



**BOARD OF APPEALS  
TOWN OF WINTHROP**

**MINUTES OF MEETING**

*Held on Thursday, March 31, 2011  
Town Hall – Joseph Harvey Hearing Room  
WINTHROP, MA 02152*

RECEIVED

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TOWN CLERK  
WINTHROP, MASS.

Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:20 p.m. In attendance at the hearing were the following Board Members, Brian Beattie, Irene Dwyer, John Rich 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.

<b>01.</b>	<b>#001-2011* Formerly #028-2007</b>	<b>411 Revere St.</b>	<b>William and Karen Diorio</b>	
<b>02.</b>	<b>#002-2011*</b>	<b>133 Highland Ave.</b>	<b>George Tzortzis</b>	
<b>03.</b>	<b>#027- 2010**</b>	<b>294 Bowdoin St.</b>	<b>M/M Charles Tewksbury</b>	
<b>04.</b>	<b>#003-2011</b>	<b>32 Billows St.</b>	<b>Laura N. Ryan</b>	
<b>05.</b>	<b>#005-2011</b>	<b>1 Pond St.</b>	<b>FiberTower Network Svcs. Corp./Mark Panetta</b>	
<b>06.</b>	<b>#004-2011</b>	<b>80 Ingleside Ave.</b>	<b>Lucinda Carpenter and Nicolas Rosa</b>	

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

**Sitting: PM/DB/ID**

In Attendance: William Diorio and Attorney James Cipoletta

\* Continued from February 24, 2011

**PM:** Good evening. Atty. Cipoletta?

**AC:** Good evening Mr. Chairman, the last time that we were before the Board Mrs. Diorio appeared and the Board had some questions in regards to construction means and methods specifically in regards to how the house ties in with the land and how \_\_\_ ties into the back elevation. Mr. Diorio can answer those questions and I know that you also asked for scaled drawings and engineered type things. Mr. Diorio has recently returned from out of state and those written drawings are not yet available but to the extent that the board has questions with regards to construction he can answer because he's in the trade and the industry.

**PM:** I think the question we were looking to have some information to come on is that with what they want to build here they need to put a retaining wall there and they showed us a sketch that just showed the addition to the house and we said that the BI is going to insist on something from an engineer to show us how a retaining wall is designed to hold the earth back on the back and the side.

**AC:** OK

**PM:** And if that's is something that you have we would want to see that because doing that is going to make the plan the width of the garage under there smaller. So if they want to proceed with that we told them we thought it would be a significant cost number one to build it that way with a retaining wall its going to have re-enforcing in it and it's going to be something an engineer has to design because the BI will not give him a building permit without having it. So with that said we were looking for something to come back to us.

**AC:** Right and I think this well Ms. Dwyer had indicated because if the way it had to be constructed with the structural being perhaps a little wider and the length encroached further we would need more relief than what we asked for based upon the construction of the material.

**PM:** If it stayed in the location where it was it would encroach coming inside the building more.

**AC:** OK

**PM:** In other words the wall would just not be an 8' wall you would have to have a larger wall and the question whether you would look to go outside what you were looking for in order to make it a smaller dimension from your property line or the building to the property line versus leaving that the way it is and then coming inside the garage. So if you're looking for an 8" wall and the engineer said you'd need a 12" wall you'd come in and loose 4".

**WD:** Can we actually go out farther just to balance the foundation?

**PM:** You're getting in an encroaching even more on your property line.

**AC:** Right, I think that was the zoning issue that it wasn't the construction.

**PM:** All we said is that we know this is going to have to happen for you to do it. Research it and find out if you want to spend that money to do it before you come to us and say can we have a decision. I think looking at that it came before us and it got denied there were some concerns with the Capt. on this as well as some members of the Board. So we saw this as something you should research this and know what the cost is going to be if you got something approved and went to the BI and he said this is what you need this is going to cost \$100,000 to say to do it that could be a problem. So I think before we move forward there was an agreement here you should investigate this and know what the cost is going to be.

**AC:** Right, and we knew we were on the agenda but we wanted to come here and the research is ongoing and Mr. Diorio was away at the last hearing he needs to get up to speed.

**WD:** Even if I was willing to make it smaller on the inside that would be fine by me, whatever it takes.

**PM:** I think we were looking for something more substantial to show not just a sketch. We'd like to see something more substantial so we can give you the benefit of any doubt on this and make a decision on this rather than just saying we see a problem and not doing it and again weigh in with the Capt. and give the Board members a chance to go back up there and view the property and the proximity of the other properties that are up there. This is where we stood and what we were looking for.

**AC:** May this be continued and I'll sign a continuance?

**MOTION: (Darren Baird)** To continue this matter to our next hearing in hopes to get further more information, our next hearing is April 28, 2011 at 7:00 p.m.

**SECONDED: (Irene Dwyer)**

**ALL VOTED: IN FAVOR**

**#002-2011\* 133 Highland Ave., George Tzortzis**

**Sitting: PM, BB, DB**

In Attendance: George Tzortzis and Atty. Jim Cipoletta

\* Continued from February 24, 2011

**PM:** This is a continuation from our meeting in February.

**AC:** Mr. Chairman, I think the last thing to be accomplished is the view and has not taken place. We intend for the Board to come inside, and unless the Board has other questions we would ask to continue this.

**DB:** Mr. Chairman, I don't have any other questions until I get a chance to walk the property.

**PM:** We had some conflict last time, let's have a set date that we can do this. I had some conflict on a Saturday that we had set up.

**GT:** I came prepared this time.

**DB:** I can't do the 9<sup>th</sup> and the 10<sup>th</sup>, those are the only two days I can't do, not this weekend but the next. Is there any reason we can't do it this weekend? Want to do it at 10:00 a.m.? Does that work for you guys?

**GT:** If we go earlier that's great.

**DB:** OK.

**BB:** 9:00?

**GT:** 9:00? Yes.

**PM:** Saturday, April 2<sup>nd</sup> at 9:00 a.m.

**GT:** Thank you.

**MOTION: (DARREN BAIRD)** To continue to Saturday, April 28, 2011, at 7:00 p.m. subject to having a view on the 2<sup>nd</sup>.

**SECONDED: (Brian Beattie)**

**VOTED: ALL IN FAVOR**

### **#027-2010\*\* – 294 Bowdoin St, Mr. Charles S. Tewksbury**

In Attendance: Mr. Charles Tewksbury and Atty. Cipoletta

**\*\* Continued from December 30, 2011**

**Sitting: PM, ID, JR**

**PM:** Good evening. I guess we met a couple of months ago and from that we sent the file over to the Planning Board to take a look at it. And the reason being because the Board felt that there was merger of the two lots that are occupied by a house and a greenhouse on Bowdoin St. And we felt that if the lot were to be broken apart it would be have to have the blessing of the Planning Board to do that. I think the Planning Board heard this matter and decided something different on this. Correct?

