



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 1-27-09

Zoning Board of Appeals Meeting Minutes October 28, 2008

Members present: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Sandra Landau, Alternate; Gerry Benson, Alternate; Dan Ginsberg, Alternate

Others present: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; John and Stacie Robbins; Kevin Kieler; David McLaughlin; Ed Archambeault; Attorney Mark Donohue, Fletcher, Whipple & Tilton; Attorney Marshall Gould; Gary McCoy, Poyant Sign; John Fouracre, Unisign; David Gillespie, AvalonBay Communities; Michael Roberts, AvalonBay Communities; Attorney Steven Schwartz, Goulston & Storrs; Kurt Sjostedt, Packard Development; Paul Cincotta, Packard Development; Kevin Giblin; Paula Thompson, Waterman Design

Chairman Rand called the meeting to order at 7:00PM.

Public Hearing to consider the petition of John and Stacie Robbins for a Variance/Special Permit to allow construction of an addition that will exceed 80% of the gross floor area of the existing non-conforming structure on the property located at 151 East Main Street, 7:00PM

John Robbins discussed his request for a variance. He explained that there is a small section of the existing pantry that encroaches within the required 15 foot setback, so he is asking for a reduction of the setback to 14 feet. He noted that the section of home that is encroaching is part of the original house built in 1902, and he is seeking a variance so that he will not have to remove it. Ms. Landau asked if any part of the addition encroaches within the setback. Mr. Robbins confirmed that it does not, and noted that the proposed addition is needed to accommodate his expanding family, including an aging father.

Mr. Kane asked Mr. Farnsworth why this is not grandfathered, given the age of the structure. Mr. Farnsworth explained that the encroachment into the setback creates a pre-existing, nonconforming status. And, given that the proposed addition exceeds the allowable 80% increase in gross floor area, the applicant was required to apply for a variance to exceed the 80% allowed in the bylaw and for a setback variance. The only other option was to tear down the nonconforming portion of the house. Mr. Farnsworth explained that, should the board approve this request, the entire structure will then become conforming.

Mr. Ginsberg commented that the applicant has thus far done a beautiful job with this property, and he has no objections to the proposal.

Mr. Rutan asked if granting a variance would mean that the applicant could further expand the home in the future should they so choose. Mr. Farnsworth confirmed that, once it becomes a conforming structure, the homeowner has the right to add on as much as they choose so long as they do not create a nonconformity.

Richard Kane made a motion to close the hearing. Mark Rutan seconded, vote unanimous.

DECISION

Ms. Landau voiced her opinion that there is no reason not to approve the request. Richard Kane made a motion to grant a variance to reduce the side setback to 14 feet based on the topography of the lot. Mark Rutan seconded, vote unanimous.

Public Hearing to consider the petition of Kevin Kieler for a Variance/Special Permit to allow the use of a drive-thru on the existing restaurant on the property located at 35 Solomon Pond Road, 7:10PM

Kevin Kieler discussed plans for the addition of a coffee shop to the existing restaurant. Mr. Kieler also presented illustrations showing the proposed layout, as well as letters of support from neighbors.

Mr. Kieler explained major changes are necessary for the restaurant to remain in business. He noted the function business has declined in recent years, and the current tenant cannot afford to continue paying for the unused function space. He explained the facility is permitted for entertainment and liquor until 1:00AM, but the late hours have resulted in problems he would prefer to avoid. He voiced his desire to find a more neighborhood-friendly operation for the building so, at the suggestion of a neighbor, he did some research into the feasibility of a coffee shop and found the morning traffic counts to be staggering. In his opinion, a coffee shop on the premises is a great use for the back room, while still being neighborhood-friendly. Upon further investigation, Mr. Kieler found he could be permitted for a coffee shop provided it is run by the same entity that runs the restaurant. Unfortunately, the banks will not agree to finance the venture unless it has a drive-through window, which they feel is critical to its success. Because a drive-through is not a legal use in this zone, he is here this evening to seek a variance.

Mr. Kieler explained he has met with town staff to work out details for the drive-through window and traffic flow, which was presented to the board. He also held a meeting with his neighbors, who voiced support provided trash receptacles are placed near the drive-through window and that no tractor trailers be allowed. Mr. Kieler stated he has agreed to both of these requests.

Mr. Kane asked if tractors without trailers will be allowed. Mr. Kieler voiced his opinion that these would be allowed, and noted the neighbors simply do not want tractor trailers idling on the lot for extended periods of time in the early morning hours.

Richard Kane asked about the hours of operation. Mr. Kieler noted the coffee shop would operate 6:00AM to 2:00PM, so as not to interfere with the restaurant's dinner traffic.

Ms. Landau asked for clarification about the traffic pattern. Mr. Kieler noted the main entry will include a center island to separate the traffic flows, and confirmed there is more than enough space to accommodate the anticipated traffic.

Mr. Kane asked about the configuration of the entrance and exits, and commented that they appear to be backwards. He also noted it seems the inbound traffic will impede the outbound vehicles. Mr. Farnsworth explained a different configuration for the traffic plan would be contrary to the norm, and would result in confusion and adverse impacts to public safety.

Mr. Ginsberg asked Mr. Farnsworth to clarify whether the application requires approval from this board. Mr. Farnsworth confirmed it does, based on his interpretation of the bylaw. He noted since this use is not listed in the bylaw, he considers it a prohibited use that cannot be allowed without a variance. He also noted there is a difference between drive-through facilities for banks and food service establishments, and noted a copy of the decision for 308 Main Street was included in the application packet for the board's reference.

Ms. Joubert explained she had received a voicemail message expressing opposition, and she had informed the caller he would need to appear or submit written comments in order to be officially on the record. To date, she has not received any further communication.

Mr. Farnsworth explained a variance for use is necessary. Mr. Ginsberg asked if there will be a review of the signage and traffic flow. Mr. Farnsworth confirmed these details are reviewed as part of the Building Permit process.

Ms. Landau questioned whether the drive-through would be used for food only. Mr. Farnsworth noted the liquor license for the restaurant can be carried over for the coffee shop, but no alcohol can be passed through the window or taken offsite.

Ms. Joubert explained that, though this filing does not trigger a site plan review, town staff will do so internally because of the traffic issues. Mr. Farnsworth suggested the decision be conditioned to the specific plan provided with the application so that any change would require the applicant to come back to the board. Chairman Rand asked if a copy of the plan is on file. Mr. Farnsworth noted it is included with the application packet.

David McLaughlin of 32 Solomon Pond Road and Ed Archambeault of 30 Solomon Pond Road both voiced support for the proposal.

Richard Kane made a motion to close the hearing. Mark Rutan seconded, vote unanimous.

Public Hearing to consider the petition of Poyant Signs, Inc. for Variances/Special Permit to allow a second wall sign and to allow said sign to exceed 16 square-feet in size on the property located at 14-24 West Main Street, 7:33PM

Attorney Mark Donahue appeared on behalf of the applicant to request a variance to allow an additional sign for the building. He noted that, prior to construction, the previous structure housed multiple tenants with multiple signs. He also noted that, because of the size of the structure and the way it is situated on the lot, an additional sign is needed to make the business recognizable from all directions. Ms. Landau asked if the proposed sign will be illuminated. Mr. Donahue confirmed it will be internally lit, and will look identical to the sign on the opposite gable. Mr. Ginsberg asked why this sign was not included in the original plan. Gary McCoy from Poyant Sign voiced his opinion that it was simply an oversight. Mr. Kane voiced his opinion that the signs already in place are viewable from all directions. Attorney Donahue commented the blank façade makes it difficult to determine what business it is if the free standing sign is not visible. He also noted CVS did not originally permit the project, and they are now seeking the additional sign. Mr. McCoy explained that signage on both gables is typical for CVS, and balances out the building. Mr. Kane noted the proposed sign is 3.26 times greater than what is allowed. Mr. McCoy commented that restricting the sign to the size allowable would look worse than no sign at all.

Mr. Kane voiced frustration that this issue was not raised during the Design Review Committee (DRC) process. Attorney Donahue explained the Design Review Committee had focused on the overall appearance of the building and not with the sign location. He also noted the property owner had made a number of concessions as part of the Design Review process.

Attorney Donahue noted that, while the proposed sign exceeds what is allowed, it is still far less than what previously existed. Mr. Benson voiced his opinion that there is no problem identifying this store as a CVS, and he sees no reason to allow another sign. Mr. McCoy voiced his opinion that people who are unfamiliar with the town would miss the CVS without this additional sign. Mr. Kane suggested taking down the existing wall sign to put a sign on the other side.

John Fouracre of 99 Pleasant Street asked about the height of the pylon sign. Mr. Kane noted it is 15 feet high. Mr. Fouracre voiced his understanding that the pylon sign is already out of compliance with what is allowed in the center of town, and noted the applicant already has the maximum amount of signage allowed. By allowing an additional sign, the board opens the door for every other business in town to request the same. He voiced his opinion that allowing more signage in the center of town is not a precedent the town should be setting.

Mr. Ginsberg asked for clarification about the pylon sign. Mr. Farnsworth noted the sign is measured only to the top of the sign with lettering, so the pylon sign is actually a 10

foot sign. He also noted the existing sign was approved because the sign previously on the site was as that height. The same holds true for the sign on the gable, as it is no larger than the pre-existing sign. Mr. Farnsworth commented the Design Review Committee had approved one sign for the building.

Ms. Landau asked if the applicant would be required to go back to the Design Review Committee for approval of the additional signage. Ms. Joubert indicated this would not be required but can be requested by this board for the applicant to go back to the Design Review Committee. Ms. Landau stated she would feel more comfortable having the Design Review Committee provide their comments. Attorney Donahue agreed to take the request to the Design Review Committee, but only if it would be material to the case. Mr. Farnsworth suggested members of the board drive by the site to determine if the existing signage is adequate.

Mr. Ginsberg voiced his opinion that an additional sign on the gable would not be detrimental to the downtown area. Mr. Benson expressed concern that allowing the additional sign would result in other businesses doing the same. He voiced his opinion that the current regulations were likely designed with some thought as to how the residents would like the downtown area to look. He noted that every time a variance is granted, we move away from the intent for the downtown area.

Attorney Donahue commented that every project must be looked at individually. Given the 5 million dollars that the applicant invested in downtown improvements, he believes the town has a valid threshold for enforcement. He also commented that the second gable came about during the Design Review process, and the building looks out of balance with the absence of a sign on that side.

Mr. Fouracre reiterated his opinion that an additional sign is not necessary. He also does not believe that the DRC should be involved, as a sign variance falls under this board's jurisdiction. Mr. Rutan also voiced opposition to sending this matter to the DRC.

Richard Kane made a motion to close the hearing. Mark Rutan seconded, vote unanimous.

Public Hearing to consider the petition of Packard Development LLC for Variances, Special Permits and a Special Permit Under 7-28 Groundwater Overlay Protection District to allow business and commercial uses in the Industrial A District on the property located at 333 Southwest Cutoff, 8:07PM

Attorney Marshall Gould appeared on behalf of Packard Development, a division of New England Development, to discuss plans for this 29 acre parcel that currently houses East Coast Golf. He noted its proximity to The Loop and Avalon Bay sites, and explained that this property is almost entirely zoned industrial with the exception of a small strip in Business C and a far rear corner that is Residential C. He also noted the delineation on the plans of the groundwater 3 area, and stated that no work is proposed in the Residential C zone or the Groundwater 2 area. Attorney Gould reiterated that all development on the parcel will be within the portion of the lot that is zoned industrial.

Attorney Gould referenced pages 6 and 7 of the application, which contains details of all variances and special permits being sought, and noted that it is the same as what was requested for The Loop with one small difference. He also commented that the fact that they are seeking certain variances does not mean that they are actually planning for it, but that they are seeking to have broad coverage to allow them some flexibility with the project.

Attorney Gould explained that the sign variance requested in item C was specifically requested by BJ's, who is interested in relocating to this site from their Westborough location. He explained that they are hoping to include a fuel service facility, which they would prefer to have as a free standing store.

On page 7 of the application, Attorney Gould noted that the applicant is asking for parking as set forth in the Business B zone, with 9'x18' spaces and 24 foot aisles. He also noted an additional request to allow multiple buildings on a single lot, and discussed the current plan for a large box store toward the back of the site and a couple of smaller buildings toward the front of the parcel. He stated that the applicant will be back before the board once the site plan is finalized, and while it is not the intent to get bogged down with a lot of details at this point it is important to understand that will have to deal with the groundwater issue.

Attorney Gould noted that there are no nearby abutters to this property, which sits between Route 20 and Route 9. He stated that traffic statistics, as well as parking, lighting and drainage plans will be provided when the applicant comes before the board for Site Plan Review. They are here today for variances simply to allow them to lock in tenants for the proposed development.

Attorney Gould also indicated that hardships are noted on page 9 of the application, and stated that the proposed development is not a detriment to the public good and is a safe and appropriate use for the site.

Attorney Gould referenced page 16, which shows the type of pylon sign proposed. He noted that the applicant is in negotiations with BJ's, but that there is no firm commitment as yet. He also explained that the applicant would like to provide visibility from Route 9 and Route 20 for the tenants in the development and that, while the main store will likely be visible, the smaller stores will not.

Attorney Gould explained that the developers of The Loop are redeveloping the Route 9/20 cloverleaf in conjunction with several other traffic improvements, all of which are being sized to accommodate the proposed development at 333 Southwest Cutoff. Kevin Giblin also commented that all offsite mitigation with respect to water and sewer work has been completed, all utilities have been brought to the site, and he anticipates all intersections to be done by August 2009, pending approval of this plan. Chairman Rand asked Mr. Giblin what improvements he is planning to do to Route 20. Mr. Giblin explained that he is adding an extra lane on both the on and off ramps for Route 9, and Route 20 will be widened to 5 lanes at the site.

Chairman Rand asked about traffic volume during the holiday season. Mr. Giblin stated that the plan was designed for the worst-case scenario. Mr. Ginsberg asked about the entrance to the Avalon property. Mr. Giblin explained that he had aligned the entrances for both driveways to be handled by one traffic light. Mr. Ginsberg asked if the traffic signals have been approved by Mass Highway. Mr. Giblin confirmed that they have.

Mr. Ginsberg questioned the need for a 24-hour illuminated sign. Attorney Gould noted that there are currently no plans for 24-hour operation, but that the applicant wishes to keep that option available if at all possible. He also noted that there may be a need from a security standpoint, given the potential for overnight deliveries. Since the site is located in an industrial area, there is less concern about potential impact to neighbors. Mr. Farnsworth explained that the board typically only approves such a request for 24-hour businesses. If the lighting is only necessary for deliveries, he suggested that illuminating only a portion of the sign overnight might be sufficient. Attorney Gould suggested that there may be peak times when the stores may wish to remain open 24 hours. He noted that the bylaw does not prohibit 24 hour operation of a store; it only prohibits illumination of the sign between midnight and 6AM. He reiterated the applicant's desire for the option to be available since businesses would want to have their sign lit during their business hours. Mr. Farnsworth suggested that the board could impose a condition that the sign can only be illuminated between midnight and 6AM only for those stores that are in operation between those hours. He cautioned about granting a blanket approval to allow the entire sign to be illuminated overnight. Attorney Gould commented that the lighting usually extends one hour beyond store closing in order to safely get customers and employees out of the building. Paul Cincotta from Packard Development voiced concern about the ability to control the lighting of individual signs within the pylon.

