



# TOWN OF WATERTOWN

## Zoning Board of Appeals

Administration Building  
149 Main Street  
WATERTOWN, MASSACHUSETTS 02472

Melissa M. Santucci Rozzi, Chairperson  
David Ferris, Acting Clerk  
Suneeth P. John, Member  
Christopher H. Heep, Alternate Member  
John G. Gannon, Alternate Member

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### MINUTES

On Wednesday evening, May 28, 2013 at 7:00 p.m. in the Richard E. Mastrangelo Council Chamber on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: Melissa Santucci Rozzi, *Chair*; David Ferris, *Clerk*; Christopher H. Heep, *Member*; John G. Gannon, *Member*; *Kelly Donato, Member*. Also Present: Steve Magoon, Director, Community Development & Planning; Gideon Schreiber, Mike Mena, Louise Civetti.

Chair Santucci Rozzi opened the meeting, introduced the newest member to the board, Kelly Donato, noting that there is now a full board and adding that next month there will be another new member added. She introduced the rest of the board and staff; swore in the audience and explained that the agenda item for Athena Health is only for the addition of 3 sheds – nothing more comprehensive.

Member Ferris read the legal notice for 216 Highland Avenue:

“Lorraine and Kenneth Seacrist, 216 Highland Avenue, Watertown, MA 02472, herein request the Zoning Board of Appeals grant a Special Permit Finding in accordance with Watertown Zoning Ordinance §4.06(a), Alterations to Non-Conforming Structure; Front Yard Setback, so as to construct a second story where an attic now exists, maintaining non-conforming front yard setback (Gleason Street) of 24.1’ – 24.3’, where 25’ is required. S-6 (Single Family) Zoning District.”

Lorraine Seacrist stated that the area referred to as an attic is actually 2 bedrooms. They are changing the area to accommodate their daughter.

Mr. Ferris asked Staff about using the cross street as the ‘front’ for purposes of zoning. Mr. Schreiber explained that a previous Zoning Board of Appeals decision had been based on the property fronting on the cross street; therefore, this request will also front on the side street.

Mr. Ferris asked if the siding and trim would match the existing and if the building coverage will be below the maximum. Mr. Schreiber noted that they are replacing the second floor with a new one; therefore, no increase.

Ms. Santucci Rozzi stated that they are adding a small addition on the first floor for a new bath and that is the slight increase in building coverage that is noted.

No one spoke from the audience. There were no further questions.

Ms. Santucci Rozzi declared a business mode and read from the Staff an Planning Board reports

Member Ferris motioned to grant the special permit finding for the second floor maintaining the non-conforming front setback. Mr. Gannon seconded. Voted 5-0, Approved.



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Ms. Santucci Rozzi announced the next case – 311 Arsenal Street.  
Mr. Ferris read the legal notice:

*“Athena Arsenal LLC, 311 Arsenal Street, Watertown, MA 02472, herein requests the Zoning Board of Appeals grant a Special Permit in accordance with Watertown Zoning Ordinance §9.11, Temporary Structures, so as to allow (3) temporary structures, each measuring 10’x20’, and each with a 15’x10’ canopy. AODD (Arsenal Overlay Development District)”*

Carolyn Reckman, Vice President of Athena Health’s Department, ‘Athena Environment’. She acknowledged the help from the planning office and the town for their help in understanding the strategic planning for the town and Athena’s plans for the next 10 years aligning with that. She introduced Bridger McGaw, Director of Athena Environment. Larry Beals, Land Planner and Civil Engineer. She gave information about Athena – they are an owner-occupier and a backbone of healthcare information—the caregivers most trusted partner. They are passionate and believe in the mission to do the right thing in healthcare. Carolyn announced that she is retiring and Bridger will take over.

