

Topsfield Zoning Board of Appeals

July 22, 2008

Chairman Moriarty called the meeting to order at 8:00 PM. Board members present were Bob Moriarty, Kristin Palace, Tony Penta, Lisa Stern-Taylor and Scott Dow. 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.

Amberwood Farms Development: Developer John Sanidas joined the Board to discuss the final release for his 40B comprehensive permit for Amberwood Farms located at 281 Rowley Bridge Road. The permit requires the approval of the Board to sell or convey the final four units. Mr. Sanidas has purchase and sales agreements for two of the four units. Ms. Knight provided the Board with Town Counsel's legal opinion concerning the property and a copy of the Certificate of Compliance for the septic system. Ms. Knight informed the Board that she has received written confirmation from the various departments that the respective department conditions have been satisfied. The only outstanding issue is the environmental issues raised by the Conservation Commission. There has been no request for a Certificate of Compliance. Mr. Sanidas noted that his environmental engineer has applied for the certificate and that all outstanding issues have been satisfied. The project is on the Commission's agenda for August 27th. The Board gave Mr. Sanidas the option of filing for a modification of the permit for the release of two units and placed the matter on the August 26 agenda.

46 South Main Street: At 8:30PM, Chairman Moriarty called to order the public hearing to consider the application of Peter Gallo for premises located at 46 South Main Street requesting: (1.) a finding pursuant to Article III, Section 3.05 of the Zoning By-Law relative to the demolition and reconstruction of a portion of the existing dwelling and (2.) a special permit pursuant to Article IV, Section 4.07B for use of existing detached accessory building as residential living space.

Applicant Peter Gallo reviewed the plans for demolition and reconstruction of the back portion of the principal building on the lot. He noted that there was no foundation and he planned to reconstruct a two-story addition on the same footprint. It is a non-conforming lot; however, the proposed project would be constructed within the existing setbacks. The lot is divided into two zones with the principal structure in the Central Residential District and the detached rear accessory structure in the Business Highway District. Mr. Gallo explained that he would like to add a kitchen to the rear building such that he could live in the structure while the main house is under renovations. The ABC Program had previously used the building as a dormitory. Ms. Knight presented the Board with assessing property record cards and a sketch of the rear building as configured for use by the previous owner. There is no kitchen facility.

After reviewing the documentation, it was the consensus of the Board to grant the finding for the principal structure and deny the request for two principal uses. The Board agreed

to allow the temporary use of the rear accessory building as a residential living unit during the reconstruction of the main building provided certain conditions were imposed.

Chairman Moriarty made the motion to grant a finding pursuant to Article III, Section 3.05 of the Zoning By-Law for the demolition and reconstruction of a portion of the existing principal dwelling; and deny the request for a special permit pursuant to Article IV, Section 4.07B to permit the renovation of the existing accessory building as a second principal structure on the lot; seconded by Member Lisa Taylor; so voted 5-0.

Further it is the Board's understanding that Mr. Gallo wishes to use the back building as a temporary residence while the front building is being renovated. Mr. Gallo requested the Board's informal opinion as to whether that would be permissible since the Board had denied the special permit. It is the informal view of the Board that such a temporary use would be permissible if it were conditioned as follows:

- the applicant may install a cooking facility (kitchen) in the detached accessory building in order to allow the building to be used as temporary residential living space during the reconstruction and renovations to the principal structure,
- the cooking facility must be removed from the detached accessory building upon completion of the renovations to the principal structure before an occupancy permit for the principal structure may be issued, and
- the accessory building may thereafter be used as bedrooms or other living space, consistent with the use made by the prior owner, but no kitchen facility may be installed in the accessory building.

86 Central Street: At 9:00PM, Chairman Moriarty called to order the public hearing to consider the application of Scott Mantel for premises located at 86 Central Street 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 and Sub-section 4.20, automotive repair or service to allow the existing property to be permitted for use as an automotive repair facility and allow retail sales of motor vehicles.

Attorney Mark Landgren representing the applicant Scott Mantel noted that at this time Mr. Mantel would only be applying for a special permit to perform auto repairs at the premises that he is in the process of purchasing from current owner John Bell who was also present. The current plan is for Adam Thompson who presently holds a Class II license in the Town at 6 Maple Street to lease space from Mr. Mantel and move his sales operation to 86 Central Street. At this time, Mr. Mantel requested approval to withdraw his application for retail establishment selling motor vehicles. The Board agreed to the withdrawal.

Ms. Knight presented the Board members with a copy of the 1991 Zoning Board's decision that granted a special permit for the sale of 16 vehicles for the premises at 86 Central Street to John Bell. The decision noted a special permit for auto repairs issued in 1982; however, there is not record on file at Town Hall relative to that decision. Mr. Bell noted that he had applied for both uses and has operated an automotive repair shop since 1982 and has sold automobiles under his 1991 special permit and Class II license issued by the Board of Selectmen.

Chairman Moriarty reviewed the 1991 decision and noted that since the uses exist there would be no requirement for site plan review. Mr. Thompson however would need to apply for a special permit under his name since special permits are issued to the applicant and not the premises.

The Board then discussed with both the applicant and Mr. Thompson the need for a parking plan to accompany the next application for the sale of motor vehicles by Mr. Thompson. The Board also requested that a copy of the lease be included with the application.

The hours of operation were then discussed. The Board approved 7AM to 6PM Monday thru Friday, and 8AM to 12 noon on Saturday as the hours of operation.

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 4.20 automotive repair or service to allow the existing property to be permitted for use as an automotive repair facility with the following condition:

Hours of operation to be: 7AM to 6PM, Monday thru Friday, and 8AM to 12 Noon on Saturday

The motion was seconded by Member Kristin Palace; so voted; 5-0

Reorganization of the Board:

Member Scott Dow made the motion to nominate Robert Moriarty as Chairman; seconded by Member Kristin Palace; so voted 5-0

Member Robert Moriarty made the motion to nominate Lisa Taylor as Clerk; seconded by Member Kristin Palace; so voted 5-0.

Review of Forms: The Board reviewed the following forms:

- Site Plan Review Checklist
- Special Permit Checklist

- Variance Checklist
- Request for Extension of Application
- Request for Extension of Public Hearing
- Application Supplement Form B (Abutter's List)

And approved said forms by a motion by Member Kristin Palace; seconded by Member Lisa Taylor; so voted 5-0.

Minutes: Chairman Moriarty made the motion to approve the minutes of May 27, 2008 as written; seconded by Member Scott Dow; so voted 5-0.

17-19 Main Street: It was the consensus of the Board to request a deposit surety for the construction project to guarantee that the existing building housing New Meadows Market would be demolished upon the completion of the first phase of the construction of the new building.

The meeting was adjourned at 10:04 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator