



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 9/21/11

Zoning Board of Appeals Meeting Minutes July 26, 2011

Members in attendance: Richard Rand, Chairman; Mark Rutan, Clerk; Chan Byun; Craig Gugger; Richard Kane (arrived at 7:30PM)

Others in attendance: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; Chuck Black, Kendall Homes, Inc.; Mike Sullivan, Connorstone Engineering; Neale Laurence, 113 West Main Street; Kiera Piscia, 32 Westbrook Road; Tom Kannally, 3 Liberty Drive; Pam Longenbach, 3 Liberty Drive; Fran Bakstran, 76 Cedar Hill Road; Janet Cason, 40 Westbrook Road; Travis Cormier, 19 Westbrook Road; Jeanne Black, 67 Smith Road; Tom Haranas, 20 Westbrook Road; Madeline Austen, 20 Westbrook Road; Paul Coccaro, 27 Westbrook Road; Richard E. Richie, 24 Westbrook Road; Norman E. Knipe, 10 Westbrook Road; Richard Annis, 14 Westbrook Road; Joan R. Leavitt-Brooks, 3 Westbrook Road; Scott Mahoney, 9 Assabet Hill Circle; Heidi Bourque-Gleason, 23 Westbrook Road

Chairman Rand called the meeting to order at 7:03PM.

Public Hearing to consider the petition of Kendall Homes, Inc. for a Variance/Special Permit/Special Permit Site Plan Approval/Special Permit Groundwater Protection Overlay District to allow construction and use of a horizontal mixed-use development containing 8 residential dwelling units and 10 office units, with less than the required distance of a parking area to the front property line and within Groundwater Protection Overlay District Area 3, on the property located at 269-273 West Main Street

Michael Sullivan of Connorstone Engineering discussed plans for the site. He explained that there are currently two single family homes located on these two lots, which will be demolished for the construction of a mixed-use development. He noted that the 1.7 acre parcel has 150 feet of frontage on King Street and 278 feet of frontage on Route 20, the topography is fairly gradual, and the lot is located in the Business West zone. Mr. Sullivan explained that the proposal is to construct a total of four buildings, three of which will be 30' x 90' and the fourth to be 30' x 60'. He noted that the buildings will house office space on the first floors and two apartments each on the second floors, with 61 parking spaces provided on the plans.

Mr. Sullivan discussed the stormwater management for the project, which was designed for the 100-year storm event, and utilizes deep sump catch basins, cultech units, and a stormceptor. In the unlikely event of a 500-year storm, Mr. Sullivan indicated that the water will exit to a rip rap swale and flow to the large wetland behind the adjacent plaza.

Mr. Sullivan explained that the use of deep sump catch basins and the stormceptor will improve the quality of the water discharging into the ground, which is important given that this site is located in the groundwater 3 district. He stated that the project will be served by town water and sewer, with an 8" water main to be installed under Route 20. He also noted that the applicant is proposing to use irrigation wells, which will require approval from the Board of Health.

Mr. Sullivan confirmed that there will be sufficient sight distance in both directions, with a distance of 375 feet to the west and over 500 feet to the east. He also noted that the applicant has agreed to connect his development with the neighboring shopping center via a 5 foot walkway as was requested by the Planning Board.

Mr. Sullivan discussed the comment letter submitted by the Fire Chief, which included the following:

1. Water Main – The Fire Chief requested that the 6-inch water main be increased to 8 inches, to which the applicant has agreed.
2. Sprinkler system – There is a difference of opinion between the consultant and Fire Chief, but the applicant will continue to work to resolve this issue.
3. Hydrant – acceptable as planned, however, more hydrants will be needed if there are to be sprinklers installed.
4. Emergency Equipment loading – The Fire Chief emphasized the importance of ensuring that the subsurface infiltration area be able to accommodate the loading associated with the fire truck. Mr. Sullivan stated that the system was tested and is sufficient for up to 78,300 pounds. He noted that the truck is 73,000 pounds, so this should not be an issue.
5. Turning radius for Fire apparatus – The Fire Chief requested assurances that the emergency apparatus will have accessibility to all buildings and will be able to travel around the landscaping island. Mr. Sullivan confirmed that this should not be a problem.

