



**MINUTES OF THE ZONING BOARD OF APPEALS  
ANDOVER, MASSACHUSETTS**

**Conference Room A, 3rd Floor, Town Office, 36 Bartlet Street, Andover, MA 01810  
May 5, 2016**

The meeting opened at 7:05 p.m.

Present were: David W. Brown, Chair; Carol McDonough, Acting Clerk; Elizabeth Oltman, Member; Tara Wilson, Lisa Rechisky and Kathy Faulk, Associate Members. Member Oltman arrived at 8:13 pm during the hearing for Z-16-46

Brown gave an overview of the Zoning Board procedure.

**Petition Number: Z-16-129**

**Premises Affected: 50 Topping Rd**

**Petitioner: Paquette**

**Relief requested: Special permit under Art. VIII, §3.3.5 and/or for a variance from Art. VIII, §4.1.2 to construct a porch that will not meet the minimum front yard setback**

**Members sitting: Brown, McDonough, Wilson, Rechisky, Faulk**

This is a continued public hearing. No one was present on behalf of the petition. The Board agreed to discuss the petition without any representation since the certified plot plan was received as requested. No one objected. Rechisky made a motion to waive a site view and to close the public hearing. Wilson seconded the motion and the Board voted (5-0) to waive the site view and close the hearing. The Board then proceeded to deliberate.

Brown noted that the lot is undersized and pre-dates the zoning bylaw. The currently proposed porch is smaller than the previously approved porch. Because the lot and structure are non-conforming, a special permit is warranted. Rechisky informed the Board that she had driven by the lot and feels that it is in keeping with the neighborhood since some neighboring houses have porches even closer to the street. Rechisky made a motion to find that the structure is pre-existing, non-conforming and that the proposed porch will not be more detrimental to the neighborhood and to grant a special permit. Wilson seconded the motion and the Board voted (5-0) to grant the special permit with conditions. McDonough made a motion to deny the variance as moot. Faulk seconded the motion and the Board voted (5-0) to deny the variance as moot. Rechisky will write the draft decision. The Board continued the deliberation to its meeting on June 2, 2016 for the purpose of taking a final vote on the draft findings and decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Plot Plan for 50 Topping Road, prepared by Northern Associates, Inc., dated 4/27/16.
- Photographs (2) "50 Topping Road Existing Condition" dated 5/5/16. Andover ZBA Decision No. 3257 dated 12/10/02.
- Mortgage Survey Plan prepared by Simone Surveying Services, Inc. dated 6/12/91.
- Drawing of side view of proposed farmer's porch (undated).
- Drawing of proposed front view of 50 Topping Rd (undated)
- Front setback plan of 50 Topping Rd. (undated)
- Photographs (3) of 50 Topping Road & abutting houses

**Petition Number: Z-16-39**

**Premises Affected: 110 Colonial Drive**

**Petitioner: Gilbert**

**Relief requested: Variance §4.1.2 to construct deck extension that will not meet minimum rear yard depth**

**Members sitting: Brown, McDonough, Wilson, Rechisky, Faulk**

Mark Gilbert represented himself and his wife in their request to construct a 10'x10' rear deck extension to place a hot tub on. The proposed rear setback would be 18' where 30' is required. Gilbert noted that the rear abutting lot is wooded and their septic system is at the rear left of the deck, approximately 4-6' from the deck. No issues were raised by any abutters. Brown asked for the hardship required to grant a variance. Gilbert explained that the location of the house toward the rear of the lot and the septic system impede extension of the deck in conformity with the bylaw. It would not be a detriment to the neighborhood since it is not visible. The Board discussed alternate designs (at grade) / locations to make it more conforming. Gilbert explained that they wish to install the hot tub due to medical reasons and the proposed location is the best to meet his needs. The Board discussed the large lot area and hardship. Rechisky noted that the house being situated so far back limits options at the rear. Faulk noted that the lot is irregularly shaped. Brown asked for a sense of the Board. Three Members indicated their support for granting a variance. Since at least 4 Members must vote in favor, Brown informed Gilbert of their options: withdraw without prejudice, continue to another meeting in order design a more conforming location or the Board could vote tonight. Gilbert requested that the Board allow them to withdraw the petition without prejudice. Faulk made a motion to allow the withdrawal without prejudice. McDonough seconded the motion and the Board voted (5-0) to allow the withdrawal without prejudice.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Plan of Land for 110 Colonial Drive, prepared by Merrimack Engineering Services, dated 4/27/16.
- Photographs (6) "of 110 Colonial Drive (undated).
- As Built Plan of Subsurface Disposal System, prepared by Merrimack Engineering Services, dated 11/16/88.
- Plot Plan of 110 Colonial Driver prepared by Robert G. Goodwin, dated 7/1/02
- Frame plan of 10'x10' deck extension (undated)