Mr. Kane asked about the overall lighting of the parking lot, and commented that security is a valid reason to allow illumination of the sign. Attorney Gould stated that the lighting issues will be addressed during Site Plan Review, and reiterated that the applicant is asking the board to grant the variances requested tonight, and to impose any conditions during the Site Plan Review.

Chairman Rand asked about the request to allow for mixed residential uses. Attorney Gould stated that there are no specific plans for it at this time, but the applicant has asked for it to allow him some flexibility with the project. He stated that the board can omit it from their ruling if they are not comfortable with allowing it.

Ms. Landau asked how this proposal fits with the master plan and the proposed zoning bylaw revisions. Ms. Joubert noted that the general consensus between the boards considering the zoning bylaw revisions has been to allow for and encourage commercial development in the southwest area, which would make this project, currently non-conforming, a conforming development. She noted that, while she does not have the actual language, the consultant was directed to write it up as a commercial district.

Mr. Benson commented that the applicant has only one sign proposed, and questioned whether they will be back for more signage in the future. Attorney Gould agreed that the applicant may come back for additional signage, but that they would likely be wall

signs to improve visibility from Route 9. Mr. Kane asked about the location for the pylon sign. Attorney Gould stated that it would be located at the driveway from Route 20.

Mr. Farnsworth suggested that the language for item #6 be clarified to provide for only one free standing sign. Attorney Gould agreed to revise the language.

Chairman Rand asked if there will be grading changes on Route 20. Mr. Giblin explained that he will be bringing in a substantial amount of fill to change the grading on the site, and that the grade on Route 20 will come down approximately 4 feet. Attorney Gould indicated more exact details will be provided during the Site Plan Review process. Mr. Ginsberg voiced his desire to prohibit access to the proposed development from Route 9. Mr. Giblin indicated that such access is not possible.

Chairman Rand noted that the board had received a comment letter from the Planning Board voicing some requests. Attorney Gould noted that the comment letter requests a Design Review, and while the applicant does not have a problem with making sure that the building looks nice, he feels uncomfortable submitting to the Design Review Committee especially since BJ's has its own prototype store design. He commented that the Design Review process is in place to ensure that development in the downtown area is attractive, but this parcel is far-removed from the center of town. He reiterated that the DRC may request design accommodations that are not in line with what BJ's wants, and the applicant does not wish to lose BJ's as a tenant. Mr. Kane agreed that this project should not be required to go to the Design Review Committee.

Ms. Joubert asked members of the board if they would like a representative from the Planning Board to appear to discuss their comments. Chairman Rand asked Ms. Joubert to review the comment letter. Ms. Joubert noted that the Planning Board viewed this project as a substantial development at one of the main entrances to the Town of Northborough. (Refer to Planning Board memo to ZBA dated October 23, 2008.)

Ms. Joubert commented the applicant is asking for every other consideration typically given to projects in the Business B district, and the DRC process is in line with those considerations.

Members of the Planning Board agreed that the size of the signs being requested is excessive.

Ms. Joubert explained that town staff feels that the proposed parking of 1 space per 200 square feet is excessive compared to industry standards, and the applicant is being asked to revise the parking to approximately one-half. Ms. Joubert referenced the parking lot at Target in Westborough, which is at least half empty at all times. Mr. Kane asked if there would be any problem with reducing the amount of parking. Mr. Giblin noted that tenants like BJ's, Wal-Mart and Target typically specify their requirements, including parking, and are generally not receptive to modifications but he agreed to raise the issue. Mr. Cincotta recognized that there is concern about excessive parking, but also voiced his desire to avoid any parking problems that could negatively impact the tenant or the development.

Ms. Joubert noted that the Planning Board would like to encourage the applicant to consider some green construction approaches for this project, and she suggested that the applicant investigate the feasibility of installing a green roof system. Mr. Kane suggested voiced concern about the added load from a green roof, and suggested that solar panels might be a better green technology to consider. Mr. Cincotta suggested that the use of skylights would reduce lighting costs. He also voiced his opinion that most of the comments in the Planning Board's memo should be considered during Site Plan Review.