Mr. Sullivan also discussed requests from the Groundwater Advisory Committee (GAC) as follows:

1. Concerns were voiced about storage and generation of hazardous materials. Mr. Sullivan stated that there should be no issues with hazardous materials but since there are not yet any confirmed tenants, he cannot specifically address the matter at this time.
2. Two permeability tests are to be done prior to construction. Mr. Sullivan confirmed that these will be scheduled with the Town Engineer.
3. The GAC requested some revisions to the Operations and Maintenance Plan for the stormwater management system. Mr. Sullivan confirmed that the changes were made as requested and have been included in the packet provided.

Mr. Rutan asked if the project will include central air conditioning, so that there will be no unsightly air conditioning units protruding from the apartment windows. Mr. Black confirmed that the project will have central air, and will be built as an energy star rated project. Mr. Rutan also asked for confirmation that there will be no runoff flowing out to the street. Mr. Sullivan explained that the elevations slope down from the entrance, and everything will be directed to the basins onsite.

Mr. Byun asked if any traffic studies were done. Mr. Black indicated that there were not. Mr. Rutan asked about lighting for the project. Mr. Black stated that there will be wall packs on the buildings and some parking lot lights. Mr. Rutan asked if there are any lights proposed on the backs of the buildings. Mr. Black confirmed that there will wall packs to provide sufficient lighting for the apartment residents.

Chairman Rand questioned trash disposal. Mr. Black indicated that there will be an onsite dumpster. Chairman Rand requested that the dumpster be screened from view. Mr. Rutan asked about snow removal. Mr. Sullivan stated that there are some snow storage areas shown on the plans, but that heavy accumulations will need to be trucked offsite.

Mr. Rutan asked if the dwelling units will be sold or rented. Mr. Black indicated that they will be rented, and he will maintain them himself.

Ms. Joubert noted that the Design Review Committee (DRC) met and reviewed the revised plans, which incorporate all of the comments and requests they made. She noted that the only remaining question that she has is about the landscaping plan. Mr. Black stated that he is waiting for input from one of the members of the DRC before he can proceed.

Mr. Rutan asked about the location and specifics for signage. He also asked if the sign will be located on the property such that the sight lines will be maintained. Mr. Sullivan confirmed that it will. Chairman Rand asked if some of the parking spaces are labeled for compact cars. Mr. Sullivan indicated that there are ten parking spaces for compact cars along the front of the development.

Mr. Farnsworth stated that the issue of the sprinkler system is a building code issue and will be addressed within the building permit process.

Richard Richie, 24 Westbrook Road, asked about the impact this project will have on town residents, specifically with regards to the increased demand on police, fire, and the school system. He also asked if there is an impact fee imposed on the developer to offset the increased load on these services. Mr. Sullivan voiced his opinion that two-bedroom units should not produce a tremendous number of children, and that a small development such as this should not have a great impact on the police and fire departments. Chairman Rand indicated that there is no impact fee imposed. Mr. Sullivan noted that there will be a substantial tax bill associated with this development, which he reiterated is allowed under the zoning bylaw.

Heidi Bourque, 23 Westbrook Road, asked which school district this project will impact. She noted that these apartments could potentially house children, and voiced concern because the schools are already overburdened. Attorney Jeff Leland commented that this development will replace two existing single family homes, so the likelihood that there will be an increased impact to the schools is quite slim.

An audience member asked if the applicant has retailers ready to occupy the project, and noted that there are quite a few retail properties in town that are vacant. She also noted that this is located along a very busy stretch of Route 20 and asked if there are any plans to have a traffic assessment done. Chairman Rand commented that a traffic study is not required.

Mark Rutan made a motion to close the hearing. Craig Gugger seconded, vote unanimous.

Public Hearing to consider the petition of Brendon Homes, Inc. for a Variance/Special Permit/Special Permit Site Plan Approval to allow the construction and use of a multi-family residential development consisting of 12 dwelling units in 4 buildings on the property located at 5 Westbrook Road

Mike Sullivan from Connorstone Engineering discussed plans to demolish the existing single family home and construct four tri-plexes on this 1.2 acre parcel, which is located in the Downtown Business zone. Mr. Sullivan noted that the 12 dwelling units are allowed under the current zoning bylaw.

Richard Kane arrived.

