

MINUTES

On Wednesday evening, **January 30, 2008** at 7:00 p.m. in the Council Chambers of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Melissa M. Santucci**, *Clerk*; **Deborah Elliott**, *Member*; **Carlos Fernandez**, *Member*; **Richard M. Moynihan**, *Alternate Member*; **Nancy Scott**, *Zoning Enforcement Officer*; **Louise Civetti**, *Clerk*; **Joseph Merkel**, *Senior Planner*. **Absent: Stuart J. Bailey**, *Member*.

Tape 1 of 2, Side A

Chair Vlachos opened the meeting at 7:00 PM, introduced the board and staff and swore in the audience. Latecomers were sworn in by Richard M. Moynihan.

The minutes of the January 7, 2008 meeting were voted on and approved as written (vote 5-0).

Ms. Santucci read the legal notice of the first case:

Giovanni Cimino, 143 Church Street, Watertown and Ari Koufos, 5 Bellevue Terrace, Watertown, MA herein request the Board of Appeals to grant a **Variance** in accordance with §5.04, Table of Dimensional Regulations, Side and Front Yard Setbacks, I-1 Zone, so as to permit and approve the construction of two front dormers, each 6.1'x 8.2', located 16.3' from the front lot line, where 20' is required; dormer on northerly side will maintain non-conforming 2.4' side yard setback; dormer on southerly side will maintain non-conforming 8.0' side setback, where 25' side setbacks are required; at **80-82 Forest Street**, a non-conforming 4-family use being converted to three-families located in the I-1 (Industrial) Zoning District.

Ms. Elliott stated for the record that Mr. Cimino had previously worked on the roof of her house and asked if there were any issues with any member or the public. If so, she would recuse herself from the case pending. No one spoke. Chair Vlachos stated that most people in Watertown would have to be recused if we used those guidelines and as long as Mr. Cimino were not one of her clients, it would be fine for her to vote.

Giovanni Cimino addressed the board and explained that he and his partner, Ari Koufos purchased the property in November 2007 and made extensive renovations and repairs. They are converting the property from a four-family to a three-family for the purpose of reselling as condos. The first floor was two apartments and they have converted it to one. They added two stairwell dormers in the finished attic to provide head room, which was a finished height of 6' and is required by building code to be 6'8". He said the finished space would be bedrooms, one for each side apartment. Without the dormers, the third floor bedrooms would not be to code and could not be used for living space. The apartments would then only have one bedroom each. They have eliminated some of the density by eliminating one of the apartments and having 6 parking spaces for three dwellings. The financial hardship would be if they could not sell the property as three condos and were forced to rent the four apartments. Additional issues would be involved if they were to tear down the building and rebuild in an I-3 (sic) zone. They have maintained the character of the house, added landscaping as well as vinyl siding and new windows. They feel relief can be granted without nullifying from the intent of the ordinance as the dormers are minimal and are required by the building code. He then spoke as John Cimino, the owner of Joe Cimino and Son, Inc., the contractor of the dormers and stated that Ari Koufos had no involvement in the construction of the dormers. He apologizes for the misunderstanding and is embarrassed by the attention brought to this case. They have been in business for 40 years in Watertown and he is proud to have his father sitting here with him this evening. They are well known for their workmanship. He did not believe the dormers would be a zoning issue. The work on the house and in the neighborhood have been an improvement. He pulled a structural permit and another permit for the work on the house. He has worked with Nancy Scott and Ken Thompson on many projects and he didn't believe that this would be a zoning issue. The original four family would have required a sprinkler system which would not be feasible. By bringing the structure to a three family, they have made the neighborhood less dense, have taken more cars off of the street with more parking in the back of the house and interior improvements. He again apologizes for having to be in front of the board.

Chair Vlachos asked how he came to be in front of the board. Mr. Cimino said he had a permit for the work on the project but that did not include the dormers. Mr. Thompson discovered the dormers and requested he file a new application.

Mr. Moynihan asked if the staircases existed prior to the dormers. Mr. Cimino explained that the stairs required more headroom and the roof pitch is 12. To accommodate furniture and people, they created the dormers to meet the 6'8" code. There was always a finished attic there. There was a kitchen beneath it and when they demo'd the kitchen there wasn't any bridging – they ripped the floor up and structurally fixed the third floor. He has submitted the layout plans from the existing house and the changes made.

Ms. Scott asked if they replaced the stairway. Mr. Cimino said they used the existing stairways.

Chair Vlachos viewed the drawing and asked if they are only talking about the two small dormers on the front of the building. Mr. Cimino said that that is what they are discussing.

Mr. Fernandez confirmed that there were not any other changes to the perimeter of the house. Mr. Cimino stated that the house is in an I-3 (sic) zone with two-families around it. He did not think the zoning would have an impact here.

Chair Vlachos asked for a description of the front of the house. Mr. Cimino said there would be new brick pavers in the walkways, landscape with shrubbery – they eliminated a parking spot in the front of the house to the right – sod and landscaping will be added to be sure that no one will continue to park in that spot. They also received a permit for 6 parking spaces in the rear of the property.

Chair Vlachos reiterated that the original building permit issued was for 4 bathrooms and 4 kitchen remodels and install vinyl siding and new roof. He requests a new landscaping plan to be sure that there is no further parking in the front of the house.

Ms. Elliott supports a new landscaping plan.

Dennis Duff, 33 Spruce Street, supports the project and requests the board look past Mr. Cimino's procedural absences, although not dismissed or taken lightly. He believes Mr. Cimino intentions and explanation is honorable. He said the merits of the project are an upgrade to a run-down piece of property; a decrease in density by reducing the number of units from 4 to 3; providing adequate off-street parking and removing on-street parking and lessening congestion in a very congested neighborhood; and will be an upgrade to the neighborhood and to Watertown.

John Lawn, 20 Pilgrim Road, a local real estate broker and a district D town councilor. He chairs the new police station building committee and at a site plan review meeting, the Forest Street issue was on the agenda. He heard the story then and went to the property to view the dormers. He feels it is important to show support of this project and it is clearly an unintentional error. He knows Mr. Cimino and Mr. Koufos are lifelong citizens and business owners in Watertown and activists in our community. He doesn't believe they would intentionally try to work around the zoning regulations. Neighbors that he as spoken to are happy with the renovation; spoke about the eyesore the building was; feel this will enhance their neighborhood. He asked specifically about the dormers and the neighbors feel they fit in.

Tim Daley, 83 Forest Street, living directly across the street from the project for 7 years, said the former owner lived down the Cape and only showed up when someone moved. The house was an eye-sore and they parked on the front lawn. Now with the parking in the rear, there isn't any reason for anyone to park in the front. He said the new fad in Watertown is to buy a house, tear it down and build a new one. Mr. Cimino took an older-style house and invested in keeping it looking good. He is doing a great job.

Chair Vlachos read from the Staff Report stating that they were not able to recommend approval of the variance based on the zoning criteria but they didn't say to deny it. The Planning Board met on January 9, 2008 and they recommended to grant the variance. Chair Vlachos said the board doesn't look kindly where unpermitted structures are built or changes made and then the person looks for help after the fact – especially when it comes to a variance. He feels though, that these dormers are so small that he is not troubled by them in comparison to some huge dormers that they have seen. He is in favor of granting this but he wants a landscaping plan for the front to be sure there isn't any parking in the front and he wants the meters screened with landscaping to avoid the eye-sore.

Ms. Santucci agrees that the construction proceeded without the required relief and the dormers are so small that she questioned whether she was missing something. They are reducing this structure from a 4 family to a 3 family, and typically 1 and 2 family structures with dormer construction are granted through a special permit finding but because of the number of units and the zoning district, it bumps this property into the variance category with the required criteria. Based on the appearance and keeping within the existing footprint, she would be in support of the variance.

Mr. Fernandez said he wanted two points of clarification, although he is in support of the request. The zoning question is unrelated to their discovery of structural deficiencies. That is a cost issue that is embedded into the hazard of buying an old property and developing it. Every renovation project improves the situation and that is a given. He does not include that in his decision making. There is always a need to state the improvement but it is unrelated to the zoning question, as well.

Ms. Elliott supports the proposal as it reduces the density of off-street parking which outweighs the request for the variance.

Mr. Moynihan stated that what necessitated the dormers in the first place was the existing staircase was not to code and did not afford the necessary ceiling height. That was the impetus for building the dormers in the first place.

Chair Vlachos said reducing the units from four to three does not mean there will be fewer people there. The property was run down before and there could have been one person per unit and now you'll be able to put two or three people per unit, could make it denser than it was before. Therefore, it is not necessarily reducing density.