**AC:** Yes, there is a little bit of background that goes back to 2008 and this matter first percolated to the surface while Mr. Tewksbury had inquired with regard to the status of the two lots as shown on the plan that is attached to the application. We had actually had some meetings with the Town Attorney at the time and I actually went to the Planning Board meetings with Mr. Tewksbury in 2008 to determine whether or not we would require a subdivision and if a subdivision what type of subdivision. And the question of merger came up in 2008 and the Planning Board's opinion that there was no merger and further meeting with Town attorney and then BI and it was determined that if things were to stay the way they are and there were to be any modifications of the structures what might have been needed was a variance because we have an encroachment because we have a zero lot line set back on one of the lots and one of the greenhouse and the house is still within the setback as well. So the extent that there is not going be an amendment to or expansion or a modification to one of those two structures there shouldn't be anything required because the house is a pre-existing non-conforming structure. It sits on 6,000 feet of land and it has far more land that is required under the code, which pins

it back to 1955 to 5,000 sq. feet. And 71.71 in Lot B again is in excess of what is required by the code. These lots having been subdivided prior to 1975 you still would only need 5,000 sq. ft. One of the issues was if you leave the greenhouse there and we know that there is an encroachment the existing greenhouse is an accessory use to the residence and my understanding to Charlie's plan is to remove the greenhouse and so we would remove the encroachment to the residential property and whatever happened to the existing greenhouse there will be an application made to the Building dept. to build a one family house. Depending where they put it on the lot he may or may not need a variance but on those two issues the merger seems to be clear that even though they have common ownership they have way more than the required number of square feet. I think that's what the Planning Board told Charlie because he was there. Unless the Planning Board conveyed something different.

**PM:** Well, it didn't, we have the minutes of the Planning Board hearing from that Feb. 14 hearing and the reason that we sent it over to the Planning Board is because that the application contained a deed and in that deed conveyed one lot containing 13,000 square feet.

**AC:** Right, and that's erroneous. The deed is draftsmanship.

**PM:** Well, what we had to go by and look at and we assumed that showed two lots and took it up as a merger one owner one lot from the deed and that's where we were coming from on it. Please speak up if you don't agree on this.

**ID:** I can't respond of anything about the planning Board said in 2008 because I wasn't even on this Board. Mr. Soper got us a lengthy publication from the state as to what actually constitutes merger and it doesn't really \_\_\_ here because none of it explains exactly the situation what we have here. There are two structures one house and one accessory ----- . I was wondering if you had any other exhibits we could look at such as a tax bill or sure these are two lots laid out in 1816 but the whole idea of merger is that if the same owner had this lot then they become merged.

**AC:** Yes that's about  $\frac{3}{4}$  right but the part that is missing here is that if you own continuous lots that are undersized so if I were to buy my neighbors lot and now my two lots and I have 8,000 sq. ft and he has 8,000 sq. ft and there are both build able lots and now they are in common ownership do they merge? No. They have individual, identifiable unique descriptions in the subdivision plan and in the deeds that they come in.

**ID:** You have a deed here that does not do that. The only reference of this being two lots is on plan dated 1816. If you have contiguous nonconforming lots with the sq. footage of 7,500 it would meet the conformity. You had 5 years for zoning protection for the smaller amount of sq. footage and that time has gone by. It was five years from the date of the subdivision order of 1976 \_\_\_.

**AC:** It actually was not an undersized lot it was up to code in 17.16.020(J) preexisting lots. If they're existing that means they're existing, that means grandfather protection and that makes them at that time unless you change the laws it makes them legal so I understand what you're saying if they were

undersized then they wouldn't have protection but what it does is grandfather those lots and if they were subdivided prior to 1955 it's one thing and if it's subdivided between 1955 and 1982 it's something else. But still for one family it freezes those and that section is still active.

**ID:** But it freezes them if they're not merged.

**AC:** But they are not merged.

**ID:** No that's your assertion or the problem we have is that the deed describes them as one lot.

**AC:** Sometimes you have somebody who made a decision whoever the draftsman was that they were going to describe the two lots as one big open field. But in order to do it they would have had to subdivide it and there is not subdivision on record so in order to merge the lots you would have two existing legitimate buildable lots and you want to turn them into one lot then you need to go to the planning board and have them merged and that's a subdivision.

**DB:** As a point of information from the standpoint of subdivision control law as to what is not a subdivision if you want to legally create a single lot forget merger for a second but legally change it from two lots shown on an historic subdivision plan to one it's not enough to just describe it that way in a deed that happens all the time and sometimes it's an artful drafting you actually have to file an A N R plan with a planning board to do a lots consolidated plan. To have the lots consolidated is a matter of record and in that plan description going forward becomes your legal description for the lot. So the legal description may very well have a perimeter description around the two lots and says it contains x number of square feet but it says B lots 26 & 27 on a plan so it's still recognizing the independence from a legal description of the two lots. Based on historic plans. Just thought I'd throw that in there. So until you go and consolidate them from a legal perspective they are not technically a single lot not from a zoning perspective but from a legal title perspective they are not a single lot until you do that.

**PM:** Then from a legal standpoint that's the case but from a zoning.

**DB:** Zoning is completely different. You could have merger from a zoning perspective and not merger from a, you know if you had two easements that benefited one parcel and not the other you could have zoning merger but you wouldn't have merger of the easement. It just doesn't work out that way it just depends. They are not identical.

**AC:** Right, But in order to have the merger those lots - the merger statute as I remember it is that by operation of law up to 3 undersized non-buildable lots could be combined so as to merge under operation of law without filing of any documents. But these are not undersized non-buildable lots. They are buildable lots and larger than most lots in town. Margaret Tewksbury to Richard Tewksbury and Charles Tewksbury in deed, there are check marks next to Lots 26 & 27 on the one that I have and I only have a copy of it, I think at some point somebody looked at it and said is this one or two it shows up that there are check marks on the recorded copy of that. To be sure that is not the intent

of the statue to take two build able lots and make one huge buildable lot because of common ownership.

**ID:** One of the threshold questions is your saying at any time ever these 2 lots appeared separately because they were grandfathered forever. This plan that you referred to was made out in 1816 long before we had laws about subdivision or anything like it. The point of the statue is that you have more restrictive zoning that preexisting nonconforming lots are grandfathered for a period of time. Not necessarily saying \_\_\_\_\_. One of the questions of it is the lot is now problematic the greenhouse lot. The house is grandfathered and the house on there for more than 100 years and more land that your needed. But if you take the greenhouse lot that is now nonconforming and put a house on it the question is if it were a if it had remained vacant all this time and had another set of circumstances but it's not held separately from adjoining way. Before I can make a decision I'd need back up on that one of the problems that we had the Planning Board look at it is that we don't actually have a lot to give a variance.

**AC:** That's right, we are not looking for a variance, this is an appeal from a determination of the BI that this was merger we're asking in my application I'm asking for the Board to overrule the BI. I know what you're saying about the nonconforming lots if you open our zoning code, and look at 17.16.020(J) 1-3 it sets up requirements for different lots for the size of different lots to be build able without variance depending on when they were subdivided. In the 2011 code if you say the subdivision happened before 1925 well it did end of story that's the end of it. If there's confusion as to when it happened then you look at the next one and in section 2 if it was between 55 and 82 how many sq ft do you need? 5,000 but if you subdivide it after 1982 which is 6 years after the 40A 6 then you need 7,500. If I were to go out and do a subdivision now for example the golf course I would need to make 7,500 square ft lots because I'm subdividing after 1982 but if it was subdivided today in 2011 and doing an overlay of that timeline on the lots if you have a house on a lot that was subdivided before 1955 you only need 5,000. It doesn't matter if they change it to 20,000 sq ft tomorrow the code does not say that section does not go out of business that section is in effect today. Apparently it was the Planning Board and the Town Meeting at that time in adoption of zoning amendments they were in certain not of the mind that to say that you have an undersized lot if you bought a 5,000 sq ft lot in 1952 then in 1999 its not conforming. It is conforming by the letter of this section.

**ID:** I don't disagree with what your saying the thing is you're describing a situation where you clearly have one preexisting non conforming lot the whole concept of merger is if you got two preexisting nonconforming lots and they are contiguous and you own them for 6 years after the zoning change now you have one probably too big lot and not two preexisting nonconforming. That is the legal question here. I would defer to someone on the Board who has been here a lot longer, procedurally assuming for the sake of argument that the

determination was made that these lots are separate in 1816 and they sure come under any...

**PM:** The question was were they separated in 1816? When were they separated?

**AC:** Right here in the plan in 1816.

**DB:** Were they ever held in separate ownership?

**CT:** I don't believe so.

**DB:** They've always been held in common ownership?

**ID:** Suppose we were saying ok that is sufficient evidence for us there is two separate lots not merged procedurally what do we do next?

**PM:** What's before us is that the BI has denied him a permit because he has said that there is merger on the lots. Atty. Cipoletta has come before us and is arguing that there is not merger and that there are two separate lots. The information that we have in front of us from a deed we're interpreting that it is one lot even though that it was made up of two lots at the time and the house lots was made up on a plan the deed clearly states that one person owned both lots and made it one lot of 13, 000 sq ft. S try to unravel the pieces here on this I can see where you are coming from.

**AC:** I ran this lap with Bob Noonan a couple of years ago and I can't remember who the BI was, I went to the Planning Board and came away with if I needed a subdivision I would have done it, then they would have said no because you have merger then I would have come to the Board and said I need a variance.

**PM:** Mr. Tewksbury, was there something back then you got from the planning Board that you got?

**CT:** No. Just a copy of a letter, I was looking for something but that's all I have.

**AC:** October 22, 2008. There was nothing there to file when we went there to file just to make sure because Charlie has been making his plans long term and went to the Planning Board we said if we need to file something with you guys then we need to know whether this is \_\_\_\_ . They looked at it and said it's not merged you don't need to file anything with us if you're going to do some work on the residence it's a nonconforming structure because it doesn't meet the setbacks it's too close you would need a special permit so with that information we took it and walked away. I can't remember if that was after Bob Noonan.

**PM:** Was Mr. Soper the BI then?

**AC:** I don't know who the BI was it might have been Ernie?

**DB:** It could have been the end of Ernie's tenure.

**AC:** Yes, I think it might have been Ernie.

**PM:** Because he wouldn't come back now and say something then.

**AC:** No and I had that conversation with him when I went down to the BI to the file. We started the process in 07 and ended it in 08.

**ID:** I'm not speaking for the merits of the issue here we can't provided for something that was started 3 years ago. I don't think you can ask this Board to make a decision on anything other than a verbal description ----



**AC:** I understand that but I don't know what the Planning Board gave you back, I don't know the question and I don't know the answer.

**ID:** The Planning Board gave it back to us on the grounds that they cannot create a line down the lot. That clearly the house has to be on the 6,000 ft but the remaining lot would be 7100 sq ft and that would allow an A N R subdivision and basically they would be ok for a lot of nonconforming usage.

**PM:** To current zoning.

**ID:** To current zoning so they sent it back up.

**AC:** So they probably didn't answer the question.

**PM:** No.

**DB:** A Planning Board can always issue an A N R plan that shows lots that don't conform with the zoning its not dispositive whether they're zoning informing, that's our job, they don't pass those this Board does. One question I have was this always been used for a greenhouse, was there ever a second dwelling here?

**CT:** No, not to my knowledge.

**ID:** What do the tax bills say? Is there a tax bill for the greenhouse and a separate tax bill for the house?

**CT:** No it's all one tax bill but I do have a whole bunch of deeds that describe it as two lots, Lots 26 & 27. They go pretty far back.

**PM:** That's when your family purchased it as two lots and used it as one, I think that's where the BI is coming from.

**CT:** Here's a tax bill from the Town of Winthrop as Lots 26 & 27 dated 1953.

**DB:** From a procedural standpoint if the Board was inclined to grant the petition, procedurally before us looking for a finding that it is not merged.

**PM:** Correct

**DB:** I think that and I understand Atty. Cipoletta's argument the fact that there was an existing that both lots were over 5,000 sq ft the exemption is for a single family structures on lots that were subdivided before 1975. I'm not sure that section is necessarily dispositive of the issue but irrespective of that and without having to go back to the Planning Board there is an existing subdivision plan on record that shows these lots as configured. There's no reason why this Board couldn't grant the variance to what those stand in separate building lots. That's completely within our power to do even if they are nonconforming we have the right to grant variances on sq footage in a minimum lot area to make them conforming to vary the zoning code with regards because there as specials circumstances and frankly this lot of 70, 71 is big if not bigger than most lots in this neighborhood. I don't see how raising a structure this greenhouse that is being currently used and putting a single family house here that's harmonious with the neighborhood on a lot bigger than the surrounding lots could be more detrimental to the neighborhood than leaving what's there now. I'm not sitting on this but that is one way of skinning the cat so to speak.