**Petition Number: Z-16-41**

**Premises Affected: 64 Lucerne Dr**

**Petitioner: Basavarajappa**

**Relief requested: Extension of Decision No. 3920 – special permit for family dwelling unit**

**Members sitting: Brown, McDonough, Wilson, Rechisky, Faulk**

Mrs. Janhavi Basavarajappa represented herself and her husband requesting the extension of the Special Permit for a Family Dwelling Unit granted in Decision No. 3920. She confirmed that her parents continue to occupy the unit for 9 months of the year. Brown noted that a 2012 request to allow the rental of the unit while her parents were not residing in the unit was denied. Basavarajappa confirmed that no changes have been made to the unit. There being no other questions or concerns from the Board or the public, Rechisky made a motion to waive a site view and to close the public hearing. Wilson seconded the motion and the Board voted (5-0) to waive the view and close the hearing. The Board then proceeded to deliberate.

Rechisky made a motion to grant the extension of the Special Permit granted under Decision No. 3920 for an additional 5 years with the usual conditions. McDonough seconded the motion and the Board voted (5-0) to

grant the extension. Wilson will write the draft decision. The Board continued the deliberation to its meeting on June 2, 2016 for the purpose of taking a final vote on the draft findings and decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Andover ZBA Decision No. 3920 dated 5/17/11
- Andover ZBA Decision No. 3976 dated 4/11/12

**Petition Number: Z-16-44**

**Premises Affected: 36 Washington Ave**

**Petitioner: Crowley and Woolson**

**Relief requested: Variance §§4.1.2 and 4.2.2 and/or special permit §3.3.5 to construct additions / alterations that won't meet side yard setback requirement and render detached garage non-conforming**

**Members sitting: Brown, McDonough, Wilson, Rechisky, Faulk**

Katelyn Crowley presented the request for a variance and/or special permit to construct additions / alterations on behalf of herself and Erika Woolson. The proposed additions will not meet the minimum side and rear setback requirements and render the existing detached garage non-conforming. Crowley explained that the rear yard has clay soil and is very wet, especially after rain, thus rendering it non-functional. The existing side setback is 7'8"; the proposed is 6'5" due to the angled side lot line. The topography of the lot slopes to the rear significantly. Due to reconstructive hip surgery, they designed the stairs to provide a gradual descent. There being no other questions or concerns of the Board or the public, McDonough made a motion to waive a site view and to close the public hearing. Faulk seconded the motion and the Board voted (5-0) to waive the view and close the hearing. The Board then proceeded to deliberate.

Brown noted that the house predates the adoption of the Zoning Bylaw and is therefore eligible for a special permit in order to construct the additions. The detached garage would be eligible for a variance due to it being conforming and only rendered non-conforming due to the additions. Rechisky made a motion to grant preliminary approval of the special permit for the addition and the variance for the garage. Faulk seconded the motion and the Board voted to grant preliminary approval of the special permit and variance and to continue the deliberation to 6/2/16 for a final vote on the draft decision. Brown will write the draft decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- 3-D Rendering "Crowley Residence Addition" prepared by The Design Studio of BTH Architects, dated 12/30/15
- E-mail from Karen Herman, Chair of Preservation Commission dated 4/13/16 re: the Commission's review of the proposed additions/alterations & request for more detailed drawings.
- Drawing of proposed addition & deck (undated)
- PowerPoint slides (6) entitled "36 Washington Avenue Proposal" April 2016
- Letters of support from Patrick & Constance Scanlon dated 4/9/16, Rory Pheiffer & Shauna Murray dated 4/9/16 & Kevin & Rebecca Murphy dated 4/8/16
- Plot Plan 36 Washington Avenue prepared by Andover Consultants Inc. dated 4-6/16
- Photographs (8) of 36 Washington Ave. (undated)

