

Town of North Andover  
PLANNING BOARD-Meeting Minutes

Approved 10/20/15

John Simons, Chairman  
Lynne Rudnicki  
Peter Boynton



David Kellogg  
Lora McSherry  
Regina Kean (Associate)

Tuesday October 1, 2015 @ 7 p.m. Town Hall, 120 Main Street, North Andover, MA 01845

1 Present: J. Simons, L. Rudnicki, L. McSherry, D. Kellogg, P. Boynton, R. Kean  
2 Staff Present: J. Enright

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4 J. Simons, Chairman: The Planning Board meeting for Thursday, October 1, 2015 was called to order at 7 p.m.

5  
6 **BOND RELEASES:**

7 107 Campion Road, Dimitrios Saragas: Applicant requests release of a \$4,000 performance bond associated with an August 5,  
8 2014 Watershed Special Permit.

9 J. Enright: Some required plantings are being replaced. This request will be moved to the next meeting.

10  
11 The Glade (Great Lake Lane): Tom Zahoruiko requests a roadway bond reduction in the amount of \$11,000 and release of the  
12 Site Opening bond in the amount of \$5,000.

13 J. Enright: This is a request for a partial release of the roadway bond and the full site opening bond. The access from Great  
14 Pond Road is complete and the street is constructed to binder coat. The DPW has approved release of the \$11,000. The  
15 applicant has to submit documentation for a Covenant or Homeowner's Association for the maintenance of the stormwater  
16 structures.

17 L. Rudnicki: What is the status of the cul-de-sac?

18 T. Zahoruiko: The DPW prefers no island for plowing purposes and the NAFD prefers the same due to difficult turning  
19 radiuses. Since the Board prefers it – recommend that the cul-de-sac be landscaped with low maintenance shrubs, be relatively  
20 level, non-curbed, and suggested it have a large site boulder in the center of the area.

21 **MOTION:** D. Kellogg made a motion to release the Roadway bond in the amount of \$11,000 and the Site Opening bond at  
22 \$5,000 totaling \$16,000. L. Rudnicki seconded the motion. The vote was 5-0, unanimous in favor.

23 **MOTION:** L. McSherry made a motion for the Planner to work with the developer on the final design of the cul-de-sac. L.  
24 Rudnicki seconded the motion. The vote was 5-0, unanimous in favor.

25  
26 **PUBLIC HEARING:**

27 [CONTINUED] 1600 Osgood Street: OSGOD Permit for Solar Project (Map 34 Lot 17): Applicant seeks approval for  
28 construction of a rooftop and parking canopy mounted solar photovoltaic system (6MW and/or roughly 19,500 solar modules)

29 J. Enright: Several items were received over the last few days. A revised plan set and a response to stormwater peer review  
30 and civil peer review was received late today. Those documents are provided in hard copy this evening. The applicant  
31 submitted a Section 17 Osgood Smart Growth Overlay District memo. The application is required to meet the dimensional  
32 design and other criteria described in 17.9-17.15. The document submitted details a response to each section. The Board  
33 needs to determine if waiver requests will be granted. Submittals, as follow-up to requests made at the last meeting are a  
34 landscape exhibit, current required parking space count estimates, and lighting specs. The Board and peer reviewers will need  
35 to determine adequacy of these submittals. The Fire Chief has read the civil peer review comments and has submitted a letter  
36 stating that he agrees with the concerns mentioned and has forwarded the plans to the state Fire Marshall's office. He is  
37 waiting for comments back. Comments have also been received from the Town Manager on behalf of the Board of  
38 Selectman., the Conservation Administrator, and the ZBA Chair. The manager of the Lawrence Municipal Airport is not  
39 aware of any FAA requirements related to this project; however, he has reached out to the regional office and has not yet  
40 heard back. The required vote for Plan Approval, whether it is majority or super majority, still needs to be determined.

41 D. Leary: Reviewed Section 17 Osgood Smart Growth Overlay District memo as submitted, addressing the project's  
42 applicability/non-applicability to several sections. The applicant stated that if the Planning Board finds a Section to be  
43 applicable, where the applicant did not, then a waiver is requested.

44 L. Rudnicki: You will need to clarify how you calculated the quantity of parking spaces.

45 J. Simons: You cannot waive all the requirements that are core items essential to the Planning Board. Sections 11.1 and 11.2  
46 are not items that can be waived.

47 J. Simons: Do you have a landscaping plan demonstrating the new buffering?

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- 48 D. Leary: Presented photos of the existing site showing existing landscaping taken from points along Osgood Street.  
49 Confirmed they are not proposing any new landscaping or plantings and stated there will not be any clearing of existing trees  
50 on the abutting parcel (between site and Holt Road).
- 51 J. Simons: This is the first proposal before the Planning Board that I have ever seen that wouldn't require any landscaping?  
52 Board: General discussion regarding the size of the footprint of the carport canopy on the South side, the visual impact of  
53 these from Osgood Street, the ability and level of difficulty for relocation, available roof space, existing business use in  
54 parking area where carports are shown to be proposed, impact of storm drainage perception of peer reviewer vs. applicant,  
55 operation and maintenance requirement, height or canopies, associated signage and compliance with DOT guidelines for  
56 clearance.
- 57 Richard Waite, Engineer: The project is determined to be outside of the Conservation wetlands jurisdiction based upon a  
58 filing determining the wetlands are valid through 2018. Our environmental consultant concludes we don't fall under the  
59 wetlands protection act. Your consultant, L. Eggleston, believes we are subject to the state's Stormwater Management  
60 guidelines. I believe that she has an interpretation of your Bylaw that says we need to comply with that state act. It is our  
61 interpretation that we do not fall within the state act and the local law cannot bring us under the state act.
- 62 J. Enright: My interpretation of what L. Eggleston said is that although she agrees state stormwater standards are debatable,  
63 there is a Bylaw requirement that should be met for this development (Section 17.11.15). Specifically, number 8 and number  
64 9. Currently no treatment is provided in the parking lot.
- 65 R. Waite: We disagree with that interpretation. Under the state act, we are not required to meet that obligation. The language  
66 states to the best extent "practicable". Instead of debating what is practicable vs. practical, we propose to commit to \$50K  
67 worth of stormwater management upgrades in order to satisfy this interpretive issue.
- 68 J. Simons: Have you responded to our consultant's interpretation point by point? I don't understand this is stormwater on your  
69 property, so who is giving \$50K to whom?
- 70 R. Waite: No, we have not.
- 71 M. Rosen: L. Eggleston agrees with our engineers that we are not changing surface area on the property. The project does not  
72 have an impact. The question becomes, is there an obligation? We don't believe there is and nothing would trigger it. We  
73 don't think this is any more than applying equipment to existing property. Nothing we are doing is changing the runoff or the  
74 stormwater in any way. We feel this is a practical approach to agree to a bond, or a cash account and we will employ the  
75 engineers to improve the property's condition.
- 76 J. Enright: The project is within OSGOD which triggers these improvements. There is ground disturbance, it's a  
77 redevelopment.
- 78 L. Rudnicki: Adding new buildings and structures to the property is a significant redevelopment.
- 79 L. McSherry: You are sheltering vehicles by creating a carport canopy structure.
- 80 M. Rosen: Under the building code it isn't considered a roof. It's a piece of equipment.
- 81 L. Rudnicki: It's not the building code we're interpreting. It is in the definition under OSGOD.
- 82 L. Rudnicki: Our peer review has not seen any of the photometric plans.
- 83
- 84 J. Simons: Our peer review has not yet seen these documents yet.
- 85 D. Leary: We haven't put together the construction drawings yet. There are potholes on the property and the facility manager  
86 is preparing a review. We will repair existing divots, patch, reseal and restripe the lot. It will look like a fresh lot.
- 87 L. Rudnicki: Expressed dismay over the lack of plan to repave and enhance the parking lot particularly since it hasn't been  
88 repaved in several years. Cutting and patching the lot is not attractive to new business. Catch basins are failing and jersey  
89 barriers are crumbling, etc.
- 90 D. Leary: I disagree the whole lot needs to be repaved.
- 91 R. Kean: The parking lot landscaping guidelines mention improvements to the parking lot not just new creation.
- 92 R. Waite: Reviewed plan modifications; noting fire truck access lanes, turning radiuses, etc. In the previous design canopy  
93 roofs impinged upon the 25' driving aisle. The 9x18 parking spaces will not be interrupted by the canopy support columns.
- 94 J. Simons: What is your experience with people hitting the canopy columns?
- 95 R. Waite: They shear off a piece of the concrete without damaging the array. The 11 ft. height is a carport standard.

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- 96 J. Enright: Will there be a defined tractor trailer route to the back loading docks and the docks on the North side of the  
97 building? Are those routes defined on the revised plans?  
98 D. Leary: We can add those to the plans.  
99 J. Peznola, Hancock Associates: Prefers more comprehensive lighting plans incorporating the canopies and existing site  
100 lighting.  
101 J. Simons: Our jurisdiction is limited. Our peer review has not had the opportunity to evaluate these documents. They will  
102 respond to these comments and changes and there are still areas of disagreement between our peer review's interpretation of  
103 the Bylaw and your consultant's opinion. Is there any more information you'll be providing our peer review consultants that  
104 you haven't yet?  
105 D. Leary: Drainage and any unanswered questions the Fire Chief may have.  
106 Larry McHugh, 136 Castlemere Place: Voted in May of 2007 for the original mixed-use Master Plan for this site. Many  
107 people supported it. It would have been a very vibrant part of our community today. Reviewed financial components of  
108 associated with the 40R. As a citizen, I am disappointed the project never happened. I ask you not to do anything in this new  
109 plan that stands in the way of the highest best use for this site. I question whether the canopies will disguise visibility to this  
110 potential retail building(s). I would suggest you limit solar cells to the roof only. I implore you not to do anything on this site  
111 that hinders the progress of the overall original mixed use plan that was voted on at Town Meeting.  
112 Donald Stewart, 52 Prospect Street: Expressed his support for solar and the potential revenue for the town based on the  
113 reduced electrical rates generated from this project.  
114 L. Rudnicki: If this site is successfully developed like the 40R site, Market Street, in Lynnfield, we'll stand to gain more.  
115 M. Rosen: Disputed the financial components of the 40R previously discussed. We met with the Selectmen and ZBA, we  
116 continue to be willing to meet and put together reasonable solutions so as not to derogate from our right under 40A to build  
117 this project. We need to expedite this project. Offered two alternative approaches for extending the time for making a  
118 decision.  
119 L. Rudnicki: You are asking us to approve the project and negotiate the terms afterwards (one alternative)? I don't think  
120 October 20<sup>th</sup> is enough time. We received materials tonight.  
121 J. Simons: We can't approve the project and negotiate afterwards. The time we've spent on this is unprecedented. We got a  
122 new set of plans tonight. You are accelerating that beyond our normal process. Approving the project by the next meeting will  
123 be difficult. You take a calculated risk with the amount of your suggested waivers. You need to address some of these.  
124 M. Rosen: We will then give you until the 20<sup>th</sup> and an additional week to write your Decision.  
125 L. Rudnicki: You have to eliminate half the waivers. The landscaping needs to be addressed. The Bylaw states you are  
126 changing the parking. Per the Selectman's meeting, I would suggest that the applicant review their request for relocation of  
127 panels from the south side.  
128 **MOTION**: D. Kellogg made a motion to accept the extension to October 20, 2015 with the time to render the Decision by  
129 October 27, 2015. The motion was seconded by L. Rudnicki. The vote was 5-0, unanimous in favor.  
130  
131 **DISCUSSIONS:**  
132 0 Essex Street, G. Schruender representing property owner: Discuss permitting options related to potential development of  
133 Map 103 Lot 5.  
134 George Schruender, Representing the property owner: The land is on the Boxford line. Lot 5-Essex Street was approved by  
135 the Planning Board in 1974 under Form A. Since then, two changes in zoning occurred. The land went from R2; one acre  
136 zoning, to R1; two acre zoning and the frontage increased from 150' to 175'. We don't have the adequate frontage. The  
137 easement was in place for access prior to the change in zoning for common driveways. This driveway was originally built to  
138 service three homes; two homes have been built (lots 2 and 4), and the third lot (5) has no home on it. When lot 2 was sold,  
139 the owner included a deed restriction stating common drive expenses would change once someone built on lot 5. Lot 5 was  
140 bought in 1975, and in 2000 there was a change in ownership (from husband and wife to just husband). Therefore, the lot is  
141 not grandfathered. Access over the street frontage would require a wetland crossing. The lot may be in the watershed area.  
142 J. Enright: They have an easement allowing access/egress and required maintenance. In 1989 there was a Bylaw amendment  
143 allowing for a common driveway to service only two lots. The lot is within the Watershed; however, depending on the

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144 location of a proposed house a Watershed Special Permit may not be necessary. It would be dependent on a wetland  
145 delineation and the distance from wetlands.

146 Board: Consensus was that the Board would like to think about the challenges and permitting options.  
147

148 57 Water Street, Cindy Robinson: Applicant requests Waiver of Site plan Review for a proposed restaurant within the General  
149 Business Zoning District and Downtown Overlay

150 J. Enright: This property is within the Downtown Overlay District and within the General Business zone. The location has  
151 historically been used as a restaurant and catering business.

152 John Smolak, (rep. for the applicant): As a result of its change of use to a catering business, the property has lost it's  
153 grandfathering for parking. We are requesting a determination that the parking that is on-street can be used to satisfy the  
154 proposed restaurant parking requirements. We also seek a site plan review waiver because little is changing on the exterior of  
155 the site. The site currently has three structures on it; the restaurant, above it a rental unit, to the rear another rental unit and a  
156 storage shed. The only changes being made are to the use on the first floor or existing restaurant area. The owner is converting  
157 it to a breakfast/lunch café. The site requires 22 parking spaces. It has never had 22 parking spaces. New parking requirements  
158 require 15 spaces per 1,000 sq. ft. and the restaurant use is 1,350 sq. ft. The two rental dwelling units require one space each.  
159 We can get three spaces on site including one handicapped space on site. The parking table, under the zoning bylaw, footnote  
160 7 provides that in circumstances where a site is located in this area the Planning Board can make a determination of adequate  
161 parking by using the on-site parking on Water Street. There are 19 spaces on Water St. that could be considered. Would the  
162 Board be willing to entertain a waiver of Site Plan review? The only exterior changes are the repair and reconstruction of the  
163 front stairway and deck area. In addition, a handicapped accessible ramp access will be provided. There will be a change in  
164 the awning as well which will fall under the Machine Shop Village review.

165 L. Rudnicki: I'd be willing to waive SPR if you can come up with an informal landscaping plan that we can review and  
166 approve to include with the Decision. I would suggest you break up the front of the building, i.e. formal planters.

167 J. Simons: I suggest we motion to waive the SPR and have our Planner work with the applicant to devise an informal  
168 landscaping scheme.

169 **MOTION**: L. Rudnicki made a motion to waive Site Plan Review and determine that the three parking spaces on site with a  
170 handicapped spot and the 19 parking spaces on Water Street are sufficient. The planner will work with the applicant to devise  
171 an informal landscaping scheme. D. Kellogg seconded the motion. The vote was 6-0 unanimous in favor.  
172

173 599 Turnpike Street, Jodi Chatterjee: Applicant requests Waiver of Site Plan Review for a proposed Spa within the CDD1  
174 Zoning District. [Continued to next meeting]

175 2016 Planning Board Meeting Schedule- The Planning Board meetings will be temporarily located at the new School  
176 Administration Building due to renovations to Town Hall. The Board reviewed and approved the proposed 2016 Planning  
177 Board meeting schedule.

178 Watershed Informational Mailer

179 Water Quality Research

180 Planning Board Rules & Regulations

181  
182 **MINUTES APPROVAL**

183 Approval of September 1 & 15, 2015 Planning Board meeting minutes.

184 The Board did not review the minutes.  
185

186 **ADJOURNMENT**

187 **MOTION**: L. Rudnicki made a motion to adjourn the meeting. The motion was seconded by D. Kellogg. The vote was 6-0,  
188 unanimous in favor. Meeting adjourned @ 10:30 p.m.  
189

190 **MEETING MATERIALS**: October 1, 2015 Agenda, DRAFT September 1, 2015 Meeting Minutes, DRAFT September 15,  
191 2015 Meeting Minutes; Draft 2016 PB Meeting Schedule; 0 Essex Street: ANR 1974, Easement to pass 2, Easement to pass

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192 and maintenance, Locus 0 Essex St, Quitclaim Deed Jan 2000; 107 Campion Road: Engineer certification Letter, Deed  
193 Restriction, Recorded Decision, 107 Campion Rd As Built Plan; The Glade: Def. Subdivision Plan Notice of Decision,  
194 GLADE BOND SPREADSHEET, 9/21/2015 Email RE Great Lake Lane (The Glade) Bond Reduction Request; 57 Water  
195 Street: Locus 57 Water St, Narrative and Photos 57 Water, Neighborhood Locus 57 Water, Request for SPR Waiver 57 Water  
196 REV, Request for SPR Waiver 57 Water, Site Plan Set 9.25.15 57 Water; 599 Turnpike Street: Bark of The Town Parking Lot  
197 607 Turnpike, Locus 599 Turnpike, Site Pic and Proposed Improvements 599 Turnpike, Waiver Request Letter and Site  
198 Sketch 599 Turnpike; 2016 DRAFT PB Meeting Schedule; 1600 Osgood Street: 150915 Eggleston Comment Response 1,  
199 150924 Rev 2 Plan Approval Set, 150925 Letter to Town of North Andover Planning Board 9-25-15, 151001 A. Maylor  
200 correspondence Osgood Solar Review 2015, 151001 Conservation Administrator Comments-1600 Osgood Solar Updated,  
201 151001 Follow Up Presentation, 151001 Open Items v2, 151001 Photos of Site As Viewed From Osgood Street, 151001  
202 Stormwater Response from Applicant, Civil Peer Review Summary 20150925, 9/30/2015 Email Eggleston Re Ozzy  
203 Properties Inc. Solar Development Stormwater Mitigation Proposal, Eggleston Review Comments 2, Email desc.092415 Plan  
204 Revision, Erosion Control Exhibit Plan 150929 5723-ECP\_REV\_20151001, Fire Chief Comments, Landscape Exhibit, life-  
205 cyclehealthandsafetyconsiderations, OSGOD Section 17 Requirements (00444007xA4627), Parking Analysis, PB Render,  
206 Photometric Diagrams, Plan Pages 7 8 and 9, PROFILES, Typical Lighting Photometrics; 150929 Plan Approval Set  
207 REV3; 151001 Stormwater Response from Applicant

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