Ms. Scott suggested clarifying the conditions: #6 should be eliminated as there isn't a foundation being built and therefore, a foundation as-built is not required. Add 'Petitioner should provide a landscaping plan to be approved by Staff'. Ms. Santucci and Chair Vlachos agreed to the addition of the landscaping condition and want to add screening of meters. Ms. Elliott asked to be sure there wouldn't be an access issue for the utility company. The last portion of the condition would read: 'To include screening of the existing meters in front'. Chair Vlachos also wants to be sure there will not be any parking in the front of the house. Ms. Scott said as these will be condos the condo documents will include designated parking areas. Chair Vlachos said he wants to see the landscaping plan without 80% pavers and 20% grass so the tenants feel they can park anywhere. Ms. Scott suggested adding the wording: 'There will be no parking in the building front yard'. Ms. Santucci asked if the intention of the area marked 'walk' will be pavers and the rest will be grass. Mr. Koufos said that is correct. Mr. Vlachos wants the landscape plan to clearly support that. Mr. Koufos said he had met with Ms. Scott before they purchased this property and she said that front space was not approved. They received the approval of the rear parking based on the fact that they would eliminate that front parking space. The engineer will do all of the drawings and the condo documents will support the town's requests.

Ms. Santucci motioned to grant the variance for the rear yard setbacks of the two dormers as recommended by the Planning Board with conditions as discussed this evening. Ms. Elliott seconded. All in favor? 5-0 vote, granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 1 of 2, Side A, Continued

Chair Vlachos stated that this is a continued case from November 2007 for 264 Arlington Street.

Ms. Santucci asked if there is a revised legal notice, since there is not, she read the original legal notice:

Thomas Kilfoyle, Kilfoyle Properties LLC, 10 Munroe Avenue, Watertown, MA, herein requests the Board of Appeals grant a **Special Permit Finding** in accordance with §4.06(a), Alts/Additions to Non-Conforming Parking and Structure, Side Yard and Rear Yard Setbacks, Impervious Coverage, Minimum Open Space, **Special Permit** in accordance with §5.01.1(g), Multi-Family Use; §5.01.1(i) Mixed Use; **Variances** in accordance with §5.04, Table of Dimensional Regulations, FAR, Maximum Lot Coverage, §6.01(b) Required Parking for the conversion of former manufacturing building (Linco Tool) so as to permit 14 residential units with accompanying 8 work space units on 1st fl, providing 26 parking spaces in garage, where 28 spaces is required. Construct 3-story in-fill rear addition 12.7'x 46.6'x26.6' located 0.05' & 0.1' northerly side yard and 3.6' rear yard, where 15' side and 20' rear is required; construct new 2nd and 3rd floor containing 19,800 sf located 0.05'-7.3' northerly side yard and 0.0'-7.3' southerly side and 0.5' – 14.6' from the rear property line; further increasing building coverage from non-conforming 91% to 96%; increasing FAR to 1.4, where 1.0 is permitted; maintaining non-conforming 100% impervious coverage and 0% open space, where 10% minimum is required at **264 Arlington Street**, located in the LB (Limited Business) Zoning District.

Attorney Kevin Crane, 104 Mt. Auburn Street, Cambridge, representing the petitioner, stated that they have provided more extensive renderings and more readable drawings, which the board requested at the last meeting. He referenced the renderings with the first one showing the building at the corner of Wells Avenue at the southwest corner. The second showed the building from the Arlington Street side from the Elks Club at the extreme right down to Wells Avenue. The last rendering is from Wells Avenue looking back down Wells Avenue towards Arlington Street across the existing parking lot, which has trees and cars there now. An additional rendering shows the rear of the building more clearly. A portion shows the Ekco pavers which is the change from the last meeting, up to the property line – done to satisfy the open space requirement. There had been questions at the last hearing regarding landscaping and open space on the side of the building near the back, it didn't make sense to provide landscaping there, but they wanted to provide open space and allow the exiting uses. Neighbors park their cars there and traverse the area to get to the Elks Club. They can still do that with the Ekco pavers. The revised plans show the open space at the northeast corner of the building, where the Elks is, there is a garden area which has grass, Ekco pavers and a trellis area with 575 square feet. The southeast corner at Arlington and Wells Avenue, they included a garden- type area with just over 500 square feet. Along with the Ekco pavers in the back providing approximately 500 square

