

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
September 5, 2007**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, September 5, 2007, at 7:00pm at McCullough Building, Whipple Center Conference Room, 182 Green Street, Weymouth, MA for the purpose of passing on the applications of certain persons whose petitions were properly before the Board. Notice of the public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

**BZA CASE #2972 1535 Commercial Street (cont.)**

Application of Ryder Development Corp. for property at 1535 Commercial Street, also shown on the Weymouth Town Atlas Sheet 23, Block 254, Lot 2, located in a B-2 zoning district seeking a special permit and/or variance under 120-27(c) and Article VIII for multifamily dwellings on a lot in a B-2. Applicant meets the set back requirement and the Floor Area Ratio (FAR).

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| Present:             | Richard McLeod, Chairman<br>Mary McElroy, Clerk<br>Donald Holzworth<br>Charles Golden<br>Francis Kenneally |
| Staff:               | Rod Fuqua, Principal Planner   |
| Recording Secretary: | Janet Murray   |

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Mr. Galvin appeared before the Board with the applicant, Ken Ryder, and Mr. Trakimas from Sitec.

Mr. Galvin noted that one of the issues that needed to be addressed by DPW was the drainage calculations. Another concern was the applicant's willingness to assist in the development of colonial-style lighting along Commercial Street. Mr. Galvin noted that the applicant is willing to contribute \$2000 to this project.

Mr. Fuqua stated that the application was routed to other town agencies for review and comment and received the following comments:

- Conservation Commission noted that this property is outside Conservation Commission jurisdiction and so no filing is required. However, measures should be taken during construction to ensure that sediment laden runoff from the construction site does not enter catch basins on Commercial Street. These catch basins discharge to the Back River.
- The Fire Department had no concerns.
- The Health Department noted that the cesspool must be pumped out and decommissioned in accordance with Title V of state Environment Code 310 CMR 15.00. Also the Health Department has instituted a new ordinance which requires that dumpsters be enclosed.
- Mr. Fuqua stated that he had spoken with Sergeant Concannon of the Police Department and that he thinks that the parking situation is acceptable. Mr. Fuqua stated that the center island at the entrance of the development will need to be pulled back further away

from the street. This will allow for better access for trucks as well as better line of sight for exiting vehicles.

- Department of Public Works noted that if any cuts are made in Commercial Street pavement, flowable fill (CDF) backfill and infrared treatment of the asphalt patch will be required. Mr. Fuqua stated that the test pit was dug where the proposed storm drain will be located.
- School Department had no special concerns.
- Tax Department noted that the taxes are not up to date.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Mr. Fuqua stated that this matter will be taken up for decision on 10/3/07. Comments will be written up on the lighting and the front entryway.

A MOTION was made by Mary McElroy to take this matter UNDER ADVISEMENT and was seconded by Mr. Holzworth and UNANIMOUSLY VOTED.

### **BZA CASE #2975 1171 Washington Street**

Application of AGV Trust, Andrew Sferruzza for property at 1171 Washington Street, also shown on the Weymouth Town Atlas Sheet 35, Block 447, Lot 5, located in an HT zoning district seeking a special permit and/or variance under 120-22.8.C, 150-51 & Table 1 to add a new addition for office use and to allow new addition closer than the required 10' setback.

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| Present:             | Richard McLeod, Chairman     |
|                      | Edward Foley, Vice-Chair     |
|                      | Mary McElroy, Clerk          |
|                      | Donald Holzworth             |
|                      | Chuck Golden                 |
| Staff:               | Rod Fuqua, Principal Planner |
| Recording Secretary: | Janet Murray                 |

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

The applicant stated that when he bought the property there was a foundation already in place. It has since been discovered that the building does not meet setback requirements.

Mr. Foley asked what the hardship is. Mr. Sferruzza stated that the hardship would be from the financial costs of moving the foundation. He noted that he has owned the property for four (4) years. Construction has not started yet. Mr. Sferruzza noted that the previous owner installed the foundation and was ordered to stop construction 6-8 years ago.

Mr. Holzworth asked where the encroachment is. Mr. Sferruzza stated that it is to the rear of the building where it says existing deck. It is 8' 9" from the property line.

Mr. Fuqua stated that stairs are excluded from zoning setbacks. He stated that as you look at the plan, what they are going to do is extend the line of the house parallel to that of the stairs. The stairs are excluded from setback calculations. The deck is existing and not above 30", it is not subject to zoning setbacks.

