

**BOARD OF APPEALS  
TOWN OF WINTHROP**

**MINUTES OF MEETING**

*Held on Thursday, June 24, 2010  
Town Hall - Joseph Harvey Hearing Room  
WINTHROP, MA 02152*

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TOWN CLERK

Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:00 p.m. Also in attendance at hearing were the following Board Members: Darren M. Baird, Brian J. Beattie, Irene Dwyer and John Rich. Also in attendance were Building Commissioner James Soper, Captain Ned Hazlett, Winthrop Fire Department and Board Secretary/Clerk, Mal Jones.

The following matters were heard:

AGENDA: Hearing of the following application(s) for variance and/or special permit and deliberation of pending matters and discussion of new and old business.

01.	07-2010	71 Grovers Avenue	Olivia Sillari, Trustee, Salvatore Sillari Family Trust	
02.	12-2010*	33 Nahant Avenue	Philip Baldi & Elizabeth Baldi	PM/DB/JR
03.	13-2010	18 Dolphin Avenue	Anthony D. & Celeste Sillari Pino, Trustees, MP Realty Trust	
04.	14-2010	111 Grovers Avenue	Celeste Sillari Trustee, C&A Realty Trust	
05.	15-2010- SP	66 Woodside Avenue	Wai M. Chiu	

<b>06.</b>	<b>16-2010</b>	<b>137 Winthrop Shore Drive</b>	<b>Robert A. &amp; Rachel B. Darman</b>	
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**\*Continued from June 10, 2010**

**#23-2009 - Remand Decision - Luigi Guarino - 200 Pauline Street**

**Sitting: PM/DB/BB**

**MOTION** (Darren M. Baird) - to make two supplemental findings to Decision before it is issued:

- (1) the storage and keeping of the Ferrari and Corvette located in the garage are for rent based on Mr. Guarino's own admission; and
- (2) as a result of uses that are being made, there are two separate principal uses being made of the property: the residential use and the use of the garage by Mr. Guarino and others not utilizing the residential structure.

**SECOND (Brian J. Beattie)**  
**VOTED** All in favor.

**#12-2010 - 33 Nahant Avenue - Philip Baldi & Elizabeth Baldi**

**Sitting: PM/DB/JR**

Attorney James Cipoletta for applicant. Elizabeth Baldi present.

**[PM]** Plan that was submitted last time.

**[Counsel]** Yes. One plan had elevations and the other plan showed location of air handlers and the enclosures.

**[PM]** We have drawing here that was submitted showing elevations. Correct? Around the property.

**[Counsel]** Yes.

**[PM]** And we have this drawing showing air handlers. [Shown to John Rich] [Plans reviewed]

**[JR]** On drawing what was protrusion for gas fireplace. Is it on there?

**[Counsel]** It is. Bump out.

**[JR]** 4 foot and a half inch on bulkhead. What's fire place. Didn't see that.

**[PM]** Fire place is on the other side.

**[JR]** On this side here. 2 feet?

**[Counsel]** 2 feet, one or two inches, or thereabouts. It's in the BI's denial.

**[JR]** Last meeting that I was present at, that was one of the questions.

**[Counsel]** There's a protrusion, a bump-out on the side of the house to accommodate the fireplace and that encroaches into side-yard and I think question was how deeply into side-yard does it encroach.

**[DB]** Looks like it bumps out 2 feet and gives you a side-yard of 5 as opposed to a side-yard of 7.

**[PM]** There were three things on the special permit: left side-yard, right side-yard and lot width which is what we had to review. Those are the items we are reviewing, also reviewing the grades around the perimeter because of the requirement of the three-story, it wasn't defined what you have there. With the grades around the property, we have to calculate that and find out what the mean grade is to see if that shows up on the section. What we have to do is calculate those grades around the property and get an average.

**[DB]** Looks like based on the plan, you're showing a difference between the finish ceiling elevation of the basement and the proposed average finished grade is 4.4 feet so you're not above 4.6.

**[PM]** And that is what the code is.

**[DB]** So it's not a story.

**[PM]** It's not a story. Looking at this the grades shown on this drawing. [Plan was stamped by clerk.]

**[PM]** That was one of the questions that we had. House will be set back on the lot. It will not be between the other two structures. Fire Department had a concern about the house being built 100 feet off the street and it could not be reached by Fire Department and they have requested the owner install sprinklers.

**[DB]** Couldn't be reached by a ladder truck is the concern. Couldn't swing the boom on the ladder truck in any meaningful way to get to someone on the second floor of that house.

**[Counsel]** May have been a discussion as well about making the driveway wider and to comply with specs.

**[PM]** If they did it, would require driveway be made to a highway spec. to support that, but if there was a car parked in there, and you can't get back there with your equipment, sort of makes it null and void.

**[DB]** There's a practical problem.

**[PM]** That was a concern and we left off at that from Captain

Hazlett. BI--did you receive this plan?

**[ BI]** Yes I did. I believe I did.

**[PM]** Are you satisfied with the grades?

**[BI]** Yes I am. I also received a statement from the engineer as well.

**[PM]** Discussion from Board as far as other two items. Plan here that indicates proposed enclosure around the HVAC units. That was something we asked for. Is everybody satisfied with that? We asked if that could be put under the deck and you said you couldn't accomplish that.

**[Counsel]** No. And this was option B to located where it is indicated on the plan, to enclose it and then to screen it further with shrubbery.

**[PM]** What kind of enclosure are they proposing?

**[Counsel]** That's on page 2.

**[PM]** Concern I have is with this enclosure, it's a wooden enclosure, going to have various ventilation, going to put some shrubs around it. Is there something you can do with this with a material that will absorb the sound. You have wood, it's hard. I'm thinking something against the foundation you can put on that is a little bit softer will absorb some sound and then I can understand having wood go around the three sides for ventilation and then shrubs, something that will absorb the sound of it. Our experience has been we've seen these before, they can be noisy, especially in the middle of the night, somebody has air conditioning, somebody doesn't and you hear the unit kick-on.

**[Counsel]** Would this be at the base of something upon which the HVAC unit would sit?

**[PM]** Something on the base and may be the side against the house, some type of absorbing material.

**[Counsel]** Sure. We did at Atlantis. It's out there. We can do that.

**[PM]** I would put something in our conditions with that if that's agreeable.

**[DB]** Procedural question. Want to make sure if we issue relief, that we're doing properly. You've asked for two things in the alternative as far as I can tell. One is (a) either this a pre-existing, nonconforming structure and you're asking for a Section 6 finding because it's not creating any new nonconformities or to the extent that that isn't appropriate, that we issue variances for the various relief that you need from dimensional conformity.

**[Counsel]** Yes.

**[DB]** I don't see the need to do both. I think it's redundant.

**[PM]** One item with the sprinklers that the Fire Department had requested and the owner had some problems with that, so that's an item

for discussion.