Mr. Sullivan noted that the existing drainage pipe is too small, has been crushed, and currently overflows onto Route 20, and indicated that Mr. Giblin has agreed to reconstruct it and install an 18-inch pipe. He also noted that 31 parking spaces will be provided, which slightly exceeds the requirement of 27 spaces.

Mr. Sullivan confirmed that town sewer and town water are already available on the property, and stated that the existing hydrant will be replaced and punched behind the curb. In addition, a second hydrant will be provided at the end of the line as requested by the DPW and Fire Chief. Mr. Sullivan stated that the zoning bylaw requires 15% open space, but the project provides 61%.

Mr. Sullivan noted that a 4-inch drain is proposed on the upgradient side of the parcel. He commented that water flows toward Route 20, and that the water issues associated with the lot's downgrading will actually be improved with the new development.

Mr. Sullivan discussed the Fire Chief's comment letter, and highlighted his requests as follows:

1. Sprinkler System – Mr. Sullivan noted that this issue is still being worked out with the Fire Chief and the Building Inspector.
2. Hydrants – the applicant has agreed to the requests regarding hydrants on the property.

3. The Fire Chief requested a bulb shaped turn-around at the end of the cul-de-sac. Given that the roadway will remain private and functions as a driveway just for these units, the applicant is proposing to stay with the wide turnaround as shown on the site plan. Mr. Giblin noted that the roadway as currently designed can accommodate any turning radius so he feels that the project is within the spirit of the new zoning and the desired “village” affect.
4. Fire suppression system - Mr. Farnsworth commented that all townhouses are required to have sprinklers per the 8th edition of the State Building Code. Mr. Giblin stated that sprinklers will be installed if required. Mr. Farnsworth noted that a hydrant is required within 100 feet of a fire sprinkler system. Mr. Giblin agreed to install additional hydrants, as necessary, to comply with town requirements.

Mr. Giblin voiced his understanding that the only open issue is the sprinkler system, but noted that he will install one if required to do so. He commented that he and his team spent a great deal of time designing a project that would fit with the character of the town and be in line with the quality product that he builds. He also noted that the landscape plan was designed to include a mature look and a considerable amount of opaque screenings. He reiterated that there was a great deal of effort to ensure an attractive development.

Chairman Rand commented that there are three visitor parking spaces that do not appear to be shown on the plans. Mr. Sullivan explained that these spaces were recently added, and that the plans will be updated to include them.

Chairman Rand asked about trash disposal for the development. Ms. Joubert noted that this matter will need to be worked out with the Engineering Department. Mr. Gugger asked about the size of the retaining walls and if they will be exposed to the abutters. Mr. Sullivan confirmed that they will be, and indicated that they will be between 4 and 6 feet high. Mr. Gugger asked about the material to be used. Mr. Sullivan indicated that they will use blasted rock, if available, or block versa lock with a stone finish.

Mr. Byun asked about elevations, and voiced concern about what will be seen from Route 20. He commented that the back of the units will be very high up and very visible. Mr. Giblin suggested that he could add brows on the windows to improve the aesthetics. Chairman Rand suggested additional trees on the backside to break up the façade a bit.

Mr. Farnsworth asked if there is any way to construct the wall with less than a four foot differential, perhaps with some staggering.

Ms. Joubert informed the board members that the Design Review Committee did not provide a comment letter because they agreed with the plans as submitted.

Mr. Gugger asked about the fence along the retaining wall for building #1. Mr. Sullivan indicated that there is an existing chain link fence. Mr. Gugger asked about using a 6-foot privacy fence with a lattice topper.

Neale Laurence, 113 West Main Street, asked when the zoning was changed for this parcel. Chairman Rand explained that the new zoning bylaw was approved at the 2009 Town Meeting.

Kiera Piscia, 32 Westbrook Road, asked Mr. Giblin what his plans are for the project. Mr. Giblin explained that he plans to sell the units. Ms. Piscia asked how this development will affect the property values in the neighborhood of single family homes. Mr. Giblin voiced his opinion that the affect should be positive, and the new development will be an asset to the neighborhood and to the community.

