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**MINUTES OF THE
PLANNING BOARD**

**MEETING OF
November 26, 2019**

A meeting of the Planning Board was held on November 26, 2019 at the Salem Town Hall, 33 Geremonty Drive, Salem, NH.

PRESENT: Keith Belair, Chairman; Michael Banks, Vice-Chairman; Beverly Donovan, Secretary; Lisa Withrow, Selectman’s Rep; Jeff Hatch; Robert Gibbs; Chris Graham, Alternate; Linda Harvey, Alternate; and Ross Moldoff, Planning Director.

The meeting was called to order at 7:00 p.m. with the Pledge of Allegiance. Chairman Belair introduced the board members and went over the agenda. There were no withdrawals.

REVIEW OF MINUTES

1. October 22, 2019 – Regular Meeting

MOTION by Mr. Banks to approve the minutes of the October 22, 2019 meeting as printed.

SECOND by Ms. Withrow.

VOTE ON MOTION: 5 – 0 – 2 (Mr. Hatch and Mrs. Harvey abstained.)

2. November 12, 2019 – Regular Meeting

MOTION by Mr. Banks to approve the minutes of the November 12, 2019 meeting as printed.

SECOND by Mr. Gibbs.

VOTE ON MOTION: 5 – 0 - 2 (Ms. Withrow and Mrs. Harvey abstained.)

OLD BUSINESS

1. TEMPLE OF WITCHCRAFT SITE PLAN – Public Hearing for 5700 sq. ft. community center at 49 North Policy Street, Map 80, Lot 3761. Continued from 8/27/19.

Abutters: There were no abutters present.

Staff Comments:

DRAFT

1 He discussed previous hearings and revisions from the previous plan.
2 The outside engineering review has been approved.
3 They need a sewer permit from the State.
4 Erosion control will be important.
5 There is a road impact fee of \$7,920 and that will be paid prior to occupancy.
6 There are 37 parking spaces required. They have shown 35 spaces on site. They haven't
7 counted the overflow parking. They applied for a conditional use permit.
8 We provided a list of other religious institutions in Salem with seats, parking, etc.
9 There is a public safety impact fee of \$3,819 that will be paid prior to occupancy.
10 They need outside inspections and an as-built site plan.
11 We were concerned about the parking lot lighting.
12 We are trying to minimize the impact on abutters.
13 There will be no simultaneous use of the house and community center.
14 The Fire Department gave us a memo. The Assistant Chief calculated the maximum total
15 occupant load at 163 people. Parking is based on number of seats for a place of assembly or
16 the maximum square footage of the facility.
17 We received the OK from the Fire and Public Works Departments.
18 Engineering – had a couple details and some clarification, which Mr. Moldoff explained.
19 Recommend - if you are satisfied with the adequacy of parking, he can give conditions.
20
21 David Jordan, with Greenman Pedersen Inc, is an engineer/land surveyor representing the
22 Temple of Witchcraft. There are not a lot of significant changes to the plan. There was a
23 discussion about parking at the last meeting, and if it was adequate. We are requesting a
24 conditional use permit. We are required to provide 37 spaces and the plan shows 35. We are
25 deficient by two spaces. Since the last meeting, we did add, there is an area for 4 additional
26 spaces, which brings the total to 39, and negates the need for a conditional use permit. We didn't
27 show it as being paved because we are hesitant to add spaces that we don't think will be needed.
28 You also got a memo from Christopher Penczak from Temple of Witchcraft, which restated how
29 they intend to operate the facility and the plans for controlling parking and attendance at the
30 services. There are 9 major holidays a year, 8 are on Saturday and the 9th one is a date specific
31 holiday. They are willing to limit attendance to a maximum of 100 participants. The major
32 holidays are pre registration. If they see that there is additional interest in attendance, they can
33 split the service into two services. They also entertained the idea of holding services larger than
34 100 attendants at an offsite facility. They've done that in the past. They have been there since
35 2013, and they intend to be a long term resident. They feel that they can manage their parking
36 and will be a good neighbor.
37
38 Chairman Belair asked for public input. There was none.
39
40 Mrs. Harvey asked, how close is Policy Brook to the bottom of the hill?
41 Mr. Jordan said, it is at the bottom of the hill, but the bottom of the hill is a long distance back.
42 Mr. Moldoff showed this on the plan.
43 Mrs. Harvey mentioned silt running off and getting into the brook.

DRAFT

1 Mr. Jordan said, they will have to have erosion controls. Those will have to be in place and
2 maintained during construction.

3 Mrs. Harvey suggested using a different method other than a silt fence.

4 Mr. Jordan said we can do that.

5
6 Ms. Withrow mentioned that last time, you said there wouldn't be seats. Why the change?

7 Mr. Jordan explained that they have services every Saturday. For most of the services, it is a
8 much smaller group. Those are normally held standing in a circle. And the chairs will be folded
9 up and out of the way. It is for the larger services. They are showing that they can fit 100 seats.

10 Ms. Withrow said she thought there were three floors.

11 Mr. Jordan said, there are three floors. The first floor is offices and a small retail space. The
12 second floor is where the services are held. The lower level is storage, mechanical and a small
13 kitchenette.

14 Ms. Withrow asked, there will be no gathering in the basement?

15 Mr. Jordan said no, maybe just after the service. It is just a small gathering space.

16 Ms. Withrow asked, if they leave and another church comes in, that is not a change of use?

17 Mr. Moldoff said that's correct.

18 Ms. Withrow asked, is this parking sufficient if someone else comes in?

19 Mr. Moldoff said yes, and they will be restricted to the same maximum number of seats.

20 Ms. Withrow asked, if they want to change that, they have to come back here?

21 Mr. Moldoff said yes.

22 Ms. Withrow asked, the retail doesn't add to the parking?

23 Mr. Moldoff said no, it is like a gift shop.

24
25 Mr. Banks asked, how would you describe the control of lighting to not affect abutters, and also
26 enforcement of 100 people maximum? How would you describe to the abutters how you would
27 minimize the impact?

