

PLANNING BOARD
Meeting Minutes
Tuesday, March 20, 2012
Town Hall, 120 Main Street
7:00 PM

1 Present: T. Seibert, M. Colantoni, R. Rowen, D. Kellogg

2 Absent: J. Simons

3 Staff Present: J. Tymon, J. Enright

4 Meeting began at 7:01 pm.

5 **BOND RELEASE**

6 492 Sutton Street: West Side Hanger Association is requesting release of a \$1,000 performance bond.

7 **MOTION**

8 A motion was made by D. Kellogg to release the bond and the accumulated interest for 492 Sutton Street.

9 The motion was seconded by T. Seibert. The vote was unanimous.

10 Boston Hill: Boston Hill Development LLC is requesting release of a \$5,000 performance bond.

11 **MOTION**

12 A motion was made by D. Kellogg to release the bond money and accumulated interest for Mesiti

13 Development LLC. The motion was seconded by M. Colantoni. The vote was unanimous.

14

15 **LOT RELEASE**

16 2009 Salem Street: George Haseltine is requesting a Lot Release.

17 J. Tymon: This is a three lot subdivision. There is an existing home that has been remodeled.

18 The driveway and infrastructure to service that home are complete. Work on the two lots in the

19 back will begin in the spring. Gene Willis has agreed to a bond amount of \$7,395 for an as-built

20 and for the cost of the work to finish the final binder coat of pavement for the driveway to the

21 existing home. This bond would allow for the release of this one lot and there would still be a

22 covenant on the other two lots.

23 **MOTION**

24 A motion was made by M. Colantoni to authorize staff to sign a Form J Lot Release and to establish a

25 bond of \$7,395 for 2009 Salem Street. The motion was seconded by T. Seibert. The vote was

26 unanimous.

27

28 **PUBLIC HEARINGS**

29 CONTINUED PUBLIC HEARING: 102 Peters Street, Application for Special Permit-Site Plan Review.

30 Applicant proposes to raze a single family home and to construct a 2,745 sq. ft., single story commercial

31 building with an eleven (11) parking space parking lot, landscaping, and site utilities.

32 J. Tymon: There have been many changes made to the plan as a result of input from Lisa Eggleston and

33 her concerns have been addressed. There have also been some changes to the Landscape Plan.

34 Bill McCloud: Described the changes made to the Landscape Plan; trees at the front have been pulled

35 back to make sure that they were outside of the sight lines that the traffic engineer required and vegetation

36 has been removed from the easement area.

37 R. Rowen: Prepare a draft for the next meeting and the meeting will be closed then.

38

39 NEW PUBLIC HEARING: 26 Main Street, Application for Special Permit-Site Plan Review. Applicant

40 proposes construction of an eight (8) unit residential condominium project with two (2) parking spaces

41 per unit on a lot with access to Main Street via existing easements on two (2) existing lots fronting Main

42 Street at 22-24 and 28-30 Main Street and an existing curb cut at the noted lots.

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43 J. Tymon: The applicant has submitted an application for Site Plan Review under Section 18 of the
44 Bylaw which is the Downtown Overlay District. The stormwater would be directed to a 500 gallon
45 subsurface drywell. Lisa Eggleston (Eggleston Environmental) and Hancock Associates have reviewed
46 the project. The property is in the I-S Zone; however, it is in the Downtown Overlay. The applicant has
47 received from the Zoning Board of Appeals variances for lot area, frontage, left side setback, and floor
48 area ratio. Also, the applicant has received a Modification of the ZBA Decision because it was first
49 allowed for a storage building and then changed to this use. The site would be accessed by an existing
50 driveway between two buildings that front Main St. There is an easement in the deed allowing access to
51 the parcel. Hancock Associates noted in their review that the parcel does not have access to its' street
52 frontage and the Town's Bylaw does allow for Access Other Than Legal Frontage Special Permit from
53 the Planning Board.

54 R. Rowen: It allows access not over its' frontage but when a parcel has no frontage it is a very strange
55 circumstance.

56 J. Tymon: There is also, in the zoning, a Special Permit for the Planning Board to grant for reduced
57 frontage (Reduced Frontage Special Permit). In this case the applicant received a variance for 150' of
58 frontage. In the Building Inspector's letter in response to Hancock he states that he feels that the street
59 frontage issue was addressed because the ZBA did grant the variance. Hancock also noted that more
60 information on traffic flow would be needed.

61 R. Rowen: Expressed his concern that this project is not allowed and requested that J. Tymon get Town
62 Counsel's opinion on some of this. Stated he did not believe that residential property could be accessed
63 through business or industrial use.