Heidi Bourque, 23 Westbrook Road, asked what the pricing will be for the units. Mr. Giblin stated that the units will be marketed between \$299,000 and \$329,000, depending on the location within the development. Mr. Giblin commented that he could have built larger, more expensive units, but he believes this plan is a better fit for the area, the homeowners and the community. Ms. Bourque asked Mr. Giblin why he believes this is better for the neighborhood, when a realtor recently told her that this project will diminish her property value. She voiced concern that a 12-unit project on a 1.25 acre parcel will be so crowded that it will look like a tenement. She stated that this project is not in line with the neighborhood of small, single family homes that it abuts.

Ms. Bourque also voiced concern about the increase in traffic. She reiterated her opinion that this project is pushing the limits, and does not belong in this neighborhood. She also commented that all of the construction being done along Route 20 is insane.

Fran Bakstran, 76 Cedar Hill Road, voiced concern about the construction of these apartments in a neighborhood where most homes are a single story. She also commented that there is no benefit to the neighborhood that this project could provide that would outweigh the adverse affects.

Mr. Rutan asked if the condominiums will be sold as individual units. Mr. Giblin confirmed that they will be.

Resident of Westbrook Road, commented that the common theme is that the space is too tight for the proposed development. Mr. Giblin noted that the project is designed to be a downtown village, and reiterated that his proposal is allowed under the zoning bylaw. He also commented that, if the project is executed well, the results can be very positive.

Janet Cason, 40 Westbrook Road, voiced her opinion that 12 units on this small parcel is excessive and asked if it is possible to reduce the number of buildings. She also voiced concern about the traffic impacts. Mr. Giblin stated that the project as designed is what he needs to realize an appropriate return on his investment. Mr. Sullivan indicated that the sight line in both directions is acceptable and meets all standards.

Paul Coccari, 27 Westbrook Road, commented that the proposed buildings will have the appearance of a monster barracks sitting on the site with no screening and will be compounded by the elevations of the property in relation to Route 20. He also questioned where trash and

recycling will be located if the project is to utilize town services. Ms. Joubert reiterated that the issue of trash and recycling will be handled by the Engineering Department.

Travis Cormier, 19 Westbrook Road, asked if there are plans to include any security lighting. Mr. Giblin commented that he intentionally omitted any security lighting. Mr. Cormier commented that headlights from cars entering the property currently glare into his bedroom window, and the situation will be worse with the increased traffic from this project. Mr. Giblin voiced his opinion that the trees and screening within the project will deflect much of the glare.

Joan Leavitt-Brooks, 3 Westbrook Road, noted that a privacy fence was agreed to at the meeting of the Design Review Committee and asked if it will be installed along the entire rear of the project. Mr. Giblin confirmed that it will be installed along the back lot line. Ms. Leavitt-Brooks commented about the view from her small ranch, and stated that this is not in line with the current neighborhood. She reiterated that the excessive size and height of these buildings do not fit into the neighborhood or the community. She also questioned whether the road can handle the anticipated increase in traffic.

Ms. Leavitt-Brooks voiced extreme concern about being able to sell her home in the future, considering the overwhelming building located in such close proximity. She reiterated that a project of this magnitude is excessive for this lot.

Resident asked why the buildings need to be so tall. Mr. Giblin stated that the buildings as designed fit into the lot and provide the desired number of bedrooms and square footage. Ms. Leavitt-Brooks commented that the average house in the neighborhood is 950 square feet, so these units are huge in comparison.

Scott Mahoney, 9 Assabet Hill Circle, asked Mr. Giblin why he could not eliminate the fourth building and add the turnaround that the Fire Chief requested. Mr. Giblin reiterated that he does not want a turnaround in the project. Mr. Mahoney voiced concern that there is not adequate access for emergency vehicles. Mr. Mahoney asked what benefit this projects provides to the town and to the neighborhood. Mr. Giblin stated that the project provides affordable multi-family units in the downtown area, and reiterated that the project fits within the existing zoning and meets the spirit and intent of the recent zoning changes. Mr. Mahoney asked the board to consider how unsightly the back of the three buildings will be, given that they will be sitting above everything else and visible from Route 20. Mr. Sullivan commented that the fencing and trees will mask some portion of the buildings.

Ms. Bakstran noted that Mr. Giblin has not yet answered the questioned of how this project benefits the town and the neighborhood. She commented that the proposed 300 foot driveway is massive compared to the other properties in the neighborhood, and reiterated that she sees no benefits that outweigh the adverse affects.

