

MINUTES OF MEETING OF ZONING BOARD OF APPEALS

Date of Meeting: October 13, 2010

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30 P.M.

II. ROLL CALL

Members Present: Mike Martin, Chairman Pro Tem
Mary Scarsciotti, Clerk
Richard Secher
Wilma Engerman, Associate Member

Members Absent: Ken Ferreira
David Sharkey

III. PRELIMINARY BUSINESS

A. Vote Needed: No meeting November 24, 2010 (Day before Thanksgiving).

MOTION: A motion was made & seconded to hold *no* ZBA meeting on November 24, 2010.

VOTE: Unanimous (4-0-0)

B. Discussion re: 815 Main Street.

Present before the Board: Anissa Leon, JK Scanlon

Mr. Martin recalled there were several conditions that needed to be met before the Board issued the remainder of the occupancy permits. He asked Ms. Leon to refresh the Board on this matter.

Ms. Leon explained the Board wanted a letter from Hancock Associates stating that everything was complete. Mr. Martin stated the Board does have a letter from Hancock Associates dated September 30, 2010. He questioned if this is the completion letter Ms. Leon is speaking about because it looks more like a letter dealing w/ roadway & drainage matters. He asked if Ms. Leon has any documentation from the Town Planner stating he is all set w/ everything. Ms. Leon stated she didn't. She noted speaking to the Town Planner today & she assumed he was to be present at this meeting.

Mr. Martin asked Ms. Leon what buildings she was looking for approval for now. Ms. Leon stated buildings 5,6,7, & 8. Mr. Secher asked if there were tenants in these

buildings now. Ms. Leon stated there were not, but she has tenants ready to move in buildings 6 & 8 for Friday.

Ms. Engerman asked if Ms. Leon had certificates of occupancy for those buildings (6 & 8). Ms. Leon stated she spoke to the Town Planner & was told as long as they had the certificates of occupancy, which he did not think she had, but she does, she is only requesting the buildings that she has certificates of occupancy for. She is not requesting anything else. She is not requesting the release of the bond, she is just asking for buildings 5,6,7, & 8. Mr. Secher stated he wouldn't recommend release of the bond anyway until the project is completed.

Ms. Scarsciotti asked how many units are occupied. Ms. Leon stated there are seven units occupied. Ms. Scarsciotti asked how many more people are expected to move into the other two buildings referenced. Ms. Leon stated four, before the Board's next meeting.

Ms. Scarsciotti asked re: the status of the landscape plan. She noted the three signs that are out front which are just plywood w/ 2x4's & are highly unattractive from the street. Ms. Leon stated these signs could be taken down. She noted on their original plan, it did not show any permanent type of signage. She is looking into putting a permanent sign up, but this is something that will be brought before the Board at a later time.

Ms. Scarsciotti asked how the landscape plan intends to disguise or obscure or visually enhance the electrical service box out front. Ms. Leon stated there are some bushes there. Ms. Scarsciotti disagreed & stated she was just there four to five hours ago & there is nothing there. Ms. Leon stated that they can add some bushes. She added that all the landscaping that was on the plan is in place.

Mr. Martin noted the difficulty & time consuming nature of dealing w/ NSTAR. Brief discussion ensued. It was stated that it is not NSTAR anymore, but National Grid & a management change is going on.

Mr. Martin noted concerns of some of the Board members re: the aesthetics of the property which may or may not be in Ms. Leon's control. He noted the electrical box in the front of the property was a surprise & there is another box in the middle of the site in which the members are not pleased with.

Mr. Martin clarified the request from the Board to grant certificates of occupancy for buildings 5,6,7, & 8. Ms. Leon stated this is correct.

Mr. Martin asked if there are any issues w/ the Building Inspector or Hancock Associates relative to the issuance of these certificates of occupancy for these four buildings. Ms. Leon stated there are no issues. Mr. Martin asked if there has been any communication from the Town Planner relative to any issues because the Board doesn't have any information from the Town Planner saying not to issue the certificates of occupancy. He suggested one contingency relative to issuing the certificates of occupancy would be to

vote to issue them pending giving 48 hours notice to the Building Inspector, Hancock Associates, & the Town Planner to come forward w/ any issues they may have prior to the issuance. Ms. Leon stated she spoke to the Town Planner this afternoon & the Town Planner is not going to release the bond.

Mr. Martin asked how many more buildings are left to go. Ms. Leon stated building 4 & 9. Mr. Martin noted that building 9 is a large one. He asked if building 1,3,9, & 10, 2 & 4 have certificates of occupancy yet. Ms. Leon stated no. She has some signoffs, but not all are complete. She stated building 2 is the clubhouse & building 4 is a 4-unit, building 5 is a 3-unit, & building 6 is a 5-unit, & buildings 7 & 8 are a 5-unit.

Mr. Martin asked the Board if they have any issues or concerns approving the certificates of occupancy for buildings 5,6,7, & 8 w/ the understanding that it is the applicant's responsibility to get the Board a release from the Building Inspector, Hancock Associates & the Town Planner w/in 48 hours. Mr. Secher asked how the Board will do this. Mr. Martin explained this will be recorded (for the Planning/Zoning office staff) & Ms. Leon will coordinate w/ the three entities stated to make sure they don't have any problems. Ms. Leon can report back to the ZBA secretary if there are any problems or not.

