

UNOFFICIAL

HOOKSETT ZONING BOARD OF ADJUSTMENT MINUTES Tuesday, August 11, 2009 HOOKSETT MUNICIPAL BUILDING 35 Main Street

CALL TO ORDER

Chairman Chris Pearson called the meeting to order at 7:00 pm.

INTRODUCTION OF THE BOARD

Chairman Chris Pearson, Roger Duhaime, Jim Levesque, Richard Bairam, J. Gorton, Council Rep, Dick Johnston, and G. Hyde, alternate.

APPROVAL OF MINUTES

*R. Bairam motioned to approve the minutes of July 14, 2009. Seconded by D. Johnston
Correction: Page 3, agreed to put aluminum markers on the trees.*

Vote unanimously in favor

CROWN COMMUNICATION

210 Whitehall Road, Map 15, Lot 86-1
Industrial Zone

A request for a Special Exception as specified in Article 11, Section B.2 to install a wireless communication facility in the Industrial Zone.

A Variance from Article 28, Section O.5:a which requires a front, side and rear yard setback equal to the height of the tower. The proposal is to construct a 150-foot monopole tower. The center of the tower is a greater distance than the height of the tower from the front and rear yards, but is 113.67 feet from the side yard to the east property line.

C. Pearson: We are still waiting for the appraisal, which the applicant was made aware of tonight.

D. Klasnick, Attorney representing Crown Communication: A balloon test was done on the 27th as requested by the Board on July 14th. We also moved the tower further down on Whitehall Road and have provided additional photo simulations. AT & T looked at additional alternative locations. What Crown did was in keeping with the zoning, we looked at the existing structure and we additionally looked at other sites which some were not in the zoning area. Additional handouts are available to address those issues.

This will be posted on the website as well.

Board noticed that the balloons were visible from 16 to 24 Farrwood Drive.

Dan Klasnick: As discussed at the balloon test, the location of the balloon was not necessary where the tower will be. There will be some adjustment. It was 180 feet from the property line and now it is 200 feet from the property line. If you look at the material submitted, there is substantial benefit in moving the tower closer to Whitehall. Pictures show the existing view with the prior location and the third slide shows the rendering of the relocated tower.

C. Pearson: If you go to page three (3), it is the balloon test as submitted on the current plan and then the cell tower with that and then page 5 is the new location.

D. Klasnick: In my view, there is a significant improvement in the location of the tower, particularly around Farrwood.

C. Pearson: That is a 20-foot adjustment toward Whitehall?

D. Klasnick: Yes and we tried to keep it centered.

C. Pearson: On the site walk, from address 16 to 24 and corresponding odd on the opposite side were the properties that were most impacted visually. The ridgeline increases in height and blocks the site.

D. Klasnick: The other item discussed was a copy of the agreement and the next handout during the discussion came from staff and the board to look at additional locations. AT&T looked particularly at the Berry Hill water tank, although it is not zoned for wireless towers, the coverage maps illustrate either attaching to the tank or building a separate tower would not provide the needed coverage. Also, we looked at McDonalds on Hooksett Road and assuming a 150-foot tower, would not handle the coverage.

C. Pearson: We heard there might be a tower there (at McDonalds) and could you use that tower and an additional tower somewhere else?

P. Rowell: Your map shows a white area near McDonalds and we are trying to have the least amount of towers with the most coverage. Your exhibit shows it on the tank and 150 foot tower does fill the downtown area missing and takes up a lot of Farmer and some of the area on Whitehall. The ordinance is designed for location and the towers should meet the needs of the community with limited towers. You would need a variance to put a tower on Berry Hill.

Dan Goulet, representing AT&T: The problem with the Berry Hill would be you would have a gap on Whitehall. The yellow is indicative to the added coverage from the tower on the Daigle site. If you compare exhibit 10 to exhibit 12 there is no gap.

P. Rowell: I understand that and we still have a big chunk in the downtown area (McDonalds) and Farmer.

Dan Goulet: In the document, we had shown that at the initial hearing why the US Cellular site didn't work. That eliminated the US Cellular tower. Exhibit 8, there is another water tank at 65 feet and I ran that analysis (I didn't at the time know of the Berry Hill) and that has a small footprint and can't get east to 101. We went to the Berry Hill tank and in exhibit 9 it is evident it would not fill the gap on 101. AT&T is trying to fill in as much of Hooksett as possible and get service to Candia as well. There is a need on Farmer Road but their objective is to fill the coverage west of Route 3 and 28 and do the Eastern part of Hooksett. The southwest gap, looking at the existing coverage may be able to be filled in with a roof top site. The McDonald's site is great for that area but it is raw land and a new tower and AT&T might consider co location on that tower. The problem with Berry Hill is it leaves weak coverage. From Berry Hill if you draw a straight line there is a significant hill line. The Daigle site was sought because it is an allowed zone. The McDonalds' site, if you look at exhibit 11, fills in on Farmer Road but the coverage goes west and doesn't fill the eastern gap on Chester Turnpike. The Daigle site fills in all of Route 27, 101, North Candia Road and has complete connectivity with the Candia site.

C. Pearson: Why wouldn't it be more enticing for AT&T to cover McDonalds rather than Chester Turnpike, which is a 4-wheel road.

Dan Goulet: Route 27 and 101 are commuter roads.

C. Pearson: The town's objective is the least amount of cell towers with the greatest coverage.

D. Goulet: We don't know what all the other carriers are planning. We are co-located on many sites but I don't know where T-Mobile or Metro is relative to this network.

C. Pearson: Manchester Water owns the land on the Hooksett Candia line. Wouldn't that be a better location?

D. Klasnick: We are trying to meet the Zoning Ordinance and AT&T has done that and to shift to McDonalds requires another tower and they have identified the coverage area and they have done that in a way that meets your requirements. They have looked at an area where the cell tower is allowed and we have shifted the tower on the existing lot.

C. Pearson: I agree, you have done what we've asked. The actual coverage target seems there are other rural municipality owned areas that would make more sense. I'm just making that point. I thought when you came your objective was to be down Whitehall and the Farmer Road area and that is why I thought the McDonald's makes sense.

D. Klasnick: Also, anyone coming for the McDonalds site would have to prove that it doesn't add to the proliferation of towers.

C. Pearson: Has AT&T looked at snowmobile trails and the Manchester Water property?

D. Goulet: There is a ridge there that will result in a gap.

C. Pearson: I'm familiar with that area and it is much higher than that ridge.

D. Goulet: You are looking at a site that is a mile and half away, and we usually have a range of about a mile. That would give only fringe coverage. This site gives line of site and fills in that area.

Abutters:

Phil Martin, 27 Farrwood Drive: At the Planning meeting, they indicated, although one (1) layer of antenna is shown on the tower, up to four (4) could be part of the plan. Not only four (4) layers of antennas but two (2) towers on this site.

D. Klasnick: In compliance with the Hooksett Ordinance, we do make the tower available for co locations. One (1) tower at 150 feet would allow four (4) layers.

P. Rowell: The photo simulation could show the four (4) layers.

Chris Lins, 22 Farrwood Drive: No one in the neighborhood wants it. I haven't seen hardly any alternative site analysis.

D. Klasnick: In addition to submittals today, the website has the alternative site analysis. A substantial amount of work has been done.
The website is www.tkp-law.com/zoning/hooksett.html

Richard Sewall, 29 Farrwood Drive: To look at their website is self serving. I would like an independent study.

Doris Labbe, 31 Farrwood Drive: There are some things they are not abiding to. When they do an evaluation of the homes, who will be doing that? Are we going to be privet to that information?

C. Pearson: They have done their own study and the Town is doing an independent study as well.

Lee Ann Writh, 24 Farrwood Drive: Where they moved 20 feet, if you look at the angle, they wouldn't see. How many Hooksett owners have AT&T that would benefit from the additional coverage area?

Dan Baudette, 23 Farrwood Drive: It seems Mr. Goulet's comments regarding an alternate site up the road says we would subject the end of 27 to fringe coverage. There are not many people up there. AT&T's objectives don't address the neighbor's objectives, which are in the opposite direction.

Close Public Hearing

C. Pearson: Regarding alternative sites. I'm concerned as well. Peter, where can we go?

P. Rowell: We can ask for an independent study to look at alternative sites and where the best coverage would be. I don't know any consultants. That would be an additional cost to the applicant if the board so wishes.

C. Pearson: Although the applicant has done a good job, we need to evaluate the entire town.

R. Duhaime: Possibly we can speak to Planning regarding appropriate locations. Are there other towers planned in other towns?

The Board requests an independent study to look into an alternative site for coverage in Hooksett or abutting communities.

D. Johnston motioned to continue to October 13, 2009 meeting. Seconded by J. Levesque. Vote unanimously in favor

NEW PUBLIC HEARING

CHARLES & DEBORAH HOLT

313 Londonderry Turnpike, Map 25, Lot 39 and 39-1

A Variance from Article 5, Section A to allow a 9,000 s.f. single-story office building with 45 parking spaces to be constructed in a medium density residential district.

R. D'Amante, Attorney representing the Holt introduced Attorney Bruce Marshall, Appraiser Lou Manias, and Engineer Jen McCourt.

R. D'Amante: As background, we initially applied for a retail and office use building. We then changed to just office use which is less impacting. We brought that before the board for the basis of Fisher vs. Dover and the Board voted that restructure for office only was single story office was substantially different. In preparing for the rehearing, we were advised to fill out a new application for office only. That has a possible procedural problem. To be technically correct, the Board needs to vote on the Fisher Vs Dover. I would point out that attorney Serell and I had a discussion and we agree that all previous submissions and evidence and material including the arguments on Fisher vs. Dover with regard to the new application submitted to this Board. In this background, we are attempting to cut down the length of the hearing. If the board will reaffirm the Fisher vs. Dove findings, we can avoid that portion of the presentation.

C. Pearson: I would like to hear from the opposing attorney.

A. Serell: I'm confused why this a new application.

P. Rowell: The former application, once a substantially different application is submitted the prior application is null and void.

A. Serell: We don't agree it is substantially different but we agree that all prior arguments apply and we don't agree it meets the criteria of Fisher vs. Dover.

R. D'Amante: When we discussed the Fisher vs. Dover, we presented a change from retail to office. When we came to the Board continuing the matter, we had amended it to say 9000 square feet of office space. The Board never ruled on the retail application, only the office.

P. Rowell: In discussions with the town attorney, it was advised that we start a new hearing and make decision on whether this is substantially different from the plan that was previously approved for crafts and tractors. The cleanest way was is to start a new hearing.

R. D'Amante: Is the new request for single story office different from the variance request in 2003 and 2004. If the Fisher Dover was met, we would then submit a new plan once it was approved and would be heard.

C. Pearson will not vote since he did not hear the original Fisher vs. Dover arguments.

***R. Duhaime motioned to approve that the new application meets the criteria of Fisher vs. Dover and this new application and all material and testimony will be incorporated into this application. Seconded by D. Johnston.
Vote unanimously in favor
4:0***

R. D'Amante: This is an application for a 9000 sf. one story office building.

J. McCourt: The original subdivision plan not in the packet is shown. The plan shows the existing house and barn. The property line and access from Londonderry and Whitehall Road access. The existing uses are a single family home and a vacant parcel. DOT has approved both accesses. The variance is to allow a 9000 sf. office building with associated parcel on the merged lot in the MDR district. The front yard requirement is 35 feet and we have provided 96 feet. I tried to position the building and put the parking in front and provided two way in and out on the By Pass to get away form the signalized intersection. Right-out and right-in to minimize the load on the signal. The side yards are required at 15 and the building is closest at 28 feet. I provided to enhance the buffer by landscaping. Behind the building, there will be no uses. The frontage required is 200 feet and the maximum height is 75 and the building will be 35 feet. One (1) space for 200 sf. is required and 75 spaces and 2 handicap spaces are shown. Both entrances will need to be permitted through DOT and I included in the packet landscaping and lighting plans. Along with the enhanced evergreen buffer, I put in deciduous trees and shrubs around the dumpster. The lighting shows the closest the lighting comes to the property is in the northwest corner. I provided for full cutoff lights and all lights will have a buffer to residential by the building itself. Three (3) building mounted lights and three (3) pole mounted lights at 20 feet high so they are not over the buildings and the recessed shoebox lights to direct the lights down. They are compliant with the new NH Night Sky Code.

R. Duhaime: This is close to the PZ zone. Is this designed to meet the PZ regulations?

J. McCourt: I did not design to the PZ zone. I designed it to the development regulations for commercial property. Trying to keep everything to the center of the site and less impact to the residential neighbors were the goals. We do not have the architectural designs of the building.

P. Rowell: It would be pertinent that the requirements could make it a condition that all criteria of the development Regulations are met. Then there would be no waivers allowed by the Planning Board.

R. Duhaime: This is just outside the PZ.

P. Rowell: You can make a condition that it meets all the conditions of the PZ.

J. McCourt: This shows a clearer picture with the building, sidewalk, buffer, parking and enhancements.

P. Rowell: Single or multiple tenants?

R. D'Amante: We anticipate multiple tenants with multiple entrances.

R. Bairam: There is a runoff issue that drains down to Holly Berry. That is a concern.

J. McCourt: I am very aware of the drainage issues there.

P. Rowell: That is all covered in the Development Regulations.

J. Levesque: Does the design meet with the Fire Department regulations?

J. McCourt: We have not met with those departments yet.

P. Rowell: You can make this conditional on approval.

C. Pearson: Have you done traffic studies?

J. McCourt: No we have not. This is low usage as an office building.

J. Gorton: I'm familiar with a project on Route 3A that was office and now this is being used as Pizza place. Will this use change as well? I can see the same thing happening here. I would dread seeing any more impact as retail.

R. D'Amante: I'm not familiar with that office space and they would need a variance, if not, they should be shut down. This Board is only approving office, and they will not be permitted to have restaurants without another variance from this Board.

The Board can specify that the application will adhere with all Planning criteria and Fire.

R. Duhaime: Do you have a problem with the PZ criteria?

R. D'Amante: I can't agree until I see what the issues are. PZ usually applies to larger lots and sometimes they cannot be accomplished on smaller lots.

R. D'Amante read the criteria into the record

R. D'Amante: Lou Manias, Appraiser submitted an analysis to this Board based on retail use. He is here to tie into the present application for office.

L. Manias: To determine if this would be detrimental to the neighborhood, most of the surrounding properties are in the PZ. All properties on Londonderry Turnpike are in the PZ. Holly Berry and the larger Map 25, Lot 41 and properties north of Whitehall are in the PZ. Holly Berry is a single commercially zoned parcel. The Variance from residential to commercial would be similar to the neighborhood. 80% of the properties to the north are commercial. South of Whitehall, most are commercial. East of Whitehall, there are a couple commercial properties mixed in with the residential. For residential use, it is not a desirable location. From the DOT study, it was reported that there are 10,000 cars on Londonderry and 5600 on Whitehall. There is a high concentration of traffic, which heightens the viability for commercial use. For residential, privacy is sought after. New plan vs. the old plan, the change addressing a 9000 sf. building set back from the road is lessening the impact. There will be less noise and a smaller building with less impact use. This is profession with lower traffic.

C. Pearson: You are comparing 12,000 sf. to 9000 sf. You need to compare 9000 sf. to a house.

Lou Manias: In Pembroke, there was one (1) commercial and three (3) residential lots on the corner. I appraised the residential surrounded by that property. There was no detrimental impact to the residential by the commercial properties. There was no diminution of value. It was my conclusion that noise and traffic did not support a diminution of value.

C. Pearson: Was there a before and after? The house is surrounded by residential and then it was changed to commercial. That is more appropriate as a comparison.

L. Manias: There is no before and after here. You have a request for a Variance for commercial use where 85% of the surrounding property is commercial. There will be no effect on those commercial properties. There is one non-direct abutter, Mr. Holleran, which has two (2) residents on one 1) lot and they are 200 to 300 feet from this building. There will be no visibility with the proposed vegetation.

C. Pearson: There are four (4) residential properties surrounding this property.

L. Manias: The abutters across the way, it is my opinion that those properties will want to become commercial since they are at a lighted intersection.

R. D'Amante: A parallel to the south is the Burleigh Dental Office. The Burleigh Office is not retail. It is a transitional use. It sits in character with the area around it. This use will be Monday-Friday, 9-5 and closed on Saturday afternoons and Sundays.

C. Pearson: That is because Burleigh has twelve (12) parking spaces and looks like a house. This building will have 45 spaces with multiple entrances.

R. D'Amante: If the Board wants more landscaping along Route 28, we can do that. On the southeast corner, there is an apartment house that has a fence. This can be done consistent with the zoning. We recognize that it is inevitable that this property will likely become PZ.

R. D'Amante continued to read the criteria.

B. Marshall, Attorney: I grew up in this town on Whitehall Terrace. I use to walk to Hooksett Road and I lived here when it was a real estate office. Meyer was selling siding and Dick Marshall was doing the cake business out of his house. This neighborhood has a history of commercial. This is on the low end, no one wants to have children playing on this yard with the truck traffic coming down the hill and no one wants their kids playing across from the Deerhead. I use to slide my sled down the back hill between the Holt's and the Holleran's and you could hear the trucks heading south. Here, with the help of the Planning Board you can put a building that will be a sound buffer and some vegetation that enhances so you don't have to look across to the Sportsman's Lodge and the vacant lot in between. It is a good comparison to the Burleigh Dental office. I use to see kids standing at the bus stop in front of Burleigh's as cars pulled in and out. The office I see is similar to our attorney's office. You have three (3) to four (4) doors and you can make it more like a residential building. Any drainage here will not increase the water because we must control the water leaving the property. Here is an opportunity to fix the mistakes of the past. There is one abutter objecting, the Hollerans, and this will be a benefit with limited use, decreased noise, and the added vegetation through the approval process can make this a benefit over what is being viewed now. That offers some local knowledge.

***J. Levesque motioned to continue Harmony Place and Keyland to September 8, 2009.
Seconded by R. Bairam.
Vote unanimously in favor***

R. Duhaime: This will not be highly visible. Will you be raising the site?

J. McCourt: There will be some cut and fill. Probably a thirty-foot building by the time we put in what the Planning Board wants. The elevation drop from the road is 320 and the finish floor is 328. There is a two-foot drop. We will be raising it higher in the back and will have a drop off in the back.

Abutters:

Andrew Serell, Attorney with Rath & Young representing the Hollerans: This an effort at spot zoning that has been rejected by the voters and the Planning Board. The Superior Court has determined that this property does not meet the criteria for a Variance. Read that Superior Court opinion. There is nothing in that opinion that has a problem with the use. The plan that was prepared is a very nice plan but is irrelevant. A map was shown highlighting in green the residential property. The only commercial property is across the street, which is used as residential. The Superior Court states that when the Holts bought the property in 1998, it was all zoned commercial. All the surrounding residential property owners want to live in their residential homes. To say no one wants to live in the area is not the reality.

The Holts purchased the property in 1998 and within months petitioned the Zoning Board to rezone. There is no evidence before this Board that shows that was ever anything but residential. There is no information that says this was ever zoned commercial. It was operated as a home business and was required to meet that criteria. The Article was on the 1998 ballot and it failed. In 2001, the Holt presented a third petition and the Planning Board again said no and it was again on the ballot and defeated. In 2003, the Holts asked again for rezoning to the Planning Board and it was denied. In 2003, the Holts came forth with a Variance to sell quilts and farming equipment. The Board granted the variance and the Superior Court reversed the decision. The Holts then sought to rezone when the PZ was established. The Holts appeared before the Planning Board and the request was not adopted. You can see that property is not surrounded by commercial property. The only commercial is the elderly housing property, which is actually residential. The resent applications are now for office uses. The fact that they are looking for 45 parking spaces shows this is not low impact. It looks like a strip mall with multiple entrances. The fact, that they are proposing 45 parking spaces says it is not like Dr. Burleigh. Dr. Burleigh is in the commercial zone and I understand he lives on the property as well. The Holts are focusing on two (2) things; it can't be sold as a residents and it is surrounded by commercial. It is surrounded by residential and it was that way when they bought it. The Court agreed and read decision was read into the record. The DOT reached a similar conclusion in 2005, (submittal M). They concluded that conditions have not substantially changed from 1998 to present. They argue that it will not be used or sold as residential property. It has been used as residentially since 1998 and is now being occupied by renters. Whoever has lived there for 30 years wants to use it as residential. In Holt's submittal, they have said they have tried to sell as residential without success. We submit that the Holts purchased it for \$169,000 and it is now appraised for \$230,000. The Holts were asking \$519,000 for the property and listed it as residential and commercial. There is a lot junk on the property, which is related to their difficulty selling.

Mr. Manias addressed the issue in his report, saying "These properties were on the market in 2005 and Mr. Scarpetti reported little or not interest". There is no documentation relative to Mr. Scarpetti's efforts and no information as to the price and if it is close to its appraised value. The Town has already taken the position that proposed commercial operation on this location is contrary to the public interest. That was submitted to the Court that this was not in the public interest. Further, there are numerous vacant office buildings in the area including 1256 Hooksett Road, medical office space, Hooksett Landing. RK Plaza and 11 vacancies in Village Shops. To argue that this is in the public interest is contrary to what was stated. Traffic is always a concern and we submitted to article relative to the property. There is no way with two (2) entrances that it won't contribute to an already problematic traffic situation.

R. Duhaime: How did this property get separated from the other property? How were these pieces made and why would the Hollerans not want this made? What is their specific plan?

G. Holleran: I have no plans for this property. Holt was originally part of our property and was sold off to Joe Holt.

A. Serell: There is a big difference having a few commercial pieces down the road and one (1) abutting your property. There is diminution in value and the impact of living next to commercial.

Mr. Manias said no diminution, but it is interesting the report contains no analysis of before and after. The report "No valuation of the surrounding property was completed". Without that kind of analysis there is no evidence before this board. You can't argue that no one wants to live there because of the surrounding commercial but the expanded commercial on this property will not effect the neighboring residential.

The Superior Court addressed the substantial justice and stated this will not be in the public interest and do substantial justice.

This Board, 5 years ago, approved a Variance and was then told by the Court that it cannot grant a Variance. Mr. Holt wants a Variance to sell this property for \$500,000 after buying it for \$169,000. That is the reason he wants the Variance.

C. Pearson: Why was the house put on the market for \$600,000?

R. D'Amante: It was offered at \$449,000.

C. Pearson: S. Bruce had it for \$600,000

R. Duhaime: You say that is a very viable residents, as far as other residents being built there, would someone want to buy a home there if it were subdivided?

A. Serell: You can buy this property for less than one in a more desirable neighborhood. That is why Mr. Holt got it for \$169,000.

R. D'Amante: The prior case before Superior Court dealt with a retail request. This is an office use. This is very different. The PZ was not in place at that time. This site is being requested for office use. It doesn't matter how many parking spaces; after 5:00 pm it is closed.