Ms. Bourque suggested that the applicant should answer the question about what benefit this project provides to the neighborhood. While she understands that the property is zoned for what is being proposed, she still feels that the buildings are way too tall for the site. Ms.

Bourque suggested that removing the garages and reducing the number of floors would bring the project more in line with the area.

Mr. Giblin commented that the units need to have a garage to be marketable. Ms. Leavitt-Brooks reiterated the neighbors' questions about the benefit to the neighborhood and concerns that it will have overwhelming adverse impacts. Mr. Giblin reiterated that the project fits within the zoning, and the units provide housing that is not currently being provided.

Mr. Mahoney asked the board to explain the variance that is needed. Chairman Rand explained that there is no variance needed, just a special permit to allow. Resident asked the board to explain how the zoning can allow 12 units on such a small parcel. Mr. Sullivan explained that the bylaw requires 10,000 square feet for the first two units and 3500 square feet for each additional unit, up to a maximum of 12 units. He noted that the calculation would allow 14 units but the maximum is 12.

Ms. Bakstran commented that she sat on the Zoning Bylaw Change Committee, and the objective was to support small multifamily homes to encourage a walking downtown. While she realizes that this parcel is zoned for such a project, the fact that it abuts a small residential neighborhood should have some bearing. Ms. Bakstran reiterated that the project does not work for this particular parcel.

Mark Rutan made a motion to close the hearing. Craig Gugger seconded, vote unanimous.

Public Hearing to consider the petition of Peterson's Oil Service, Inc. for a Variance/Special Permit/Special Permit Groundwater Protection Overlay District to extend the non-conforming use of a gas station by removing and replacing the existing gas kiosk with a new gas station, in Groundwater Protection Overlay District Areas 2 and 3, on the property located at 23 Belmont Street

Attorney Phil Leader explained that the applicant is seeking two special permits; one to allow for expansion of a nonconforming structure and a second under the groundwater protection overlay district. Attorney Leader explained that the project is a continuation of a gasoline service station that was previously operated by CK Smith. He noted that the existing pumps are perfectly fine and will be used by the new owner. He also noted that the existing kiosk will be demolished and replaced with a new 30'x30' kiosk that will include a new ADA approved bathroom facility and locker rooms for the employees. Attorney Leader stated that there is no convenience store to be included as this is not part of the new owner's business model.

Attorney Leader highlighted the proposed additions/changes as follows:

1. Construction of a new 30' x 30' kiosk
2. Removal of existing tanks and installation of three new 20,000 gallon, double-walled underground tanks
3. The existing canopy is to remain, but work may be needed to control runoff
4. A drainage plan as requested by the Groundwater Advisory Committee (GAC).

5. Creation of a short term snow storage area.

Attorney Leader noted that the entrances and egresses will remain the same.

Mr. Dixon explained that the existing tanks will be pumped out and disposed of at a licensed facility, after which an environmental Licensed Soil Professional (LSP) will screen the soils and ensure that any contaminated material is excavated out, stockpiled onsite, and transported to a licensed facility for disposal. He noted that the new tanks will be double-walled fiberglass tanks, with an alarm system to alert the operator of any faults. Mr. Dixon stated that Mr. Peterson will also incorporate tank gauging so that he can view the tank conditions from his home, make sure that the leak detection system is working, and respond to any alarms or situations as soon as they occur. Mr. Dixon also explained that the new tanks and all product piping is double-walled, with the product piping pitched back toward the tank. He stated that the tank and line testing are done automatically by the system, and there are sensors that shut down the pumps if the water table gets too high. In addition, he noted that there is an 8-inch concrete reinforced pad on top of the tank, all electrical components have explosion proof fittings, and there are containment structures underneath all dispensers to catch anything that spills before it can infiltrate into the ground.

Mr. Dixon reiterated that the canopy will be evaluated, and commented that he believes it can be salvaged. He also noted that the existing fire system will be recertified. The business will employ fully trained, full service attendants, and there will be yearly testing of all tanks.

Mr. Dixon stated that the depression in Lawrence Street will be fixed in conjunction with this project. He also noted that the applicant plans to re-use the existing septic system, utilize electric heat, and install new concrete on the island and new area lights.

