

Topsfield Zoning Board of Appeals

November 24, 2009

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.

42 Wenham Road: At 8:00PM, Chairman Moriarty called to order the public hearing to consider the application of Steven & Deborah Maloy for premises located at 42 Wenham Road requesting a finding pursuant to Article III, Section 3.05 of the Zoning By-Law relative to the demolishing of an existing garage, and the construction of an addition that includes a temporary accessory apartment, utility room and new two-car garage on a non-conforming lot.

The Board reviewed the application and architectural plans with the Applicants who noted that the Finding was required due only to the lack of frontage for the lot. The new addition would meet all the required setbacks for the ORA district.

Finding that the addition would not be more detrimental or objectionable to the neighborhood, Chairman Moriarty made the motion to approve the plan as submitted; seconded by Clerk Kristin Palace; so voted 5-0.

126 Main Street: At 8:15PM, Chairman Moriarty called the continued public hearing to order to consider the application of Sarah Schultze for a finding pursuant to Article III, Section 3.05 of the Zoning By-Law for 126 Main Street for the renovation of an existing non-conforming structure by the alteration of the roofline with the addition of two front dormers and a full back shed dormer and for the construction of a two-car detached garage. Also present for the hearing were direct abutters William and Sue Adams of 124 Main Street who share an access easement with the Applicant.

Applicant Sarah Schultze informed the Board that the current proposal for review was a detached one-car garage and that at this time she would withdraw the application for the shed back dormer and front dormers. Chairman Moriarty then made the motion to approve the withdrawal of the application for the dormers; seconded by Member Scott Dow; so voted 5-0.

Although the site development plan was not a certified plot plan, the Board deemed the plan acceptable since the plan contained sufficient information to allow the Board to make a finding determination. Finding that the construction of a detached one-car garage would not be more detrimental or objectionable to the neighborhood, Chairman Moriarty made the motion to approve the plan with the following conditions:

- Location of one-car garage and proposed driveway for 126 Main Street as sited on “Plan of Land in Topsfield, MA; prepared by Atlantic Engineering & Survey Consultants, Inc., 97 Tenny Street, Suite 5, Georgetown, MA 01833; dated November 2, 2009”
- Dimensions of garage at 14’ x 22’
- Height no higher than 22 feet
- Subject to Conservation Commission approval, proposed driveway area to be crushed stone or pave surface
- If not subject to Historical Commission review,
 - Exterior finish to be clapboard or hardiplank
 - Colonial style in architecture
 - Shingle roof compatible in color to house roof

Seconded by Clerk Kristin Palace; so voted 5-0.

30 Main Street: At 8:45PM, Chairman Moriarty called the continued public hearing to order to consider the application of Glendale Partners Inc. represented by Peter Rakip for premises located at 30 Main 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 4.12D Restaurant, Snack & Non-Alcoholic Beverages to allow the operation of a restaurant within the existing premises.

Mr. Rakip presented the Board with a parking layout plan for the Village Shopping Center that incorporated the required spaces for the Applicant’s restaurant category. He noted that the parking area included a maximum of 168 spaces which included 12 potential spaces in the back of the Shopping Center. Based on the current usage and floor area for the existing businesses including the new restaurant, 144 spaces are required. The Board reviewed the parking plan and adjusted the calculation of spaces as follows: (1) discounted the number of spaces in the back of the shopping center, (2) reduced the number to 15 in front of Topsfield Station, and (3) reduced the number to seven behind TD North. The Board determined that there are 156 available spaces.

Selectman Morrison raised a technical issue relative to the definitions for Snack Bar & Non-Alcoholic Beverages and Limited Service restaurant categories as provided in the NAICS Code relative to the Bylaw’s definitions. Upon review of the two categories, the Applicant and Board agreed that the Snack Bar Category D as defined in the Bylaw was appropriate for the proposed business plan.

Chairman Robert 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 4.12D Restaurant subject to the submitted business plan:

- This special permit allows the operation of a snack bar. Menu to consist of but not limited to: ice cream and ice cream products, soda, coffee, tea, candies,

steamed hot dogs, cold sandwiches, soups in crock pots, baked goods, chips and popcorn.

- This permit allows the sale of balloons and party goods as accessory items.
- Menu may be changed and enlarged with the approval of the Board of Health and Inspector of Buildings.
- Cooking or baking of goods on premises is specifically prohibited.
- The restaurant is limited to seating for 10 patrons.
- Number of employees not to exceed two per shift.
- The hours of operation shall be 11 AM to 9 PM, 7 days per week.

The motion was seconded by Member Kristin Palace; so voted; 4-0. Member Tony Penta abstained.

Topsfield Station: Chuck Costello, the project manager, and John Morin, the project site engineer representing Topsfield Station's owner Brian Woodland updated the Board as to the current status of the parking and site plan for the building. Three distinct plans have been approved in regards to the property: (1.) the Rail Trail Easement by the Board of Selectmen, (2.) a special permit site plan by the Zoning Board and (3.) a septic system plan by the Board of Health. The new engineering site plan must be designed to incorporate the features of all three plans as well as any approved construction field changes. The representatives noted that due to said changes the parking along the easement would be limited to 30 spaces; approximately 12-15 parking spaces would be available in the access area due to the altered island configuration resulting from the change in the locations of the septic system's vent pipes.

Mr. Morin reviewed a preliminary plan with the Board as well as the original approved site plan with 43 spaces of which 5 spaces were designated for the Topsfield Village Shopping Center ("TVSC"), and the Rail Trail Easement plan that designated 32 parking spaces for the building. Upon review of the recorded easement agreement with the TVSC, it was the determination of the Board that the draft modified plan as shown did not agree with the recorded easement. Mr. Woodland, owner of the Station arrived and informed the Board that he would be executing a new easement agreement that would reflect the final site layout plan. The Board, in turn, informed the Applicant that he needed 32 parking spaces and possibly look at negotiating two parking spaces in the front area under the terms of a new easement agreement.

46R Main Street: At this time, Mary Bandereck reviewed her business plan for a catering operation at 46R Main Street and requested input from the Board prior to filing a formal application. Also, present for the discussion was building owner Leslie Eckholdt. Ms. Bandereck informed the Board that Inspector of Buildings Glenn Clohecy had advised her to seek a special permit under the catering use classification for the Business Village District. Ms. Bandereck noted that the intended use would be for a commercial kitchen for the preparation for baked goods. Items would be picked up or delivered, but no special delivery vehicles would be used. Parking would be around the perimeter of

the building for employees and bridal clients. There are seven parking spaces for 46R on the site. New Meadows Market would serve as the primary retail outlet. The cinder block building's floor space is approximately 2,000 square feet. The 1,000 gallon septic system would meet Title V requirements for a 3-bay sink. There would be no exterior alterations to the building.

The Board members noted that they could not render a decision at this time, but advised Ms. Bandereck to apply for the special permit and file for site plan review. The Board further reviewed the list of requirements for site plan and noted what items would be applicable for this respective filing.

The meeting was adjourned at 10:40 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator