

Minutes of the Meeting
And
Public Hearings on the Petitions of
1) Ellen Kelleher - Special Permit, 2) Paul J. Menard – Variance,
3) Freedom Worship Center – Administrative Appeal,
4) FWC Charitable Enterprise Franklin Street 40-B, and 5) Gerardo Sarli – Variance

September 7, 2006

Present: Matthew Colangelo, Chairman Philippe W. Chevalier, Vice Chairman, Charles C. Witkus, Clerk, Barbara M. Deschenes, and Associate members Paul W. Hennessey and Linda Ann Isgro

Mr. Colangelo called the meeting to order at 7:15pm in the Selectman's Meeting Room. He introduced Board Members and explained the public hearing procedure.

Petition of Ellen Kelleher – Special Permit

Mr. Colangelo opened the public hearing by reading notice of the hearing and the petition. There were five signatures on the sign-in sheet.

Mr. Robert Smith stated that when the parcel was surveyed, it was discovered that the neighbor's (Supenor) driveway was on the Kelleher property. Mr. Smith was hired to confirm the discovery. He stated that Kelleher and Supenor were in agreement to swap an even parcel of lot to meet zoning requirements for planning board issues. It would be easier to reconstruct the lines than alter the driveway. There would be a 3.9' frontage gain for Ellen Kelleher.

Questions from the Board:

Mr. Colangelo: Why a special permit?

Mr. Smith: Conforming to frontage.

Ms. Deschenes: Take a little give a little.

Mr. Colangelo: Questions from Board?

Ms. Isgro: Impacts are less to actual zone; impacts are not changing.

Mr. Chevalier: The hearing if for altering lines, grant the permit. Supenor's lot is not less conforming. The 3.9' change is to Kelleher's lot; both are pre-existing.

Opened to the Public:

Mr. Vignaly stated that the Planning Board has no problem.

Mr. Colangelo closed the public testimony and proceeded with discussions amongst the Zoning Board. Mr. Chevalier motioned to move to grant Ellen Kelleher 1.4-B to reduce frontage and alter property lines. Ms. Isgro 2nd the motion. Role call, all voted yes. Motion passed at 7:35pm.

Petition of Paul J. Menard - Variance

At 7:45pm Mr. Colangelo recused himself and Mr. Chevalier read the notice of Public Hearing along with the petition.

Mr. Graves: Stated that the purpose of the Variance is to allow Menard's to better deliver products (autos) since business has changed from 1961; abutting property was just purchased, reassembly of bodywork, and they are looking to build an addition off the main building. The business has grown and a variance was granted approximately 10 years ago for expansion and they now have a need for 99% black top. In 1995 there was an 8' extension. They would like to install a "blind" fence around a few areas and add sound proofing.

Mr. Chevalier: The reason for 9.3' from the property line?

Mr. Graves: Cost effective; line up with the original building. The 8' addition was added in 1995. The property lines add up to the main roof line.

Mr. Chevalier: You're looking to modify existing variance. Identify hardship.

Mr. Witkus: There is hardship. Menard's is unable to do work assembly with the vehicles.

Opened to the Public:

Mr. Smith: Alter the property line.

Mr. Witkus: Change "Randy's" property line?

Mr. Vignaly: Property owner with power combined if both are owned.

Mr. Chevalier: No problem, already existing variance.

Mr. Vignaly: Not a hardship, run building taller.

Mr. Chevalier: Modify to foot and a half.

Ms. Isgro: Already qualified and met hardship on original variance. Reasons should still exist – set back line. There are two different businesses. Shouldn't be a problem based on standard.

Mr. Witkus: Randy's has a no-sell clause which is 10 feet away.

Mr. Chevalier: Treat properties as a separate property.

Public supports approval.

Hardship: comply with OSHA, had to add certain requirements; equipment inside new structure. Space being used but due to inclement weather it is not always utilized.

Mr. D’Nitti of Meadowbrook Drive stated that he has no problem with the addition but would like landscaping and noise reduction installed. Menard’s agreed. Also, cover Commerce Bank side for neighbors.

