



**BOARD OF APPEALS
TOWN OF WINTHROP**

MINUTES OF MEETING

*Held on Thursday, February 24, 2011
Town Hall – Joseph Harvey Hearing Room
WINTHROP, MA 02152*

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Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:03 p.m. In attendance at the hearing were the following Board Members, Brian Beattie, Irene Dwyer, and Darren Baird. Also in attendance were Joanne M. DeMato, Board Secretary/Clerk, and Capt. Ned Hazlett.

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.	#001-2011 formerly #028-2007	411 Revere St.	William and Karen Diorio	
02.	#002-2011	133 Highland Ave.	George Tzortzis	
03.	#001-2005	Pleasant St. Rear	Atlantis Marina Parking	
04.		Siting Solar & Wind Energy Facilities	Memo from Kopelman & Paige	

#001-2011 – 411 Revere St., William and Karen Diorio

Sitting: PM/DB/ID

In Attendance: Karen Diorio and Attorney James Cipoletta

PM: Good evening. Atty. Cipoletta?

AC: This is our third trip back here. 411 Revere St. owned by the Diorio's and the last time we were here and the time before that we submitted plans and after some comment by the Board and the Fire Dept. we sought to withdraw

without prejudice as allowed and we re-submitted now. This is a very simple zoning issue in fact the only thing that is going to change is the proposal from the existing house is going to be back on the left hand side or the north-westerly side of Revere St. that's where the proposed addition is going. The other relief that is required is to get relief from the existing structure its not going to be any proposal for extension of the front yard set back or the rear yard. What the Diorio's is proposing to do to square off the house with some living area even with walk making the living area and a two-car garage. Therein lies the problem with the zoning issue as you can see from the plan the lot is not a square lot and not a rectangular lot it's the a trapezoid I suppose but where they square off the house in the proposed plans you will start a 6 ft set back off the left side line all the way back to probably a foot in the rear. There's also if you look on the right hand side that's pretty much what you have now on the right hand side what exists on the easterly side of the house is because of the shape of the lot the house was brought in almost squarely and its plumb and because the lot narrows as you go to the rear you loose some dimensional setback. We understand that there is a concern and probably more than one concern outside the lines of the zoning context but speaking with Will Diorio he has reminded me that this is new construction, it's new material, new electrical, it's new plumbing, it's new code, everything is new and to 2011 standards that would have to be one heck of an improvement over the existing house and the houses to the right and left and to the houses across the street that have been there and existed for a hundred years without a problem. Aside from allowing the Diorio's to stay in the house and have a presence here in Winthrop he's going to do two other things he's going to take two cars off and knowing from the last snow storm the parking on those main thorough fares that Revere St gets pinched down when it snows and the town plows up 3 or 4 feet on each side with the snow that parking is really a hazard not only is a premium but when you get it it is a hazardous. So this is another instance where two cars would be taken off Revere St. The Board would recall from the last go round we had neighbors in support of these plans and the Diorio's. This was not something that would terribly impact the neighborhood and relieve some parking stress and allows some people that have been here for a great numbers of years to stay here, these are the kind of people you want to stay. They're willing to make the investment in their house to expand it for their family and their only trying to do what's best for them and for the Town and this is a win, win, win situation. For the Town, the Diorio's and the neighbors. I still do not see why if in the hugely unlikely scenario where there would be a fire in this house that the Fire Dept., couldn't as they would in any other houses along that side of Revere St. butted up against each other, be fought from above. And I think if you go to the street behind the Diorio's house and stand there the side walk is about level with the roof line they could wash that house from right up behind it probably easier than you could get the house down. I don't want to go outside with the zoning issue because this is not a hearing of fire safety, its not public safety, or health or anything it's whether or not we're here for the

issuance of a variance of Chapter 40A Section 17 of our own by-laws and I would suggest Mr. Chairman that you do. If there are conditions that are not outside the purview of Chapter 40A Section 17 of our own bylaws that you would feel comfortable proposing whether that be we would submit a fire safety or fire notification system to the Fire Dept. for approval before receiving a certificate of occupancy I think that's one of the recommendations this Board has utilized to be passed. Sometimes it works sometimes it makes people walk, but there's a concern about two years down the line the Board of Appeals decision would be brought out in the newspaper because there a fire or some tragedy I would suggest that the owners to satisfy the Fire Dept. with whatever concerns that they have. I think that may wrap up the zoning and public fire safety issues in one decision without eventuality before you _____ and without prejudice we'd come back here and this it will all be over. But hopefully the Diorios will be here for the long run and we will answer any questions.

PM: Thank you. Is there anybody here in the room that's in favor of this petition? Hearing none, we'll close that side of the petition, is there anybody here not in favor of this petition? Hearing none. Close that, Capt. Hazlett.

NH: Good evening, my name is Capt. Hazlett, from Fire Inspection in the Town of Winthrop. Atty. Cipoletta made a very nice presentation, our concern and I'm going to give you these photos that I took the other day, on why there was a concern from the Fire Dept. The concern is very obvious in making a situation that is very tight and preexisting can't change it and making the conditions worse. So upon that I will let you see these photographs, they were taken from not only in front of 411 but they were taken from 100 Upland, which is basically right behind it. The concern that I had was presented the Board before hasn't changed. I will leave these with you and you can make your decision and do whatever you want. The reason for the concern is just an example in fact this just happened in Chelsea just the other day, was they had two houses the third house was the house behind it and the fire it was the exposure problem. And that's the concern for not only for the concern for the closeness not only to left but also behind it but the two houses on Upland Rd. That's the concern of the Fire Dept.

AC: You see some of the conditions that we are trying to rectify.

PM: Any questions from the Board? Mr. Baird?

DB: I don't disagree that esthetically this would be a big improvement; my concern is one of health, safety, and welfare of balancing under 40A section 10 that's going to create a situation that is more detrimental than what is there a safety concern. My concern is there's the issue of being able to access the property in the back of the house in an event of a fire but there's also a fire separation issue with the proximity the two houses getting that close to the lot line. Especially when the other one is right next to the lot line. I'm just wondering is there a way if there is a suppression system that could be installed if there was an event in that house would prevent the Fire Dept. in at least

fighting a fire whether it was a sprinkler or something else that would preventing it from jumping or help with a separation between building or lack thereof.

AC: We had some discussion early on and I think the owner will follow up. I seem to be getting an education from a fire safety or the Fire Marshall here about some other measures that need to be implemented because of motor vehicles, gas tanks. I would have to look back to the fire dept. to see fire safety articles to find out it requires. Just by the nature of it we'd have to do something different than the plan of a vehicle under the house. I'm thinking there is a code.

NH: If you've got a vehicle with gasoline in an enclosed area probably under the building code that area could be a fire separation. Obviously with the concern of the fire dept. that any part of the building that there is a fire that heat and smoke goes up, that because of the close proximity and you can see from one of the pictures taken at 100 Upland Rd., that yes they can put smoke detectors and that obviously would get the people out of the building, does nothing to fight the fire, does not going to give them for accessibility at 411 or the house on 419 or 425 Revere St. It's not going to do anything for that so there's an exposure problem. That's my concern, the pictures as you look at the right side of the building or actually either side there's not a lot of room to walk. SO that's my concern.

DB: Right but is there anything that can be done from a suppression standpoint, forget the alarm, the alarm is one thing, but a suppression thing, but is it cost prohibitive?

NH: Well, that's another issue. The question is there is nothing in the code for one or two families. There is for three, but there is nothing other than a condition so without something of that nature, what is going to cost, that I can't answer.

DB: If I were to look at it the variance standard under 40A section 10, and say ok, if the Board were inclined to grant this and now we have to look at, now there's a number of things we have to look at, one of the things we really have to balance here is health, safety and welfare of the community versus the granting of this variance and the strict enforcement of the code and if things tip in not allowing it in favor of not allowing it for health, welfare and safety concerns is there a way to emolliate those to the point where we can make this a safe conditions that allows them to build this. Whether it's cost prohibitive, that's a condition for the applicant to consider. We as a Board nobody wants to be in the Winthrop Transcript three years from now because something bad happens here even forgetting that having making sure we're building something that is viable and looks good and is safe is really what I am concerned with here. It's the safety issue is the one that I've had a problem with it the last two times I've looked at this. That's something is worth exploring, is there something that can work economically I don't know the answer to that question. My experience is in commercial so I call tell you under the eight edition of the building code what the fire separation is, if you have buildings with a zero lot line where they

but up against each other what you have to do from a materials standpoint, but I have no idea with a residential setting what would work and what would be feasible economically, I just don't know.