The addition would not be able to be placed on the other side of the lot due to it impeding access to the rear of the lot. The lot is oddly shaped. If the deck were pulled forward it would encroach on an existing bay window.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission noted that the site is not within its jurisdiction.
- Health Department noted that historically, the site was an auto junkyard. Releases of lead, oil, gasoline, etc. were likely. Contraindications include agricultural, well water, residential garden, playground, etc.
- Police Department had concerns regarding parking, which have been addressed.
- Fire Department had no comment.
- DPW (Water, Sewer, Engineering, Highway) had no comments.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to the hardship created by the financial hardship and the shape and topography of the lot, a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE for an addition for office use and to allow new addition closer than the required 10' setback. The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mrs. McElroy and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the VARIANCE would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE for an addition for office use and to allow new addition closer than the required 10' setback.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

BZA CASE #2976 106-116 Main Street

Application of Batten Bros. Inc. for property at 106-116 Main Street, also shown on the Weymouth Town Atlas Sheet 29, Block 329, Lot 10, located in a B-1 zoning district seeking a special permit and/or variance under 120-64.3A for a 125 square foot wall sign where 75 square feet is allowed.

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| Present:             | Richard McLeod, Chairman<br>Edward Foley, Vice-Chair<br>Mary McElroy, Clerk<br>Donald Holzworth<br>Charles Golden |
| Staff:               | Rod Fuqua, Principal Planner  |
| Recording Secretary: | Janet Murray  |

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

John Connors, Batten Bros, and Dennis January of High Country Investors who own Hilltop Steak House appeared before the Board. Mr. January stated that the property that the store will take over previously had five stores, which by themselves were allowed 75 square feet each.

Mr. January noted that he would like to reuse the sign that was used at the previous site in Braintree. Also, he believes that a 75 square foot sign would not be seen from Main Street. The setback from the street is 420-450 feet.

Mr. McLeod asked if there was a sign on Main Street. Mr. January stated that the landlord has not allowed them rights to the sign. The sign actually belongs to Boat, US. He noted that he has spoken to the property owner and they do not plan to allow any signage.

Mr. Foley asked what the signage is right now. Mr. January noted that the signs from the previous tenants have been removed. He noted that there is a 75 square foot banner on the building at this time. Mr. Foley stated that he can see this sign just fine from Route 18.

Mr. January stated that the banner is white with block lettering which provides for good contrast. The permanent sign would be the Hilltop trademark and would not be as easily seen.

Mr. January noted that it would appear that the Staples and Building 19 signs are larger than 75 square feet.

Mr. Holzworth asked if the applicant would be required to come before the Board in order to be put on the street pylon sign. Mr. Fuqua stated that he was not sure and that research needs to be done to clarify this.

Mr. Holzworth noted that by right, the applicant could have a free standing sign up to 60 square feet in addition to the 75 square feet which would then total 135 square feet. The applicant is requesting 125 square feet total.

The store frontage is about 115 linear feet. Mr. Holzworth asked if there were a ratio that dictated the amount of square footage allowed. Mr. Fuqua stated that each business has up to 75 square feet.

The code allows for one (1) square foot per foot of lineal frontage with a maximum of 75 square feet.

Mr. Holzworth pointed out that there was a variance for the Building 19 sign. A copy of that variance was not available.

Mr. Fuqua pointed out that the sign on the photo rendering showed the sign projecting above the roof line. The applicant stated that the sign will not project above the roof line.

Mr. Fuqua stated that the Board should consider not tying this variance in with the pylon sign because then you get into the issue of the owner of the property and his rights to the sign and

negotiations. He stated that he does not know if the owner could give this right in the future. Mr. Fuqua stated that the Board could restrict the sign to this particular store. He noted that there were signs on the five previous stores that were far in excess of 125 square feet. The Board could impose a limit that this is the only sign in the 114 lineal feet of the building and that this sign variance is specific to this particular wing of the building.

Mr. Fuqua stated that if there were a sublease, this restriction would preclude any additional signage and would require the applicant to appear before the Board to request more signs.

Mr. Foley asked if the recommendation included restrictions on the pylon sign. Mr. Fuqua stated that it did not as the application did not have a request for this. The owner of the property is not present and would not have an opportunity to testify regarding this issue. The request is for the building sign, keep the conditions to the building.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to the hardship created by the inability to have a sign on the pylon and that there had been five stores previously at the location, a MOTION was made by Mrs. McElroy to APPROVE the request for a VARIANCE for a 125 square foot wall sign where 75 square feet is allowed with the following condition:

- This is the only sign in the 114 lineal feet of the building and that this sign variance is specific to this particular wing of the building.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mr. Foley and was UNANIMOUSLY VOTED.

