

PRESENT: Dever, Chairman; Pelczar, Vice- Chairman; Clark, Thorpe, Flanders, Edney, Code Enforcement Officer; Tivnan, Clerk

Clark moved, Thorpe seconded, THAT WE APPROVE THE MINUTES OF AUGUST 14, 2008 AS CORRECTED. Voted unanimously.

PUBLIC HEARINGS

00026: B & F MEREDITH LLC C/O FRANKS, BILL: An appeal for a SPECIAL EXCEPTION for construction of a retail shopping mall with associated parking and utilities within non-designated wetlands and a protective buffer with total wetland impact of 4283 sq. ft. and associated buffer impact, Tax Map S19, Lot No. 36, located at Needle Eye Rd. in the Commercial /Rte. 3 South District.

Franks –We are back in front of the Board. At the last meeting you had some concerns. Since that time we have marked the wetlands and have had meetings with the Conservation Commission. I think we have done everything right to get this approval. Johnson- We re-hung the wetland flags at the location that has been determined by the wetland scientist. Mr. Shuey had an additional meeting with the Conservation Commission and they issued an additional letter that I believe is in your packet. Shuey – We did go back to the Meredith Conservation Commission to discuss their initial letter that had recommendations at the end. Subsequent to that, I had written a letter agreeing to what they were asking for. The request from the Zoning Board was we have another meeting with the Conservation Commission to finalize that and to make sure we were all on the same page. (Read from Conservation Commission letter dated 9/8/2008)” We received assurances in Mr. Shuey's letter and during our discussions with Mr. Franks and Ms. Day, that all Commission recommendations would be implemented. If the Board and the Town include our recommendations as conditions for approval of the application for a Special Exception, the Commission is satisfied that we have completed our advisory role. We appreciate the Board's recognition of our recommendations to make this project more environmentally palatable.” Would you like me to go through the recommendations? OK. (Read into the record Mr. Shuey's letter of 9/4/2008:

NEW ENGLAND ENVIRONMENTAL, INC

Response to Recommendation by Conservation Commission

1 — Consolidation of the three lots into one single lot of record. This was a requirement of the residential development in order for the applicant to get the desired density of 10 units. It is not a requirement for a commercial lot. In discussing the development with Mr. Franks, he is agreeable to the consolidation.

2 — The town be assured the capacity of the detention basin — This is more a design issue than an issue for the Planning Board. The applicant has no issue with this being a condition from the Zoning Board to the Planning Board that the sizing and calculations be reviewed by the town to ensure proper sizing.

3 — Provide a maintenance plan for the underground basin. — We are in support of this and will provide this documentation to the Planning Board as part of the application to them. Again, we would like this to be a condition from the Zoning Board to the Planning Board.

4. — Applicant's statements regarding non degradation of surface water and ground water; provide water quality treatment and planting of shrubs be incorporated into any authorization issued by the town. We have no problem with this and would again ask that this be a condition of approval of the Zoning Board.

Hearing closed at 7:10 PM

2856: WAYNE & CANDACE VERRILL: An appeal for a SPECIAL EXCEPTION to create an accessory apartment above a garage, Tax Map U11, Lot No. 70A, located at 7 Kelly Lane in the Residential District.

Verrill – I need storage for my boat and truck so we decided that we would put an accessory apartment above to offset some of the cost of the project. It meets the requirements in Article VII, Sections a&b. It will be within 100' of the primary dwelling, the sq. footage comes out to 39%. We meet the criteria on the bedrooms and we will be living there. This will not be detrimental to the neighborhood. Steve Melbourne is working on the project and whatever codes are applicable, we will make sure that we meet all those codes. Thorpe – Side setbacks in the residential district are 10'? Edney – Yes. Dever – In reviewing your file, I noticed that your septic design is for four bedrooms and you will have five with this. Verrill – I am waiting for my approval from the State. This will have a separate system. Dever – So you will have a separate one for this? Verrill – I can't tie into the one I have because it is to far and the elevations won't allow it. Lacey Blair – I live at 8 Kelly Lane and we are worried about the speed of traffic that goes through there and the noise. After school kids go flying through there with loud music and we hear them also at night playing loud music. We have two young children. Dever – Has any of that traffic been associated with your neighbor? Blair – Yes – I believe it's his son. We have also found beer bottles. Dever – Have you spoken to the police department? Blair- No, I have not. I didn't want to call the police on him. Dever – The issues that you are talking about have nothing to do with this board. We can't control that but I believe it is a good time to meet your neighbor and maybe convince them to reign in what they can control. Verrill – I can understand where you are coming from. This is the first time I heard my son is doing those sorts of things. I will address that issue and whoever moves into the apartment I can control that also. Flanders – Why is it exactly 100' to the corner? Verrill – I thought about attaching it to my house but I decided to move it away from the house. Hearing closed a 7:25 PM