28 Mr. Jordan discussed the lighting. We submitted a lighting plan and they are positioned so that
29 they don't cast backward onto abutting properties. As stated on the plan, they will be turned off
30 by 10:30 and it is just when they have services and need lights. Regarding the attendance, the
31 nature of their religion, and because it is unique, most of the registration is done pre registration
32 to attend the services. They draw from a larger area. With that, they get a sense as to how many
33 people they see coming to a service. They have a plan for people who don't pre register. They
34 can turn people away. The people running this facility, are the same ones that have been there for
35 quite some time. That's the stabilizing factor, that they know how they need to operate the
36 facility, and they want to be a good neighbor. In the past, this board has considered a parking
37 monitoring program so maybe we can do that. We can come back to the board at a certain time
38 and report back on the attendance.

39
40 Mr. Hatch asked, if they use 100 seats, what is going on in the rest of the building while the
41 service is going on? Are there people in retail, and other sections? Or do they branch out to there
42 afterwards?

43 Mr. Jordan said that's correct. There are no other activities going on while the services are being
44 held. That is stated on the plan, and it can be a condition that it is operated in that manner, so

DRAFT

1 they are not doing multiple events simultaneously. And they have no problem with that
2 restriction.

3 Mr. Hatch asked, would you agree that a conditional use permit for parking should be a need and
4 not a want? You stated that you can achieve the parking without the conditional use permit. So
5 that's what you should do instead of getting a conditional use permit. It should only be issued for
6 you to be able to achieve something that you can't do without it. You already said that you can.
7 Where is the snow storage?

8 Mr. Jordan said, it gets pushed back. Yes we can provide it, but is that what we want to do on
9 this site when we feel that the 35 spaces would be more than adequate. We will be adding more
10 impervious surface and run off. Is that what we want to do to meet the spirit of zoning? We
11 believe that the site can function with 35 spaces. We want the conditional use permit because we
12 don't believe those 2 spaces will be necessary.

13
14 Ms. Donovan said, the last time they were here, she had concerns about the sight line and
15 vegetation. She saw that they started building a wall with concrete block, but she doesn't see that
16 on the plan. Will that affect drainage?

17 Mr. Jordan said he wasn't aware that they did that. Prior to the last meeting, there was a concern
18 about the height of the vegetation in front. That was cut down. Because of the nature of this
19 religion, it is about nature, so they are letting nature take over that area to see what grows. But it
20 prohibited sight distance. When they became aware of that, they cut the vegetation down. And
21 they will continue to keep that at a controlled height to not impact sight distance in the future.
22 They were doing what they practice and they weren't aware the problem it was causing.

23 Ms. Donovan said, she would like to see the wall and the height on the plan.

24
25 Alex Wright, President of Temple of Witchcraft, said that we have a company that is coming in
26 to do the retaining wall to keep back the overgrowth and make sure it is safe for people to get in
27 and out.

28
29 Chairman Belair asked, is that going to be on public property?

30 Mr. Moldoff asked Ms. Wright to check that its on your property. There is room between the
31 edge of the road and your property line that's town property.

32 Ms. Wright said, we will keep it on the temple property. We cut back the overgrowth and had
33 people come out to do the work, and they donated money to pay for a retaining wall to be put in.
34 Ms. Donovan said her concern is with drainage and how it affects the driveway area. Regarding
35 the cottage apartment, does that need a walkway or parking or anything?

36 Mr. Jordan said, that has existed since before they occupied the site. It is occupied infrequently,
37 not full time. We will work with the temple to make sure the retaining wall is on their property
38 and make sure there are no height issues. We will add that to the plan before it is signed.

39
40 Chairman Belair mentioned the concern of parking in the circle and that there is no street parking
41 here. He has seen people at Canobie parking on other streets. Make sure that this doesn't leak off
42 the property line because that road can't handle it. Is there any timing of construction?

43 Mr. Jordan said, it is not shovel ready. It is entering the fundraising phase.

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DRAFT

1 Ms. Withrow said, Mr. Jordan mentioned doing a parking update in a year. She likes that idea.
2 Regarding Mr. Hatch's comment, she agrees. She doesn't want to be handing out a conditional
3 use permit if there is space on the property. That is for when there are no other options. She
4 agrees with Mr. Hatch.

5
6 Mr. Banks asked, could there be a condition to limit this to the 9 holidays and that the large
7 assemblies be in one building? Could those conditions be added into the plan? He is concerned
8 about the 9 holidays and limiting it to 100 people. Can those 9 events be added as a condition, so
9 that another one doesn't happen?

10 Mr. Moldoff said, that would be considered a restriction on their religious use. He doesn't think
11 we can limit them to 9 holidays. They did say that they could live with a restriction of no more
12 than 100 people on site or in the facility at one time. He suggested that we put that as a condition.

13 Mr. Banks said, having 100 people there everyday would create issues.

14 Mr. Jordan said, these holidays are fixed.

15
16 Mr. Gibbs said we are asking these questions because of the location of the building. You can't
17 park on this street. Do you see possibly renting this out to other organizations?

18 Mr. Jordan said no.

19 Chairman Belair said, if we are going to make a condition of a parking study, and they are not
20 ready to build, make sure it is crafted in such a way of 6 months after occupancy.

21
22 Mr. Moldoff read the following conditions:

- 23 1. Prior to the building permit, pay for the outside inspections per the direction of the
- 24 Engineering Division.
- 25 2. Prior to the building permit, submit the State permit. That is a sewer extension permit.
- 26 3. Prior to the building permit, show the front retaining wall on the plan.
- 27 4. Prior to the building permit, you want them to add the two parking spaces that they are short.
- 28 He can work with them on that.
- 29 5. Prior to the building permit, submit approval from the Engineering Division.
- 30 6. Prior to occupancy, pay the road and public safety impact fees.
- 31 7. Prior to occupancy, provide a certified as-built site plan.
- 32 8. Prior to occupancy, construct all the site improvements in accordance with the approved site
- 33 plan.
- 34 9. The applicant must operate the facility so that the parking lot capacity is not exceeded.
- 35 10. Provide a parking monitoring report within 1 year after occupancy.
- 36 11. All representations made by the applicant or their agents and all notes on the plan are
- 37 incorporated as part of this approval.