FINDINGS:

Due to the hardship created by the inability to have a sign on the pylon and that there had been five stores previously at the location, the Board found that the VARIANCE would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE for a 125 square foot wall sign where 75 square feet is allowed with the following condition:

- This is the only sign in the 114 lineal feet of the building and that this sign variance is specific to this particular wing of the building.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

BZA CASE #2962 1581 Commercial Street (Discussion and/or Decision)

Application of 1581 CSW LLC Nominee Trust for property at 1581 Commercial Street, also shown on the Weymouth Town Atlas Sheet 19, Block 255, Lot 6, located in a B-2 and R-1 zoning district seeking a special permit and/or variance under Chapter 120-27(c) for eight (8) residential units in a B-2 zone.

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| Present:             | Richard McLeod, Chairman     |
|                      | Mary McElroy, Clerk          |
|                      | Donald Holzworth             |
|                      | Charles Golden               |
|                      | Francis Kenneally            |
| Staff:               | Rod Fuqua, Principal Planner |
| Recording Secretary: | Janet Murray                 |

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Mr. Fuqua stated that there was an issue as to whether the Board could entertain the possibility of reducing the spaces. The reduction is based on the fact that the units are studios and are not your typical family units. In all likelihood they would not all have two cars. Also, the neighbors would like more green space.

The Board does have the ability to grant a variance for parking as the hearing was advertised as a request for a special permit/variance.

The elimination of two spaces would allow for additional buffer space and aesthetics of the area and not create a burden on the surrounding area. Mr. Fuqua stated that the way the lot is laid out, the parking is accessed from Hawkins Court. The two spaces to be removed would pull the parking 4 ½ feet from the Supple property.

Mr. Fuqua stated that there is a portion of the land to the rear of the property that is already a buffer as it is the zone line change from B-2 to R-1.

The trash dumpster would be located as per plan as well as fencing along the Supple side of the building and then curving around the dumpster. He noted that there is a change in grade to the rear of the property and there is a wood vinyl fence that is 4 foot with 2 feet of lattice that is about 4-6 feet higher than grade on the abutter's property. To put a fence in the rear would put a fence lower than the fence behind it. The staff recommendation is that dead and/or dying trees be trimmed but otherwise this area should be left in natural state without fencing as there is an existing fence at a higher grade.

The variance is based on the request from the neighbors and the district councilor.

### SPECIAL PERMIT

A MOTION was made by Mrs. McElroy to APPROVE the request for a SPECIAL PERMIT for eight (8) residential units in a B-2 zone with the following conditions:

- (1) That the R-1 area be left in its natural state except to cull dead and/or dying trees.
- (2) The remainder of the site as per landscape plan.
- (3) The parking lot is shifted 4 ½ feet back and 4 ½ feet in.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mr. Kenneally and was UNANIMOUSLY VOTED.



FINDINGS:

The Board found that the SPECIAL PERMIT would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT for eight (8) residential units in a B-2 zone with the following conditions:

- (1) That the R-1 area be left in its natural state except to cull dead and/or dying trees.
- (2) The remainder of the site as per landscape plan.
- (3) The parking lot is shifted 4 ½ feet back and 4 ½ feet in.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

VARIANCE

Due to the hardship created by the small size of the units and the request of the neighbors and the district councilor a MOTION was made by Mrs. McElroy to APPROVE the request for a VARIANCE for a reduction in parking from the required 16 spaces to 14 spaces with the following conditions:

- (1) That the R-1 area be left in its natural state except to cull dead and/or dying trees.
- (2) The remainder of the site as per landscape plan.
- (3) The parking lot is shifted 4 ½ feet back and 4 ½ feet in.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mr. Kenneally and was UNANIMOUSLY VOTED.

FINDINGS:

Due to the hardship created by the small size of the units and the request of the neighbors and district councilor, the Board found that the VARIANCE would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE for a reduction in parking from the required 16 spaces to 14 spaces with the following conditions:

- (1) That the R-1 area be left in its natural state except to cull dead and/or dying trees.
- (2) The remainder of the site as per landscape plan.
- (3) The parking lot is shifted 4 ½ feet back and 4 ½ feet in.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

**BZA CASE #2968 86 Park Avenue (Discussion and/or Decision)**

Application of Dora H. Glidden for property at 86 Park Avenue, also shown on the Weymouth Town Atlas Sheet 41, Block 492, Lot 8, located in an R-1 zoning district seeking a special permit and/or variance under 120-53, 120-51 & Table 1 to subdivide a lot into two lots.

