

APPROVED: April 19, 2007  
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**ZONING BOARD OF APPEALS**  
**Meeting Minutes**  
**March 15, 2007**

Pursuant to a written notice posted by the Town Clerk and delivered to all Board members the Zoning Board of Appeals held a meeting, on Thursday, March 15, 2007 at 7:30 p.m. in Room A at the Town Hall. Members attending were Chairman Robert Gambale, Roger LeBlanc, Benjamin Fierro, Dana Jordan. Associate members Timothy Perkins and Robert Bodwell. Also Administrative Assistant Marie Rodgers. Member Kevin Lombard and Building Inspector Jim Sperber were not present.

There were no Citizen Queries.

Chairman Gambale announced the continuation of the following hearing to the April 19, 2007 meeting: 118 North Ridge Road, John and Barbara Ingari, for a Variance request.

**Public Hearings:**

**15 & 31 Locust Road and 30 & 34 Town Farm Road** - Mr. Scott Green is the Petitioner requesting a **Comprehensive Permit Application** under Chapter 40B, to construct forty condominium units of which ten units would be affordable. This hearing was continued from the January and February meetings. Members LeBlanc and Perkins recused themselves due to a perceived conflict. Members sitting on this hearing are: Gambale, Fierro, Jordan, and Bodwell. The applicants acknowledged only four members were sitting and three votes would be required. Chairman Gambale read the legal notice and re-opened the public hearing at 7:30 p.m. Attorney Lisa Mead of Blatman, Bobrowski & Mead, LLC was representing the Board. The MOA was amended at the request of the applicant to read \$5000. and was signed by the Chairman and the applicant (hereby incorporated by reference). Charlie Wear from Meridian Engineering and Architect Ken Savoie the Petitioner and his Attorney William Studzinski were present. The Chairman announced that in order to avoid any confusion the application would be referenced to by the street names and not a project name.

Mr. Savoie began the presentation with a description of the 10-acre site; he described the townhouse design to look like single-family homes, with small common areas. David Warner, 23 Town Farm Road asked if the proposal could be expanded in the future; how close to the cemetery would the proposal be; he questioned issues of traffic and he listed the amount of traffic that presently takes place.

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

Continue-

**15 & 31 Locust Road and 30 & 34 Town Farm Road -**

Chairman Gambale explained the traffic review process that will take place by a professional traffic consultant; the ZBA is required to consider the 40B applications until the affordable housing in Ipswich meets the required ten percent standard of the state to have ten percent of its housing available to low and moderate income households.

Attorney Mead explained the site eligibility letter from the state; this proposal would not be allowed more than 40 units.

Kay Ritz, 9 Town Farm Road questioned where the road was located; and she related the traffic problems and the difficulty to exit Town Farm Road, she suggested another road be built; she also expressed frustration in not having a voice to stop this project.

Discussion was held regarding options and limitations imposed on towns under Chapter 40B.

Scott Castle, 87 Town Farm Road opined the proposal for 40 units was appalling, calculating forty units equates to eighty adults, equates to eighty cars; too many people for a small amount of land, environmental impact and public safety are big issues, he related his occupation and many hours of work to live in Ipswich; he suggested that a street light be placed at the intersection during construction additionally a safety officer for the trucks.

Additional discussion was held regarding density and the state's standard of eight units per acre; this proposal is one half of the state guidelines.

David Warner asked the cost of the affordable unit. Mr. Green answered he estimated \$185,000. The average square footage would be 2400 to 2500 square feet living space, not including the garage and basements.

Sherry Hurley, 13 Town Farm Road said she had a petition to submit with signatures concerning the traffic light; she decided to wait to submit it at a later date.

Chairman Gambale responded in the affirmative to David Warner query if counters would be placed on Town Farm Road and Rte. 133 Roads during the traffic study.

Mr. Gallant, 15 Town Farm Road expressed concerns for the traffic study to include consideration of children walking along the street to school; and placement of sidewalks for the walk.

Charlie Wear's presentation located units, main road through the site, utilities, and water main will to be relocated; sewers will be gravity system and pumped to the station on the northeast corner of the site. The Conservation Bylaw observed on most of the site; he explained the process of Low Impact Development (LID) that will be incorporated. There will be a fifteen-foot buffer from the cemetery and abutting homes. In response to the Chairman's query regarding additional home tie in to sewer, Mr. Wear said he did not know. Mr. Wear continued to explain pre and post runoff, the site is down gradient from the neighbors.

David Warner questioned the extent of cutting of vegetation and discussion ensued regarding protection of mature trees and conditions of landscape plans.

Rob Lynch 66 Town Farm Road asked if there would be curbs or roadside swales;

Mr. Wear responded a little of both. Mr. Lynch continued to express his concerns for safety and related his car accident of twenty years ago when he pulled into the road.

