



## TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

127 Hartwell Street \* West Boylston MA 01583 \* [zba@westboylston-ma.gov](mailto:zba@westboylston-ma.gov)

### MEETING MINUTES

April 19, 2012

Chairman: Linda Isgro

Members Present: Barbara Deschenes, Charles Witkus, Philippe Chevalier

Members Absent: Paul Hennessey, Paul Trippi (Associate Members), Matthew Colangelo

Others Present: Stephen Hart (Associate Member), See Sign-In Sheet

The meeting was called to order at 7:07 p.m.

Ms. Isgro opened the public meeting and introduced the voting members (Barbara Deschenes, Clerk; Charles Witkus, Vice Chair; Associate Member Stephen Hart sitting in for Matt Colangelo; and Philippe Chevalier).

Mr. Hart made a motion to accept the March 1, 2012 Meeting Minutes; Mr. Chevalier seconded. All in favor; none opposed.

Reports from other boards and new business were deferred until after the Buono matter.

**Public Hearing – John Toomy (68 Newton Street) – Special Permit Application** –Before opening the petition on the Toomy matter, in light of new correspondence, Ms. Isgro wanted to discuss and bring some of the matters to the board members because you can't correspond and make decisions without being in open meeting. In light of some of the correspondence with the building inspector, there has been a consensus on the need for the applicant to come before us to receive a special permit in order to use and utilize the structure. There has also been some confusion as to the best route for us to review that application and grant or deny a special permit. The application correctly stated relief under Chapter 40A Sections 6 and 9, and further definitive answer to that to our town bylaw noted the accessory apartment. In either event, they would be coming, if they chose to, before our board for a special permit to use the structure for the purpose that they want to. There is also another consensus that it is possible that the building inspector has discretion to grant the use without it being reviewed through our board. With that being said, in consideration of the applicant and discussions she had with him yesterday, he had the option to move forward or withdraw. Ms. Isgro asked the members their opinion as to whether they thought it was conducive to hear the matter or defer the matter until more information is provided. Ms. Deschenes had no opinion, Mr. Witkus felt we should not hear the matter because it seemed as though the building inspector's emails were adamant that the board cannot do anything to stop the project. Mr. Hart said it is his understanding that the building inspector is going to issue a permit at this time and it would not involve the ZBA. Whether or not we are the regulatory board to do anything right now is uncertain because the application is inconsistent and asks for an in-law apartment. To his understanding he believes the building inspector does not believe it is an in-law apartment to begin with. Mr. Chevalier said the first



email sent by the building inspector on March 30<sup>th</sup>, before it was advertised, stated that it is his revised opinion that the building in the back is a pre-existing, non-conforming use, it is a separate dwelling unit, it has been in existence prior to zoning, and the first paragraph in our Zoning Bylaws states that's if it is a use that was prior to our Zoning Bylaws being adopted, it is a legal use (a pre-existing, non-conforming use). It is not an accessory apartment and unless the building inspector has evidence to the contrary, his opinion at this point, is that there is no need for an accessory apartment unless they want to put an accessory apartment on one of the two units, but they have two dwellings on their property that are pre-existing, non-conforming. The applicant has submitted an application and saw the hearing come through and the email and thought the hearing would have been cancelled according to the correspondence from the building inspector that they don't have an accessory apartment so there is nothing from our accessory bylaw would apply to it as far as a pre-existing use. Mr. Chevalier said the house that is there has been determined by the building inspector. He said the Zoning Board is not like the prosecution. We do not determine whether or not the building inspector's decision is correct or incorrect unless there is an appeal brought to us in that manner. In other words, if the building inspector says it is a separate dwelling unit, it is a separate house (which is what he is saying), if that's what you want and you already have that, you can withdraw and walk away. He further said we could continue the hearing if the applicant wanted to do more research on his end to find out if that is the way he wants to proceed. If the neighbors don't agree with what the building inspector says and they have evidence to present, they can file an appeal with the board which would be an administrative appeal. Then we would adjudicate that decision. But right now, the person who determines whether or not it is a dwelling unit, a house, whether it meets zoning is not us. It goes directly to the Building Inspector. He is our Enforcement Agent with the Zoning Bylaw. His decision is final right now unless it comes back to us on an administrative appeal. If there is an administrative appeal there is a final the decision. We would vote on his decision. You've asked for a special permit for an accessory apartment. If your intent is to make the back unit an accessory apartment, you would have to meet the criteria of an accessory apartment, but according to the building inspector you already have a dwelling unit. Mr. Chevalier's opinion is that the building inspector is the determining factor on this.