Chairman Rand asked about utilizing town sewer. Mr. Dixon stated that it is not available at the site.

Mr. Rutan asked if traffic will still be able to cut through the site between the motel and Lawrence Street. Mr. Dixon suggested that the applicant may install some areas of curbing to prohibit this. Mr. Peterson confirmed his understanding that restaurant patrons leave via his property to Lawrence Street.

Mr. Farnsworth noted that the board had received a comment letter from the Groundwater Advisory Committee indicating their approval with some conditions that the applicant has agreed to meet.

Chairman Rand asked if the property is served by town water. Mr. Dixon confirmed that it is.

A gentleman from 15 Belmont Street stated that he is pleased to hear that the steel tanks will be removed and replaced with double-walled tanks.

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

DECISIONS:

23 Belmont - Mr. Rutan commented favorably about the proposal to remove the old tanks, improve the property and make it useable again. Chairman Rand agreed.

Mark Rutan made a motion to grant a special permit to allow the expansion/alteration of a nonconforming structure. Richard Kane seconded, vote unanimous.

Mark Rutan made a motion to grant a special permit under the Groundwater protection overlay district with the following conditions as requested in the GAC comment letter dated July 22, 2011:

- The applicant has agreed to submit a complete site plan with a drainage analysis to include as much recharge as possible; this plan shall be reviewed and approved by the Town Engineer and the Groundwater Advisory Committee prior to the issuance of a building permit.
- An operation and maintenance plan shall be provided with any proposed drainage system.
- The application includes a letter from a Licensed Site Professional indicating the existing Underground Storage Tanks (UST) will be replaced with double walled tanks with monitoring, piping with secondary containment, product dispensers equipped with sumps and an automatic tank gauge monitoring system. The applicant's representative, Dixon, Inc. has submitted the attached document which the Groundwater Advisory Committee recommends be added to any approval as conditions. (include copy of 4 page document as condition)
- An as-built site plan shall be submitted to the Town Engineer for approval prior to the issuance of a certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (U.S.G.S. Datum of 1988).

Richard Kane seconded, vote unanimous.

269 West Main Street – Mr. Byun voiced his opinion that there are no adverse affects from the proposed construction, but he has some concerns about the increase in traffic. Mr. Rutan noted that there is a traffic signal in close proximity to help control traffic backups. He also commented that he rarely sees anyone having difficulty trying to exit the neighboring shopping plaza.

Mr. Rutan voiced support of the proposed mixed-use project, combining affordable residential space with office space. Mr. Byun agreed that this is preferable to a mall-type structure that is deserted at night. Mr. Gugger commented that the way the buildings are broken up gives the project a nicer feel. Chairman Rand reiterated his request for screening around the dumpster. Members of the board agreed, but also stipulated that the screening be something other than chain link fencing.

Mark Rutan made a motion to grant a special permit with site plan approval per the architectural plans dated July 7, 2011, revised July 19, 2011 and with the condition that there be screening installed around the dumpster of a material other than chain link fencing. Craig Gugger seconded, vote unanimous with Richard Kane abstaining.

Mark Rutan made a motion to grant a special permit under the Groundwater Protection Overlay District with the following conditions as noted in the GAC letter dated July 22, 2011 and also that it conforms to the architectural plans dated July 7, 2011, revised July 19, 2011.

- At least two permeability tests should be performed to verify the infiltration rates assumed for the sizing of the subsurface infiltration system. These tests should be performed prior to the start of construction in order to allow for any changes to the plan.
- The Operation and Maintenance Plan shown in the Stormwater Report should be incorporated into any approval and should be submitted to and approved by the Town Engineer. The Operation and Maintenance Plan shall be revised to include the following:
 - The Town Engineer shall be notified before the work is performed and shall be afforded the opportunity to inspect the work.
 - The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract, all inspection reports and invoices for the work performed. All material removed from the drainage system shall be disposed of offsite.
 - The Operation and Maintenance plan should be part of the decision by the Zoning Board of Appeals so that it will be recorded at the Worcester Registry of Deeds and become a permanent part of the chain of title.
- An as-built site plan shall be submitted to the Town Engineer for approval prior to the issuance of a certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (U.S.G.S. Datum of 1988).

Craig Gugger seconded, vote unanimous with Richard Kane abstaining.

