the decision since the filing.

Mr. Francis: No. They have been on file for well over a month and no changes.

Mr. Sergi: Right. So we've had a chance to read them. With that said, I'll entertain a motion to waive the reading of the Proposed Findings of Fact and the Decision since they have been on file and we have had a chance to read them.

Mr. Hickernell: For the reasons stated I move that we waive the reading of the Proposed Findings of Fact and the Proposed Decision. Mr. Taranto seconded the motion.

Roll call: Mr. Taranto, yes; Ms. Hankins, yes; Mr. Deveaux, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: On the Proposed Findings of Fact, may I have a motion on the Proposed Findings of Fact as presented?

On motion of Mr. Hickernell, seconded by Mr. Taranto, the board voted to adopt the Proposed Findings of Fact as presented as the board's Findings of Fact.

Roll call: Mr. Taranto, yes; Ms. Hankins, no; Mr. Deveau, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

On motion of Mr. Hickernell, seconded by Mr. Taranto, the board voted to adopt the Proposed Decision as the board's decision.

Roll call: Mr. Taranto, yes; Ms. Hankins, no; Mr. Deveau, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

The vote was 4-1 in favor.

Mr. Sergi: The second case on the docket tonight is Case No. 2026-10. If the clerk would be kind enough to read the petition.

**The clerk read the petition in Case No. 2026-10,
Case #: 2026-10. Petitioner: Nash Quadir. Owner: Weston Development Company, LLC.
Nature Of Appeal/Petition: Amend plans to prior decision ZBA Case #2022-32. Subject
Matter: Petitioner seeks to add a vestibule on the front entrance (Although this Vestibule
was shown on the approved ZBA plans, it was missing on the site plan). Petitioner also
seeks to expand the roof decks on the second floor on both East and West sides of the
building. Location And Zoning District: 76 Bacon Street (f.k.a. 74R Bacon Street);
Residence C Zoning District. Provisions Of Zoning Ordinance Involved: § 3.7223. Specific
Relief Sought: Petitioner is seeking to add a vestibule at the front entrance of the building
on the North side of the building. This vestibule was shown on the architectural plans on
the previously approved ZBA plans, on September 21, 2022 (Case #2022-32). Petitioner is**

also seeking to expand second floor decks along east and west sides of the building as shown on sheet A-2 and relocation of egress stairs.

Mr. Sergi: May we hear from the Petitioner or the Petitioner's representative, please?

Nash Quadir, 76 Bacon Street, Waltham: So we have been here a couple of times before for the same project.

Mr. Sergi: Did you ever build those out?

Mr. Quadir: It's in the process of almost completion. And we just expanded the vestibule. The vestibule was actually approved by the ZBA - - -

Mr. Sergi: Right. I remember the vestibule.

Mr. Quadir: But it was not shown and the building commissioner asked me to come back to you guys for that.

(Mr. Quadir went over the plan with the board.)

Mr. Quadir: These are on the second floor, so there's no impact - - -

Mr. Sergi: What did he ask you to come back for?

Mr. Quadir: For the vestibule.

Mr. Sergi: Did we already look at that?

Mr. Quadir: Ya, but it was missing on the site plan. So he said just go back just for a minor change. The other thing, as you can see on the building plan, it was approved. There was a small section of the back that was approved by the ZBA but again this is on the second floor. But since this was already vacant space, so I just finished the whole thing. But it is on the second floor, over here (referring to the plan).

So there's no change in the footprint of the building or any other change except that and the only other thing was, as previously approved the stairs was located on the side of the building now because they were nonconforming they couldn't meet the building code and there's no impact on the site plan as far as the parking or anything like that. So there's no impact on that at all on the site plan. This has already been reviewed by the building inspector. He's okay with it. It meets with the building code. And that's all we are asking for here tonight.

Mr. Sergi: What's existing there now? How much of the deck is there now?

Mr. Quadir: The deck was built. The deck was the best part of the building. The deck is above the living space on the second floor.

Mr. Sergi: Okay. So it's always been there.

Mr. Quadir: It's always been there.

Mr. Sergi: That's what I thought. So you're not extending it or anything. You're just leaving it.

Mr. Quadir: No. We are just finishing it up. That's all there is.

Mr. Sergi: And this is just in compliance with the building department.

Mr. Quadir: Yes. And I spoke to a couple of neighbors right across the street and they are very much in favor of it. It's more better looking than before.

Mr. Sergi: I get it. Thank you for explaining that.

Mr. Quadir: There's a little change in the Proposed Findings of Fact. I forgot to add the vestibule in it.

Mr. Sergi: Specifically why don't you point out the change that you made so we will make sure that Carol has it. So, go to the specific item that you changed. Let's start with the Findings of Fact first.

Mr. Quadir: If you look at number 4, the second page, the last sentence: The vestibule was previously approved by the Zoning Board (Case No. 2022-32 Hearing Date Aug. 9, 2022, but it was not shown on the site plan. This was this was the sentence that was added on.

Mr. Sergi: So this whole sentence was added.

Mr. Quadir: That's right.

Mr. Sergi: Let me just circulate this to the rest of the members here. And then on the decision?

Mr. Quadir: Exactly the same language.

Mr. Sergi: That's just a clarification of what you are doing.

Mr. Quadir: For sure.

Ms. Hankins: Also on the first page of the Decision the Case Number and date wasn't filled in.

Mr. Quadir: That was actually filled in by Pam.

Ms. Hankins: Oh, not on my copy but as long as the final one is.

Mr. Sergi: That was the only changes you made on these. All the others are the same.

Mr. Quadir: They are the same.

Mr. Sergi: I am going to open it up to the audience. Is there anybody in the audience that is against the petition as presented?

Seeing none. Is there anyone seeking information?

Seeing none. Is there anyone in favor of the petition as presented?

Three people raised their hand in favor.

Mr. Sergi: I will entertain a motion to waive the reading of the Proposed Findings of Fact and the Proposed Decision since they have been on file and acknowledge the amendments as presented tonight.

On motion of Mr Hickernell, seconded by Mr. Deveau, the board voted to waive the reading of the Proposed Findings of Fact as presented and amended.

Mr. Sergi: So the ayes have it. We've waived the reading of the Proposed Findings of Fact and the Proposed Decision since they have been on file.

Mr. Sergi: May I have a motion on the Proposed Findings of Fact as presented and as amended.

On motion or Mr. Hickernell seconded by Mr. Deveau, the board voted that the Proposed Findings of Fact as amended be adopted by the board as the Board's Findings of Fact.

Roll call: Mr. Taranto, yes; Ms. Hankins, yes; Mr. Deveau, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: On the Proposed Decision as presented and amended.

On motion of Mr. Hickernell, seconded by Mr. Deveau, the board voted that the Proposed Decision, as amended, be adopted by the board as the board's Decision.

Roll call: Mr. Taranto, yes; Ms. Hankins, yes; Mr. Deveau, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: It is granted.

The next case on the docket tonight is Case No. 2026-14, if the clerk would read the petition, please.

The clerk read the petition in Case #: 2026-14. Petitioner: Jeannette A. McCarthy, Mayor. Owner: City of Waltham. Nature Of Appeal/Petition: Comprehensive Permit

Application under G.L. c. 40B, §§ 20-23. Subject Matter: The Petitioner hereby applies to the Zoning Board of Appeals, pursuant to the General Laws of Massachusetts, Chapter 40B, Sections 20 through 23, as amended for the issuance of a Comprehensive Permit authorizing the City of Waltham to use and maintain two rental units (which will be affordable deed restricted units that will serve households with incomes up to no greater than 80% of the Area Median Income (AMI)) (the “Project”) on land located at 282 Trapelo Road. The Project is more particularly described in the Application and materials submitted simultaneously therewith, including 11 Waiver Requests requesting approval of an ANR Plan and variances from certain dimensional and use zoning ordinances, all of which are incorporated into the Application herein by reference and constitute the documents required to be submitted under the regulations for filing a Comprehensive Permit Application under G.L.c.40B, §§20-23, as amended, and the regulations for Comprehensive Permits; Low- or Moderate-Income Housing (760 CMR 56.00). **Location and Zoning District:** 282 Trapelo Road; Conservation/Recreation Zoning District. **Provisions of Zoning Ordinance Involved:** Section 3.4 Table of Uses Con/Rec District does not permit two-family detached units. Section 3.216 does not permit housing in municipal buildings in Con/Rec District. Applicant seeks Waivers for relief from dimensional requirements of Section 4.11 for the Con/Rec District for setbacks (proposing front 58.39 feet, east side 99.95 feet, west side 72.61 feet, rear 29.22 feet), building height (20 feet), number of stories (2.5), maximum lot coverage (5.26%) and a lot area (.72 acres). Applicant also seeks a Waiver to authorize the Board to approve the ANR Plan submitted as part of this Application. **Specific Relief Sought:** Application pursuant to the General Laws of Massachusetts, Chapter 40B, Sections 20 through 23, as amended for the issuance of a Comprehensive Permit.

