

PLANNING BOARD
Meeting Minutes
Tuesday, April 3, 2012
Town Hall, 120 Main Street
7:00 PM

1 Present: J. Simons, T. Seibert, M. Colantoni, R. Rowen, D. Kellogg, L. Rudnicki

2 Absent:

3 Staff Present: J. Tymon, J. Enright

4 Meeting began at 7:00 pm.

5 **LOT RELEASE**

6 166 Salem Street: Request for a Lot Release.

7 J. Tymon: This is a three lot subdivision approved by the Board in 2009. Jack Cahill, owner of
8 the existing home on one of the lots, is requesting a lot release for his lot so that he can get a
9 building permit to put an addition onto his house. Ninety percent of the site work is complete.

10 **MOTION**:

11 A motion was made by D. Kellogg to release the lot for 166 Salem Street and to authorize the
12 Town Planner to sign the Form J. The motion was seconded by M. Colantoni. The vote was
13 unanimous.

14

15 **ANR**

16 Peach Tree Lane: Request by Kenneth Rea.

17 J. Tymon: This request is for a lot line change. The Peach Tree subdivision is a PRD in the R-3
18 zoning district and requires lots to be 12,500 sq. ft. The remaining lot area after this lot line
19 change will be 12,523 sq. ft. They also require a 50 foot perimeter no disturb, no tree cutting
20 zone. Since the lot does not have a structure on it that is not a problem.

21 **MOTION**:

22 A motion was made to direct the Town Planner to sign off on the ANR form by R. Rowen. The
23 motion was seconded by T. Seibert. The vote was unanimous.

24

25 **PUBLIC HEARINGS**

26 CONTINUED PUBLIC HEARING: 102 Peters Street, Application for Special Permit-Site Plan
27 Review. Applicant proposes to raze a single family home and to construct a 2,745 sq. ft., single
28 story commercial building with an eleven (11) parking space parking lot, landscaping, and site
29 utilities.

30 J. Tymon: A draft Decision has been prepared. At the last meeting all of the issues were
31 addressed. Nothing else has come up between then and now.

32 J. Simons: Stated he was not at the last meeting; however, has reviewed the meeting minutes
33 and will participate in the Decision.

34 **MOTION**:

35 A motion was made by D. Kellogg to close the Public Hearing for 102 Peters Street. The motion
36 was seconded by R. Rowen. The vote was unanimous.

37 Draft Decision was reviewed.

38 **MOTION**:

39 A motion was made by R. Rowen to approve Special Permit for 102 Peters Street, as amended.
40 The motion was seconded by M. Colantoni. The vote was unanimous.

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42 CONTINUED PUBLIC HEARING: 26 Main Street, Application for Special Permit-Site Plan
43 Review. Applicant proposes construction of an eight (8) unit residential condominium project
44 with two (2) parking spaces per unit on a lot with access to Main Street via existing easements on
45 two (2) existing lots fronting Main Street at 22-24 and 28-30 Main Street and an existing curb
46 cut at the noted lots.

47 J. Tymon: The Board asked at the last meeting to get an opinion from Town Counsel as to what
48 the Board has purview over and a copy of the response memo from Tom Urbelis has been
49 distributed. Summarized the comments in the memo. There are some outstanding stormwater
50 issues that need to be resolved. The third party civil review response was received today. The
51 Fire Department has requested that the access lanes and traffic flow, existing parking, and visitor
52 parking be indicated on the plans for both the proposed building and the two building units out
53 front. The Fire Department could not comment on fire truck access until the in/out access lanes
54 and parking are on the plans. In a meeting today with the applicant they have agreed to some
55 changes to allow some better access to the property.

56 Attorney Domenic Scalise, Representing the applicant: This project started in 2008. It is
57 industrial land and the original application was for an industrial use, a storage facility. In
58 February 2009 the storage facility application was approved. After that time the Overlay District
59 was allowed in order to give some relief to the downtown area. Residential property is now an
60 allowed use on an industrial piece of property and a Modification from the Zoning Board of
61 Appeals to allow this use has been approved.

62 Bill McCloud, Andover Consultants, Inc: Reviewed the proposed access path into and out of the
63 site. There would be one-way access between the two Main St. fronting buildings to the site,
64 two-way traffic in front of the new eight unit building, a right hand turn only out of the new
65 building site, and a one-way exit to Main Street along the side of 22-24 Main Street.

66 D. Kellogg: What is the distance to the property line of the abutters on Saunders Street?

67 B. McCloud: About six feet. There is a landscape buffer.

68 R. Rowen: Who owns the entrance drive between the two buildings?

69 B. McCloud: There is a property line right down the center of it. There are recorded easements
70 which were provided with the application.

71 D. Kellogg: Stated that Ellis Court, about a block up Main St., has a similar type structure on it;
72 however, he estimated size to be slightly larger for seven units than the proposed structure for
73 eight units.

74 D. Scalise: Ellis Court had had units on it that were torn down and replaced with the current
75 seven unit structure. Stated he was not aware of the lot or building size.

76 B. McCloud: There are two parking spaces provided for each unit and the pavement in front of
77 the units is 22' so there is room for parking along the side of the pavement.

78 J. Tymon: In the meeting today we discussed that the Board may want to see some architectural
79 renderings. The applicant will provide that architectural design at the next meeting.

80 D. Kellogg: Asked what the impact on the school system would be?

81 J. Simons: Believed that it would be minimal.

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82 R. Rowen: If this were a commercial development there would be a requirement for a clear 25'
83 behind a parking space. Although not recommending going to 25' from the proposed 22' for the
84 roadway there may be a waiver required.

85 J. Simons: Stated he did not think it was a problem, but it may be difficult to turn around. What
86 did the Fire Department say?

87 J. Tymon: They are providing a hydrant. He was concerned about trucks being able to come
88 out, but the biggest concern is usually with the ability to get the truck in. He did not have any
89 major concerns; however, the Fire Department would like to see the access plan and parking
90 plan.

91 R. Rowen: What is the Plan for trash pickup and snow removal?

92 B. McCloud: Trash removal will be handled by a private trash hauler on a certain day. There will
93 not be a dumpster. The snow storage areas are shown on the plan.

94 Chris Huntress, Huntress Associates: Reviewed the landscape plan, including a split rail fence
95 along the back of the property.

96 D. Kellogg: Suggested greenery in addition to the split rail fence.

97 T. Seibert: Read a letter submitted by abutter John Cusack, Break Away Realty Trust 28 Main
98 Street, dated April 3, 2012.

99 J. Simons: The meeting will be continued until May 1, 2012.

100

101 CONTINUED PUBLIC HEARING, 350 Great Pond Road: Application for a Watershed Special
102 Permit. Applicant seeks to modify an existing single family home by constructing a 1,696 square
103 foot addition to the existing structure, associated grading and landscaping in combination with
104 the razing of an existing accessory structure (garage).

105 J. Tymon: Based on comments made at the last meeting a draft Decision has been prepared and it
106 includes conditions limiting tree cutting, no new lawn area, and that an additional garage can not
107 be added to the property.

108 J. Simons: Questioned whether there is a 25% maximum increase in square footage in the Bylaw
109 that applies to this location.

110 J. Tymon: 150% increase in gross floor area is allowed in the non-discharge zone. This would
111 allow 4,049 sq. ft. and this home is proposed to be 4,042 sq. ft.

112 J. Simon: Stated he would not vote on this because he missed the first hearing on this
113 application.

114 MOTION:

115 A motion was made by R. Rowen to close the Public Hearing for 350 Great Pond Road. The
116 motion was seconded by D. Kellogg. The vote was 4-0. J. Simons abstained.

117 Draft Decision was reviewed.

118 MOTION:

119 A motion was made by R. Rowen to approve the Special Permit for 350 Great Pond Road, as
120 amended this evening. The motion was seconded by D. Kellogg. The vote was 4-0 with T.
121 Seibert, R. Rowen, D. Kellogg, and M. Colantoni voting in favor. J. Simons abstained.

122

123 CONTINUED PUBLIC HEARING, 70 Elm Street: Application for a renewal of a Wireless
124 Special Permit for the operation of an existing wireless communication facility within the

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125 Residential-4 (R-4) Zoning District under Sections 8.9 and 10.3 of the North Andover Zoning
126 Bylaw.

127 J. Tymon: This application is for a renewal only, no changes to the installation. All required
128 documents have been received. One of the Board members did ask that Mark Hutchins review
129 the RF reports that have been received for the site and provide comparison data for what was
130 first estimated for RF emissions v. actual measurements. Reviewed M. Hutchins response to that
131 question.

132 T. Seibert: Recused himself from the hearing.

133 J. Simons: Stated that he has reviewed the minutes and that he will be voting on this application.

134 Bill McQuade, Representing Metro PCS along with Peter Morin, Counsel for Metro PCS: Stated
135 that he concurs with what J. Tymon just read from the M. Hutchins report. The three SiteSafe
136 reports and the original Dr Haas Report are similar. This application is strictly for a renewal of
137 the Special Permit that was granted March 3, 2009.

138 Thea Fournier, 247 Main Street: Stated that the Trinitarian Church is a beautiful church located
139 in the heart of the historic mill town residential neighborhood. The residential home owners
140 could not put a steeple on their houses. The church is different. According to the Dover
141 Amendment churches are generally exempt from Zoning regulations because they are for
142 religious and educational purposes only. The church is a place of worship; therefore, the Dover
143 Amendment allows them to have a steeple in a residential zone. The Trinitarian Church chose to
144 take advantage of the community, the neighborhood and put a commercial business in a place of
145 worship. Essentially, it is now a radio station, not just a place of worship anymore. It violates
146 the Dover Amendment. Requested that the Planning Board postpone their granting a renewal of
147 the Metro PCS permit until mid-April because a major decision on the Dover Amendment is due
148 from the Massachusetts Supreme Judicial Court in the case of Regis College v. the Town of
149 Weston.

150 J. Simons: A Decision has not been prepared so it will not be voted on tonight. This hearing
151 will be continued to May 1, 2012.

152

153 CONTINUED PUBLIC HEARING, 358 Dale Street: Application for a Watershed Special
154 Permit. Applicant seeks to construct a new single family residential dwelling along with
155 associated driveway, landscaping, utility and other improvements.

156 J. Tymon: L. Eggleston has done a stormwater review. The applicant has responded and
157 provided a new plan. They are proposing some porous pavement. L. Eggleston required the
158 detail of the under drain, that the Board consider putting a condition in place so that there is no
159 further pervious pavement, no seal coating of the pervious area, and that regular maintenance be
160 provided for the porous pavement. A defined limit of clearing has been added to the plan. The
161 applicant has increased the buffer area on the west side and added some landscaping to the front.

162 J. Simons: Does L. Eggleston absolutely, positively believe that they are doing all Best
163 Management Practices. A lot of the recent Watershed Special Permit applications have been
164 additions or tear downs and replacements. This application is net new.

165 J. Tymon: L. Eggleston has been out for a couple of weeks, but she will review their second
166 submittal. It is outside of the non-disturb, but inside the non-discharge zone. She has been as
167 rigorous with this application as she has been with others.

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168 J. Smolak, Smolak and Vaughn representing the applicant: All of the comments provided by
169 Eggleston Environmental have been addressed. We have had a consultation with the
170 Environmental Species Program and comments from this program were to try to move the
171 improvements to the west, or to the left of the lot, as much as possible or practical. We think
172 their concerns have been adequately addressed. Their concerns will be formerly addressed at the
173 Conservation Commission as part of a joint filing process. We feel that National Heritage will
174 issue a letter indicating that they are satisfied with the design through the Conservation
175 Commission process. The filing with Con Com will be made next week. Once the NOI filing is
176 received by Natural Heritage they have thirty days in which to comment.

177 J. Simons: Reviewed the timing of the Lot being created and the applicability of zoning.

178 J. Smolak: Described the changes to the limit of clearing on the plan.

179 J. Smolak: Requested that a draft Decision be prepared for the May 1, 2012 meeting.

180 The Board's consensus was that along as all major issues are resolved well in advance that would
181 not be a problem.

182 J. Simons: When would Con Com render a Decision?

183 J. Smolak: Most likely well beyond the time period for this Board rendering a Decision.

184 J. Simons: Preference would be to have them vote before the Planning Board.

185 D. Kellogg: Cautioned that they may want to block off the dirt pathway on the side of the lot.

186 J. Simons: Will discuss it with the applicant. It is an existing condition and will not be altered.

187

188 NEW PUBLIC HEARING, 498 Chickering Road: Application for Special Permit-Site Plan
189 Review. Applicant proposes demolition of a Mobil gas station and construction of a 3,159 sq. ft.
190 bank building, with three drive-through bays, twenty four (24) parking spaces, landscaping and
191 stormwater management in the General Business Zone (GB).

192 J. Tymon: In 2008 the Planning Board had approved a drive-through Starbucks at this location
193 that was never built. The project has a DEP Sensitive Use restriction because there was
194 previously a gas station on this site. L. Eggleston and DPW have reviewed the application and
195 their comments have been sent to the applicant. The civil engineering review has not been
196 completed yet.

197 Steve Stapinski, Merrimack Engineering: Described a Form A that was completed last year that
198 subdivided a portion of land on an abutting property and added that portion of land to 498
199 Chickering Road. Therefore, the perimeter of the lot today is different the perimeter of the lot
200 when the Starbucks Site Plan was approved. The site is now larger and has a more "regular"
201 shape. Showed the Board where the residential uses near this lot are located. There are three
202 residential units on Franklin Street and one on the corner of Franklin St and Allen St. The
203 portion of land that was added to 498 Chickering Rd. was zoned as General Business, same as
204 the applicant's parcel. There are three unrestricted, existing curb cuts; one on Park Street and
205 two on Rt. 125. The access onto Park Street would be removed. The curb cut furthest away
206 from the Park St. and Rt. 125 intersection would be two way, traffic coming into and out of the
207 parcel. The curb cut closest to the Park St. 125 intersection will be exit traffic only. Described
208 the proposed site plan; including, parking, building location, drive-through location and queuing
209 lanes. The site is serviced with town water and sewer. The proposal is to grade the site so to
210 collect all the stormwater in the pervious areas in catch basins. There will be discharging into a

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211 grass treatment swale and then into a culvert on Franklin St. that connects into Rt. 125. The
212 amount of impervious area will be reduced approximately 10% compared to what is there today.
213 Jerry Blake, DRL Architects: Described the exterior materials, windows, lightening, elevations,
214 and architectural design of the proposed building. There will be a canopy over the first two
215 drive-through lanes with an extension off the end to protect the third lane.
216 J. Simons: Requested photographs of similar Lowell Five Banks for the next meeting.
217 Chris Huntress, Huntress Associates: Showed a detail lighting plan to the Board. Described the
218 landscape plan and the buffering from the neighboring properties.
219 Dermit Kelly, Traffic Engineer: Reviewed a memo he completed in 2007 that was reviewed by
220 VHB, peer reviewer. At this time there were two two-way driveways. This proposal is for one
221 two-way driveway and one one-way driveway. Stated the advantages of this design and
222 reviewed the data from the traffic study that was done at the time of the Starbucks application.
223 J. Simons: This will be continued until the next meeting.

224

225 **OTHER BUSINESS:**

226 J. Tymon: Discussed scheduling for the Zoning Public Hearing for the Annual Town Meeting.
227 J. Simons: Commented he would like to get as much information of what is going to be done as
228 possible for 1018 Osgood Street.

229 **MEETING MINUTES:** Approval of March 20, 2012 meeting minutes.

230 **MOTION:**

231 A motion was made by R. Rowen to approve the March 20, 2012 meeting minutes. The motion
232 was seconded by D. Kellogg. The vote was unanimous.

233

234 **ADJOURNMENT**

235 **MOTION:**

236 A motion was made by T. Seibert to adjourn the meeting. The motion was seconded by M.
237 Colantoni. The vote was unanimous.

238 The meeting adjourned at 9:05 pm.

239

240 **MEETING MATERIALS:** Agenda, Form A application Peach Tree Lane dated March 29, 2012 and
241 associated site plan, Draft Decision 102 Peters Street dated April 3, 2012, Draft Decision 350 Great Pond
242 Road dated April 3, 2012, 26 Main Street: Civil review response letter dated March 19, 2012 from
243 Andover Consultants, Stormwater response letter dated March 29, 2012 from Andover Consultants, Inc.,
244 Tim Willet response letter dated April 2, 2012, Tom Urbelis response letter dated March 29, 2012, Site
245 Plan "Pondview" dated Jan. 19, 2012 and rev March 12, 2012, Sections 8.1, 8.3, and 18 North Andover
246 Bylaw, Letter dated April 3, 2012 from John Cusack Break Away Realty Trust 28 Main Street, 166
247 Salem St: Definitive Subdivision Plan "The Captain Nathaniel Berry Homestead" dated January 9, 2009,
248 70 Elm Street: Mark F. Hutchins response letter dated March 31, 2012, Letter dated March 29, 2012 from
249 John T. Smolak RE: 358 Dale Street response to peer review comments and other matters, email from
250 Leddick, Jesse state of ma., to John Smolak RE: 358 Dale Street NA – NHESP (file 12-30708), Site Plan
251 358 Dale Street dated March 27, 2012, 498 Chickering Road: Response letter dated April 3, 2012 from
252 Gene Willis, Response letter dated April 2, 2012 from Gene Willis, Response letter dated March 26,
253 2012 from Eggleston Environmental, Site Permit Plan Proposed Bank Facility Plan of Land Lowell Five
254 pages 3 of 5 and 4 of 5, draft meeting minutes for March 20, 2012.