

Topsfield Zoning Board of Appeals

November 22, 2011

Chairman Moriarty called the meeting to order at 8:00 PM. 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 and Richard Gandt; Alan Grenier, Foti Qirjazi, Alexander Qirjazi, Donela Qirjazi, Brent Roeder, Jenifer Collins-Brown, George Anderson, Richard Carlson, Kendall Evans and Steve Welson.

53 Main Street: At 8:02PM, Chairman Moriarty called to order the 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.

Attorney Alan Grenier representing the applicant summarized the request for relief as follows:

- a. A modification to an earlier granted variance in 2006 to the side setback dimensional requirements of Article IV, where in the Board granted a side set back variance for a distance of 2 feet from said side setback. This variance was not implemented to the full extent and the applicant is now requesting the same 2 foot variance measured from the proposed enclosed emergency stairwell sized at 3.67' by 14' as shown on the site plan. Due to the underground drainage structure that runs along the north side setback from the street to the back of the property to the stream, the building had to be constructed four feet from the side lot line.
- b. A modification to the 2006 special permit, where in the applicant is now requesting a change in use of the second floor storage area to a one bedroom residential apartment initially for the exclusive use of the applicant's elderly parents; and the restriction of the storage area to one room over the stairs.
- c. A finding under Article III, Section 3.05 relative to a change to an existing structure and use of the 2nd floor of an existing restaurant from storage to a one bedroom apartment; the construction of an emergency egress stairway located on the northerly side of said structure, and the addition of two additional parking spaces to comply with the requirements of Section 4.12 (C).

- d. Site Plan application as required under Article IX, Section 9.03. Said plan shows proposed enclosed emergency egress and new seven foot easement for two additional parking spaces.

Further, Attorney Grenier noted that there would be no change to the existing footprint of the building and no change to the exterior, except for the emergency egress stairwell. He noted that the change in use of the second floor from storage to the proposed use as an apartment was initiated as a result of the Board of Health's determination that the septic system was adequate for the proposed change in use and referred to the January 28, 2010 Board of Health decision. Attorney Grenier also referred to the 2010 decision by the Board to allow the increase in seats from 12 to 18 also based on this determination.

Chairman Moriarty responded that the prior decisions did not have anything to do with the Board of Health septic issues. He asserted that traffic; parking and safety issues were the basis for the Board's previous decisions.

Attorney Grenier then reviewed the water usage for the restaurant and dry cleaners. He noted that based on the analysis of the usage there is currently septic capacity for an apartment.

Chairman Moriarty noted that his concern with traffic and parking. He specifically addressed the location of designated parking spaces 9 & 10 noting that the plan only reflects what is current. The cleaners presently use these spaces. The Board then discussed with the applicant, his attorney and Mr. Brent Roeder, the abutter who would grant the additional 7 foot permanent easement, the parking plan, the traffic flow, safety issues, bumpers, signage, separate access and egress driveways. Mr. Roeder noted his support for Mr. Qirjazi's parking plan.

Ms. Jenifer Colins-Brown, George Anderson and Richard Carlson all spoke in favor of the proposal. Selectman Martha Morrison suggested that Mr. Qirjazi and Mr. Roeder develop an integrated parking plan for the 3 buildings. Mr. Roeder noted his support.

Clerk Kristin Palace noted that the proposed plan was an improvement compared to the previous submissions due to the following factors: (1) change in parking regulations, (2) inclusion of an enclosed staircase, and (3) the addition of a permanent easement. Ms. Palace noted that the application would require a (1) modification to the special permit, (2) a finding on the non-conformity, (3) a variance to allow the stairwell and cement pad and (4) site plan approval.

The Board made the appropriate findings relative to the required zoning relief. Clerk Kristin Palace moved that the Board grant:

1. A modification to the special permit to allow the use and construction of a second floor apartment and reduce the dedicated storage space.
2. A variance to allow the construction of the enclosed staircase and cement pad.
3. A finding to the extent necessary pursuant to Article III, Section 3.05 and Article IV.

Said zoning relief conditioned on the filing of a permanent easement from Brent Roeder recorded in the Registry of Deeds and site plan approval of a revised plan showing the easement and integrated parking plan.

The motion was seconded by Chairman Moriarty; so voted 5-0.

249 Boston Street: At 9:35PM, Chairman Moriarty called to order the public hearing to consider the application of Kendall Evans of Evans Industries for premises located at 249 Boston Street for a 138' x 23'-6" addition on the northerly side of the building and the conversion of approximately 440 sf. Of concrete pad area in building space by enclosing the area requesting: (1) a finding pursuant to Article III, Section 3.05 and Article IV, Section 4.02 of the Zoning By-Law; (2) a variance pursuant to Article IV, Section 4.12C; (3) site plan review pursuant to Article IX of the Zoning Bylaw. Mr. Kendall Evans and his builder Steve Welson made the presentation to the Board. In reviewing the site development plans, Mr. Welson noted that the existing building and proposed additions are located completely within the Business Highway District. The existing building is currently non-conforming with regards to the front and rear setbacks. The additions as proposed would be sited no closer to the lot lines than the existing structure.

It was noted that in the 2007 Zoning Board of Appeals decision, a variance was granted for the reduction in the required 57 parking spaces to 35. Based on the square footage of the new addition at approximately 3,240 sq. ft., the completed building would encompass 23,703 sq. ft. and would require 68 parking spaces. If parking spaces were stacked, the site can accommodate 43 parking spaces. The applicant requested that he be permitted to provide only an additional 8 parking spaces for a total of 43 parking spaces for the site. Mr. Evans informed the board that he has not increased the number of employees working on-site despite past increases in floor area and he has no plans to hire more workers. He explained that he currently has 30 employees which is the same number of employees that worked at the site when he came before the Board in 2007 to request a permit for the last addition. The proposed addition will provide additional space for machinery. The automated equipment is very large, around 30' by 40'. Due to the size and weight of the machinery, this equipment must be housed on the ground floor, thus adding additional space on the second floor is not feasible. Mr. Evans stated that there will be no increase of employees or traffic on the site.

The Board members agreed that they did not have an issue in reducing the number of parking spaces; however, since the setbacks on High Street and Route 1 are non-conforming the addition on the north side of the existing building would require a variance according to the Town's Zoning By-law rather than a finding as requested. The relocation of the transformer would be included in the variance.

The Board then reviewed the issue of grading, stormwater management and erosion control as part of the site plan review checklist process and made the appropriate findings relative to the required zoning relief.

Chairman Moriarty moved that the Board grant:

1. A variance for the 23.5 x 138' addition to the north side of the existing building including the re-location of the transformer in accordance with the Plan of Land in Topsfield, MA dated October 31, 2011.
2. A finding to allow the 440 sq. ft. concrete pad to be enclosed pursuant to Section 3.05 of the Topsfield Zoning By-laws.
3. A variance to grant a reduction in the number of parking spaces from the required number of 65 spaces to 43 spaces pursuant to section 4.12B since 43 parking spaces are adequate for machine shop use subject to the determination of the Inspector of Buildings and, if required, provide additional parking.
4. Site plan approval pursuant to Article IX in accordance with the site development plan, known as "Plan of Land in Topsfield, MA showing Proposed Addition 249 Boston Street prepared for Evans Industries, Inc. The Neve-Morin Group, dated October 31, 2012; and "KAW PE Ltd. Design & Engineering for Proposed elevations, dated October 31, 2011; and subject to the following conditions:
 - Soil erosion plan must be in place during construction.
 - Project must be in compliance with the Stormwater Management By-law.
 - The existing dense buffer zone between properties located on Route 1 is to be maintained.

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

Minutes: Clerk Kristin Palace made the motion to approve the minutes of September 27, 2011 as written; seconded by Member Jody Clineff; so voted 5-0.

Letter of Authorization: The Board members executed the letter of authorization to the Town Accountant for the payment of bills and payroll as read by Clerk Kristin Palace.

FY2011 Annual Report: The members reviewed the Annual Report as drafted and directed Ms. Knight to submit the report.

December Meeting Schedule: The Board determined that it would not be meeting the last week in December and as previously discussed earlier in the meeting made the decision to meet on January 5, 2012.

The meeting was adjourned at 10:22 PM

Respectively submitted,

Roberta M. Knight, Community Development Coordinator