38
39 Chairman Belair said, since it is not going to be built right away, Mr. Jordan should explain to
40 his client about the length of the site plan approval.

41
42 **MOTION by Mr. Banks to grant conditional approval of the Temple of Witchcraft site**
43 **plan without the conditional use permit and with the 11 conditions as stipulated by Mr.**
44 **Moldoff.**

DRAFT

1 **SECOND by Mr. Gibbs.**

2
3 **VOTE ON MOTION: 7 - 0**

4 **UNANIMOUS**

5
6 2. **BLACK BROOK REALTY SITE PLAN** – Public Hearing for revised site plan for 30-unit
7 townhouse project at 11 Central Street, Map 98, Lot 12542. Continued from 10/22/19.

8
9 Abutters: Chow and Kocsis, Mazzoleni, Bailey, and Murphy were all present.

10
11 Staff Comments:

12 He discussed previous hearings and revisions from the previous plan.

13 The outside engineering review has been approved.

14 There is a sewer extension permit needed and the State permit, Alteration of Terrain permit
15 needs to be revised.

16 Revised elevation drawings were submitted.

17 The outside traffic review has been approved by Mr. Pernaw. His items were addressed by the
18 applicant.

19 One conditional use permit is needed in a couple units that are too close to lot lines. There is a
20 13 foot minimum front setback on one unit where 30 feet is required. And there is an 18 foot
21 side yard setback on a unit where 20 feet is required. They applied for a conditional use
22 permit and they can read that.

23 We suggested that they get a letter of approval from the abutting property owner (Demoulas).
24 They have a drainage basin and landscaping over the lot line. There is an easement there but
25 we suggested that they get approval in writing from them.

26 We had our outside design review consultant review the plan and we got comments. Most
27 items were addressed but there are several that are outstanding, which he summarized,
28 including lighting, and that stonewalls be added, and comments on architecture, size of
29 shutters, landscaping and utility plans, and irrigation plans, screening of patios, plantings, etc.
30 We can handle that through a condition.

31 There is an impact fee. The original impact fee was \$4,577 per unit, and that didn't include
32 the public safety impact fee. So he doesn't know if we want to use that fee or an updated fee.
33 The difference is about \$1,200, the new fee is \$5,749. That needs to be addressed.

34 There is some pavement for the abutters driveway over the lot line. They provided an
35 easement on the plan for that.

36 We got approval from the Fire Department. They have a couple conditions they want
37 incorporated, which he read.

38 Engineering gave Ross a memo today, most are relatively minor. There is an ongoing
39 discussion about the utility layout. That can be done through a condition.

40 The Police Department, Assessor, and Public Works are all OK with the plan.

41 Recommend - if you are satisfied with the status of the project, we recommend that you grant
42 conditional approval tonight and grant the conditional use permit, and he can give conditions
43 of approval if you want those.

DRAFT

1 David Jordan, with Greenman Pedersen Inc, is representing Black Brook Realty. Regarding the
2 outside reviews, we had a few remaining comments from Terry Dewan, and we can work with
3 Terry and Ross to address those. Jim Brown has a few remaining items. We have been meeting
4 with Jim regularly and we will continue to do so. We are looking for conditional approval
5 tonight. He can read the conditional use permit. He then read the conditional use permit criteria.
6 This is for Section 490-501C building setback.

7
8 A. On August 23, 2016 the Salem Planning Board granted approval to the conceptual master
9 plan for North Tuscan Village. Tuscan Village is an integrated development with a mix of
10 residential, retail and restaurant uses. The Villas at North Tuscan Village is one of the
11 components of that master plan and the site plan that has been submitted is consistent with what
12 was presented to the Planning Board at that time.

13
14 B. GPI has previously prepared a site plan memorandum for The Villas at North Tuscan Village,
15 which included commitments that have now been made to address the impacts that this project
16 will have on the study area intersections. The applicant has and is continuing to work with the
17 Salem Municipal Services Department to provide adequate services to both The Villas at North
18 Tuscan Village project and the other development parcels within Tuscan Village.

19
20 C. The access to this parcel will be from the new internal roadway network and from Pleasant
21 Street. No new access points on South Broadway are proposed.

22
23 D. This is one of the parcels within Tuscan Village that is within the Residential District along
24 Pleasant Street. A townhouse condominium project on this parcel provides an appropriate
25 transition between the residential abutters along Pleasant Street and Central Street and the
26 planned retail and restaurant uses closer to South Broadway.

27
28 E. The Villas at North Tuscan Village includes high quality landscaping consisting of trees,
29 shrubs and other landscape elements that have been integrated into the site to complement the
30 buildings, create a sense of identity and provide human scale. In other areas the landscaping
31 serves to buffer the site from the residential abutters. The buildings are well articulated,
32 incorporate a variety of architectural elements and use color and materials to break up the
33 massing.

34
35 F. No parking lots are proposed in Phase 2.

36
37 G. The site plan provides both vehicular and pedestrian links to the abutting parcels. Access
38 driveways from the North Village roadways allow for vehicular movement throughout North
39 Tuscan Village. Pedestrian connections from the buildings to the adjacent roadways are
40 provided. The North Village roadways provide the rest of the pedestrian links to the other parcels
41 and to South Broadway, Pleasant Street and Main Street.

42
43 H. Open space and pedestrian amenities is provided within The Villas at North Tuscan Village
44 parcel and throughout all of Tuscan Village. Patios and private yard space is provided at each

DRAFT

1 unit. Walking paths connect the units to each other and the roadway sidewalk network. A large
2 park/recreation area is proposed at the southern end of the North Village providing active and
3 passive recreational opportunities.

4
5 Chairman Belair asked for public input.

6
7 Steven Daley moved into Tuscan Village in July 2018. He and his wife bought a corner
8 townhouse and he wants to caution the board on approving phase 2 while there are significant
9 and unresolved issues with phase one. There are quality of workmanship issues, unfinished work
10 and significant out of pocket expenses. Major issues exist with the roof. He explained the
11 drainage issues. This is well documented in several letters with photos and a video. Despite this,
12 Blackbrook refuses to acknowledge the problem or offer a solution. He explained the issues with
13 the plans, including missing landscaping and the rain gardens don't look like the drawings. The
14 drawings show two columns that were eliminated. They make the front of the buildings look
15 incomplete and unfinished. The current association members are assessing the scope and
16 discussing options on how to best get it done.

17
18 Ed Murphy, 1 Cortona Way, said that he and his wife moved here from Windham. We believed
19 it will be a great community there eventually. But it has been a nightmare. We moved in with no
20 air conditioning, and the fans we paid to have installed weren't working. He explained other
21 issues with the house. The heat also didn't work and the house is leaking. He mentions this as an
22 example of the complete lack of detail exhibited by Blackbrook Realty. He did research to
23 further demonstrate. The plans you approved on March 9, 2017, he cross referenced what is here
24 versus what was approved, which he explained including landscaping, railings and windows. He
25 was told that we can't have an association meeting until it is turned over to us in 5 years. He is
26 asking you to visit our community and bring the plans you approved and look at it, before you
27 approve phase two.

28
29 Ray Mazzolini, 7 Montecito Way said that he and his wife Elizabeth moved in, in June 2018.
30 The other homeowners have summarized the issues we have been experiencing. He is concerned
31 about phase two. We bought into the vision that Mr. Faro had and the town supported, in terms
32 of Tuscan Village that would be a unique experience. In the pre-construction, someone on this
33 board spotted that they did vinyl and there was a cease and desist order. Phase two doesn't look
34 like Tuscan Village. His concerns are, we have different maintenance issues. The types of things
35 they'll have in phase two are not like phase one. The overall concern is, there is a cost element.
36 We bought into a vision and he doesn't see how phase two plays into that vision.

37
38 Mr. Hatch said, hearing from what the abutters said, to me it sounds like a legal issue that we
39 can't get involved with.

40 Mr. Moldoff said, we should insure they that build what they say they will, in terms of plantings
41 and design of buildings. You talked about that with the developer. That is our responsibility. In
42 terms of inside the units, that is not a Planning Board issue, it's up to the Building Department to
43 make sure it's up to code. Regarding the issues from the abutters, those would be between them
44 and the developer.

DRAFT

- 1 Mr. Hatch asked, we can't hold that phase over the head of this phase? We can't deny this, based
2 on the workmanship on the first phase?
3 Mr. Moldoff said, that's right.
4 Ms. Withrow agrees that a lot of it is outside of our control, but some of it isn't. Some of this is
5 on the plans. CO's have been issued. So she wants to make sure they are held to the standards
6 that are on the plans.
7 Mr. Moldoff agrees and we are making sure it is done prior to the whole phase being completed.
8 They either have to bond stuff that is not done, or complete it prior to final occupancy of that
9 phase. We will look at it, and get going in the spring.
10 Ms. Withrow asked, you can hold up the final occupancy so it has to get done?
11 Mr. Moldoff said yes.
12
13 Mr. Gibbs asked, can we demand that, one block of this new neighborhood gets totally finished
14 before? He suggested that they pick the first four, and get it completed the way we agreed, before
15 going onto the rest of the neighborhood.
16 Mr. Moldoff said he doesn't think you can say that, because it was approved as a 96 unit project.
17 They can do units in phases 2 and 3 before finishing phase one. We could tell them to bond the
18 things not finished, but in terms of finishing, we shouldn't get involved in that.
19
20 Mrs. Harvey mentioned phase 3, where the units will be built on the west side of Central Street.
21 Will they have direct access to Central? We have one unit that still has access on Central Street.
22 She is not happy with that.
23 Mr. Jordan said, phase 3 was approved with all the access coming in behind the units.
24 Mrs. Harvey said, we still have one unit with access from the house, onto Central Street. That
25 bothers her because it is turning into a busy street because it's a cut through. How can you allow
26 someone to build a house where they are backing out onto such a busy street? It seems unsafe.
27 Mr. Gibbs said he brought that up at an earlier meeting. And they "justified" it.
28 Mrs. Harvey asked, is there any way to change that to Brunelle Street?
29 Mr. Jordan explained the access. There are houses all over that back out onto busy streets. We
30 addressed it with all but this one unit.
31 Mrs. Harvey asked, is there any way to make the driveway wider so they can turn in the
32 driveway, so they can face out instead of backing out?
33 Mr. Jordan said, the driveway is too short for that.
34 Mrs. Harvey asked, is there any way to make it work?
35 Mr. Jordan said no. People will back into the driveway when they park.
36
37 Ms. Donovan feels like there was more open space on the first plan we saw. This is really
38 jammed in and it isn't age restricted. There could potentially be kids and there is no place for
39 them to play. Is it feasible to get rid of that one unit and make a play space there, and it
40 eliminates the driveway issue. We have given a lot here.
41
42 Mr. Banks said, the original approval was for 38 units. Now we are struggling with 30.
43 Regarding that corner of Central and Brunello, he suggested maybe turn the 4 units into duplexes

DRAFT

1 and have the driveway on Sienna and Firenze Way. Getting rid of that one unit and turning it into
2 green space is the best option. He suggested two duplexes to get traffic off the main streets.
3 Mr. Hatch said, changing it to duplexes doesn't help. It changes the character of the whole thing,
4 and he wouldn't go for that. It looks out of place. Either we are stuck with what we see here, or
5 we get rid of the corner lot. He is not crazy about making it a play place either, because it will
6 still be a busy road, and now we have to worry about kids playing there. He thinks the solution
7 is, back into the driveway.