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Martin Joyce  
Charles Golden  
Staff: Rod Fuqua, Principal Planner  
Recording Secretary: Janet Murray

This item will be discussed on October 3, 2007.

**BZA CASE #2965 429-431 Middle Street (Discussion and/or Decision)**

Application of Jim Miller Co. for property at 429-431 Middle Street, also shown on the Weymouth Town Atlas Sheet 25, Block 334, Lot 10, located in a B-2 zoning district seeking a special permit and/or variance under 120-27(c) to construct a four (4) dwelling unit building that meets setbacks and FAR.

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Charles Golden  
Not Present: Martin Joyce  
Staff: Rod Fuqua, Principal Planner  
Recording Secretary: Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Mr. Fuqua stated that Mr. Joyce was not able to be present this evening due to an injury.

The applicant was informed that there were only 4 members present. The applicant was given the choice to proceed with only 4 members or to continue until the next meeting with the understanding that they would need a unanimous vote to be approved. The applicants chose to proceed with only 4 members.

Mr. Fuqua stated that the applicant has submitted a landscape plan. Also, Mr. Fuqua stated that the applicant will be pulling the building 25 feet from the rear property line and closer to Middle Street.

Mr. Fuqua noted that there are several staff recommendations for conditions. The site is accessed through Greenwood and Essex Street. These driveways are to the rear of the site and

will be removed and pulled closer to Middle Street. The recommendation is to close the existing curbs and to put granite curbing to match the existing where there was curbing on the Essex Street side and to have a grassy area where there was curbing cut on the Greenwood Avenue side.

Also the sidewalk should be repaired, replaced and/or resurfaced where needed from the lot corner on Essex Street going around to the curb cut on Greenwood Avenue. This would match the approximate location of the existing sidewalk.

The dumpster is enclosed and fronts on Greenwood Avenue but there should be shrub plantings on three sides to screen it from Greenwood.

Along the rear of the property is a fence and is probably three feet in on the property line on the Greenwood Avenue side. The recommendation is that the applicant relocates the fence closer to the rear property line but without removing any of the trees. If the fence cannot be put in closer than five feet the recommendation is to put in a row of tight evergreen shrubs as opposed to a fence.

The final condition would be to move the building closer to Middle Street to have a 25 foot setback.

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT to construct a four (4) dwelling unit building that meets setbacks and FAR with the following conditions:

- (1) The existing curb cuts shall be removed and the cut on Essex Street is replaced with granite curbing and the cut on Greenwood Avenue shall be replaced with a grassy area.
- (2) The sidewalk is repaired, replaced, and/or resurfaced from the lot corner on Essex Street going around to the curb cut on Greenwood Avenue.
- (3) The dumpster shall be enclosed and shrubs planted on three sides to screen it from Greenwood Avenue.
- (4) The fence shall be relocated to within 5 feet of the property line; if this is not possible a row of tight evergreens shall be planted.
- (5) The building shall maintain a 25 foot setback from the rear property line (opposite of Middle Street).

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mrs. McElroy and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the SPECIAL PERMIT would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to construct a four (4) dwelling unit building that meets setbacks and FAR with the following conditions:

- (1) The existing curb cuts shall be removed and the cut on Essex Street is replaced with granite curbing and the cut on Greenwood Avenue shall be replaced with a grassy area.
- (2) The sidewalk is repaired, replaced, and/or resurfaced from the lot corner on Essex Street going around to the curb cut on Greenwood Avenue.
- (3) The dumpster shall be enclosed and shrubs planted on three sides to screen it from Greenwood Avenue.
- (4) The fence shall be relocated to within 5 feet of the property line; if this is not possible a row of tight evergreens shall be planted.
- (5) The building shall maintain a 25 foot setback from the rear property line (opposite of Middle Street).

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

MINUTES – 8/22/07

A MOTION was made and seconded to APPROVE the Minutes of August 22, 2007 and was UNANIMOUSLY VOTED.

ADJOURNMENT

A MOTION was made and seconded by adjourn the meeting at 8:00 P.M. and was UNANIMOUSLY VOTED.

\_\_\_\_\_  
Mary McElroy, Clerk

\_\_\_\_\_  
Date