64 Bill McCloud, Andover Consultants representing the applicant, Jeffco, Inc: Expressed that the The
65 Downtown Overlay District does allow for multifamily buildings and that it is an allowed use. The
66 property is currently permitted for a storage facility. Distributed pictures of the property in its' current
67 state to the Board. Stated that a Notice of Intent has been filed with the Conservation Commission and a
68 hearing has been opened. There will be a net reduction of impervious area with this project. There are
69 two access and utility easements between the front two buildings. Each easement is eleven feet wide, for
70 a total of twenty two feet, which he believes is sufficient room for two-way traffic. Two parking spaces
71 per unit will be provided.

72 J. Tymon: The Present Conditions Plan shows the easement as eleven feet from the ramp to the property
73 line. The ANR shows eleven feet from the building to the property line.

74 B. McCloud: Stated the Existing Conditions Plan is from a survey that they have done and it is accurate.
75 Can not attest to what someone else has done. The site will be serviced by a sewer line that will be
76 connected to Main Street. The eight units will have sprinkler systems and be serviced by gas and
77 municipal water. Each condo will be approximately 1,500 square feet with three bedrooms each. The
78 attic space becomes a large master bedroom.

79 R. Rowen: The pavement goes right up to building? Will visitors be parking in the twenty two foot space
80 in front of the building?

81 B. McCloud: If people did park in that twenty two foot space there would still be room to maneuver and
82 to drive out.

83 R. Rowen: If it is treated like a parking lot you need a minimum of twenty five feet behind any car. If it
84 is treated like a street, it is not a street.

85 D. Kellogg: With three bedrooms there is a likelihood that you could end up with three cars.

86 B. McCloud: Stated that this is probably not something that is going to be geared towards families or
87 geared toward someone with teenagers. This is more geared toward the empty nester. The third bedroom
88 doesn't have to be used as a bedroom.

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89 R. Rowen: If it were to be approved we would probably have to put in a condition that permanent
90 parking would not be allowed.

91 J. Tymon: The response to L. Eggleston's comments was received today. Reviewed some of L.
92 Eggleston's initial comments.

93 B. McCloud: Reviewed the Landscape Plan.

94 J. Tymon: Has not heard back from the Fire Chief yet.

95 ABUTTERS

96 John Cusack, Owner of 28-30 Main Street: His property has the easement with the Manzis'. Expressed
97 that he called Jeffco a few weeks ago but never heard back from the applicant. Thought the property had
98 already been conveyed from the Manzis' to Jeffco, but apparently it wasn't. Stated that he has a lot of
99 questions and concerns, but would rather reserve those questions and concerns until he gets a chance to sit
100 down with the Manzis' and go over everything.

101 R. Rowen: Asked if it was appropriate that if he had questions of them that he allows Town staff to
102 understand those questions.

103 J. Cusack: Did not object to the request. Expressed that there are some serious units going back there and
104 some of the calculations as far as the width of the roadways may be a little off would like to do some
105 cross-checking.

106 R. Rowen: We will continue this to the next meeting. Requested that J. Tymon confirm with Town
107 Counsel, even with all the variances they have received, whether it is still a viable application. Expressed
108 he had grave reservations about it but will keep an open mind.

109

110 NEW PUBLIC HEARING, 350 Great Pond Road: Application for a Watershed Special Permit.

111 Applicant seeks to modify an existing single family home by constructing a 1,696 square foot addition to
112 the existing structure, associated grading and landscaping in combination with the razing of an existing
113 accessory structure (garage).

114 J. Tymon: This applicant had been before the Planning Board in July 2011. Since they were going to be
115 constructing a new structure they required a variance from the ZBA. The variance was denied and they
116 subsequently came back to the Planning Board and withdrew their application. The current application is
117 for a slightly different building footprint and utilizes a little more of the existing foundation. They have
118 provided a letter from a structural engineer that states the existing foundation and footings are capable of
119 supporting the proposed renovation. The Building Inspector did submit a letter that stated because they
120 are utilizing a portion of the existing foundation it is not considered to be a new structure. The garage is
121 going to be demolished and a new garage will be integrated into the structure. L. Eggleston has reviewed
122 the application and her concerns have been addressed on the plans. Maintenance of the porous pavers
123 needs to be addressed. L. Eggleston also recommends a deed restriction that would prohibit the
124 construction of another garage. Requested the applicant explain the intended vista clearing, limit of
125 clearing, and what new landscaping will be installed.

126 Phillip Christiansen, Christiansen & Sergi: The design has been modified to retain as much of the
127 structure for the Building Inspector to consider it a renovation as opposed to a new structure. L.
128 Eggleston's comments have been addressed. Described the limit of clearing and the area that there will
129 be some vista clearing of low scrub brush. This area is beyond 100 foot buffer from the lake.

130 Bill Balkus, Architect: Described the style of house to be built, materials, size, and elevations.

131 R. Rowen: A Decision should be drafted for the next meeting.

132 ABUTTERS

133 Sue O'Brien, 326 Great Pond Road: Stated she is in support of the Erhans' project.

134 Alan Hope, 370 Great Pond Road: This design is an improvement of what exists there today. Supports
135 the project.

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137 NEW PUBLIC HEARING, 70 Elm Street: Application for a renewal of a Wireless Special Permit for
138 the operation of an existing wireless communication facility within the Residential-4 (R-4) Zoning
139 District under Sections 8.9 and 10.3 of the North Andover Zoning Bylaw.
140 J. Tymon: This application is from Metro PCS for a renewal of their Wireless Facilities Special Permit at
141 70 Elm Street. The original Special Permit was approved in March of 2009. There are no proposed
142 changes to equipment. They have provided a noise study. They tested not only their equipment, but
143 Omnipoint's equipment at this location as well. An RF compliance study was submitted. Mark Hutchins
144 has reviewed the project. The review noted that the access to the antennas was unlocked and unrestricted
145 and M. Hutchins stated that it should be locked and restricted. There was advisory signage present.
146 R. Rowen: Asked for comparison data for the predicted radiation levels versus the actual levels
147 measured.
148 T. Seibert: Notified the Board he is an abutter and has to recuse himself.
149 J. Tymon: J. Simons can view this meeting and still vote on the project.
150 Bill McQuade, Representing Metro PCS: The M. Hutchins report may answer R. Rowen's question
151 regarding RF compliance.
152 R. Rowen: Are we meeting the Bylaws in terms of the required reports or has some been challenged in
153 courts and courts said that the Town Bylaw can't require it?
154 J. Tymon: Recently, AT&T or Verizon came before the Board and they had not provided the interim
155 yearly reports. They had a Judgment saying they were not required to provide those. Metro PCs has
156 provided their reports.
157 M. Colantoni: Have there been any equipment upgrades in the last couple of years?
158 B. McQuade: No, this is purely a renewal.
159 R. Rowen: Asked if there was anyone in the audience that would like to be heard.
160 D. Kellogg: Asked to have the data comparison of actual v. predicted for the next meeting.
161 R. Rowen: Again asked if anyone in the audience had any comments.
162 T. Fournier asked if she could address the Board regarding the 70 Elm St. application and R. Rowen
163 replied that she could ask her question at the next public hearing to be held on April 3, 2012.
164
165 NEW PUBLIC HEARING, 358 Dale Street: Application for a Watershed Special Permit. Applicant
166 seeks to construct a new single family residential dwelling along with associated driveway, landscaping,
167 utility and other improvements.
168 J. Tymon: This is a 1.4 acre grandfathered lot. The lot was created prior to 1986, it is not subject to lot
169 width requirements or lot restrictions since it was created before 1995, and it has been a separate lot since
170 1951. This has been confirmed by the Building Inspector. L. Eggleston's comments were received just
171 prior to the meeting and the applicant has not received them. Summarized some of L. Eggleston's
172 comments.
173 Greg Saab, ES&S: The proposal is for a single family house that would be kept 101 feet away from the
174 wetland line. The Conservation Commission agrees with the wetland line. There is a 20' setback from
175 the side lot line. Erosion control will be put in place. There is 273' of frontage. It is outside of the Non-
176 Disturb Zone. The property is on town sewer.
177 J. Tymon: There is a MESA filing required (Massachusetts Endangered Species Act). It is in an area that
178 has been identified by the state as containing endangered species. It affects only a portion of this lot.
179 MESA will review the plan and sometimes they will make comments on changes they would like.
180 R. Rowen: Can we render a decision prior to the MESA review?
181 J. Tymon: Best case would be not to in the event there are changes that need to be made.

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182 G. Saab: Generally that permit is also handled through Conservation and there will also be a filing with
183 Conservation for this project.

184 J. Tymon: They typically do not like to close their proceedings without that MESA letter. The Planning
185 Board could render a Decision subject to the MESA review.

186 **ABUTTERS**

187 Michael Roberts, 300 Dale Street: Concerned that the 20' setback line is too close to his property line.

188 R. Rowen: If it were conforming it would be a 30' setback.

189 G. Saab: The major reason for only 20' is to maintain the 100' from the wetlands. Only a portion of the
190 house is 20' from the lot line.

191 Dianna Pracel, 300 Dale Street: Concerned with conservation and blasting. Wants to have the trees and
192 habitat maintained. Concerned about the conservation of the animals.

193 G. Saab: Stated that one of the reasons they are tight to the lot line was so that they could maintain the
194 100' from the wetlands. Showed the intended area of clearing. The rest will remain wooded.

195 J. Tymon: The peer reviewer had the same concern and requested that the vegetative clearing be limited
196 as much as possible and that native species be planted instead of grass and lawn.

197 Nancy White, 400 Dale Street: Will blasting be necessary if there is a full foundation going in?

198 G. Saab: It is a full foundation. Based on the test pits they will have to blast or hammer. They generally
199 will come into your houses and take pictures before the project.

200 N. White: Does the Board require any type of signage around the property or any signoff for a potential
201 new property owner so that they know they have to go through the permitting process if they want to clear
202 anything additional?

203 J. Tymon: Between the Town Planner's office and the Conservation staff we keep a close eye on anyone
204 clearing within the watershed and any areas that are close to wetlands.

205 R. Rowen: This is a Special Permit so this Board has a little more authority than when it is a Form A lot,
206 that doesn't require a Special Permit. We can put in restrictions for what type of fertilizer they can use
207 because it is in the watershed, we can limit the clearing. Those limits and restrictions would run with the
208 property and be applicable to new homeowners as well.

209 J. Smolak, Representing the applicant: If any blasting is required it would be conducted according to
210 state regulation. There would be a pre-blast survey. There will be a discussion with National Heritage
211 next week. This is a pre-filing consultation so that any major issues arising can be avoided.

212 R. Rowen: We will keep this open until the next meeting.

213

214 **DISCUSSION**

215 Proposed Zoning Change: 1018 Osgood Street from I-S to B-2. Parcel contains a single-family dwelling
216 unit. Abutting parcels are zoned B-2.

217 J. Tymon: Described differences in allowed uses between the I-2 and B-2 zones.

218 D. Kellogg: Are there any FAA restrictions?

219 J. Tymon: There are height restrictions.

220 Mark Gross, MHF Design Consultants representing JH Shay Holdings: There isn't any lighting
221 restriction that he is aware of. The lot is approximately three quarters of an acre. Would like the Board to
222 put this request on the Warrant as an amendment to the Zoning Bylaw rather than by a Citizen's petition.
223 Distributed and discussed a proposed architectural rendering of a coffee shop and a conceptual site plan of
224 a potential building, which included a drive-through and outdoor seating. The lot coverage is not
225 excessive.

226 J. Tymon: All warrant articles have to be submitted to the Town Clerk's office by the end of this month.

227 R. Rowen: There would be a Warrant Article, the Planning Board would have to recommend favorable
228 action, or not, and the town would have to vote and it would have to pass by 2/3 majority.

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229 M. Colantoni: This would be a two step process. First the re-zoning and then Site Plan Review.
230 The consensus of the Board was to take this up as a Planning Board Warrant Article.

231 J. Tymon: Will write-up the article language and plan a date for the Public Hearing that will be required.

232

233 Proposed Zoning Change: 8 Marblehead Street.

234 J. Tymon: This is currently zoned I-S and the parcel contains a 9,000 square foot building. The owners
235 are looking to sell it or lease it. Reviewed the allowed uses within the I-S zone and the businesses
236 currently operating on surrounding parcels. One option is to change I-S to allow other retail stores. There
237 is a mixture of uses currently existing in the I-S zone. Another option is to re-zone just this parcel to B-2,
238 but that would be spot zoning. The applicant would like to open a pool supply retail business with
239 warehousing for the pool supply storage.

240 Paul Delaney, Delaney Group: Explained the applicant has operated a pool business in Lawrence for over
241 50 years. There would not be any changes to the exterior of the building. It is a seasonal business. Even
242 during the season there is not a lot of traffic.

243 R. Rowen: Stated his opinion is that language could be added to the allowed I-S uses to accommodate
244 this type of business.

245 J. Tymon: Will work with the Zoning Code Enforcement Officer to recommend the language.

246 The consensus of Board was to put this zoning change forward as a Board Article.

247

248 140 Academy Road: Construction sequencing.

249 J. Tymon: There was a phased construction sequence that we agreed to with staff and with the
250 Conservation Commission. Tom Patenaude, developer, is here with his contractor to propose an
251 alternative sequence.

252 Tom Patenaude, developer, along with Tom Sawyer, contractor: Explained the original intent to clear and
253 develop the site in two phases. To manage the site better it would be best to clear and prep all the lots at
254 once and then construct the houses. There would only be one entrance way to the site and managing the
255 runoff would be easier. The cutting and excavation will take approximately three weeks. The area would
256 then be loomed and seeded to stabilize the site. Then the installation of foundations will begin. A
257 detailed construction schedule will be provided to staff.