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

Continue- **15 & 31 Locust Road and 30 & 34 Town Farm Road –**

He opined this project would have a big impact on traffic and would cause a safety hazard for the neighborhood.

Jim Russell 28 Town Farm Road questioned movement of the ancient water main; if it lets goes he was told his house float away.

Mr. Wear explained the process by which the water main would be replaced.

Selectwomen Elizabeth Kilcoyne expressed three primary concerns, traffic, sidewalk safety and replacement of the water main. She walked the site with the Chief of Police and he agreed the biggest concern and focus is the issue of traffic.

Mr. Green said he was willing to sit down with the neighborhood and discuss concerns and anyone can call him, he will provide his number.

David Warner said he was nervous about the density and the one way in and one way out, and the need for additional access; there's a ton of traffic all hours of day and night, the density is too much, it needs to be scaled down; he asked where eighty extra cars will go at rush hour.

Millie Hulbert 3 Fowlers Lane wondered if Mr. Green considered helping his new residence and purchase land to make a new access road.

Ray Ritz 9 Town Farm Road questioned if there was a way the traffic assessment could involve representation from a community group.

Attorney Mead explained that the traffic consultant would want to hear all about local issues to include into his report.

Mr. Fierro explained the financial and economic review under Chapter 40B.

Mr. Vincent Martinau Locust Street questioned how much traffic could Locust Street expect, and asked if it could be directed down Town Farm Road.

Attorney Mead explained the traffic consultant would provide a trip distribution analysis.

Tom Crawford 116 Town Farm Road question the number of affordable homes needed for Ipswich to meet its 10%. Discussion was held regarding affordable units required by the state; Attorney Mead said she would bring that number next time, or it could be found on the DHCH website, or the Town Planner.

Discussion was held about the choice of civil engineer; the applicant and the Board agreed on Cammett Engineering; Doug Prentiss for Traffic consultation.

**Mr. Jordan moved to authorize the Zoning Board of Appeals, through its Chair, to enter into the attached Memorandum of Agreement with KC, LLC concerning the payment of funds into an escrow account for the purposes of paying the ZBA's consultants including attorney's, engineers and other consultants as may be agreed upon from time to time between the parties for the project located at 30 Town Farm Road and 17 Locust Road, Ipswich. Mr. Fierro seconded, the vote passed unanimously.**

Attorney Studzinski asked to pay \$5000. to the town for escrow and pay another \$5000. when they come back in April instead of \$10,000 to make it easier. **Chairman Gambale amended the language in the MOA from \$10,000. in the escrow account to \$5,000. and it would be replenish as needed, Mr. Jordan seconded the amended motion passed unanimously.**

The applicant was noticed if funds are depleted, all work would stop on this project.

**Moved by Chairman Gambale to continue to the April 19<sup>th</sup>, 2007 meeting same time and place, for a civil review. Mr. Jordan seconded, the motion passed unanimously.**

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

**56 Washington Street** - Donald Finocchio request a Variance under sections XI(K) - VI.B Table of Dimensional & Density Regulations reinstate a third unit; continued from the February meeting. Chairman Gambale read the legal notice and re-opened the public hearing at 9:18 p.m. The Petitioner was present he submitted a letter of support signed by nine abutter and neighbors dated 2/5/07 (hereby incorporated by reference).

He bought the property last fall, and has carried out a lot of restoration and improvements. He said the third unit has existed for thirty-five years; it has three full kitchens and three full bathrooms and it would take a lot of time, money and effort to return it to a two-family. He read his letter dated March 14, 2007, submitted to the Board this evening. (hereby incorporated by reference).

In response to the Chair's query, the Petitioner said when he bought his home the realtors marketed it as a two family due to the Violation Order issued by the Building Inspector. He felt it was reasonable to look at it as a three family after he researched the Assessors records. – 1970 card indicated on the sketch there was a 1969 building permit for the addition – 1970 card shows it as two units and the 1971 card shows it as three units and all cards subsequent shows three units. Discussion was held regarding research of the archives and no records or building permit were found.

Mr. Bodwell asked if the egress was corrected. Mr. Finocchio said it would not be a problem to rectify, but needs to resolve the issue of the third unit first.

Chairman Gambale read Mr. Sperber's letter into the record dated May 31, 2006 (hereby incorporated by reference). Discussion took place regarding the request for a Variance for relief from lot area, or Special Permit for non-conforming two family unit; three-families are allowed by special permit use in the district two-family are non conforming on an undersize lot that doesn't meet side line set back requirements, two family use is non-conforming within twelve thousand square feet. The Building Inspector would determine if the Petitioner is required go back to the Planning Board for site plan review for multi family dwelling.