Closed to Public

Discussion between Mr. Chevalier and Ms. Isgro: conditions must be met as there is a hardship for neighbors. Whereas it has been Menard’s since 1961 there is limited business area left. Home is provision of by-law.

Motion: conditions, screening installed, upkeep and clean order.

Mr. Hennessey: approve petition as presented – motioned. Ms. Isgro 2nd the motion. All agreed @ 8:10pm

Petition of Freedom Worship Center – Administrative Appeal

Opened at 8:15pm. Mr. Colangelo opened with letter from Bowditch and Dewey requesting continuance to Board’s October Meeting. Motion requested to continue.

Mr. Chevalier: so moved

Ms. Deschenes: 2nd the motion.

Ms. Isgro: Reason for continuance?

Further discussion, no money returned.

All voted for continuance at 8:20 pm.

Franklin Street 40-B –

Opened at 8:20pm. Also present were Lawyers/Team. There was an explanation of hand-outs inn regards to the comprehensive permit application.

Mark Meridian of Meridian Associates prepared the outline and discussed engineering.

Discussion items:

- 1) Plans needing certified stamp by next meeting date, September 21st, 2006;
- 2) Snow storage area upgraded for melt-purposes which wasn’t agreed on;

- 3) Soil and ground water letter dated 8/31/06 which expressed concerns relating to recharge trenches, no soil testing done, contours and wetlands vary, could be higher end, concerns with ground water and soil testing (refer to letter), field testing data, remove sediment, infiltration clogged.

Presentation from _____ discussing drop in style, e-mail up to 90%, avoid catch basins up streams at end units, which is less expensive than 900. Regarding the snow storage area lifted up by additional fill – 1 ½' would prefer not to do to avoid clogging.

Ms. Isgro: Storage area coming off parking lot?

_____: Captured by vegetative area, this would be pre-treated to avoid wetlands.

Ms. Isgro: Required to use more sand than salt?

_____: Catch basins, storm centers to eliminate waste.

Ms. Isgro: Expressed concerns of money vs. huge project in small area.

Mr. Teague referred to Traffic and Sight Distance information. Original in office files. Revised engineering letters, eliminating conditions and bulleted items:

- 1) Sub-division rules and regulations not close to 500' limit;
- 2) New affordable housing by-law, no exceptions;
- 3) Calculate building height to 35' important to town architect and will comply as stated.

Mr. Colangelo asked if there were questions from the board. No. Revised Purchase and Sale Agreement?

Mr. Teague: Amended as official record.

Mr. Colangelo: \$850K stands; weighs heavy on board – not economically feasible.

Mr. Teague: Looked at numerous parcels, best location.

Ms. Isgro: Fair market value in consideration of what was low income suitable; does site warrant low affordable housing?

Mr. Teague: Affordable unit is based on land.

Ms. Isgro: Granted variance change; recorded historical. Need to confirm that it wasn't on all granted business zoning use. Did it change sub-division (grant waiver from Victorian)?

Mr. Teague expressed concern that it was becoming critical to get the permit in place.

Mr. Witkus complimented the team on a good agenda but stated that it was too dense with too many units, cut the number in ½. Also units are too thin / small. Concerned about the darkness surrounding the units and expressed concern that the town and management will have problems.

He referred the team to look at Orchard Knoll as an example and encourage the board to vote on only 12 units.

Mr. Chevalier move to continue the hearing to September 21st. Closed at 9pm.

Gerardo Sarli - Variance

Opened at 9:10 pm. Mr. Colangelo introduced the Board and read the Notice of Public Hearing and the petition.

Mr. Sarli: States the drawings were approved by the West Boylston Planning Board however; a variance by the DCR deletes 8 parking spots. He plans to demolish the house in the front of the property and build a duplex in the back according to the agreement with the land owner. The main building would be a bakery with a small wedding emporium on the 2nd level. Lot was created prior to the watershed.

Ms. Isgro: There appears to be adequate parking for the proposed.

Mr. Sarli: There is a financial hardship. He's waiting to get permits before the architect finalizes the drawings. He's already 1 year late and had to renew his building lease at the current site. The lack of parking will create a problem.

Mr. Vignaly of the Planning Board: They did review the plan and approved it. They are waiting for final review. Reduction of parking space may be a hardship but it's difficult to say. If the building is downsized parking space would be available.

