

Topsfield Zoning Board of Appeals

April 24, 2012

Chairman Moriarty called the meeting to order at 8:00 PM at the Town Library. Board members present were Robert 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, Eldon Goodhue; Thomas Manna, Mary Bandereck, Chris Bandereck, Attorney Brad Latham, Christopher Latham, Charles Nutter, Charles Wear, Michael Jones, Nancy Luther, Attorney Alan Grenier, Foti Qirjazi, Brent Roeder, David Bond, Chief Evan Haglund and Raymond Lawton.

44/46R Main Street: At 8:15PM, the Board commenced its final review of the revised site plan relative to 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.

Chairman Moriarty noted that the Board was in receipt of a letter from Ms. Beth Doherty. Since the public comment portion of the public hearing had been closed, he stated that the letter would be placed in the file as part of the public record.

Project Engineer Thomas Manna informed the Board that the revised site plan dated April 18, 2012 now included the requested 8 feet of striped "no parking" area in the front of the building and a "No Parking" sign attached to the building; directional arrows on the driveway pavement, striped parking spaces in back of 38 Main Street building; bollards installed in front of the gas service and landscaping removed. He noted that the requested planters were not shown due to the determination that the planters would be in a direct line for traffic accessing the side driveway from the Shopping Center which is used by supply trucks for the Shopping Center and others who access the back of this site and abutting properties from the Shopping Center driveway. The Board agreed with Mr. Manna's points concerning the planters and landscaping.

The Board made the appropriate findings relative to the required zoning relief. Clerk Kristin Palace moved that the Board adopt the foregoing findings and grant site plan approval for the site plan entitled "The Topsfield Bake Shop Site Plan at 44 Main Street in Topsfield, MA", dated February 6, 2012, revised April 18 2012. The motion was seconded by Member Jody Clineff; so voted; 5-0

Minutes:

Member David Moniz made the motion to approve the minutes of February 28, 2012 as written; seconded by Clerk Kristin Palace; so voted 5-0.

Member David Moniz made the motion to approve the minutes of March 19, 2012 as amended; seconded by Clerk Kristin Palace; so voted 5-0.

5-15 Main Street: At 9:05PM, The Board commenced its review of the draft decision regarding 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.

At this time, Attorney Latham noted that the Applicant would like to discuss a modification to the site plan relative to the picket fencing that runs along the front and southerly side of the site to accommodate the proposed free-standing sign. He referenced the meeting with the Selectmen relative to the signage and the Selectmen's preference to eliminate the fencing in order to lower the height of the sign.

The Board acknowledged its receipt of the Selectmen's memo dated April 24, 2012 and Attorney Latham's memo of same date regarding the proposed signage and revised site plan dated April 23, 2012. Chairman Moriarty also noted the receipt of Highway Superintendent's memo dated April 17, 2012.

However, Chairman Moriarty informed the Applicant that since the public hearing-public comment portion of the process had been closed as of the March 19th meeting, if the Applicant wanted at this time to present a modification, the Applicant would have to agree to re-open the public hearing for public comment and discussion of the application. Attorney Latham upon conferring with the Applicant informed the Board that the Applicant did not want to re-open the hearing and would withdraw the request to review the modification.

The Board then commenced review of the draft decision dated April 24 which was drafted by Attorney Latham at the request of the Chairman. The Board performed a

detailed page by page review. The list of referenced plans and images were verified and stamped with the approval date of April 24, 2012 and placed on file. The members during this review process discussed and approved revisions to the document including a final list of conditions.

During the review process, Superintendent Bond was recognized by the Chairman. Mr. Bond queried the Board as to whether the Board would recognize him relative to additional public input as a public official concerning the parking, traffic flow and site plan for the project. Chairman Moriarty responded that the Board had taken into account Mr. Bond's written concerns during its deliberations, but at this time the Board would not entertain any public comment. Mr. Bond noted his opposition to the Board's position and requested that said opposition be entered into the minutes.

Upon the completion for the review and determination of final language, Member David Merrill moved that the Board adopt the foregoing findings and grant:

(a) front yard and side yard setbacks, street yard depth, and front yard depth variances from the requirements of Sections 4.01, 4.02, 4.07.C, and 4.07D and the Table of Dimensional and Density Regulations to allow the proposed changes to the front and sides of the building at 5 Main Street as shown on the plans referenced above, subject to the conditions stated below.

(b) a special permit for a drive-through facility pursuant to Section 3.02 and 3.08 and lines 4.17 and 4.19 in the Table of Use Regulations Article V, Section 5.04, subject to the conditions stated below.

(c) a special permit for an exterior ATM pursuant to Section 3.02 and 3.08 and lines 4.17 and 4.19 in the Table of Use Regulations Article V, Section 5.04, subject to the conditions stated below.

