

**Topsfield Zoning Board of Appeals**  
February 28, 2012

Chairman Moriarty called the meeting to order at 8:00 PM at the Town Library. Board members present were Bob Moriarty, Kristin Palace, Jody Clineff, David Merrill and David Moniz. Roberta Knight, Community Development Coordinator was also present as well as the Applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

**Visitors:** Selectmen Martha Morrison, Richard Gandt, Laura Powers; Attorney Alan Grenier, Foti Qirjazi, Brent Roeder, Gerald MacDonald, Ray Lawton, Mary Bandereck, Attorney Brad Latham, Christopher Latham, Michael Jones, Charles Wear, Charles Nutter.

**53 Main Street:** At 8:00PM, Chairman Moriarty called to order the continued public hearing to consider the application of Foti Qirjazi for premises located at 53 Main Street for a change in use of the second floor storage area to a one bedroom apartment over a first floor limited service restaurant, construction of an emergency egress for second floor within setback, and the addition of two parking spaces requesting: (1) a special permit modification pursuant to Article V, Section 5.04 and Article III, Section 3.09; (2) a finding pursuant to Article III, Section 3.05 and Article IV, Section 4.12 C of the Zoning By-Law; (3) a variance modification pursuant to Article IV, Section 4.02; (4) site plan review pursuant to Article IX of the Zoning Bylaw.

The Board reviewed the new site plan with Attorney Grenier and Engineer Gerald MacDonald of Graham Associates Inc. of Ipswich MA. Mr. MacDonald reviewed the revised site plan dated January 18, 2012 with the members. The Board also reviewed the Easement & Maintenance Agreement and Chairman Moriarty requested revisions to the easement document. Clerk Kristin Palace followed with a checklist review of the plans and it was determined that the following revisions to the plan were required:

1. Add the abutters name at Map 41, Lot 30 (Riley, Trustee) as well as the common lot line
2. Show the existing fence between Cabinet Makers building and subject building.
3. Add a note calling for bituminous curb along Brent Roeder's building at 49 Main Street to match existing curbing.
4. Amended Note 7. which notes that plantings are to match existing plants.
5. Add Note 9. which notes that the proposed stairway enclosure's exterior is to match existing color and material of building.

Clerk Kristin Palace made the motion to continue the site plan review to Monday, March 19, 2012 at 8:00 PM; seconded by Member David Moniz; so voted 5-0.

**240 Boston Street:** At 8:52PM, Chairman Moriarty called to order the public hearing to consider the application of Raymond Lawton for premises located at 240 Boston Street at the corner of Boston & Central Streets requesting a special permit pursuant to Article V, Section 5.04 and Article III, Table of Use Regulations Section 4. Retail and Service, Sub-section 4.10, retail establishment selling motor vehicles.

Mr. Lawton informed the Board that he intended to apply for a Class II Used Car License with the Board of Selectmen in order to attend automobile auctions for the purchase of motor vehicles, more specifically heavy duty trucks, for his business and then sell any unused inventory on site. He reviewed the plan with the Board to provide three (3) parking spaces on the lot abutting Central Street for the sale of said vehicles. He noted that historically over the years, although none at this time, there have been used motor vehicle businesses located on the property.

The Board made the appropriate findings relative to the required zoning relief. Chairman Moriarty moved that the Board adopt the foregoing findings and grant a special permit pursuant to Article V, Section 5.04 and Article III, Table of Use Regulations Section 4. Retail and Service, Sub-section 4.10, retail establishment selling motor vehicles to allow the existing property to be permitted for retail sales of motor vehicles. The motion was seconded by Member Kristin Palace; so voted; 5-0

**46R Main Street:** At 9:05PM, Chairman Moriarty called to order the public hearing to consider the application of Mary Bandereck for premises located at 46R Main Street requesting site plan review pursuant to Article IX of the Zoning Bylaw for the production and retail sale of baked goods and prepared foods at said location. The Applicant Mary Bandereck at this time requested a continuance of the public hearing to the next scheduled meeting of the Board. Clerk Kristin Palace made the motion to continue the public hearing to Monday, March 19, 2012 at 8:15PM; seconded by Member Jody Clineff; so voted 5-0.

**5-15 Main Street:** At 9:15PM, Chairman Moriarty called to order the public hearing to consider the application of the Institution For Savings for premises located at 5-15 Main Street for exterior alterations to the structure at 5 Main Street to (1) construct a handicap ramp and vestibule on the south side of structure; (2) install a wheel chair lift in an addition on north side of structure; (3) construct a drive through and ATM under a canopy on rear of structure; and (4) construct a front vestibule. The Applicant is requesting (1) special permits pursuant to Article V, Section 5.04; Article III, Table of Use Regulations Section 4. Retail and Service, Sub-sections 4.17, Exterior Automatic Teller Machines and 4.19 Drive-in and drive-through establishment; Section 3.08 Uses of Public Address Systems or Loudspeakers; Section 3.09c Buffer Strips in Business Village District; special permits pursuant to Article IV, Section 4.05A Buffer Strips and Section 4.12B Parking; (2) finding pursuant to Article III, Sections 3.05 Nonconforming Uses and 3.09c Buffer Strips; finding pursuant to Article 4, Section 4.02 Table of Dimensional and Density Regulations relative to Sections 4.05 Buffer Strips, 4.07C Corner Lot

Dimensions and 4.12B Off Street Parking; (3) variances pursuant to Article III, Section 3.09c Buffer Strips; variances pursuant to Article IV, Sections 4.01, 4.02 Table of Dimensional and Density Regulations relative to Sections 4.05 Buffer Strips, 4.07C Corner Lot Dimensions and 4.07D Through Lot Dimensions; and (4) Site Plan Review pursuant to Article IX of the Topsfield Zoning By-law.

Mr. Michael Jones, President of the Institution For Savings made an executive summary presentation to the Board in which he described the Bank's history as a locally based, mutual savings bank. All of its interests and employees are local and the bank prides itself on its long history in the greater Topsfield area and its community philanthropy.

Mr. Charlie Wear, Project Engineer, reviewed the site development plan for the 5-15 Main Street location which contains two principal buildings and has frontage on three (3) streets. Charles Nutter, the Project Architect, reviewed architectural drawings and photo renderings. It was noted that no changes are being proposed to the building know as 15 Main Street; however, in order to establish a full service banking operation at 5 Main Street, certain exterior and interior changes need to be made to the existing building as well as changes to the site including the loss of parking spaces and the redirecting of the traffic flow.

In summary the project would consist of:

1. The installation of a properly graded walkway south of the building for an at-grade access through a new handicap accessible foyer to be constructed on the southerly side of the building. Two parking spaces adjacent to this location would be converted into one handicapped parking space which will create a loss of one (1) space.
2. A stonewall would be constructed to enclose the walkway area to create a park-like seating area for customers, the wall would extend in front of the property and would replace the existing fence.
3. Construction of an addition to the northerly side of the building in which both a wheel chair lift and a code compliant stairway would be located with architectural features that would be consistent with the main structure.
4. A foyer for the Main Street entrance to the building would be constructed within the front setback. The picture windows would be replaced with two double hung windows on each side of the front entrance restoring the architectural integrity of the Federal style building and a small circular window would be installed over the entrance. The removal of a portion of the second floor such that the first floor banking area would have a two-story overhead. Interior renovations also include restoring a working fireplace inside as well as exposed wood beams and wood floors. The intent is to create a tavern feel. A tavern was one of the historical uses of the building.