Mr. Colangelo: What do you think of downsizing?

Mr. Sarli: Downsizing would eliminate retailers and rental spots, therefore eliminating funds to pay the bank loan.

Mr. Chevalier: Acknowledged the hardship but suggested that there is an opportunity to tweak the footage by taking into consideration utility areas, handicap bathrooms, halls, stairs, etc., and expressed concern over traffic with not enough parking.

Mr. Sarli: 2,000 sq. feet upstairs, based on bylaw, depends on parking space.

Ms. Isgro: technically the buffer zone is useless if there were to be an emergency.

Mr. Chevalier advised cutting back 25% of retail space.

Mr. Sarli: knew we couldn't build on the buffer, but thought the parking was ok.

Ms. Isgro discussed the tightness with fire trucks and the difficulty of turning around.

Mr. Vignaly discussed the access/paper roads not being plowed if an emergency arose.

Mr. Sarli: questioned off street parking on paper roads but not on architectural plans.

Mr. Witker of West Boylston Seafood: stated that the engineer tried to find the paper roads; it was unknown back to 1902. His restaurant is half of what was planned due to the paper roads and has become a financial hardship.

Ms. Isgro asked for a better understanding of hardship.

Mr. Witker stated that Mr. Sarli would like to purchase the paper roads for more parking.

Mr. Chevalier: discussed allowing for 2 staircases, figuring 6 bathrooms which would pick up two parking spots without any changes. He advised to have the architect draw up final plans to officially determine the parking spaces.

Mr. Colangelo stated that he would be willing to continue the hearing if Mr. Sarli would redo calculations.

Ms. Deschenes stated she'd like to see the floor plans.

Mr. Vignaly: Planning Board looked at the plan to determine square footage which was verified by the building inspector. He stated that for the paper streets, he'd consider doing the tax title and selling it to the highest bidder.

Mr. Dick Novia: in reference to the land on Fairchilds, he can't do anything because part of the street is in Worcester which makes it hard for the owners, but residents are being squeezed.

Mr. Chris Trainor: stated he knew Mr. Sarli couldn't build on it but they built their specs on it; he also stated that the paper road was plowed 4 – 6 feet of privacy /trees and that there will be a lot of people at the bridal shop and is disturbed with parking at WB Seafood on the street.

(Architect Guy): DCR would not allow parcel corner to be used, hence, it's a hardship. Meet's criteria, but it's not good enough.

Mr. Colangelo: The Building inspector questioned the paper street being cut down; how is that being handled?

Mr. Sarli: The debris, junk, and vegetation were removed. He received a desist order and will replant what MDC orders to be replaced. He stated the MDC has tunnel vision. He cleaned the area and I now being penalized.

Mr. Trainor: the thickness of the vegetation kept his privacy and is now extremely upset by the lack of privacy.

Mr. Colangelo and Mr. Chevalier stated that Mr. Sarli personally doesn't need eight additional parking spaces; quick numbers give him plenty of parking, not mentioning the 2nd floor, factoring the gross square footage.

Ms. Isgro: waterway runs parallel behind every business. The property has two buildings, and the applicant went to DCR and then the planning board.

Mr. Chevalier advised Mr. Sarli to continue and avoid a variance, just redo the figures.

Ms. Isgro 2nd the consideration and asked what Mr. Vignaly's opinion was.

Mr. Vignaly: the issue is a hardship with the land itself. The construability of property is a hardship.

Closed to Public Testimony

Ms. Isgro motioned to continue, Mr. Chevalier 2nd the motion. Ms. Deschenes asked to see the sketch again and encouraged Mr. Sarli to avoid a variance. Mr. Colangelo stated that the ZBA does not need to make a decision. All voted yes to continue to October 26th, with Freedom Worship Center.

Respectfully submitted:

Donna Jean Ramonas, Secretary

Matthew P. Colangelo, Chairman

Phillippe W. Chevalier, Vice Chairman

Charles C. Witkus, Clerk

Barbara M. Deschenes

Linda Ann Isgro

Paul W. Hennessey, Associate Member

Minutes accepted on _____