**Petition Number: Z-16-45**

**Premises Affected: 186 Abbot St**

**Petitioner: Verdolino**

**Relief requested: Special permit §3.1.3.F.4 to create a family dwelling unit within the existing single family home**

**Members sitting: Brown, McDonough, Wilson, Rechisky, Faulk**

Wilson disclosed that she knows the applicant in a professional capacity and is an abutter within 300' but feels that she can be impartial. There was no objection to her participation in the hearing. Bill Pogor, contractor for the applicants, presented the request for a special permit to create a family dwelling unit in the unfinished basement for Mrs. Verdolino's parents to occupy for part of the year. There is an entrance from within the existing house and from the walk-out basement direct to outside. There will be a galley kitchen with a cook-top, fridge, sink, and pantry. Brown explained that the special permit is specific to Mrs. Verdolino's parents for 5-years and that upon expiration or abandonment, if not renewed, the unit must be reverted into the single family dwelling (removal of the cook-top). There being no other questions or comments from the Board or the public, McDonough made a motion to close the public hearing and to deliberate. Faulk seconded the motion and the Board voted (5-0) to close the hearing and to deliberate. The Board then proceeded to deliberate.

Faulk made a motion to approve the special permit with the standard conditions: 5 yrs. (renewable upon application) and restricted occupancy for Mrs. Verdolino's parents only. Rechisky seconded the motion and the Board voted (5-0) to grant the special permit with conditions. McDonough will draft the decision and the Board continued the deliberation to its meeting on June 2, 2016 for the purpose of taking a final vote on the draft findings and decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Proposed Family Dwelling Unit Basement Level Footprint, Daniel and Yan Li Verdolino, Hub City Builders, 4/7/16.
- Plot Plan 186 Abbot Street, Andover, Ma. 12/14/2012, Civil Environmental Consultants LLC.
- Letter of Consent and Authorization dated 4/8/16 signed by Mr. & Mrs. Verdolino granted Mr. Pogor permission to act on their behalf relating to the 'family dwelling unit'.
- Letter from Mr. & Mrs. Verdolino signed & dated 4/10/16 stating that her parents need a supervised living environment.

**Petition Number: Z-16-46**

**Premises Affected: 119 Chandler Rd**

**Petitioner: Gowdy Family LLC/New Cingular/AT&T**

**Relief requested: variances §§6.1.2.1, 6.1.2.9 to remove and replace a wireless communication monopole that will exceed the maximum height and not meet the minimum setback requirement and/or a special permit §6.1 and/or modification of Decision Nos. 2606, 2693, 3772**

**Members sitting: Brown, McDonough, Wilson, Rechisky, Faulk**

Attorney Mark Johnson represented the applicants. Also present were Trevor Gowdy, Attorney Edward Pare for AT&T, Dan Goulet (RF Engineer), Andover Fire Chief Mansfield, and Andover Police Chief Keefe. Johnson gave an overview of the existing site, which contains a 402' tall guyed radio antenna tower erected in 1947 with wireless communication antennas collocated. Johnson noted a change in the requested monopole's height from 150' to 160' pursuant to the Fire and Police Chiefs' request to improve public safety

communication in that area of town. The existing wireless equipment on the radio antenna would be moved to the new monopole. Johnson noted that Section 6.1.10 allows the ZBA to modify certain standards or to grant a variance for height and setback. He added that the existing tower has been the subject of several ZBA decisions, the most recent in 2008. Brown clarified that the existing tower will remain in use as an AM Radio tower. Johnson confirmed. [Member Oltman arrived at 8:13 pm. Chair Brown stated for the record that because Oltman arrived after the hearing started, that she will not be participating. But if needed in the future, she can invoke the Mullen Rule.] Tyler McAllister explained that the existing tower's purpose is not to hold wireless communication equipment, but was converted to do so in the 1970's. The tower has not been upgraded for the existing carriers and now new carriers want to install their equipment on site. The new monopole would be able to accommodate such requests. The Board discussed whether the existing compound has adequate space for new carriers, the inability to upgrade the existing facility to carrier more equipment due to structural integrity, coverage gaps, and the new technology to be used on the proposed monopole. Attorney Pare noted that AT&T previously appeared before the ZBA to erect a monopole at 138 Chandler Road, but withdrew the application. He added that AT&T only needs a 150' monopole to fill their coverage gap and update their technology. RF Engineer, Dan Goulet, reviewed the coverage maps, gaps and improvements that customers would benefit from. The nearby sites are reaching or at capacity. In order maintain 3G service while increasing or adding 4G service, the proposed monopole will assist in achieving this goal.

The Board discussed the increased proposed height from 150' to 160' and whether it would affect coverage. Goulet noted that the additional height is at the request of Public Safety and wouldn't change the elevation of the AT&T antennas. Johnson pointed out that there is a structural report in Tab 4 of the packet. Chief Mansfield, of Andover Fire Rescue, spoke in support, explaining that the Gowdy Family asked for input from Fire and Police related to increasing the safety of first responders as part of an ongoing multi-year project. The proposed monopole would help realize improved communication for Public Safety. The Wood Hill site is at or over capacity and service in West Andover is poor, at best, which affects Public Safety response greatly. Police Chief Keefe added that redundancy is a big issue too. Johnson clarified that the request to increase the height of the proposed monopole to 160' is for better coverage. Mansfield explained that the engineers recommend the 160' height as better for a straight-shot line of communication to central station. Johnson will file an amended application to reflect the change in the proposed height.

Brown voiced concern over the fall zone for the proposed monopole since one of the guy cables of the existing tower is within that area as well as a power line easement. Johnson explained that the proposed location is further from the residential properties. Joanne Stinson, 8 Matthew St., spoke in opposition, citing devaluation of property values. Brad Weeden, 5 Summer St., and Ross Stinson, 8 Matthew St., also spoke in opposition and asking about the reason for the maximum height, the structural design (width of tower and fall radius) and if property devaluation study had been done. McAllister explained that the width at the top of the tower is 14' and when the bylaw regarding wireless communication was written in the 1980's, the technology was different, taller towers were unnecessary and now there is an increase of carriers, but the ZBA can grant relief for a taller tower. Trevor Gowdy noted that he is unaware of any property devaluation to date. Brown reminded Johnson that for the continued public hearing on June 2, 2016, the Board would like an amended application to reflect the increase in the proposed height and the following concerns to be addressed: fall-zone and impact on power lines and guy lines; as well as potential alternate locations. A resident of 5 Chongris Circle stated that she had not received notice and suggested that the monopole be made to look like a tree. Faulk explained the requirement of abutter notification to those abutters and abutters to abutters within 300'. The Board discussed the balloon test date suggesting that it occur on May 14 or 15 from 9 am – 5 pm. McDonough made a motion to continue the hearing to 6/2/16. Rechisky seconded the motion and the Board voted (6-0) to continue the hearing to 6/2/16.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Letter from Attorney Mark Johnson dated 5/6/16 notifying the Board of the balloon test dates
- Public Notice of Balloon Test from the Eagle Tribune 5/1/16
- Draft language for Public Notice of Balloon Test (undated)
- List of parties present on behalf of Gowdy Family, LLC received from Attorney Edward Pare Jr. (undated) received 5/5/16
- Assessor Map 129 received 5/5/16
- Letter from Attorney Johnson dated 5/6/16 with USB drive containing simulations of the proposed monopole with prints attached
- Cover letter from Attorney Johnson dated 4/11/16 re: 9 small sets of the full plans
- Letter from Attorney Johnson dated 4/8/16 summarizing the proposal
- Plans prepared by Hudson Design Group LLC dated 4/1/16 sheets T-1, C-1, A-1, A-2 (3 sets)
- Andover ZBA Decision No. 990 dated 6/7/1972
- Andover ZBA Decision No. 1594 dated 7/8/1983
- Andover ZBA Decision No. 2606 dated 1/9/1997
- Andover ZBA Decision No. 2693 dated 9/5/1997
- Andover ZBA Decision No. 3438 dated 8/6/04
- Andover ZBA Decision No. 3554 dated 9/16/05
- Andover ZBA Decision No. 3772 dated 7/3/08
- Andover ZBA Decision No. 3809 dated 10/27/08
- Plans showing Right of Way across land conveyed to Santo Rapisardi et ali prepared by New England Power Engineering & Service Corporation dated 6/23/1930 (Sheets L-833 & L-835)
- Plan of Land in Andover, Mass. Surveyed for The Lawrence Broadcasting Co. dated May 1947 prepared by Clinton F. Goodwin, Engineer
- Subdivision & ~~Acceptanet~~Acceptance Plane North Center Acres dated March 1964 prepared by Charles E. Cyr
- Letter from ~~Robert~~Robert E. Adair, P.E., Principal of All-Points Technology Corporation dated 2/25/16 re: possible failure modes of monopoles with respect to 'fall zone' requirements
- RF Report for Proposed Wireless Facility MA3361A, 119 Chandler Road, Andover, MA 01810 dated 4/8/16 prepared by C2 Systems
- TOWAIR Determination Results dated 4/5/16 (page 1 of 2 only)
- Photos (26) & Predictive Viewshed Map prepared by Caron Assoc. Design dated 4/1/16
- Quitclaim Deed recorded 12/12/1986
- Quitclaim Deed recorded 5/13/1963
- Certificate of Merger of Gowdy Family Limited Partnership with Gowdy Family LLC dated 1/30/01
- Notice of Lease of Cell Site #:MA3361 (Gowdy Tower) recorded 3/31/16
- Tenant Acknowledgement dated 3/10/16
- Description of Premises Page 1 of 3
- Site Plan prepared by SAI dated 1/14/16 (2 pages)
- Revised Tower Model per ECO-5271 plans (6 pages) prepared by NELLO Corporation dated 9/24/14
- Calculated Radio Frequency Emissions report prepared by C2 Systems dated 4/8/16

- FCC Radio Station Authorization, Licensee: AT&T Mobility Spectrum LLC granted 1/6/09, expiration date 6/13/19
- Noise Study prepared by Noise Control Engineering, LLC, dated 4/15/16 with cover letter from Attorney Johnson dated 4/20/16

**Petition Number: Z-16-40**

**Premises Affected: 168 Haverhill St**

**Petitioner: Andover Community Trust (ACT)**

**Relief requested: Comprehensive Permit under Ch. 40B to construct one single family affordable dwelling on a lot that lacks the minimum lot area**

**Members sitting: Brown, McDonough, Oltman, Wilson, Rechisky    Alternate: Faulk**

Denise Johnson, Executive Director of Andover Community Trust (ACT), presented the 40B Comprehensive Permit application to the Board, giving an overview of the plan to construct one permanently affordable single-family dwelling on a lot that lacks the minimum required area in the SRB Zoning District. Johnson explained that the construction of this home would help fulfill the 2012 Master Plan for scattered-site affordable dwellings. She summarized ACT's history in town and the land-lease model that they have used with all of the homes they've developed. John Pearson, engineer for ACT, reviewed the specific site and design details, including the presence of wetlands, as well as green and accessible features of the home. He noted that both the Selectmen and DHCD support the project. The proposed house will have a floor area of 1800 sq. ft. Brown asked for public questions or comments. There were none. He noted that an email was received from Johnson listing the requested waivers from lot area, and possibly from front setback to eliminate the need for automatic sprinklers. Brown suggested continuing the public hearing to 6/2/16. McDonough made a motion to continue to 6/2/16. Faulk seconded the motion and the Board voted (6-0) to continue the hearing to 6/2/16.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- "Site plan, 168 Haverhill Street, Andover, Mass." Prepared by Andover Consultants, Inc., dated January 20, 2015 <sup>a</sup>.
- Deed for 168 Haverhill Street, recorded at N.E.R.D at 8368, Page 166.
- Letter to ZBA from Russell Ahern, Highview LLC, dated April 6, 2016.
- Purchase & Sale agreement between Highview, LLC, and Andover Community Trust, dated August 3, 2015.
- Mass. Department of Housing & Community Development site approval letter, dated April 7, 2016.
- DHCB Local Initiative Program application, dated 2/9/2016.
- Letter of support from Andover Board of Selectmen, dated January 27, 2016.
- Summary of presentation by ACT to Andover Board of Selectmen, January 25, 2016
- Letter of support from Andover Housing Partnership Committee, dated December 16, 2015.
- Greater Lawrence Technical School letter of intent to build, dated February 9, 2016.
- Exterior elevation and floor plan drawings, 3 pages, prepared by John Pearson, Architect, dated January 15, 2016.
- Photograph of ACT home at 94 Cheever Circle.

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<sup>a</sup> This is a typographical error; the correct date for the plan is January 20, 2016.