feet, they are able to satisfy the open space requirement of 10%. They would not need relief for the open space or the impervious coverage of 90%. The building coverage is being reduced from 91% to 89% as a result of the changes. It will still be non-conforming as the requirement is 805. The main change made was to remove common area and tenant storage they redesigned the entryways. This is the only open space being provided by any private structure on the entire block. The other relief requested on a prior plan was for the parking. They no longer require that relief for parking. They are requesting a variance for FAR – the density was reduced from 1.4 to 1.36, in conjunction with the open space. The Special Permit Finding is for a multifamily and the non-conforming alteration under 4.06(a). The narrative on the criteria for the variance was sent separately yesterday. His client bought this property in April and the plan has evolved – they had thought initially of knocking down the structure and erecting a 4-story site but Mr. Kilfoyle was advised by the town that the plan would not ‘fly’ with the neighborhood and others. The Planning Board voted unanimously to grant this even before these changes were made and the Staff submitted a memorandum in support. A letter of support was submitted by Donald and Daryl Levy, as well. Attorney Crane said this residential use in this mixed-use neighborhood is not as extensive as the other uses and will supply the nighttime activity. The impact of 14 units will not be overwhelming. This is a creative and adaptive reuse of an old building although some argue that the building is not worth saving; however, his client wants to save it. The boards concerns regarding the open space have made the building better. Their support team is present for any questions.

Ms. Santucci asked if the wall is a retaining wall. Chair Vlachos asked if the wall was around the property. Jason LaGorga, Architect, said there is a low wall that runs the perimeter of the sidewalk for use by the tenants. The brown area on the plans is either going to be a synthetic material or cedar clapboard. The areas that were pavement were changed to pavers for a nicer area and to support open space.

Ms. Santucci asked if pavers can be counted by our ordinance as open space. Ms. Elliott thought not. Ms. Santucci said her planning staff does not count the entire paver as open space. Ms. Elliott asked if they are expecting grass to grow between the pavers. The support person for the petitioner said they are and yes, they will have to irrigate. He said the area in the back is a difficult area. Originally, they were going to provide the green screen, which were also difficult there, but both are attempts to do something there. Ms. Elliott asked if they would still provide the green screen. Yes, they will and they will have cutouts in the ekco pavers. Ms. Elliott commented that it is a very thin strip of Ekco pavers and then to irrigate them, would we really want to enforce the open space requirement to have something like this which may not be successful as it borders the parking lot next door. Ms. Elliott does not see it growing. The soil with the vines would have a better chance of survival. Mr. Fernandez suggested a barrier between the properties to protect it, otherwise there isn't any hope. The history of the site has been abused and the design needs to accept and respond to that. The support person said that it has been used as a pass-through for vehicles and pedestrians in the past...

Ed Herman, 104 Spy Pond Parkway, Arlington, stated that the property in the rear is going to be utilized by the other businesses in the area and will drive over this area. If they have shrubs and a fence, they will not be able to pass through. They are trying to be sensitive to the neighbors and they do not want to block it.

Ms. Santucci asked how wide it is; the drawing does not match the site plan. The support person could not be heard.

Mr. Vlachos asked what the upshot of this discussion is. Ms. Scott said the back is a parking lot and she would rather see them maintain the shrubbery out front, which belongs to the town. Ms. Elliott added, then to force landscaping into an area that will not be successful. The effort to meet open space is appreciated, however, she was okay with the 0% open space. The two gardens will work and she asked if they will be drained (yes, they will). The south garden will receive a lot of sun, but irrigation and drainage will be needed.

Mr. Herman said the town owned property in the front of this building was discussed with Gerry Mee, DPW Superintendent, today, where they offered to take over caring for that piece of property. Mr. Mee was in full support of someone caring for the Town's property at that location. Chair Vlachos asked how that would work. Ms. Elliott added that it is the same as taking care of the grass strip of land in front of your home sidewalk. Ms. Scott said they will agree to maintain it.

Chair Vlachos asked if the consensus is to eliminate the green space in the back but keep the two garden areas as proposed. Mr. Moynihan agreed with Ms. Elliott in commending the petitioner with open space attempts but it will become more of an eyesore.