The Petitioner needs density relief from this Board first. Discussion was held regarding parking spaces required. There's no expansion proposed over the existing footprint, the Petitioner proposes to use the existing structure; three family dwellings located in In Town Residence Zone is allowed by Special Permit. Discussion regarding the criteria for special permit; social eco needs -the town needs more housing; building size stays the same no impact on town services, adequate utility and services to site, the shed will be relocated to the corner of the property to accommodate parking and it is compatible with the neighborhood, there are other multi families homes in the neighborhood, there is a large condo and duplex up the street, no impact on natural environment. The Board concurred that the application met the criteria for Special Permit.

Margaret Dow, 53 Washington Street spoke in favor of the request stating she has been a residence since 1962 and prior to that her husband's family lived there and she said that 56 Washington Street has always been a multi family dwelling and she did not have any objections. Jean Poirier, 58 Washington Street stated she had no objections. As there was no further comment from abutters or others;

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

**56 Washington Street -**

**Mr. LeBlanc moved to approve the Special Permit to allow three units within the existing envelope at 56 Washington Street and to allow an exterior stairway to be constructed to remedy the egress. Mr. Bodwell seconded, the motion passed unanimously.**

**146 High Street Jonathan Weaver** on behalf of **Ipswich Plaza LLC** request a **Variance** under Sections II B - VI Table of Dimensional & Density Regulations of the Protection Zoning Bylaws for reduction of the front set back for more than 50% of the requirement to construct an 1750 SF addition along the southeasterly side of the existing structure. Attorney King speaking on behalf of the Petitioner requested to continue until the Special Meeting scheduled for April 22, 2007.

**82 Topsfield Road, Ipswich Pines** requests a modification to a Comprehensive Permit, under Chapter 40B, to add additional square footage of footprint and change the project name change to Ipswich River Point. No one was present. Mr. Gambale related considerations in the workshop to discuss the request to extend 16 feet closer to Topsfield Road and slightly to the rear. Town Counsel Judith Cutler defined minor modification that could be determined at a workshop. **Moved by Gambale, seconded by Mr. Perkins, the Board voted to determine that the additional square footage of footprint to be a minor change to the Comprehensive Permit, as shown on plan dated 1/16/07 at 82 Topsfield Road.**

**6 Brown Square, John Stelling** request a **Special Permit** under sections XI (J) – IIB – Non-Conforming Structures and VI(B) Table of Dimensional and Density Regulations. Chairman Gambale read the legal notice and re-opened the public hearing at 9:45 p.m. this hearing was continued from the February meeting.

Attorney Richard Kallman was present representing the Petitioner who is the new owner Elliott Oil at Brown Square. The existing buildings are in disrepair, probably used for coal storage in the 1900's and no longer adequate for today's business. He proposes to raze the existing storage building and rebuild a two story 30"X36" building; the first floor would have two bays and a bathroom for the drivers. The second floor for storage and the architect designed it for office space with dormers, potentially a bathroom, but Attorney Kallman assured the Board there are no intentions to ever have an apartment on the second floor. No clients would access the second floor.

Attorney Kallman requested a **Variance** under section XI(K) for a reduction in the front setback for more than 50% of the requirement for an additional ten feet – extending along the non-conformity - from twenty to thirty feet, the new trucks are longer and structure is unique. The left side closest to Ithaki restaurant is within a few feet of the lot line; the remaining two tanks directly to the rear of the street line will be removed. The Petitioner is committed to improve the area and make the entire site better. Discussion was held regarding the construction materials and the firewall; there will be a combination of texture block and clapboard. Petitioner will come back with a sketch and material he will use. The Board reviewed the summary of findings; The hardship is with the existing building is outdated in its size and the way it is construct cannot house modern day equipment.

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

Continue - **6 Brown Square, John Stelling** request a **Special Permit**

The Board concurred to make a motion subject to the Petitioner returning next Thursday 3/22/07 with a design plan and materials, if he's not ready then, to come back April 19, 2007 meeting. There were no objections from abutters or others.

**Mr. Jordan moved to approve the Petitioner's request for a Special Permit to expand existing non-conforming structure have found all the conditions required under Section XI J of the Zoning Bylaw for issuance of Special permit have been addressed and are met and the Petitioner's request for a Variance to expand the size of the building by ten feet along the street side of the property be granted having found that the conditions enumerated in Chapter 40 Section XI have been met. Seconded, Mr. LeBlanc the motion passed unanimously.**

**1 Cobblers Lane, James McCormack** request a **Special Permit** under Sections II B - XI. J - VI. F Table of Dimensional & Density Regulations of the Protection Zoning Bylaws for relief from the size limit of 750 square feet to construct a 30'x 40' two-story detached garage. Chairman Gambale read the legal notice and opened the public hearing at 10:10 p.m. The Petitioner was present with his builder John Desmond. The proposal is for a three-car garage with a second story, 16 feet in the rear, the front bay is a one story; it would be 450 square feet bigger than what is allowed under the bylaw. Currently there is a two-car garage within the main dwelling. There are no other homes in the neighborhood that have detached garages. The Board explained he could build this size garage by right if he attached it to the dwelling; he does not want to have it connected, he hope to convert the existing garage to living space in the future. The Board requires plans showing elevations and sketch to scale showing dimensions and suggested the Petitioner consider attaching the garage to the house.

At the request of the applicant **the Chair moved to continue the public hearing until the Special Meeting to be held on March 22, 2007 at 7:30 p.m. Me. LeBlanc seconded, the motion passed unanimously.**

**29 Edge Street. Ana Eng** request a **Special Permit** under Sections II B – XI.J and VI Table of Dimensional & Density Regulations of the Protection Zoning Bylaws for relief from front set back relief of no more than 50% to construct 14'x 5' covered front porch. Chairman Gambale read the legal notice and opened the public hearing at 10:12 p.m. Mr. Fierro recused himself. The Petitioner was present and spoke on her own behalf, the proposed portico 5-feet x 14-feet long would extend five feet closer to the front property line.

Discussion took place regarding the proposal, currently only the foundation is in; the bylaw allows a 10% reduction of front set backs to 45-feet. The Board concurred the requirements for Special Permit were met. There were no abutters.

**Mr. LeBlanc moved to grant the Special Permit and that the proposed addition be no closer than forty five feet to Edge Street and the addition no bigger than 14'x 5'. Mr. Jordan seconded the motion passed unanimously.**

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

**26 Oakhurst Avenue John and Suzanne Clark** request a **Special Permit** under Sections II B - IX.J of the Protection Zoning Bylaws for an after-the-fact accessory apartment.

Chairman Gambale read the legal notice and opened the public hearing at 10:25 p.m.

The Petitioners were present to explain approval was given years ago from then building inspector Charlie Turner. Four letters of support were submitted from neighbors (hereby incorporated by reference). In response to the Chairman's query regarding the current bylaw, the Petitioners acknowledged and have reviewed language in Accessory Apartments. The size is 763 square feet it's a loft with a spiral stairs, entry access is from the main dwelling.

**Chairman Gambale moved to grant the Special Permit for an Accessory Apartment.**

**Mr. Jordan seconded the motion passed unanimously.**

**218-220 High Street.South Side Realty Trust** request a modification to the **Comprehensive Permit (Chapter 40B)** to construct four additional units, with one affordable pursuant to 760 CMR 31.03. Chairman Gambale read the legal notice and opened the public hearing at 10:35 p.m.

Mr. LeBlanc recused himself as he is the applicant, he sat with his Attorney David Ankeles.

Jim McDowell of Eastern Land Survey presented an overview of the proposal location and size of the units. Attorney Ankeles reviewed the regulations and cited CMR section 31.03.

All required utilities are present with more than adequate capacity and are readily available for connection. The plans submitted dated 2/26/07 indicate no increase in density. The proposal will provide two handicap accessible units. Two of the proposed units will be two bedroom units and will add to the economic mix of available affordable units. The remaining two units will be three bedroom units; the pro-forma remains un-affected, and subject to the same terms and conditions of the Comprehensive permit issued in 2001. Discussion was held regarding the existing parking and requirements are met with one and one half spaces per unit.

Lengthy discussion took place and the Board determined that the changes are insubstantial.

**Mr. Perkins moved to allow changes as submitted in accordance with Petitioner's plan dated February 26, 2007. Mr. Fierro seconded and amended to authorize the Chairman to endorse said plans adding the necessary land to the existing project, all in conformance with the provisions of Massachusetts General Law Chapter 40B and 760 CMR 31.03. the motion passed unanimously.**

**Old Business:**

The Board discussed the lack of response from the BOS to a letter dated January 30, 2007 requesting their response to the appeal Town of Ipswich Planning Board v. Roger LeBlanc and Romeo Leblanc, Trustees of Southwest Realty Trust and the Town of Ipswich Zoning Board of Appeals Land Court 06 Misc. No.330755-GP

The Board agreed to invite the BOS to the special meeting on the March 22, 2007 to discuss the matter further.

ZONING BOARD OF APPEALS MEETING MINUTES  
March 15, 2007

► Moved by Mr. Gambale seconded by Mr. LeBlanc the minutes of February 15, 2007 were approved.

It was moved, seconded and unanimously to voted to adjourn at 11:35 p.m.

Respectfully submitted,

Marie Rodgers  
Recording Secretary

These Minutes were approved by the Board on April 19, 2007.