



**BOARD OF APPEALS  
TOWN OF WINTHROP  
MINUTES OF MEETING**

Held on Thursday, April 26, 2012  
Town Hall – Joseph Harvey Hearing Room  
WINTHROP, MA 02152

RECEIVED  
2012 MAY 29 A 9:00  
TOWN CLERK  
WINTHROP, MASS

Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:09 p.m. In attendance at the hearing were the following Board Members: Fred Gutierrez, Brian Beattie, John Rich, and David Ferreira. Also in attendance was Joanne M. DeMato, Board Secretary.

The following matters were heard:

**AGENDA:** Hearing of the following application(s) for variance and/or special permit and deliberation of pending matters and discussion of new and old business.

1.	#005-2012*	64-68 Woodside Ave.	Wai M. Chiu (Hong Cong Dragon)	PM/BB/jr
2.	#007-2012	122 Court Rd.	Michael Mancini	PM/DF/FG
3.	#02-2012**	71 Jefferson St.	Nadia Aboulman	PM/BB/RM
4.	Approval of meeting minutes			

- Continued from March 29, 2012
- Old Business

**#005-2012 – 64-68 Woodside Ave. – Wai M. Chiu and Dianne Weng**

Sitting: PM, BB, JR

In Attendance: Wai M. Chui and Dianne Weng

**PM:** This is a continuation from last month. At our last hearing you presented a plan for your expansion and we discover a problem with elevation heights on the

floors and we asked you to go back and have your designer take a look at this and submit a new plan, which I see that you have done. The Board has seen this for the first time tonight and we'll take a look at this. I see what they have done at the area where there's an opening in between the new expansion and the existing. You've put a step down there correct?

**WC:** Correct.

**PM:** A handicapped person in that area would have to come around to the front cross over and go down the ramp that is on the other side.

**WC:** Also we are building 2 new bathrooms and they are handicapped as well so the handicapped people don't really have to go around to the front.

**PM:** The 2 bathrooms are in the expansion?

**WC:** Yes.

**PM:** Normally when they do a bathroom and they are going to be handicapped assessable they'll draw a circle in there so to indicate that the wheelchair has enough room to maneuver around. I don't see that in here.

**DW:** No they're going to be big, it's not required as handicapped that's the reason why.

**PM:** You have a handicap bathroom in the middle area?

**DW:** Because we already have it we're not required to have another one but we're going to make it anyway.

**PM:** I see, ok, so you said you're going to make those bathrooms bigger than what they show now?

**DW:** Exactly and they're showing, it's a good size.

**PM:** If I'm reading it right, I can't see the dimension across there.

**FG:** 6'2"

**WC:** We have sat down with Jim Soper the Building Inspector and we both sat down together and go over it already. He helped me calculate the parking spaces as well.

**PM:** I see the letter from him on the parking that will be have to work into the decision tonight as well. I think the plan is fine and what you've got changed it is fine but he'll be the final say on it if there something on it that is not workable on it he'll come up and say so when you go for the permit.

**WC:** OK

**PM:** Anything else from the Board members here? There is also a letter that came from Mr. Soper that defined parking spaces.

**FG:** On the existing handicapped bathroom we need to check with Jim to be sure that on the right hand side of that pole swing should be 12" and it doesn't seem to be enough there and that door mount should be pushed over further towards the corner there so just to make sure the clearance are handicapped accessible on that.

**WC:** OK

**PM:** We'll have that as a condition. Is that bathroom existing?

**WC:** It's existing.

**DW:** Its already installed.

**PM:** We can ask him to check it. I'm just looking at your application, Joanne when this was submitted, there seems to be two applications here, one is a variance or appeals of decision from the BI and another one is a special permit.

**JD:** They were both together.

**WC:** Because two applications one is to change the use to a restaurant at 64 Woodside, that's the change of use and the second application is for the variance for parking because the existing building was \_\_\_ on the property line so we do not have extra space for parking space. That's why we're asking for the variance. That's why there are two different applications.

**JR:** I have a question about the parking. The 9 spaces may be accounted for use in the public lot is that the one in the middle of the center there or the one behind?

**DW:** Behind.

**WC:** Behind that's the parking lot behind.

**PM:** What were dealing with is 2 applications here the variance for the parking and the other one for a special permit on the restaurant use on the new address of 64 Woodside Ave. Fred, we mentioned about the handicapped bathroom that's there does anybody see anything else? I assume the storefront of the glass area on Woodside Ave. is going to be the same as the one you just finished?