8
9 Chairman Belair mentioned the impact fee, and the original versus the current one.

10 Mr. Moldoff said he wants to discuss the issue.

11 Chairman Belair said, it is all changing, so it all changes.

12 Mr. Jordan said, the developer's position is, he had an approved site plan so he assumed that the
13 impact fees that applied at that time would apply here, and he has reduced the number of units.
14 He has made significant strides to change it to what it is today.

15 Chairman Belair said, there have been situations where we get letters from people that find out
16 the impact fees change, and they ask to pay less. You take a picture of what it is at that time. If
17 the site plan didn't change, it was 38 units.

18 Ms. Withrow said, the last time you were here, you said you were making the driveways wider.
19 Is 18 feet the wider size?

20 Mr. Jordan said that's correct, they were 16 before.

21 Ms. Withrow asked, that little strip in between, you worked it out so it is fine to be there?

22 Mr. Jordan said, it was shown with plantings there, and we eliminated those.

23
24 Ms. Withrow asked, since we can't do anything about phase one, is there a way to do more
25 checks before more CO's are offered, that they are more in compliance?

26 Mr. Moldoff said, normally we require an as-built site plan, and the engineer says it was
27 constructed in accordance with the approved plan. Here it is different, because they are doing
28 different buildings and different units in the buildings. We talked about doing that prior to the
29 final occupancy of phase one to make sure everything was done according to the plan. We can do
30 that at different stages. We can get an as-built and make sure that it is done per the plan.

31 Ms. Withrow said that is important and she would like to make sure we do that.

32 Chairman Belair asked, did Corsa meet the standard?

33 Mr. Moldoff said yes. We had as-built plans and verification and an outside consultant to make
34 sure they are building it per the plan. Those are checks we have to make sure we get what is on
35 the plan.

36 Chairman Belair wants to make sure we don't let it lapse.

37
38 Mr. Moldoff said he can give conditions if you are ready. He then read the following conditions:

- 39 1. Prior to the building permit, pay for outside inspections per the direction of the Engineering
40 Division.
- 41 2. Prior to the building permit, submit the State permits – sewer extension and Alteration of
42 Terrain.
- 43 3. Prior to the building permit, note the conditional use permit for the reduced building setbacks
44 on the plan.

DRAFT

- 1 4. Prior to the building permit, submit approval from the abutter for the plantings that are over
- 2 the lot line.
- 3 5. Prior to the building permit, submit approval from the design review consultant.
- 4 6. Prior to the building permit, submit approval from the Engineering Division.
- 5 7. Prior to occupancy, pay the impact fees. The new fee would be \$5,749 per unit.
- 6 8. Prior to occupancy, record the easement for the driveway on lot 1101(the abutting lot).
- 7 9. Prior to occupancy, construct all the improvements in accordance with the approved site plan.
- 8 10. Prior to occupancy, provide a certified as-built site plan.
- 9 11. All representations made by the applicant or their agents and all notes on the plans are
- 10 incorporated as part of the approval.
- 11
- 12 Mr. Banks asked, everything from the town, they checked that box?
- 13 Mrs. Harvey asked, are these the same conditions that were on the original for phase one?
- 14 Mr. Moldoff said, these are the standard.
- 15 Mrs. Harvey said, prior to occupancy construct all site improvements, is that including
- 16 landscaping?
- 17 Mr. Moldoff said yes.
- 18 Mrs. Harvey asked, so if the landscaping wasn't done, then why were they allowed to be
- 19 occupied?
- 20 Mr. Moldoff said, there were 40 units in that first phase and the idea was, prior to final
- 21 occupancy of the first phase, they have to verify that everything was done in accordance to the
- 22 plan.
- 23 Mrs. Harvey asked, so that's final, not just occupancy?
- 24 Mr. Moldoff said that's, right, not for each unit.
- 25 Mrs. Harvey asked, the way this is worded, it is prior to occupancy, so it could be construed that
- 26 it is before the first one?
- 27 Mr. Moldoff said yes. He said that Ms. Withrow asked on this one, to tighten it up to get that
- 28 stuff verified prior to the final occupancy. And either halfway or a third of the way, we can get
- 29 that from the applicant. We can put in a condition or word it so it is done, maybe every 10 units.
- 30 Mrs. Harvey thinks that terminology is important to get it into the conditions of approval.
- 31 Mr. Moldoff said, we can say provide a certified as-built site plan for every 10 units.
- 32 Mrs. Harvey said it sounds like there are issues with landscaping, lighting and maybe drainage. It
- 33 sounds like there are problems. It doesn't say final occupancy. She thinks that's really important.
- 34
- 35 Chairman Belair asked, regarding the drainage issue, is it designer implementation that we have
- 36 a problem with?
- 37 Mr. Jordan said he will have to look at that.
- 38 Chairman Belair mentioned the 65 day limit on our notes.
- 39 Mr. Moldoff said, it was accepted on October 22nd.
- 40 Chairman Belair asked, so it is not exceeded?
- 41 Mr. Moldoff said, that's correct.
- 42

DRAFT

1 **MOTION by Mr. Banks to grant the conditional use permit for Blackbrook Realty Plan for**
 2 **the reduced building setback for Section 490-501C, citing the applicant’s letter dated**
 3 **October 1st, and read into the record.**

4 **SECOND by Ms. Withrow.**

5
 6 **VOTE ON MOTION: 7 - 0**

7 **UNANIMOUS**

8
 9 **MOTION by Mr. Banks to grant conditional approval of the Blackbrook Realty site plan**
 10 **with the 11 conditions as stipulated by Ross.**

11
 12 Ms. Withrow asked, are there 12 now?

13 Mr. Moldoff said, he revised #10 to say, provide the certified as-built plan for every 10 units. So
 14 we will verify and he knows that you want to make sure that the work is done. So it is still 11
 15 conditions.

16
 17 **SECOND by Ms. Withrow.**

18
 19 **VOTE ON MOTION: 5 - 2 (Chairman Belair and Mr. Gibbs opposed.)**

20
 21 Mr. Hatch stepped down from the board. Mr. Graham joined the board.

22
 23 **NEW BUSINESS**

- 24
 25 1. **DEVINS SUBDIVISION – Preliminary Hearing for 2 lot subdivision at 103 North Main**
 26 **Street, Map 49, Lot 12570.**

27
 28 **MOTION by Mr. Banks to accept the Devins subdivision application as complete.**

29 **SECOND by Ms. Withrow.**

30
 31 **VOTE ON MOTION: 7 - 0**

32 **UNANIMOUS**

33
 34 Abutters: Karels was present.

35
 36 Kurt Meisner, with Meisner Brem Corporation, is here to represent Devins Properties and David
 37 Marcincovitch. We are proposing a two lot subdivision. We were in front of you about a year
 38 and a half ago. We split the lot originally into the two lots, which is the house located at 103 and
 39 the house located at 103A North Main Street. In August, we went to the ZBA and got a variance
 40 to split the lot. He then showed the original lot on the plan. There is an existing home owned by
 41 David Marcincovitch, and they built a common driveway. Since August, we received a variance
 42 to cut the lot off the 2.7 acre parcel. We cut out .6 for the other lot, and left the existing house on
 43 the 2 acre site. It is serviced by a common driveway. It has municipal water and the septic
 44 systems. We received State subdivision approval for the septic on the new lot, and also on the

DRAFT

1 existing home. There is a wetland on the rear of the site. It is shown to the rear of the existing
2 dwelling. The new lot has no effect on that at all. We propose a single family dwelling on that lot
3 with a State approved septic system. The variance is noted on the plan. We meet all other zoning
4 requirements. We have asked for a waiver from the irregular shaped lot and he has submitted a
5 letter to you on that.

6
7 Staff Comments:

8 Early on we were concerned about sight distance. It was resolved, which he explained.

9 He then read the regulation regarding lot lines or lot shapes being generally square or
10 rectangular. There is no way to avoid that in this case. They are asking for a waiver of the
11 regulations. He showed the shape of the lot on the plan.

12 He believes that you have the minutes of the ZBA meeting.

13 He got the OK from Assessing and Public Works.

14 He doesn't believe the Police Department has any concerns.

15 We are waiting to hear from the Fire Department. He thinks their concern is, they want to
16 make sure there is a street address sign on the front.

17 He received a memo from Engineering. They had a couple minor concerns, which he read.

18 Those can be handled by conditions of approval.

19 Recommend - if you are inclined, you can grant conditional approval tonight. You have to
20 grant the waiver first, then move to hear this in one hearing, then grant conditional approval.

21
22 Chairman Belair asked for public input.

23
24 Steve Karels, 6 Jennings Road, opposes this project. At the back of his house, there are two
25 bathrooms back there that face that area, and there are privacy concerns. The other issues are
26 when the new house was going up, there was a lot of pounding into the ground, and that knocked
27 stuff off of our walls. We now have water leakage in the basement. So there may be some
28 potential of damage to our property if they do similar work. So he opposes it. But if you do
29 approve, he would like to have a provision to minimize or eliminate any damages affecting his
30 house. The other issue was, a couple years ago, this was proposed with 3 houses. The third house
31 was not approved. Usually it can't be brought up again, but it looks like this proposal is a way to
32 get around that.

33
34 Chairman Belair asked about the pounding.

35 Mr. Meisner said he doesn't know what that was. We did soils testing and it was very good.

36 They have seasonal water tables of 46 inches which is deep. It is nice sand out there. We don't
37 suspect any ledge or blasting for the proposed new house.

38 Chairman Belair said he doesn't want it to cause any trouble.

39
40 Ms. Withrow asked, it is a shared driveway? It won't be a public road?

41 Mr. Meisner said that's correct. A shared driveway would be as shown on the plan, and will stay
42 exactly as you see it now. There was a large woodshop out there, it was a commercial building.

43 Our original approval was to keep that there as a commercial entity, and run his construction
44 company out of that building. But when we went back to the ZBA, we relinquished that and gave

DRAFT

1 up the commercial use of the property, which would be a much higher and intense use than a
2 single family home. So that was a trade off.
3 Chairman Belair thinks that could go either way because that's just a garage for a truck, versus a
4 single family home.

5
6 Ms. Donovan said, the abutter said something about a third house being denied. Do we have any
7 information on that? Why was it denied and what has changed?

8 Mr. Moldoff said, that was done at the ZBA and not here. There were a variety of different plans.
9

10 Jeff Hatch, 35 Royal Circle, and member of the ZBA, said he wasn't on the board at the time, but
11 in 2017, they proposed to subdivide that parcel into three lots with a shared driveway that you
12 see now. The ZBA at the time didn't like the idea of the three house lots, but they approved two
13 house lots, and left the state factory there. That brings us back to 2018 or 2019. That is when
14 they came back with the proposal of two house lots and leaving the wood factory. The person
15 who owned the property was going to operate his construction company out of the woodshop and
16 use it for storage of equipment. The biggest thing was a one ton dump truck and miscellaneous
17 construction equipment and tools. Then it came to the board again, and they wanted to get rid of
18 the factory and they wanted the third home. That's why you end up with the little strip of land, to
19 meet the requirements. The ZBA decided it was better to get rid of the commercial use and get
20 rid of the construction equipment being stored. And turn that third lot into residential, so that's
21 why they are here today.

22

23 Ms. Donovan asked, will that now be a prohibited use, having anymore commercial vehicles on
24 that site?

25 Mr. Meisner said that's correct, yes.
26

27

28 Mrs. Harvey asked, is there any landscaping proposed for the boundary as a buffer between the
29 new house and the abutter?

30 Mr. Meisner said there is nothing proposed now, although most of this site is cleared. The area
31 where the building would be built, they will plan a lawn and landscape it.

32 Mrs. Harvey asked, would it be appropriate to make sure there is landscaping as a buffer between
33 the two properties?

34 Mr. Meisner said, he is not sure what landscaping is on the abutter's property. We would be
35 amenable to putting up a fence or something like that.

36 Mrs. Harvey suggested a tall one. She asked him to work something out.

37 Mr. Meisner said we could plant trees. But when you go out to the site, he is not sure what is at
38 the limit of the property line. Your eye catches the open portion of the field. He doesn't think
39 there would be an issue with planting a couple trees along that line unless there are trees in there.
40 We have to stake the property line. Once we do that, it would be appropriate to verify the
41 vegetation that is there. We can go out with Ross or someone from staff.

42 Chairman Belair suggested that you work with the neighbor. He doesn't know what items were
43 causing trouble during construction. If you do something there, hopefully it won't disturb the
44 area.

DRAFT

1 Mr. Meisner said, if there is any blasting, which there won't be because it is all sand, but there
2 are rules that govern that.

3
4 Mr. Karels said, the septic system is on the side of his house facing this property, so putting trees
5 may be problematic.

6
7 Maurice Renier, 6 Jennings Road, said they were compacting the sand when digging the
8 basement, and it was over a two week period from 7:00 am to 4:00 pm. We were taking
9 everything off the walls so nothing would break. After it was done, we had a half inch water in
10 the basement on all three corners that were facing that side.

11 Chairman Belair asked, did it cause foundation damage?

12 Mr. Renier said, he is not sure right now, but we have sediment that has fallen off the side of the
13 wall. But he can't say it was just that, that did it. But we didn't have water leakage before, but we
14 have it now.

15 Chairman Belair asked, is it coming from the abutting property?

16 Mr. Renier said he believes so. We saw standing water in the abutting property more towards the
17 road last winter, that iced up over last winter.

18 Ms. Withrow asked, is it sloped towards you?

19 Mr. Renier said, it is not sloped towards me, it was just puddled there.

20

21 Mr. Banks suggested adding drainage to the plan to help mitigate it.

22 Chairman Belair asked about the topography.

23 Mr. Meisner said, the topography does slope from the road towards the back. The spot we are
24 talking about now is extremely flat. That is where the building was. It's a sandy soil. We are not
25 pushing it into the other property. He showed the contour line on the plan and discussed the
26 drainage.

27 Mrs. Harvey said, it looks like the abutter is lower.

28

29 Mr. Meisner then read from the letter dated November 5, 2019, for the waiver of Section 278-
30 6:4.1.

31

32 We believe the request is a reasonable one whereas we have demonstrated that the proposed new
33 lot has sufficient area for a single family home, deck and driveway as is customary and there will
34 be no issues with crowding. The lot is serviced by municipal water thereby reducing the need for
35 additional space as might be required with private well.

36 Specific circumstances relative to this subdivision (such as the configuration of the perimeter
37 boundary) or conditions of the land in said subdivision, indicate that the waiver will properly
38 carry out the spirit and intent of these regulations.

39

40 Mr. Meisner explained this on the plan.

41

42 **MOTION by Mr. Banks to grant the waiver for Devins subdivision plan for Section 278-**
43 **6:4.1 for the irregular shaped lot, citing the applicant's letter dated November 5, 2019, and**
44 **that he read into the record.**

DRAFT

1 **SECOND by Ms. Withrow.**

2

3 **VOTE ON MOTION: 7 - 0**

4 **UNANIMOUS**

5

6 Mr. Moldoff read the following conditions:

7 1. Prior to recording the plan, note the waiver.

8 2. Prior to recording the plan, set or bond monuments.

9 3. Prior to recording the plan, submit approval from the Engineering Division per their memo
10 dated November 18th.

11 4. Prior to recording the plan, add a fence along the rear lot line.

12 5. Record the new driveway easement on a portion of the lot.

13 6. All representations made by the applicant or agents and all notes on the plan are incorporated
14 as part of the approval.

15

16 **MOTION by Mr. Banks to hear this in one hearing.**

17 **SECOND by Ms. Withrow.**

18

19 **VOTE ON MOTION: 7 - 0**

20 **UNANIMOUS**

21

22 **MOTION by Mr. Banks to grant conditional approval of the Devins subdivision with the 6**
23 **conditions as stipulated by Mr. Moldoff.**

24 **SECOND by Ms. Withrow.**

25

26 **VOTE ON MOTION: 7 - 0**

27 **UNANIMOUS**

28

29 Mr. Graham stepped down from the board. Mr. Hatch rejoined the board.

30

31 **PUBLIC MATTERS**

32

33 1. Happy Tails Pet Daycare

34

35 Mr. Moldoff said, on September 24th, you approved the Happy Tails Pet Daycare facility on
36 Range Road. They want to change some of the conditions listed on that plan. Do you want to
37 handle it under public matters, or have it come back? The approved plan said no boarding or
38 grooming and they had limits on the hours of operation and it said no days or weekends. Now the
39 request is to be open on weekends, from 7:00 am to 6:00 pm and open it up for boarding, up to
40 10 dogs. He is here. If you want to notify the abutters and get them on the agenda, then let him
41 know.

42

43 Mr. Banks said he looked at the minutes, and there were several references to the fact that there
44 would be no nights or weekends. It was pretty clear and the hours complemented the other

DRAFT

1 businesses that were there. Everything worked based on that. That's his reason to have them
2 come back.

3 Ms. Withrow agrees, it's a short time to change so much.

4
5 The consensus of the board is to have them come back.

6
7 2. 303 South Broadway

8
9 Mr. Moldoff said, he has a letter that he talked about at the last meeting from 303 South
10 Broadway. They want to put in a fitness facility there. You asked some questions and asked Ross
11 to check out the parking. He did that and has a site plan that was prepared that shows the parking
12 for the facilities. He went into the record and looked at previous site plans that were approved,
13 and parking calculations, and he estimated parking for the proposed facility based on the size of
14 the facility. He asked the applicant to address some of your concerns about parking and give a
15 revised letter. They are here, and the landlord is here. He was satisfied that he thinks it will work.
16 He brought them back incase you have questions.

17 Chairman Belair said, if you think it will work, based on your experience, and if the landlord
18 doesn't have a problem.

19
20 Mr. Gibbs said, his only concern is, we are making a judgment on plans dated 1993, and there
21 are things that are different.

22 Mr. Moldoff said, they updated that plan with the one that is in front of you tonight. They didn't
23 do the whole site, he only gave you that plan so you would see where the parking is on site. It is
24 a busy spot with TBones, but the times seem to work and there is enough parking around this
25 building, where the fitness facility would go. We can talk to them.

26 Chairman Belair said, with the cabinet shop, you don't get a lot of traffic. It would be different if
27 it was a high intensity use. If you don't have a problem, he doesn't.

28
29 The consensus of the board is, they have no problem with this.

30
31 3. Seritage Development

32
33 Mr. Moldoff said, they are supposed to open mid December. They sent a letter and said they are
34 not done. They have not leased out the old Sears Auto Center and their site plan is supposed to
35 be done with all the work. They have done most of the work but they want to make sure the
36 approval is still in place for the conversion of the cinema. They have two restaurants and a retail
37 store. They want an 18 month extension on the approval for the redevelopment of the auto center
38 building. Do you have any concerns with that? He didn't.

39 Mrs. Harvey said, it is usually a year.

40 Mr. Moldoff said, it is usually a year and they asked for more.

41 Chairman Belair suggested that we give them a year.

42
43 4. Queen Anne Lane

44

DRAFT

1 Mr. Moldoff said, in 2017 you granted a conditional use permit for some houses on Queen Anne
2 Lane. They are going forward with that plan and the plan has changed a little. The houses won't
3 be closer to the wetlands than they were, but they want to make sure you are OK. They gave a
4 letter to Ross. They checked with the Conservation Commission, and the same letter will go to
5 them. This is just to let you know.

6 Chairman Belair asked, so they asked to be so close and now they won't be?

7 Mr. Moldoff said yes.

8

9 **PLANNING BOARD MATTERS**

10

11 Mr. Moldoff mentioned the zoning amendments. The deadline for citizens petitions is December
12 11th. You have a meeting on December 10th. We hadn't talked about this, but he has a couple that
13 came up. And he wants to let you know about them to see if you want to do them. Nothing has to
14 be done. He expects one citizens petition for a zoning map change. There are three that he came
15 up with. One came up at the staff level. The Building Department asked for it. Our regulations
16 say, if they fail to grant a building permit within 15 days, then the permit is considered denied.
17 That conflicts with State law, which says they have 30 days. So he would revise that section to
18 reflect State law. The second one is, there is a model floodplain development ordinance that has
19 come out from the State, and they have a list of responsibilities for the floodplain administrator
20 and right now that is not specified in the ordinance, so he took the wording directly from the
21 State model. The Chief Building Official, or his or her designee, is appointed to administer the
22 floodplain regulations, and he lists the duties. There is nothing new, he is just organizing it
23 differently. The third one is a zoning map change. He showed the area for the citizens petition. A
24 portion of the parcel is zoned rural, and is surrounded on two sides by commercial. They want to
25 rezone it to commercial. It is mostly wet. You will get a chance to recommend approval or
26 disapproval. But if it goes forward, there will be a small segment up top that would still be zoned
27 rural. We can think about it. This is town owned land associated with Hedgehog Park. We can
28 wait until next year, and see what happens with the citizens petition.

29

30 Chairman Belair asked, will we cancel the December 24th meeting?

31 Mr. Moldoff said yes, we will cancel that meeting.

32

33 Ms. Withrow asked if there is an update on Kelly Road, behind Petsmart regarding replacing the
34 trees.

35 Mr. Moldoff said, Home Depot replaced their trees. There is no update. Ross sent them a letter
36 saying that the Planning Board said to replant trees, but he hasn't heard from them.

37 Ms. Withrow said, it looks awful.

38 Mr. Moldoff said he will talk to them about that.

39 Ms. Withrow is talking about the ones on Kelly Road.

40

41 Mrs. Harvey asked, the citizen petitions, is that just for Planning Board or is that also the
42 deadline for citizen petitions?

43 Mr. Moldoff said, no that is just Planning Board. The zoning amendments date is December 11th.

44 Mrs. Harvey asked, so there is a different date for other citizen petitions?

DRAFT

1 Mr. Moldoff said that's correct.

2

3 Mr. Hatch mentioned the conditional use permit for signage, the electronic signs that come
4 before the ZBA. He thinks that should be under the Planning Board's pervue because it's a site
5 thing. And it is a conditional use. So when the gas station goes away, the right for the sign goes
6 away. But if the ZBA approves it, then whoever goes in, has the right to put the sign up, because
7 it stays for life. He thinks that type of sign should be under the conditional use.

8 Mr. Moldoff said he will look at that.

9 Mr. Hatch said, it cleans it up and puts it where it is supposed to be.

10 Mr. Moldoff said he will draft it and we will talk about it on the 10th.

11

12 **MOTION by Mr. Banks to adjourn.**

13 **SECOND by Ms. Donovan.**

14

15 **VOTE ON MOTION: 7 - 0**

16 **UNANIMOUS**

17

18 The meeting adjourned at 9:07 p.m.

19

20 For further information, kindly refer to the videotape dated 11/26/19, located in the Planning
21 Office.

22

23 Minutes by: Susan Strugnell, Planning Board Recording Secretary

24 Approved: Planning Board

25 Date: