

PLANNING BOARD
Meeting Minutes
Tuesday, October 2, 2012
Town Hall, 120 Main Street
7:00 PM

1 Present: J. Simons, R. Rowen, M. Colantoni, D. Kellogg, L. Rudnicki, L. McSherry

2 Absent:

3 Staff Present: J. Tymon, J. Enright

4
5 Meeting began at 7:00pm.

6
7 **PUBLIC HEARING**

8 **CONTINUED PUBLIC HEARING.** 0 Great Pond Road: Application for a Watershed Special Permit
9 for construction of a single dwelling, porous pavement driveway, roofed porches, deck, site utilities,
10 and associated site grading on a presently undeveloped, buildable lot.

11 J. Tymon: A note related to the maintenance requirement for the drywell and porous pavement has
12 been added to the plan.

13 **MOTION**

14 A motion was made by M. Colantoni to close the public hearing for 0 Great Pond Road. The motion
15 was seconded by D. Kellogg. The vote was unanimous.

16 A draft Decision was reviewed.

17 **MOTION**

18 A motion was made by D. Kellogg to approve the Watershed Special Permit for 0 Great Pond Road,
19 as amended. The motion was seconded by R. Rowen. The vote was unanimous.

20
21 **DISCUSSIONS**

22 **231 Middlesex Street:** Request for a Zoning change from R-4 to B-1 on the ATM Warrant for 2013.

23 J. Tymon: The property owner is going to request that there be a Warrant Article at Town Meeting to
24 rezone his property from R-4 to B-1. Business-1 is an abutting Zone. There is some evidence from past
25 meeting minutes and a Decision from the Zoning Board of Appeals referring to the parcel as being zoned
26 partially Residential and partially Neighborhood Business. Those documents are from the early 1970s.
27 The Zoning Map from 1994 shows the parcel as zoned Residential.

28 J. Simons: This is a predominately residential neighborhood. There will need to be a compelling reason
29 and a lot of abutter support to re-zone the parcel.

30 Attorney Timothy Houten, Representing the Martinoli Trust, owners of 231 Middlesex Street: The
31 Martinolis' have owned the property for a considerable amount of time. In the 1960s they used it as a
32 construction office and had construction material behind it. In the 1970s a construction company was run
33 out of dwelling. In the 1980s -1990s a video store operated out of the dwelling unit. The parcel is
34 currently still being used at a construction site with an office on the first floor. Recently the client
35 discussed with the Building Inspector a request to construct a garage in the back of the property. At that
36 point the client was informed that he was in a Residential Zone and not in a Commercial Zone. The client
37 has a certified copy of a Decision by the Board that states the parcel is in a Neighborhood Business Zone
38 and that they are going to soon change this to a B-1 Zone. There was no longer going to be a
39 Neighborhood Business Zone. That was the last the client heard about a Zoning change. Attorney Houten
40 stated he was not able to obtain any records from Town Hall indicating a Town Meeting vote changing
41 the Zone to Residential or a Zoning Map change related to this parcel. Attorney Houten reviewed two
42 copies of printed Zoning Maps that were printed three weeks apart with the Board. He received these
43 maps from the Town. The two maps showed differing Zoning boundaries in the general area being
44 discussed.

45 J. Simons: There is a Zoning Map and there is an application for the Zoning Map to the GIS layers. It is
46 possible that someone may have made a mistake when they drew the district lines.

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47 T. Houten: Stated that it is possible that the Business Zone boundary line displayed on one of the print
48 outs is correct since there is no record of a change. The Building Inspector has said that the client has a
49 prior, non-conforming use and they can continue that use. The client would like to do some repairs and
50 add a garage behind the building. The client is also considering purchasing the abutting property and
51 changing the whole layout. This adjacent property is Zoned B-1; however, it is being used as residential
52 property.

53 L. McSherry: Expressed that the property line of this parcel is very close to the abutting house, which is
54 Residential.

55 T. Houten: There has been a business operating there for over sixty years. The abutters are aware of it.

56 J. Simons: This lot would not meet the minimum lot size for B-1. This would create a Zoning
57 contradiction. There would not be any allowed uses because the lot is too small.

58 T. Houten: If he was to purchase the abutting property it would be a different story. Reviewed the May
59 1, 1972 ZBA Notice of Decision and Planning Board meeting minutes in which a reference to this parcel
60 being “presently Zoned Neighborhood Business and is proposed to be Zoned B-1” is stated.

61 J. Simons: Requested that the Town Planner research and trace the history of the Zoning in this area
62 forward.

63

64 **1018 Osgood Street**: Pre-application discussion for Site Plan Review, Watershed zoning status and
65 traffic conditions.

66 J. Tymon: This parcel was recently re-zoned from Industrial to Business use. The owner of the property
67 has previously shown the Board plans for a coffee shop and a covenant has been signed. The applicant
68 has started a traffic study and has delineated the wetlands. As a result of the wetland study the applicant
69 does not believe the property is in the Watershed. The wetlands on the property and surrounding
70 wetlands flow to the Merrimack River and not to the Lake.

71 J. Simons: Requested Section 4.136 2.C of the Watershed Protection Division of the Zoning Bylaw be
72 read into the record.

73 Mark Gross, MHF Design Consultants, Inc. representing the applicant JFJ Holdings, LLC: The Site Plan
74 previously discussed has, for the most part, remained unchanged. A Technical Review Meeting was held
75 in early July to discuss the project with Town representatives and the issue of the Watershed was raised at
76 that meeting. There is a small wetland on the back, right hand corner of the property. A question was
77 raised as to whether this project had to meet the Watershed District Protection requirements. If the
78 wetland area did not drain to the Lake the applicant potentially would not have to apply for a Watershed
79 Special Permit. Epsilon Associates was hired and they have submitted a report regarding the on-site
80 wetlands and the applicability of the requirements of the Watershed District for this lot. It was determined
81 that the wetland drains into the Merrimack River and not to the Lake.

82 J. Simons: Stated that he believes this determination is correct and the process that was read from the
83 Zoning Bylaw should be followed when the application is filed.

84 M. Gross: The traffic study has been filed with DOT. They are asking for some drainage information.
85

85

86 **140 Academy Road**, Land Disturbance Permit: Proposed relocation of dwelling unit on Lot 6.

87 J. Tymon: The developer, Tom Patenaude, has a new proposal for the layout of Lot 6. The old
88 layout shows the homes adjacent to each other with small driveways. This proposal sets the
89 dwelling on Lot 6 to the rear of the lot with a much longer driveway. This would put the house
90 beyond the previously approved limit of clearing.

91 Tom Patenaude, Developer: The roof infiltrator system would be tripled in size to compensate for
92 the driveway length. The limit of clearing would have to be pushed back. The reason for the

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93 proposed change of location for the dwelling is because a potential buyer has requested that the
94 house be moved to the rear of the lot. The driveway would have an average of a 16% slope.

95 J. Tymon: The Board has the option of opening the hearing again.

96 J. Simons: We approved this project with the premise that everything was going to be down close to
97 the street because of the tough slopes and we wanted to minimize the cutting.

98 R. Rowen: This house would be 50' higher than the abutting home and it would be very difficult to
99 prevent stormwater runoff onto that property.

100 T. Patenaude: Stated he told his perspective buyer that he would come before the Board to make
101 the request and he understands the Board's concerns and response to the proposal.

102

103 **MISCELLANEOUS**

104 J. Tymon: Reviewed upcoming training opportunities for the Board scheduled by MVPC and CPTC.

105

106 J. Tymon: Capital requests for the CIP budget have begun for next year. An Open Space Plan is
107 being worked on. The last Master Plan was completed twelve years ago.

108

109 The Board recommended that a comprehensive Economic Development Strategy be developed
110 prior to a Master Plan. A Master Plan can then be a strategy to help to implement the Economic
111 Development Plan. The last Master Plan should be distributed to the Board for their review.

112

113 **MEETING MINUTES**: Approval of September 18, 2012 meeting minutes.

114 **MOTION**

115 A motion was made by L. Rudnicki to approve the September 18, 2012 meeting minutes. The
116 motion was seconded by M. Colantoni. The vote was unanimous.

117

118 **ADJOURNMENT**

119 **MOTION**:

120 A motion was made by D. Kellogg to adjourn the meeting. The motion was seconded by L.
121 McSherry. The vote was unanimous.

122

123 The meeting adjourned at 8:15pm.

124

125 **MEETING MATERIALS**: Agenda, Draft Notice of Decision 0 Great Pond Road, Letter dated 9/4/2012
126 from Timothy P. Houten RE: Martinoli, 231 Middlesex Street, Board of Appeals Notice of Decision
127 dated June 27, 1972 RE: 231-231A Middlesex Street, Planning Board Meeting Minutes dated May 1,
128 1972 and May 8, 1972, NA MIMAP 231 Middlesex Street, 1994 Zoning Map 231 Middlesex Street,
129 aerial view 231 Middlesex Street, Plan of Land in North Andover owned by Silvio Martinoli sated
130 April 1972. 1018 Osgood Street: Letter from Mark Gross MHF Design Consultants, Inc. dated
131 September 20, 2012 RE: Proposed development plans, Wetland Drainage Confirmation, 1018
132 Osgood Street, NA, MA dated September 15, 2012, Existing Conditions Plan 1018 Osgood Street, Site
133 Development Plan 1018 Osgood Street, Wetland Delineation Memo, 1018 Osgood Street, NA, MA
134 dated March 27, 2012, Traffic Impact and Access Study dated August 2012 by GPI 181 Ballardvale
135 Street, Suite 202, Wilmington, MA 01887, 140 Academy Road: approved Lot Grading Plan Stevens
136 Street NA, MA last revised 4/21/11, Proposed Lot Grading Plan Stevens Street, North Andover, MA
137 dated October 1, 2012, draft 9/18/12 meeting minutes.