**WC:** Correct.

**PM:** There'll be no entrance there; you'll take that out?

**WC:** Right.

**PM:** Everything will be the same.

**WC:** It will look like one piece.

**PM:** Are you doing anything to the back of the store? That will have a rear entrance now?

**WC:** Yes.

**PM:** What do you do with that are you closing that in?

**WC:** On 64 Woodside? No that's going to be like an office there.

**PM:** OK but is there a door going out to the back now?

**WC:** Yes.

**PM:** And you're going to close that up? I assume that's what that hash line is on you're plan it shows in the wall at the end.

**WC:** Yes were going to put up a wall and cover the entrance.

**PM:** And put new wall up for storage you said?

**WC:** Correct.

**PM:** And new walls for bathrooms?

**WC:** All new walls.

**PM:** Ok, the decorations inside it will be the same as what you have existing?

**WC:** Yes.

**PM:** Anything else from the Board?

**BB:** No I have no further questions.

**PM:** We're going to need two motions here one for each of these. How would you like to proceed?

**MOTION: (BRIAN BEATTIE)** – To grant the relief requested on the parking spots, the nine parking spots may be accounted for by the use of the public lot leaving 18 parking spaces required to be on site which will be behind the building.

**PM:** The use of the public lot in the center area so we're asking for a variance of 18 spaces if I'm reading Mr. Soper's letter correctly?

**JR:** So we have to have a variance for the 18 parking spaces.

**MOTION: (BRIAN BEATTIE)** – To grant the relief requested for the 18 parking spaces required.

**SECOND: (JOHN RICH)**

**PM:** Any further discussion on it? Hearing none.

**VOTED: ALL IN FAVOR**

**PM:** Moving forward to the special permit to have 64 Woodside Ave become a restaurant and incorporated in to the other address at 68 Woodside Ave. There's a revised plan that was submitted, we'll stamp that as an exhibit, there was a comment by Mr. Gutierrez on the existing handicap bathroom, we would like the BI to check that just to make sure it is and then he's got a plan that they're doing 2 new bathrooms in the area here. The motion would be to accept the plan and to grant the special permit for the restaurant.

**MOTION: (JOHN RICH)** – To accept the plan submitted and to grant the special permit to change 64 Woodside Ave. to a restaurant and to incorporate it into 68 Woodside Ave.

**SECOND: (BRIAN BEATTIE)**

**PM:** Any discussion on it? We talked about the conditions that we would put on it.

**JR:** With the conditions that The BI checks that handicapped bathroom.

**PM:** Right, any further discussion?

**VOTED: ALL IN FAVOR**

#007-2012 – 122 Court Rd. – Michael Mancini

Sitting: PM/FG/DF

In Attendance: Barbara Mancini and Harry Benson

**PM:** Good evening. Please state your name for the record and why don't you tell us what you're looking to do.

**HB:** Harry Benson, I represent Hardwood Builders. I'm a General Contractor that is overseeing the project at 122 Court Rd. What we're trying to do is put in a pool for the Mancini's daughter for therapeutic reasons. I'll be here to answer any technical questions and Barbara is going to tell you about her daughter.

**BM:** I actually have twin daughters both of them have mitochondria disorder which can affect the neurological and muscular systems so exercise is difficult, they have decrease strength and limited endurance so the water atmosphere is a kind of safe place for them to exercise in. I am a physical therapist and used to do therapeutic aquatics, one of my daughters is pretty severely autistic and she will obviously be with us for the rest of my life. And because of things that go along with being autistic it's really difficult to get her out to any kind of community pool like a YMCA or anything because it's just too over whelming for her so Id like to have something in the yard to use.

**PM:** Anything else? OK. Closing that part of the hearing anybody here that's in favor of this petition? State you name for the record one at a time.

**June Prebble, 126 Court Rd.**

**Michelle Balian, 102 Court Rd.**

**Mark Sweeny, 126 Court Rd.**

**PM:** Anybody else in favor? Hearing none, anybody not in favor of this petition? Hearing none. Questions from the Board?

**FG:** Clarification on the plan on the outside of the pool there is a double line is that reference to the paving?

**HB:** Yes that is where it says concrete patio stamped to the top.

**FG:** Right so on that left side of the proposed pool at 5'4' – 4' is concrete patio and the rest of is grass.

**HB:** The rest of it would be planters as you see that 1 foot are racing up the side.

**FG:** All right I see.

**PM:** Is that in your package the big plan? I didn't get one. I see it now.

**FG:** I understand that you have both abutters present but usually when we grant something like this its good to see a surveyed certified plot plan so that's there's no discrepancy. Has this been researched?

**HB:** The plot plan that was in there was certified for the addition on the top of the garage that we came forth I believe about a year and a half to two years ago. We came before the Board for the same reasons.

**PM:** Is this an above ground or an in ground pool?

**HB:** It'll be an in ground pool.

**PM:** 23x11 is that correct?

**HB:** That is correct.

**DF:** Are you going to have anything around the pumps to \_\_\_ the noise?

**HB:** Yes, actually the pumps are located in a very good situation because in addition to the 6 foot fence that's going be around them that is the furthest spot from anybody's actual home. It's tucked in the back of everybody's adjoining backyards, that pump is probably I would estimate 75 feet minimum to the nearest habitable structure.

**PM:** Have you reviewed this with the BI?

**HB:** I have.

**PM:** Did he have any question on the 3'9" distance between the pool and the garage?

**HB:** Did he have any questions?

**PM:** Yes.

**HB:** He stated to me that you would have the option here that you people would like to see it at least at 5' between any structure that would be a minimum but he said that it has been granted less. We figured it was in your right to increase that if you so wish to but we would go for the 3'9" just because of the restrictions in the backyard as it is now.

**PM:** OK. I think the zoning is 10' and then it goes from there.

**HB:** I'm sorry; Jimmy said the minimum that you would like to see is 5' though. To go beneath 5' is one of those.

**PM:** OK, anybody see questions on that?

**FG:** I see one gate on the plan, is there any possibility of any children going around the garage or the side of the house?

**HB:** No, it'll be totaled secluded with the 6' fence.

**FG:** But the fence does not return to the garage.

**HB:** I did not draw it in there but it does return to the garage. It actually goes past the garage and there's a little intersecting part that goes on the garage where they keep their barrels now.

**FG:** It would be right in front of the garage?

**HB:** Exactly.

**FG:** OK and on the existing house does it return to the house at some point?

**HB:** It does at the back corner.

**PM:** So you have an existing deck?

**HB:** Yes.

**PM:** And the only stair would be the stairs shown in the plan here?

**HB:** Yes.

**PM:** What is there a sliding glass door?

**HB:** It's just a doorway; it's the way that they go from their garage to the house.

**PM:** OK. On the end of the existing deck how are you treating that to separate from the concrete patio? Is that a fence that will come up 6 ft?

**HB:** It's a railing that is just about at 6 ft right now.

**PM:** From the deck or from the concrete patio?

**HB:** From the grade?

**PM:** When you're on the existing deck how far up is that?

**HB:** It's 3 feet.

**PM:** 3 feet?

**HB:** Right, but there'll be a gate at the stairs going onto the deck either at the top or the bottom.

**PM:** You're showing a gate back at the front of the garage?

**HB:** Yes the gate connects from the side of the garage to the side of the deck and then from the side of the deck is a railing.

**PM:** OK but what I'm saying is that when you're standing on the deck and it's only 3 feet high I think you could have a potential problem with that I would like to see that maybe built up a little bit higher and I don't know if the BI would pick up on that because you're really not 6 feet at that point your half of that you're at 3 feet.

**HB:** Correct. I understand, I obviously will satisfy whatever Jimmy wants. It's a matter of either putting a gate at the beginning getting onto the deck from the driveway or raising the back up.

**PM:** Well, coming from the house you're coming onto the deck if you get over that and get into the pool that way rather than going down. To be able to seal that off so you have to go down the stairs to go through the gate to get there so there's no easy way to hop over something. That's the only thing I see as someone who has lived with one I'd be very cautious about the gate being locked 100% of the time and to specifically not have any access from the house to the area you have to walk out a key in the lock to get in. Any thing else Board members? What is the please of the Board?

**MOTION: (FRED GUTIERREZ)** – To grant the variance for the side and rear set backs to be 5'4" respectively and also to accept the 3'9" distance from the garage and to be clear to make sure the fences are continuous to the garage and the house as described and not shown in the drawing.

**SECOND: (JOHN RICH)**

**PM:** Do you want to make that a condition or part of the motion?

**FG:** That's a condition.

**PM:** Motion to grant a variance for a rear, side and adjacent property setback, the rear is 8'8" the minimum id 10' so that would be 1'4", the side yard would be 4'8' on the left side and the distance between the garage and the pool that would be 6'3" and prelude to that would be the conditions of granting a variance the standard language Joanne. So the motion would be for those 3 dimensions? Are we all in agreement?