Bridger McGaw announced their plans to bring small businesses back to this campus in a new way. He showed a rendering of their attempt to open-up the campus to the community. The center of the drawing shows Kingsbury which they envision to be a corridor for new retail businesses. The beginning is the three kiosks they are requesting approval for tonight. These will be unique retailers – small boutique retail outlets ranging from food, juicers, coffee, sandwich makers to jewelers, artisans, etc. From Arsenal (Street) towards the power plant which they converted to office space, they envision this retail corridor to be activated with a beer garden and local restaurants all the way down towards the river. The specific area for the temporary retail kiosks is along Kingsbury at Arsenal Street, where there is green space and where they are planning to erect tables and chairs so kids exiting the Arsenal Center for the Arts can engage with the space more fluidly. The temporary sheds are beneath the trees and will fit between the trees to showcase them within the landscape design. The sheds will have an awning with a connecting pathway between them to allow pedestrians to come in and out and to engage with existing retailers: Pedro’s, Panera, etc. This is to welcome them in and draw them down into the campus. They will welcome dogs and will add WiFi. Their intent to have people buy something to eat or drink and stay.

The sheds will be painted (they are working with the arts center) they wanted to have a simple wooden canopy; however, that is changed to canvas with a pole for a temporary structure.

There will be parking on Kingsbury and in their garage.

The Arsenal used to have wooden temporary structures

Before completing, read through the entire next section, Louise....



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Member Ferris read the legal notice:

"33 Mt. Auburn Street – Robert Bray, Manager, 33 Mount Auburn Street Realty, LLC, 24 Arsenal Street, Watertown, MA 02472 herein requests the Zoning Board of Appeals grant a Special Permit with Site Plan Review in accordance with Watertown Zoning Ordinance §5.01.1(k), Mixed Use Development subject to §5.07, Affordable Housing; so as to construct a four-story mixed-use building with 24 residential units (2 affordable) and 1,979 s.f. retail/office, with 36 parking spaces contained within the structure, on the site of the former Port Oil building (to be razed). CB (Central Business) Zoning District. ZBA-2013-29"

William York, Attorney for the petitioner, introduced the principals of the LLC, Kevin Gordon and Bob Bray; the architect, Steve Hurley and the landscape architect, Kim Ahearn. Attorney York explained the Special Permit with Site Plan Review in the Central Business zone is a proposed revitalization of the former Port Oil site will be for 24 quality residential condominium units with 2 affordable, approved by the affordable housing partnership; the mixed use component will be approximately 2,000 s.f. of retail on the first level and they have received an interest from Moozy's Ice Cream for that site. It makes them excited for the pedestrian-type retail that could be there. The plan is within the by-law at 42' in height, where 55' is maximum, FAR is .2, where .4 is allowed, decreases impervious coverage and meets all setbacks. It is a model of smart-growth development and is consistent with the Economic Development Plan, the Watertown Square Plan, the recent draft of the Comprehensive Plan to bring mixed use to Watertown Square which since the 90's back into the late 80's people have been talking about. It is good to see things like this starting to happen, bringing vitality to this business area where people can walk, shop, take public transportation, walk along the river, etc.

There has been a site plan review meeting, they had a community meeting at the library which was well attended, and there were two meetings at the planning board which got into the design materials and other site components. They voted unanimously to recommend approval to this board.

Excitement at site is due to bringing a neighborhood to the square. The blighted Port Oil site deserves better. Taylor Street is a neglected area with no side walks. They will bring sidewalks up to the property line on both sides of the street from Mt. Auburn Street. On the ground level there is a park with town land on the corner neglected and overgrown. This should be an exciting walkway into the center of our community. The landscape plan brings an element to allow light and catch your eye as your drive by.

The sidewalks will be redone on Mt. Auburn Street and installed on both sides of Taylor Street up to the property line and a bike path will be added at the new crosswalk being added. The top three stories are residential units, an elegant design and stepped back from the street at the second story, also a stepped back from the fourth story. The building is well designed from all angles. All the conditions by the Planning Board are acceptable to the owners and developers.

Steve Hurley, Architect, went through the drawings – Vehicular have two entrances – one from Mt. Auburn Street to 21 basement level parking spaces and the other from the one-way, Taylor Street to 15 – first floor level parking spaces. The two parking areas are not attached; therefore, you enter and exit from the same area, reducing the amount of traffic. Exiting onto Mt. Auburn Street is a one way to the right only. 2000 s.f. of retail space with a small portion facing Mt. Auburn Street and the majority facing the park. By foot, you enter the main entrance from Mt. Auburn Street. A handicap accessible ramp from Taylor Street to Mt. Auburn Street has been added on the inside. They wanted to bring the retail forward and that allowed the ramp to be indoors as one of the goals. The façade is a cementitious siding, 4" on center. The retail space has store-front glazing and the material is a ground-faced concrete block around the entire first floor. The step back residential area is articulated at the corner with a roof garden that faces the town square. The glass is the core where the elevator and stair is. The building has a cornice with cementitious material and a change in materials. They worked with the Planning Board and Staff to bring the siding from the roof to the second floor where they had a band that was not desirable. The A7 plan has been updated to reflect this.

Member Gannon asked about the access from the parking garage to Mt. Auburn Street – will it be restricted to right turn only. Mr. Hurley stated that it would be right turn only upon exiting. Attorney York added that when exiting from Taylor Street, it will be a left turn only as Taylor is a one-way coming towards Mt. Auburn Street.

Mr. Magoon asked Mr. Hurley about the agreement at the Planning Board to add a bathroom space at the retail space without taking more of the retail space away. Attorney York said the planning board discussed the possibility of expanding the space (he pointed to a rectangular area in the center of the rear of the retail space) and said an issue is the 2,000 s.f. would require a loading dock on the site. He added that the planning Board interpreted that section and found that they could go up to 2,000 s.f. with the bathroom and the storage area not included - that plan would better square-off the retail space. They would lose a parking space; they offer 36 parking spaces with 30 required and they can afford to lose one space. Another plan was shown with the rear of the retail space squared off or a straight line across the back with a parallel parking space in the garage (consistent with the by-law). Mr. Hurley indicated that the bathroom and storage has not been determined yet. The retail space will be going from 1979 s.f. to just under 2000 s.f. – the entire area is 2115 s.f. but the bathroom and a storage area will be created to bring it under 2000 s.f. They want some flexibility for the tenant to design that area at the time of the building permit. It could be 2 or three tenants. Moozy's is 1200 – 1300 s.f. – with a 700 s.f. store. The entrance into the area is from Taylor Street with an entrance at Mt. Auburn Street and one from the garage. The parking aisle width will still be at 24'. They will submit this plan if approved by the board.

Kim Ahearn, Landscape Architect, stated that the triangle park needed to respond to the building; enhance the architecture; a place where pedestrians could come to and feel comfortable in and a place that would be attractive as you drove by as a gateway to the square. The corner is busy so she added Ginkos street trees and flowering red buds inside the space. They will have clusters of benches and boulders along the edges for seating – there is a small fence to protect the plantings like day lilies and other perennials.

Attorney York added the A7 drawing shows the entire front of the area will be glass creating an inviting site. Now along the front there are no street trees and two curb cuts on Mt. Auburn Street and this drawing will add a peaceful environment. Staff requested the connection to the bike path as it comes down Taylor Street and crosses at the crosswalk to Baptist Park where the community path will pick up and head towards the west end.

Member Gannon asked how many square feet the triangle park is (approximately 2,500 s.f.). He asked about the bike path envisioned by Planning Staff. Mr. Schreiber explained that the initial plan drawn up by the Tufts students called for the path to go through the center of the triangle park where there would be too much interaction with pedestrians. It also did not line up with the existing cross walk on Mt. Auburn Street. The proper bike riding thing to do is to dismount and walk the bike in this area. Attorney York added that there are bike racks located within the triangle area to welcome retail shopping.

Member Heep is excited about the idea of something new in the blighted area. He has a concern with not knowing who the retail/commercial tenant would be as it is the center of town. He likes the idea of Moozy's going in and that would be ideal but not final. He would like to further refine what can go in there as the definition of commercial is rather broad. The first floor plan is striking in the middle of Watertown Square with 2,000 s.f. dedicated to the mixed use part of the project and the other  $\frac{3}{4}$  of the first floor are parking space for the residents. The mix does not have enough retail/commercial space and too much of the first floor space in the square is going to residential parking. They are building out to the lot lines and using a town owned parcel for all of the landscaping and open space. Site design should stand on its own to offset the bulk of the building. He asked if there is an agreement with the town on the parcel of land.

Attorney York said they will not occupy the town park. The park is not included in their open space calculations. The agreement with the town is to design, build and maintain the park but with no ownership rights to the park. He further explained that he believes that during the building permit process, the town will ask them to put together a plan. They will design, build and hopefully maintain it.

Member Heep commented that the agreement should be close to being memorialized rather than have it completed at the building permit stage. Attorney York said they could condition the granting upon an agreement on the design, build out and maintenance of the park. He stated that Mr. Magoon could speak directly to that. He further explained that the site is a CB zone that does not require setbacks. The initial plan had the building setback slightly and the preference of staff and the planning board is that the retail portion, the glass area, be brought to the street. The size of the commercial space as defined by the ordinance says a portion and this is larger than most – the assisted living development, as an example. There are 6 commercial parking spaces and 4 open spaces that will be left open with two being handicapped accessible so that on the Taylor Street side there will be 2 commercial spaces plus open spaces and on the Mt. Auburn street side there will be (as suggested by staff and supported by the Planning Board), 6 spaces designated specifically for retail and two left open for their use. Some of the residential spaces will be empty during the day and can be used. When the retail is closed down, those spaces can be used with restrictions. They have been careful to be certain there is enough parking. He added that the residences will have assigned spaces but if there is a vacant spot (they can be used), as long as they don't stay. They don't expect that to happen. The larger residential projects that he has been involved in allow shadow parking and due to the proximity to the square on this project, they actual use is far below what one would project under the by-law. Providing a tenant in the space is hard to do but they can state for a year they will seek a retail use in this space as opposed to a nail space or another similar tenant that there are plenty of in this area. They will search in that direction.

Member Gannon asked staff if the agreement is envisioned to be with Town Council and Town Manager approval. Mr. Magoon said they would anticipate a formal arrangement for maintenance or improving town property. Member Gannon asked if this would be perpetual maintenance or a specific timeframe. Mr. Magoon said that has not been discussed but he believes it would be perpetual – as long as it is tied to the project. Member Gannon stated this could be added as a condition.

Member Gannon asked about trash removal. He would prefer to have it during the noise ordinance between 7 am and 11 pm or such time that the neighbors and other residential abutters would not be disturbed at 4 am. A condition should be added. Mr. Schreiber agreed that the commercial trash is brought out during the day within this corridor and having a condition stating it would be done during those hours – especially with residential uses, makes sense. Mr. Magoon stated it is private trash collection. Mr. Schreiber said that it would be added to condition #16.

Member Ferris asked about units and parking spaces. Attorney York stated there are 24 units and a total of 36 parking spaces and with the discussed commercial space expanding, it would be 35 spaces. 30 are required – 24 for residential – 1 per unit in Central Business district and 6 for commercial space, leaving 5 additional spaces; however, one of those would be for residential as it is stacked parking.

Member Ferris asked if the commercial parking is intended for both employees and customers. Attorney York said that it is and is in compliance with the by-law. They can benefit from the public transportation in the area.

Member Ferris complimented the petitioner on the presentation, the building design and the landscape design and the nicely put together package for the board to review and understand. He wonders about the parking plan – on the lower level, 4 business spaces are tandem. Are these for employees? Atty. York stated that two of those will be for employees – the two inside.

Member Ferris understands the upper parking plan is updated; however, he asks how does someone get out of the parking area – there is the 24' width and the hatched area at the accessible space, not being used as intended, how does someone maneuver around if the spaces are full. Mr. Hurley said the width is standard but they can make a 3-point turn depending on the size of the car. If a larger car, it would take more than 3-points to turn around. Atty. York said that is part of the compromise from the original design to expand the space as they had perpendicular parking. Mr. Hurley said that wasn't their first choice as the parallel parking in that area will be difficult. Member Ferris added that they are over the required amount of parking spaces so is there a way to keep an area open to turn around. He then stated that on the upper level, the three spaces facing west – how do they get out (back out).

Mr. Hurley said they can use the two spaces for the handicapped and the hatched area. Member Ferris is concerned as it should not be used in that way. Chair Santucci Rozzi said there will be a lot of times when those (parking spaces) will be empty and that would help. Atty. York said that during operational hours spaces will be open and the parallel spaces would be able to make a 3-point turn. Mr. Hurley said it was not their first choice but it works.

Member Ferris said the saw-tooth (design) plan is very good for retail. Attorney York said it could be used for more than one retail business with one being smaller but with the (real estate) market today, it would be better to have one tenant. Member Ferris said that it seems that the primary entrance for the retail is with the residential and that would mean the residential lobby needs to be left unlocked at most times. I wouldn't feel comfortable. Accessibility to retail is through the small vestibule to the left and also required to get into the retail through the residential lobby. Atty. York said he anticipates the one retail tenant space to be accessible through the park (and in through the Taylor Street entrance). Accessibility through the Mt. Auburn Street entrance required a ramp and built the area out for the interior ramp. They project the Taylor Street side to be the main entrance. The residential door further interior will be locked and the exterior door will be locked when the business is locked. Member Ferris said that creates an uncomfortable area especially where the residential mail boxes are located there. Attorney York said the mail boxes will be moved inside the residential lobby.

Member Ferris wants to regulate the lighting in the area that is visible from the outside of the building. Mr. Hurley said one side is the elevator shaft and the other is the stairwell on the same house light – the same type of lighting.

Member Ferris said the landscaping plan is nice but he is not a fan of Ginkos as they are so spare looking. He wanted to know what other street trees are being considered. Ms. Ahearn said as the Ginkos age, they become very interesting. She further said the openness lets the light in as this tends to be a dark corner and she likes the yellow in the Fall. She said Honey Locust used to be the go-to tree and they have not been doing the job with late leaf-out, they look dead. The Ginkos would leaf-out early Spring. The Bradford pears and the newer varieties have been splitting in the ice storms we've had and some people find the fragrance from the flowers offensive. Mr. Ferris suggests a variety of trees.

Member Donato did not have any questions.

Member Gannon questioned staff about the main entrance for the retail being through town land. Is there a precedent for that. He has never heard of a town park or town land being used as entrance area. Mr. Schreiber said sidewalks are town owned and all commercial areas are accessed from the sidewalk. Member Gannon said he has investigated this particular piece of land in the past and it is a park and a park is not the same as a sidewalk. He has concern about the legal process needed – there would need to be an easement on the site, negotiated by the town, accepted by the town council, consideration between the developer and the town for use of the public park for commercial access. That is different than the simple maintenance agreement. The town attorney's should be consulted about this issue.

Member Ferris asked if the parking behind CVS is town owned land and what is the difference. Mr. Magoon said this is designated as park space and not a public sidewalk or parking.

Member Gannon also recited State Constitution Article 97 prohibits park land being converted to commercial space so we'd have to get an opinion from the town attorney on that issue.

Mr. Magoon asked Member Gannon if in his experience this was a transportation right-of-way which was not acquired as c. 97 park space, it was acquired as a public right-of-way that was being disposed of giving first refusal to the town to acquire it for transportation purposes so, if that is not true and it was acquired and designated as c. 97 park space he would agree with him.

Member Gannon did a lot of research 20 years ago on the old B&M Railroad property to the town and that triangle was set up as a park. He doesn't know the exact language but in Article 97, certain public spaces are protected and some are not. Would this be an Article 97 concern or would there need to be a legal easement accepted by the town council.

Attorney York said they can condition to reflect it being investigated but people are exiting onto a small portion of the owner's property and then taking a walk in the park. Member Gannon said there has to be some sort of easement for liability protection.

Member Gannon asked if this is going to be a 24 hour operation. Attorney York said they are not looking for a 24 hour operation; they are looking for a retail establishment with normal hours in the square. Someone mentioned a 24 hour tattoo parlor...The retail space will be owned and maintained by the developer and it could be sold as a condominium. Member Gannon said there has to be some sort of regulation on hours or type of retail use. Attorney York said they can put in a condition that says the hours should be appropriate for Watertown Square. There is some maturity and responsibility to the residences. Member Gannon said they should think about the hours of operation but he is not set on it.

Member Heep asked if they could show the dedicated parking area for the business. Attorney York showed drawing A2, spots 2 & 3 have a 'C' for commercial and then the two open spaces; drawing A1, spaces 18 &, 20 are 'C's and 19 & 21 are 'CE' for employee parking.

If the commercial space is successful, inviting customers to drive in off of mt. auburn street to subgrade parking area to see if 1 of 2 spaces is available, a successful business would have those spaces occupied more often than not, and if they are full, they will have to back out onto Mt. Auburn Street. Those spot will be valuable parking spaces and a fair number of people will be entering from the street without knowing if they are occupied, seeing that they are full and turning back around and coming out onto Mt. Auburn Street.

Atty. York said they would be able to safely turn around and leave and 6 meets the by-law; however, there are also 2 on the other side and 2 that will be open for commercial use during the day, making 10 parking spaces available.

Chair Santucci Rozzi asked about signage stating 'Garage Full'. Attorney York said the good thing about Moozy's is that you can walk there. This location with the park invites you to walk there and sit. They are

bringing neighborhoods to the square and they are doing that. There are over the required parking spaces.

Mr. Heep stated that it is not the number of parking spaces, it is the location. Should it be on-grade, you can see if the space is occupied. These patrons are going to have to pull off of Mt. Auburn Street to go underground, turn around and come back out. Mr. York said we are incentivized to build parking within structures, heat— island effect, etc. This will work. It would be difficult to put a sign up and monitor the parking. There is parking across the street or they can walk.

Chair Santucci Rozzi asked if they planned for people coming from Mt. Auburn Street on the other side of the street. Attorney York said they purposely put more parking on Mt. Auburn Street but wanted to accommodate access from Taylor Street. This was the wisest traffic approach. The garage doors will be open during business hours and closed when the business is shut down – plan A1, bottom right.

Mr. Gannon asked if the commercial space included cooking on site, how would they incorporate an exhaust fan. Attorney York said someone with more experience would design that but they would provide be appropriately screened. Typical language would be ‘any mechanicals would have to be screened’.

Chair Santucci Rozzi said she is a proponent for mixed use projects. She wants more mixed use and then she sees mixed residential/commercial buildings in the square have struggled to occupy their spaces. The building on Galen Street has never had successful tenants, although there is a dentist there now. She asked the applicant what was going on with his other mixed use building on Arsenal Street as there was the office for the assisted living. Attorney York said a real estate broker occupies some of the space there but that space is different from Mt. Auburn Street. They expect this space to be viable and nice. They want to upgrade the type of tenant. Mr. Gannon said the other areas are under canopies and not very visible.

Chair Santucci Rozzi referred to the figures on drawing A0. The numbers do not add up for impervious coverage and open space – it is over 100% and over the square footage of the site. Attorney York said there is open space on the second level on the building that would not be counted in lot coverage or impervious – 425 s.f. Mr. Mena said that staff has set precedence with counting landscaped areas over podium parking and structures previously, most recently with the Bacon Street project and North Beacon Streets roof top garden.

Chair Santucci Rozzi said the parking is assigned but not deeded and each unit gets one spot. Guests can park anywhere during the day except the commercial spaces. They want to encourage something that extends into the evening hours that brings life to the area and that will be up to the condo association to figure out. She likes structured parking over surface parking but it presents some challenges. She’d reverse all the way out... she asked if there will be signage for the commercial parking – how will they know there is parking available? They will just pull in. Does the site require environmental clean-up? Mr. Bray said the clean-up has been done and approved by the DEP.

Chair Santucci Rozzi stated that the awnings look like a thing of the past. Mr. Hurley said it is a residential feature and the awnings are placed over living spaces. There was discussion on the material at the Planning Board – canvas or metal. Canvas is the appropriate material. They were told bird dropping would ruin it but they will be maintained and replaced. Mr. Hurley then gave an example of the Boston Millennium Hotel and it adds interest to the façade. Ms. Santucci Rozzi said the windows do not appear residential. Mr. Hurley said the façade is not a double-hung façade done in more of a contemporary way not a traditional way. The materials are grey aluminum clad. He brought a sample of the siding and a window with the cladding. The band was eliminated as the planning board requested it be removed. Mr. Magoon said there was a lot of discussion on the architectural aspects of the project by the three architects on the planning board and did not have an opinion. Mr. Ferris said some banding can be too stripe-y but this is more of a contemporary look. He likes the window placement, the siding material has integrity, he is not a fan of the cornice material. He is supportive of the way it is presented.

Chair Santucci Rozzi opened the floor to the audience.

Cecilia Lenk, Councillor for District B said this building was well received by the neighborhood as and district. This is the right scale for this area, the addition of the park and retail is exciting. The biggest critics of development in Watertown are in favor. This is something she hopes the board supports as it meets our needs as a community bringing business to the square but residents who will participate in the life of the town.

Vincent Piccarelli, Councillor, thanked the board and stated that Economic Development of the derelict industrial sites a priority from a financial stand point as it is important to the town's budget – the new growth that we get from these projects. The community desire to create these mixed use projects in the square and create a vibrancy will be achieved by this project.

Steve Corbett, Councillor, said this is a good project, it fits, this site has been in need of redevelopment. They'd like to see economic development into the square with pedestrian traffic to enliven the square. This project does that with its connection to the bike path and the pocket park is an important feature introducing life into the square. The scale works; he likes that it is a mixed use project and is in support.

Dennis Duff, 33 Spruce Street, trusts the boards integrity and commends the development team for the fine job they did. They did not go to the maximum (of the zoning dimensions); there is a roof garden and he applauds that as a landscape architect. The park is well laid out, it works, he hopes the maintenance is kept up; the Ginko tree is striking with it's yellow fall color. He hopes the board approves this and he hopes this project is a stimulus for the architecture around Mt. Auburn Street.

Member Ferris said the foundation of good neighborhoods and town centers is the combination of retail or residential whether in the same building or close proximity.

Member Heep asked if this is retail or commercial and what is the gap between the two. What other uses could go into this space without review from the board.

Mr. Mena said any use allowed by right in the Central Business district. The only restriction would a be a restaurant where the number of parking spaces would restrict the number of seats.

Member Heep said he likes retail better than the restaurant but that is a broad category of things that could go in there. Mr. Mena said commercial allows retail, office, personal service. Anything in the use table under CB that has a Y could go in there. The parking is 1 for 350 square feet for general retail use whether it be office or a spa. Anything restricted would be a restaurant which is dictated by the number of seats or an institution or religious assembly based on seating capacity.

Chair Santucci Rozzi closed the public hearing and declared a business mode reading from the planning report where the staff and the planning board both recommended approval. She asked staff if the conditions have been updated – like #12. Mr. Schreiber said some of the parameters need to be reviewed by DPW, Tree Warden, etc.

Mr. Schreiber said the landscape plan has been updated but the transformer has not been identified yet as having a final location. Ms. Santucci Rozzi said it should not be on the Taylor or Mt. Auburn street elevation. Mr. Magoon said a concern is that the utility may approve it where it is located and the only alternative would be one of the street elevations. Mr. Hurley said the mechanical engineer is meeting with NStar to confirm the location as indicated. Mr. Magoon said it may need to be within 10' to the public way for access and the only place would be between the 7-11 and this building on Mt. Auburn Street and screened. Mr. Ferris agreed that would be a better place.

Mr. Schreiber said they added this condition as they weren't sure it would be located in the rear but wanted to be sure it had proper landscaping or screening. Ms. Santucci Rozzi read the portion of condition 12: "Any required site modifications to accommodate a transformer will accommodate access to emergency egress and open space areas with staff review and approval." Mr. Magoon said that recognizes that it cannot go on the Taylor Street side as that would restrict emergency access and leaves

it here. Ms. Santucci asked about open space areas – they mean the area behind the building. The board wants it screened and if NStar says 10' then they want the back of the 10' between the two buildings.

Mr. Schreiber said condition 13 asked if the control plans identify the actual commercial space it now. Atty York said they can submit the plan. This identifies the guest parking spaces, the tandem spaces. Mr. York said the plans submitted show the designated – plan A2 show commercial and A1 show spots 18 & 20.

Ms. Santucci asked where the guest spaces are identified and where are the assigned spaces for the residents. Leave #13 in. Some of it is done but not all.

#14 is gone\

#15 is fine

#16 add Member Gannon's 7am – 6 pm is fine. He doesn't want trash traffic at 3 am.

#17 is separate from the sidewalk and street tree and that is conceptual and staff will finalize that.

Add screening of rooftop mechanicals, #18

Drawings show nothing visible. Is there a roof plan or a mechanical plan. Mr. Hurley said they plan to locate the condensers on the roof plan

Mr. York said #14 is A7 as submitted as submitted 4-17-14.

That plan will be in condition 1.

The parallel spaces A2, drawing dated 5-28-14 substitutes the old A2.

Mr. Hurley said the roof drawing shows the rectangle in the center of the building, A6. There would be 24 & 2 for commercial condenser units – there is a parapet on the edge of the building. The 3' high screen enclosure should be removed from the plan. No vents on the outside of the building they will be through the roof. Mr. Gannon doesn't want an exhaust fan in the middle of the building. Mr. York said it would not be on the exterior of the building.

Mr. Magoon said on the screening said to leave the screening – it would be helpful.

Hours of operation. Gannon said there is a local advertising diner that never sleeps. They do not want to keep the hours of operation the same as the area. Santucci said leave it up to the licensing board. Most uses have to go to licensing if open late at night. Ferris said one type of regulator is the residents and rental of commercial space say appropriate mix so no need to regulate it.

Park. There will be conditions for perpetual maintenance and building out with plan. Trees should be referred to Chris Hayward, Tree Warden.

Legal access to the commercial use through that land pursuant to Article 97 – agreement between town and developer. Gannon said agreement with the town and developer as an interest in real estate so the town council or manager will have to sign off on it. If easement, consideration or if Art 97, different. He would be comfortable with a legal opinion from the town attorney.

Staff Magoon is comfortable with drafting. Condition read: An appropriate agreement or easement be worked out with the town and if that cannot be worked out or if there are other restrictions such as Article 97 then the project should come back to the board to make any necessary design changes.

If that were the case and that could not be an access place for the space, then they would have to revisit it. York said the entrance could be shifted. Heep said implication could be this land may not be available for this use. If that is the case, then that changes the park. This needs to be ironed out ASAP – before the building permit. No loss of the park would make him happy. The commitment is not with this board it is with the town and the agreement is barely in principal – there has not been a discussion with council or mgr. Magoon said this can be worked out. They would not issue a building permit and then realize they cannot work it out. Resolve this before building permit.

Santucci – it is shown on control plans but not a condition. This needs to be tightened up. A lengthy and wordy reviewed by the board. Gannon – Protect town as they do not want anyone entering the commercial property to sue the town. It would have to be a hold-harmless agreement that these guys would indemnify and hold the town harmless from any harm. That is what a structured agreement would have to encompass. Along with maintenance in perpetuity. Conservation commission would say what types of tools could be used on the park, etc. Any money exchange if the town allows this space to be used to facilitate a commercial establishment, etc. With the use of Real Estate property without bid, etc.

Add condition for Interior lighting – to match.

Heep – another condition – best efforts to find retail tenant vs. broader range of commercial tenants.

York said if a year goes by or 6 months and they do not have a tenant, then that is best effort.

Heep wants some sort of restriction.

York there are a lot of things offered by right but not retail – an architect, or other passive use etc. but they do not want to restrict it to retail. Ferris said supportive to best efforts for retail tenant. Magoon said the is encouraging to retail use however. Rather have insurance office than be empty. Do not be overly limiting Do not restrict. Creates other issues. Santucci agreed.

Santucci conditional approval staff and PB and discussion on and amending conditions.

Member Ferris motioned to approve Special Permit for a mixed use building with the conditions added including receipt of revised A2 parking plan, transformer placement and appropriate screening, trash removal hours, an agreement resolved for regulation and maintenance of park by the time the issuance of a building permit, coordination of lighting at the Mt. Auburn street area where they share the same window.