**[Counsel]** I think the discussion around that was to give the Fire Department greater access. I don't think it's any different from any other home that would have a driveway impede access to the building. There is a garage under that takes care of two cars. It's anticipated that that's where the cars are. I understand that in the real world if there's a car parked, three cars and one of them is in the driveway, the Fire Department feels it may not be able to get to it, the way that the house is positioned where it is not sitting between those two houses, it's positioned so that it would be away from and not boxed in, there could be some access or combination of access areas for the Fire Department. It's not between houses. It \_\_\_\_\_ so you don't have three houses in a row, so it is accessible all the way around or at least on three sides.

**[PM]** But it's getting to those sides that is a problem that the Captain was saying because if you're on earth or a grassy area, if it's a wet season and you bring a heavy piece of equipment in, it's going to sink down to the house and you're not going to go anywhere. Correct?

**[Capt. Hazlett]** Correct. And for the Board from both myself and the Chief of the Department, it was brought up from the very beginning because this is an unusual situation, I don't think we've had a house other than once before that was set back as far, so obviously the concern, difficulty in case of house fire was that the residential sprinkler is the way to go, the driveway, chief brought this up at the meeting when I was at the meeting, that somebody could legally park in their driveway, right off the street, and there's nothing anybody could do and they're legal. This way at least it will give the opportunity for the homeowner if in case of a fire to get out of the house and that's basically what the sprinkler system is it's a life safety system, it's not a suppression system even though that's probably a side benefit. That's truly the reason. It's so far set back that we're not going to get the ladder truck in there. As I said before, it is such a concern that we had brought it up and had brought it from the beginning from any meeting that I've attended and I've attended them all except for one and the chief was here. The chief would like as a condition to build this house that they put a residential sprinkler system in.

**[PM]** What about another option on that as far as a different. Could they do something to upgrade the fire alarm?

**[Capt. Hazlett]** The fire alarm is not going to put the fire out.

**[PM]** No it's not. But is there an update or upgrade they could do to that that would alert them.

**[Capt. Hazlett]** Nothing other than the residential sprinklers. Residential sprinklers is not like a sprinkler that you have in this building here. This is a 13

system. They are looking at probably at a 13D, very unobtrusive. There may be one sprinkler head in a room. It's designed differently. Designed to give the people the opportunity to get out. There would be a delay the way this house is situated.

**[DB]** From a clarification standpoint. Issue isn't one of necessarily cost of installation. Can't believe that is going to be more expensive than putting in a highway-grade pavement for a fire truck to be able to pull onto and support the weight and load of a fire truck with a ladder on it. So can't believe it's cost, more of a worry about whether or not the sprinkler goes off because someone burns toast or something and causes property damage. There's the malfunction worry that you have with any piece of machinery. From the standpoint of residential sprinklers, at least it's not at least from I know about them which isn't a ton, they're not like what you would find in a commercial building like this, they're not going to be set off by burnt toast.

**[Capt. Hazlett]** No. Smoke does not set off sprinklers. And they don't all go off. That's the misnomer that everyone thinks one sprinkler goes off, they all go off. That's not the case. Obviously, the difference would be if there was a fire in the house, you're talking 18-25 gallons a minute from the sprinkler head as opposed to the Fire Department getting in there with a hose and discharging 250 gallons a minute. And the other thing people bring up the fact that they are concerned that they may go off or they may break and yet people could have five bathrooms and never think twice of having the plumbing there. Really to me it's a moot issue if you're afraid it's going to leak.

**[DB]** Only concern I have it's a life safety concern.

**[PM]** If they chose to do the garage in the basement, would that satisfy some of your concerns?

**[Capt. Hazlett]** Problem is they wouldn't get the benefit from insurance company by putting in a partial sprinkler. That's the problem. Insurance company wouldn't recognize it. They'd say that's nice, but it's not a recognized system. If they are going to do it or it's going to become a condition, then they want to do it the way the system was designed.

**[BB]** Is there a ball game cost for this?

**[Capt. Hazlett]** It depends. \$1.50 a square foot and that's a ball park figure. If I understand it correctly, I'm not a designer, they're using the same main that goes into the house for the water for a residential. I think they have to replace the line going into the house anyway.

**[PM]** Usually today when they replace a line, you have a line into the house, it's usually a 1 inch line.

**[BI]** 1 inch copper line coming from the street.

**[PM]** How many gallons a minute does that give you?

**[Capt. Hazlett]** Most residential, they're talking 18-25 gallons. That's adequate because you're getting the fire in the insipient stage. If their concern is water damage, the water damage is going to be far less than a regular fire.

**[Counsel]** I recognize that there's a safety issue, safety of occupants of that house. The owners don't want to be put in a position to be dictated to put something in, that number one not required by law or the fire code or building code to do and number two that something that nobody really else has had to do even in situations that are more prone or are more dangerously set out such as a crowded or densely built area. This is an area where obviously the lot is a large lot, the density of neighborhood is minimal. Mr. Baldi said the first night he was here is I don't want to do it, I don't need to do it and I don't want to do it and I'm not required to do it.

**[PM]** No it isn't. He's correct on it. It's advice given by professionals that are concerned with new dwellings and correct me if I'm wrong Captain on dwellings that are over so many units, you require sprinklers in them if somebody is going to remodel or build new.

**[Capt. Hazlett]** Correct. It's actually three in the building and four by state statute for the Fire Department.

**[PM]** Granted that this is not going forward. Not something we can force upon the applicant, but it's something to consider for a property like this that they're going to put x amount of dollars in. Don't think we can do anything on to say you have to do it.

**[Counsel]** It's quite akin to saying we think that oil heat is safer than gas and you have to use oil. Phil is pretty savvy about this type of thing and I know whatever he needs to do to make it safe for his family, he will do. He's been in contact, either he or through his contractor, Mike Carney, is bringing in all the lines and so forth, been in touch with Captain Hazlett and had a meeting with the Chief, it's not in a vacuum that it's being decided.

**[DB]** Would there be a problem to making sure that the driveway is of sufficient grade and compaction and everything else to support a fire truck and be at highway standards?

**[Counsel]** No. I think Mike may have said that during first night of hearing that he could improve it to that extent.

**[DB]** I would love to from a life safety standpoint impose the requirement of a sprinkler, but I'm just not sure on appeal it holds up frankly. That's the problem I have with it. Because I hear what the Fire Department is saying loud and clear and I share their concern, but I'm not sure we can impose that condition unfortunately.

**[Capt. Hazlett]** When somebody does something and you make conditions, even conditions like you can't use such and such materials and somebody is willing to accept that condition in order to get a variance, etc. I truly feel that this is not that unusual, this condition. This is an unusual situation. I don't think it's an unwarranted condition. Again, they could build the road, they could build the driveway to a highway standard, but if somebody is parked and we can't get in, that driveway that is built to a highway standard isn't going to do anything. At least by making it a condition, and it's a valid condition and valid concern from Fire Department standpoint, to say look if you're bringing in a house that is so many feet back, this is not an unusual condition.

**[JR]** Down at town pier, they have stand pipe because boats are so far away from us. I'm on the Fire Department 25 years coming up. Lt. down the beach. Very friendly with Captain Hazlett. With stick framing in this building like they're doing and fire stopping on Jimmy's rough framing inspection that he's going to look at, may be we can go with having them do the whole house in 5/8<sup>th</sup> fire code sheet rock and a simple stand pipe down the right side, we can hook up to that and have water at the front door in 30 seconds and that way there if there's a fire that starts outside the house, gas grill, windy day, 5/8<sup>th</sup> fire that he can support and may be a simple stand pipe, a pipe that Mike Carney can bury under the ground, that gives us access right at the front door up to the side that no body has to worry about. We hook up with the fire truck and it's there in 30 seconds because he's right, if we get the call for a house fire, the set-back doesn't really save lives anyway. It's the amount of time that it takes for us to get there. It's going to take us 4-5 minutes to get there anyway. It's what we do before we build it. I would say 5/8<sup>th</sup> fire code the whole house and a stand pipe down the side so we can have fire fight outside and inside and if a neighbor's house catches fire, we have it there too. As an alternative and to keep everybody happy. What's there now and what's going to be there when they finish.

**[DB]** Does a stand pipe help alleviate any of your concern Captain?

**[Capt. Hazlett]** It's definitely an alternative. The only advantage and I'll go back to the sprinkler is the advantage of the sprinkler is you don't have to use more expensive material to build the house. That's the advantage of not having to spend the money to build it more economically. More economical. By the time they get through building the driveway to highway standards, it's going to be cheaper to put the sprinkler system in. The advantage of the sprinkler system is like having fire fighters in every room, granted they put the stand pipe in, problem is they are still not

going to be able ladder the building because we can't get to the building. If you've got somebody in there, it's that time frame, that time delay.

**[JR]** The highest window can't be more than 24 feet. There's plenty of hand-carried ladders for us to get them out. I understand what they're saying but with the stand pipe it's my professional opinion it's the way to go.

**[Counsel]** All of those sound very reasonable in their life safety context, so we have improvement of the driveway or the stand pipe or the sprinkler system.

**[BB]** Or all three.

**[PM]** Do you want to think about this and come back to us?

**[BB]** Get some prices on all?

**[Counsel]** I don't want to have the permits held up because the next thing is the drawings and contacts and all the rest. I'm wondering if this is going to take more expertise and 50% more decision power than what I have here at meeting. Wondering if the Board could craft a condition that would allow us to somehow present that fire safety plan or whatever is to the Fire Department. If there is a conflict, we come back here.

**[DB]** I think condition is if we see our way to granting this, I think condition that gets you out of Board of Appeals' process and gets you to the right place, to the right people who should really be deciding this from a life safety perspective, not us who are well-intentioned, but aren't experts in this sort of engineering or anything else necessarily, but having a condition that requires you to satisfy the Fire Department on life safety, depending on whatever the.

**[Counsel]** If the sole arbiter is who I think it is, we will probably be back here.

**[PM]** I agree with Mr. Baird. It gets us beyond the Board of Appeals and puts us in the hands of other professionals to be able to do this. You've heard different alternatives here and I know sometimes it's hard, you can't make a decision right now to do it. I think we want to move this forward and if we put that as a condition that there's an acceptable life safety program that's incorporated into this and if it has to come back again, it has to come back.

**[DB]** I am of the opinion that what's being proposed here is a vast improvement on what's there now. Would be in favor of granting relief provided that you reasonably satisfy Fire Department on life safety issue here. We all take risks in our life about what we are willing to accept and not accept, but I don't want to render a decision that (a) costs your client more money than they should spend reasonably; and (b) creates an issue

where there is a life safety issue that I read about sometime in the *Transcript* that I don't want to read about.

[Attorney Cipoletta to draft decision.]

**MOTION (Darren M. Baird) - #12-2010** - to grant a variance pursuant to 40A, Section 10 from lot frontage of 25 feet, lot width of 25 feet, establishing an east side set-back of 5 feet and a west side set-back of 2-½ feet from property line, all construction to be consistent with plans drawn and subject to condition to be drafted on satisfaction from life safety perspective of the Fire Department with regard to what life safety measures are going to be implemented in construction of this dwelling and that finding that the soil, shape and topography of lot is such that the literal enforcement of the zoning by-laws and dimensional requirements would create a substantial hardship and that the proposed dwelling is not substantially more detrimental to the neighborhood than what is there presently.

**SECOND (John Rich)**  
**VOTED** All in favor.

**#15-2010-SP - 66 Woodside Avenue - Wai M. Chiu** - for a Special Permit to renovate the existing building at **66 Woodside Avenue, Winthrop, Massachusetts 02152** to accommodate an expanding restaurant business. The property in question lies within the Center Business Zoning District and has an allowable current use as a "Retail Business." Permit was denied on May 27, 2010 in accordance with Town of Winthrop Zoning Ordinance 17.12 *Table of Use Regulations*. The proposed change of use to a 46-seat "Restaurant" requires a Special Permit issued by the Board of Appeals.

**Sitting: PM/BB/DB**

Peter Lin, Esq., 65 Harrison Avenue, Boston representing applicant. Applicant present. Applicant and husband own lot at 66 Woodside. Hong Kong Dragon. Recently purchased property. Would like to expand restaurant dining area into 66 Woodside. Business retail use. Would require a special permit to modify lot. Amend number of seats to 70. Not a lot of structural work that needs to be done other than putting in bathrooms. Lay-out showing tables and chairs.

Heard in favor: Lou Camacho. 64 Woodside. No problem. \_\_\_\_\_, 42 Bartlett Road. Long-time customer. Jim Letterie, 67 Woodside Avenue.

Michael Vagan, 100 Woodside. Tim Burgers. Cindy Lemons, 47 Woodside and 3 Bartlett and speaking on behalf of Chamber of Commerce. Maggie Morris, business partner. No persons heard in opposition.

The following exhibit was marked:

Exhibit #1                      Floor plan.

**[BB]**                      Sit 46 people.

**[Counsel]**              When submitted original plan, re-did plan, found space for 70. Want to amend that.

**[Applicant]**            When we first did lay-out it was with general contractor so measurements were not exact, rough measurement. Licensed architect was able to draw out everything, according to lay-out.

**[PM]**                      Glad you did that because that was one of my questions, couldn't accept plan that was here, wasn't dimensioned. Something new that we got and we'll take a look at it dimension wise.

**[BB]**                      Building next door is vacant?

**[Applicant]**            66 Woodside is vacant.

[Plan reviewed]

**[DB]**                      Parking. Where do you anticipate accommodating necessary parking for restaurant?

**[Applicant]**            Street parking on Woodside Avenue. Behind restaurant there's more public parking and where Bank of America there's going to be parking. Next door the restaurant has 99 seats and they have been able to accommodate parking with no problem and we have a lot less seats. Our \_\_\_\_\_ is a lot smaller than theirs. Assume there's not going to be any issues.

**[DB]**                      What are the hours of operation?

**[Applicant]**            11:30 to prepare for lunch. Weekdays it's going to be 10:30 that we close and weekends it's going to be 11:30.

**[DB]**                      No bar, no alcohol service.

**[Applicant]**            There's going to be a service bar. Intention for us to have a service bar because a lot of our customers with Chinese food they want to have a mai tai. More of family atmosphere, not for people to hang out and get drunk. Already got my TIP, went through and make sure everything is okay. Intention to have more relaxed family atmosphere.

**[BB]**                      Majority of your business is it after 6 o'clock?

**[Applicant]**            No. Do business at lunch time. A lot of elderly people who call us a lot for take-out.

**[BB]**                      If you do this, most of your business will be after 6 o'clock?

**[Applicant]** No. Not after 6 o'clock. A lot of people who get out of work 4:30-5:00.

**[DB]** Handicapped accessibility.

**[BI]** Only triggers if they do a bathroom over. Bathroom has have handicapped accessibility. 41 CMR. And entrance if they do the entrance over, those buildings the two of them were public access, inviting public in, so it's not like going from a residence to a business where you have to create handicapped accessibility. Whatever they have now, they're allowed to have. If they put in more than a hundred thousand dollars into this renovation, that would trigger more handicapped accessibility as well.

**[DB]** Are the new bathrooms.

**[Applicant]** Unisex which is handicapped accessible. Entrance is definitely going to be handicapped accessible. Right now we have one on the side like on the right side, but we are going to close that and make it on the left hand side because it will make it easier for handicapped accessible because the steps are lower than the one existing right now and that's the reason why we want to close that and re-open so it's easier for the wheelchairs.

**[DB]** So your intent is to make this handicapped accessible.

**[Applicant]** Yes. Same thing in the back in the emergency exit, we're going to be making steps so that it's easier for the wheelchair.

**[PM]** Looking at plan and you're showing changing the entrance at the existing store front you have. And you're going to close up the entrance at 66. And that's going to give you handicapped accessibility coming in on Woodside Avenue.

**[Applicant]** Yes.

**[PM]** Are you making any changes to the kitchen?

**[Applicant]** We're adding a dishwasher.

**[PM]** You're not changing the kitchen. You're not adding anything in there? You're making an opening between the two buildings, only for a service opening for food to bring back and forth. It's not for people to go back there.

**[Applicant]** No. Service.

**[PM]** I see the new bathrooms. I see the path you have here for exit out the rear. You're going to put a ramp in the rear to go out for handicapped. In the rear, I see some stairs. Are you having an entrance off of the back of the building?

**[Applicant]** There's an existing entrance over there. They're going to modify so it's easier for handicap. On the side, they're going to re-do it with the cement so it's easier.

**[PM]** This is in the rear. But I see some stairs coming in. Are you going to have an entrance in the rear off the parking?

**[Applicant]** Those stairs are existing ones right now.

**[PM]** Yes. Are you going to have an entrance coming in from there?

**[Applicant]** No that's an exit.

**[PM]** I know that. But are you going to have an entrance coming in. There's parking back there. Are you going to have entrance coming in that way too?

**[Applicant]** That's already an entrance over here.

**[DB]** You'll be able to enter the restaurants from both ends.

**[Applicant]** Yes. Not for the customers.

**[PM]** That's the question. Customers are going to come in where?

**[Counsel]** Front.

**[PM]** Front only. So there will be nothing in the back except for emergency egress.

**[Counsel]** Yes.

**[PM]** That's what *La Siesta* did in that space between the buildings. It's public anyway.

**[Capt. Hazlett]** Spoke to not sure--talked obviously about putting in a fire alarm system. Other than that I don't they're tripping under the code, sprinkler requirement. I think because it's under 100, not a requirement, fire alarm system would be a requirement. He's aware of it.

**[BI]** I have no comment. Plans look really good.

**[PM]** In the beginning one of my comments was that the plan was not to scale. It wasn't a professional lay-out which this is and if the BI has been through it and has seen it, I don't have a question on it. I don't have a problem with it. Materials for the entrance. What do you plan on doing at the entrance?

**[Applicant]** Glass. Tiles at the bottom. Keep the old awning. Suggested to add another one at 66 Woodside and keep the other one so we're complying with the codes.

**[PM]** Basically entrance is going to be aluminum and glass as it is now.

**[Applicant]** Glass and then tiles at the bottom.

**[DB]** I would like to study the plan a little bit.

**MOTION (Darren M. Baird) - #15-2010** to take this matter under advisement and move it to a deliberative session to issue a decision in due course. Re-schedule to **July 6, 2010** for deliberation. Public hearing portion is closed.

**SECOND (Brian J. Beattie)**

**VOTED** All in favor.

**#16-2010 - 137 Winthrop Shore Drive - Robert A. & Rachel B. Darman**  
- for a variance and/or special permit to remove the roof structure over the existing front porch and construct a second-floor deck in its place at property located at **137 Winthrop Shore Drive, Winthrop, Massachusetts 02152**. The proposed second-floor deck is slightly larger than the existing roof and will increase the non-conformity of the structure. Permit was denied on May 10, 2010 in accordance with Town of Winthrop Ordinance, Chapter 17.16.03 *Table of Dimensional Regulations* and 17.28.030C.2 *Non-conforming Uses, Structures and Lots*. Zoning relief of 8.0' from the front-yard set-back is required.

**Sitting: PM/BB/DB**

Applicants present. Right now we have a covered porch in front of our house. Getting a bit dilapidated. Put a lot of effort last year when I got the house all sort of weather-beaten and run-down so I put a lot of effort into painting it and getting it spruced up. Would like to add a little bit to functionality while I work on the deck. Would like to remove the covered porch and replace it with a structure of the exact same size on the first level and where the roof is, put a deck on the second level which because we live on the second and third level, it's a two-family house. Want to build it in to make it architecturally consistent with rest of house, don't want to make it like a deck, want it to look more like a part of the house. Currently house with set-back laws, on the north side and ocean side of the house, it's too close to the set-backs. When I build it, it's also kind of narrow, want to be able to put a table on the second floor and I want to extend 2 feet over the driveway which doesn't encroach on the southern set-back, but it does continue the encroachment on the street. Have to put in a door on the second floor and part of the deck will be reinforced.

No persons heard in favor of or in opposition to application.

**[BB]** Want to go roughly about 2 feet outside the perimeter.

**[Applicant]** Just over the driveway to the southern side of the house. Don't want to go any closer to the street. 2 feet cantilever on the second floor on the southern side.

**[BB]** What is the reason for that?

**[Applicant]** Right now it's only about 8 feet wide up there. Come out the

door way. Would like to put a table there and walk by without having everyone have to get up from the table. Access point. Have plenty of room, not too close to that other neighbor's house.

**[BB]** Until a truck backs in to turn around.

**[Applicant]** Actually there's a walk-way there. The driveway is on the other side.

**[BB]** Driveway is right there.

**[Applicant]** It's a two-car driveway so there's plenty of room. I have a boat that goes in there and it's not going to interfere with that. If you look behind you can't see it, actually a post and there's a fence that runs across and a gate on the other side. Full width of driveway is sort of meant to be 3 feet over. Better picture of it further along. Actually post right behind my car here and then a fence across to get to rear of driveway. Walk-way through here.

**[DB]** What are you proposing for finish materials?

**[Applicant]** Going to build structure out of pressure-treated lumber, all exposed surfaces will be covered with PVC supports and decorative trim. Want to try and match look with the rest of the house.

**[DB]** So no exposed pressure-treated.

**[Applicant]** Only thing I'm considering is pressure-treated decking. Don't like the plastic wood and so I'm considering pressure-treated for the decking, but not any surfaces face-out, so it's not going to look like a deck, it's going to look like a finished house. Take it you don't like pressure-treated.

**[DB]** Not a big fan. Don't like the way it looks aesthetically.

**[Applicant]** I agree. I don't mind the decking so much. Actually like the way the decking looks better than plastic.

**[DB]** Don't mind it necessarily if I'm standing on it. Don't like driving by it and seeing it. Detracts from look of neighborhood.

**[DB]** When you bought the house, it's always been this configuration regarding height and number of levels.

**[Applicant]** Yes. Third floor was added in the 80s.

**[DB]** If it's a pre-existing condition.

**[PM]** That was going to be one of my questions. Site plan that Al Romano did says it's a 2-½ story wood structure. Would ask BI jacket that he has is that what the house is? Is it a 2-½ story, 2 story.

**[BI]** There's nothing conclusive in here that says it's a 2-½ -3 story, have to be an at grade measurement made determination on the third floor.

**[DB]** When is the last time a building permit was pulled for any substantial renovation in that property.

**[BI]** 1987.

**[DB]** We're past 10 years anyway so who cares. Not ripe for an enforcement action, only speaking for myself, can't be concerned about 2-½ or 3 story. We don't have any jurisdiction to fight with them about that anyway.

**[Applicant]** What's the difference.

**[DB]** If it was deemed to be a three-story right house right now because of something you had done to it, the argument would be that it is now non-conforming, the zoning code, you can't have a three-story or create a three-story in Winthrop, but where something has been done historically that is done with building permits or without, you can only raise a question about whether it complies with the zoning and create a problem for the landowner if it's within a certain period of time: 10 years for something done without a permit and 6 years for something done without a permit. Based on what I'm hearing,

**[PM]** If you say I want to do this now, you couldn't do it, it's a three-story.

**[DB]** Or you'd have to get a variance.

**[PM]** If you've done the work on this, it looks very nice what you've done. My concern is the extra 2 foot overhang over the driveway of this and to take away from the appearance of the house and what it's going to look like. That would be my biggest concern, that it aesthetically matches the house that you have there now and details that you've got and because I know BI is concerned about that too from previous experiences on the beach of people trying to do this and it doesn't follow through. What I'd like to see and for the benefit of everybody you're showing something existing, I'd like to see how you're looking to finish this off with sketches or something to show us what it's going to be. We'll take that plan and put it in the file. That's what he'll have for reference and that's what we'll have in the file here to say this is what you're going to do. We've based it on our decision based on this plan, your details, what you're going to do with it and then it's a done deal. So we've had problems, people coming back and say I'm going to do this and then come back and do something else and then it's all built and then say well it's all built, don't make me take it down. And it doesn't conform.

**[Applicant]** I have a railing detail in there.

**[PM]** I saw that in here and what I'd like to see is if you can give us something to show us what you're going to do for

**[Applicant]** All the drawings I've done I show all the structural work. All of this is going to be boxed in including the posts and everything is going to be

**[PM]** How are you going to do the posts?

**[Applicant]** The posts are 6x6 and then they're covered with PVC boards and some sort of routing.

**[PM]** Molding or something like that. Again, that's what I'd like to see. If you'd just show a sketch of what it is and supply us the sketch so we can see it and try to show something that you've got that and show us an elevation of your railings. If you could do that if that's possible. We're having a meeting here in two weeks.

**[Applicant]** I can try. See what I can do.

**[PM]** We're concerned about what it is going to look like finished by the BI so he'll have something on this to go by and know what it's going to be. Because previous experiences, it hasn't been too favorable. I want to see how he's going to do it. I think if it blends into the house 2 feet coming out and if it's going to be architectural satisfying I don't have a problem. Right now the roof fits in, it goes the width of the house.

**[Applicant]** A lot of the framing is done just specifically for the boxing. I didn't put the ¾ outer layer on it because I thought it would just confuse the drawings, but basically the entire underside of the roof is going to be covered with a bead board. Right now it's plastic siding, want to have varnished bead board inside.

**[DB]** Aesthetically it's going to look better than that.

**[PM]** Something that you can show us detail of what you're going to do with the posts and you've got a small section here on railing that you did. This is an exposed PT. Drawing that shows how you're going to do the posts, what it's going to look like, molding on it whatever, so we can give it to BI to show what you're going to do.

**MOTION (Darren M. Baird) - #16-2010** - to continue to get a plan from petitioner to **Tuesday, July 6, 2010, at 7:00 p.m.**

**SECOND (Brian J. Beattie)**

**VOTED** All in favor.

**#07-2010 - 71 Grovers Avenue - Olivia Sillari, Trustee, Salvatore Sillari Family Trust - (Appellants)** requesting Board of Appeals to reverse Building Commissioner/Inspector's decision dated February 20, 2010 notifying Appellants to cease and desist from the present use of premises at **71 Grovers Avenue, Winthrop, Massachusetts 02152** as a five-family dwelling informing Appellants that the maximum use allowed in the Zoning District is a two-family dwelling. Appellants request that Board of Appeals finds that Appellants are in compliance with Winthrop Zoning By-Laws.

**Sitting: PM/DB/JR**

Attorney William DiMento of Swampscott for applicant. Applicant present. Petition results from incident with a tenant at 111 Grovers Avenue which tenant caused a problem and had some issues and that resulted in an inspection of 18 Dolphin Avenue and 71 Grovers Avenue and three enforcement letters went out. Assume they were done because the name Sillari appears in all of them. There is no enforcement action. There is no complaints, no anything on 71 Grovers Avenue. In the BI's letter to the Sillari Realty Trust says that they were notified by the Fire Department that the properties contained in this case 5 separate dwelling units and that the records of the Building Department indicated that the structure can only be legally occupied as two separate dwelling units. And it says there's no records of occupancy permits issued for the work that appears to have been undertaken to convert the structure to its current illegal occupancy. The position of the land owner that it is 71 Grovers Avenue has been used as a 5-family for at least for 35 years, may be longer from before that and I have been through the BI's file and I have been through the information in the Assessor's office. My understanding of the pre-existing, non-conforming use and in this town anything more than a two-family would have to be a pre-existing, non-conforming use in these old structures, this was built in 1900. They're very old structures and they've had substantial use over the years. If we accept that is a pre-existing, non-conforming use at all, any more than a two-family, then it comes to establish how long it's been there and what they are. What's so difficult for a landowner in this case who didn't build it, they bought it as a 5-family is how do you do that? The only way I know is to search street listings and try to establish back over the years the numbers of people that have resided there or, although the assessor's records do not define what a use is, they are some indication of that. I don't have site on top of my head, it's a case called Heald H-e-a-l-d which states that assessor's records do not make it definitive. They are just some indication of a particular use at a particular time. In this particular case, we did go through records and tried to establish as best we could occupancy over the years which we did. I'd like to submit an appraisal that was done in 1994, that was done for mortgage purposes by the owner of the property which has it has a 5-family. The street list has various years we were able to get at the library or at the town hall going back this is 1990-1991-1992-1996-1991--you'll see when you look at this all the various different families, different names living at 71. In 1990, Gail Campbell, John Geary, Jennie Hogan, Don Jeffries, Stacie Jeffries, Carmel

Motherway, Thomas and Denise Lett, Carl Pastor and Salvatore Sallari, all living at that address and you'll see obviously it's more than a two-family and we suggest to you that it's a 5-family. I was able to get some records from the field cards of the assessor's office and those records provided to me by the assessors call it a 4-family which it is currently considered by the assessor's and assessed by them as a 4-family. There's another one which is a previous card that I'm going to give you that describes this, and has building permits, and describes it as a 4-family and at one point in 1987 it was saying it was a 6-family after an evaluation by the assessor's, but there's no claim by the tenant. Most of the uses by the assessor's keep going 4-family, 4-family, 4-family, these are each year. It goes on and on in those descriptions. There's an additional issue of how do you establish in one of his statements by BI that there's no records of any renovation or any work done in his files. Yet there is in the file in the assessor's file there is an indication that there were building permits pulled on this structure and you'll see what that means, what the effect is, one of them is just a deck repair, but it still brought the BI to the building and he would see the number of units, what impact it has, you have a building permit issued in 1979, another one issued in 1982 for work done within the building and the same thing, it calls it a 4-family. I suggest to you that that is building permit work approved by the BI and under Chapter 40A, Section 7, there is no enforcement on that because these building permits, even though I know they're not in Commissioner Soper's file, they're certainly on the field cards of the assessor's. This one is dated 8/26/76 and as you know they update these as work is done for those existing field cards. Town of Winthrop now uses new ones. But it has the relative data relative to this in these building permits and certainly it's occupied as a 4-family and has been, so my suggestion to you it's a protected use for at least 4-families. One of the things that I'm going to ask the Board to do before any decision is made on any of these properties because I think it would be very helpful for the Board to visit the property and see the configuration and age of the apartments that are there. The Sillari's have been renting these units for years and years and Mrs. Sillari actually lived there and her testimony if she were to give testimony, it was certainly a 5-family when she lived there. So I have been through the building and certainly the configuration of these apartments and some of them are very old. 71 has a hard wire system in it and you note the hard wire systems have been required. I discussed this with Captain Hazlett and he doesn't have any record of that of those being done. Someone installed them and someone pulled a permit to get those hard wire system in that building and they all appeared to be code to me and someone has done that

work. My belief is someone had to inspect it. The statute required upon implementation that the Fire Department inspect all these hard wired systems. Hard wired systems is not required for a two-family use. That's the difficulty of 71 Grovers Avenue. That's the position petitioner is advocating is the records we do have are very clear. It's at least a 4-family unit shown year after year after year after year and all of that work for building permits, we believe that it is absolutely protected for at least 4 units.

Jim \_\_\_\_\_, 79 Grovers Avenue. Partial right now. One concern is parking.

No other persons heard in favor of or in opposition to petition.

The following exhibits were marked:

Exhibit #1 Real Estate Appraisal 09/24/1994  
Exhibit #2 Street records  
Exhibit #3 Assessor's Records  
Exhibit #4 Quitclaim Deed 06/07/1994

**[JR]** Would like to visit the property. Obviously there were permits taken out, there were fire alarm systems put in. To make it clear good decision, we should walk through.

**[DB]** It wasn't in package copy of deed. How long have they owned the property.

**[Applicant]** 1976.

**[Counsel]** Deed references family-to-family.

**[DB]** In '94, the current owner acquired the property. Prior to that, going back to 71, it was in the same family, just a different trust.

**[Applicant]** Correct. 1975.

**[DB]** Just looking at building jacket too. As far as I can tell, in going back and looking at permits that were pulled back in the early '80s, just about everything lists this as a 3-family, don't think I saw anything in excess of that in the jacket. Wondering when these renovations were done. Looks like it was to replace a deck in 1998. How many families. It says 3. Don't see anything--don't think there's anything as far as renovation permits or anything after that indicating the number of families. One of my questions was just going back in time because now we have enough--there's a long enough period of ownership. Was there a reason why back when amnesty was given for more than 2 families in this town, they didn't apply for it on this property because that would have taken care of this

issue in the first instance.

**[Counsel]** That was a question I asked and the answer was they didn't know about it. Had they known. They're not Winthrop residents. They're from Somerville and they did not know about it. It would have been the perfect time to clear it. I second Mr. Rich's suggestion and suggestion of the petitioner. I would like to go out and see this property with my own two eyes and see how it's configured out, hangs together and get a sense for the age of how the units have been used over time. The jacket is the only thing no offense Mr. Soper, the only thing less reliable than a historic building jacket is the assessing card. I'd like to see with my own two eyes.

**[PM]** I'm in agreement that we do this.

**MOTION (Darren M. Baird) - #07-2010** to continue to **July 6, 2010** for site visit at **6:00 p.m.** before hearing and come back here and follow-up with questions. Public hearing part will still be open if there is further testimony and anything we want to take.

**SECOND (John Rich)**

**VOTED** All in favor.

**#13-2010 - 18 Dolphin Avenue** - appeal of **Anthony D. Pino and Celeste Sillari Pino, Trustees of MP Realty Trust ("Appellants")** of the Building Commissioner's decision dated April 14, 2010 ordering a cease and desist of the "illegal use" of the land and structure at **18 Dolphin Avenue, Winthrop, Massachusetts 02152** in that such property currently contains six (6) separate dwelling units and can only be legally occupied as five (5) separate dwelling units; Appellants being in violation of Town Ordinance 17.12.130 *Table of Use Regulations* by establishing a multi-family dwelling in Residential A District without proper permits.

**Sitting: PM/ID/BB**

Attorney William DiMento representing petitioner. Representative Debbie Reid, who works for management company, present. Building that has obviously been there for a long time. Sillaris have owned it since 85 or 86. It is a classic Dolphin Avenue structure. There are several in that neighborhood that run from the Shirley Street school to the Highlands and it has you look at the building and I will ask that the Board also look at this one, it's really a classic 6-family house with 2-2 and 2 and they're very clear enunciated units and there's a raft of information on the street list on this particular structure. For some reason the census takers the

people who registered to vote out of this structure were very consistent in their approach and their occupancy. 20 years of occupancy at 18 Dolphin Avenue. Along with that, there were numerous permits issued for this property and here's one from 1985 application for permit for alterations in which it is listed as a 6-family house, 6-family dwelling in which is dated 6/11/1985 which is clear is a tenement house disclosure notice which is a 6-family dated May 27<sup>th</sup> 1925 in which it is 6-family. Winthrop rescinded the tenement house act.

**[ID]** 5. Tenement house says 5 here.

**[Counsel]** Don't know where we got that one. Same date?

**[ID]** Yes. 1925.

**[Counsel]** 25. I didn't see that.

**[BB]** Says 3-family in 1949.

**[ID]** Building jacket calls it variously 3 family to 5 family

**[BB]** 5 apartments in 1925.

**[ID]** and a 2 family. 2 family, another document says it's a 2-family. So over the years the jacket has this thing everything from 2 family. It's pretty clear that it's a 3 family. 3 stories.

**[Counsel]** I was able to get application for building permit from 1961.

**[BB]** 3 family in 1949.

**[ID]** There are several of them.

**[PM]** Let him finish his presentation and then we'll get into questions.

**[Counsel]** That's the building jacket. I didn't see that building jacket. Someone named Nathan Goldberg in an undated one add meter for house lights, wire 6 gas heaters units and town's revaluation notice has it all laid out, how many on each floor, how many units, 6 units and this is the prior assessor's card. It's time after time after time and totally consistent with that. You said 1980 something it had. I've got one 1989. It says 6 units from the assessor's field cards. It is extremely--this particular property--is extremely consistent on 6 units and when you get to--if you take the time to get to see the units, it's not anything else but 6 units. It's clear as day. In 1976 6 units. All of them the field cards one after another after another, all of them 6 units. I did find a siding permit, application for siding permit that says 5 units. This property is extremely susceptible to looking at it when you see that the building was built as 6 units. There are a bunch of building permits shown on a field card, but it doesn't say what they're for.

**[BB]** Did you say vinyl siding?

**[Counsel]** Yes.

**[BB]** Says 5.

**[Counsel]** Says 5 right.  
**[BB]** Says 3 in 1973.  
**[Counsel]** For vinyl siding?  
**[BB]** No front porches.  
**[Counsel]** There aren't any front porches.  
**[BB]** It seems like the back porches were all redone.  
**[Counsel]** Another one 1961. How many families. 6. Replace kitchen sink for a plumbing permit. It just seems overwhelming looking at the building. I know how difficult it is. Once again if they had gone to the amnesty and proved their case, it would have been simpler, but they didn't.  
**[Applicant]** How long ago was the amnesty thing and how were people notified.  
**[Counsel]** They weren't notified.  
**[ID]** More than 20 years ago and it was in the area newspaper.  
**[PM]** It was back in the '90s.  
**[Counsel]** '95 or '96. There was a lot of discussion in the *Winthrop Transcript* and that's the way most people found out about it.  
**[Applicant]** If you don't live in the town, you're not necessarily going to read the local newspaper.  
**[Counsel]** No notices were ever sent out.

The following exhibits were marked:

Exhibit #1 Street listings  
Exhibit #2 Assessor's & Building Department Records

No persons heard in favor of or in opposition to petition.

**[BB]** Seems like everything that was done. A lot of these things. In 1960 it was a 3-family. In 1955 it was a 2-family. In looking at all the permits that have been pulled, a lot of these are basically outside, outside work, front porches, rear porches, raze the right side of the porch. It was a 3-family in '73. It was a 5-family in '78. And it just keeps changing. It keeps changing and changing. One thing I don't see. In looking at that building, it looks like the back porches were all, new foundation under the back porches and enclosed it in at some time.

**[Counsel]** They've been on there since '85.

**[Applicant]** About '86.

**[BB]** Well there's a different foundation underneath. You go in the back underneath those porches. Looks like everything was enclosed at one time and I don't see a permit for any of that in this jacket.

**[Counsel]** I didn't see it in my looking at the town records. It said enclosed porches.

**[BB]** Take a look at it and walk around back, you'll see that the foundations is newer than the 1925 foundation and it looks like it did have back porches at one time, three decker or whatever it was built as and enclosed it. I don't see any permits to enclose anything like that and then the original that goes back here to 1925 and it just stops. It changes. It goes from 1925 right up to the present time, different one all the time. It was closed in. When we take a look at it. I suggest we do the same thing with this piece of property, site visit, absolutely, same time we do the other, absolutely.

**[ID]** I'd like to take a look at it. I'm familiar with the lay-out of the building because the same set of plans they're all over town. There's one up the street from where I live. That building was built as a 3-family and it was converted to 6 at some point. The lay-out is you walk in the front door, the hallway goes down and originally all those buildings were \_\_\_\_\_ big 3 families and there have been a number of them that smaller 6 families, 1 bedroom per side. I know it's been done. If you look in the building jacket, this building is referred to as a 2-family, a 3-family, a tenement house, a 5-family, a 6-family, it's all over the place. There may not be anything wrong so that ultimately legally being a 6-family, but we have a process here to go through to do this.

**[Counsel]** We had a process that people were given that amnesty thing from 1995.

**[ID]** It's still in our by-laws that you still can come in anytime and go under Chapter 17.

**[BI]** There was a deadline for application with the town clerk in 1994 says the deadline.

**[Counsel]** It says it right in the by-law.

**[BI]** There's definitely a procedure still under 40A.

**[Counsel]** I would agree it's all over the lot. I just gave you those things from 1961 that says 6 family, 1985 and the work was done 6-family. There's lots of 6-family references and I don't know, may be it was. I delivered newspapers there on those streets from 1948 to 1954 and I know those streets like the back of my hands. I'm not telling you there were 6 units. I don't know. I delivered to all of those multi-family houses. I know those houses well and they're all more than 2 family. The assessors told me yesterday there's over 900 structures in this town of more than 2-family. Mr. Soper has picked 3. He's got 897 left to go for this process. My own suspicion is 30% of the people applied for amnesty. One of the questions I had is just how many people did apply for amnesty during that 3-year

period, not that many. I know I did some of those petitions. There weren't very many people that did it so there's hundreds and hundreds of structures like this that are out there. Just this incident at 111 has resulted in us being here tonight. I don't think they're at fault. They don't live in town and they weren't aware of it and there's no rule you have to live in town even though in Winthrop many many people do live and own property in the community, but they bought in 1985 and they certainly thought it was a 6 family in 1985 because the records are absolutely consistent of it being a 6 family since they've owned it and the fire detection systems are all I'm no expert they're all there. They're all hard-wired and someone must have \_\_\_\_\_ them in to do it.

**[PM]** We're going to go through and look and see if there's permits for it. Somebody did it

**[ID]** I see a letter saying the work was done, notifying the Fire Department.

**[Counsel]** Fire Department hasn't got any record of them.

**[ID]** It's in the thing. Says we did it.

**[Counsel]** That was 2010.

**[Capt. Hazlett]** I did speak to Mr. DiMento about this. Unfortunately for the Fire Department, there are no permits in the eyes of the Fire Department. There's not a system. But regarding 18 - 18's fire alarm system does not match a 6-family. I expressed this to Mr. DiMento. Over 5 requires a low voltage, 110 system. The problem is there are no permits. The Fire Department will never go anyplace to do a test or do an acceptance if there's no permit. Now if it been done before fire prevention was full-time and I've been the inspector now for 20 years, then obviously it would have been looked at by the wiring inspector if for no other reason for wiring. Bottom line is whatever decision you make, whether it's 5-6, whatever, fire alarm systems in these buildings were only tested for request of the Fire Department. Not because they approved it. We just wanted to know what was there. Whatever the outcome is, I would like them to put in a fire alarm system that is approved and permitted through the Fire Department. He said they'd be more than happy to do it. Want to put that on the record. Will deal with it whatever decision of Board is.

**[Counsel]** Not an issue.

**[BI]** Would like to be invited at that inspection and make further determination.

**[BB]** Make meeting start at 7:30 p.m. On site visit on July 6<sup>th</sup>.

**[PM]** To keep building jackets.

**MOTION** (Brian J. Beattie) - #13-2010 to continue to **July 6, 2010** for site visit at **5:30 p.m.**

**SECOND** (Irene Dwyer)

**VOTED** All in favor.

**#14-2010 - 111 Grovers Avenue - Celeste Sillari Trustee, C&A Realty Trust - ("Appellant")**, of the Building Commissioner's decision dated April 14, 2010 ordering a cease and desist of the "illegal use" of the land and structure at **111 Grovers Avenue, Winthrop, Massachusetts 02152** in that such property currently contains five (5) separate dwelling units and can only be legally occupied as two (2) separate dwelling units; Appellant being in violation of Town Ordinance 17.12.130 *Table of Use Regulations* by establishing a multi-family dwelling in Residential A District without proper permits.

**Sitting: PM/JR/ID**

Attorney William DiMento, counsel for applicant. Applicant present. Property that brought us here in the first place. This has been a more difficult piece of property to find information on from both the assessor's office and BI's jacket which I did get to look at at least what I thought was the information. Owned it since 1979.

**[Applicant]** 1979. Anthony originally purchased it in 1979 and then Celeste purchased it from Anthony, her brother, in the late '80s. Went from one family member to another family member in the late '80s, but it was purchased originally in 1979 by another Sillari family member.

**[Counsel]** Street listing records aren't nearly as detailed as the one for 71 or the one for 18 Dolphin, but there are still many, many references in the street listings to different names. You will see names like Holly, Buchannan, Stephanie DiStefano, Frazier, Andrea Geiger, John Constance, Sandra Jones, Jacqueline King, Sharon Lawson, didn't someone say that the fire chief himself lived in this structure, the present fire chief at one point in his life. But those are street listings records for 111. Once again the assessor's field cards showing 5 units, 1976 showing 5 units field card, this one has a building permit which is not in the BI's file showing new additions and additions finished on the building permit record, but there's no - I could not find any reference to these building permits in the BI's files and I can tell you from doing this kind of work in 32 communities, that's not all that surprising when you have the number of the members of the public that go through these files, things happen to them, and they're not there when they were there at one point, but this

is an indication that there were additions in 1976 and it's also reflected at a 5-family. It shows the values of the work being done. '76 permits. I offer these as examples of how long that has been used that way. The revaluation project which unfortunately I tried through the assessor's record to find out exactly when this is dated, but it's old and it does not have card from Spencer-Fitts' revaluation project. I suppose someone in town will know that, may be Dick Dimes or someone like that from the revaluation days. The house has had extensive renovations in the last 3-5 years, cathedral ceiling, a tower has been added, reconstructed, sliding glass doors and that sort of thing and it has listed 5 units and that's a long time ago and I offer you these records from the assessor's as some indication of the use of that property. It's a very difficult piece of property. Once again, we invite you to come up and look at the property.

The following exhibits were marked:

Exhibit #1	Street listing
Exhibit #2	Assessor's and Building Department Records

No persons were heard in favor of or in opposition to the petition.

**[ID]** The building thing—you say family bought property in 1979. In 1981, there's an application to convert from one family to two families, signed by Mr. Sillari and that was okay. Certificate is issued on condition that above-named property shall not be used for occupancy by more than 2 families.

**[Counsel]** That's the zoning board?

**[ID]** No. This is the building inspector and application by owner, Mr. Sillari. There's a letter saying that issued a permit to convert 1 family to 2 family, a recent inspection appears preparations to be made for occupancy by more than 2 families. That was actually this application to convert from 1 family to 2 family was actually done through process of copy of newspaper notice of public hearing.

**[BB]** Permit here from 1979 to convert 1 family dwelling to a 2.

**[ID]** Right. There's a CO issued based on that.

**[BB]** There's a copy of the transcript.

**[ID]** So the prior owner who is related to this one bought the house as a 1 family and applied to convert it to a 2 and was told right within here that he was clearly converting it to more than a 2 and please stop and I don't know what happened after that.

**[BB]** It was a 1 family in 1979 when they went to fix the front and

side rear, fix the brick stairs. Originally a 2-car garage. Built as a 1 family in 1939.

**[Counsel]** Schedule a site visit on this one too?

**[PM]** Might as well do one on this and then we'll come back and do everything that night. Site visit here at 6:30, another one on the street at 6:00 p.m., 5:30. We'll start off at Dolphin Avenue that night.

**MOTION** (John Rich) - #14-2010 to continue to **July 6, 2010** for site visit at **6:30 p.m.**

**SECOND** (Irene Dwyer)

**VOTED** All in favor.

**MOTION** (Darren M. Baird) - to approve *Minutes* of June 10, 2010.

**SECOND** (Brian J. Beattie)

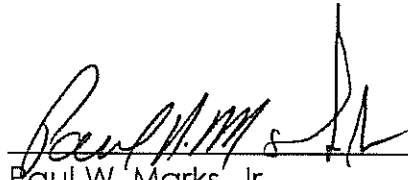
**VOTED** All in favor.

**MOTION** (Brian J. Beattie) - to adjourn.

**SECOND** (Irene Dwyer)

**VOTED** All in favor.

Adjourned at 9:17 p.m.

  
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Paul W. Marks, Jr.  
Chairman