NH: To be honest I cannot answer that, but is it possible, well anything is possible; it's not like a bottomless pocketbook here.

DB: No, there's two concerns one is the buyer and the exposure of the surrounding properties but its also the ability to fight this fire in making this site tighter in the access, you have got a guy pulling a hose of Revere St. that two foot ability, only having two foot clear around to the back of the house if there is a bedroom up there is going to be problematic to say the least.

NH: That's the concern form the Fire Dept for the beginning and that's the only reason why I am here and took those photographs from both side to give you t he ability to look down as well as up and to see the side yard addition on the house.

DB: Depending on the pleasure of the Board I would like to see the applicant come back with some thoughts of what they could do there from a suppression standpoint. To make it a safer, from me, that's the one thing I am going to need to get comfortable with this to ever approve this.

ID: I'm going to need a lot more from you for us to even vote on this at all. Looking at the basic plan, which you put in and if I'm reading this right it's a 9 ft. extension?

AC: I think it might be 10, at least 9 ft.

ID: Here's my point, that's not going to fly for a garage, I know that our dimensional space for parking is 9 x 18 but the 9 ft garage you're not going to get out of the car. You'll be parking the car nose to tail for starters you will be able to squeeze out but its going to be very difficult, that's one issue, the other thing is and that takes you practically to the wall and there's no room to expand that, and I gather that there's no room to expand in the southerly direction cause that's the wall of the existing house but that would be part of what I would want to see more of in that engineering, you are clearly all the walls in this area are cracked, in order to remove that materials already there and build a 9 ft addition under the house for a garage you've got some serious issues and I cant even begin to vote on this until I saw the drawings from a structural engineer saying how your going to do this and what you're going to have when you get through. The sketches you have here told me what ____ but that's all they are are sketches. And I would want more plans. These could be undermining the existing foundation.

AC: I'm unclear as to whether or not the existing wall is on the left hand side of the house ____ and if you want interior detail of that I'll have them look at it.

ID: I cant tell if you take that down I'm not sure if you're going to see the foundation because that appears to be a porches that was enclosed closest to the street?

KD: Yes.

ID: So that's the actual foundation? You've got a lot of engineering issues trying any extension to where you've got just about ____ it's not enough to vote on.

AC: I know the pictures you're talking about, I'll make sure we get some engineering also some interior details so we can go over the sketch and come in with some more explicit and how the proposed addition can tie to the existing and whether or not the demolition is going to be part of the structure.

ID: What's the code for a garage? I know that parking spaces are 9 feet. But those were exterior spaces where you are getting out onto a parking lot not.

DB: We can guess there are garages in Winthrop that are not 9 ft.

ID: It's just that this is new construction and it's under a house.

DB: I don't think our zoning code addresses that I think it's a building code issue. I think a building code issue and if they submit their plans and our BI is ok with it and it meets code then it meets code, that's his call. It seems that this lot or these walls are holding back a lot of soil so it's a potential subsidence issue out there.

PM: That was one of my concerns looking at this, looking at the sketch of the wall there's a section here that shows an 8" wall in the back. I don't think an engineer would design an 8" wall. I think it would have to be a thicker wall to hold back the forces that you're talking about in the back and you come on the side it's the same thing. Normally when you do a retaining wall the bottom of the retaining wall is wider on than the top in order to resist the tip over effect. This does not show any of this. If you do that and you start with a 2'6" wall at the bottom and you go up to the top to maybe make it a 12 or 14" wall you're increasing then the width of it to 9' to something and you're not going to get 2" in the back and you're not going to get 7' in the front. And this is the structure that we're talking about having to do this, if you left those dimensions there and you added everything on the side you are going to reduced the 9' width in the garage by whatever thicken the wall is so I can see that as a problem and not having a the width that you need to put a car on the street and get access to it. That was one of the concerns that I was going to bring up. Number two is the proximity of the addition once you do that to the adjacent buildings. The building on the left hand side is vinyl sided, the building to the rear is vinyl sided, you get a fire that close and it's going to jump right over to the other building cause its going to ignite that vinyl siding quicker than if it was wood sided. And I don't know if the Capt. had looked at that and that could be a problem but I'm thinking of a safety problem if there was ever something there, normally what Mr. Baird said is when you build something in Boston, Boston is that close, it's usually some type of a fire wall there of a non-flammable materials that is used that close to other buildings. I don't see anything called out on this, my feeling, I would consider this but right not I have a bunch of questions I think you have to get back and I would suggest that speaking with the Fire Dept. as Mr. Baird said and to see if there are any suppressions systems that could be installed that would satisfied them and the Capt. on this and my concern and our concern as the Board the two members here is the retaining wall that has to be done here

an 8' wall is not going to do it because of the amount of earth and the proximity to the adjacent building. That was the concern that we had before and that was my concern would you come up at the back corner there 2 ft. and looking at the photographs here the back building here on the other street their land is very is not leveled their land is on an angle so if the fire dept. would come in there and put a ladder on there over to your house it would not be on a level piece of land. And I think the same thing could be said if on your side fighting a fire on one of the other building, having a level spot to put a ladder up would be what you could add. So those are just a couple of things that I have seen, I think collectively there's a bunch of questions I think we have in order to be fair to you and to look at this and to get some answers to this I just don't think its an easy thing to answer.

AC: There are probably components that should be addressed for fire and safety suppression and look at the building itself and whatever forces are bearing down.

ID: A suggestion is to consider for engineers is to instead of having the 9' wall in the nose to tail garage thing, whether having a shorter and two cars wide but going with the existing original foundation. I have no way of knowing the engineers can calculate this, this is going to be a lot of structural engineering and this addition on two levels of soil that is not flat. So it might no be a whole lot more than you think than a two-car garage than have this thing. I see what Mr. Marks is talking about because it is so narrow, if you make the wall thick enough to work you may loose it but you could keep a two bay front on the street it might work out better and easy as far as fire suppression.

AC: We liked it better when we started out closer to the neighbors' property each time we took a step back. The first concept was actually a more forgiven from a building standpoint but now we're crunching down the footprint.

ID: You have the area under the large deck on the other side, I'd call it a parking space instead of a garage you might be able to get your two cars other ways is what I'm saying.

KD: I didn't think of that.

ID: I'm just giving you other options.

MOTION: (Darren Baird) To continue this to Thursday, March 31, 2011, at 7:00 p.m. for the purposes in getting the interim more information from the applicant with regards to the fire safety issues and whether there are suppression systems or if there are other fire related materials that could be used to make this condition safer both to the people and structure itself as well as the exposure issues to the surrounding buildings and also to get more information on structural engineering involved and potential subsidence not only with regard to the existing structure but to all the soil that is impacted by moving and replacing these retaining walls.

SECONDED: (Irene Dwyer)

PM: I would re-iterate and say that you should take a serious look at this engineering because I think you would want to know the cost of it up front

before you go forward with something like this. The conditions that you have there, the pictures that are shown, the concrete block that's there is just not going to work, an 8" wall is I don't think going work, there would have to be steel reinforcing in that wall, an engineer would definitely have to look at it and stamp, the BI would require it, so I would find somebody and talk with them to look at it and get an idea from them. From looking at it I think it's possible to do it, before you came in you might find the cost might run up there. These are the things we look at, I hate to have something to say OK we approve it and you go to the BI and say well this has got to be engineered its going to cost you thousands of dollars to do it and that's going down a long path. Any other discussions? All in favor?

VOTED: ALL IN FAVOR

#002-2011 – 133 Highland Ave. – George Tzortzis

Sitting: PM/DB/BB

In Attendance: George Tzortzis and Atty. James Cipoletta

PM: Good evening, Mr. Cipoletta again.

AC: Good evening Mr. Chairman, members of the board, George purchased this property a few years ago, I think this is one of those that one of those _____ of this property. The Building Dept. has it as a two the Assessor apparently has it as a three. George has it as a three. It is fitted out as a three and it appears it has all the earmark of having _____ with separate entrances. He purchased the building sometime after _____ and he is looking to obtain a certificate of occupancy. Rather than walking out of the building dept. _____ with a cease and desist which he has now appealed in this instance let George tell you a little about the history of what he did, who he is, what the proper _____.

GT: So the house has front and back staircases and separate entrances. Mr. Soper actually came in the house and did a little walk through the house. Separate heating, two oil and electric, it's got multi-floors.

AC: There are separate entrances. You don't have to walk through one apartment to get to another.

GT: Plenty of living space, 1200 sq feet in all three of them. I'm not sure what else to say.

AC: To add to the character pf the neighborhood, there are a mixed use of 1, 2 and 3 not too very far from George's house on Highland. The neighborhood is a basic mix and we went to the BI for a permit in case he got caught short. He bought the building and has been putting money into it on the inside and the outside. To the extent that he did this as an appeal from the BI cease and desist which actually started as a _____ but was actually validated as three family as to opposed to what the BI has as a two. To get to the same place no matter what you call it he has it as a three and a cease and desists. I would encourage the Board to take a tour of the house for a better feel.

PM: Anything else?

AC: No, but after the opponent and the proponents George and I would like to answer any questions.

PM: Closing that part of it is there anybody here in favor of this petition? Hearing none, I'll close that. Is there anybody here not in favor of this petition? State your name for the record, please.

Andrew Burke, 121 Highland Ave., Winthrop, MA

JD: He submitted a letter that you all have and I have marked as Exhibit One.

PM: You have that marked Joanne?

JD: Yes I do.

AB: Believe it or not, I'm unfamiliar as to how this works, I do know and I did point out in the fax that I sent, that there is a parking issue. Number One, and Number Two, I don't think that this enhances my property, I understand that counselor here mentioned that the financial aspect of change or dwelling that was a 2 family home, sold as a 2 family home, bought as a 2 family home to become a 3 family home. Well, that is self inflicted if the individual, and I have no problem with George, he's a decent person, but he bought what he bought, assuming according to the letter I received it's not allowed and he's arbitrarily gone ahead and done that and I take exception to that. And, I don't think that it enhances my property in fact I know that it does not. I'm not going to live forever and certainly in some point in time I would like to liquidate that property and get the most out of it. I don't know of anybody that is going to be around forever. Basically where we are there are probably 2 spaces in front of each house, 125, 131, 135, I have 3 cars I have 2 spaces, I have one driveway for the snow emergencies. The parking ban it's a pain in the neck you have to do what you have to do. It's a main road there are hundreds of cars coming in and out of Highland Ave. and Fort Heath and the cars have to remain off the road, this is perfect winter for it. In 78' it's the same we had. If I had 3 cars and I had trouble getting out of it and you have 6 or 7 cars where are you going to put them? If you have a driveway and are stacking cars, that's not going to solve the problem cause that is only good when there's a parking ban on, when there is not a parking ban on those cars are on the street and that inconveniences everybody else. That's a problem, I don't have the answer to that, and we don't have the parking lot.

PM: Nor do we, unfortunately have the answers to that, I wish we did.

AB: That's right so this is basically my exemption is first and foremost is detracting from my property which is a single family home, next to me on the right, looking at my house, George's house is on the left, my house is on the right, the house on my right is a single family home, the house on George's left is now turned into a 3 ____ condominium, the house across the street is a 2 family, the house across the street from me is a 2 family. As the counselor said it's a mixed thing, the problem here again is the letter I received from Mr. Marks, or the BI bear with me, I'm not really sure, I've been here for almost 40 years and don't know where to begin. I don't know what the answers are to all these

things, but you buy what you buy and if you get caught at the wrong time it's a problem but it's also a problem for everybody else that bought in that time as well and I don't think that anybody should put their hand in my pocket which I believe is the case because they want to enhance their finances because they bought at the time of when they bought. The alternative is an alternative, I'll sell at a premium but I'm not really that interested and I really don't know what else to say.

PM: You said enough for me, we are not really asking you to solve the problem, we just want to hear from you and you gave us a letter and that is all we can ask from you and now we have to struggle with this decision. Anybody else?

Peter Gill, 125 Plummer Ave., Winthrop, MA: I thought Mr. Cipoletta said that George thought what he was buying a 3 family when bought the property. Just a little history in 1912 the town said there would no more 3 families and over the period between 1912 and the 80's a lot of people got stuck. In the 80's the town gave any homeowners what the BI said it was the opportunity a 365-day window to get that corrected. When that time expired, there were a lot of people that didn't know about it and the town extended it. It was supposed to be a one shot deal and anybody from that period on couldn't build anything or occupy a 3 family, it would not be approved. It's an unfortunate situation but the rule was very wisely worked out it took care of anybody that got worked into a box and I personally was in a box, I bought a house that had documentation of 30 years that _____. I went through that process with about a hundred other people. I think to do this now is equivalent to spot zoning and is not in the best interest to the town.

