

**SWANZEY ZONING BOARD OF ADJUSTMENT MEETING
FEBRUARY 8, 2010**

Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.

ATTENDANCE

William Hutwelker, Chair; Keith Thibault, Vice Chair; Charles Beauregard, Sr., Jerry Walker. Alternates John Arnone, Charles R. Beauregard, Jr. Town Planner Sara Carbonneau also was present.

Chairman Hutwelker called the meeting to order at 7:00 p.m. and read the agenda for the meeting. The Board addressed the following items.

MINUTES

Motion by Beauregard, Sr. to approve the minutes of January 18, 2010 meeting. Second by Thibault. All in favor.

Motion by Thibault to approve the minutes of the December 10, 2009 meeting. Second by Walker. Walker, Hutwelker, and Thibault in favor. Arnone, Beauregard, Sr., and Beauregard, Jr. abstain. Motion passes.

1. (PUBLIC HEARING) SPECIAL EXCEPTION APPLICATION

Applicant: Wilcox Real Estate, LLC

Property owner: Wilcox Real Estate, LLC

Property location: West Street Tax Map 81, Lot 7-1

Zoning District(s): Business District

Request: Special exception from Section V.B.2.b. to permit the construction of multi-family housing (two 4-unit apartment buildings).

Members seated: Hutwelker, Thibault, Walker, Beauregard, Sr. Arnone was seated for Mitchell.

Representing the application: David Bergeron, Brickstone Land Use Consultants, and Henry Turgeon (principal on behalf of Wilcox Real Estate, LLC)

Abutters present: Morgan Light, Heather Phippard, Martha Joyal, Brian Pickering, Ernest Perry, Mark Perry. Swanzey resident Nancy Carlson (who stated that she was present as a citizen and not as a Selectman).

Hutwelker called the public hearing to order at 7:13.

DISCUSSION

Members received a February 3, 2010 application summary from Town Planner Carbonneau. Carbonneau reported that the lot in question has the

ability to be connected to public sewer, per a 1/27/10 memo from the Sewer Commission, and the ability to be connected to the West Swanzey Water Company, per a 1/27/10 letter from Sally Brown, company president. Carbonneau stated that the lot is a confirmed acre.

Bergeron presented the application, showing the location of the proposed driveway, buildings and parking spaces. Two parking spaces per unit are proposed, with 3 spaces for overflow parking. Bergeron stated that proposed sewerage infrastructure would include a private force main and force main pump.

Bergeron stated that the zoning ordinance allows multifamily dwellings in the Business district by special exception. He stated that the parcel has the required 1 acre and 125' of frontage. He stated that the proposed use is similar to other uses in the neighborhood—specifically, the condominiums on Perry Lane, and the Haley Heights apartment complex on Route 10. He stated that the apartments would be rental units only, and would have two bedrooms.

Bergeron submitted an appraisal from Paquette Appraisal Services, LLC, which states that the proposal would result in no reduction in neighborhood property values. Bergeron stated that the proposal would instead help to enhance property values in the district.

Bergeron reviewed a traffic analysis of area intersections prepared by Laurie M. Rauseo, P.E., PTOE. He stated that the analysis indicates that the proposal would not generate sufficient additional trips to negatively affect the existing level of service of West Street or Route 10, and stated that existing and proposed facilities for pedestrians would be adequate.

Bergeron reviewed letters from the West Swanzey Water Company and Swanzey Sewer Commission indicating that service could be provided to the property. Bergeron stated that electric service would be provided from overhead lines on West Street.

Bergeron stated that a fire hydrant on West Street is close enough to the proposal to provide fire suppression, and said that there are no plans to sprinker the building. Carbonneau stated that the West Swanzey Water Company provides domestic water supply only and cannot be relied upon for fire protection.

Bergeron stated that snow would be stored adjacent to the parking areas, on both sides of the driveways. Infiltration likely would manage drainage. Residential style lighting fixtures would illuminate the parking and walking areas. A screened dumpster would be located at the rear of the first parking area. Space for a play area has not been designed; Bergeron stated that children could use land in the 75' setback area as a play yard. Each building would have an unfinished basement for utilities and storage.

Abutters Light and Joyal expressed concern that the proposal would exacerbate existing delays for motorists seeking to enter Route 10 traffic, especially during the morning commute. Bergeron stated that the traffic analysis predicts that the proposal would generate 54 trips during a 24 hour period, with 4 of those trips during the peak morning hour. Pickering expressed concern about the impact of size of the proposal on the neighborhood.

Joyal stated that duplexes exist in the neighborhood, but no multi-family

complexes. Joyal also expressed concern about the availability of water. Bergeron stated that water availability and water pressure is highest closest to wells, as said that the wells are nearby.

Carlson stated that eight 2-bedroom apartments potentially could house a total of 32 people, and expressed concern that 32 people would overload the 1-acre parcel. Carlson stated that fire hydrants in the vicinity likely are not operational.

Bergeron stated that the Haley Heights apartments average approximately 1.6 occupants per unit.

Bergeron stated that even a single family home would require a special exception in the Business district, because residential uses are not encouraged in a business district. Hutwelker said that ZBA practice calls for reminding applicants that businesses uses must take priority over residential uses in the Business district. Those present discussed zoning requirements regarding setbacks, and density in areas served by municipal sewer.

Thibault advised members of the public that Planning Board site plan review affords an opportunity to discuss issues such as privacy, density, and traffic.

Hearing no further questions, Hutwelker closed the public hearing at 8:10.

REVIEW OF CRITERIA

Board members reviewed the criteria for granting the requested special exception.

1. Is the exception allowed by the ordinance?

Members agreed in the affirmative.

2. Are specified conditions present under which the exception may be granted?

a. Is the proposed use similar to one or more of the uses already authorized in that District and is it an appropriate location for such use?

Members discussed these questions at length, in light of the Business district, neighborhood characteristics, and lot size. Members finally concluded that, although the proposed use in the immediate neighborhood would be unique, the neighborhood to the east is densely populated. Members agreed that no testimony had been presented to indicate that the proposal would be injurious or obnoxious.

b. Will such approval reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood?

Members agreed that no evidence had presented that an approval would reduce property values or otherwise harm the neighborhood.

c. Will there be a nuisance or serious hazard to vehicles or pedestrians?

Members agreed that traffic circulation and the needs of pedestrians had been adequately addressed.

d. Will adequate and appropriate facilities be provided for the operation of the proposed use?

Members agreed that facilities would be adequate and appropriate.

Motion by Thibault to approve the special exception from Section V.B.2.b. to permit the construction of multi-family housing (two 4-unit apartment buildings), with the condition that a privacy fence be constructed to screen

abutting neighbors. Second by Beauregard, Sr. Thibault, Beauregard, Sr. and Arnone in favor. Walker and Hutwelker opposed. Motion passes.

Hutwelker explained the re-hearing process, and reminded members of the public that the proposal would next go to the Planning Board. When the application is submitted to the Planning Board, abutters would be notified by certified mail and legal notice would be posted as required. If the apartments are approved, Thibault encouraged neighbors to develop an open, respectful relationship with the owner/manager.

ZBA members discussed the Board's desire to discuss issues related to density permitted by the zoning ordinance with the Planning Board. Walker, Thibault and Beauregard, Jr. offered to represent the ZBA in discussions that would be coordinated by Carbonneau.

2. DISCUSSION

Basic zoning laws and procedures Board members and Carbonneau discussed *ex parte* communication at length.

Swansey ZBA's Rules of Procedure Board members reviewed rules, and discussed requests for re-hearing and appeals from administrative decisions. Carbonneau encouraged members to attend training sessions at conferences and the municipal law lecture series.

Ethics and conflicts of interest Board members discussed personal conduct that would prevent members from being seated to hear a ZBA application.

ADJOURNMENT

Motion by Beauregard, Sr. to adjourn. Second by Walker. All in favor. The meeting adjourned at 9:55 p.m.

Respectfully submitted,

Victoria Reck Barlow,
Recording Secretary