C. Pearson: How do you police closing at 5:00 pm?

Bruce Marshall: This board is considering this because this is a new case for office use. The Superior Court in Fisher vs. Dover says you need to rehear it and it is different. To say there will be diminution in value to the abutters and the Hollerans is disingenuous because the plan for the building and the requirements for the town to limit lighting and require vegetation are here that were not here years ago. That is part of the consideration for the PZ and takes into consideration blending these lots. I worked in eminent domain and abutting commercial and residential lots and that built sound barriers. You can check and see if the houses in that area were assessed any less due to the commercial property next to them. The Town has the ability to make this an improvement. There were comments on the assessed value when Mr. Holt bought the property and the assessed value now. Those cannot be compared and whether Mr. Holt got a bargain does not change the fact that in the past 10 years, I was involved in the taking and eminent domain of the Route 3 enhancement and the traffic counts increased. There are people living there now. Is there a hardship? Absolutely. We are talking about taking a piece of property and making it a showpiece. The Town can make it so the Hollerans cannot see the highway. We can control the height of the building. We can take a piece of property and make it better. With respect to adding to the traffic, you will have higher traffic during office hours, but is it higher than multi-family? It is negligible because of the development north and south of this property. You are not creating a hardship to the neighborhood because the increase is negligible. It will be an improvement because you will not hear the traffic.

As Hooksett develops Londonderry Turnpike, it will get worst and worst. Limited office is the least intense use you can have.

C. Pearson: The commercial zone, where does it end? They don't want commercial to start creeping up Route 27 and down Route 28.

R. D'Amante: As I said in my presentation, it ends here because we are requesting office use. That is a good transitional use and it will be the buffer. Across the street, that property is as impacted as the Holt property because it is 400 feet closer to the Kmart Plaza.

**J. Levesque motioned to extend the meeting. Seconded by R. Bairam.
Vote unanimously in favor**

R. Duhaime: Joe Holt owned the property but then what?

R. Holt: It left the family for 8 years.

R. D'Amante: We are using the Burleigh building as a model. It will not be a strip mall but a more residential style building. Limiting this to office only is something this Board can do.

R. Bairam: How many offices will this building have?

R. D'Amante: I don't know but my office has 9000 sf. and we have two (2) offices there. There are three (3) entrances but it depends on the users.

R. Bairam: Why then are there 45 parking spaces?

J. McCourt: That is the requirement of the Development Regulations and Planning Board and it says office must have 1 for every 200 sf.

R. D'Amante: That is like our office that has many more spaces than needed.

R. Duhaime: Signage is another issue with the requirement and the monument style sign.

P. Rowell: The sign ordinances are virtually the same.

B. Marshall: Mr. Serell said, "By definition 45 parking spaces equates to a diminution in value". I know of no such definition and we had Mr. Manias give testimony and I heard no expert rebuttal testimony.

Map presented by A. Serell is part of the record.

R. Bairam: Should we get an independent study on diminution of value?

C. Pearson: I think that point was not proved.

R. Duhaime: I also think traffic increase will cause a diminution in value. The adding of the school caused more traffic. Is there any injury to the abutters by granting this?

R. Bairam: If you grant this, the other two (2) corners will want to change as well.

C. Pearson: This has gone before the town two (2) times and voted down twice.

D. Johnston: This was voted down in the past because the Planning Board doesn't recommend.

C. Pearson: I don't feel that the applicant proved there was no diminution in value. The burden is on the applicant.

J. Levesque: In all fairness, maybe we should have another study done.

J. Levesque motioned to have an independent appraisal impact study done by a firm chosen by the Town at the cost of the applicant. Seconded by R. Bairam.

Vote 3:2 motion carries

Bruce Marshall request that the request is worded as unbiased.

***J. Levesque motioned to continue to October 13, 2009. Seconded by R. Bairam.
Vote unanimously in favor***

ADJOURNMENT

The meeting was declared adjourned by the chair at 10:30 pm.
Respectfully submitted

Lee Ann Moynihan