Mr. Sergi: May we hear from the Petitioner or the Petitioner’s representative, please?

Good Evening, my name is Mayor Jeannette McCarthy. I am representing the owner of the City of Waltham this evening. My address is 91 Hamilton Road, Waltham, MA and my business address is 610 Main Street, Waltham, MA: If I may just give you some pictures, Mr. Chairperson.

Mr. Sergi: Sure.

Mayor McCarthy: So the petitioner is the City of Waltham. The application is for a Comprehensive Permit pursuant to Mass General Laws Chapter 40B, Sections 20 to 23. The Petitioner is seeking the continued use of a two family residential building for two affordable deed restricted units which will serve households for not greater than eighty percent (80%) Area Median Income, AML. The petitioner submits this application for a Comprehensive Permit pursuant to Mass General Laws Chapter 40B, Section 20-23. The location in the zoning district is as follows:

The Petitioner is the owner of 282 Trapelo Road, the locus. The locus is situated on the southerly side of Trapelo Road and consists of 31,206 square feet or .72 acres plus or minus of land. The building on the locus is identified as Cardinal Cottage which goes back to 1850. The locus was part of a larger parcel of land, a hundred and ninety acres (190) conveyed by the Commonwealth of Massachusetts to the City of Waltham on December 23, 2014. The map number is Map 036, Block 008, Lot 0001. The locus is situated in a Conservation/Recreation Zoning District.

The City of Waltham has requested the board pursuant to the Chapter 40B issue this Comprehensive Permit for the following reasons that I listed above.

Okay, now, the plan of land for the project was 282 Trapelo Road was prepared by GCG Associates, Plan of Land, 282 Trapelo Road, Waltham, MA dated 10/7/25 by Hadlock J Persil Professional Land Surveyor #54318. The petitioner submitted this petition which

included a list of waivers, the Petitioner's application and the building plans which I believe you have already received those including the map of the property.

The Commonwealth of Massachusetts acquired the land on August 17, 1931 from the St. Elizabeth's Hospital of Boston. And I am advised that at that time it was used as a two family and the nuns lived on one floor and the farmer lived on the other. So there were two apartments on the other floor. That's from the Middlesex Registry of Deeds, Book 5584, Page 383. According to the National Register of Historical Places, the building is known on the locus as Cardinal Cottage, Circuit 1850. Cardinal Cottage is a contributing building, a historically significant building which existed prior to the Fernald School itself. So this is older than the Fernald School and which predates zoning. The City of Waltham's Assessor's records indicate that the building on the locus was used as a two family residential dwelling. The above deeds and records have been submitted to the Zoning Board of Appeals along with other supporting documentation.

Now the key part of this case is that the Commonwealth of Massachusetts is not subject to local zoning. So the use of the Commonwealth as a two family does not require the City of Waltham's approval. However, the use by the Commonwealth of this property is not grandfathered. Therefore, the Petitioner the City of Waltham must seek Zoning relieve to continue the use as Cardinal Cottage as a two family residential dwelling in the Conservation/Recreation District.

The City of Waltham hired Historic Architect Alex Knox to design the plans to renovate Cardinal Cottage. Cardinal had fallen into major disrepair as you can see from the pictures before the Petitioner acquired the locus.

The two units were renovated, one on the first floor and one on the second floor and one unit is fully handicapped accessible. Then Architect Alex Knox moved away so the city hired architect Robert Livermore to finish the building plans. The renovations were

completed in accordance with the plans Cardinal Cottage set November 15, 2022, Livermore Edwards and Associates, Robert Livermore, Registered Architect and multi family remodel Cardinal Cottage Trapelo Road, Waltham, Alex J. Knox, Registered Architect dated 2/1/2018. As I indicated it's in a Conservation/Recreation Zoning District and the requirements for Conservation/Recreation Zoning District is the front setback which was read 100 feet is 58.39 proposed; side setback east 100 feet, proposed 99.95, side setback west 100 Feet, Proposed 72.61 Feet, rear setback 100 Feet, Proposed 29.22; maximum building height 20 Feet, Proposed condition 29.6 Feet; maximum stories, one story the actual stories that were built in 1800's is 2.5 stories. The maximum lot coverage is 5%, the proposed condition is 5.26%. The lot area is four (4) acres, zoning requirement is .72 acres of proposed condition. So the Waltham Historical Commission and the Massachusetts Historical Commission approved the renovation of these plans.

Cardinal Cottage was never moved so a lot of these setbacks and everything are existing, so existing building height, the number of stories, the front setback and side setback east were maintained as the original as built. Similarly this application does not propose to change the stated original setbacks, the building height or the number of stories. The Petitioner's intended use is for the two affordable, and there is a need for affordable housing in the City of Waltham.

I've already indicated to you that it has been in existence since 1850 but its been historically preserved as a historic asset and is an asset to the neighborhood. There is no additional traffic associated with the proposed two family residential dwelling. The utilities have been upgraded, the grounds have been upgraded. There is more off-street parking than the four required spots for each dwelling unit. There will be no significant impact upon the city services or city infrastructure. The City of Waltham is the owner of the abutting properties to the east, to the south and the west of the locus.

The Zoning Board of Appeals is being asked to look at this and determine whether it complies with Chapter 40B.

Now, I just want to say a couple of other things that I did go through in the materials that was prepared, you know the design of it, affordability of it, so I went through all the plans. I also went through the parking, the transportation and then stormwater and utilities. We comply with all of the fire, stormwater and additional site conditions where the snow will be put and where the trash will be put. A handicapped ramp was fully installed into the property and basically we come down to respectfully asking the board to look at all of this and in light of what it was used, we want to continue that use. And if you look at the map all the land in the back that abuts a beautiful pond which the city restored, it's called a nature area of the former Fernald School at 200 Trapelo Road.

Now, there is one thing that we are asking the board to determine that the ANR Plan depicts a division of land and does not constitute a subdivision with the meaning of the Subdivision Control Law. Each resulting lots shown on the ANR plan has the required frontage on Trapelo Road which is a public way and qualifying as a way under Mass General Laws Chapter 41, Section 81L. The frontage shown provides adequate access to the proposed use in connection with the application for a Comprehensive Permit and it's in substantial conformity with the plans approved in Condition One of Section 2A of the Comprehensive Permit. So, I'm asking respectfully for relief from the Board of Appeals on behalf of the City of Waltham.

Mr. Sergi: You really haven't changed the footprint and just renovated the house in place.

Mayor McCarthy: The only thing I did change is because the back was so big, so we shortened out the back and the left side is existing. So the right side was changed a little.

Mr. Sergi: Okay. And you haven't changed anything in the presentation since you filed it.

Mayor McCarthy: No. And the presentation was reviewed by the City of Waltham's Law Department and I also provided a Table of Contents of everything that we had submitted to you.

Mr. Sergi: Okay. I'll open it up to questions from the board.

Steve, do you have any questions?

Mr. Taranto: I have no questions.

Mr. Sergi: Sara?

Ms. Hankins: On the back session, so the Petitioner filed for a project eligibility letter and has not yet received an official answer. Can you walk me through that because my understanding was that the Project Eligibility Letter at least for every 40B that I've sat on is the first step not the other way around.

Mayor McCarthy: Yes, because those 40B's are requesting to build the property. This is a pre-existing building. So we understand, contacting them, that once there's a decision here, we will be able to reapply. So most of the 40B's that come to you is new construction. This is existing construction, so that's the reason why.

Ms. Hankins: As long as it complies with them, I couldn't care less. So I'm just making sure.

Mayor McCarthy: The Housing Division has been in touch with the individuals that make that decision.

Ms. Hankins: Mr. Waters?

Mayor McCarthy: Mr. Waters.

Ms. Hankins: The other thing is, there are two units, correct?

Mayor McCarthy: 2 Units, yes.

Ms. Hankins: So a lot of times with 40B's we request of the applicant that they set aside some units that are at 60%. Now I know you only have two units here but, I mean, it's worth asking.

Mayor McCarthy: That's the reason why it says "no greater than 80%". We would hope, there was a history of the housing division, department now, of the City of Waltham of building affordable housing. So I think it's 58 Lake Street the former Hardy School has all 60% or below. Up until this year when we got some issues about some health issues on the property and the electricity bills we have not had to raise that rent since the property opened. So we believe in that, you know what I mean, but we have to send it out to bid so, hopefully, that's the highest it will go but we are looking to have it under and also looking to have some veteran's preferences as well. So it wouldn't exceed - -

Ms. Hankins: And then to be clear, it's about eight areas of relief. (Ms. Hankins listed the eight areas of relief.)

Mayor McCarthy: If you looked at the map that I provided you so when you see it in existence to see what's around it you know you have next door to the Lawrence School

but it's got a lot of land around it. It's really not interfering with anyone. As a matter of fact, this used to be a thirteen acre lot when it was owned by the St. Elizabeth's Hospital when it was a hospital and then it was farm and the Waltham Historical Commission after they went to visit at the open house they prepared a list of the entire property history. It's pretty interesting. You know, it says 1850 in the National Historical Register, it's probably back to 1830, this house. But when you look at the big picture of all the land that the city has and the fact that its abutting a 47 acre nature area and then you have the Cardinal Cottage with the former Lawrence School and we feel that it fits in with the neighborhood as well as what we've done to make the Fernald School, we took down more than twenty buildings that were built over the pond. We've restored the pond over there and this looks right over it. So we think it's a good neighbor, this two family.

Mr. Sergi: Okay. Thank you. Matt?

Mr. Deveau: No, my questions were answered.

Mr. Sergi: Mark?

Mr. Hickernell: No questions at this time.

Mr. Sergi: I don't have any further questions. I see that all the departments have checked in with you. The city has reviewed it as they typically do a 40B so that seems proper as well. So I'll open it up to the audience.

Is there anyone in the audience that is against the petition as presented?

Seeing none. Is there anyone seeking information?

Seeing none. Is there anyone in favor of the petition, a show of hands would be fine?

(Seven people raised their hand in favor.)

Mr. Sergi: With that said, may we have a motion to waive the reading of the Proposed Findings of Fact and the Proposed Decision since it's been on file and there haven't been any changes.

On motion of Mr. Deveau, seconded by Mr. Taranto, the board voted to waive the reading of the Proposed Findings of Fact and the Proposed Decision since it's been on file and there haven't been any changes.

Mr. Sergi: So we've waived the reading of the Findings of Fact and the Decision since they have been on file.

May I have a motion on the Proposed Findings of Fact as presented.

On motion of Mr. Hickernell, seconded by Mr. Taranto, the board voted that the Proposed Findings of Fact be adopted as the Board's Findings of Fact.

Roll call: Mr. Taranto, yes; Ms. Hankins, yes; Mr. Deveau, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: On the Proposed Decision as presented.

On motion of Mr. Hickernell, seconded by Mr. Taranto the board voted that the Proposed Decision be adopted by the board's Decision as its own decision in this matter.

Roll call: Mr. Taranto, yes; Ms. Hankins, yes; Mr. Deveaux, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: It is granted.

We have one more matter.

Ms. Hankins stepped down and was replaced by Member Glenn Gelineau.

Mr. Sergi: We have one more item. We have Case No. 2025-05 that we are going to go into into Executive Session.

So we have an Executive Session here and the date is April 28, 2026, the matter is Case No. 2025-05 DIV 455 Totten Pond Road LLC c/o Davis Companies at 455 Totten Pond Road. A public meeting was properly posted as required by the statute. The public meeting was opened in public session. The presiding officer announced that the board would reconvene in open session and today was designated by the presiding officer to serve as Clerk of the Executive Session. The purpose of the Executive Session was identified by the Chair as being that an open meeting may have a detrimental affect on the binding or litigating position of the governmental body as the city has been advised by the Petitioner's Counsel on April 21, 2026 and should the terms of the mitigation measures and payments offered by them on April 14, 2026 not be approved, the Petitioner will appeal to HAC. A roll call vote attached herein was taken to go into Executive Session. So if we could have a roll call vote, yes or no, to go into Executive Session.

Mr. Sergi: Steve?

Mr. Taranto: I vote yes.

Mr. Sergi: Glenna?

Ms. Gelineau: Yes.

Mr. Sergi: Matt?

Mr. Deveau: Yes.

Mr. Sergi: Mark?

Mr. Hickernell: Yes.

Mr. Sergi: The chair votes yes. So it's unanimous to go into Executive Session. A quorum of the board was present for this roll call vote and a majority of the quorum voted in favor of going into Executive Session.

This form will become part of the minutes of the public meeting held on this day of April 28, 2026.

The board went into Executive Session and reconvened their open meeting at 850 P.M.

Mr. Sergi: With that said, Michelle!

Assistant City Solicitor for the City of Waltham, Michelle Learned came forward.

Attorney Learned: You came out of Executive Session?

Mr. Sergi: We came out of Executive Session and now we are going to hear a summary from Michelle.

Attorney Learned: So one of the things that I wanted to make sure that the public was aware of and the board which is part of what we discussed in our Executive Session is that when we were here last on April 14th, I believe, when the particular decision was put before the board and I had walked through each and every provision that existed in that decision, the motion that was made was to approve that particular decision as presented by Attorney Learned with two additions that had been made motions to amend that proposal. That was the consideration of police accident reports when our city traffic engineer would review and consider whether the access to the site was appropriate at the 80% occupancy and it was also to make sure that there was some level of reporting and advising that went back to the board to let the board know if certain funds had reached the particular department and if that department was able to complete the work that those funds that were earmarked to complete.

So even though that particular motion did not carry and the Decision was not approved on April 14th that had been presented notwithstanding that our Chair had said oh, well, I guess this was denied, it actually wasn't voted as a denial. And so we are within the forty day time period from the closing of the public hearing that the board must make a decision. And so what I suggest occur today, addressing one of the "no" voting board member's concerns about the money not meeting the school department issues, the money being the mitigation funds that the applicant has proffered as part of the mitigation package. To address her concerns what I did with this next Draft Decision is sort of take that mandatory prioritization of the Fire Department - Three Hundred Thousand Dollars (\$300,000.00) and put that prioritization in the same area where the Mayor is able to decide based on the current budget for these departments and for the work that has to be done that she would be able to in her discretion decide where those funds should go. And what that does is there would be a stronger likelihood that if the school department was in

greater need for any remaining funds than the fire department then that is where those funds would be allocated. And so that is a change that exists in this. I do want to point out that there is no alteration to any of the mitigation measures or mitigation payments that were in the decision and I was told that should that be the case we would be able to confirm on the record that there would not be an appeal should this decision be granted tonight.

(Attorney Learned was speaking to Attorney Valerie Moore from Nutter McClennan and Fish who was in the audience.)

Valerie Moore from the audience: I was not given authorization to do that.

Attorney Learned. Okay, so in my consultation with Attorney McCourt - - You know, if I could, I would request a recess.

On motion of Mr. Hickernell, seconded by Mr. Taranto, the board voted to have a five minute recess at 9 P.M.

The board reconvened to their regular meeting at 9:17 P.M.

Mr. Sergi: The board is back to order.

Attorney Learned: So we have had the opportunity to speak. The applicant is not in the position to make representations on the record that they will not appeal whatever decision is voted on this evening. They are concerned about as they perceive a notice issue and so the position that we are in this evening then is a decision to decide whether you want to go forward with a decision that is an approval of a decision that would approve the project under certain conditions as outlined in the decision or whether you would like to proceed with a denial decision that has been drafted and that I could walk the board

through. And so, perhaps it makes sense to put forward the motion to grant the decision but we have to keep in mind that the applicant has not agreed that they will not appeal.

Mr. Sergi: I don't see why they would appeal but if they want to they can, I guess, but it's the same.

Attorney Learned: It's the same substantive terms, it is the same mitigation measures.

Mr. Sergi: Correct.

Attorney Learned: It's the same dollar amount for the mitigation payments. So I guess we'll put forward for your vote and the decision, that one provision that has been rearranged which is where the fire department funds have now been moved to be the same equal priority as the public schools and the police department and some additional public infrastructure. But apart from that there's no other changes to this with respect to the motion that had been presented on April 14th except the language that codified the two motions that had been made to amend have, in fact, been added. Otherwise every single other term is the same.

Mr. Taranto: I will make a motion to adopt this particular Decision dated April 28, 2026 so that the application be approved.

Mr. Hickernell seconded the motion.

Roll call: Mr. Taranto, yes; Ms. Gelineau, no; Mr. Deveaux, no; Mr. Hickernell, yes and Mr. Sergi, yes.

The vote was 3-2 in favor.

Mr. Sergi: So we have a majority vote. So it passes and granted.

One more motion is in order.

On motion of Mr. Deveau, seconded by Mr. Taranto, the board voted to adjourn at 9:23 P.M.

John Ser, Chair
5/5/26