Ms. Isgro commented on the dilemmas. She said the first email on March 28<sup>th</sup> from the Building Inspector stated "this department has no objection to the proposal as presented". She said there has been some series of questioning and wants to bring to light a couple of matters. First, we may hear it under 1.4 (non-conformity) because the petition is made out and Chapter 40A, Sections 6 or 9, and that is a special permit process. If we hear it under the accessory apartment bylaw, that requires a special permit also. So if it is the opinion of the board the majority that it is better suited under a different aspect, this is still the right process for that. The petitioner still needs a special permit to use the structure for the purpose intended. She was not sure if it is a concern for the petitioner whether he uses it under a special permit for the accessory apartment or whether or not he uses it under 1.4 (change of a non-conforming use). Mr. Chevalier said we have to open the hearing. He suggested opening the hearing and put the discussion into the minutes are part of the hearing so we can get some testimony from the owner. Ms. Isgro had more comments. She wanted the petitioner to have the ability to make the decision. Before opening the hearing, she had one more statement. The statement that you said with the building inspector doing it without the review of our board or without a special permit is only allowed in a single family residence. She felt it is not that clear cut and easy. She believes it requires five great minds, not one great mind, and that this board is asking if you are going to compare it to a judicial system or quasi judicial board, it's like the petitioner has come and wants a jury trial instead of bench trial or just having just one person decide his fate. We are not even sure that the building inspector can make that decision unless he can do it as allowing the continued use of a single family residence or a dwelling and I think that's why there is all this concern because there might be some evidence or some facts that we need to consider. Is it a dwelling or an accessory structure or an accessory use? Mr. Chevalier said we don't have anything before us to make that decision. Ms. Isgro said she has nothing in writing from Mark Brodeur our building inspector. She said that makes it very weak on his position. He has not sent a letter saying I have the authority to



grant this. Mr. Chevalier said he did make a determination that it is two dwelling units. Mr. Chevalier said he sent the email on the 30<sup>th</sup> saying it is a dwelling unit. Ms. Isgro said that his decision is as appealable as ours.

The hearing was opened. Ms. Isgro read the hearing notice.