- ACT outreach letters to Haverhill Street neighbors, dated October 30, 2015 and January 19, 2016.
- Haverhill Street neighborhood map, identifying households contacted for community meetings.
- Google map showing directions to 168 Haverhill Street.
- Homeowner outreach flyer for 168 Haverhill Street.
- Marketing plan for 168 Haverhill Street.
- ACT Owner selection guidelines for 168 Haverhill Street.
- Map of Andover showing locations of ACT homes.
- Photos of all 6 completed ACT houses in Andover.
- Letter from Denise Johnson to David Brown, ZBA Chair, describing waivers requested for the Comprehensive Permit.
- Revised “Site plan, 168 Haverhill Street, Andover, Mass.” Prepared by Andover Consultants, Inc., revision date May 18, 2016.

**Petition Number: Z-16-47**

**Premises Affected: 319 Lowell St**

**Petitioner: Lupoli**

**Relief requested: Modification of Comp Permit No. 3312 to relocate an affordable, 3-bedroom single family dwelling into Unit No. 1221 within the multi-family buildings at 311 Lowell St, Hamilton Green Apartments**

**Members sitting: Brown, McDonough, Oltman, Rechisky, Faulk      Alternate: Wilson**

Rick Friberg, engineer with TEC, presented the request for a modification of Comprehensive Permit #3312 on behalf of the applicant, Salvatore Lupoli, who was also present along with his legal counsel, Attorney Hausler. Lupoli has a signed P&S with Hamilton Green Apartments to purchase the property containing the affordable single-family dwelling, raze it and construct a parking facility along with a 2-story commercial building. The affordable unit and its occupants have already been moved to Unit #1211 in the main buildings on Heritage Green’s property. Lupoli has agreed to make a contribution to Andover Community Trust for the creation of additional affordable units in town. Brown asked for a summary of the conditions needing to be changed, specifically citing condition #s 3, 10, 15, 19). Hausler agreed and added that the additional conditions would become effective when the lot is transferred to Lupoli. Denise Johnson, Executive Director for ACT, informed the Board that there is a signed agreement with Lupoli regarding the contribution to ACT. She will provide a copy to the ZBA. The Board discussed the impact of the modification on the limited dividend requirements enforced by the monitoring agent. Susan Stott, 34 Pasho St., also of ACT, suggested referring back to MHP, the monitoring agent. Friberg emphasized that MHP’s letter signifies their knowledge of the proposed change. Friberg then reviewed the changes to the plans, as submitted to the Board. Brown asked for a survey plan with the bounds of the parcel to be conveyed for reference in the decision. Friberg agreed to submit it. Faulk referred to requested conditions from Planner Jacki Byerley regarding working with MVTRA to expand public transportation. Friberg suggested that they could discuss that with the subsequent application for this site. Brown noted that state law provides that only the changes in the Project or aspects of the Project affected thereby can be considered at a hearing on a project change. Brown also noted the Andover Housing Partnership Committee’s suggested conditions that Lupoli’s contribution should be memorialized, as well as a contact name and that information should be included in the modification plus an updated inventory of the affordable units.

There being no other questions or comments at this time from the Board or the public, McDonough made a motion to close the hearing. Wilson seconded the motion and the Board voted (5-0) in favor of closing the public hearing. The Board then proceeded to deliberate. Brown asked for the Board’s sense for how many are

in favor of granting the requested modification. The Board expressed favor for the modification unanimously. Faulk made a motion to continue the deliberation to the 6/2/16 meeting. McDonough seconded the motion and the Board voted (5-0) to continue the deliberation to 6/2/16 for the purpose of taking a final vote on the draft findings and decision. Brown volunteered to draft the decision.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Memorandum of Understanding between Andover Community Trust, Inc. and The Lupoli Companies dated May 5, 2016
- Lot Line Adjustment Plan prepared by TEC dated 5/5/16
- Proposed Draft Decision prepared by Attorney Hausler (undated)
- Plan of Land 311 – 319 Lowell Street Andover, Mass. Prepared by Otte & Dwyer, Inc. Land Surveyors dates October 2015
- Letter from Carl Valeri, President & COO & managing agent for Hamilton Green dated 3/2/16
- Quitclaim Deed dated 7/15/13
- Letter from J. Geoffrey MacAdie, Director of Portfolio Management, MHP dated 10/2/15 consenting to modify affordability restrictions at Hamilton Green Apartments LLC, Andover, MA
- Decision No. 3312 of the Andover Zoning Board of Appeals dated 11/14/03
- Decision No. 3449 of the Andover Zoning Board of Appeals dated 9/29/04
- Decision No. 3451 of the Andover Zoning Board of Appeals dated 8/16/04
- Finding of Insubstantial Change by the Andover Zoning Board of Appeals dated 4/25/05
- Decision No. 3538 of the Andover Zoning Board of Appeals dated 7/12/05
- Finding of Insubstantial Change Supplemental to Decision No. 3312 of the Andover Zoning Board of Appeals dated 4/18/07
- Letter from Ann Cobleigh, Chair, Andover Housing Partnership Committee dated 4/29/16 in support
- Determination of the Andover Zoning Board of Appeals on a Notice of Project dated 4/26/16
- Cover letter from Attorney Hausler dated 4/11/16 re: minor or insubstantial modification dated 4/11/16
- Email from Planner Jacki Byerley dated 4/12/16 re: proposed condition
- Chart titled “Andover Popular Destinations: July, 2015 – December, 2015: from Jacki Byerley (undated)
- Letter with attachments from Attorney Hausler dated 3/15/16 re: modification of comprehensive permit
- Letter from Denise Johnson, Executive Director of Andover Community Trust, dated 3/23/16 in support
- Letter from Alan G. Lampert, Esq., for the Hamilton Companies, dated 3/17/16 authorizing Salvatore Lupoli to apply for a modification of the comprehensive permit
- Copy of 760 CMR: Department of Housing and Community Development sections 4 & 11(pages 22, 36 & 37)

**Petition Number: Z-16-17**

**Premises Affected: 8 Smithshire Estates**

**Petitioner: Kachouh / Fournier**

**Relief requested: Special permit Art. VIII, §3.3.5 and/or variance §4.1.2 to construct one garage stall addition that will not meet the front or side minimum setbacks**

**Members sitting: Brown, McDonough, Wilson, Oltman, Faulk**

**Alternate: Rechisky**

This is a deliberation only to vote on the draft decision. With Magenheim and Bordonaro absent, Brown designated alternates Faulk and Rechisky to sit in their place for the final vote. McDonough made a motion to approve the draft findings and decision. Wilson seconded the motion and the Board voted (5-0) to approve the draft decision. Brown noted that the vote in the draft should be changed to remove the names of Magenheim and Bordonaro who are absent tonight.

**Petition Number: Z-16-28**

**Premises Affected: 11 Bartlet Street**

**Petitioner: S&M Subs, LLC**

**Relief requested: Special permit under Art. VIII, §3.1.3.C12.b for the continued use of a fast-food restaurant**

**Members sitting: Brown, McDonough, Wilson, Oltman, Rechisky**

**Alternate: Faulk**

This is a deliberation only to vote on the draft decision. With Magenheim absent, Brown designated alternate Rechisky to sit in his place for the final vote. Rechisky made a motion to approve the draft findings and decision. McDonough seconded the motion and the Board voted (5-0) to approve the draft decision.

**Petition Number: Z-16-31**

**Premises Affected: 89-93 Main St**

**Petitioner: Perry**

**Relief requested: Special permit under Art. VIII, § 3.13.C.12.b for the continued operation of a fast-food restaurant under new ownership**

**Members sitting: Brown, McDonough, Wilson, Oltman, Faulk**

**Alternate: Rechisky**

This is a deliberation only to vote on the draft decision. With Magenheim absent, Brown designated alternate Faulk to sit in his place for the final vote. Oltman made a motion to approve the draft decision. McDonough seconded the motion and the Board voted (5-0) to approve the draft decision.

**Rechisky left for the remainder of the meeting.**

**Approval of Minutes of 4/7//16:**

Brown noted that he made revisions that were submitted by email. Faulk made a motion to approve the minutes of 4/7/16 as revised by Brown. Oltman seconded the motion and the Board voted (5-0) to approve the minutes as revised.

**Discussion Items:**

Brown gave an update on the status of appointments to the vacant seat.

There being no other business of the Board, Oltman made a motion to adjourn the meeting. McDonough seconded the motion and the Board voted unanimously (5-0) to adjourn the meeting at 10:09 p.m.

Respectfully submitted,  
Barbara Burke  
Administrative Secretary