Ms. Joubert questioned sewer capacity for the project. Mr. Giblin indicated that he has some options available for consideration.

Ms. Joubert also noted that, though the exact location is not known, there is a town well proposed in the vicinity of this parcel. Attorney Gould explained that the Town of Northborough has sometimes considered Smith Pond as a future well site, and the applicant will agree to provide a no build, no disturb, or conservation restriction in the area in question with the condition that it will be deeded to the town should a well ever be installed so long as it does not affect the applicant's development options on this property.

Richard Kane made a motion to close the hearing. Mark Rutan seconded, vote unanimous.

Avalon Bay project – Attorney Gould voiced frustration that the board had moved forward with considering Avalon Bay's proposed addition of 32 units to the project. He stated that he and the applicant were unaware that the board was taking the matter under consideration and therefore were not present at the last meeting. He voiced his opinion that a full application, as was suggested, is not warranted for the additional units.

Attorney Steve Schwartz explained that the applicant had acquired additional land and was pursuing the possibility of adding units to the complex, and that the decision as to the number of additional units was based on how many could be added without it being a substantial change. He stated that the Town Administrator had asked the applicant to provide a draft letter indicating their intentions. However, it was not their understanding or intention for the board to act on the draft letter. Attorney Schwartz stated that he now understands that the board has some concerns about allowing the additional units as an unsubstantial change. Therefore, the applicant has submitted a finalized letter for the board's consideration. Attorney Schwartz noted that the applicant is willing to proceed with this matter in the form of a public hearing, including notification of abutters, but without a full application. Ms. Joubert voiced her understanding that the applicant had agreed to file a full application in order to be heard at the November 25th meeting.

Chairman Rand explained that the draft letter had been given to Ms. Joubert and Town Counsel, who brought it to the board for input. At that time, the members of the board concluded that they would like to treat this as a substantial change. Mr. Kane noted that the board members had felt that this was a large project and that the abutters should

have the right to be heard. Mr. Rutan recalled that the board members had expressed a desire to allow for public comment on the change, but voiced his opinion that it would do the board and the applicant a disservice to make them come back with an entire new presentation. Mr. Benson stated that the board felt the additional units may affect abutters that were not affected by the original project.

Ms. Joubert explained that the process for any changes to the project is clear. She explained that the applicant must first submit a letter explaining the proposed changes, and the board then has 21 days to make a decision as to whether they consider the change to be substantial or not. If they rule that it is a substantial change, a formal public hearing is required. Regardless of whether the applicant is seeking to add 350 units or 32 units, once the change is deemed substantial the applicant must file a new application. Attorney Schwartz stated that the applicant is prepared to answer any questions in a public setting during the November 25th meeting, but he feels that the information as submitted should be sufficient. Ms. Joubert reiterated that an application is required for the board to consider the proposal. Attorney Schwartz reiterated that the proposed changes were designed specifically to qualify as an insubstantial change, based on his understanding of the regulations.

Attorney Gould explained that the applicant had learned a few weeks ago that the board had decided that they would like the proposed changes to be discussed in a public forum, with abutters to be notified. What the applicant is requesting is that the board consider this request, as already submitted, in a public hearing environment at their next meeting. At that time, if the board rules that this is an insubstantial change, a decision can be made that night and the project can proceed. If it is ruled to be a substantial change, they can still proceed since all notifications will have been made. Attorney Gould also commented that, regardless of the outcome, the presentation and evidence will be the same. He also voiced his opinion that this is an excessive amount of work for an additional 32 units, and reiterated his request that this be moved to a hearing on November 25th without the requirement for a full application.

Chairman Rand explained that this is the first substantial change that the board has dealt with since the regulations came about, and that they want to ensure that it is handled properly.

Ms. Joubert noted that the deadline for submission for a public hearing on November 25th has been extended twice for this applicant, with October 30th being the last day that she can accept a submission for that meeting. She reiterated that, with the request as submitted at this point, the public hearing would only cover whether the change is substantial and, if so, then a full application would be required before the board could rule on the actual changes. If the applicant is asking the board to hold a public hearing on November 25th to consider the addition of 32 units, an application is required and must be submitted by October 30th.

Attorney Gould reiterated his objections to the requirement for a full application. Ms. Joubert reiterated that an application for the construction of an additional 32 units has not been submitted and, therefore, cannot be considered by the board. She also voiced her opinion that the board has sufficient information to rule tonight as to whether

they believe that this change is substantial or not. Attorney Schwartz stated that the applicant is prepared to submit an application on the condition that the board will first consider whether it is a substantial change or not. Chairman Rand noted that there is a cap of 250 units, and asked if the matter must also go to the Board of Selectmen for approval to exceed the cap. Attorney Schwartz stated that they do not.

Ms. Joubert reiterated the process that was agreed to as follows

- The applicant will file an application for the construction of an additional 32 units by October 30th
- The applicant reserves the right for the board to consider whether the change is substantial or not
- Provided the application is filed in time, a public hearing on the additional 32 units can be held during the November 25th meeting if the change is deemed substantial
- The town will advertise the public hearing based on the application, being specific about how the discussion and/or hearing will be handled.

DECISIONS

35 Solomon Pond Road – Mr. Ginsberg indicated that he sees no issues with approving the application. Mark Rutan made a motion to approve a use variance to allow a drive-through window, based on the plan dated September 17, 2008 that was provided with the application, given that the use is not detrimental to the neighborhood, is appropriate for the site and is consistent with the existing use. Richard Kane seconded, vote unanimous.

14-24 West Main Street (CVS) – Richard Kane voiced his opinion that the additional sign is not necessary. Dan Ginsberg felt that the request seemed reasonable. Gerry Benson reiterated his concerns that it would result in excessive signage in the downtown area.

Richard Kane made a motion to deny the request. Mark Rutan seconded, vote unanimous.

333 Southwest Cutoff – Chairman Rand commented that he would like to omit mixed residential use. Mark Rutan voiced his opinion that it could be addressed during Site Plan Review. Members of the board agreed that the proposal is appropriate for the site.

Mr. Kane suggested that the size of the sign can be covered when the project comes back before the board. Ms. Joubert explained that the decision cannot be modified or conditioned once a variance for the sign is granted. She noted that the bylaw allows a maximum height of 10 feet and 50 square feet and the applicant is requesting a variance to allow a sign 30 feet high and 288 square feet. She also noted that the applicant has requested a reduction in the size of parking spaces.

Members of the board discussed a denial of the sign request under Item C, and elimination of the mixed residential use under item #6. Mr. Rutan suggested allowing 24-hour illumination of a smaller sign. Mr. Benson voiced his desire for the applicant to use LEED certified architects, and to encourage sustainable technologies.

Mark Rutan made a motion to grant the variances/special permits as outlined on pages 6 and 7 of the application with the exception of Item C (sign) and mixed residential use in item #6. Richard Kane seconded, vote unanimous.

Meeting Schedule for 2009 – Ms. Joubert distributed copies of the 2009 meeting schedule. At this point, there is no meeting scheduled for December, but Mr. Kane suggested that the board remain open to it, pending the outcome of the meeting regarding the Avalon Bay project.

Zoning Board – Ms. Joubert discussed the suggestion that the board go to a five member composition, and noted that the board had voiced support for the proposal in a letter to the Town Administrator. Ms. Joubert stated that the Town Administrator is now asking this board to submit a letter specifically requesting to be changed to a five-member board. Mr. Kane voiced opposition to the idea. Mr. Farnsworth voiced support of the board moving to five members.

Chairman Rand polled those present, and the vote was four in favor and one opposed (Richard Kane opposed) to moving to a five member board.

Laurence Place – Ms. Joubert explained that the new owner for Laurence Place has submitted a request to the town to have the age restriction lifted, which is now under review by Town Counsel. She agreed to keep the members informed of any actions.

Adjourned at 10:55PM.

Respectfully submitted,

**Elaine Rowe
Board Secretary**