(d) a special permit for an exterior public address system pursuant to Section 3.02 and 3.08 and lines 4.17 and 4.19 in the Table of Use Regulations Article V, Section 5.04, subject to the conditions stated below.

(e) The Site Plan is approved, subject to the conditions stated below.

Conditions: This decision imposes the following conditions:

1. Conformity with Plans: The construction and facility shall conform to the final plans submitted to the Board and as are listed above except that lights A and B on the photometric plan have been eliminated and reference to the D lighting is amended to be a reference to the Gotham lighting. Any change in the final plans whether prior to or during construction shall require the review and prior approval of the Board.
2. Screening: The Applicant shall maintain a solid fence of six feet in height with plantings as shown on the Corliss landscaping plan in that area that is easterly of

the existing parking area on the site along the easterly boundary of the premises in the area where the adjoining lot is used for residential purposes. The dumpster shall be screened.

3. Main Street Parking Spaces: The Applicant shall at its expense shift (by repainting) the existing street parking spaces in front of 5 Main Street five feet to the south and shall remove one parking space situated northerly of the exit driveway from the site.
4. Park Street Parking Lot: The Applicant shall obtain a license from the Board of Selectmen to construct an expansion and realignment of the existing Park Street Parking lot to the east to create not less than 18 parking spaces including a reconfiguration of the Rail Trail alignment that may be required, at the Applicant's expense, to be substantially as shown on the Parking Expansion Concept Plan (Concept B) submitted to the Board; or as that layout plan may be modified by agreement between the Board of Selectmen and the Applicant.
5. Exterior Public Address System: The drive through teller speaker shall be used only for communication between the bank teller and the customer at the drive through facility. The volume of the speaker at the drive through facility shall be kept low and modulated so as not to impact abutters. No music shall be played through the speaker.
6. Lighting: Exterior lighting shall conform to the Lighting Plans and shall not transmit light on to the abutting property.
7. Other Permits: Before construction is commenced on the site, the Applicant shall obtain any other applicable governmental permits and approvals required to commence such work.
8. Construction Hours: The hours of operation for any construction activities onsite shall be between 7:00 a.m. and 5:00 p.m., Monday through Saturday. Construction shall not be permitted on Sunday.
9. Second Floor Configuration: The configuration of the second floor shall not be changed without the approval of the Board to ensure that adequate parking is available.
10. Electronic Sign: The electronic time and temperature sign in front of 15 Main Street shall be removed no later than March 31, 2015.
11. Change in Use: Any change in use in the first floor of the building located at 15 Main Street for banking, Table of Uses Section 4.16, shall require site plan review of parcel.

The motion was seconded by Member David Moniz; so voted; 5-0

244 Boston Street: At 10:25PM, Chairman Moriarty called to order the public hearing to consider the application of Raymond Lawton for premises located at 244 Boston Street, a non-conforming lot, requesting (1) a finding pursuant to Article III, Section 3.05; and (2) a variance from the required side setbacks pursuant to Article IV, Section 4.02 Table of Dimensional and Density Regulations of the Zoning By-Law relative to the construction of a rear addition for office space.

The Board reviewed the application, architectural drawings dated March 15, 2012 and site plan dated March 13, 2012 with the Applicant Raymond Lawton. Mr. Lawton noted that he was proposing to build a rear office addition to the building which presently serves as his company's office headquarters at 244 Main Street. He also owns the abutting property at 240 Boston Street where the welding operation, storage and garage areas are located. The addition due to the configuration of the lot would have to be sited within the side setbacks. However, the new addition would encroach less into the side setbacks. The Board approved the variance due to the configuration of the lot. Member Jody Clineff moved that the Board adopt the foregoing findings and grant a variance for the side setbacks to allow the construction of the proposed rear office addition. The motion was seconded by Member David Moniz; so voted; 5-0

53 Main Street: At 10:35 PM, the Board again reviewed another revision of the site plan dated April 6, 2012 with Attorney Grenier, Brent Roeder and Foti Qirjazi. Attorney Grenier noted that subsequent to the last meeting relative to the discussion concerning a required second handicapped parking space and its re-location within the parking lot, he researched the federal accessibility regulations. According to the Department of Justice regulation Section 4.1.2 Accessible Sites and Exterior Facilities, for a parking lot consisting of 25 spaces or less, the required number of handicapped parking spaces is one. The revised site plan now shows the designation of parking space #5 from a handicapped space to a regular parking space and provides for the necessary 96 inch access aisle adjacent to parking space #1.

A final vote was rendered relative to the parking plan. Chairman Moriarty made the motion to approve the revised "Parking Plan prepared for Fotaq Qirjazi" dated January 5, 2012 and revised through April 6, 2012 which designates 16 off-street parking spaces including one handicapped space, and one additional street space. The motion was seconded by Member David Moniz; so voted; 5-0.

The meeting was adjourned at 10:40 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator