



**BOARD OF APPEALS
TOWN OF WINTHROP
MINUTES OF MEETING**

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Held on Thursday, February 23, 2012
Town Hall – Joseph Harvey Hearing Room
WINTHROP, MA 02152

TOWN CLERK
WINTHROP, MA

Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:06 p.m. In attendance at the hearing were the following Board Members: Irene Dwyer, Brian Beattie, John Rich, Fred Gutierrez and David Ferreira. Also in attendance was Joanne M. DeMato, Board Secretary/Clerk.

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.

*** Continued from Dec. 1, 2011 ** Continued from Dec. 29, 2011**
***** Continued from January 26, 2012**

1.	#021-2011 */**/*	55 Cliff Ave.	Jeffrey Werrick	PM/FG/JR
2.	#023-2011 */***	100 Sargent St.	Joan Roth	PM/BB/FG
3.	#026-2011 ***	27-29 Ocean Ave.	Alberto Alcala	PM/BB/DF
4.	#001-2012	233 Shirley St. (93 Veterans Rd.)	Congregation Tifereth Israel	PM/FG/JR
5.	#003-2012	49 main St.	Belle Isle Seafood, Inc.	PM/DF/ID
6.	Approval of meeting minutes			
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#021-2011 – 55 Cliff Ave., Jeffrey Werrick

In Attendance: Atty. James Cipoletta, Jeffrey Werrick

Sitting: PM/FG/JR

JC: Some of the members wanted to peruse the building file and Mr. Werrick is not present and it looks like that might be the building file you have.

PM: I was away and didn't make the site visit Mr. Gutierrez did.

FG: I looked at the building jacket and couldn't find enough evidence to support something that has been documented as a 3-family. During the site walk thru it was evident that at sometime it became a 3 unit and was recently purchased as a 2-family and what might have been a kitchen was removed.

JR: I walked thru was well and the building jacket says it's a 2 and there were definitely 3 units in there. They made them remove the kitchen; if they put the kitchen back it could be a legal 3. There were 2 means of egress in every unit. They could remove a garage out back and have more than enough parking out back. If we go just by the building jacket what's the sense of going to look at the property?

PM: I didn't go inside and my observations it's a very large 2-family house that was built in the 20's or 30's and the evidence from the building jacket states in 2005 the certificate of occupancy is a 2-family dwelling. That evidence in the building jacket is what we are used to seeing. In the 90's the town meeting allowed owners of 2 & 3 family units to come up and certify the number of units that were there and that has since passed at the end of the 90's. We've allowed a couple of cases to come thru and taken on individual basis for extenuating circumstances, I don't see that here and the time to come forward has passed and I don't see it as a 3. What's the recommendation of the Board?

MOTION - (FRED GUTERRIEZ): Based on the request on the application not to overturn the Building Inspector's ruling to validate that this is not a 3-family unit and it is a 2-family.

SECOND – (JOHN RICH)

VOTED: ALL IN FAVOR

#023-2011 – 100 Sargent St. – Joan Roth

In Attendance: Attorney William DiMento, Joan Roth

Sitting: PM/BB/FG

WD: Mr. Chairman William DiMento, 25 Pittman Rd. Swampscott representing the petitioner Joan Roth, this was continued from last month to enable the Board to make a site visit which you did at 6:15 this evening and the hearing was left open and if there are any questions relative to the site visit – since the last meeting I did have an opportunity to view the only other B & B permit you

granted at 2 Terrace Ave. and seek the facilities there in comparison to 100 Sargent St. It's a 15 ½ ft driveway in that case and about half the length of the driveway at 100 Sargent St. my point being your bylaw requires adequate parking, does not say you cannot have tandem it says you can and at 2 Terrace Ave. there is also tandem parking for the permit you already granted so we ask the Board to continue with the processes that you had followed in granting of the permit and use the same standards. I am very aware of the history of this property that was discussed at the last meeting and some of the comments relative to some of the people that have stayed and the code enforcement problems that were all cured with a letter of the BI informing Ms. Roth that she had complied with all his requests from 2 years ago so I ask that you not use that to prejudice. This is a new law and a law that is designed and passed by the council for a big house just like this.

BB: As far as we see the driveway is suitable for 3 cars because you can't tandem park. So that would give her 3 bedrooms. We did see on the top floor you had 8 beds on the 2nd floor you had 5 beds single beds and 2 double beds, 1st floor you had a double bed and you have about 14 mattresses we saw. We're concerned and trying to do is to come up with some new regulations and work on them to have some new rules & regulations like town of Brookline and I would like to put this off until the new rules & regulations are put into effect.

WD: I suggest under the law you don't have the power to do rules & regulations only a licensing commission can do rules & regulations you have to work with, Chapter 40A Section 9 does not grant you the power to establish the rules & regulations for anything. You can have conditions that are reasonable under the statute. As far as waiting for rules & regulation you can wait forever you're not going to have the power - Winthrop has a licensing commission in which this is a special permit and there is no such power. As far as the mattresses she said she was going to get rid of those and we're very aware of the history. Your argument that you can't have driveway is out of order you granted tandem parking at 2 Terrace the only other permit you granted. You can have it and your bylaw does allow it as I understand.

BB: These are the things we are going to be looking for, we're looking for a floor plan drawn to scale, parking management plan, a written statement that all municipal encumbrance are current and under proper agreement and these are the things we are going to be looking at.

WD: You have the first 2 you have the scaled plan.

FG: We want to conform to the bylaws that we have and looking at these plot plans I don't think we have a licensed surveyor on the plot plan. I believe we have a site plan.

WD: That maybe so.

FG: The 2nd one drawn to scale it doesn't give us access or egress information so it really doesn't even have all the walls and doors and stairs.

WD: I'll write this down.

FG: Drawn to scale dwelling locations of each guest room, access to and egress from each guest locations of guestroom bathrooms and locations of areas breakfast prepared and served.

WD: And they're not on the ones that you have?

FG: Not to scale – this is to scale with some dimensions.

WD: That's the one done by an architect what you want is with interior walls.

FG: Interior walls egress and identify areas locations because that feeds back to the requirement of a 45% percent and I'd like that calculation identified.

WD: That's fine.

FG: You do show parking but I would say that this needs to be described in detail.

WD: You want a written description a narrative?

FG: Sure. Here's a requirement for a written statement from the town collector that all encumbrances are returned and in proper agreement.

WD: Does petitioner do that or does the town do that?

FG: Can't answer that.

WD: Is this the only B & B that has that requirement or is that for all permits now? It's a common provision in many towns but I don't know.

DF: It's for all building permits, to pull a permit in the town of Winthrop the BI need a signature from the Treasurer that you're up to date.

WD: Does the petitioner go and get it?

DF: Yes.

WD: We'd be happy to sign an extension.

BB: If you look at the rules it says that tandem parking shall be allowed only pursuant by the determination of the BOA that sufficient management procedure that possible to be reasonable be sure that the need for additional for the B & B shall not create a burden on adjacent public parking areas or illegal overnight parking on public streets.

WD: I've read that and I've been down to 2 Terrace Ave.

BB: I don't care about that; I'm not talking about Terrace Ave. we're talking about 100 Sargent St.

WD: We're also talking about what your past precedent is and I don't want her to be prejudice by any idea of what the history of this property is I'm using that specifically Mr. Beattie that if you granted a tandem parking with a back on to Shirley St. you have no complaint with a back on Sargent St. whatsoever that is not a valid argument. If so we will have to litigate that aspect we well.

BB: You might think it's not but you can't control everybody here, everybody thinks differently.

PM: A plan was submitted to the Board and it has 8 spaces here, 4 cars on each side and that's a little bit beyond tandem parking that would be reasonably allowed by the Board here.

WD: I understand that.

PM: I think Terrace Ave. you had 1 car and another car behind it.

WD: You had 4 – 5 actually.

PM: There was a space there one for each bedroom and 2 for the owner.

ID: It's important to remember that the physical layout of the parking spaces for Terrace Ave. is very different than the one you have here. The Terrace has like a small parking lot down from the house in this case you've got a driveway that goes right up against the walls of the house so if we have a fire, it's just not the traffic in and out we also have a fire situation because the parking lot in Sargent St. is basically like a hallway 1 side adjacent to the other property and other side is against the house.

WD: It's 19 ft wide.

ID: My point is the cars that will be parked by guests or owners are very much differently located from the house than this, that's a different aspect – the distance from the house and that's something to be considered too.

WD: That's fair.

PM: The other thing we considered down at Terrace Ave. versus here within a short distance they had the town landing parking should a snow storm come up and there was no parking on Shirley St. there would be parking on Terrace Ave. for the residents there.

WD: You have a good point there. I didn't argue it at the last meeting about that provision.

PM: But the way it's laid out here its showing the garage its showing 4 cars on each side.

WD: She maximized the parking she doesn't need 8 spaces. That's up to the board.

PM: Do you live there by yourself or do you have family there?

JR: No I live there by myself.

PM: Do you have 1 car or 2 cars?

JR: 2.

PM: We saw the set up and it shows the outline of the building but looking at the inside and it would be very important for the Fire Dept. where's the egress?

WD: I'm going to agree with them, that's not adequate, we'll have to do a better job, I'm going to line you up with someone who can do a picture.

PM: And the 2nd & 3rd floor to show the egress that is important part of this here.

WD: I'd like to argue but I can't – we'll get them to you.

FG: You're looking for us to grant a B & B with 4 bedrooms, it's obvious that the resident's bedrooms on the 3rd floor are adequate for guests as well from my position how might we understand that this will be regulated and those won't be rented as well?

WD: Section 9 of Chapter 40A gives you all the ability to reasonable condition a permit of time and condition. Many other places that I have practiced law will say " This lady's got a bad rep with enforcement but we're going to give you a shot and give you a permit" and that to me in this particular case because of the history of the property is actually coming from the mouth of the petitioner's lawyer and you have all the authority in the world to do that.

PM: We understand that and we appreciate you being forthwith about it.

MOTION- (FRED GUTIERREZ): To continue this to the next meeting on March 29th.

SECOND: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR

#026-2011 – 27-29 Ocean Ave., Alberto Alcala

In attendance: Alberto Alcala

Sitting: PM/BB/DF

DF: We went on Saturday for a site review and the house is in generally well-kept condition, we observed 3 water heaters, 3 heating systems, 3 gas meters, and only 3 electrical meters. We spoke to Mr. Alcala about that he's in agreement if we granted the permit, as a condition of that he would add a local meter. We also discuss the issue of parking, the rear of the house is a ___ structure a garage 2 car garage, that would most likely have to come down and remove that, then he absolutely could get 5 –6 cars back there. I observed the 3rd floor apartment, there is no kitchen up there and in looking at the building jacket, there is no stove, there's a small refrigerator and a counter top that would resemble a working kitchen by sheer definition.

PM: Was there a bathroom on the 3rd floor?

DF: There was a full bath. It was high ceiling, it was not a typical 3rd floor walk up with hanging ceilings everywhere, the bedrooms were spacious, the bathroom was large, the place was well kept. There were 2 forms of egress, a front stair and a back stair; the back stair takes you out to the driveway or halfway up the side of the house.

PM: Again we have the building jacket here that we used, there were several permits that were issued over the years before this gentleman bought the house and there was a certificate of occupancy issued by the BI in 2006 the 3rd floor was to be used for sleeping or living area only, no kitchen or eating facilities. It says the use complies with the requirements of the building ordinance pertaining to it and permission is hereby granted to occupy said building in accordance with section 145.76 of the town of Winthrop bylaws subject to the Mass. state building code. Back then it established it as a 2-family I don't know what transpired back then on that as far as the something that brought it up and they checked it out and I think it comes back to the same thing, this gentleman bought it after the fact there was a period of time where somebody came before the town to make it a 3-family and if somebody purchased it after that and now somebody is coming before us to do it now that ordinance is past and I feel basically they have to stay with what they have up there. It's unfortunate sometimes but that's the way the zoning has been written it's been enforced that

way and there are attorneys that worked on this and that's the way it was. This is a hardship for him but I don't think it overrides the zoning we have in place and what we're trying to do is to limit the amount of increasing from single to 2 , 2 to 3 and 3 to 4.

BB: I went by it a few times and I looked at it and I did review the jacket and everything says it's a 2 family and it was built as a 2 family, its unfortunate that the parking is atrocious on Ocean Ave. and I have to agree with Mr. Marks.

JR: In general speaking with these conversions, there are going to be people on the top floor no matter what, sometimes it's safer to make them a 3 family then they have to bring the fire codes up to date and that may require re-fire alarm the whole house, sometimes it could be safer to make it a 3, and there's going to be people living up there no matter what but if we make a 3 the fire alarm has to be adjusted to that and its much stricter.

DF: In this particular case he is hardwired from the basement all the way to the 3rd floor. If he gets denied he cannot make it an apartment and have his relative sleep up there what's the difference.

PM: It like having a big 2 family just because there is a big attic they converted and put bedrooms up there, just because they have those up there do you allow them to make it a 3 family or there is living quarters up there and perhaps they choose to do that. The zoning does not allowed to have 3 families, its not grandfathered in, if it was really built with 3 specific floors to the house and they are spread all over town and the town does not allow anyone to build those any more and we're restricted to allow someone to come in because they have space on another floor to allow it to be a 3 that was not the intent of the way the zoning was written and to what we're trying to uphold.

AA: This photo that I sent to you it shows right on my block all of those people are multi-family and your talking about the zone and understand that but it seems like it just applies to my house because my neighborhood is 3-family the other one is not but all the rest are 3-family.

PM: I know that they exist but there is nothing that you can do, you can't go back and tell somebody that they have a 3-family you can only have a 2-family so you can't occupy them.

AA: So it's not like it's just me right?

PM: No it's not and unfortunately it the laws that are here to protect people and to protect the honest people.

AA: The only thing my property doesn't have on the 3rd floor is the kitchen but people can still live maybe tomorrow or next month people are still going to live there, if I sell the house they aren't going to want to leave it empty, I'm not saying they are going to put a kitchen.

PM: Will the BI allow that, he went and looked at it and allowed to have living quarters up there.

AA: My problem is to have a parking space, it doesn't matter who will live on the 3rd floor without a kitchen because people will still live there so they won't have

cars anyway. So if you give to me or not people are going to buy as many cars as they want and going to park there.

PM: That's one of the down sides.

AA: So what is the difference if you give me that? Because what I was thinking what I said in my petition I will not try to ask for a parking sticker so I can park in my garage so I won't be outside, that's the arrangement for me in order for me to have enough parking space for my neighbors and I would have to park my car on my driveway. Also I'm not coming here to make more money from my property, I lost my job, they denied me a mortgage modification and I'm only working part-time, that's the only reason I'm here because I need that. That property has always been used as a 3 family with 3 meters and power.

PM: We could have refused this when we first came but we went down to look at it and the current BI said this is what he had to go by, I am sure he would say the same thing as the last BI that this is a 2 family. I'd like to move this forward and what is the pleasure of the board?

MOTION: (BRIAN BEATTIE) – To deny the relief requested at 27-29 Ocean Ave.

SECOND: (FRED GUTIERREZ)

VOTED: ALL IN FAVOR

#001-2012 – 233 Shirley St. & 93 Veterans Rd., Congregation Tifereth Israel

In Attendance: Attorney James Cipoletta, David Ennis, and Amy Bloom

Sitting: PM/FG/JR

PM: Good evening.

JC: James Cipoletta, 385 Broadway, Revere, on behalf of the petitioners. When we were last before the BOA the Chairman requested that the applicant address certain specific matters that had been discussed during the course of the public hearing, although we had earlier put them on the record and I think our answers were responsive to the questions I think the chair wanted these in writing so to the extent that I was able to take from the notes and the notes of the development team we put together a 12 point response and reiterating the points that the chairman's requested further submissions on so not to reiterate those one more time I would ask that our submission be entered into the official record of the proceedings as an exhibit and further there were appended to that response the information that Tara and David Ennis actually collected together with the development team with respect to the elder parking requirements in Winthrop and other cities and towns and I would ask that that be made part of the proceedings as an exhibit specifically those put together for the comparison of Winthrop, Chelsea, Somerville, Revere, Nahant, Fitchburg, Everett, and Boston, as you can see that even in Winthrop were this an elder or assisted

living facility you would only be required to have 1/2 a parking space per unit and that's pretty consistent with Chelsea's a 1/2, Somerville's 3/4, Revere, Nahant, Everett are 1/2, Boston is .02 and Fitchburg is 1 space per independent living. Also there was appended to that a set of plans (or part of) that depict an amendment by way of decrease and Davis will address that and Ms. Bloom who is the architect will also point it out on the Board in response to some of the request and concern of the height with the 4th floor the project on the 4th floor has been scaled back so that the building will actually step back and result in a decrease of 3 units so the extent that additional submissions have been made depicting that as part of the plan we would request leave of the Board to amended the application to reflect the reduced number of units and the architectural element indicating the stepping back of the 4th floor as opposed to the initial concept. And to address that and other issues David Ennis will address the Board specifically on some of the things that have taken place between the last meeting and now and could be informative.

DE: We've met with Planning in an informal session and we have tried to address some of the concerns of the neighbors. We want to be a good neighbor here. We have looked at the height issue which I know is a big concern and we have gone from 45 – 43 and now we are down to 40 and the 40 ft. height is the height that is allowed if we were a commercial building on Veterans, we could be 40 feet by right but we are not a commercial building we're residential so we're seeking a variance from you tonight but we think the 40 ft. and Amy will have a little bit about shadows afterwards that'll have little impact on the neighbors in terms of shadows. We've also had done a step back – show that building stepping back – is that the Shirley St. side?

AB: No, this is the Veterans Rd. side for the set back. It's an average of about 9 ft. setback from that side of the building so that the appearance of a height massing is reduced from the street both on Shirley side.

PM: It's on both sides? OK.

DE: Do you have an elevation?

AB: I do not. It's the same style and there should be plans in your package and can see on the plans on the 4th floor plans you can see the setback on the elevation.

PM: I don't see a floor plan.

AB: I wrote on mine but I can get that to you, just in case you ask me the depths. This here you're looking at this is Veterans Rd. and Shirley on the back and it's ___ all the way up 4 stories on the end just because of the stair tower. We also reduced the height by adjusting the ___ grade by lowering the 1st level its 9 in elevation but we're able to reduce it by a couple of ft. so our actual roof top is 40 and with the decorative canopy suggested it brings it back to 42.

DE: The reason we were able to do the set back was because we reduced a number of units so the unit count is knocked from 43 to 40. We are constraining going lower because a lot of our costs are fixed and if we shrink our number of units we can't operate officially we can't build a program that would serve the

elders who are going to be the residents of the program we can't make it work long time financially we can't get bank financing. We know this from experience; we need a certain number of units. So the other variance we're seeking is the density variance by right we could build 30 units but the lot size that we have and we're seeking to build 40 and our argument is that the 30 units are not defined they could be 30 family units or they could be 30 elder units and if they were family the average family size is 3 people so that would be 90 people on the site and we would have 40 elders and most of them would be single people, its possible to have a few couples so will have a maximum of 45 people half of what 30 family units would have in them. We think because its elderly we expect our elders to be quite old and not that mobile we think it's quite a benign use of the site that will not negatively impact the neighbors it's not going to create a lot of traffic, it's not going to create a lot of noise so because it's elderly. Those are the 2 specific variances we're seeking tonight. I will tell to you that will go before Planning and I wanted to touch on some of our responses to them. One relates to the taxes and we will pay taxes and be based on the value of the building that we build and so were taking a site that's paying zero taxes to whatever tax rate it should be. In terms of green space we need to be at 20% permeable that the code requirement the site is currently 23% permeable with our plan and the green space that we are adding were making it 33% permeable. One of the things that the neighbors were concerned about was the quality of the landscaping that is something we'll deal with in Planning. We'll meet with the neighbor and show them what we're doing. We need to get a final building permit anyway but we haven't got to that level of detail yet. The neighbors were also concerned about visibility aground cornered which we will address we will have planting with full visibility. The neighbors were concerned about the trash disposal, we're planning as a sealed dumpster camouflage secure only accessed by the maintenance staff and we looking for alternatives to its location we haven't finalized that but that will be prepared but that will be a Planning issue. A big concern is the issue of drainage and I have a Civil Engineer report. The drainage will be improved on the site currently all of the drainage goes over to the swale on the golf course and the new drainage plan will take 44% and put it into the storm water drainage on Shirley St. The foundations will be built so they'll be float thru and not backing up. The plan will be far superior than what exists now.

PM: The drainage that you presently have on your proposal is that going under Veterans Rd. or over to the golf course?

DE: Yes.

PM: Will your engineers try to dispose of the water on site with a re-charge system rather than try and put it into the storm water system in the town?

AB: Yes.

PM: That might be something that would come up at Con. Comm. and possibly Planning Board. Most of the developments that's what they are doing instead of bringing water over to the golf course, and put it under the parking.

DE: We'll work on that. We want to be responsive and want to enhance the site and think it will be a real positive investment on Veterans Rd. This will be a unique facility that will provide housing and services that people don't have options right now.

PM: Questions from the Board?

JR: The new plan is 36 single bedroom units and 4 two-bedroom units, how many parking units?

DE: 47 to the south of the building and 8 across Hadassah Way.

JR: What would prevent this from turning into not being elderly in 10 years?

DE: We're going to have financing from the state and what comes from that is recorded restrictive covenant and that covenant says we can only lease to people below the age of 62 so we'd be in default.

JR: What happens if the building is paid off can you re-sell it?

DE: We can't afford to pay it off.

TM: He says that jokingly but it's actually true, there is so much soft financing that's being put into this project that literally there's no way that anybody could pay that amount.

JR: You're going to have over 1 parking spot per unit?

DE: Yes.

JR: Golden Drive has 161 bedroom units with 8 parking places Overlook Dr 100 units with 55 parking places, Kennedy 42 units' 29 parking spaces, well under. I'm in agreement with the developer that 40 units - 55 parking spaces is definitely better. The Temple showed its hardship, they looked hard at people interested in this, and I have to say they did the right thing. I'm totally in favor of this. They could have put any commercial building in there, there is no impact to the school system, there is more tax than the place currently is in disrepair and something that is going to go there and this is definitely the best suitable project to the town.

FG: What kind of mechanical systems is on the roof?

DE: We don't have mechanical engineers as part of our team yet. Amy can you talk about that?

AB: Because it is elderly we are planning on having heating and cooling for the units. Thinking of individual mechanical units. Not sure about placement on rooftop.

DE: A lot of elderly units used these packs that the heating and SC are in so they control it themselves.

FG: My concern is the rooftop chiller that might be 8 ft high.

DF: You wouldn't need that with magic packs.

TM: The only common area is the hallway where they would not be serviced by the individual packs.

FG: You're asking us to vote on the first two? Density?

JC: Density and height. A section 6 finding that's part of the decision process in the deliberation is you make a finding is that it's not substantially more detrimental to the neighborhood that would satisfy Chapter 40A section 6 if

necessary. If the board is inclined to grant the variance it subsumes the 40A section 6 or you could make the finding that it is not substantially more detrimental if you feel that is required in your decision. Some of the other things addressed such as parking and dumpster placement and turning radius and things like that all part of the Planning Board plan approval process under the SDOD but these are the only 2 variances that we need is density and height.

ID: I think the section 6 finding is required for financing.

JC: Ok

PM: You mentioned a shadow plan.

AB: (Provided a detail shadow plan of the effect on the building and surrounding areas.)

PM: What would be your tax base? Do you have any idea on that?

DE: I don't, we think it would be somewhere in between \$25 and 35,000 but that's something we need to talk to the Assessor.

PM: Have you had a chance to distribute the impact to the neighborhood, have you shown this to anybody?

DE: The plans?

PM: No - Atty. Cipoletta's answers to the questions.

JC: I think we answered those at the last hearing and the chair wanted those in writing for the record.

PM: I would make the offer from the BOA if anybody wanted the response in writing, we would be happy to provide them if you let Ms. DeMato know. I think that's important that they are informed on it. Would the developer during the course of construction have an abutters meeting, every couple of months, make available to answer questions to keep everybody informed of what is going on and listen to concerns that might have come up?

DE: We'd be happy to do that.

PM: I would put that in conditions. What materials are you going to use?

DE: For the skin it's probably going to be hardy plank, which will look like wood, like clapboard but made out of cement.

AB: This would be the hardy panel, wallboard with PVC trim and some areas of hardy clapboard, which is like clapboard siding and thinking about pergola, made of wood. They are pretty classic materials.

PM: Any brick being used?

DE: No.

PM: What materials are you planning to use on the parapet?

AB: We'd like to use PVC because you can build it up and the look we are going for is an extended cornices line.

DF: Your point about the hardy plank and the concern I can see is the tendency for that stuff when you're cutting it to generate a lot of dust so just to have the general contractor take care of the installation.

MOTION: (FRED GUTIERREZ) – First request to grant a variance for the building with the condition that the mechanical equipment placed on the roof not exceed 6 feet above the elevation.

SECOND: (JOHN RICH)

PM: Why don't you go through and we'll vote at the end.

FG: I don't have a figure on the density.

PM: Do you have a figure on the density?

DE: 40 units.

PM: Right but the square footage on the density.

DE: We can get that for you.

JC: I don't think that we put it in the application, we asked for a variance from the requirement as to allow density of less than 1 per 1,800.

DE: Do you want the gross square footage?

AB: The gross square footage is 35,388 divided into 40 units. 55,228 is the total lot size.

DE: It's 1,381.

MOTION (FRED GUTIERREZ) - To grant the variance to allow the density of 1 unit per 1,381 square feet of area.

SECOND: (JOHN RICH)

PM: I think you want to do a 3rd one for Chapter 40A section 6.

JC: We would request that the Board find as a matter of fact that the proposal is substantially not more detrimental to the neighborhood than the current existing site pursuant to Chapter 40A section 6.

MOTION: (FRED GUTIERREZ) - that the proposal is not substantially not more detrimental to the neighborhood than the current existing site pursuant to Chapter 40A section 6.

SECOND: (JOHN RICH)

VOTED: ALL IN FAVOR

JC: There is one that the BI pointed out the variance from the provision of 17.48.110 (g) it's basically front yard parking and we have front yard parking there between the building and the property line and he points that out, it's only a couple of spaces, that's a BOA, Amy will point that out.

AB: It's still closer than the front of the building, there's paving here, for right now the whole thing is paving so we're reducing the amount of paving.

JC: The BI in his report says we need a variance from that portion I think maybe a separate recital might be required.

FG: How many parking spots?

JC: 2 and that is request #4 on our application.

MOTION: (FRED GUTIERREZ)- To grant a variance to retain 2 parking spaces between the building on the front property line.

SECOND: (JOHN RICH)

VOTED: ALL IN FAVOR

#003-2012 – 49 Main St. – Belle Island Seafood

In Attendance: Attorney James Cipoletta, Jim Costin, Mike Carney

Sitting: PM/DF/ID

JC: It's often said that people remember the first thing they see and the last thing they see and it's the same when you're talking about a project they remember the first thing that they hear and the last thing that they hear but when we talk about this particle project it is the first thing that you see when you come into Winthrop over the bridge and the property of 49 Main St. is the gateway onto the town of Winthrop and for many years it has accommodated many uses, Mirak auto sales, to the bus co. to the plastic fence company. The project being proposed tonight is phase one of the revitalization to the gateway to Winthrop and the best looking thing is the sign that the Chamber of Commerce has put up there and how that has withstood the kids and other uses down there is a credit to them for that as well. Earlier this evening an attorney said you have to forget who the clients are I respectfully disagree I think whenever anyone puts their name to an application or makes a statement or to convey a fact that person creditability is an issue and the 2 people who are involved in this project, Jim Costin, who is coming over the bridge to Winthrop, And you're all well aware of Belle Isle Seafood and the quality of the establishment, the other person is Mike Carney and he will be the person who will be controlling that site and ultimately development of all 3 phases of that site. When somebody says that they are going to do something and you don't have to wonder that they are going to do it and when Jim puts his name to this application and says this is what I want to do, I want to be the 1st guy into that site that Mike has spent 3 years pursuing the Postal service because he cares. It comes as a timely event because Massport has taken Jim's property where he is in Boston; it's our gain, to represent the 1st phase of the development of the gateway to Winthrop. The property is zoned as waterfront and prior to the PB rezoning that piece of property at the beginning of the town line and wrapping around to Atlantis and encompassing the yacht club it was Business "A". In Business "A" a restaurant use is allowed as special permit and waterfront district it's allowed by special permit. This is one of the part of the vision of the PB, BOA, all of those players, what was the best thing to do with the gateway to Winthrop and coming around to Pleasant St. when Atlantis was being proposed and all of the changes were being suggested and this is 1 of them that you have a mix of uses that feed right into the water. We have preliminary concept plans we have attached to the application and pertinent only the where Jim wants to occupy. The façade will look the way it is sketched as a seaside façade and the interior layouts in detail, and it's somewhere in the order of 4,500 square feet. It would be 2,600 sq. ft. of dining area and so forth for the public to use. Seating to parking ration is more than adequate. The project speaks for itself. We've already been to the Con. Comm. on part of this as Mike's initial foray with Mr. Mirak to refurbish the seawall and get all of that waterfront damage within the resource area all squared away because when the PO Service signed the contract, they had anticipated making some kind of mail and trucking facility

there and that didn't happen but what also didn't happened was the upkeep the building and the grounds and Mike as a preliminary development is trying to get a resource area back together and get the grounds all squared away and to get Jim moving across the bridge to be good to go concurrently with the beginning of phase 2 which would be the build out of the next portion of the building. The project speaks for itself, it's allowed by special permit, it was anticipated when the waterfront district was created and any questions Jim can explain and to the development site Mike is here.

PM: Is there anybody here that is in favor of this petition? 3 gentlemen, state your name for the record please?

Eric Gaynor, Executive Director for the Chamber of Commerce: The Chamber is strongly supportive of the proposal, within the last few years Winthrop has become a dining destination, in part thanks to this Board, new restaurants have opened and existing ones have expanded, we always considered Belle Island part of Winthrop, to add it to our already burgeoning dining scene would make it that more impressive. To echo Mr. Cipoletta about the individuals behind this project I can tell you that Mr. Costin has a sterling track record in this community and there is nobody better than Mike Carney. So on behalf of the Chamber thank you for your careful consideration and for the opportunity to speak.

Scott McGovern: I can't tell how happy I am that Winthrop is going to get a great hood ornament, when you drive in you're going to be able to see something that's a seaside community and that exemplifies the love of these 2 individuals that care about this town and how nice it's going to come to Winthrop. People will remember it, I go all around the world and see people and they all know about Winthrop, whether they've lived here for a short period of time, and they remember the seafood. It couldn't come at a better time and the town deserves it.

Richard Dimes: As Chairman of the Planning Board during the time when we kicked around what we could do with the waterfront, this particular zoning and putting something that says what you could do with the Mirak property is probably the best thing that I can see coming into town right now, it was an eyesore and its multiuse and waterfront property it's the ideal from the Planning Board point of view I whole heartily support it.

Gary Spenser, Property Manager for ___ Garage representing Bob Mirak: He's thrilled about this project and has been working with Mike for many months and for the problems with the postal service he thinks it's a great step forward for Winthrop and it relieves a lot of pressure off him because the site has been an eyesore and we've been battling the Postal Service for many years to keep the property up and he's extremely in favor of it.

PM: Anybody else? Closing that part of it, is there anybody not I favor of this petition? Hearing none are there questions from the Board?

BB: How long will it take before you actually are up and working?

MC: We're permitted right now by the Con. Comm. to work within the resource area and all I have to do is go to the Building Dept. and actually pull the building permit and start the process which we are going to build the seawalls from there we'll go into the demolition and the cleaning inside and when Jim's permit are in place we'll go right into the construction for Jim on Building A which is the first building on the channel side. I would hope to have Jim in there sometime this summer on a fast track construction.

BB: Do you have any ideas on what else you might put in?

MC: We do, it's other peoples business and its confidentiality, we're trying very hard to keep it marine related as possible and intend to build a pier around the entire property as a marine business and with that I plan to build an extension pier that people can come and go anytime by boat, not to build a marina but to eat, shop, get the boat repaired, whatever it is they can come and go by boat. There is a lot of interest already, once we start construction I know we won't have any problem filling up this space, we intend to do the entire building and every inch of that property will be landscaped beautifully, there will have a lot of maritime and nautical architectural details. The whole place is going to be paved, curbed, landscaped, and lit. Other members of the Chamber are so excited they contacted me already, they want to contribute to a landscape plan as the main focal point of the town and what I would like to do is put up a largest flagpole that I can and be lit dramatically at night so not only the first thing you see when you come into the town but it's the first thing you see when you come into the United States. 2 Million fly into Logan, 1 million down that runway and that's the first thing they are going to see is that flag, were going to do some nice stuff and its going to be attractive.

DF: So the restaurant, the whole skin of the building is all getting done at the same time?

MC: Yes we have a lot of weatherproofing of the building. Unfortunately the Postal service has neglected the building for almost 13 years of maintenance and Mr. Mirak has been very frustrated with them. It took us over 3 years to just to communicate with them, there weren't any other problems except with the lack of response. We will weather tight the whole building immediately as we finish negotiations with other possible tenants, we're hoping for other maritime tenants as much as possible.

DF: Are you part owner or just the GC?

MC: I'm GC and I'm also invested into the firm LLC that managed that property and I'm also the general contractor.

DF: Is there any talk about another place where you could put that receiving door instead of in the front on the building?

MC: I think that door is just for dry parts, there's another receiving door is for the fish that goes directly into the walk in cooler, and that will be more of an active receiving door. The one out front is going to be storage for napkins and plates and that stuff so it will be a quick delivery in the morning and won't be bothering the clientele.

DF: Does any sort of remediation have to be done on the site?

MC: There was an outdoor fuel tank upgrade on the very corner of the 2nd building, there was spillage and some did go into the soil and there was an assessment made by a firm and because it's literally under the corner of the foundation they said to leave it instead of unmining the foundation and trying to remove the spillage so there is a limited site use plan just for that corner the rest of the site is fine.

ID: I'm trying to calculate the square footage that we have here, what is the total square footage?

JC: About 4,500.

ID: That's kitchen and dining area?

JC: Yep.

PM: The volume of the building, you're going to use the whole height of the building inside space or are you going to put something as a drop ceiling inside or will you go all the way up to the rafter?

MC: The seating areas will be open to the elevation and we'll be putting in new duct work and dropping the lights down and like most restaurants they are all sprayed out black, we plan on dropping the framework grid.

PM: So the mechanical equipment will be inside the building not outside on the roof?

MC: On Building A there should be 3 – 5 tons on the roof. There's units on there now and there's an existing 10 ton unit on the roof and we'll remove that and put the new units on the roof and inside will be the ductwork. On the site line you may see it on the East Boston side of the bridge you may see the system but you see the system that is preexisting but we will be building up a parapet wall on the face of the building.

PM: You have here that the Board and back side materials to be determined. You trying to keep that in a colonial or seaside?

MC: Rustic seaside more than likely boards in back a hardy plank, which is common on waterfront. We're going to give it a typical lobster in the rough seafood facility.

PM: The order of conditions from Con. Comm. did you have to go back for anything?

MC: No tomorrow we're recording the orders at the Registry of Deeds and once that is done we give a copy of that recording to Con. Comm. and show evidence of that to the BI and we're ready to start.

PM: How far does your land come over to the hardware store and are you going to end up sharing driveways? I know people go to the hardware tend to park somewhat over there.

MC: The 2 parking lots do meet the majority of on that side does seem to be shared and I know the owner of Woodside Hardware and I told him I had no problem with his delivery trucks coming through there. I believe in going along to get along and don't mind if his customers park there. I don't think we should draw the line of attack I don't think that is good business.

PM: I was wondering if you had worked something out down there you had plenty of parking and spillage over to the hardware parking which is closed at night.

MC: Exactly, I am very fussy about whom the tenants will be and I've already had lot of people asking me and I've already denied a lot. When we first went into it I tried to see things far enough through that as he starts to get busy the others maybe closing up shop and start to get slow. We can pick and choose our tenants that way.

PM: Do you have approximate hours of operation?

JC: Currently I'm just going to keep it the same around 8:00 at night. I'll probably look for something later but initially I'm just going to keep it the same until I can work the kinks out I want to make sure that everything, I don't want to be a remember when there was a shack. I'm just going to try to get the bugs out first and then think about extending.

PM: Normally we were sitting and talking about people we talk about hours of operation and we would like to put something like that into the decision so everybody is on the same plane and knows what it is.

JC: May I suggest 11:00 pm because he's going to need a common victuallers license and the license commission is going to ask essentially for that anyway and they probably going to tell him 11:00 so.

PM: What time do you open in the morning?

JC: I open at 10:00 am.

PM: Is it your intent that you going to look for a liquor license?

JC: Liquor license, no, maybe a beer & wine.

PM: Anybody else? What is the Board's pleasure?

MOTION: (IRENE DWYER) – To grant a special permit to operate a seafood restaurant at 49 Main St from 10:00 am to 11: 00 pm seven days a week according to the plans submitted with the application.

SECOND: (DAVID FERREIRA)

VOTED: ALL IN FAVOR

MOTION: (BRIAN BEATTIE) – To approve the minutes of the meeting held on January 26, 2012.

SECONDED: (FRED GUTIERREZ)

VOTED: ALL IN FAVOR

MOTION: (BRIAN BEATTIE) – To adjourn meeting.

SECOND: (FRED GUTIERREZ)

VOTED: ALL IN FAVOR

Meeting adjourned at 9:13 p.m.


Paul W. Marks, Jr., Chairman

3-29-12
Date