

Present were: Brown (Acting Chair); Batchelder (Acting Clerk); Jeton (Member); Baime and Ranalli (Associate Member).

The meeting opened at 7:10 p.m.

Petition No.: 3977

Premises affected: 3 Fairfax Drive

Petitioner: Feola

Members: Brown, Batchelder, Jeton, Baime

Pursuant to a letter dated March 5, 2012 in which the Building Inspector Christopher Clemente stated that no zoning relief is required, the Board voted (4-0) to allow the petition to be withdrawn without prejudice.

Petition No.: 3976

Premises affected: 64 Lucerne Drive

Petitioner: Basavarajappa & Renuka

Members: Brown, Batchelder, Jeton, Baime, Ranalli

Mrs. Janhavi B. Renuka presented the petition on behalf of her husband and herself. They are requesting variances from Article VIII, Sections 3.1.3.A.4.b, 7.6.3 and 7.6.2.1 and/or a special permit under section 3.1.3.A.4.a to convert an existing family dwelling unit granted in Decision No. 3920 (dated 5-17-11) into a rental unit. Mrs. Renuka explained that her parents do not occupy the dwelling unit year-round, vacating it during the colder months. They wish to generate income by renting it during her parents' absence. There are no changes proposed. Mrs. Renuka stated that their hardship is financial. The Board waived a site view. Batchelder made a motion to close the public hearing. Jeton seconded the motion & the Board voted (5-0) to close the hearing and deliberated the case immediately following. The Board noted that the granting of a special permit for a family dwelling unit is allowed in the Zoning Bylaw, on a temporary basis. Granting relief to convert the unit into a rental would circumvent the intent and purpose of the bylaw and that no hardship exists to justify the granting of a variance. Batchelder made a motion to deny all requested relief. Ranalli seconded the motion and the Board voted unanimously (5-0) to deny all requested relief. Batchelder will write the decision.

Petition No.: 3979

Premises affected: 121 Ballardvale Rd

Petitioner: Lecomte

Members: Brown, Batchelder, Jeton, Baime, Ranalli

Colin Callahan, of Callahan Construction, and Linda Lecomte presented the petition for a special permit &/or variance to construct a 30'x5' addition at the front of the house that would not meet the minimum front yard depth requirement. The proposed extension would not be any closer to Ballardvale Rd than the nearest point of the existing house. The purpose of the addition/alteration is to provide safer, protected egress from the attached garage. The house was built in 1957. In the SRB district a minimum front yard depth of 40' is required, where this house has 38.3 at its closest point to Ballardvale Rd. Brown noted the 1950's ZBA denial to subdivide this corner lot. There were no further comments or questions from the Board or the public. Baime made a motion to waive a site visit & close the hearing. Batchelder seconded the motion & the Board voted unanimously (5=0) to waive the view & close the hearing. They then proceeded to deliberate the case. Brown pointed out that this house is pre-existing non-conforming with less than 40' from Ballardvale Rd and 22' from Woburn St. Batchelder made a motion to grant a special permit under Section 3.3.5 with the condition that the addition/alteration be constructed in conformance with the plans submitted. Baime seconded the motion & the Board voted unanimously (5-0) to grant the special

permit. Batchelder then made a motion to deny the variance as moot. Ranalli seconded the motion & the Board voted (5-0) to deny the variance as moot. Baime will write the decision.

Petition No.: 3980

Premises affected: 139 River Rd

Petitioner: Jatun Management d/b/a Andover Donuts

Members: Brown, Batchelder, Jeton, Baime, Ranalli

Attorney Mark Johnson represented the petitioners' request for a modification of Decision No. 2528 to expand the coffee counter use. Brown explained that the previous denial for the same proposal is subject to Section 9.7 of Article VIII Repetitive Petitions. He explained the procedure that requires the ZBA to first make a determination if there are specific & material changes from the previous case that was denied, then refer the applicant to the Planning Board for review / remand to the ZBA. Therefore, the Board will deal with the question of whether or not the current proposal is repetitive, and if so, are there specific and material changes in the current proposal. Johnson stated his understanding is that if the ZBA votes it is not repetitive then the public hearing would proceed immediately but if the Board votes it is repetitive, then the applicants would go before the Planning Board. Johnson then proceeded to outline the changes to the current proposal. This proposal is much smaller and will not allow customers in the expanded area, but will allow them to install a walk-in freezer, fridge and sanitary sinks in the bay area. There will be no exterior renovations. The Board discussed whether or not the current proposal, also a request to modify Decision No. 2528, & the previous denial were substantially different. Brown feels it is the similar in that it requests to expand the existing space, but to a lesser degree. Johnson explained that the proposed changes will benefit the establishment in fulfilling Board of Health requirements for sinks and the larger freezer for storage will decrease deliveries. The bays will remain as is, unused. Bill Reinhardt, of Andover Donuts, added that the gas station uses the bays for their own product storage & Dunkin Donuts uses a small portion for dry storage. Brown asked the Board if they feel it is repetitive & if there are specific and material changes. Batchelder feels it is not repetitive because the request is significantly different. Jeton feels it is repetitive because it requests the same relief from the same decision, but it is materially different. Baime & Brown agreed. Johnson argued that the under Section 16, Ch. 40A, this proposal has changed so much that it doesn't trigger the repetitive petition process. He informed the Board that they appeared before the Planning Board already & they found that it is materially different. Brown had communicated with Planning staff before the meeting letting them know he feels it was premature for the Planning Board to act. Batchelder made a motion to find that this is not a repetitive petition. Ranalli seconded the motion and the Board voted (2-3) (Batchelder & Ranalli for the motion) to find that it is not a repetitive petition. That motion failing, Ranalli made a motion to find that the current petition presents material & specific changes. Batchelder seconded the motion and the Board voted (5-0) to find that the current petition presents material & specific changes. That vote passing, the Board remanded the petition to the Planning Board for their action. Jeton then made a motion to continue the case to 4/5/12. Brown seconded the motion & the Board voted (5-0) to continue the case to 4/5/12.

Petition No.: 3978

Premises affected: 321, 323, 325 Lowell Street

Petitioner: Lupoli

Members: Brown, Batchelder, Jeton, Baime, Ranalli

Sal Lupoli represented himself in his request for special permits under Article VIII, Sections 3.1.3, 3.1.3.C.9, 3.1.3.C.15 & variances from Article VIII, Sections 4.1.2, 5.1.5.2.b (off street parking) and 5.3.4 (landscape buffer). This property is located in the Limited Service (LS) district and contains 1 ¼ acres of land. Rick Friberg, of TEC Engineering, civil engineer, was also present. Mr. Friberg gave an overview of the proposal: 10,000 sf building footprint, 3 stories, 1 tenant (Partners Healthcare, of Mass. General). The building will contain 15,000 sf of office space (medical / professional), 5,000 sf of walk-in medical clinic, and 10,000 sf basement storage for medical files. The clinic and professional offices are allowed by special permit and will not be