**FG:** Correct.

**PM:** Any other discussion? All in favor?

**VOTED: ALL IN FAVOR**

## **#02-2010 – 71 Jefferson Ave. – Nadia Aboulman (Tutti Frutti)**

Sitting: PM/BB/RM (previous associate member)

In Attendance: Nadia Aboulman

**PM:** Joanne you have 71 Jefferson?

**JD:** Yes that's Nadia Aboulman, Tutti Frutti; she wants to talk about her decision and cooking conditions.

**PM:** You were here before?

**NA:** Yes

**PM:** And you got a permit for Tutti Frutti correct? And you finally opened?

**NA:** Yes finally.

**PM:** I remember having some discussions with the BI before you opened there was some questions about cooking?

**NA:** Yes.

**PM:** What I had told him in the decision that we had granted the application didn't say anything about cooking and we didn't grant anything for cooking there. My answer on cooking would be that if anything required a hood in the a microwave doesn't require a hood, a stove or something to heat things up, whatever he would determine that would require a hood you couldn't have and I think that's the way he did it on your building permit and allowed you to open.

**NA:** They told me I still have to come here and ask. I have this machine, I'm going to have two of those to make crepes and a pannini machine and it doesn't require a hood.

**PM:** This case was sat on over a year ago and Mr. Moreira who is not a member anymore so we'll just have Mr. Rich sit on this and take a look, there is no formal application its just coming back to us to see if these are ok to use for heating. It's basically coming back to us on the decision we made to look at this and if these new pieces of equipment require any further action by the Board. I don't think they would but there is something that BI brought up.

**JR:** Has he seen these?

**NA:** Ya, they told me that it's fine, him and the health director.

**PM:** The Health Inspector?

**NA:** Ya, but he told me to make sure and go to the Board of Appeals and ask them again.

**PM:** OK.

**JR:** I think that there fine too.

**NA:** Here is the last one, it's a convention oven a small one.

**DF:** I actually did a project in a commercial building in a café and they had the similar equipment and the town's board of health approved it.

**PM:** We'll put that there is no open flame or anything.

**JR:** Do we have to accept the appliances as submitted?

**PM:** I think that we would just do in the meeting minutes that we have that she presented these that she wants to add and we have no objections to and to add to the meeting minutes.

**JD:** Do you have to make a motion?

**PM:** There is no formal application and we didn't advertise anything on it so I think just verbally we'll roll it into the meeting minutes. If the members here have no objection to it we'll just put it into the meeting minutes that we reviewed it and everything seems to be ok.

**DF:** Does the BI need us to communicate with him?

**NA:** I don't know the last time I spoke to him he told me to come here.

**PM:** We can do that, we can send a letter out to him, Joanne, I think that would be the proper thing to do and copy you on it.



**NA:** Thank you very much.

**PM:** OK we have meeting minutes to look at and a couple of other items to discuss to make everybody aware of. Did everybody get served for the 100 Sargent St.?

**BB:** I haven't got served yet.

**PM:** They are going to appeal it. This came to Joanne and she sent it to the Town Manager and a copy to everybody and me.

**JD:** I just sent it to the sitting members.

**PM:** OK. You haven't heard back from the Town Manager?

**JD:** No I sent him a second notice today.

**PM:** I saw that today. So I don't know what they'll do with it.

**BB:** Doesn't that go to the town counsel?

**JD:** I know that Tanji has seen it.

**PM:** It should be sent to Elizabeth Lane.

A discussion regarding Robert's Rules and Parliamentary procedures followed.

**PM:** OK we have a set of meeting minutes from Thursday, March 29 and everybody has had a chance to look at them.

**MOTION: (FRED GUTERIEZ)** – To approve the minutes from the meeting of March 29, 2012 with a couple of corrections noted.

**SECOND: (DAVID FERREIRA)**

**VOTED: ALL IN FAVOR**

**PM:** I'll entertain a motion to adjourn.

**MOTION: (JOHN RICH)** – To adjourn the meeting.

**SECOND: (BRIAN BEATTIE)**

**VOTED: ALL IN FAVOR**

Meeting adjourned at 8:01 P.M.

Fred Guteirez, Member

**Paul W. Marks, Jr., Chairman**

 5/24/12.  
**Dated:**

Respectfully submitted by: Joanne M. DeMato, Secretary