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**MINUTES OF THE
PLANNING BOARD**

**MEETING OF
September 22, 2009**

A meeting of the Planning Board was held on September 22, 2009 at the Salem Town Hall, 33 Geremonty Drive, Salem, NH.

PRESENT: Jim Keller, Chairman; Gene Bryant, Vice-Chairman; Phyllis O’Grady, Secretary; Pat Hargreaves, Selectman’s Rep; Ronald Belanger; Robert Campbell; Linda Harvey; and Ross Moldoff, Planning Director.

The meeting was called to order at 7:00 p.m. Chairman Keller introduced the board members. The Dawson and Craffey Subdivision has been withdrawn. Chairman Keller then went over the agenda.

REVIEW OF MINUTES

1.) August 25, 2009

Ms. O’Grady made a motion which was seconded by Mr. Belanger to accept the minutes of 8/25/09 as written.

VOTE ON MOTION: 6 – 0 – 1 (Mr. Hargreaves abstained.)

2.) September 8, 2009

Ms. O’Grady made a motion which was seconded by Mr. Belanger to accept the minutes of 9/8/09 as written.

VOTE ON MOTION: 5 – 0 – 2 (Mr. Bryant and Mr. Hargreaves abstained.)

OLD BUSINESS

1.) MAMMOTH DEVELOPMENT SITE PLAN – Public Hearing for 25,000 sq. ft. retail plaza and lot line adjustment at 2, 4, and 6 Hampshire Road, Map 151, Lots 101, 102 and 103. Continued from 6/23/08.

Abutters: There were no abutters present.

Mr. Moldoff read the following staff comments:

He discussed previous meetings and revisions from the previous plan.

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1 Most of the issues were resolved but there are still some things to be resolved.

2 The outside engineering review is still outstanding.

3 Recommend - continuance

4
5 Steve DeCoursey, Bohler Engineering, introduced the other representatives who are here with
6 him. This is located at the corner of Hampshire Road and Rt. 28 and is about 3 acres. It's
7 currently being used by 3 residences that each have a driveway on Hampshire Road. We're still
8 proposing to take down the existing buildings and build a 13,000 square foot pharmacy with an
9 1,852 square foot mezzanine and 6,119 square foot auto parts store and an ATM. The two access
10 points are the same as the ones from the previous meeting. We have a full access driveway on
11 Hampshire Road. Trucks would travel clockwise around the rear of the building, and the
12 circulation in the rear is one-way. There will be a right-in, right-out only on Rt. 28. There will be
13 a drive-through for the pharmacy and a bypass lane. We have sidewalks and pedestrian
14 crosswalks. We need 102 spaces and we have 103 which are 9 feet by 20 feet. He discussed the
15 utilities. He received a letter from the Fire Department. They reviewed the plan and have no
16 further comment. He also discussed grading and elevations. We will establish an existing
17 conditions plan for runoff to make sure there is no increase in runoff. He received a letter from
18 Mr. Minnick with items to resolve. Regarding lighting, there are 13 poles on site. He discussed
19 the lighting on the site. For landscaping, there are shade trees provided and different planting
20 beds. We will look at the possibility of raising the berm to provide more screening or moving
21 trees to the front. We looked at the retail design standards and he thinks we comply with those
22 and with the number of trees. We will work with the staff on that. We also designed a lighting
23 plan to meet the regulations.

24
25 Bryce Hilman with BKA Architects has reviewed the bylaws and we've come up with a good
26 design to bring the required elements into this design. There are many jogs in the building. He
27 showed a rendering of the proposed building. He explained the architecture of the building. One
28 of Mr. Moldoff's main concerns was the view from the abutter. We are making sure he has a
29 pleasant view of the side of Advanced Auto. He then gave a copy of the sign package to the
30 board showing the pylon sign which compliments the architecture of the building.

31
32 Mr. Bryant asked, you're connecting the two buildings?

33 Mr. Moldoff said there is no connection.

34 Mr. Bryant asked if the drive-through connects the two buildings.

35 Mr. Hilman said it doesn't.

36 Ms. O'Grady asked if they would move one of the trees from the front, to the island. She also
37 mentioned that she doesn't like internally lit signs.

38 Mr. Moldoff said there are issues on the signs. He read the sign standards.

39 Mrs. Harvey mentioned the chain link fence. Will there be nice landscaping over there?

40 Mr. Hilman said it will be a grassed area.

41 Mrs. Harvey said there will be a multi-use pathway adjacent to this property and a more pleasing
42 landscape would be preferred.

43 Mr. Moldoff said at the last meeting, Mr. Campbell asked for a cross-section of that area. It's on
44 page 14 of the plan.

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- 1 Mr. Hilman explained the cross-section of the area.
2
3 Mrs. Harvey said she would like some buffering and not to see a chain-link fence from the trail.
4 Mr. Moldoff said he'd have to talk to Engineering about that.
5
6 Mr. Hargreaves asked, will there be something to keep people from going into the sign?
7 Mr. Hilman said he thinks it pretty well protected based on the grading.
8 Mr. Bryant mentioned his concern with the visibility of the sign southbound. Why wouldn't the
9 entrance sign be further out?
10 Mr. Hilman said he will look at that.
11 Mr. Campbell said he'd like to see the sign superimposed on the landscaping plan. He asked if
12 the trees will obscure the sign.
13 Mr. Hilman said we're trying to balance meeting the landscape requirements and visibility.
14 Mr. Campbell also asked about the retaining wall.
15 Mr. Hilman said the length of the retaining wall seems to match.
16
17 There was discussion of the notes on the plan regarding the retaining wall and the landscaping.
18
19 Mr. Campbell asked, the chain link fence isn't supposed to go beyond the wall?
20 Mr. Hilman said that's correct.
21
22 Chairman Keller asked about the grass on the plan and if there will be a sprinkler system.
23 Mr. Hilman said yes.
24 Chairman Keller asked, will you drill a well to supply that?
25 Mr. Moldoff said it's not noted on the plan.
26 Chairman Keller said they need to do that. He also asked about snow storage.
27 Mr. Hilman showed the proposed snow storage areas on the plan.
28 Mr. Moldoff said he will put that on his list.
29
30 There was some discussion of snow storage.
31
32 Chairman Keller asked the applicant to screen the rooftop mechanicals. He would also like a
33 perspective rendering from a variety of points. Once we see that rendering, we'll probably decide
34 what we want for grass, berm, etc. He isn't sure that they've done an adequate job on signage.
35 Will this plaza be named? (The applicant replied that it will.) Chairman Keller said it looks like 3
36 signs in one and kind of plain. He asked Mr. Moldoff for his thoughts on the 30-foot light poles.
37 Mr. Moldoff said they're allowed by our lighting standards.
38 Chairman Keller asked, those will be shielded down and there will be no glare?
39 Mr. Moldoff said yes.
40 Chairman Keller asked about the receiving door.
41 Mr. Hilman explained how the trucks will unload.
42 Mr. Bryant asked why the door isn't in the back of the building.
43

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- 1 Michael Kaufman, developer, explained that the cardboard compactor takes up a lot of room. So
2 the merchandise is wheeled in.
3 Mr. Bryant said it looks like there is plenty of room for a door back there.
4 Mr. Hilman said it's not a loading dock, its flush with the pavement.
5
6 Mr. Hargreaves asked about the emergency exit.
7 Mr. Hilman pointed to the only emergency exit.
8 Mr. Moldoff said the Fire Department has looked at this plan.
9 Chairman Keller asked Mr. Moldoff to work with the applicant on the receiving entrance. It is
10 not shown on this rendering. He mentioned the front of the building. The front peak structure is
11 consuming and diminishes the rest of the building. He asked Mr. Moldoff if he is comfortable
12 with the auto parts store having a flat roof.
13 Mr. Moldoff said this is the result of a lot of discussion and he thinks we're OK.
14
15 Chairman Keller asked for public input.
16
17 Tom Carol, Merrimack Valley Development, abutter on the south side. He asked if all the storm
18 water will be contained on site. He'd like to see where their sign is in relation to his sign. Also,
19 the section of Hampshire Road between their building and his building, will that stay the same as
20 it is now? Also, the main in and out of the building, is it on Rt. 28, and if so, why isn't the sign
21 more up that way as opposed to down on the curb? Is the second in and out mostly for trucks or
22 is that the entrance?
23 Chairman Keller said it depends on where you're coming from.
24 Mr. Carol said his biggest concern is water drainage. He did fix his sign. The tenants took the
25 bulbs out and he put the bulbs back in.
26
27 Mr. DeCoursey said we went through this with Mr. Minnick and we put what the existing runoff
28 is. There is a portion that goes to the south, but there is a decrease to each of the drainage areas.
29 We are widening the lane configuration on Hampshire Road. We're giving part of it to the State.
30
31 Jeffrey Dirk, with Vanasse and Associates, explained that between the triangular portion and the
32 site, there are no changes in terms of curb line. We're just making a 1-foot widening on Rt. 28
33 and there will be changes in the curb radius. There will be a sidewalk that extends all around the
34 perimeter of the property.
35 Chairman Keller said the applicant will address the sign questions when they come back.
36
37 Mr. Hargreaves asked, will you be doing any blasting? He is concerned with them leaving dirt on
38 the road
39 Mr. DeCoursey said we submitted an erosion control plan. If there are any problems, we will
40 address them.
41 Mr. Bryant asked if we'll be acting on the elevations and design.
42 Chairman Keller said he personally would like to wait until he sees the perspective.
43 Mr. Bryant said that generally he thinks the look of the building is fine.
44 Mrs. Harvey said we need to see a perspective with respect to the drawings.

