

PLANNING BOARD  
Meeting Minutes  
Tuesday, October 5, 2010  
Town Hall, 120 Main Street  
Top floor conference room  
7:00 PM

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2 **Present at Meeting:** J. Simons, T. Seibert, M. Colantoni, R. Rowen, C. LaVolpicelo, R. Glover  
3 The meeting began at 7:03 PM.

4 **POSTPONEMENT:**

5 **Public Hearing: 1679 Osgood Street.** Definitive Subdivision for 8 single-family residential lots within  
6 the R-3 District, submitted by GMZ Realty.

7 J. Simons would like to formally accept the letter for extension submitted.

8 **MOTION**

9 Motion was made by R. Rowen to accept the request for an extension until Dec. 25, 2010 for rendering a  
10 decision for 1679 Osgood Street. The motion was seconded by T. Seibert. The vote was unanimous.

11  
12 **PUBLIC HEARINGS**

13 **CONTINUED PUBLIC HEARING: 351 WILLOW STREET.** Applicant (Bake N'Joy) is seeking a  
14 Site Plan Review Special Permit in order to expand the existing parking lot.

15 Judy: No open issues from last meeting. No additional issues have come in.

16 **MOTION**

17 A motion was made by R. Rowen to close the Public Hearing for 351 Willow Street. The motion was  
18 seconded by T. Seibert. The vote was unanimous.

19 **DECISION**

20 A draft decision was reviewed. The number of additional spaces added to the parking lot was verified as  
21 forty five (45) additional spaces. Twenty four (24) of which were due to restriping the lot and twenty one  
22 (21) were added spaces. J. Simon asked for strengthening the language requiring the marking of the  
23 existing trees that will remain in the landscaped area prior to the pre-construction meeting.

24 **MOTION**

25 A motion was made by T. Seibert the decision for the Site Plan Special Permit as amended. The motion  
26 was seconded by R. Rowen. The vote was unanimous.

27  
28 **CONTINUED PUBLIC HEARING: 1003 Osgood Street.** Applicant is seeking a Site Plan Review  
29 Special Permit and Watershed Special Permit for construction of a new 21,000 sq. ft.  
30 restaurant/office/retail building and relocation of an historic barn.

31 Judy: First Public Hearing was July 20, 2010 where the applicant provided an overview of the proposed  
32 development. We will need to work through stormwater issues. I spoke with L. Eggleston today a few  
33 times and passed on her first response to John Smolak and Chris Tymula. Her second response did not  
34 come in until 5:00 today. The best way to approach this would be to have a meeting with all parties to  
35 discuss L. Eggleston's concerns about stormwater management. Also, the Building Inspector did make a  
36 determination that a variance would not be required even though the Barn is to be relocated within the  
37 Non-Disturb Zone and the Bylaw calls for new buildings to have a variance from the ZBA and a Special  
38 Permit. Also a portion of the proposed 21,000 sq. ft. building is in the Non-Disturb Zone to the wetlands  
39 on the side. The Building Inspector again made a determination that it would not need Zoning approval  
40 and that that was consistent with prior applications. The Planning Board found no reason to disagree with  
41 the Building Inspector's findings. In general the Board is the Special Permit granting authority and has  
42 the authority to decide whether over all this is an appropriate site for this development.

43 J. Simons: Stated a few years ago the Planning Board did a project on the adjacent site (Treadwell's) that  
44 was subject to a Special Permit. His position and, he believes the Board's position is that they take their  
45 responsibility extremely seriously on properties that are directly abutting the lake. It was a thorough and  
46 rigorous review so that there would not be any adverse impact to the lake. He feels the same about this  
47 project. This parking lot, building, and barn are in such a location that the applicant has to demonstrate  
48 that there will not be any adverse impact in the lake and not just marginally but beyond a shadow of a  
49 doubt using best practices. Stated the Board will not leave anything to chance and is going to push very  
50 hard on this and that is why he welcome having L. Eggleston as part of this process.

51 John Smolak, attorney for the applicant was present along with Chris Tymula, MHF Design Consultants  
52 (project engineer), John Grasso, principle applicant, and Dermott Kelly, traffic engineer. Atty Smolak  
53 stated that the lot for the proposed development was created prior to 1994 and there were different zones  
54 that apply to this project as opposed to projects on lots that were created after 1994. As for the barn itself  
55 he met with the Building Inspector who did make a determination that the relocation of the barn is  
56 considered a replacement of a structure under the Zoning Bylaw and is comfortable with that. It is  
57 applicant's job to prove to the Board that they meet the standards of the Bylaw.

58 R. Rowen: Is it your position that because the lot pre-dated 1994 that you don't have to comply with the  
59 current Watershed Protection District requirements?

60 J. Smolak: No, there is a provision in the Bylaw with respect to the barn that provides that Planning  
61 Board by Special Permit can permit the replacement of a structure within the Non-Disturbance Zone and  
62 that is what the Building Inspector has made a determination on with respect to the barn.

63 R. Rowen: So you are complying with the current Bylaw even though the lot has pre-dated the Bylaw?

64 J. Smolak: It complies with the current zones that are in effect for those lots that were created pre-1994.  
65 They generally are the same standards but with different setbacks and one less zone.

66 Chris Tymula, Civil Engineer on behalf of John Grasso, reviewed the major changes to the plan since the  
67 initial submission. First change is in design, reducing the building footprint approximately 600 sq. ft.  
68 This change reduces the number of required parking spaces by two. Some handicap spaces have been  
69 moved from the back of building to the barn area. A 'right in only' has been added to the plan. Also,  
70 some of the existing foundation of the barn will be used as a freestanding, decorative retaining wall and  
71 there will be landscaping around it. Grading and drainage plan is still same general feel. Stormwater  
72 standards are much more stringent than they were a few years ago and we meet those standards thus the  
73 system design is actually superior than the adjacent site. Emergency response notes have been added to  
74 the plan. Regarding L. Eggleston's comments---there are some technical issues we will need to discuss  
75 with L. Eggleston. Some may be a difference of opinion and there are some notes L. Eggleston wants  
76 added to the plan and some changes regarding the O&M Plan.

77 Judy: L. Eggleston has some strong opinions about the way calculations are being done for the  
78 infiltration system and wants to make sure the stormwater is being treated properly, including dissolved  
79 chemicals (salts, nitrogen). This project is in the Zone A, which is another standard that needs to be met.

80 C. Tymula regarding landscaping we have eliminated any tall trees in the front of due to site distance  
81 requirements and will need a couple waivers from zoning for perimeter landscaping. Will need a special  
82 permit from ZBA for a freestanding sign similar to the adjacent site. Added to the plan is a small pump  
83 station for the barn. There will be an emergency back up generator for it.

84 C. LaVolpicelo would like to know more about the discussion with the Building Inspector regarding not  
85 needing a variance for the movement of the building.

86 J. Smolak: We had a discussion in terms of the barn itself and a key idea was on the ability to save the  
87 barn somehow. After discussing the issue with Building Inspector, Gerry Brown regarding the building  
88 itself and the Non-Disturb Zone and there is a provision in the Non-Disturbance Zone requirements that  
89 allows you replacement of a permanent structure. Mr. Brown's opinion is that we are keeping the same  
90 structure and just placing it in a different place and that is how he came about with his determination. I  
91 would be happy to have further discussion with him and revisit the issue just to reaffirm.

92 T. Seibert: What is the difference if he were to rule the other way?

93 J. Simons: If he ruled in a different direction they would need to get a variance. Planning Board has a  
94 reasonable amount of discretion in these matters. My perspective and I am an advocate of preserving the  
95 barn, but if the barn is going to go in that location we would need to be absolutely, positively sure that it  
96 is not going to be a problem.

97 R. Rowen: Are there other places on the site where it would be appropriate to put the barn.

98 J. Smolak: We have looked at a number of different alternatives to preserving that barn but it is very  
99 difficult to find the right place for it. Another possibility would be to eliminate the barn all together.

100 J. Smolak will discuss the issue with the Building Inspector again to make sure to confirm his decision.

101 T. Seibert requested that L. Eggleston provides a best case, what is being proposed, and worst case  
102 scenarios for all keys items (chemicals, sewer, stormwater runoff, any other disaster scenarios) being  
103 presented in a table format.

104 R. Rowen: need to determine if the riskiest part of the whole program if the barn goes in there during  
105 construction or after it is installed and operational. If it is during construction and there is a great deal of  
106 margin you can put in a plan to mediate the risk during construction. If the bigger problem is the  
107 operation of the building and there is very little margin for error then I would say to take a totally  
108 different approach to it.

109 Judy: There are standards for both. She is looking at the entire site. She is looking at the drainage the  
110 reports that the client provides for the entire site. I think she does have some major issues but I don't get  
111 the sense that she thinks they are insurmountable issues or that there are any particular issues related to  
112 the barn itself but rather overall issues with mitigation of the stormwater and chemicals. It has been a  
113 quick back and forth.

114 R. Rowen: In extraordinary storms that we have had in the past how has the adjacent site performed? If  
115 this is going to perform at a higher standard than the adjacent and that one has held up well then I would  
116 feel a lot more comfortable going forward with this.

117 T. Seibert: pointed out that the topography for this project is different than the adjacent site.

118 J. Simons asked to get feedback from the DPW to see if they know of any flooding issues at this site in  
119 the last few years.

120 R. Glover asked about the how the notes on the plan, if approved, enforced.

121 J. Simons: We have a clause in our Watershed Special Permit and we should consider keeping a bond for  
122 monitoring for a period of time.

123 C. Tymon: In the Operation Maintenance documentation there is language that reports are to be  
124 submitted to the Conservation Commission and Planning can be added. The report is done by the  
125 maintenance company periodically and they can be submitted to the town for whatever period is decided.

126 J. Simon: the follow up meeting with L. Eggleston should address a number of issues. Asked Judy to  
127 keep the Board posted between meetings on that.

128 T. Seibert: Asked Judy to get a list of the disaster scenarios that she worries about and the best practices.

129 Peter Devlin: owns a condo at 1009 Osgood Street (Treadwell's building). Concerned that he is losing  
130 parking spaces at his dental office. There is a photographer and empty site adjacent to him that will also  
131 be affected by the reduction in parking spaces. There is a garbage area on the proposed plan that would  
132 eliminate 4 of the current spaces.

133 J. Simons: The spaces are the total spaces for the property not dedicated spaces. The decision is based on  
134 total size of the property.

135 P. Devlin: Could the garbage area be relocated in some way?

136 C. Tymula: The 4 spaces are being relocated. There is not a reduction in the net number of spaces. They  
137 have been relocated approximately 20 feet away.

138

139 The applicant will try to be ready to present at the next meeting, Oct. 19, 2010 and if not they will file a  
140 continuance to Nov. 16, 2010.

141

142 **DISCUSSION: 195 Bridle Path.**

143 Judy: We issued a Special Permit 3/2/2010 at this location for Bob Ercolini for construction of 2-story  
144 addition, new deck, and brick patio. I have rec'd a landscape plan that shows what looks like a larger  
145 deck. There is no scale or measurement on the plan. The question is does this constitute a field change or  
146 will there be a requirement for modification to the Watershed Special Permit.

147 Bob Ercolini: 195 Bridle Path, halfway through the construction have decided to put a patio in as  
148 opposed to the deck that was originally designed. The landscape plan is with an engineering company to  
149 determine the water runoff. It is an impervious surface on the patio and wants to create the appropriate  
150 drain with the appropriate system and come back in two weeks with those things. Would like to get any  
151 Planning Board comments to the proposal and hopefully not have to open up a new Special Permit. There  
152 is no change to the footprint of the building. Has met with Conservation and they asked for a generator  
153 that was located in the 50' area to be relocated outside that area and that is done.

154 R. Rowen: How does the size of the patio compare to the size of the deck previously approved?

155 B. Ercolini: The patio has been expanded outside the 100' area from the wetland. Originally proposed  
156 deck was 600 sq ft. and the patio would be 900 sq ft. but the expanded part is all outside the 100' distance  
157 from the wetland requirement.

158  
159 Board agreed that B. Ercolini should continue with what he proposed and should come back in two weeks  
160 for review.

161

162 **DISCUSSION:**

163 J. Smolak: There is an opportunity now that there will be a Special Town Meeting Nov. 17, 2010 for and  
164 existing parcel off Rt. 114, property owned by Al McGregor, located between the car wash and Turnpike  
165 Commercial Real Estate building. There is interest with a bank that would require drive up and there is a  
166 possibility for a drive up restaurant, potentially fast food.

167 J. Simon: I don't mind listening to a proposal but I don't like getting the rush for a Special Town  
168 Meeting because we won't have time to vet it properly.

169 J. Smolak: Understood. The site has some challenges but thinks that it is the best site for this particular  
170 area because it is isolated from neighbors. There is a concept site plan prepared in 2003 but it is under old  
171 zoning. Would like to discuss the issue at the next Board meeting.

172 J. Simon: I don't mind a discussion but there is not much time and this is something we have looked at  
173 for a long time and we have gone out of our way to try to engage Mr. McGregor in the process and to  
174 come at the last minute and throw something in front of us is not a good start.

175 J. Smolak: We have something that we think will work out there and understands that there is a short  
176 period of time but we are doing our best to show what we are trying to do.

177

178 Remainder of Board agreed to listen to proposal at next meeting.

179 **MOTION**

180 A motion was made by M. Colantoni to approve the meeting minutes from September 21, 2010, as  
181 amended. The motion was seconded by R. Glover. The vote was unanimous.

182 **DISCUSSION:**

183 Judy: We have stormwater regulations to approve. A copy has been sent to everyone and we have to  
184 have a Public Meeting on this. Will be scheduled for December. Asked L. Eggleston to come to that  
185 meeting. Also, will ask her to look at other areas in the Bylaw that have stormwater regulations such as  
186 site plan review, watershed, and subdivision regulations to make them consistent.

187 **MOTION**

188 A motion was made by to adjourn the meeting by R. Rowen. The motion was seconded by M. Colantoni.  
189 The motion was unanimous.

190

191 The meeting adjourned at 8:35 PM.