**PM:** A question for the petitioner is it your intention to construct a house or split and sell the lot?

**CT:** Split it and sell the lot.

**PM:** Then possible a way to move forward is if you kept the house at 6,000 sq ft and the other the lot as remaining 7,100 sq ft and you sold that lot then the people that bought that lot to would come before the Board and ask for a variance for total sq footage. The have problems with set backs from what had shown on a plan the front set back the length of the w\_\_\_ on the street and the side set backs and what it didn't have is the 7,500 sq ft that the code required now for a single family house which would be in our purview to grant that to give them to allow them to get a permit to build a house on.

**DB:** Or you could always grant the relief now subject to continuing rights to review the design of the house so they couldn't plop a modular there cause that would have a chilling effect on the practical reality of that is its going to have a chilling effect on their sale and the value of what they can sell that lot for. That's just the reality of it and I were represented someone who was looking to buy that lot I wouldn't buy that until I got the variance and if you don't have the variance I wouldn't pay very much money for it.

**ID:** I know frequently people have P & S who didn't get it and I think you can sense we are trying to this here but on a practical matter you got a heck of a good sized lot and one of the things that is bothering me about overriding the BI decision is we keep hearing that we did it for someone else and we had the occasional merger issue and so this would be brought up again the other thing is a merger is a legal decision and to overturn the BI for what? You don't actually have any house plans so the BI can't issue a permit for something that hasn't been planned.

**CT:** I submitted plans.

**PM:** He submitted plans, there was a house laid out on the lot that conformed to the side set backs front back and the rear set backs.

**DB:** The distance between dwellings would be?

**PM:** Where you draw the property lines.

**DB:** If the Board were inclined to grant the variance the first thing you have to find is that merger did occur and uphold the BI and then grant the variance on the motion to grant the variance to give relief necessary. You wouldn't be overturning the BI you would be upholding it and giving relief.

**PM:** I think that you have to have wording in there that Mr. Tewksbury is not going to develop the lot. Take the greenhouse down and sell the lot as an open lot and a new buyer would come in and develop it and put a house on it.

**DB:** You couldn't have in there a condition that forced him to sell the property because you can't do that in a zoning decision you can't force someone to convey property but you can do is put condition is to not be able to pull building permit until they come back in here to allows us to review the plans for the house to make sure that it conforms to zoning for the lot area. Otherwise have a purview on it for esthetics to make sure that esthetically consistent with the neighborhood on it. That's the control that the board wants. You don't want someone slapping a modular home with it because that's not consistent with the

rest of the neighborhood, these are older houses here and it's a more mature neighborhood.

**ID:** I still have a question about a procedural thing and I don't want to do something that we can stub our toes on. If we agree the BI said the merger has occur nevertheless the second lot sufficiently is close to present day zoning that will need a variance on sq footage provided a plan and all other dimensions descriptions. We're still very much in the \_\_\_\_ cause we're not actually – The BI is not giving a permit.

**DB:** But we're not forcing the BI to issue a permit your decision will be to uphold the BI right? He's right, there is merger but then step two of that is ok, even assuming there is merger, I'm not on this case so I haven't read the petition, so I'm assuming that is this part of the alternative Atty. Cipoletta that A you disagree with the BI and B if he's right then you're asking for relief?

**AC:** There are two applications there, there is one in 2010 and one in 2011 but if it's not treated alternatively there is case law that the applicant would meet with the Board and they would move to amend his application before the hearing starts.

**DB:** I would think that would be advisable.

**AC:** Why don't we move to amend the application so as to -

**DB:** Put that in a motion.

**AC:** Anyhow, whichever one you have in front of you, I filed one on the merger issue and Charlie filed one on the dimensional issue. So if you read them together you probably have one requesting to overturn the BI and the other that Charlie filed for a variance for an undersized lot. Just to make it clear so it's gets on the record I would then move to allow to amend the application the latest application of 2011 to include a variance of dimensional regulations under Section 17 specifically for minimum lot size.

**PM:** Based on what Atty. Cipoletta is asking to amend the application can you repeat that Atty. Cipoletta?

**MOTION: (Atty. Cipoletta)** To amend the application so as to include a request for a variance from the minimum lot size requirement for Lot B 7171. Which is Lot 26 on the plan.

**DB:** Mr. Cipoletta may I just make a recommendation from the Chair, if the Board grants the application and were to grant the relief requested while the Board can't require the petitioner to do it in their decision just so you don't run into this issue again you should do something that is some sort of conveyance out to a separate whether it's an entity or trust or something that you have separation of legal title of the two lots.

**AC:** The realty trust to own that 7171 lot. It's probably a good idea.

**DB:** It's not a perfect solution but on its' face it'll look like they're separate.

**AC:** I think in Charlie's application of 2010 there is a reference to allow the lot to be built. I think the amendment is clearer.

**PM:** So you're looking also to go in and separate this out on separate ownership.

**AC:** I think this is going to make sense just to do it so it's clearer looking down the road at the second lot it will be held in some entity until so when Charlie goes to sell it it's controlled by him and his wife.

**PM:** Would the Board think that is something that should be done before we granted this or put it in as a stipulation?

**DB:** It's not technically conveyable until you do it if you find that there is merger. The lots wouldn't be technically conveyable from conveying it- if you were to convey it prior to the variance being recorded you would create an issue you are trying to avoid.

**ID:** If we say that we agree with the BI and that there was merger then how can we – he's saying that its one lot and we're saying that no we think you have two lots.

**DB:** But now that the petition has been amended by a motion you can now say that the BI is right and there was merger but based on the provision of 40A section 10 in our By-Law we can grant the variance finding and make the findings under 40A section 10 and slap your conditions on it and call it a day.

**PM:** Any other questions on that? Coming from Mr. Baird's legal background I would ask that he would form a motion on this that the Board would review.

**DB:** I can through the Chair recommend a motion for someone to take up and move on because I'm not sitting on this. I recommend a motion as follows that we find as a Board that merger of the lots has occurred due to the historic common ownership of the lots in the facts that only one dwelling existed on the lots and we can uphold that part of the BI decision. We also find and hold based on the amended motion received by the Board at the hearing that the Board accepts and moves on that the board should grant the variance and the relief requested in the form a variance pursuant to 40A section 10 finding and allowing for that the lots as currently configured and shown as lots 26 & 27 on a plan Fortin Park, Winthrop, MA, from William and Brook and Company, Surveyors dated in Plan Book 1816 at the end filed with Suffolk County Registry of Deeds that those lots be respected as separate lots from a zoning perspective and grant any relief required in order under our current zoning requiring a minimum of 7,500 sq. ft. per lot. Allowing lot 26 to have a sq. footage of approximately 7,171 sq. ft and Lot 27 to have a sq. footage of 6,000 sq., finding that due to the soil, shape and topography of the parcels that those are unique to the surrounding community and the strict enforcement of the By-laws against these parcels would create a substantial hardship to the petitioner and that this decision and the granting of a variance would not be substantially and more detrimental to the community then the present conditions existing on the site and subject to the conditions that the variance in order to be exercised and used the greenhouse would have to be raised and only residential use pursuant to the zoning code would be permitted and subject also to the petitioner or proposed purchaser of that lot under and effective purchase and sale agreement come before this Board showing a building and a single family dwelling that is consistent with the surrounding community esthetically and otherwise meets the

setbacks and other requirements and limitations of the zoning code for our approval and vote. So that's the motion that I offer.

**MOTION: (Irene Dwyer) Move that we uphold the BI's decision to merger but grant the amended petition for relief for from the sq. footage requirement of the lots based on conditions just set forth by Member Mr. Baird.**

**SECONDED: (BRIAN BEATTIE)**

**ALL VOTED: IN FAVOR**

**#003-2011 – 32 Billows St., Laura Ryan**

In attendance: Laura Ryan, Pat D'Agostino, and David Jacquith, Architect

**Sitting: PM, DB, JR**

**DJ:** I'm here with Laura Ryan and her significant other Pat D'Agostino, 32 Billows St. we're asking for a special permit for this proposal and you have a site plan in your packets. I don't know if anybody has been down there. There's a little metal rotting away garage on the left side of the house, glued on to the house from the 1920's maybe. We want to take that down and build a new garage and use the present setback of the kitchen as the new setback on the left setback on the property line, which is approximately 3 ft. We have a registered land surveyor and my overlay, as that would be the addition on the front. We would love to have an open porch and a deck entryway and above the new garage would be a couple of bedrooms and a new stairway going up. At present and in the existing floor plan the yellow area is the new area covered by the plan, an open porch a new garage which actually sets back about a foot from the present garage and this area in here this area is existing this is not an issue back here with the bay window. On the second floor, over that garage would be two bedrooms and a bathroom, at present there are 2 bedrooms but you have to pass through the master bedroom to get to the second bedroom which is in back of the house and their daughter is 12 years old, it was fine when she was 1 years old or maybe 2 but what we are trying to do is get some space for the daughter to use the back stairs in order to coming into the master bedroom. That's in a nutshell what we are trying to do here, the side setback is no greater than what it presently is, Mr. D'Agostino has canvassed the neighborhood and talked to his neighbors and as far as we know there is no opposition and I don't think that there is anybody from the neighborhood. In the design we are trying to make it more like it might have been 60 years ago. This was a camp at one time with a porch that went 3 sides of it. Over the years the porch has been enclosed, which on the plan became part of the living room, office and den. So by adding the porch out front we get a little bit of that apron and keep it shingled. The lot next to it on the left side, it's like a double lot and has open space there at the present. I would be glad to answer any questions and the petitioners are here to answer any questions.

**PM:** Do you have anything else further to present to us?

**DJ:** I think you've got everything that Jim Soper made us do.

**PM:** OK, hearing that is there anybody here in favor of this petition? Hearing none, anybody not in favor of this petition? Hearing none, questions from the Board?

**PM:** On your plan you're looking to come add a porch to the front and come out closer to the street?

**DJ:** Yes. We're coming out 7 ft. in to.

**PM:** 3 ft left in the front? Sidewalk?

**DJ:** Yes, there is no sidewalk on that side of the street.

**PM:** So my understanding is that you're looking to come out 7 ft of the porch on the front and looking to fill in the space over the existing garage which is open space right now and you're looking to fill that up and it looks like the addition to the back you're looking forward to going up with that a second story.

**DJ:** That's correct, yes this will be all new construction.

**PM:** Then this volume will be up there.

**DJ:** Yes, this volume will be up there.

**PM:** My concern of taking up the whole volume of the lot with the building is going to leave barely a space to walk behind the building on the left side you'll have 3 ft on the front and come to a sidewalk if you had a sidewalk there and on the right side there is no changes to that it's staying the way it was with the first floor and second floor setbacks.

**DJ:** There is no passage there at the present time on the left side because of the garage and a tree and whole bunch of things but the passage is on the right side.

**PM:** It shows 3'4" from the garage to the property lien.

**DJ:** That is correct.

**PM:** Is the tree in the back your tree?

**PD:** No that's a neighbor's tree.

**PM:** The tree on the side is that your tree?

**PD:** The one right against the garage? Yes.

**PM:** Is that coming down?

**PD:** Yes.

**PM:** I'm looking at the front here, there's a large tree in the front.

**DJ:** Yes this one here we'll try to save it.

**DB:** Capt. Hazlett when you look at these plans do you have concerns from a fire-fighting perspective or anything like that?

**NH:** Well obviously we have a problem with pre-existing.

**DB:** I understand.

**NH:** Well you can't go much further than where they're going anyway, so always a concern but at least when they do build if so granted by the Board that everything in the house would have to be hardwired. If they were extending out is would truly be a problem but right now they are not making it any worse. So there's always a concern because you can't ladder it now and you won't be able to ladder it afterwards. I guess the only advantage now would be for the new

construction that everything would be hardwired where right now it's only batteries. That's the only concern from the Fire Dept. So when I say no in this case it's a preexisting situation.

**DB:** Nothing further Mr. Chairman.

**PM:** Materials that are going to be used? I'm assuming that this is going to be all wood?

**DJ:** Wood shingles, stain, siding.

**PM:** Asphalt roof?

**DJ:** Asphalt roof neutral color. Vinyl or aluminum covered windows, not just aluminum windows but wood windows.

**PM:** Porch treatment materials?

**DJ:** Porch treatment wood and probably wood decking natural. Trying to bring this house back to what it could have been years ago.

**PM:** I think it was probably a cottage.

**DJ:** It was now it's a year round cottage.

**NH:** One question, the heating system in the new, proposed house where is it going to be?

**DJ:** It can't be in the cellar it has to be lifted up. We are in a flood plan. It's a gas heat.

**NH:** Would it be new?

**DJ:** Yes.

**PM:** On the first floor?

**BB:** Are you going to gut the existing house?

**DJ:** No there are portions of the existing house that do not have to be touched but there is a lot of new work. Yes. This whole left side the existing kitchen will probably have to be gutted and reframed.