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1 Mr. Hilman showed the elevation that you will see if you are looking from the area of the
 2 triangle.
 3 Mrs. Harvey’s concern is that the elevations look distorted.
 4 Chairman Keller said the bottom rendering looks like the steeple roof is leaning back. He doesn’t
 5 want people to think that is what we’re approving.
 6 Ms. O’Grady said she likes the look of the building.

7
 8 Mr. Hargreaves said he has seen these same buildings in Plaistow and it looks great. He did
 9 mention that at Pep Boys and Auto Zone, customers repair their cars in the parking lot. Make
 10 sure you have signs that say, no repairing vehicles in the parking lot.

11
 12 **Mr. Belanger made a motion which was seconded by Ms. O’Grady to continue the**
 13 **Mammoth Development site plan.**

14
 15 **VOTE ON MOTION: 7 – 0**
 16 **UNANIMOUS**

17
 18 **NEW BUSINESS**

- 19
 20 1.) SALEM CORPORATE PARK SITE PLAN – Public Hearing for re-approval of road
 21 extension off Keewaydin Drive, Map 106, Lot 7848 and Map 115, Lot 7768.

22
 23 Abutters: There were no abutters present.

24
 25 Mark Gross with MHF Design Consultants is representing Salem Corporate Park Associates. In
 26 addition to this road, Keewaydin Drive Extension, as part of this application, we were also going
 27 to be applying for a minor lot line adjustment between the two lots. Both this subdivision and the
 28 road were approved in 1986. The Conservation Commission requested that we adjust the road to
 29 avoid some impacts with the wetlands. We had to modify the location of the right-of-way so we
 30 will have to file an amended plan. We’ll still have two lots remaining. We presented a conceptual
 31 plan in January and prepared a traffic study with present conditions with the road going in and
 32 what will be done with a full build-out of 350,000 square feet. That review is underway with
 33 Steve Pernaw and the State. We asked them to concentrate on what will happen if the road goes
 34 in with no development, which is Phase 1. Phase 2 could be 10–15 years away. We will extend
 35 Keewaydin Drive for approximately 2,000 feet from the end of Keewaydin. The cul-de-sac will
 36 be taken out and will be extended to the intersection of Stiles Road. At the end of Stiles Road we
 37 will have 3 lanes. We met with the abutting property owners. Several properties on Keewaydin
 38 Drive have access on the cul-de-sac and those will have to be modified. They all seem amenable
 39 to the changes. The utilities are under review. We’re providing a 15-inch sewer line in
 40 anticipation of taking some of the pump stations offline and at some point the West Side
 41 interceptor going in. He discussed the other utilities. We’ll be providing a sidewalk on northerly
 42 side of Keewaydin Drive Extension. The most significant process is with the wetland impacts.
 43 We have about 7,000 square feet of wetland impacts that present challenges in terms of
 44 identifying some of the areas that have some value. We dealt with some prime wetland issues.

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1 We've worked with the Conservation Commission on coming up with an acceptable package.
2 We received an approval recommendation from them in August. He showed the wetland impact
3 areas on the plan. He also showed where the no-cut buffers are located and the conservation
4 easement. It's required to have a 2:1 mitigation, and this provided 26:1 mitigation. But the 2:1
5 has to be constructed, so we went to the ZBA with blessing of the Conservation Commission to
6 allow preservation of upland and wetland versus doing construction. We provided 5 acres of
7 basically preserved, no-cut conservation easement along Porcupine Brook. In essence the prime
8 wetland buffer has been re-established through this conservation easement. The next step is to
9 finalize the process with the State. We're thankful to the Conservation Commission for working
10 with us on this. We've worked with the State, EPA and NH Fish & Game. There is also a vernal
11 pool where we provided a 50-foot no-cut buffer. We're currently looking at the cost to build this
12 road. We have more detailed plans. We also want to talk about some impact fee issues, so we'll
13 come back with those because we're not prepared to talk about it tonight. It will be tied into
14 some things that Bill Scott is doing with grants. Mr. Gross talked about the potential for grant
15 money. We just wanted to give the board an update on the project and see if they have any
16 issues.