Ms. Engerman expressed some concerns. She stated Ms. Leon is seeking certificates of compliance for building permits that are here. The building permits are here & they have sign-offs, but they are not all signed off on. Mr. Martin feels this is a matter for the Building Inspector.

Ms. Engerman stated she has received complaints from some new tenants, such as the installation of bathroom fixtures being loose & if the door to the furnace room is opened up, there is paper & plastic flying around that was up in the heating unit. Mr. Martin stated this all may be true, but it is not w/in the prevue of the Board. Ms. Engerman asked why some of these permits are signed off then if there are problems. Mr. Martin stated that no inspector inspects everything. There are certain items that need to be dealt w/ and handled by the management company & the tenant. Ms. Leon advised the Board that they have received a few calls & things have been taken care of. Mr. Martin stated every new project has its punchlist to take care of. He noted what Ms. Engerman is stating may be true & a valid concern, but whether or not it is significant enough for the Board to not grant Ms. Leon's request for certificate of occupancy is another matter.

Mr. Martin clarified that there is now an understanding that Ms. Leon will verify w/ the ZBA secretary that there are no issues w/ the Building Inspector, Town Planner, & Hancock Associates prior to the Building Inspector issuing the final certificates of occupancy for buildings 5,6,7, & 8. Ms. Leon concurred.

Ms. Scarsciotti feels it should be added that the bond is *not* to be released. She would also like to see some kind of landscape panel for the front area. Mr. Martin feels Ms. Leon is getting the idea that some Board members have issues w/ aesthetics & need to be addressed. Ms. Leon stated she will take care of these issues.

MOTION: Mr. Secher moved to conditionally grant the certificates of occupancy for 815 Main Street, buildings 5,6,7, & 8 pending final approval of the Building Inspector, Hancock Associates, & the Town Planner through the ZBA secretary within 48 hours. Mr. Martin seconded.

VOTE: (3-1-0)
Ms. Engerman opposed

Ms. Engerman stated she is opposed to this motion because there is no Hancock Associates report & she also feels the Planning Dept. should get that approval. Ms. Scarsciotti explained that the approval is based upon pending receipt of a letter from Hancock Associates w/in 48 hours .

Mr. Martin stated there is a majority vote in the affirmative & that is all that is needed for this kind of action. It is an administrative action. It is not a Special Permit nor a Variance. It is strictly an administrative action. A majority vote carries the motion & everything is all set.

IV. PUBLIC HEARINGS

A. #16-10 – South Coast Hospital Group – 44 Church Avenue

Present before the Board: Representatives of Atlantic Design Engineers

Mr. Martin advised the representatives that only four ZBA members are in attendance & the applicant has a right to have a five member Board present.

Brief discussion ensued re: Special Permits & Variances & super majority votes, 40A, Section 9. The representatives stated they would like to continue the public hearing until a full Board is present.

The public hearing notice was read into the record.

Brief discussion ensued re: the Mullin Rule.

MOTION: Mr. Secher moved to continue the public hearing for petition #16-10 – South Coast Hospital Group to October 27, 2010. Ms. Scarsciotti seconded.

VOTE: Unanimous (4-0-0)

B. #17-10 – Joseph & Mary Walsh – 22 Fourth Street, c/o Lockwood Architects

The public hearing notice was read into the record.

Present before the Board: Bill Lockwood, Lockwood Architects

Mr. Lockwood described the proposed project. The proposal is to lift the main (center) portion of the existing house off its concrete block pier foundation & replace it w/ a new poured concrete foundation w/ basement underneath; to demolish & replace the front porch; & to demolish the single story section of the rear of the house replacing it w/ a one and one half story section. There will be no increase in the footprint. Having presented evidence in an "Existing Conditions Plan" by J.C. Engineering, dated August 31, 2010 and information describing the reconstruction, it is proposed the reconstruction is to remain within the existing footprint.

Brief discussion ensued.

No-one from the audience spoke in favor or against the petition.

MOTION: A motion was made & seconded to close the public hearing for petition #17-10 – Joseph & Mary Walsh – 22 Fourth Street.

VOTE: Unanimous (4-0-0)

MOTION: A motion was made & seconded to grant a Special Permit for petition #17-10 – Joseph & Mary Walsh – 22 Fourth Street, under Article 13, Section 12 in the OV2 district as shown on Assessors Map 1, Lot 644B based on the following:

- The proposal is appropriate for the zone.
- Use would not be out of character w/ surrounding properties, nor have an adverse effect on the neighborhood.
- The restriction, as applied to this parcel, imposes an unnecessary hardship not shared by the majority of properties in this zone and that strict enforcement would fail to accomplish a legitimate public goal.
- Strict enforcement of the standard would be unreasonable.

Further, the request is granted w/ the following conditions:

- In consideration of the October 2, 2010 abutters letter:
 - the property line is to be surveyed and staked
 - a construction fence is to be installed
- Notice is to be sent to the Yarrington's 10 days prior to the construction start date by Certified Mail w/ Return Receipt.
- Prior to demolition, existing setbacks to be measured by the Building Inspector to confirm existing setbacks.
- Upon completion, an "As-built" drawing is required.

VOTE: Unanimous (4-0-0)

V. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting at 7:20 P.M.

VOTE: Unanimous (4-0-0)

Date signed: 11-10-10

Attest: Mary Scarsciotti
Mary Scarsciotti, Clerk
WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: 11-12-10 (b/s)