**PM:** Do you own the lot next to you?

**LR:** No.

**PM:** What's the pleasure of the Board?

**DB:** Mr. Chairman before I make a motion on the petition tonight may I ask that the petitioner who has asked for a 40A section 6 finding that the extension or alterations are not substantially detrimental that only partially solves the problem in my view here they also need to amend by motion to ask for a variance for the front yard set back given a set back approximately 3'3"

**DJ:** When I first put this petition in the Building Dep't I asked for a variance, in the wisdom of the BI he said I needed a Special Permit. I tend to agree with you.

**DB:** I think it's both so if you're willing to make motion to request a variance for front yard then I'm willing to make a motion on this.

**DJ:** I am willing to make a motion on requesting on a variance on front yard setback

**DB:** With that motion of the petitioner Mr. Chairman I would like to make a motion.

**MOTION: (Darren Baird)** I move to grant the amended petition to the petitioner to grant a variance from the front yard setback requirements giving them a front yard approximately 3 feet from the front lot line to allow them to build the porch that is shown on the plans that pursuant to 40A section 10 given the soil, shape and topography of the lot being unique to this area and given that the strict enforcement of the zoning code in the front yard requirements of the zoning code would create a substantial hardship to the petitioner and also finding that the granting of the variance would not be substantially more detrimental to the neighborhood. I would grant that variance. Secondly, I would grant their request for a special permit under 40A section 6 finding that the alterations and extensions on the preexisting nonconforming structure on the preexisting nonconforming lot are not substantially more detrimental to the neighborhood and the existing nonconforming structure. Subject to the construction actually being done in accordance with the plans, which we are going to stamp the plans as approved, but if there is a plan change the petitioner would have to come before us and petition to have their special permit amended to take those plans into account.

**SECONDED: (JOHN RICH)**

**VOTED: ALL IN FAVOR**

**PM:** Any discussion on the motion? There will be conditions are far as the materials and we have expressed the concerns of the Capt. and the hardwire smoke detectors.

**MOTION: (DARREN BAIRD):** As amended by Mr. Chairman's' additional conditions I move to remake my motion.

**SECONDED: (JOHN RICH)**

**VOTED: ALL IN FAVOR**

**MOTION: (DARREN BAIRD): To take a short recess at 8:28 p.m.**

**SECONDED: (JOHN RICH)**

**VOTED: ALL IN FAVOR**

**MOTION: (DARREN BAIRD): To return to session at 8:35 p.m.**

**SECONDED: (PAUL MARKS)**

**VOTED: ALL IN FAVOR**

**#005-2011 – 1 Pond St. – FiberTower Network Services Corp./Mark Panetta**

In Attendance: Eric Kalio

**Sitting: PM, ID, JR**

**EK:** Good evening, I'm Eric Kalio I work with FiberTower Network Service Corp, I come before the Board with regards to requesting a Use Variance on the two proposed additional antennas that we are looking to install upon the 1 Pond St



site. FiberTower is a licensed FCC provider and FiberTower is not a cellular carrier they are what you call a back haul carrier in the sense that we work with other wireless carriers to enhance their wireless network and there's a need to enhance coverage along the Route 1A and 145 corridor in Winthrop and so the 1 Pond St. location was best suited to have those additional antennas in place to help enhance the existing coverage that is there which is T-Mobile. The additional antennae's are not that big about 2-3 ft. in diameter so they are relatively small and do not present any visual eyesore to the community and little to no noise that these antennas make and they is little to no maintenance to them as they are very self sufficient. I did visit with the BI Mr. Soper and he did give me a letter that I had to come before the Board to seek the Use Variance because it is in residential District "C" and with that I did submit some drawing and photo simulations so I just wanted to see if the Board any questions about our proposed additional antennas installations?

**PM:** Anything else with your presentation?

**EK:** That's pretty much the gist of it, again we are looking to install 2 dish antennas one proposed and one to install at a future date. And the one equipment cabinet that houses all the electrical components that power these actual antennas.

**PM:** Having heard the presentation is there anybody here in favor of this petition? Hearing none, is there anybody here not in favor of this petition?

**Allan Peabody – 50 Pond St., Winthrop, MA** – I have a copy of the ruling for the Board of Appeals for Clearwireless that granted a variance that was last year. On the application they said that the antennas would be mounted on the side of the brick façade on the side of the penthouse painted to match and would not protrude above the roof and the antennas would not be clearly visible from ground level. I have photos taken from my house bad enough we have to look at the building 12 story building of what's there now, one from my family room, I don't know who's antennas disc that is. I m not sure of that is from the old ruling here and its obviously not on attached to the side of the penthouse and its not painted to match the brick.

**PM:** Well that enforcement issue would be up to the BI to enforce something like if they didn't conform to a zoning decision. It's up to him it's not up to the Board, we have no power to enforce something like that.

**AP:** From their application I guess they want to put those disc somewhere where these discs are also and on the application it says that these discs will not clearly be visible. But they are visible from my yard and the surrounding residences.

**PM:** Ok, thank you? Anybody else?

**Alvin Baker – 218 Cliff Ave., Winthrop, MA** – It's on the corner of Cliff Ave. and Pond St. This is visible from my house, I live right across the street, I don't want to see two more go up there right next there they said it was going to be on the lounge area the antennae they have up there now is on the lounge area it's on the elevator wall facing Pond St. If you put those antennas over the back

of the building because Seal Harbor will fight you all the way. I don't want them in front of my house. Period.

**PM:** Anybody else?

**Betty Peabody, 50 Pond St., Winthrop, MA** – I would have to say that I feel the same. It is a residential neighborhood and it is a moneymaking business for the cell phone companies and for people let them use their building. It's just not nice; it's just a feeling.

**AB:** I would like to say on more thing, they get over \$2,000 for the antennas. You get two companies in there now, this fellow wants to put up two more, why don't you take them and put them up in the Town Hall roof and collect the \$2,000 for each one? Then we'll see how happy you are.

**PM:** It's not our decision sir to do that.

**AB:** Well, I'll make some waves.

**AP:** One more comment is that it is a penthouse and not a NASA land station and it's beginning to look like that.

**PM:** Anybody else? Any questions from the Board?

**ID:** The photos that you took? Are those actually there or did you photo shop them to look like when you're thru?

**EK:** That's what would like when we are done. One you would have to be standing literally right underneath the building to see those and the other one you could partially see one but not the other.

**ID:** In which picture?

**EK:** What I have here is.

**ID:** One had a red arrow pointing and it looks like an egress on the roof on the left. But that is not what's there it's going to be there?

**EK:** Exactly.

**ID:** I don't want to confuse this but the question that is raised is from the approval last year to be seen. Are they the rounded?

**EK:** Are you talking about the one that is painted brown there?

**ID:** Ya.

**EK:** Yes that is an existing carrier's panel.

**BB:** You said little to no noise? What's little noise?

**EK:** To clarify that I mean that there is no noise at all. There are no motors, they just sit there are no motors in them or anything, they just sit there and transmit and receive. It's not going to disturb the neighbors or anything like that. Nor is there anything in the equipment cabinet.

**JR:** The way the drawing is right now you would put two on top of the roof? If there's an easterly wind they are going to make noise.

**EK:** In the sense that?

**JR:** The wind blowing over them.

**EK:** Well they are bolted on pretty tightly so they have to be a structural requirement.

**JR:** I'm not talking about them blowing off, I'm talking about the wind blowing over them and making noise.

**EK:** In the sites that I've done were we had additional antennae on a roof like that we've never receive any complaints of that or if we ever got into that scenario where we would have wind.

**ID:** Where is the equipment cupola and how big is that?

**EK:** The proposed Fiber Tower equipment cabinet is located on the roof and not very big at all it's a 2x2 cabinet on a 4x4 fiber grade platform.

**PM:** And you say the size is 2x2?

**EK:** Yep.

**NH:** My question to the gentlemen is there any identification that says it belongs to you and not the other carrier?

**EK:** Yes, Fiber Tower would put a sticker on there that says it belongs to Fiber Tower and an emergency contact number should anything ever arise.

**NH:** What we had requested before it was so granted was two things, I'm assuming that its powered thru the building but battery back up because there is no generator involved in this, correct? From an emergency standpoint, have you been up to 1 Pond St. up to the penthouse, when you get off the elevator you go out thru that roof door that takes you out to the roof? There is information there as well as on the equipment itself with a number that's the Fire Dept. may need be a contact number there. Now I realized if you got to kill the power then you have to go battery back up but it has to be labeled on the cabinet that it is battery back up. If we have a situation that to shut the power to the building we still will have energized equipment on the roof so for out of town companies they need to know what's both coming up thru the building just double whatever is on the lobby now just before you go outside to the roof and on the cabinet itself.

**PM:** I have a question for Mr. Baker, I have a photograph here, can you take a look at this and identify something for me?

**AB:** Sure.

**PM:** Is this the front of the building that faces Pond St., this is Pond St out here? And your house looking at it?

**AB:** My house is right here on the corner.

**PM:** Can you see this area? You can look over this portion of the building and see this?

**AB:** I managed that building for 33 years. OK?

**PM:** My question to you is from your house can you see this are here?

**AB:** That's right.

**PM:** Do you see it like this from your house?

**AB:** It's a little bit further, that's the elevator room and the heating room.

**PM:** Can you see this from your house?

**AB:** I haven't looked out from the second floor but I can see it from the street level.

**PM:** OK

**AB:** The problem is the Seal Harbor wanted to put them in on their building on 1 & 2 but Seal Harbor 3 said take a hike, we don't want those antennas up there. So when Forth Heath started to work around here at the antennas Seal Harbor

didn't want them there at the back of the building so they put them on the front of the building. Now were suffering from them.

**PM:** OK. Mr. Peabody. Same question for you? Can you take a look at the picture and tell me if can you see them from your house?

**AP:** Yes I can, those photos that I have here are right from my house now. I don't know where this white disc all of a sudden came from but that's there now.

**PM:** So this here is up at this area here?

**AP:** Yep. This is from my driveway. And they are proposing to put more and I went to talk to Jim Soper about all of a sudden how this showed up and there was the ruling from the last time.

**PM:** What did Mr. Soper say?

**AP:** He hasn't granted a permit for that?

**PM:** For this.

**AP:** Ya, for whatever that is, he hasn't come for the occupancy permit for that?

**JR:** Final inspection?

**AP:** Final inspection, ya. He was sort of surprised when I brought these to him. Yes those are view from my house.

**NH:** Mr. Chairman as a point of order if it is granted that one of the conditions so the company will give the information, contact numbers, and the signage to the Fire Dept.

**PM:** OK. Anything else from the Board? Questions?

**DB:** Have you seen the pictures that they are talking about?

**EK:** I have not, but Clear Wire has just recently finished a bunch of construction on site so maybe they just haven't gotten the permit for occupancy. Getting back to our installation I've stood in those locations that we are talking about and you can't really see it. We wouldn't want to purposely put any big dishes up there to be an eyesore.

**PM:** Mr. Peabody another question for you – on this picture I presume these are the antennas?

**AP:** Those might be but those are painted.

**PM:** Do you see those?

**AP:** Yes, I do.

**PM:** Do you see it like it's in the pictures here"?

**AP:** Yes, I do.

**PM:** There's another picture that shows something right there.

**AP:** Yes, that would be in this photo right over here at that corner.

**PM:** OK

**EK:** One condition is that would help is we can have FiberTower paint those brown so it blends into the existing environment. We want to be a good neighbor here and so forth.

**PM:** Any questions form the Board?

**JR:** That's the only location?

**EK:** That's right because that's where T-Mobile is so we have to go to that location to help enhance that service, the alternative is we weren't granted this

variance then we would have to come in front of you again to proposed a 120 ft. lattice tower which we don't want to do because it's going to be a further eyesore to this system.

**PM:** I think we can look and understand the abutters here and what they're are looking at is the antennas and that is certainly wasn't the intent when the building was put up with antennas like the water tower down on Cottage Hill. Anything further from the Board? I think before I would render a decision I'd like to understand from the BI what's going on with the other tenant up there and if there was a permit for it and if it's not conforming to the decision of the board I would be very reluctant to move forward on something like this so I don't know what your thoughts are.

**MOTION: (IRENE DWYER):** Move to continue this meeting to April 28, 2011 so the Board can confer with the Building Inspector before making a decision on this matter.

**SECONDED: (JOHN RICH)**

**VOTED: ALL IN FAVOR**

**#004-2011 – 80 Ingleside Ave., Nicholas Rosa and Lucinda Carpenter  
Sitting: PM, DB, BB**

In Attendance: Nicholas Rosa

**NR:** I'm applying for a variance to increase the height of my garage, 21 ft so I can have some storage up above and store my vehicles in the garage.

**DB:** 21 high by 20 wide by 24 deep. The variance is for height right you can't have one higher than 16 ft.

**NR:** I just want to put the building up, cedar shingles, roof asphalt architectural shingles, garage doors, windows, I have an idea of an eyebrow window on the side of it that faces the east side of the building and that's the side that the neighbors will be looking at.

**JR:** So what side would that be on Ingleside Park?

**NR:** Yes, right.

**PM:** Anything else? Closing that part of the hearing is there anyone in favor of this petition, hearing none anybody not in favor of this petition, hearing none, questions from the Board? Mr. Beattie?

**BB:** This is going to go over or take down the existing garage down?

**NR:** Yes.

**BB:** I went by it today.

**NR:** The foundation will be on a concrete block.

**BB:** It's a one-car garage, right?

**NR:** Yes.

**BB:** To me it's just going to take over the whole backyard.

**NR:** I want to build the garage up to make it more attractive to people.

**JR:** The new development on Ingleside Ave, they kept it at 16 ft and it's all flat roofs and it's as ugly as anything. This is definitely more esthetic than anything.

**DB:** Nothing but storage upstairs, it's not going to turn in to an in-law apartment or anything like that if we grant it?

**NR:** No, the only thing I will do is put electricity up there.

**DB:** You want to be able to see when you're in there and you put things up there.

**NR:** At 5:00 it gets dark.

**DB:** I have nothing further Mr. Chairman.

**PM:** Is there electricity now?

**NR:** No

**PM:** Just reiterate materials?

**NR:** Siding would be cedar shingles, asphalt roof, windows will be plastic trim on them all around the windows.

**PM:** Fascia board and PVC?

**NR:** Yes.

**PM:** What are you going to put in for foundation?

**NR:** I will pour concrete.

**PM:** 4 ft. frost wall on slab?

**NR:** Yes.

**PM:** What is the present size of the garage? I see you've got dimensions on here of 20 ft wide.

**NR:** No 18 x 20. 18 wide by 20 deep. I want to increase the length of it so I can get stairs up there inside the garage.

**PM:** Anything else from the Board? What's the pleasure of the Board?

**MOTION (DARREN BAIRD)** – Motion to grant the requested variance allowing for height garage to be constructed to height of 21 feet pursuant to 40A section 10 the soil, shape, and topography of the lot is such that it is unique to the neighborhood that the strict enforcement of the zoning code on the height restriction would be substantial detrimental to the applicant and the granting of the variance would not create a condition that is substantially more detrimental to the neighborhood than what currently exists and will not effect the health, safety, and welfare of the community around it. I would grant that subject to conditions that the finish would be cedar shingles, asphalt architectural shingles and the windows described here and further that all electricity be brought to the garage no provision of water that can convert this to a dwelling unit be permitted under this variance.

**SECONDED: (BRIAN BEATTIE)**

**PM:** Any discussion on the motion? Capt. Hazlett do you have anything?

**NH:** No, it's a detached garage, it's far enough away.

**VOTED: ALL IN FAVOR**

**DB:** Any old business or new business?

**PM:** Old business, Joanne do you have meeting minutes?

**JD:** Yes, I do.

**PM:** Is this a social visit?

**Atty. Sean Donohue:** May I have two minutes of your time?

**DB:** We're on the record.

**AD:** Is it ok if I speak?

**DB:** Sure, we are on the record and can't go into executive session.

**AD:** Back in December you issued a decision on the water tower and we're just asking because we understand that nothing has been done in light of that decision. I don't know if the Board intends to take enforcement action on it.

**PM:** It was a discussion I was going to have with the Board after.

**AD:** I'm not even asking for answers now.

**DB:** Procedurally we granted the decision. Wouldn't it be up to the Code Enforcement Officer to enforce our decision? We can't force him to go and take enforcement action. If he refuses to do it then you'd have to court and try file a cert or rather a mandamus to do it. And try to get him to do it.

**AD:** There's been nothing as far as we know that's been done and thought we would see if there was something that if there was something that could be considered and another to ask and be considered if the actions taken might require legal representation on your end you would consider supporting your decision and consulting in any way. I just wanted to throw that out there. Thank you very much for your time.

**DB:** So what's going on? Is this potential does it have to do with a lawsuit?

**PM:** It could.

**MOTION: (DARREN BAIRD):** Motion for a roll call vote to go into executive session to discuss a potential lawsuit:

**SECONDED: (BRIAN BEATTIE)**

**VOTED: ALL IN FAVOR**

**ROLL CALL: Darren Baird, Paul Marks, Brian Beattie, John Rich, and Irene Dwyer.**

**MOTION: (DARREN BAIRD):** Motion for a roll call vote to come out of executive session.

**SECONDED: (IRENE DWYER)**

**VOTED: ALL IN FAVOR**

**ROLL CALL: Darren Baird, Paul Marks, Brian Beattie, John Rich, and Irene Dwyer.**

**MOTION: (IRENE DWYER):** To approve minutes of meeting held on February 24, 2011.

**SECONDED: (BRIAN BEATTIE)**

**VOTED: ALL FAVOR**

**PM:** As I mentioned it the last time there are four openings on the Board and you have to send a letter in to the Council President to be re-appointed.

**BB:** What you have to do is go to the Town Clerk's office and they have a form that you fill out.

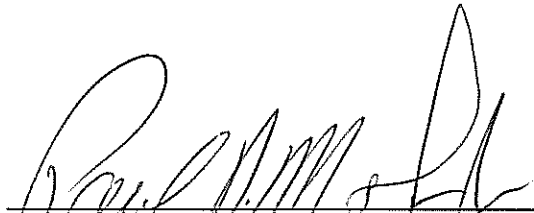
**PM:** There's openings on the Planning Board and they are looking to have that filled with a person that is going to provide them with some expertise on Planning that they asked for so we'll see what happens with that. This is coming

up in June. The other thing and myself is Darren, Brian and myself on the Zoning Study Committee with the letter sent out you've got to be sworn in. We had a meeting last week and we've got another one next Tuesday and we are trying to wrap it up with that and then maybe one more meeting with definitions to try to square away some definitions. Bed and Breakfast has been added by the Planning Board so we don't have to look at that, we're looking at condominiums, we're looking at cell towers, we've got everything else done and trying to wrap it up to get it to the council because I think that the committee on the council the rules and ordinances has to go through this and they then have to present it to the Town Council so they're trying to do that and I think that those changes and other changes that they are trying to propose so I think that it's May or June that they are trying to wrap it up. Any other business?

**MOTION: (DARREN Baird):** Move to adjourn meeting at 9:22 p.m.

**SECONDED: (Irene Dwyer)**

**VOTED: ALL IN FAVOR**



**Paul W. Marks, Jr., Chairman**