17
18 Chairman Keller said the agenda indicates that this is a public hearing for the re-approval of a
19 road extension. But the packet is basically a new plan that the board will need to make a
20 determination on. So are we seeking to grant an extension or is this a new application that we
21 need to accept?

22 Mr. Moldoff explained that it's a new application in the sense that they will be moving the right-
23 of-way. The plan was originally approved in 1991. When they came in in February, we were
24 going to talk about the road extension and development so he put it on a site plan review form.
25 Since then they said they wanted to talk about the road first, so he may have to put it as a
26 subdivision. So many things have changed. He suggested we wait until the next meeting when
27 we see the lot line adjustment. We don't need to accept this application right now.

28
29 Mr. Moldoff read the following staff comments:
30 They need State Wetland Bureau approval.
31 They need a conditional use permit from this board.
32 Regarding the floodplain impact from the road, they're providing storage that is being
33 reviewed by Rockingham County Conservation District.
34 They need a conservation easement.
35 There is an outside review of the drainage and utilities.
36 They need State permits on the extension of water and sewer and terrain alteration.
37 Traffic is the big issue. We have to think about the traffic because if they build the road, it's a
38 positive thing, but each site plan they come in with may not have much of an impact, but all
39 of them put together may have impacts. We have comments from NHDOT, their traffic
40 consultant and our traffic consultant.
41 Public Works had minor issues with the island on Keewaydin Drive.
42 He is waiting for comments from the Engineering Department.
43 We'll need to talk about impact fees.

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1 Mr. Bryant asked, when we talked in February, he thought there may have been interest in his
 2 suggestion to do something different and nicer with a modest boulevard kind of look with a
 3 median strip down the middle. Did you discuss that?
 4 Mr. Gross said we did, but because of the issue with Stiles and the wetland, we had to move
 5 things around and squish things in so we didn't impact the wetlands. So the opportunity to put in
 6 a center island didn't come about. Plus you don't know where the future curbcuts may be. Public
 7 Works would probably not like it either. We wanted to keep the road width the same.
 8 Mr. Bryant thought there may have been interest because he thought the applicant was building a
 9 campus environment.
 10 Mr. Gross explained that where the market is so volatile, it could be one large user on the one
 11 side. That may be where we have the opportunity to do a boulevard.
 12 Mr. Bryant mentioned his disappointment in not having the island.
 13
 14 Mrs. Harvey said we did work hard on the Conservation Commission to come up with a
 15 compromise. She thinks the commission will be looking for baseline documentation on the
 16 conservation easement. Also, after the meeting, she discussed with Mr. Moldoff the concept of
 17 combining the two easements and just having one and including the prime wetland at the
 18 southern end as part of that easement area. Her other point is, she noticed you're using slanted
 19 granite for the curb and that is a good plan. Make sure it stays slanted.
 20 Mr. Moldoff asked, is it slope granite?
 21 Mr. Gross said he thinks we're matching whatever is out there. He thinks its cape cod berm. He
 22 will discuss it with the Engineering Department.
 23
 24 Chairman Keller asked for public input. There was none.
 25
 26 The board recessed around 8:34 p.m. The board reconvened around 8:42 p.m.
 27
 28 2.) 19 MAIN STREET SITE PLAN – Public Hearing for change-of-use (medical clinic, 2
 29 apartments) at 19 Main Street, Map 89, Lot 3902.
 30
 31 Mr. Hargreaves stepped down from the board.
 32
 33 Abutters: There were no abutters present.
 34
 35 **Ms. O'Grady made a motion which was seconded by Mr. Belanger to accept the 19 Main**
 36 **Street site plan application as complete.**
 37
 38 **VOTE ON MOTION: 6 – 0**
 39 **UNANIMOUS**
 40
 41 Mark Gross with MHF Design Consultants, is representing 19 Main Street Realty Trust. This is
 42 known as the Lorenzo Building and was recently purchased by Dr. Korbey who is present this
 43 evening. The purpose of this plan is a change of use. The 2-story building has attic and basement
 44 space. The purpose is to take some of the office space that's currently in this building and

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1 convert it into a medical walk-in center for Dr. Korbey's operation across the street at 22 Main
2 Street. The existing building contains about 10,000 square feet. There is 2,500 square feet in the
3 basement (1306 unfinished). The 1st floor is 2,556 square feet, the second floor is 2,556 and the
4 attic is also about 2556 square feet. We looked at the required parking. Based on office, we'd be
5 required to provide 22 spaces and there are 41 on the property. The proposal is to change some
6 of the office space, about 1,500 square feet, to a walk-in medical clinic with the second floor
7 being converted into two residential apartments and the third floor be finished off and be part of
8 those residential units. Based on the change of use, we're required to have 17 spaces and we
9 have 41. In addition to the change of use, we're looking to take 9 spaces located along Main
10 Street and reserve those for employees at 22 Main Street. He explained the reason for that. We're
11 also proposing a crosswalk between 22 Main Street and 19 Main Street. We would install a
12 handicap ramp on the sidewalk and a crosswalk to the other sidewalk and provide access into the
13 19 Main Street property to allow employees to go back and forth. We're also going to provide a
14 handicap ramp to the first floor which is raised 4-5 feet. Right now it's through a double set of
15 stairs. So we're proposing to put a new entrance into the 1st floor area on the easterly side. No
16 variances are required. The Safety Officer has reviewed this and had no issues with it. Public
17 Works had technical comments.

18

19 Mr. Moldoff read the following staff comments:

20

The proposed crosswalk generated discussion at the staff level.

21

Public Works and the Police Department didn't want the new crosswalk. But they ended up
22 not holding to that position. Public Works told him how they wanted it done. The Police
23 Department hasn't gotten back to him with comments.

24

Shared parking is allowed. The last couple of times he's driven by, there were more than 9
25 spaces being used. We can ask the applicant about that.

26

There will be a public safety impact fee of just under \$3,000 for each unit, which is to be
27 paid prior to occupancy.

28

He hasn't heard from Engineering.

29

He received a memo from the Fire Department. The change in use of the structure will
30 require compliance with the 2006 life safety code.

31

The Engineering Department said there may be a demand betterment assessment.

32

Public Works mentioned the details of the crosswalk.

33

He hasn't heard from the Safety Officer.

34

Recommend – If you want to move forward we can do that, but he doesn't have approvals or
35 Comments from everyone at this point.

36

37 Ms. O'Grady asked, will there be a light change for the crosswalk?

38

Mr. Gross said no. This is no different than the crosswalks at St. Josephs. This is more of a
39 convenience for the employees.

40

Ms. O'Grady asked, will there be designated parking for the residents and also for the handicap?

41

Mr. Gross said we talked to the Building Department about handicap access. The problem is,
42 once you start identifying it, then everything has to be handicap compliant which is expensive.

42

43 So you do as much as you can. We're not required to provide handicap access to the building

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1 because it's existing. To provide the actual spaces, it gets tricky. Once you sign them, all the
2 entrances have to be handicap accessible. We're providing the access through the ramp.
3 Ms. O'Grady asked, so it will be a walk-in clinic, but you won't have handicap parking? She
4 doesn't understand that.
5 Mr. Moldoff said he can check with the State on that.
6 Mr. Campbell said he finds that inconsistent when he thinks of the building we're in right now.
7 We have handicap parking and a handicap entrance, but not all of the entrances to this building
8 are handicap compliant. So the statement that says all the entrances have to be made handicap
9 accessible is inconsistent with the situation at the town office.
10 Mr. Gross said, once you start advertising with signage, the site has to be compliant entirely.
11 That's what the Building Department is telling him.
12 Mr. Campbell said the Building Department needs to drag out the law and show it to you.
13 Mr. Moldoff said he will check on that.
14 Mr. Campbell said he wants a copy of that.
15 Mr. Gross said the whole handicap access for existing buildings isn't really clear. The law isn't
16 that clear.
17
18 Mr. Bryant said he is trying to understand what a walk-in clinic is and what the traffic
19 implications are and what the parking calculations will be. He imagines it to be a very busy
20 place.
21 Mr. Gross said it's similar to the parking for a medical office.
22 Mr. Bryant asked if the pedestrian movements will be just for employees or patients also?
23 Mr. Gross said the 9 spaces will be for employees.
24 Mr. Bryant asked, the patients won't be referred to go back and forth from one office to another?
25 Mr. Gross replied, no, it's a separate operation. He also mentioned that Dr. Korbey is investing a
26 lot of capital into this building including a new roof, windows and porticos. We really want to do
27 that work before winter.
28
29 Ms. O'Grady said having a residence on the 2nd floor is a nice use. She'd like the architecture to
30 be kept intact.
31 Mr. Gross said it's being replicated.
32 Dr. Azar Korbey, owner, said we also plan to be occupying one of the two apartments. So there
33 will be one rental apartment. The walk-in center we opened a couple of years ago is getting
34 busier. It serves anyone in town not just our own patients. We're one of the only walk-in centers
35 that take insurance. We hope to service the community and we need larger space because it's
36 getting busy. We're only open on Saturdays right now, and on a busy day, we may see 28-30
37 patients in a 6-7 hour period. We plan to open from 2:00 p.m. to 8:00 p.m. Monday through
38 Friday and 9:00 a.m. to 3:00 p.m. on Saturday and be closed on Sundays. Weekdays won't be
39 that busy. We're here to complement the doctors in town. The majority of traffic will be between
40 5-8 pm and on Saturdays. We book patients on average every 15 minutes. We're hoping to make
41 it a full service walk-in clinic.
42

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1 Mr. Moldoff read the letter from the abutter, Lucy & Paul Brown at 4 Sullivan Avenue. They
 2 approve of the plan, but their only concern is that the fence be repaired, and the trees facing
 3 Sullivan Avenue be thinned and the land on Sullivan Avenue be kept up.

4 Chairman Keller asked, will the same entity own both operations?

5 Mr. Gross replied, yes.

6

7 There was discussion of the handicap ramp on the crosswalk.

8

9 Mr. Campbell mentioned the parking requirement that parking not be within 5 feet of the
 10 property line.

11 Mr. Moldoff said he thinks the parking lot has been there prior to zoning but he will check that.

12

13 There was discussion of the parking lot entrances and the building entrance.

14

15 Mr. Campbell said he wants to see the proper dimensions.

16 Mr. Gross said that the Building Department will have to approve a plan showing the handicap
 17 ramp drawn on the actual plan.

18 Mr. Campbell said he wants to understand what that will look like. Also, if we have handicap
 19 spaces, what would the requirement be for medical usage in terms of number of spaces?

20

21 Chairman Keller asked for public input. There was none.

22

23 Mr. Moldoff said he is recommending continuance.

24 Mr. Gross asked if we can start with demolition so we can get the roof off and started? It will be
 25 a process to replace the roof.

26 Chairman Keller said that technically you can do whatever construction you want without
 27 respect to this plan? Are you just replacing in kind?

28 Mr. Gross said we're just replacing in kind.

29 Mr. Moldoff said that's not a problem.

30 Mr. Gross added there will be two additional dormers put on the roof.

31 The board had no objection to this.

32 Mr. Moldoff said he'd just like a plan showing where they will be.

33

34 **Mr. Belanger made a motion which was seconded by Ms. O'Grady to continue the 19 Main**
 35 **Street site plan.**

36

37 **VOTE ON MOTION: 6 – 0**

38 **UNANIMOUS**

39

40 Mr. Hargreaves rejoined the board at 9:20 p.m.

41

42 3.) **ABBAS SITE PLAN** – Public Hearing to modify condition of approval at 291-297 South
 43 **Broadway, Map 128, Lot 711.**

44

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1 Abutters: Fuzzbuzz Realty LLC was present.

2

3 **Ms. O’Grady made a motion which was seconded by Mr. Belanger to accept the Abbas site**
4 **plan application as complete.**