Mark Rutan made a motion to grant a special permit for use. Craig Gugger seconded, vote unanimous with Richard Kane abstaining.

5 Westbrook Road - Ms. Joubert explained that the Town's Noncriminal Disposition bylaw stipulates that no board permit may be issued until all outstanding taxes have been paid. She noted that town staff provides a copy of each board's meeting agendas to the tax office so that they can determine if any taxes are owed on any of the properties. In this particular case, there are significant taxes owed on this property, though not by this applicant. Ms. Joubert explained that the applicant is aware that taxes are owed on the property and indicated earlier tonight that he would take care of it immediately. Mr. Farnsworth commented that he also has the authority to withhold a building permit until the tax issue is resolved.

Mr. Byun commented that, while he really appreciates the concerns voiced by the abutters, he also recognizes that this is an allowable use and that the proposed development is in line with the master plan and meets the objective of recent zoning changes. He noted that it is unfortunate that the site is in a transitional area between the downtown business zone and a low lying residential zone, but the project is appropriate for the site. He also voiced his opinion that any impacts to the neighborhood do not outweigh the benefit to the town.

Mr. Byun also stated that he does not believe the construction of these 12 dwelling units will increase traffic to a level that would be considered a hazard. Mr. Rutan agreed that there will be no safety concerns with the increased traffic, but voiced his opinion that the height and density of the buildings on the lot will have a serious negative effect on the neighborhood. Mr. Gugger reiterated that the recent zoning changes were made specifically to accommodate this type of project and the time to fight it was when the zoning was being changed. He also commented that there will always be impacts to abutters in the transition area, but it is difficult to require the applicant to change his design when the project is in compliance with the zoning bylaw. Mr. Gugger suggested that perhaps larger trees or a greater number would be beneficial. Mr. Rutan reiterated that the project is a long row of large buildings that will be unsightly from Route 20 and for the neighbors.

Mr. Byun commented that there are numerous three-story buildings along our Main Street, so he does not have an issue with the building heights. He did, however, voice concern about the back elevation given their close proximity to abutting properties.

Chairman Rand agreed with Mr. Rutan's concerns about the height and density of the buildings. He commented that this lot should have been part of the residential zone and not included in the downtown residential district. Mr. Gugger reiterated that the project is permitted under the current bylaw. Mr. Byun stressed that the project fills a need for affordable housing in town.

Ms. Joubert informed the board that the issues raised in the Fire Chief's comment letter are all things that will be addressed during the building permit process.

Mr. Rutan voiced concern that the three visitor parking spaces could interfere with the turnaround for emergency apparatus. Ms. Joubert stated that those three spaces are not necessary, as the applicant can meet the parking requirement without them.

Chan Byun made a motion to grant a special permit with site plan approval to allow the construction and use of 12 dwelling units in 4 buildings per the architectural plans prepared by Connorstone Engineering dated July 2011 and the landscape plans dated July 5, 2011. Richard Kane seconded, vote unanimous.

Chan Byun made a motion to grant a special permit to allow the construction of single family attached dwellings. Craig Gugger seconded, vote unanimous.

239 Hudson Street, Dunia Gardens – Ms. Joubert explained that the board has received a request for a 2-year extension of the Comprehensive Permit decision dated August 29, 2006, which is due to expire on August 29, 2011.

Richard Kane made a motion to grant a two year extension. Craig Gugger seconded, vote unanimous.

August 23rd meeting – Ms. Joubert stated that there is one application for the August meeting, which is an appeal of the Cease and Desist Order for 429 Whitney Street. Members of the board discussed the location for the meeting and agreed to hold it at Town Hall.

Review of Minutes of the Meeting of May 24, 2011 – Ms. Joubert stated that Chairman Rand had no issues with the minutes as written.

Mark Rutan made a motion to accept the Minutes of the Meeting of May 24, 2011 as submitted. Richard Kane seconded, vote unanimous.

Review of Minutes of the Meeting of June 28, 2011 – Richard Kane stated that he saw no issues with the minutes.

Mark Rutan made a motion to accept the Minutes of the Meeting of June 28, 2011 as submitted. Richard Kane seconded, vote unanimous.

Adjourned at 9:56 PM.

Respectfully submitted,

Elaine Rowe

Board Secretary