2857: RALPH SIMARD: An appeal for an AREA VARIANCE to construct a front porch with a front setback of 25.95', 30' required, Tax Map W06, Lot No. 30A, located at 1 Bear Point Road in the Shoreline District.

Simard – We are proposing to put a farmer's porch on my existing house. (Passed pictures to the board showing the porch) This would be a 10' wide porch. Clark- Your objective is to have a covered porch. Simard – Yes. Clark – Did you consider covering the porch that is already there? Simard – No, I did not. Clark – How much space is between the existing porch and the property line? Simard – I believe it is about 50'. Clark – So it is pretty far. Simard – The other thing I am trying to do with the porch is to help prevent ice damage with the new roofline. Dever – Is this the only way you can achieve your goal? Simard – Yes, I am on a dead end dirt road. Dan Bouchard - My wife and I own both 6 and 10 Bear Point Road. We are in support of this application. Pete Blanchette – I am a neighbor and I am in support of this. Clark – When was the original structure built? Simard – Two years ago. Hearing closed at 7:25 PM.

2858: FINCH PARSONS LLC & REBECCA WHITCHER / ALAN RUEL: An appeal for an AREA VARIANCE for creation of new lot line resulting in a rear setback of 25.77', 40' required, Tax Map U06, Lot Nos. 50 & 54, located at 5 Waukewan Ave. and 121 Main Street in the Residential District.

2859: FINCH PARSONS LLC & REBECCA WHITCHER / ALAN RUEL: An appeal for an AREA VARIANCE for create a new lot line resulting in an increase of lot coverage from 25.7% to 39%, 30% allowed, Tax Map U06, Lot Nos. 50 & 54, located at 5 Waukewan Ave. and 121 Main Street in the Residential District.

Dever – We will listen to both cases and vote on them separate.

Johnson - The applicants own both properties under separate ownership. They live at the property on Waukewan Ave. and the property on Main Street is a three unit multi-family dwelling. They have maintained a yard at the Waukewan Ave property that includes a significant garden that shows on the plan. The entire garden and the patios that they treat as part of the homestead are actually on the property that fronts on Main Street. Because they own both properties and because all of the function and use of the multi-family dwelling exists to the east of the barn, to the back, there has never been an issue. There is no portion of the property that is at U06-54 that utilizes any of the land that is in back of the barn. They are hoping to sell this property and wish to create a property line such that the entire garden that they have maintained would be part of their homestead lot and everything to the east of the line would be part in parcel with the multi-family. Both lots are non-conforming. We have four units on a given amount of land. We have a certain amount of lot coverage on both lots. We want to move the line in such a manner that none of that changes. The density, lot coverage and use will remain the same as it is now. By moving the line the land area is being distributed much more equally among the two parcels. This is an application that would have to go before the Planning Board. In doing this, two things will happen. The setback resulting from creating a line where the garden is entirely on the Waukewan parcel creates a

setback of 25.77', 40' required. This is a reasonable setback to be asking for. This lot will now be conforming by setback and lot coverage. The other lot which is now conforming by lot coverage and a conforming lot by rear setback becomes a non-conforming lot slightly by lot coverage and the non-conforming setback would be the 40'. We are really just doing a switch. When this line moves, the use of these properties will not change. To grant the variance:

- There will be no diminution in value of surrounding properties as a result of this.
- Granting the permit will not be contrary to the public interest because the public is unaffected by this change.
- Denial of the permit would result in unnecessary hardship to the owner seeking it. Most of the homes in this area are non-conforming by one or many different aspects. The 40' setback is extremely restrictive in this zone. This is in character with the neighborhood.
- Granting the permit substantial justice would be done because it would allow the owners to have their yard existing with their home lot.
- The use must not be contrary to the spirit of the ordinance. We believe this is not contrary. The ordinance allows reasonable adjustments to lot lines, lot coverage and setbacks if what is being proposed is in harmony with the neighborhood.

Flanders – If they moved the lot 15' they would lose some of their garden but you would not have to come for the 40' setback. Johnson - The answer to your question is yes, but that is not what the owners wish to do. We are making an extremely non-conforming situation much less than what it is now. Thorpe – I have the same concern. If they are trying to sell the Main Street property don't the new owners deserve to have a conforming lot? Johnson – I can only answer, that is not what the owners want to do. Hearing closed at 7:45 PM

DELIBERATIONS

00026: B & F MEREDITH LLC C/O FRANKS, BILL:

Pelczar - Once the Conservation Commission came on board, I don't have a problem with this. Thorpe – Agreed.

Clark moved, Thorpe seconded, IN CASE # 00026, B & F MEREDITH LLC C/O FRANKS, BILL, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION FOR CONSTRUCTION OF A RETAIL SHOPPING MALL WITH ASSOCIATED PARKING AND UTILITIES WITHIN NON-DESIGNATED WETLANDS AND A PROTECTIVE BUFFER WITH TOTAL WETLAND IMPACT OF 4283 SQ. FT. AND ASSOCIATED BUFFER IMPACT, TAX MAP S19, LOT NO. 36, LOCATED AT NEEDLE EYE RD. IN THE COMMERCIAL /RTE. 3 SOUTH DISTRICT BE GRANTED, CONTINGENT UPON

THEIR COMPLYING WITH ALL OF THE RECOMMENDATIONS AND THEIR RESPONSES TO THE RECOMMENDATIONS AS STATED ON PAGE (3) OF THE LETTER FROM NE ENVIRONMENTAL DATED SEPTEMBER 4, 2008. VOTED 5-0 IN FAVOR.

2856: WAYNE & CANDACE VERRILL:

Flanders moved, Pelczar seconded, IN CASE # 2856, WAYNE & CANDACE VERRILL, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION TO CREATE AN ACCESSORY APARTMENT ABOVE A GARAGE, TAX MAP U11, LOT NO. 70A, LOCATED AT 7 KELLY LANE IN THE RESIDENTIAL DISTRICT BE GRANTED, AS IT MEETS ALL THE CRITERIA FOR A SPECIAL EXCEPTION FOR AN ACCESSORY APARTMENT. Voted 5-0 in favor.

2857: RALPH SIMARD:

Clark- When I went to look at this property and drove around the corner, the first thing I noticed was how close this is to the road, and the applicant proposes to make it even closer. It seems this could be somewhat detrimental to the neighborhood and contrary to the spirit of the Zoning Ordinance. It seems there is an option to put the porch on the area on the deck at the side of the house and possibly extend the deck out further. Flanders – I have a few concerns as well. We don't have a map of the lot with rear setbacks. It seems that after only two years, they are looking to get closer. At this point I am not totally on board. Clark – The property is on a road that slopes back. Flanders – I will say that I think it would make the house look nicer. Edney – There is an access easement to the rear which makes it impossible to do anything in the back. Clark – It looks like there is some land to the side based on what the applicant said. Flanders – So Bill, the reason it is so close is because of that easement. Dever – It does meet the front setback. Pelczar- Bill just answered the question I was going to ask. I agree with Mark- I think he has a tough situation. I think the porch will make the house look nicer. Clark – I still believe it is too close to the road. I don't believe there is a hardship because I believe there are alternatives. Thorpe – On balance, I am more where Mike is. Flanders – The porch is 10' and 6' would be useless. We have had people come back with 8'. I am wondering if that would not be appropriate here. Dever – The house does meet the front setback. It does look close when you drive out there. Clark – It is already bad and it is going to be made worse. This gives us a good idea of what the result will be. Pelczar – This road is privately maintained. So basically it is a long driveway. Clark – I don't think that matters. We are here to protect everybody. It looks like there are 15-18 people who live down there and I think it is difficult for people to come forward and say they don't want this. I think it is great that some neighbors came and spoke in favor of this. That does mean a lot to me. I think it is up to us to consider this independent of it not being a town road. Dever – Motion.

Pelczar moved, Thorpe seconded, IN CASE # 2857, RALPH SIMARD, I MOVE THE APPEAL FOR THE AREA VARIANCE TO CONSTRUCT A FRONT PORCH WITH A FRONT SETBACK OF 25.95', 30' REQUIRED, TAX MAP W06, LOT NO. 30A, LOCATED AT 1 BEAR POINT ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 4-1 in favor.

Dever- As to the criteria:

- No diminution in value of surrounding properties would be suffered. . Do we all agree to that? Clark- No Flanders – I think it would add value. Thorpe - I agree with Brian.
- Granting of this variance will not be contrary to the public interest. Thorpe – I don' think it would be contrary to the public interest.

Since:

- the following special conditions of the property make an area variance necessary in order to allow the development as designed; Clark – I think that is true. Thorpe – I think there is a hardship here.
- the same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden. Clark – I believe the same benefit could be achieved by building the porch on the side of the property. Dever – In that case we would have to get into some facts and figures which are not available to us tonight. Clark – What I am saying is that I don't believe the applicant has demonstrated an exportation of other things at this time. Dever – Would you suggest we continue this until he (applicant) can investigate an alternative? Clark – Not particularly. My sense is this is going to pass and I just want to go on record as to why I vote no. Flanders – I don't think by making him do something else is going to cost him twice as much. This is iffy.
- The use contemplated by petitioner as a result of obtaining this variance would not be contrary to the spirit of the ordinance. Clark – I have stated elsewhere my feelings on this. Thorpe – I am more with Warren on this one. Flanders – My stance is that an 8' porch would give him the same look with space. Not as much space as he wanted.

2858: FINCH PARSONS LLC & REBECCA WHITCHER / ALAN RUEL:

Dever – We heard these together but will vote on them separately. Thorpe – This should be Waukevan Ave and not Street. Clark – This is a fascinating case. On the one hand it seems that it would be very easy for the applicant to come up with an even less non-conforming solution by simply moving the boundary line. On the other hand, it seems to me, who cares. Why would anybody care? Yes, the new owners of the three-unit building will be purchasing a building with a smaller setback yet it seems that they

will weigh that in with the price they are willing to pay for the property. Pelczar – This is a unique situation. You have two people who enjoy their yard and home and do nothing but improvements. That yard is everything to them. Flanders – I am not concerned about who buys this. They know what they are buying. It seems easy to move that line back 15'. Clark – You have heard me state many times that this Board's job is to protect the neighborhood but in this case the only neighbor who is going to be affected is the applicant. Thorpe – There is no hardship here. This is strictly the convenience and desire of the homeowner. I am having trouble on how to vote for this if there is not a hardship. Clark – The reason we have a ZBA is to protect people from the unlawful seizure of their land by the government without just compensation. Perhaps because this is not a true hardship it still might go to the fact that these two people own these two contiguous lots, they use them now and have divided their use in a particular way. The only people who will be affected are the applicants themselves. Even if it isn't a true hardship, it is perhaps why we have zoning boards. Dever – There use to be a passage in the old workbook that says "sometimes there is no useful purpose for what it says in the Zoning Ordinance "and this is one of those cases. They own both properties. The use has been there for at least 40 years. I don't have a problem with this. Flanders –Once this is approved and in place they can build 15' closer to the other property. Dever – We don't know what the future will bring. We have to look at what is in front of us now.

Clark moved, Pelczar seconded, IN CASE # 2858, FINCH PARSONS LLC & REBECCA WHITCHER / ALAN RUEL , I MOVE THE APPEAL FOR AN AREA VARIANCE FOR CREATION OF NEW LOT LINE RESULTING IN A REAR SETBACK OF 25.77', 40' REQUIRED, TAX MAP U06, LOT NOS. 50 & 54, LOCATED AT 5 WAUKEWAN AVE. AND 121 MAIN STREET IN THE RESIDENTIAL DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR AN AREA VARIANCE. Voted 5-0 in favor.

2859: FINCH PARSONS LLC & REBECCA WHITCHER / ALAN RUEL:

Clark moved, Pelczar seconded, IN CASE # 2859, FINCH PARSONS LLC & REBECCA WHITCHER / ALAN RUEL, I MOVE THE APPEAL FOR AN AREA VARIANCE FOR CREATION OF NEW LOT LINE RESULTING IN LOT COVERAGE OF 39%, 30% ALLOWED, TAX MAP U06, LOT NOS. 50 & 54, LOCATED AT 5 WAUKEWAN AVE. AND 121 MAIN STREET IN THE RESIDENTIAL DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR AN AREA VARIANCE. Voted 5-0 in favor.

Meeting adjourned at 8:30 PM

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on _____, 2008.

Jack Dever, Chairman