John Toomy said it appears as though he wants to withdraw. He did the petition not fully understanding that he didn't have to do it. When he bought the property, it had a separate building. It was livable, it had heating, plumbing, electricity, and it had been occupied. It was sold to him as the fact that he could have a family member live there and he considers it a separate dwelling. Ms. Isgro asked if at this time he would like to withdraw the petition, to which he replied yes. She asked if he was acting on a good faith basis that we implied that he didn't need a special permit, that would be wrong. She said she is not taking that position. She said the building inspector does not grant special permits and .... Mr. Toomy said what is confusing to him is the fact that he doesn't have first hand understanding of the bylaws or the laws. He does know that he purchased it with the intent to have a home for his grandchildren, his daughter and her husband. The cottage was purchased intentionally so that he and his wife could renovate it and have a place to live when they wanted to spend time with the grandchildren because he lives in a condo that has no yard. That was the whole reason behind buying it. His thinking is that if he doesn't have to apply for a permit, why open yourself up to a problem. It seems to him that it is a separate dwelling. It existed long before the zoning laws were in effect. It had been occupied in the past. Ms. Isgro wanted to explain to Mr. Toomy some things to give him the opportunity to move forward to withdraw. The structure is a structure, but its use somewhere between when it was built in 1900 to now may have changed. The two structures, there is no doubt there is a single family home on the property, but there is another structure and depending on who calls it what, means who can allow what you do in it. She is not saying in concrete evidence that this has been recognized as a single family structure or dwelling so that is the call that would need to be made in order for you to prevail and not have to come to our board. In order for it to be used for a habitable dwelling for a single family home, like the main one, it would need to be have all its own utilities, not be subordinate to the home. It would have to be built as a home, not sitting here many years later having a kitchen added to it. You did some renovations and changes and there was a change in ownership. Because of those two things, there is a grey area. If you wish to continue this to seek legal counsel that you have an option for, but it is a stretch because we don't have anything concrete. We don't have anything that says (from the building inspector) that this is two dwellings. If it's been interrupted use over a year or two, she believes a home can be abandoned and not live it in, it's still a home. But in order to continue a non-conforming use, the use conforms because it is residential. This is a bit unique because it has been used as a mother-in-law apartment, but we don't know. Mr. Toomy said the plumbing, when he purchased it, worked, the electrical worked, the heat worked, the refrigerator worked, there wasn't a sink that worked so what was done did not change the functionality of it, so as far as he thinks, it is a pre-existing structure that was never abandoned, because, again, people were paying bills on water use, electric and heat. There were clothes in the closet so he doesn't agree that it was abandoned. Ms. Isgro said it could be an accessory building or structure or an accessory use to the main structure. Mr. Toomy said again it had separate plumbing, it was set up as a separate building with separate plumbing, and it had a separate septic line which they connected to sewer. It has no connection to the other house other than the fact that it is on the same property. Mr. Chevalier said that some of the confusion came about people using the term "accessory apartment" or an "accessory use" versus what the building inspector at this point has determined its use. The building inspector stated that it was two separate units. He revised his original email saying it is a separate dwelling unit, separate habitable unit, separate house. It's two separate houses. It's not an apartment, it is not an accessory use, and it is two separate dwelling units. According to our zoning bylaws, if an appeal came to us to appeal his decision that it is a house, it says it is our building inspector determines if it is a house. It's not for us to make that determination. Mr. Chevalier did agree with Ms. Isgro that they always have the right to reapply if they choose to do so, or want to do more homework and get a letter from the building inspector specifically



addressed to him with his determination we can continue the public hearing. He's just giving them the option. The difference being the \$350 and the time to do it.

Mr. Toomy said what makes sense to him is to withdraw and if necessary for him to go further because it gets challenged in some way, he will do it then. Mr. Chevalier let him know that it is different, if it comes back to us on an administrative appeal, which is an option, now the burden is on the people appealing it. They would have to give us evidence that the building inspector was wrong and we would overrule that decision. That's the vehicle that would come to us next if you choose to withdraw.

Ms. Isgro shared with the petitioner and will share with the board also, the position that this is two dwellings was denied by this board back in 1988 for the variance. At that time the board did not believe this was two dwellings. They tried to get a variance based on a hardship but were not granted relief; they were not considered to be two dwellings on one lot. Mr. Chevalier asked Ms. Isgro how she knew that was the determination and not that they didn't need a variance. His reading of it was that they didn't need a variance so one wasn't granted. Ms. Isgro said she felt he might be traveling in a direction without all the evidence and all the facts and to imply that this board or that we have to accept a determination made by anybody because they said it is very wrong. If you'd like to take that opinion, you're entitled to it, but you are one member of a five member board. Ms. Isgro said she respectfully allowed Mr. Chevalier to discuss but said it is not up to you to imply to this petitioner that he's got what he needs. Mr. Chevalier said he was just telling him what the building inspector said. It's not our call. He said it is a dwelling unit. That's his opinion; his call until it comes back to us if it ever does. Ms. Deschenes said she agrees with the building inspector. Mr. Chevalier said the only time we interpret the bylaws is if we have an appeal in front of us and we don't.

Mr. Witkus said these buildings were turned down in 1988. If they turned them down then they couldn't have an accessory apartment then. Mr. Chevalier said there wasn't an accessory apartment bylaw then. Ms. Isgro read the findings: "the petitioner's desire to use the two story house frame construction for their use and the single story dwelling of the fieldstone construction as a residence for immediate family member. This use is not permitted by the Town of West Boylston Zoning Bylaw 4.37." So then you agree it is not a non-conforming use that's been continued. Mr. Chevalier said he agreed that that type of use is not allowed by the Zoning Bylaws. Ms. Isgro asked what type of use..residential? Mr. Chevalier as a second unit, but it is pre-existing so even if the bylaw says you can't have it, Ms. Isgro what did it pre-exist from before this in 1988. Mr. Chevalier said the structure was built in 1902. Ms. Isgro said if the use when it was built was as a residence, then it is grandfathered. But if it wasn't used for that and at some point later it changed, it does all pend on whether we are going to call it or the building inspector is going to call it a single family dwelling. But as of March 1988, it was not considered a single family dwelling. Somehow from there to now we get a single family dwelling out of it. She would like to know what law allows that or what bylaw. She knows what law Mr. Chevalier is citing and it is under 1.4 even in the accessory bylaw in collaboration with the building inspector as long as the changes that were made to it were code compliant, which he said they are and I don't doubt that, we have proof of a building permit and everything being met to code. There is another thing happening here. There were some changes made so perhaps there needs to be a finding that those changes did not change the non-conformity use of the structure to make it substantially more detrimental to the neighborhood or change and add new non-conformities. So there is a lot more than meets the eye. Mr. Toomy said he did not make any changes to functionality. His understanding is that the building has been there for one hundred years. He doesn't know when it was first occupied, but it is a separate dwelling. This is a case of does he need to get a lawyer, probably so, but he sees three out of five board members who it appears share the same view that the building inspector has the right to determine if the separate non-conforming building that is grandfathered, so is this a case where it has to be a unanimous agreement? Three people appear to agree to the same thing. The building existed; it was there in 1900. It has been occupied. Ms. Isgro said it appears as though you would like to withdraw. Mr. Toomy made a formal request to withdraw the



petition; Mr. Chevalier moved to accept his withdrawal without prejudiced. Ms. Isgro said Mr. George Bernardin (78 Newton Street) could speak. He perhaps could give a better clarification to the decision made by the ZBA in 1988. He moved into the neighborhood in 1974 and, shortly after Birds bought the house which he believes was in early 1988, began to see lights on in the "so called cottage". Knowing that only one habitable building was allowed per lot, he raised the issue with the ZBA at which time the ZBA looked into the matter and made the decision that you recently referred to. Whether since that time Mrs. Bird's mother just used that place to get away from the family or what he doesn't know, but he knows that it was quite clear that the issue was raised very squarely with the ZBA in 1988 and very clearly decided and thinks the Planning Board had an excellent letter to you on the subject. Ms. Isgro said that letter has not yet been read since it appears we still have the option to allow the petitioner to withdraw. She wants to make it perfectly clear that you may be coming back, she doesn't know, if he is allowed to withdraw he can come back. Mr. Chevalier said there is a motion on the floor to accept his withdrawal without prejudiced. Mr. Witkus asked if he would get his money back. He said it wasn't his fault that the building inspector told him he needed to come before us. Ms. Isgro said that typically you are allowed to withdraw without prejudiced before it's printed and notices posted in the Telegram & Gazette because that is a couple hundred dollars. In light of what's going on, I do take a little bit easier stance because of the nature of this process which has been somewhat rebutted. She is willing to open it up to the board whether the withdrawal will be with prejudice or without. If it is without, then he gets his money back. Mr. Chevalier said his motion which still hasn't been seconded yet because you haven't asked for one. Ms. Isgro said nobody seconded your motion. Mr. Chevalier said you didn't ask for one but I have a motion on the floor and would appreciate if you would ask for a second. The prejudice or without prejudice has nothing to do with the money. What is has to do with is his ability to reapply, and that is my motion. It gives him the ability to reapply without having to wait two years to do it. That's why I said without prejudiced. My motion is to accept his withdrawal and to allow him to come back. We can discuss the money end of it, but it has nothing to do with his motion. Ms. Isgro said Mr. Witkus asked the question and wanted to know the answer before he voted on it. Ms. Deschenes seconded the motion. The vote allowing the petitioner to withdraw was as follows: Ms. Deschenes – yes; Mr. Witkus – yes without prejudiced; Mr. Hart – yes; Mr. Chevalier – yes; Ms. Isgro – yes. Mr. Toomy thanked the board. Returning the money will need to be discussed. Funds have already been expended. Ms. Isgro said she will allow comments, but will limit them since the hearing is closed.

Karen Footner (52 Newton Street) asked as interested parties, can have copies of every email and correspondence from the building inspector to the ZBA on this issue. Mr. Chevalier said yes since all documents are public records. Ms. Isgro said she will check the process for a public records request.

Douglas Meystre (65 Newton Street) said there has been a discussion concerning the building inspector's opinion on this matter and is he going to issue something. I presume that will set a time running within which an appeal would have to be brought before this board. Has that act taken place yet and if not, what is the act and how do we become aware of it. Ms. Isgro said she believed the act would be the issuance of an occupancy permit. It is her understanding that you may appeal to or write a letter complaining of a zoning violation to the building inspector. At that point he has so many days to respond. If he makes a determination of occupancy in this, she believes zoning can be questioned or made to have the building inspector enforce the zoning bylaw and he has to respond as to why he won't enforce it or enforce it within so many days. Mr. Chevalier said he is not sure if there would be an affirmative action. He has notified us and we will supply you the information, but he doesn't know that there would be an affirmative action by the building inspector at this point because he already has something that he's got and if the owner asks for an opinion. You would go to the Enforcement Officer. One resident said as of this morning no occupancy permit had been issued. There was a building permit taken out by the applicant for renovations (\$47,000.00). It was issued on 9/21/2011.



Ron Manion (51 Newton Street) asked if the main building has to be owner occupied. Ms. Isgro said to ask Mr. Brodeur. It appears that the applicant is not the owner. It is an LLC. The company owns the main building and he is renting out the main building and now wants to rent out the auxiliary building. He's making it into rental properties as opposed to residences. Does that make a difference in all this? Mr. Chevalier said that if the building inspector determined that it is two separate dwelling units, it doesn't have to be owner occupied.

Kathy Manion (51 Newton Street) said she has a huge barn which is a separate dwelling so does that mean she can rent it out? Mr. Chevalier said that if it was determined to be a separate house, then you are right.

Karen Footner asked of the board knew if the building inspector is claiming that this is a separate dwelling unit or two homes on this property, does it require that it have separate utilities, that is has to two sewer hookups, two electric meters, two water meters? Ms. Isgro said he needs to determine two things: that the alteration or structural change to a single or two family residential non-conforming structure, so in order for him to act without a special permit, he can only do that to a single or two family residential structure that is non-conforming or built way back then. There is no doubt that the structure was built. I think what is a point of contention with many different people is was it a single family residence and if it was, when was it because it appears there is some controversy on when it became a single family residence. Karen said she actually attended that ZBA meeting so she has a collective history.

Mr. Chevalier said that regarding all the questions the residents are bring up tonight, if he continues to use it as a separate house and the building inspector stands by his opinion, it is a separate house. You as abutters have a right to appeal that to us. He explained that all the information supplied tonight could be used as evidence and something in that packet may be the determining factor that it is not a single family home on that lot. There are legal things that could be part of an appeal if you choose to do that.

Ms. Deschenes said he could never apply for an accessory apartment because it doesn't meet the criteria. It is a separate building. If he wants to use it for his grandchildren, it should be for elderly people. Ms. Isgro said the present accessory apartment is the same, it replaced the in-law apartment but it requires that one of the dwellings be used. As it stands, we could grant relief under some of the criteria and coming forward under "e" and "f" allowed the conversions to an accessory apartment that were in existence before the adoption of that bylaw. The bylaw has been re-written and it allows more or less a temporary use subject to limitations and criteria that is does remain within the family, that the intent of it is to make conversions to accessory apartments or structures or uses code compliant. Mr. Brodeur suggested that it is code compliant and it was approved. The code compliant avenue allows us in conjunction with the building inspector to address it as it. Are we allowed to waive the structure because it is not substantially within? She believes that if he can waive the complete structure, you can certainly waive a portion of a bylaw. Ms. Deschenes asked what good is a bylaw if you can waive portions of it. You might as well disregard the whole bylaw. Mr. Chevalier told the audience that the Building Inspector is the Enforcement Agent for the zoning bylaw. He makes a call. When he makes that call, which he believes he has saying it is a single family unit in the back, you have the right to come to us and appeal his decision. Then it comes to us. There is a process. He is the Enforcement Agent. He makes the decision first. If you don't like his decision, then you can come to us. We don't make the decision first. We are the Board of Appeals. We would hear the evidence and make a decision. Ms. Isgro said the first email said he saw no problems with the petition. Mr. Chevalier said he sent one two days later saying he was wrong. Ms. Isgro said the appropriate process is to address it through the Building Inspector says. Ms. Footner asked how she can get the information. She was advised the request should go through the chair. Ms. Footner asked the chair for any correspondence she has. Ms. Isgro said absolutely. She believes a public records request needs to go through the town clerk. She will check. She wants to make sure she



had the proper process. Ms. Footner agreed.

**Paul & Tina Buono (10 Evergreen Avenue)** – The Buonos are requesting to see if they want to make additional changes. The board needs to consider whether the additional changes requested to the variance granted on November 17, 2011 for a covered porch are substantial or insubstantial. If insubstantial, no new public hearing or meeting is required. If they are substantial they need to have a public hearing. Mr. Buono came before the board with 8'x10' which he said is what the board had granted him. Through further discussions, they would like to go window to window, which is 13'6". Not come any further out, just going window to window. His contractor notified the building inspector of the changes and the building inspector stated they needed to come before the ZBA. They did receive the building permit (which has an error stating 8'x16'). They wanted to do the right thing which is why they are here tonight. Ms. Isgro felt that it is a housekeeping item. Ms. Isgro opened it up for the members as to whether they felt it was a substantial change. Mr. Witkus asked if they wanted to extend it three more feet. He was told they wanted 3'6" more. Mr. Witkus asked if they had blue prints for the project. Mr. Buono said yes and that everything was submitted at the meeting. Mr. Hart made a motion that it is not a substantial change; Mr. Chevalier seconded. It is within what was written in the decision. The board did not tell them how wide it had to be as long as it was not within 10' of the sidelines. The way the decision was written, it was written that the variance be closer to the street. Under the conditions we said it had to be conforming to the zoning which is the 10' on each side so if he wanted to make it wider, Mr. Chevalier didn't see that as a change from what we decided. Mr. Witkus said that when you build something like this you need to draw some pictures; you need to show the porch and the front of the house. Ms. Isgro said it is clearly defined and agreed with part of what Mr. Witkus is saying. It isn't that easy to figure out what you wanted to do because it's not sketched. The Buonos presented another drawing. Ms. Isgro said that in other words, it didn't put it on the house in a footprint manner where you can see exactly where it is. Mr. Buono said we did have that. Ms. Isgro showed the existing footprint and the existing stairs. Ms. Isgro asked does it say 8'x10' and does it show where it is on the house. That's what we are looking for because that is what is at issue now. Mr. Witkus said he is questioning Mr. Buono and the contractor because we've got certain rules that we are supposed to see some pictures or prints. Ms. Isgro agreed and said it's our petition package and it needs to be further clarified what technical review we need. It does not say engineered stamped because the petitioners are coming to us to see if they can do what they are proposing and we don't want to make them to go get engineered blueprints because that is very costly. But, she agreed that when the petition is accepted and the petitioner runs off, she really can't see what's going on, so Ms. Isgro will call the petitioner. Ms. Deschenes asked to be shown where the porch is going. The contractor, Donald Scanlon, said he went to the building inspector. He presented the drawings to him and asked if he needed anything else. He has this as the permit. He said what he presented was fine. He didn't request anything more of Mr. Scanlon. Mr. Buono said that board did not have a complete package in front of you, but did at one time. Ms. Isgro said she went to the building inspector's office and obtained the building permit with the typo. Mr. Chevalier discussed the critical drawings Bob Smith would have been complaining about. It is an engineered plan, shows the existing with all the dimensions and it stamped and shows 8' steps are 10' off the front property line. That's what he came in for, a variance for the 8', and he is showing the porch on the property. Mr. Scanlon said where it will be located on the house as well. Mr. Chevalier said that when the decision was written, it was written that this structure could be no closer than the 8' and it can't be closer than 10' from either side lot line or the real line. If he wants to widen the porch by 3' or put on a full farmer's porch, it would still comply with what we wrote in the decision. Mr. Witkus asked if Mr. Chevalier could build it from that. Mr. Chevalier said when he sits here he doesn't need to know how he is going to build it, he just needs to know where it is going to go in relation to the lot. Mr. Scanlon said he took the homeowners around the neighborhood looking at others front porches. They are very clear on what they are going to build them. He's given them drawings, magazines, brochures, porch posts. He asked the inspector if he needed an architectural drawing of what the porch posts will look like. He was told no, and said he knew what was being built and he didn't need to have to show the building inspector an architectural feature of



the actual porch post. Mr. Scanlon said he had many hours of his personal time with zero dollars with these customers. Ms. Witkus said he understands the dimensions and the 3' doesn't bother him at all, but he's trying to get it so when you come to this board, he can look at something to be able to see what is being built. Mr. Scanlon said right now presently you have a hodgepodge of the whole package. He said he could present it again to us if we want. Ms. Isgro said there doesn't seem to be a substantial change unless they are changing the footprint. The members feel it is not a substantial change and therefore does not require a public hearing. Ms. Isgro asked if the members if they were in favor. The vote was as follows: Ms. Deschenes – yes; Mr. Witkus – yes; Mr. Hart – yes; Mr. Chevalier – yes; Ms. Isgro – yes. Melanie will send an email to Mr. Brodeur saying that the board met on the Buono matter and did not find that the change, the additional 3'6", was substantial and therefore did not require a Public Hearing. We are in agreement that they may add and make additional changes by adding to the 10' length 3'6", not adding to the 8' coming into the front yard setback, but it may go from window to window.

#### New Business/Old Business/Reports from Boards

The Annual Report was reviewed, revised and will be sent to Nancy Lucier for print in the morning.

Ms. Isgro reminded the members to check on their ethics examinations to make sure they are current.

Ms. Isgro thanked those who returned the reviews for Melanie's six month review. A time will be set up to go over it with her.

Correspondence was sent by email to the members.

Barbara Wyatt left the book The Board of Adjustments Citizen Planning Series. Ms. Isgro read it and will keep it should someone want a copy.

An email was received from Sylvia Whitcomb, Sr. Research Associate Construction Journal regarding the zoning in the new proposed Wal-Mart at 137 West Boylston Street. She was asking if zoning has been approved. Ms. Isgro replied that nothing has taken place on the new proposed Wal-Mart.

The election of officers will be tabled since Mr. Colangelo is not present.

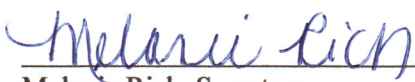
Paul Hennessey (Associate Member) has resigned.

Paul Trippi is no longer an Associate Member.

The next scheduled meeting will be held on May 17<sup>th</sup>.

Mr. Chevalier made a motion to adjourn; Mr. Hart seconded; all in favor. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Melanie Rich, Secretary

Date Accepted: \_\_\_\_\_

By: \_\_\_\_\_