5. A drive-through facility at the rear of the building with a canopy over the drive-through would be constructed with the addition of a clock tower cupola, the Bank's signature symbol, situated on top of the canopy. One lane would have a teller window and the other lane would have an automatic teller machine (ATM). The teller window would have a low volume, modulated speaker for communications with the customer. According to the project engineer, the construction of the drive-through at the rear of the building would create a loss of two (2) parking spaces and green space; however it would extend no farther into the rear parking lot than the current spaces.
6. The traffic pattern flow would be directed such that all traffic would enter from Park Street and exit onto Main Street or continue through to the ATM at the exterior of 15 Main and exit onto Central Street. The proposal would include the widening of the curb cut at the Park Street entrance and the widening of the exit driveway by three (3) feet onto Main Street. There would be a loss of one (1) parking space on Main Street in order to widen the entrance and provide sight distance for exiting vehicles.
7. The parking spaces against the rear of the parking lot would remain the same as well as the existing buffer along the property line with 6 Park Street.
8. The Applicant also proposed that it would be willing to fund the construction of the extension of the public parking lot that extends from Main Street along Park Street to Summer Street. The pavement presently ends opposite St. Rose Church. The extension of line paved parking into the unused area would substantially expand the parking capability of the lot.

Attorney Bradford Latham made a presentation to the Board reviewing the above project elements in the context of the requested zoning relief that would be required in order for the proposed project to move forward as presented. His presentation also included a justification for the requested relief. The requested zoning relief is as follows:

1. Finding as to front – street yard setbacks that the proposed “street yard depth” at the corner of Park Street and Main Street is sufficient.
2. Variances as to front and street yard setbacks, to the extent required, to allow the proposed foyer on Main Street and additions to the two sides of the building to be within the minimum front and street yard setbacks.
3. Finding as to off-site parking that 5 Main Street is within the 200 feet of an accessible by foot off street parking area or that due to the nature of the proposed use the number of parking spaces provided is adequate to service the proposed use.
4. Special permit is requested relative to on-site parking spaces which would reduce the required number of spaces on site from 21 to 17.

5. A finding is requested that the rear buffer strip requirements do not apply to the property inasmuch as the rear 50 foot area is not being changed and/or a finding that the width of the pre-existing rear buffer strip is sufficient. If the Board determines that a special permit is required as to the buffer strip, the Applicant would request that relief for a reduced strip be granted to allow the current condition. Further, if the Board determines that a variance is required to allow for the current condition, the Applicant would request this relief to be granted for the continuation of the existing condition.
6. A special permit is requested for the exterior ATM.
7. A special permit is requested for the drive-through teller facility under the rear canopy.
8. A special permit is requested for a public address system to communicate with customer at the proposed drive-through window.
9. A finding under Section 3.05 that the proposed alterations to the nonconforming aspects of the building at 5 Main Street are not substantial or that the proposed alterations to the building would not be more detrimental or objectionable to the neighborhood.
10. A determination is requested that the submitted proposal satisfies the elements for site plan review and is approved pursuant to Section 9.07.

Following the presentation, Chairman Moriarty stated that he had concerns with the loss of the parking space on Main Street. Clerk Kristin Palace stated that she had concerns with the proposed traffic flow exiting onto Main Street in area that is difficult to maneuver due to the existing exits and entrances for the Post Office, TD Bank and Sovereign Bank as well as traffic entering Main Street from Central Street. The Chair then opened the hearing for public comment.

Selectman Dick Gandt raised his concerns relative to the traffic flow through the rear parking lot to the United People's Bank ATM at 15 Main Street as well as the potential queuing of vehicles at the proposed ATM and drive-through teller window for the Savings Bank. He also raised his concern with the front foyer addition and that the proposed stonewall did not fit in with the streetscape of the downtown village area.

Project Engineer Charles Wear responded that the new traffic flow configuration would provide adequate queuing of vehicles at both the ATM and the teller drive-up window and allow for the free flow of traffic with minimal obstructions. He also referred to the Traffic Assessment dated February 22, 2012 based on other bank facilities in the area.

Selectman Martha Morrison congratulated the Applicant for its proposed window design change for the first floor; however, she noted that the circular second floor windows were not compatible with the historic period of the building. Ms. Morrison also raised her concerns about placement of a clock tower cupola which would be internally lite on the canopy. She noted further that the cupola seemed out of proportion and not in harmony with the existing building.

Ms. Morrison noted that the Applicant would be meeting with the Historical Commission next week and the Commission would fully review the proposed exterior design. Selectman Morrison informed all parties that the off-site parking lot was under the jurisdiction of the Board of Selectmen and requested that the proposed extension design for additional parking be forwarded to the Board of Selectmen. She also noted that town officials have discussed the need for additional parking within the lot especially since parking spaces were lost for the rail trail; however, that due to the lack of funds, the Town has not been able to move forward with an extension parking plan.

Chairman Moriarty stated that he would be very interested in the opinion and comments of the Historic Commission members as to the exterior design and appropriateness of the stonewall. The other members of the Board concurred. The Chair then referred to the memo from Highway Superintendent David Bond which the Bank's Attorney Brad Latham acknowledged that he had received of copy.

The Board then discussed Highway Superintendent David Bond's memo which stated his opposition to the traffic flow pattern exiting onto Main Street and his concern with the construction of a stonewall within the Town's right-of-away without an easement agreement. Mr. Bond's memo also noted that the location of the stonewall at the edge of pavement with the sidewalk would make it extremely difficult to plow snow and maintain the sidewalks during winter without causing potential damage to the sidewalk plow. After discussing the issue with the Applicant, the Bank representatives stated that the construction of the stonewall was not crucial to the design and would agree to remove it as part of the proposal. In his memo, Mr. Bond also requested input relative to any planning and/or discussions concerning the proposal by the Bank to extend the paved parking area at the Park Street lot.

The Board then again reviewed the traffic pattern, parking spaces and queuing of vehicles in the parking lot that services both buildings. Project Engineer Charles Wear again referred to the Traffic Assessment Study dated February 22, 2012 which is based on other bank locations in the area. He noted that the canopy would extend no further than the end of the existing abutting parking spaces at the rear of the building. The plan meets the open space requirement, but there would be a loss of the current green space between the rear of the building and the existing abutting parking spaces. He pointed out that the proposed traffic flow was determined by the location of the existing structure on the lot and the need for the drive-through to be accessible to the customer, that is, same side as driver.

Comments were also made during the hearing by Elaine White, Gretchen Rehak and Peter White relative to the proposal in terms of traffic impact to Central Street.

Chairman Moriarty informed the Applicant that in order for the Board to make an informed decision, the members would require additional time to review the application and site development as well as the Traffic Assessment Plan, the Memorandum In Support of Application For Relief, comments from the Historic Commission and public comments. He also requested that the Project Engineer meet with David Bond to discuss the Superintendent's concerns.

The Applicant requested a few minutes to discuss the continuance. Attorney Latham responded that the Applicant preferred not to continue the public hearing given that Mr. Wear has already had a discussion with Mr. Bond and the Applicant believes that it has provided a thorough presentation and application to the Board.

Chairman Moriarty again reiterated that the members would require additional time to review the application and that he personally would not be able to make a decision without thoroughly reviewing all the submitted materials and would need to also review the input from the Historic Commission who would not be meeting with the Applicant until the following week. He then queried the other members. The Board members all agreed that they required more time to review the documents which likely would, in turn, require further clarification by the Applicant. Member Jody Clineff stated that she wanted input from the Historic Commission on the fence and stonewall, the cupola and windows.

Attorney Latham noted that although the Applicant felt that it had made a satisfactory presentation and saw no need for a continuance, the Applicant would agree to a continuance and filed said request. The public hearing was continued to Monday, March 19<sup>th</sup> at 8:45PM.

The meeting was adjourned at 11:05 PM.

Respectively submitted,

Roberta M. Knight  
Community Development Coordinator