PM: Thank you, anybody else? Capt. Hazlett.

NH: My name is Capt. Hazlett. Did George buy this house in 2006? He bought it as a 2 family, not as a 3. I have it here. So if he bought it from....

AC: Parziale.

NH: Thank you, that's who he bought it from, now saying that, if it was a 3 family I have no record of it meeting the code that it's a 3 family, I have no record of any of it meeting the code for it being a 3 family. There's no record on the Fire Dept, if any installation of hardwired smokes, and as I said I have it here in front of me, I did an inspection on Aug. 30, 2006 and it was a 2 family.

PM: Thank you, Capt. Questions from the Board?

DB: I don't have anything but I do think I would like to do a view of this and get a sense of what the layout and how it all hangs together and I would also like time to know what the BI said there is no evidence that in the records of any sort of conversion to a 3 family or evidence that it was a 3 family in the building records but I would still like to look at it to solve it, not that I don't believe the BI but you believe things different ways that's why there are so many lawyers.

BB: What kind of work have you done to since 2006?

GT: My father is a painter so it's had a whole bunch of wallpaper, plastered and painted.

BB: Have you torn walls down and put new bathrooms in or kitchens or heating systems by any chance?

GT: No ____

BB: You haven't done any work on the house that has required a permit?

GT: We've put in new toilets because they were old.

PM: I have no questions.

AC: If I may address two issues? One is the parking, I live in the highlands and it is parking stressed, right now there is an existing driveway on the left of the house and that can accommodate at least 3 cars. On the right hand side there is a proposed a 12 ft. driveway and a 12 ft. wide curb cut and that would open up the right hand side.

BB: Most 3 deckers have 3 porches and looking at this it looks like a 2 family with no 3rd floor porch. There's no deck off the back is there?

GT: No.

BB: There was never a deck there.

AC: There was a special permit that was made available and one of the reason is the legislative issue in town meeting that the planning board and BI in ordinance the records in town are largely incomplete and many cases and in other cases don't exist or have been destroyed. The point in the ordinance or the bylaw was that the wording is the if you are the owner of the property and you have 4 units that are legally allowed that you should come down here and let us know and people were sitting back. I know that for 40 years it says it in town hall and in the assessor's office sort of that case if you don't know you don't know, so like many people _____. You don't know what you don't know this guy is the end user. George is the end user to all of that so obviously he probably wasn't here and he didn't know about it. So he thought this is a legal 3 and this was a legal 3 as many of those applications came before him. In the 90's somebody in the middle of the night or on a Saturday put an apartment in a basement all of a sudden 3 years later ____ and they want to convert it. You get what you get, that not our argument so whether someone thought it was a 2 who knows, George didn't call it that somebody else did. Because it's a 3 family Capt. Hazlett said that you have to sprinkle it and have to do this, this, and this and its going to cost you more for the property so they said to George we don't know that. I think when you get in to the house you;; see so I think that are the 2 points, the smoke detectors and the parking are the issues.

AB: May I take exception to the counselor remarks, the house is a 2 family it has always been a 2 family, if need be I'll get Mr. Parziale up here to testify before of the Board. That's number one, number two, the Fore Capt. Said it was a two family house, the records said it was a 2 family house, where are they coming up with a 3 family, I don't know, number 3 my point is parking is a problem counsel agrees you're going to take 12 ft away from his house that s probably going to eliminate another parking space that exasperates the problems now there's another part of this on the street, this morning when I got up there were 6 cars there 2 in the driveway , 4 on the street, I didn't want to get into all of this, I'm

just saying you cant just wish things for yourself, what is is and I think that some of the members says they want to take a looks at this, go ahead and take a look at it and you will see, that's fine with me, what's there is there and again my prime focus for being here is not against George its against my property, my property's value.

PM: I understand. You said you've been there for 40 years?

AB: Close to not quite.

PM: I have a question. When you first moved in what was that house?

AB: A two family home. McCarthy's lived on the first floor the Parziale's lived on the second floor.

PM: DO you remember when they first occupied the 3rd floor?

AB: The 3rd floor was occupied by the Parziale's daughter and 2 sons. It's the attic, I've been up there, it was the attic, its never been a 3 family. Theresa no question that it's a 2 family home,.

PM: OK, that's fine.

PG: Can I say one more comment?

PM: One more.

PG: When Mr. Cipoletta had to say about that they didn't know about that? The previous owner if he didn't know about it he had 720 days to find out about it, 2 years, if he didn't find out about it, shame on him, if the buyer came along and his appraiser didn't know it wasn't a 3 family and the bank don't know it wasn't a 3 family or they knew it was a 2 family the appraisers responsibility was to got to the building depot and find out it was a 2 family. The closing attorneys responsibility was to find out it was a 2 family and I'm sorry they didn't pass that onto George it's a 2 family house, that's the law in Winthrop and to make it a 3

PM: Any other questions form the Board?

DB: When would be a good time for a site visit for you? Do you want to do it prior to the night of the next hearing? Or do we want to do it in between that way we have time to think about it in time before the hearing and we're not just coming here after.

PM: DO you want to do it on a Saturday and see it in the light?

DB: I'm open.

BB: Do you want to do it this Saturday, March 12th?

GT: I'm taking a group of kids from church on a ski trip that Saturday.

BB: How about March 19th?

DB: What time? 10 a.m.?

PM: What about the following Saturday, let's tentatively put it there, I've got something pending I'm sure its going to be the 19 or the 26, lets say the 26th, is that ok with you George? If we cant do this Ill email you. I'm not sure what Saturday I have to do this on.

MOTION: (DARREN BAIRD) To continue hearing to next meeting on Thursday, March 31st, 2011, after tentative site visit to property.

SECONDED: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR

PM: Next item we have is the Atlantis Marina submitted a parking plan, from 2005, which is when we asked for this. This is from a couple of months ago when they didn't have dimensions on it or if they did we couldn't read it. This is showing dimensions I guess the question is what the surface going to be and will this be lined out like it's showing. Otherwise there's ____ space for this and I think that's a problem for Conservation. They asked for a copy of this?

AC: No we are done with them. They gave you an order?

DB: You're done with them? They gave you an order? They don't want you to put impervious?

AC: I talked to them about putting finely crushed stone or stone dust to keep it from becoming muddy and they're not totally opposed to putting something there and especially knowing that becoming ____ is going to be a proposal to them that the parking lot is going to become boat storage they knew that there might be oil or gas or solvents and stuff that used to travel with the boat.

PM: So what this does that satisfies the requirements for the conditions for parking, so we have the parking plan to show it, how would they proposed to park like this if they don't have surface to be able to put the lines?

AC: I think that why the Board got the first plans because they didn't have such detailed lineation situation.

PM: In looking at it it has the capacity to hold x number of cars on it I guess that what we were looking for and to provide that to show what it would hold and as far as making it a surface I'm not sure of what the feel is on a hard surface, if the conservation wouldn't allow it I don't think any...

DB: For me it's just the capacity to hold the cars you got to trust the owners to force people to park the right way which depending on the shape they're coming here and driving in here fewer parking happens all the time places. I have to believe they'll get it right they have an incentive to get it right; they want it to work too. Who actually owns the lot?

AC: Its owned in a separate building trust.

DB: But it's leased to? There's a lease agreement, which gives them the ability.

AC: All of that has been turned over to the owners.

DB: Right, the association.

AC: The association owns whatever, and this is owned by the Pleasant Court Realty Trust.

PM: How does it tie in to the Atlantis because the Atlantis people have to be able to.

AC: They have a lease to use it. I've spoken to Mr. Marks with the reason in regards to the parking issue to proposed this year to store boats in the off season in the parking and thinking that the BOA gave us a variance for a parking requirement for the Marina was this one space per slip so it was the Marina that was putting our parking askew. So as part of that variance was tied into the overall parking. We would need to provide overflow parking thinking

that residents would come fill up the on-site parking the guests and the residents would fill up the rest of it and perhaps the Marinas owners would then overflow in the neighborhoods therefore we needed to provided not only for the boat owners but for any other guests for Atlantis. In the winter when we don't have that situation and the activities scale back substantially because the boat owners the their guests don't come down and park it was thought that storing boats on this lot would accommodate the displaced boat storage that had been at Atlantis before the construction would be a good fit so the lot would be fallowed in the winter and then be able to moved the boats from the marina down the street to Pleasant Court and then when the boats go back in the water the people who come to use the Marina don't have parking they'd go back and park on Pleasant Court. I think that we would have to petition the Board to amend that condition so as to allow us to use the designated parking on Pleasant Court half the time as boat storage is not realistic, is that what would be right now to file if the Board is going to accept the plan? As a final condition the I will now entertain our submission for a modification to allow boat storage half the year and parking.