5

6 **VOTE ON MOTION: 7 – 0**

7 **UNANIMOUS**

8

9 Attorney Bernard Campbell said we were here in August in regard to the site at 291-297 South
10 Broadway. It was for a change of use. There is an end unit in the building that is designated as
11 large retail and we were seeking to convert the tenant to regular retail. There is approximately
12 18,000 square feet on the second floor allowed to be used as warehouse and the applicant had
13 alternative plans for that space. The request was for 11,500 square feet of that space for a large
14 retail use. We filed for a conditional use permit. The board had a long discussion and ultimately
15 the board voted to grant the conditional use permit with two conditions. The first condition was
16 that any future change of tenant requires staff review and changes that substantially increase
17 demand for parking require Planning Board approval. The second condition was that the owner
18 shall operate the site, including tenancy and use of the site, so that parking demand does not
19 exceed capacity or circulation on or access to the site and the condition shall apply to any
20 subsequent owners or operators of the site. When we received the approval letter and minutes of
21 the meeting, the owner determined that condition number one would be a major impediment to
22 what could be done with the building. We first sought a reconsideration of that vote. This board
23 indicated that it didn’t want to reconsider but that the applicant could file a new application. So
24 this application was filed with the board for consideration. He has also attached to the request a
25 letter of explanation and several exhibits indicating how that condition would have a serious
26 detrimental impact to the operation of the site. In discussions with Mr. Moldoff who has been
27 very helpful, he recommended that we consider a revision to the language in condition # 1. We
28 suggested that the condition say, “any change in category of use for existing tenants (example:
29 retail to restaurant, large retail to general retail, warehouse storage to retail) would require
30 Planning Board approval.” The point we’re making is, this is a multi-tenant site with many
31 changes throughout time, and there has been no parking problem at this site in all the years that
32 the Abbas family has owned it. What we’d like to avoid is that if a tenant leaves, and another
33 business wants to come in, we don’t want to have to come down and get Mr. Moldoff’s approval
34 if it’s the same category of use. To do so will hurt the ability to get tenants. We’re here asking
35 the board to consider modifying condition # 1. We appreciate Mr. Moldoff’s endorsement of that
36 and we hope the board will grant our request.

37

38 Mr. Moldoff said he felt that the revised wording still protects the town’s interest in ensuring that
39 there won’t be any big increases in parking demand from the change of tenants. If it’s a different
40 type of use, that will have to come back. So he thinks you’re still protected and he recommends
41 approval.

42

43 Mr. Bryant asked, are we protected if for example, a new restaurant comes in where Tokyo is,
44 and takes over a couple other spaces in there, and now we have a bigger restaurant?

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1 Mr. Moldoff said an increase in seats would have to come back to the board.

2 Attorney Campbell said that would come back because those retail spaces would now be a
3 restaurant.

4 Chairman Keller asked, what if Tokyo got replaced by Starbucks?

5 Mr. Moldoff said it's unlikely, but it's not a change in the category of use, so it wouldn't come
6 back. Given the characteristics of the plaza however, he doesn't think that would be a problem.

7 Chairman Keller said the essence of this is the issue of protection. The granting of the
8 conditional use permit allowed them the reduction in parking. The town wants protection in
9 insuring that there is no opportunity for any establishment to come in that would nullify the
10 testimony with respect to why we needed reduced parking to begin with.

11
12 Mr. Bob Campbell said he crafted condition # 2 and it was his intent and has the effect of
13 protecting us against the issues that are raised with respect to the requested relief of condition #
14 1. Does anyone else think otherwise?

15 Attorney Campbell said no. We had a dialogue at that meeting. Ultimately, given where this site
16 is, the marketplace will drive the compliance because if there are demands which exceed
17 available parking, that will come back to the landlord from his tenants. If there were a parking
18 problem at this site, the landlord will have more incentive and interest to fix the problem than
19 any kind of government intervention or regulation. You have the parking study, which is part of
20 the record. It's a function of this site, the way it was originally built with the spaces the way they
21 are, it doesn't draw the kind of tenant that has a large impact demand on the parking on this site.
22 He agrees that condition number two drives it.

23 Mr. Bob Campbell said his point was that this is the authority by which the town could bring
24 action if necessary. If the site didn't have enough parking and traffic was backing out onto Rt.
25 28, the code enforcement officer could go down there with condition # 2 and say, you're
26 obligated to fix it.

27 Attorney Campbell said there's no doubt in his mind that the town could take action.

28 Ms. O'Grady believes the changed wording, along with condition # 2 would cover everything.

29 Mr. Moldoff said the applicant is planning on keeping condition # 2, they just want to change the
30 wording for condition # 1.

31
32 Chairman Keller asked for public input. There was none.
33

34 **Mr. Bryant made a motion which was seconded by Mr. Belanger to accept the change as**
35 **submitted by Attorney Campbell and replace our condition # 1 with the recommended**
36 **wording from Attorney Campbell for condition # 1.**

37 **Chairman Keller said the motion is to modify condition # 1 as written and articulated by**
38 **Attorney Campbell and on behalf of the applicant.**
39

40 **VOTE ON MOTION: 7 - 0**

41 **UNANIMOUS**
42

43 Compliance Update

DRAFT

1 Chairman Keller said the storage trailers are back at Target. Also, Pep Boys has a new area for
2 drop-offs. It's a tent type of thing where they're using parking spaces for service. He asked Mr.
3 Moldoff to look at those. He asked about when Shyer's is going to show up for the issue with
4 that plaza.

5 Mr. Moldoff said he will talk to the Code Enforcement Officer when he comes back.
6

PLANNING BOARD MATTERS

7
8
9 Mr. Moldoff said he would like to go over the zoning ordinance reorganization. We're trying to
10 re-order the articles in a logical sequence. He explained some of the changes being made
11 including combining sections, combining definitions, adding tables, and making it easier to
12 clarify.
13

14 Mrs. Harvey said if everyone agrees with this, once you approve it, she will start cross-
15 referencing.

16 Mr. Moldoff showed the current Table of Contents and the proposed Table of Contents.
17

18 Mr. Bryant asked, putting this on the ballot, there may be a feeling that all this rearranging has
19 changed things, so is this going to be reviewed?

20 Mr. Moldoff said it will have to be reviewed by the town attorney. We were advised that since
21 we're not changing the wording, we can do that without town meeting. But then we realized we
22 do need to change some things. He will get it all checked out. The opinion he got years ago was,
23 you can re-order things and if you have the same wording three different times, you can put it in
24 just once, but he will check on that.

25 Chairman Keller mentioned removing the reference to a district we no longer have, is
26 eliminating zoning wording. So technically, the voters adopted that aspect of the zoning
27 ordinance years ago, so technically the voters should then approve the removal of that district or
28 reference that district even though it doesn't exist anymore.

29 Mr. Campbell said we should avoid the question of whether or not we have to put it on the ballot
30 and we should just do it.

31 Mr. Bryant said he just wants the attorney to review the wording. He agrees it has to go on the
32 ballot.

33 Mr. Campbell said he is still a little confused about ordering it alphabetically. You tend to run
34 out of places. He also mentioned concerns with the definitions. It should be in alphabetical order
35 and it ought to be applicable to everywhere. He thinks all the definitions should be in order.

36 Mr. Moldoff said we can do that.
37

38 There was discussion of the definitions.
39

40 Mr. Bryant commended Mr. Moldoff and Mrs. Harvey on their work. He also suggested that,
41 along with sending this to our attorney for review, that it also be sent to 2 or 3 people who use it
42 everyday and get their opinion.

DRAFT

1 Chairman Keller advocated that we want some kind of safety valve, maybe a clause, saying if
 2 there is any confusion, ambiguity or something omitted, we need to be able to reference the old
 3 way.
 4 Mr. Bryant said you can refer to the document that existed on a particular date.
 5 Mrs. Harvey mentioned that in the current version, in the topic area, she left the old numbers in
 6 there. She asked if she should leave it that way, or just have a couple copies of the old version at
 7 town hall.
 8 Chairman Keller said the issue is, where we've taken stuff out, there won't be a reference for.
 9 His concern is if there is a paragraph missing. So he just wants some wording.
 10
 11 Mrs. Harvey asked, do you want to go with that other numbering system?
 12 Chairman Keller said he agrees with Mr. Campbell's suggestion.
 13 Mrs. Harvey said she will go through this and re-number it. Does anyone have any problems
 14 with where things are located in here?
 15 Chairman Keller suggested that she ask the developers.
 16 Mr. Campbell said we need a process where things can get inserted without disrupting the
 17 numbering system.
 18 Mr. Moldoff said that Mrs. Harvey is the one doing most of the work and he is reviewing it, and
 19 he appreciates it.
 20
 21 Ms. O'Grady said she likes the idea of the double-sided paper but it gets confusing when there is
 22 a new item.
 23 Mr. Moldoff said he will put a blank page in between the items. He asked if people still want it
 24 3-hole punched.
 25 Chairman Keller appreciates Mr. Moldoff taking up the board's suggestion to go to double sided
 26 paper.
 27
 28 **Mr. Bryant made a motion which was seconded by Ms. O'Grady to adjourn.**
 29
 30 **VOTE ON MOTION: 7 – 0**
 31 **UNANIMOUS**
 32
 33 The meeting adjourned around 9:55 p.m.
 34
 35 For further information, kindly refer to the videotape dated 9/22/09, located in the Planning
 36 Office.
 37
 38 Minutes by: Susan Strugnell, Planning Board Recording Secretary
 39 Approved: Planning Board
 40 Date: