

Approved 6/21/07
Distributed 6/25/07

ZONING BOARD OF APPEALS
Meeting Minutes
May 17, 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, May 17, 2007 at 7:30 p.m. in Room A at the Town Hall. Members attending were Chairman Robert Gambale, Benjamin Fierro, Dana Jordan, Roger LeBlanc, Kevin Lombard; Associate Members Robert Bodwell and Timothy Perkins. Also Marie Rodgers, Administrative Assistant. Building Inspector Jim Sperber was not present.

There were no Citizen Queries.

Chairman announced the withdrawal of a Special Permit request by Tom Rice at 215 High Street, and the continuation of Ruth's Way - Cape Ann Habitat for Humanity to next months meeting at the request of the applicant.

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 January, February, March and April meetings. Members LeBlanc and Perkins recused themselves and sat with those assembled. Members sitting on this hearing are: Gambale, Fierro, Jordan, and Bodwell. Chairman Gambale read the legal notice and re-opened the public hearing at 7:40 p.m.

Attorney Lisa Mead of Blatman, Bobrowski & Mead, LLC was representing the Board. Charlie Wear from Meridian Engineering, the Petitioner and his Attorney William Studzinski were present. Mr. Green presented changes in the roadway layout, reducing curb cuts from seven to four on Locust Road, and one curb cut removed from Town Farm Road. The existing building on Town Farm Road would be an affordable single family. The roadway configuration is more direct with some of the roads straightened. The total number of buildings proposed is twenty one; nineteen duplexes and two single families.

Robert Michaud of MDM Transportation Consultants, Inc. presented the Traffic Impact and Access Study. Douglass Prentiss of Nitsch Engineering, Inc. submitted and presented his peer review dated May 17, 2007. (hereby incorporated by reference) Both reports concluded that there would be minimal impact and agreed the intersection Town Farm Road and High Street should be reconfigured.

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Mr. Gambale confirmed that the reports indicate that the project will not have overbearing impact to roadways, and sight distance is ample in both directions.

Mass Highway has permanent count stations and collects data all year long; this data is included in the traffic reports. Mr. Fierro expressed his surprise regarding both consultants finding minimal impacts for this intersection. Mr. Prentiss reinforced the findings stating the analysis procedures are typical.

Along with the recommendations in the peer review Mr. Michaud recommended the applicant provide a concept plan to improve safety at the Town Farm Road/High St intersection. He added that it is not a high crash area, and doubts a traffic light is warranted; he emphasized the importance for the Fire Department to sign off on the plans. Chairman noted that the Board has not received any comments from the Fire Department. Mr. Green said he has met with the Fire Chief a few times and he has seen the new plan. The Board will invite the Fire Department to a meeting.

Abutters Ron Cameron, 64 Town Farm Road - David Warner, 23 Town Farm Road
Sherry Hurley, 13 Town Farm Road expressed concerns previously stated at prior meetings and disbelief that this project would not have an impact on the traffic.

Lengthy discussion was held concerning the traffic reports, and safety issues.

Liz McCarthy, 53 Town Farm Road spoke about the span of road required by horse trailers; requiring most of the road and Town Farm Road intersection.

At the next meeting Metcalf & Eddy will present, the Board anticipates changes in response to Cammett Engineering and Nitsch Engineering review. Attorney Mead listed outstanding items required from the applicant; list of specific waivers, scale and stamped architectural drawings, along with specifications and finish of the units; and the pro-forma.

Chairman read Sherry Hurley letter (hereby incorporated by reference) confirmed for the sake of accuracy and fact that in order to widen Locust Road no trees will come down. He then reviewed the site walk on April 28, 2007.

Mr. Robert Weatherall representing the Planning Board summarized the comment letter dated January 16, 2007 and questioned when the applicant would address the suggestions, and respond to the Planning Board.

Chairman said that comments have not gone unnoticed, the project is still in the preliminary stages; the applicant has a long way to go.

Carl Gardner 9 Woods Lane questioned if any alternative designs were examined.

Mr. Ken Savoie, Architect for the project expounded the benefits of more units, it is a "quality of life" issue with daylight on three sides of a dwelling.

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Chairman Gambale announced the hearing would continue to the June 21, 2007 meeting same time and place.

397 Linebrook Road, Kevin and Robin O'Keefe request a Special Permit pursuant to sections VI Table of Dimensional and Density Regulations, footnote 2, XI-J to reduce side and rear setbacks no more than 50% of the required set back for a in ground swimming pool. Chairman Gambale read the legal notice and opened the public hearing at 9:00 p.m.

The Petitioner was present to explain that his house was built seventy feet off the street to accommodate the septic system in the front yard. To reduce rear set back to no more that 7'feet.5 inches and to the side and no more than 10- feet.

The Board discussed the criteria in footnote 2 and determined that the lot is non-conforming and qualifies for relief sought. There were no comments or objections from anyone.

Mr. Lombard moved to grant the Special Permit to reduce rear set back to no more that 7'feet.5 inches and to the side no less than ten feet as referenced in Plot Plan dated 12/1/06. Mr. Leblanc seconded the motion passed unanimously.

146 Argilla Road, Victor and Dianne Fischbach request a Special Permit pursuant to sections VI Table of Dimensional and Density Regulations and XI-J to construct a screen porch reducing the side set back needed by no more than 50% at **144 Argilla Road**; And request a Special Permit to exceed the side set back no more than 50% of the required set back to construct a bulkhead. Chairman Gambale read the legal notice and opened the public hearing at 9:10 p.m. Mr. Lombard recused himself and sat with those gathered; Mr. Bodwell voted. The Petitioners were present with Attorney Rich Kallman who explained the proposal. The Petitioner had purchased the property in 2002 with an existing single family dwelling on it at 146 Argilla Road

The Petitioner removed the kitchen so the construction of a new single family dwelling could begin at the rear of the property, and 146 would no longer be considered anything other than a guest house.

Currently, there are two structures on the same lot; a single family dwelling at 144 Argilla Road and guest house at 146 Argilla Road. The rear dwelling at 144 Argilla Road was completed in 2006.

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Continue - 146 Argilla Road, Victor and Dianne Fischbach

Attorney Kallman continued and explained that this dwelling had been vacant since the purchase of the property and that Petitioner is currently rehabilitating the property for a future potential use. The Petitioner wants to construct a bulkhead to gain access to the basement. There are only two choices of location to construct the bulkhead in order to gain access to the basement.

The Petitioner intends to construct the bulkhead on the westerly side of the dwelling so that it is not visible from Argilla Road, which is a recognized as a scenic roadway by the Town of Ipswich; no tree removal is proposed, no stone walls involved. Based on that unique topography, the Petitioner wants to construct the bulkhead on the westerly side of the property to be no closer than 25 feet from the sideline.

The original design of the dwelling at 144 Argilla Road anticipated the construction of an enclosed porch. A portion of the proposed porch would extend no closer than 20 feet to the easterly sideline of the property.

The land upon which the new dwelling is built contains unusual topography that resulted in the placement of the dwelling near to the easterly sideline of the property. The unique topography consists of wetlands on the property and an existing eighty foot spruce tree, around which the Petitioner constructed the driveway. Last, the Petitioner positioned the house so as not to affect the view of its westerly abutter. The Board discussed the proposal and requirements under the bylaw; there were no comments or objections from anyone.

Mr. LeBlanc moved to grant the Special Permit finding that the Petitioners have met all criteria and the screen porch will be no closer than twenty feet to the side lot line as referenced in plan dated 12/21/05. Mr. Jordan seconded, the motion passed unanimously.

5 Lowe's Lane, Helaine Sousa request a Variance pursuant to sections II-B - IX-K, Table of Dimensional and Density regulations and IX.J for a accessory apartment.

Chairman Gambale and Mr. Perkins recused themselves and sat with those gathered. Mr. Bodwell would be voting.

Mr. Jordan read the legal notice and opened the public hearing at 9:30 p.m.

The Petitioner was not present; no one representing the Petitioner was present.

The Secretary did not receive any response to a message left with the Petitioner.

Mr. Fierro moved to continue to the next regularly scheduled meeting. Mr. LeBlanc seconded, the motion passed unanimously

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Old Business

NSHT request input from the Board concerning parking.

Charlie Wear, Meridian Engineering and Ken Savoie, Architect were present representing NSHT. They displayed the approved plan and an as-built plan. There is one less parking space than was agreed upon. When the roadway was altered the stripped cross walk ended up in the shoulder of the road, when the walkway was moved inside a parking space was lost. The utility pole will be fitted with an outrigger for the guide wire to gain a parking space near the pole.

A letter from Conservation Agent Pancoast dated May 17, 2007 (hereby incorporated by reference) indicated agreement to count the green roof as green space and impervious surface. Proposed Site Plan was submitted dated 5/16/07 revised and rectifying the missing parking space and removal of green space on the corner of the building.

Mr. LeBlanc moved that the Board determine island park is a minor modification on plan dated May 16, 2007. Mr. Jordan seconded, the motion passed unanimously.

Discussion was held regarding the Comprehensive Permit jurisdiction, the land on which the Whipple Annex sits is leased by NHST. The dumpster is on the town property. Before the permanent CO's are issued the Building Inspector wants to be assure that all items are complete and all parties agree this is the case. He will issue a temporary CO's if necessary to facilitate having tenants move in until any remaining discussion or work is completed.

Chair moved to invite DPW Director Bob Gravino to discuss details of the agreement for the dumpster between the Town and NSHT. Mr. Jordan seconded, the motion passed unanimously.

43 Avery Street – request to release the Landscape Bond.

Mr. LeBlanc stepped down as a ZBA member and addressed the Board. He planted one hundred and twenty three plantings, and said the landscape was finished. He expressed frustration concerning watering the plantings with a water ban in effect.

Chairman reported his on site observations.

Discussion was held regarding the three large pines proposed to appease an abutter who has since moved; the new abutter has a gold fish pond and is happier if there are no large trees to shed leaf litter into his pond. A stone wall was built on a berm, the bench is located on the other side of the driveway, and the stop sign with painted stop line is forthcoming; the stop sign on Dornell Rd was installed.

The Board discussed condition 21 requiring holding funds for two growing seasons and benchmark for loss of plantings.

The Board determined to establish a policy to hold 15% of the amount of the bond as security for the second growing season.

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Mr. Fierro moved to authorize the Board to release all but \$4,500. finding that substantial completion of the landscaping has taken place as required; and will re-visit in one year from today. Mr. Jordan seconded, the motion passed unanimously.

Two Rivers, 187 County Road –no response received to the letter of demand sent April 20,2007._

Discussion took place regarding the re-appointment of Mr. LeBlanc, protocol and procedures.

Approval of Minutes

Mr. Gambale moved to approve the minutes of April 19, 2007. Mr. Jordan seconded were unanimously approved.

It was moved, seconded and unanimously voted to adjourn 11:00 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

These minutes were approved by the Board on June 21, 2007.