Attorney Crane said they would remove the Ekco pavers in the back but they would then have to ask the board for relief from the open space requirement. They would welcome a condition by the board for maintaining the green space in the front of the building but they cannot count the Town's property towards their open space requirement.

Ms. Scott said they would not be at 10.2 for the open space but they also would not be at 0%. Attorney Crane said without the back, they would be around 7%. Ms. Scott said the Ekco pavers are 480 square feet; remove that from the equation and they are at 1,073 square feet (almost 7%). Ms. Santucci asked if they are increasing the open space, but not meeting the minimum do they need the variance. Ms. Scott said yes, as they are not meeting the minimum requirement. Mr. Fernandez said they are lessening the existing non-conformance. Ms. Scott said there would not be a need for the variance.

Ms. Santucci asked if they are just going to put asphalt in the rear now. Mr. Fernandez said they need to protect the building from the parking lot, with curb, holders, landscaping amenities to define and protect the face of the building – especially if there is any type of screen on it. It is a landscape design notion even if it is not green, it should be protected from parking against it.

Jack Collegian, 14 Wells Avenue, said they do not have a lawyer to represent them, but he and his neighbors signed a paper against this project. The neighbors couldn't come – they were all busy. He doesn't know how adding 14 units will not have an impact on their neighborhood when there are only 3 houses – it will triple the impact. Our lives will be miserable with the traffic coming in and out. He pointed to their graphics and said that the single houses are shown the same size as their proposed building and that doesn't make sense because it is four stories. He added that his house is right in front of this house.

Chair Vlachos confirmed a letter in the file dated September 17, 2007, received at the Planning Board meeting, against the petition.

Deborah Peterson, East End Neighbors, said their group has a vision about revitalizing and making the east end more livable. Coolidge Square is the center and in following this project, they think it will be beneficial to the east end. The concerns with the neighbors are imaginary and a different set of scenarios could be that people living in these units are going to drive less as they will be able to walk out the front door to this vibrant community which they will contribute to and probably will not speed by their house, and they will care about the neighborhood. The negative impacts imagined will not have to happen and there will be a lot of positives.

Chair Vlachos asked what the relationship is between this organization and the East End Betterment Association. Ms. Peterson said the missions are different. They want to add to the vitality of the neighborhood – bring in families, that will become part of the community; and to get more people talking to each other. They do not have a formal membership but have a mailing list of 50 people.

Mr. Fernandez asked if she lived on Wells Ave and she responded that she lives on School Street. Ms. Peterson stated again that the views of the Wells Avenue residents is imagined. Mr. Fernandez said that is only her opinion. Ms. Peterson said they do not know what the impact is going to be and she understands they can be fearful and she wants to propose that there could be advantages or mitigating circumstances to prevent their concerns. Mr. Fernandez said the demographics of people that buy these units will not be families. He said she should be careful about putting things on the record that are an opinion and she

should be clear about the points that are less definitive. Ms. Peterson said her point was to say the two views were imagined and that is how she meant it to be said. Mr. Fernandez said her statements put down the neighbors views to state her own visions. He wants to be sure that is on the record and the fact that she doesn't live on Wells Avenue has put things into perspective for him. Both views are equally valued.

Angie Kounellis, 55 Keenan Street, District A Councilor, (after being sworn in) said they had a meeting on October 1st. There was a detailed presentation and she has recused herself from this case. She is still the president of the East End Betterment and they have always neighborhood meetings to address that particular neighborhood. She understands the concerns by the Wells Avenue residents as these are bungalow style homes and they may feel dwarf by any development there. It is also a business district – the Tufts building is the length of Arlington Street and Grove Street with great high; School Lane is in the shadow of that building. The neighbors need to feel comfortable with the height, the parking and traffic - a car was witnessed coming out of Wells Avenue the wrong way, something they will need to address. The board has a difficult decision as they have to listen to the neighbors and the developer has a right to use this property to the best benefit. She commends the developer for listening to the board and returning with less of a variance. The neighbors have to accept that something has to go there, business or residential, they need to come forward. A passage in the letter from the neighbors stated that the town should take the property by eminent domain and she said that is not financially feasible at this time.

Chair Vlachos declared Business Mode:

Ms. Santucci commended the developer on reflecting the comments of the board in the revised plans. She'd like to see the green in the back, but as Ms. Elliott knows quite a bit about landscaping, it will end up a mess. The garden areas gives the building a less-massing feel and she would be in favor of the revised plans eliminating the pavers in the back.

Chair Vlachos read from a memorandum dated 1/24/08 from Danielle Fillis, Senior Planner, "Planning Staff strongly recommends granting Special Permit/Special Permit Finding and Variance for the Floor Area Ration", "The proposal greatly enhances the site by bringing into compliance the requirements for open space, parking and maximum impervious coverage while preserving an important and interesting piece of the town's past." Mr. Merkel said the Planning Staff reiterates that the developer worked closely with the town and responding to the board's wishes in coming up with a plan that would work well with the Coolidge Square area and part of that is maintaining the façade and coming up with a typology that matches what is in that area.

Mr. Moynihan said he supported the project even at the last meeting. He believes it meets the variance criteria for both the open space and the floor area ratio. If the strip in the back

were voted on in a variance he would be in support, but he doesn't feel it is necessary to vote on a variance for that. Ms. Scott agreed.

Ms. Elliott supports the proposal.

Mr. Fernandez said he is surprised that there is so much effort to retain the façade. He requested an engineering report and received it. Everything that is structural has to be replaced. This condition will be close to entirely replaced and the concrete façade is not a historically registered condition, it is badly damaged and he is concerned that the repairs will make it look worse because of the diagonal cracking. The urban condition is not pleasant, the sidewalk is too narrow. The idea that people will be sauntering down Arlington Street is imagined as it is not big enough to provide a positive urban condition. The massing of the renderings shows the façade is a one-story condition that can go away and they can still have the 14 units with the parking and provide a setback that is more consistent with the context. The commercial buildings along the street have the setback and the neighboring houses have the same setback. The roof is new, the structure is new, every column will be replaced – it is not a structure that will be readapted. He is concerned that when they are finished with the repairs of the façade, it will be awful. The bracing is not as thick, technically the images are not what is reality. They are dealing with sizable conditions. He doesn't see why they can not eliminate that and make a better situation for the Town. If they do that, it would be beyond the open space requirement. He feels that it unbelievable.

Chair Vlachos agrees and wishes they would demolish the building and put up a new structure, but they have already gone down this path and he is in favor of the new plan. Planning thinks it is important to preserve it and he disagrees with that. He would like to see some signage at the end for the driveway "Right Turn Only" to be sure no one goes up Wells the wrong way. He understands the neighbors concerns, however, any development brings change and that is difficult to accept sometimes.

Mr. Fernandez mentioned the Atrium School was recently renovated in a sensitive and positive way. He again made a point that a commercial property can aspire to offer this back to the town is a real one. This site can do the same thing or better. He is concerned that the board is accepting existing conditions at the expense of better conditions for the next 50 years.

Ms. Santucci asked if all of the proposed garden areas meet the town's definition of open space. There is some permeability in the pavers, but are they 100% pervious. She requests the manufacturers specs on the product that will be used to see if it is actually 3 or 4% vs. 7%. Ms. Scott said this would have to be viewed first to determine how much of a percentage it is. Ms. Santucci said the plans will have to be revised to remove the items in

the back and she would like the calculations redone on the open space area. Ms. Elliott asked if this could be approved even if it is less than 7%. The board agreed it would to vote on this now with a condition.

Mr. Fernandez proposed a condition to be added regarding the façade: The corners of the building may be lost when they are trying to open them up for the green space. He doesn't believe they will be able to brace the façade where the cracking in. The evaluation did not provide a condition of the façade but was quite clean on the condition of the building. If the board attempts to condition the proposal, he doesn't believe they will end up with any of the corners as they will fall down. He wants an assessment done by an engineer on the façade stating the location and the size of the cracks and stating that a new lintel can be added in this manor for that length at the two corners. He doesn't believe the proposal will stand up and he wants to know what will replace it.

Attorney Crane said that this issue isn't a Zoning issue. Chair Vlachos clarified saying that during the construction or demolition, this issue arises but the construction continues and then the board is notified, the petitioner would come back to the board saying they have already gone too far to change – the board wants to know as soon as possible if anything in the plans have to change. Mr. Fernandez wants to know why this isn't part of the original request – as a non-conforming existing condition, which makes this a zoning issue. Attorney Crane stated that there isn't a setback requirement for this district. Mr. Fernandez took back his comment as there is not a requirement for a setback in the Limited Business zone.

Chair Vlachos wants to be sure the condition regarding the signage is enforced to avoid traffic problems: 'Right Turn Only'. Landscape issues at the rear of the building are to be eliminated and recalculations on what the open space actually is. Ms. Scott needs the cut-sheet on what they are using for the blocks. Ms. Santucci requests that they provide the revised control plans and it is referenced in the findings that we talked about this. Ms. Scott will work with the architect.

Ms. Scott suggested a condition that they are working with the DPW and any conditions DPW requires, the board would support.

Ms. Santucci asked if maintenance of the front would be a condition.

Chair Vlachos read for the record a letter from Attorney Crane, dated January 29, 2008, setting forth the criteria required for a variance. He said they are clear and can be adopted for this petition.

Ms. Santucci motioned to grant the variance for the floor area ratio as recommended by the Planning Board and pursuant to the criteria required and submitted with conditions discussed. Ms. Elliott seconded. All in favor? 5 – 0 Granted

Ms. Santucci motioned to grant the special permit finding to allow the alterations to the non-conforming structure as revised and amended and conditioned discussed.

Mr. Fernandez requested his condition be included. Ms. Scott reiterated the condition to be: "Denco Engineering to assess the façade with the proposed alterations". Mr. Fernandez wants to know if the proposal is technically possible – even the existing cracking on the façade. Chair Vlachos confirmed that is part of the motion for the special permit finding.

Ms. Elliott seconded. All in favor? 5 – 0 Granted.

Chair Vlachos asked for a motion to approve the special permit for the former manufacturing building to a residential use comprised of 14 residential units. Ms. Santucci motioned. Ms. Elliott seconded. All in favor? 5 – 0 Granted.

Harry J. Vlachos, Chairperson

Melissa M. Santucci, Clerk

Stuart J. Bailey, Member

Deborah Elliott, Member

Carlos Fernandez, Member

Richard M. Moynihan, Alternate

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Tape 2 of 2, Side A, Continued

Chair Vlachos stated the next case is a Request for Opinion regarding the Aggregate Asphalt Plant relative to the proposed equipment improvement concerning condition 2 of the Special Permit, #00-46.

Ms. Santucci asked if the Zoning Enforcement Officer has rendered a decision and this is an appeal to that decision. Ms. Scott said this is other business and per Condition 2, requesting opinion from the Board.

Jerry Effrin, Council for Aggregate Industries, introduced Dominic Mantica, Plant Supervisor and Scott Colby, Corporate Office. They are here as required by a condition within the Special Permit granted in November 2000, which states the board must determine if changes can be made with or without a modification to the Special Permit.

Not every modification requires a modification of the Special Permit and they are going to present the changes that they believe do not require a modification to the Special Permit.

Aggregate is introducing to all of its plants in Massachusetts, the ability to recycle asphalt pavement as a raw material in it's asphalt batching process. DEP in 2006 issued a mandate that they would encourage a solid waste ban to not burden over crowded land fills and to use less natural resource materials when alternative materials are available. Recycled asphalt pavement (RAP) is ground up driveways and roads which is brought to a processing site, manufactured and comes to an

asphalt plant via a state exemption that exempts this material from normal municipal site assignments, which would be governed by the Board of Health, which would treat this as solid waste. They will take the manufactured material to this facility, store it in one of the existing concrete bins (built by Special Permit, issued a Building Permit and Certificate of Occupancy) and then combine it into the mix. It will allow for a reduction in the raw material used but will have the same end product. RAP requires alterations to the equipment. They will need to treat the gases (steam and particulate matter) for a longer period of time. The bag house has cloth fibers and baffles inside and takes the material which contains steam and dust and little particles and baffles them back into the heat source which gets burned away, some of it drops as ash and the idea is to have a cleaner and more environmentally safe burn. RAP in this process requires a larger bag house. The increased bag house size will be raised by four feet in the middle (no change to the foot print) introduce additional cloth fibers and get a new burner. The burner wouldn't require a building permit as it is the same as replacing a motor on a machine. Since the modifications are going to be made, they intend to replace the 30 ton burner with a 50 ton burner. This is an equipment modification and not a change in the structures on the property; no new traffic caused, no other changes to other buildings, and it is within the board's discretion to allow this without a modification to the Special Permit. They will follow the requirements for a Special Permit, if necessary.

Chair Vlachos stated that it seems as though everything they would ever be concerned about would be less than what they originally were concerned with – less pollution, etc.

Dominic Mantica, after being sworn in, explained they want to do this the right way as they have neighbors and they are in the city. The bag house enlargement would be sure not to pollute. They have complaints occasionally regarding odor and they will replace the burner to avoid that. They do not have to replace the burner.

Mr. Fernandez said they will recognize a significant savings. Mr. Mantica said they will not recognize savings from the burner. The burner they have is running 99.9% efficient now.

Chair Vlachos asked how traffic will be effected. Mr. Mantica stated that putting recycled asphalt will not effect traffic flow. It takes a small footprint of the yard, and they can put 25-30 trucks in the yard now and if there are a lot of trucks, it's not going to increase volumes. Customers come and get it, like you would go to Stop and Shop to buy groceries, the little guy comes to buy asphalt. They don't control who comes there.

They have drawings of the bag house, rap conveyor, feed hopper and the batching tower. Drawing 2 of 5 shows the elevation. The burner is located at the end where the dryer is, all the way to the left but not showing on the plan. It is about 6 feet off the ground. The burner will take up the same amount of space it takes up now. The footprint will not change. The burner is all part of the same platform. It is a part of the kiln or dryer.

Ms. Santucci asked if this new technology will be brought to the site or if people will bring asphalt to the site for them to recycle. Mr. Mantica said that people drop their old asphalt off here and buy new asphalt – it is a convenience for them. It is then hauled off site to Saugus or Chelmsford where they have recycling crushers. They truck it off to sites that already use the recycled product now. When it is trucked back to Watertown, it will be already processed. 3/8 stone with fines in it, it is crushed asphalt, no dust, it will be dumped into the storage bin and then fed into the feed hopper for the process. They will not be crushed at this site. They want to introduce it to their current process. They need a place to put it, then it will be added to the mix that is now being processed. Right now they have stone sand, 3/8 stone, 1/2 inch stone, 3/4 stone and recycled asphalt 3/8 minus. There isn't any contaminated material.

Chair Vlachos said the legal opinion from the Town's counsel suggests that they should go forward with the Special Permit application. Attorney Effrem said the first part of the letter from the Kopleman and Paige does not have anything to do with what they are suggesting. The last portion of the letter suggests that they favor the modification vs. a finding. Chair Vlachos said they should go through the regular process even though he is in favor of what they are doing. He wants the abutters to be notified to be able to hear their view.

Mr. Moynihan is in favor of going through the formal process.

Ms. Elliott agrees with the town's counsel.

Mr. Fernandez asked what the lead time is on the equipment. Mr. Mantica said 4-6 weeks.

Mr. Fernandez asked what the increase in the raw material traffic will be. Mr. Mantica said there wouldn't be any because what they take in for recycle there will be less virgin aggregate brought in – less sand, less stone and liquid asphalt, they will be brought in with recycle. Mr. Fernandez noted the 1 to 3 ratio as impressive.

Attorney Effem added that the site is very small and it is very difficult to increase any area – very part of the site is in commercial operation. They look forward to making a good presentation.

Chair Vlachos noted for the record a letter written to the Mount Auburn Club from Attorney Winnick on the avoidance of a public hearing.

Mr. Fernandez asked if old asphalt is brought in to purchase recycled asphalt, how does the town know it is not contaminated. Mr. Mantica explained that the asphalt brought in by customers is hauled out daily. Now they have their stock trucks haul it out. Contaminated sites are regulated and that is not brought to the site. Ms. Elliott commented that this is something that happens at the site now, it is an existing condition and is not changing. Mr. Mantica said there are state regulations that mandate how much contamination is in it to call it contaminated. If your driveway is contaminated, then there are problems in your yard. Chair Vlachos asked Mr. Mantica to further investigate that to be prepared for when they are in front of the board. Mr. Mantica said they do have two sites that accept contaminated asphalt through state permits, Stoughton and Shrewsbury. They have not found batches that are contaminated and he manages 6 locations on the north shore that all have recycling processes. All trucks that come in are weighed and if they have manifests, they cannot come in.

Ms. Santucci motioned to have them come back to the board to seek an amendment to the special permit.

Ms. Elliott seconded.

All in favor? 5 – 0

Motion to adjourn at 9:10 p.m.