

**Zoning Board of Appeals  
Voting Record and Minutes**

The Zoning Board of Appeals of the City of Chicopee public hearing for **Wednesday February 13, 2019, 6:30 PM** in City Hall Annex, Fourth Floor, City Council Chambers, 274 Front Street, Chicopee, MA 01013.

Meeting was brought to order by Anthony Gallant at 6:37 PM\*.

\*The Board delayed the start of the meeting in order to allow time for attendees to sign in.

Board of Appeals attendance:

Member	Name	Present	Absent	Excused
Regular	Roland Archambault Chair			X
Regular	Anthony Gallant, Vice Chair	X		
Regular	Carissa Lisee, Clerk	X		
Regular	Gary Stamborski	X		
Regular	Christina Loy	X		
Assoc.	Katherine Baldiga	X		
Assoc.	Matthew Bieda			X

Planning Staff attendance:

Title	Name	Present	Excused
Planning Director	Lee Pouliot	X	
Assistant Planner	Patrick McKenna	X	
Development Manager	Jim Dawson	X	

**NOTE:** Associate Member Katherine Baldiga voted in place of Regular Member Roland Archambault who was excused from the meeting.

**Item 1: Variance** from Chapter 275-27.1 (D) to install wireless communications antennas on a pre-existing structure on the Elms College Campus which lies within a Residential A zone. Location: 291 Springfield St. Chicopee, MA. Applicant: Cellco Partnership d/b/a Verizon Wireless, 20 Alexander Dr. Wallingford, CT 06492

**Notes:** Attorney Michael Fenton represented the Applicant. Attorney Fenton explained the need for the Variance; he also explained that due to a lengthy permitting process the original Variance that was granted by the Board in September 2017 had expired. The Applicant was requesting the same Variance that was before the Board and approved in September 2017. No Abutters in opposition.

Motion to approve was made by Christina Loy and seconded by Gary Stamborski. Vote was 5-0 to approve.

Member	Voting members	Approve	Deny	Table	Abstain
Regular	Anthony Gallant, Vice Chair	X			
Regular	Carissa Lisee, Clerk	X			
Regular	Gary Stamborski	X			
Regular	Christina Loy	X			
Assoc.	Katherine Baldiga	X			

**NOTE:** The Board voted to hear Item 3 before Item 2 since Item 2 had a large number of attendees and would take a considerable amount of time.

Motion to hear Item 3 before Item 2 was made by Anthony Gallant and seconded by Christina Loy. Vote was 5-0 to approve hearing Item 3 before Item 2.

<b>Member</b>	<b>Voting members</b>	<b>Approve</b>	<b>Deny</b>	<b>Table</b>	<b>Abstain</b>
Regular	Anthony Gallant, Vice Chair	<b>X</b>			
Regular	Carissa Lisee, Clerk	<b>X</b>			
Regular	Gary Stamborski	<b>X</b>			
Regular	Christina Loy	<b>X</b>			
Assoc.	Katherine Baldiga	<b>X</b>			

**Item 2: Variance** from Chapter 275-58 (D) (3) height of proposed Holiday Inn Express & Suites from 40' to 70.6' measured from the average property elevation. Location: Memorial Dr. (Assessor Map 231, Parcels 47A, 51, 52 and 53 and Assessor Map 258, Parcel 16). Applicant: Desai & Sons, Inc. 1533 Elm St. West Springfield, MA 01089

**Notes:** Attorney Richard Sypek was in attendance to represent the Applicant Mr. Raymond Desai who was in attendance. Michael Petrin of VHB, Inc. was in attendance to present an overview of the project. The property owner (Mr. Roy Fanti) was not in attendance.

Attorney Sypek introduced Michael Petrin from VHB, Inc. who gave a brief history of the progression of the project from the initial Zone Change on the property to entirely Business A in 2017 to the present. Mr. Petrin explained that a Preliminary Site Plan had been before the Site Plan Review Advisory Committee (SPRAC) and received a negative report due to the proposed site layout which included a 4-story hotel and a retaining wall up to 41' in height in close proximity to the southern property lines. As a result of the substantial concerns from the SPRAC the Applicant requested a withdrawal of the plans as initially submitted. VHB submitted a second Preliminary Site Plan in December 2018 that redesigned the project to include a 5-story hotel which allowed for a smaller footprint enabling the retaining wall to be significantly reduced in height (down to approximately 21') and moved further from the property line. This change in plans also allowed for a reduction in impervious area on the site. The Planning Board approved the Preliminary Site Plan on January 10, 2019 with numerous conditions including the SPRAC comments. Mr. Petrin noted that topography was a major factor on the site and that the Building Commissioner's interpretation of the Zoning Ordinances was that the height of the proposed building had to be measured from the average grade of the site, not from the flat terrace upon which the building would sit.

Attorney Sypek then explained the Variance process which is required for relief of the height of the building. He explained 3 components the Board has when considering a Variance: 1. An unusual circumstance such as soil, slope or topography, 2. A hardship relating to the land that impacts the ability to develop a site and 3. Substantial derogation from the Zoning Ordinances or Bylaws and a substantial detriment to Public Good.

Attorney Sypek explained that topography was the primary reason for the Variance request noting the extremely steep hillside impacts the site. He also noted the slightly unusual shape of the property.

Attorney Sypek then presented the SPRAC concerns to the Board stating several redesigns had occurred to arrive at the current design. It was his opinion that topography was a legitimate hardship that negatively impacted permitted development. Attorney Sypek also explained that in his opinion the project was not a derogation from the Zoning Ordinances as it is located on Memorial Drive, in a Business A zone, which is where the City's Zoning Ordinances intend this type of development to be.

Attorney Sypek presented a review of his relationship with the Applicant and other projects completed by the Applicant.

Following Attorney Sypek's presentation the Board discussed the context of the site noting that there were other developments along Memorial Drive including a Residence Inn Hotel however, none that exist in a similar context adjacent to residentially developed properties.

The Board also questioned why a 4-story hotel with fewer rooms was not a viable option? Attorney Sypek responded was that a 4-story hotel could be feasible but if the Applicant could not accommodate a 96-room hotel it would not be a financially viable project. The Board also discussed the nexus between the perceived hardship and the character of the neighborhood. It was noted that even a 4-story hotel would require a Variance.

The Board also discussed concern of setting a precedent while also questioning whether a true hardship existed with regard to the exact program the Applicant was proposing. They discussed if an alternative design would allow for a 96-room hotel, work with the site topography and not require a Variance.

The hearing was then opened up for Public Comment.

Forty-three (43) concerned citizens signed into the meeting, all of which were in opposition to the Variance. Many expressed opposition to a hotel on the site regardless of scale. Public comments and concerns discussed are summarized as follows:

- Derogation from the Zoning Ordinances;
- Impacts to residential properties;
- Other hotels on Memorial Drive not in same context surrounded by residences;
- Proximity to residential properties and visual access into private properties;
- Reduction in surrounding residential property values;
- Benefit to the taxpayers?
- Economically terrible idea;
- Other hotels already in the area – poor competition to other area hotels;
- Intrusive to the residences – views into residential windows;
- Large retaining wall;
- Shorter buildings are dominant south of the Massachusetts Turnpike;
- Impacts to wildlife;
- Sewer easement creates limitations to ability to screen the hotel from residences;
- Erosion of soil and sand down the hillside to properties on Jackson and Patrick Streets;
- Hotel will tower over the neighborhood and the City;
- Shorter story building may be acceptable;
- Property is undeveloped for good reason;
- Traffic;
- Too many changes in the neighborhood – want to keep consistency;
- Access to Memorial Drive;
- Opposition to hotel altogether – whatever is developed must close at 5:00 PM;
- Property is too small for hotel development;
- Planning Board Preliminary approval placed the burden on the ZBA;
- Applicant refused to meet with the Abutters and some Abutters also refused to meet with the Applicant;
- Will cause stress, anxiety and sleepless nights; and
- Retaining wall would be an eyesore.

City Councilors Gary Labrie, James Tillotson and Derek Dobosz were in attendance and spoke on the matter. Councilor Labrie stated he had received numerous calls and emails in opposition. He noted traffic concerns at the intersection at the Deady Bridge stating numerous accidents have occurred at this intersection. He also was concerned about side streets being used for cut-thrus to Memorial Drive.

Councilor Tillotson stated he supported the Zone Change to Business A thinking the development would be small scale; did not anticipate a 70' structure.

Councilor Dobosz stated he was excited about development on the site but not in favor of hotel of this scale; Applicant did not mention needing a Variance during the Zone Change process.

At the end of the Public Comment period an Abutter submitted additional signed petition letters to add to the 56 letters that had already been submitted. A total of 62 letters were submitted.

Attorney Sypek rebutted the public comments stating there was no intention to deceive anyone regarding the height of the building and not until the plans were developed did they realize a Variance would be required. The retaining wall and the height of the Building were not known at the time the Zone Change application. The Applicant and VHB were advised that the retaining wall was an issue at the initial SPRAC meeting thus resulting in a withdrawal of the original plans and a resubmission of the Preliminary Plans to the Planning Board.

Attorney Sypek requested the possibility of withdrawing the Variance. With respect to the neighborhood, the Board was not willing to entertain a withdrawal of the Variance and decided to vote on the petition. The Board voted unanimously of the members in attendance to deny the Variance.

Motion to approve for the sake of discussion was made by Gary Stamborski and seconded by Anthony Gallant. Vote was 5-0 to deny the Variance.

Member	Voting members	Approve	Deny	Table	Abstain
Regular	Anthony Gallant, Vice Chair		X		
Regular	Carissa Lisee, Clerk		X		
Regular	Gary Stamborski		X		
Regular	Christina Loy		X		
Assoc.	Katherine Baldiga		X		

**Item 3: Variance** from Chapter 275-52 side yard setback from 6’ to 3’ in order to construct an addition that will attach a detached garage to the house. Location: 100 Van Horn St., Chicopee, MA 01013 Applicant: Monika Varypatakis, same address

**Notes:** The Applicant’s presented their petition to the Board explaining they wanted to construct an addition to their house that would attach to their existing detached garage and enclose their back yard. They explained the enclosed back yard would provide a safer environment and restrict access to the back yard which houses an in-ground swimming pool. No Abutters were present and Planning Staff acknowledged there were no calls to the office regarding this petition. The Board’s opinion was that the Variance would not allow for any structure to be closer to the abutting property than currently exists and seeing no opposition from Abutters they voted to approve the Variance.

Motion to approve was made by Christina Loy and seconded by Anthony Gallant. Vote was 5-0 to approve.

Member	Voting members	Approve	Deny	Table	Abstain
Regular	Anthony Gallant, Vice Chair	X			
Regular	Carissa Lisee, Clerk	X			
Regular	Gary Stamborski	X			
Regular	Christina Loy	X			
Assoc.	Katherine Baldiga	X			

**Item 4:** Minutes January 9, 2019

Motion to approve was made by Gary Stamborski and seconded by Anthony Gallant. Vote was 5-0 to approve.

Member	Voting members	Approve	Deny	Table	Abstain
Regular	Anthony Gallant, Vice Chair	X			
Regular	Carissa Lisee, Clerk	X			
Regular	Gary Stamborski	X			
Regular	Christina Loy	X			
Assoc.	Katherine Baldiga	X			

**Item 5:** Discussion Old/New Business

**Notes:** None

**Item 6:** Adjournment – Next Meeting March 13, 2019

Motion to adjourn was made by Gary Stamborski and seconded by Anthony Gallant. Vote was 5-0 to adjourn.

<b>Member</b>	<b>Voting members</b>	<b>Approve</b>	<b>Deny</b>	<b>Table</b>	<b>Abstain</b>
Regular	Anthony Gallant, Vice Chair	<b>X</b>			
Regular	Carissa Lisee, Clerk	<b>X</b>			
Regular	Gary Stamborski	<b>X</b>			
Regular	Christina Loy	<b>X</b>			
Assoc.	Katherine Baldiga	<b>X</b>			

**Meeting adjourned at 8:22 PM.**