PM: If you wanted it submitted you'd have to go through the process of an application because its going to be a different use down there than what we had visions and I am sure that the Fire Dep't. Will have some input into it. Yes, if that's what you'd like to do.

AC: I got the message that I should do it until this was approved.

PM: Right, this satisfied the conditions for the 2005 plan.

DB: Do w we have to move to approve the plan?

PM: I think just the plan has been submitted.

DB: Just the plan submission is enough based on the decision?

PM: The plan seems to be acceptable and we'll record it that we have the plan. It's been submitted and stamped.

PM: I got some correspondence on the Dunkin Donuts from Elizabeth Lane. Is it still pending?

AC: There's two pieces of litigation still pending there. We don't a have a decision. There's some excitement going on down there. Part of that issue is still pending.

PM: Another question for you. It seems now there's like less and less details down there than there was before.

AC: I see Ronnie Vitale who retired down there, it's sort of his full time job now, he and Dave Lessard and another guy who retired, those three guys.

PM: Because I leave at 6:00 to get out of town and I sometimes see cones there but nobody.

DB: I saw his there this morning when I left at 7:20 on the weekends sometime you don't see him.

JD: I have minutes and I have a couple of things.

PM: Go ahead Joanne.

JD: I received a request from Jeanne Maggio, Counselor in Precinct Four they are doing some kind of Committee on Committees and they wanted some information identifying the Board Members and stuff like that.

DB: Committee on Committees? Was there a committee to make up that committee?

JD: Yes, exactly, so I took the information from the website and filled in whatever I could and filled in the information and submitted it to her, so that's done.

PM: I also heard in listening to one of the counsel meetings that there is 3 positions her up come June, is that on here?

JD: I have it right here.

DB: There are four.

JD: I have it right there, yes.

PM: So, I'm asking to send a letter in stating that you want to be on the Board and I will.

JD: To you? Or the Town Manager?

PM: No, send it in to the Counsel President because he is the one that appoints, and once you do cc to me and I will follow up on it and I will follow up with him. I thought John Rich was only filling out a term?

DB: I think he is only filling out a term but I think it's a term, it Rutzer's term.

ID: No it was Steve ____.

DB: Steve was the most recently appointed and he wasn't on the Board for very long, so he has a full term, so he has Steve's almost full term, so he should be up in 13.

JD: Yes, that's what it says.

PM: I'll speak to Romeo, Brian you're up, Irene you're up and Darren you're up.

JD: And then the next thing, I updated the Directory, so just check it if there are any problems just let me know, if anything has changed just let me know and I'll do another one. Mr. Marks Carla Vitale emailed you about the subpoena for info on the Bridge Donuts, did you get that?

PM: I got that and I think there was a cc to the Town Manager and I think he would have sent that along to Kopelman and Paige, I would think that's what he would have done with it because I wouldn't have gone back to you to do it, will you follow up with Tanji to see if the Town Manager did that, if not if you could forward it to Elizabeth Lane.

JD: OK, sure, I didn't know what to do.

PM: What you should, maybe we should just forward it to Elizabeth, and do you have her contact information?

JD: Liz Lane? Yes I do.

PM: Could you do that and cc the Town Manager that you sent it?

JD: Sure.

PM: Meeting minutes from Thursday, December 30, 2010, everybody's taken a look at it, any discussion? I'll entertain a motion.

MOTION: (IRENE DWYER): I make a motion to accept the minutes as submitted.

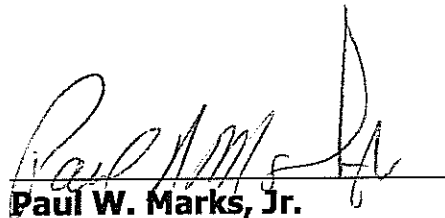
SECOND: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR

MOTION: (DARREN BAIRD) - Meeting adjourned: 8:33 p.m.

SECOND: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR



Paul W. Marks, Jr.