258 The Board agreed with the strategy presented.

259

260 Proposed Zoning Change: Wireless Bylaw.

261 J. Tymon: Should the Article related to the Wireless Bylaw be put on the Warrant again?

262 Consensus of the Board was not to put the Article on the Warrant this year.

263

264 **MEETING MINUTES**: Approval of February 21, 2012 meeting minutes.

265 **MOTION**:

266 A motion was made by M. Colantoni to approve the February 21, 2012 meeting minutes. The motion was
267 seconded by D. Kellogg. The vote was unanimous.

268

269 **ADJOURNMENT**

270 **MOTION**:

271 A motion was made by D. Kellogg to adjourn the meeting. The motion was seconded by M. Colantoni.

272 The vote was unanimous.

273

274 The meeting adjourned at 9:20 pm.

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276 MEETING MATERIALS: Agenda, New items for March 20, 2012 summary memo dated 3/12/2012
277 from J. Tymon, proposed architectural rendering-coffee shop 1018 Osgood St, Conceptual Site Plan 1018
278 Osgood Street dated Feb. 7, 2012, Letter from G. Willis dated March 1, 2012 RE: Salem Woods bond
279 amount, Letter from Stephen E Stapinski, PLS Merrimack Engineering Services dated Feb 21, 2012 RE:
280 proposal for as-built plan 2009 Salem Street, Estimate from Gordon Martin dated 2/22/2012 RE: 2009
281 Salem Street, Decision-Definitive Subdivision Plan for 2009 Salem Street dated Oct. 18, 2011,Letter from
282 Eggleston Environmental dated March 12, 2012 RE: 102 Peters Street, Conceptual Landscape Plan and
283 Proposed Site Plan for 102 Peters Street, Response letter dated Feb. 28, 2012 from James S. Fairweather
284 II, P.E. RE: 102 Peters Street, Letter: Letter from Gerald Brown, Inspector of Building dated March 5,
285 2012 RE: Site Plan Review Application for 24-26 Main Street and Hancock Review 26 Main Street.
286 Letter from Curt Bellavance, Director RE: Real Lot LLC, 24, Main Street dated March 20, 2012, Site
287 Plan 26 Main Street dated January 19, 2012, Community Impact "Pondview" 26 Main Street North
288 Andover, Massachusetts, Letter from Hancock Associates dated February 23, 2012 RE: Peer Review
289 Summary 26 Main Street Proposed Site Plan, Letter from Dermot J. Kelly, PE dated February 6, 2011
290 RE: 26 Main Street Traffic Impact Analysis, Front Elevation 26 Main Street, Process for Approving
291 Building Lots Lacking Adequate Frontage, ZBA Notice of Decision dated December 9, 2008 RE Rear
292 Lot LLC 24 Main Street, Three site pictures 26 Main Street, Letter from Eggleston Environmental dated
293 March 15, 2012 RE: 350 Great Pond Road, Site Plan of Land 350 Great Pond Road dated June 17, 2011,
294 Letter from Mark F. Hutchins dated March 16, 2012 RE: 70 Elm Street, Noise Study dated February 16,
295 2012 from Noise Control Engineering, Inc. RE: 70 Elm Street, RF Compliance Report dated Nov. 16,
296 2011 prepared by Sitesafe RE: 70 Elm Street, Structural Assessment Letter dated February 12, 2012
297 prepared by Hudson Design Group LLC RE: 70 Elm Street, Letter from Gerald Brown, Building
298 Commissioner, dated February 2, 2012 RE: 0 Dales Street (358 Dale Street), Existing Conditions Plan for
299 358 Dale Street dated February 18, 2012, Site Plan for 358 Dale Street dated February 18, 2012,
300 Eggleston Environmental response letter dated March 20, 2012 RE: 358 Dale Street, MIMAP screen
301 prints for 1018 Osgood Street, 8 Marblehead Street, and the IS zone, Letters from Judy Tymon dated
302 March 2, March 12, and March 12, 2012 RE: zoning analysis for 1018 Osgood Street, Zoning Exhibit
303 Plan prepared for Roy Charland by Delaney Group RE: 8 Marblehead Street, Letter from Tom Patenaude
304 dated March 11, 2012 RE: construction sequencing for 140 Academy Road, Letter from Thomas J.
305 Urbelis dated March 7, 2012 RE: David P. Keating v. North Andover Planning Board, et al, draft
306 meeting minutes for February 21, 2012.