detrimental to the neighborhood & will serve the public good. Friberg also reviewed the parking and traffic flow plan (as submitted with the application). He also reviewed the setback & landscape buffers – where a 50’ setback is required, the proposed setbacks will be 5’ on the side abutting State land, 31’ to the rear and 30’ to the side abutting Windsor Green Apts. The LS district requires a 12’ landscape setback. Along the shared boundary with Windsor, they will provide a landscape buffer retaining wall along Windsor Green and the adjacent single family dwelling. Friberg presented the hardship as the narrow, unusual L-shape & size of the lot limiting the development envelope creating a financial hardship to develop the lot. Friberg explained that this is three lots that will be combined. They originally fronted on Lowell Street, until the State took land for the on-ramp to Route 93 North. The topography of the lot slopes back towards the Windsor Apts. The applicant attended an informal IDR and received feedback from the departments that attended. Due to the Fire Dept’s request to have access to three sides of the building, sprinklers and the placement of the hydrant, the variances for the width of the buffer between parking and lot line (it is not for the number of parking spaces). Snow storage includes three on sites areas, in the corners. The volume of each space is 15’x15’x10’. Mr. Friberg reviewed the off-street parking requirement based on the proposed use: 50 spaces for the medical offices, 35 for the medical clinic and 17 for the storage space, or a total of 82. There will be a total of 50-60 employees, but only 15-18 working per shift. They will install a 5-6’ fence and trees along the shared boundary with the single family dwelling that is part of Windsor Green. Lighting spill-over will be minimized by use of lower/pedestrian scale lighting. Rebecca Brown, TEC traffic Engineer, gave an overview of their traffic impact study. They studied the following intersections: Lowell St/NB ramp to Route 93, Lowell St/Windsor Green entrance, Lowell St/IRS entrance, Lowell St/ Greenwood Rd/Lovejoy Rd. They also included in their projections the proposed 240 residential units behind Windsor Green & the IRS expansion to include 900 additional employees. She discussed the question of whether or not a signal is required for the intersection of Lowell Street and the IRS & Windsor Green entrances. The IRS had previously proposed one but discontinued that proposal. Ms. Brown stated that even without a signal, the intersection can still function. Further, a signal is warranted under the no build conditions assuming that all proposed construction. The Level of Service of the existing traffic is C or better on the ramp, D/E at the site drive and a C or better at Greenwood Rd/Lovejoy Rd. They did review the traffic reports for the IRS & the proposed 40B. TEC’s conclusions are very close to those of the other studies. Ms. Brown suggested that no traffic mitigation is warranted & the proposed construction/use will have minimal impacts. The traffic officer at the IRS controls traffic movement to facilitate the IRS traffic. The proposed use, along with the adjacent uses, does not generate traffic at the same times, but throughout the day. Ms. Brown pointed out that traffic volume was included for the passive records storage use, even though it will not generate any trips. The Board also discussed traffic queues & site layout & turning lanes. Alexis Alicea, 285 Lowell Street, asked some questions about the Level of Service, how this project relates to the proposed 40B & proposed alterations to the roads, as well as drainage, swales and retention ponds. Friberg explained that drainage information is in the submittal. They have applied with the Planning Board for Site Plan Review and will have it peer reviewed. The Board felt it was not ready to comment until after input from the IDR & Planning looked at the proposal. The Board sited the following issues of concern: the lot being tight, parking even though requirements are met & overflow parking, decreased landscape buffer, 5’ setback along abutting State property, snow storage as opposed to snow removal to increase safety vehicle access to the building, potential WPOD impacts. Acting Chair Brown made a motion to continue the hearing to 4/5/12. Baime seconded the motion & the Board voted unanimously to continue the hearing to 4/5/12.

Discussion Items:

35 School Street – (Associate Member Ranalli recused herself from this discussion item) Acting Chair Brown noted that this discussion is non-binding & that when / if the applicant files with the ZBA, the Board composition may differ. Jeton & Baime questioned why this unusual discussion item is before them when an application hasn’t been filed yet. Brown suggested that they can choose not to have the discussion. Architect Rob Bramhall explained to the Board that the owners wish to renovate the house including additions and that they have an opportunity to be part of the “This Old House” television series. He noted that they will file an application to appear at the 4/5/12 ZBA meeting. They wish to expedite the process in order to meet the producers’ deadlines. Bramhall gave an overview of the proposed renovations, the lot and the relief required to complete the

project. The Board informed Bramhall that they can apply for a variance &/or a special permit, or consider section 4.1.3.2.d of the Zoning Bylaw.

The Board then adjourned the meeting at 9:22 p.m.