

April 5, 2010

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TOWN OF CORNWALL

PLANNING BOARD

APRIL 5, 2010

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN  
KENNETH BRODMERKEL  
WYNN GOLD  
LED KLOSKY  
WILLIAM GRABE  
HELEN BUNT

ALSO PRESENT: AMY ZAMENICK, ESQ.  
PLANNING BOARD ATTORNEY

ERIK DENEGA, P.E.  
PLANNING BOARD ENGINEER

LESLIE DOTSON  
PLANNING BOARD CONSULTANT

ABSENT: MICHAEL LOBLANCO

GARY VINSON  
BUILDING INSPECTOR

REGULAR\_MEETING

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MR. NOVESKY: I'd like to call to order the April 5, 2010 meeting of the Town of Cornwall Planning Board. Mr. LoBlanco called to say he was ill and would not be attending tonight's meeting.

CORRESPONDENCE

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MR. NOVESKY: We have four pieces of correspondence, Fran, we'll get them over to you, Ed Garling, Mr. Cordisco, Orange County Planning Department regarding the turbine law. Leslie, do you have a summary of that letter regarding the wind turbine law? I know Mr. Brodmerkel is a strong advocate of that in smaller properties.

MR. BRODMERKEL: He's speaking the truth.

MS. DOTSON: Yes. No, I mean, they liked it.

MR. NOVESKY: The escrow accounts we have Leslie updating us on the escrow accounts, we had some issues over the last some months with them falling behind. We issued an edict that the planning board is very strong and firm not doing any work with escrow accounts that fall below the required allotment. So I think we've cleared that up.

APPROVAL\_OF\_MINUTES\_DATED\_3/1/10

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MR. NOVESKY: Approval of the minutes. Everybody receive their minutes? Any questions? Comments? Motion to accept those exceptionally professionally prepared minutes?

MR. GOLD: So moved.

MS. BUNT: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. GRABE	AYE

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MR. KLOSKY            AYE  
MR. NOVESKY           AYE

MR. NOVESKY: No resolutions tonight, no public  
hearings.

SAAED\_MOSLEM\_&\_SAEIDEH\_MOSLEM-TAGHAVI\_#2010-3

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MR. NOVESKY: First regular item.

Mr. Steven Drabick appeared before the board for this proposal.

MR. DRABICK: The application before you this evening is for two things to happen on a piece of property we're doing a proposed lot line change and a site plan for an addition to an existing garage. The parcels are both under the same ownership, currently under the same ownership and it was only recently that the applicants acquired the rear parcel which is shown on the plan as 17 by virtue of a court action. What we're looking to do is take that parcel in the rear and expand the existing block garage that's on that parcel and turn it into a two story structure which would contain an office space, a two car garage and a utility room on the first floor and then two apartments on the second floor. The lot line change portion of the application would make the existing parcel that's on Main Street there 298 Main Street a more regular usable parcel than as it is right now. Also the parcel 17 as it was acquired the only road frontage it had would have been along Bridge Street which was unusable because that portion crosses the Idlewild Creek. The change in size there's been no change in size of the lot on Main Street, we've kept that, that's currently a non-conforming size lot but in doing the lot line change, it kept the area the same as what's existing now. With regard to parking for the proposed uses, I did just briefly go over Leslie's comments here, I agree, the tax lot 8 has been assessed for parking in a business district but to my knowledge and from the research that I've done, tax lot 17 hasn't been and I don't believe it was even assessed for a long period of time, that parcel in the back was shown as part of the lands of Winnie Swenson which adjoins this which is now Armondary's (phonetic) property.

MR. BRODMERKEL: Winnie's lands adjoin this?

MR. DRABICK: Formally it was Winnie Swenson's, that property has been conveyed but previously it was Winnie and if you go back two or three years on the tax rolls you'll see that this whole piece including this lot here behind the buildings was shown as being part of Winnie Swenson's property. It was only through the court action and some deed research that it was discovered that there was a portion there that was not actually her property, it was just overlooked actually belonged to the heirs of I believe it was a descendent of the Clarks.

MR. NOVESKY: Was it abandoned property?

MR. DRABICK: No, it wasn't abandoned. Ironically, it wasn't abandoned because everybody was under the assumption all that time that it was part of Winnie Swenson's property. There was a little bit of confusion when this front parcel was sold because at one point I guess Mr. Bernicker had owned that parcel.

MR. BRODMERKEL: Probably at one point.

MR. DRABICK: And he also owned the apartment building to the left of this.

MS. DOTSON: The three story frame building?

MR. DRABICK: Yeah, the three story frame building he owned that also and at the time he used the garage in the back that was a startup of his business before he moved.

MR. NOVESKY: How do you get to the garage in the back, from Bridge Street?

MR. DRABICK: No, right down through the existing

driveway that's between two parcels.

MR. NOVESKY: Which is on parcel 8, correct?

MR. DRABICK: Which was originally on parcel 8, right, exactly.

MR. NOVESKY: And that's the area you're looking to subdivide it a different part of parcel 17?

MR. DRABICK: Exactly, to provide some sort of usable road frontage that parcel directly off of Main Street. Also at the time that Bernicker owned the apartment building to the left in that particular deed was, it was at that point in time that the right-of-way was created for a joint use of that driveway between these two adjoining properties.

MS. DOTSON: So there's some history.

MR. DRABICK: Oh, no, there's a document of record that calls out and it allows us to use the six feet to the west of our property line which would virtually put the right-of-way up to the side of the building at that point.

MR. NOVESKY: The side of the building on property number 9?

MR. DRABICK: Right, exactly. So with that legal right-of-way in place, the depth of that right-of-way it just says for the length of the property what we would do is utilize that six feet and extend the usable travel way getting out, in and out of the parcels to the full width possible between the two buildings. Basically, we can add probably another five feet to that access point and I understand the applicants are currently trying to communicate with the existing owners, J & B Properties with regard to the paving of that section in the back.

MR. BRODMERKEL: Property to the west?

MR. DRABICK: Right, exactly. All in all with the improvements and the pavement going in the back, it would be an improvement, I mean that driveway is currently being used by people in the apartment there to park in the rear.

MR. KLOSKY: That's at 298.

MR. DRABICK: Both, 298 they park in the back, I think it's the owners of the business the shop that's in that building now they'll park in the back there but to the left of that there's a whole big gravel unpaved shale parking area for that apartment building, they use that same entrance in and out.

MR. KLOSKY: I understand.

MR. NOVESKY: That would be the back part of lot number 9, correct?

MR. DRABICK: Correct.

MR. BRODMERKEL: Steve, do you know what's in that 298-300 building, what stores are in the front? Are they currently occupied?

MR. DRABICK: There's one store that's currently occupied, it's the only business part of that building, it's a gift, sort of gift shop.

MS. BUNT: Luann owns it, she used to work at Grand Union, she has it, she used to be up on 32 she moved there.

MR. DRABICK: And I think there's two apartments in the building.

MR. BRODMERKEL: Okay.

MR. DRABICK: One that's being occupied by the applicant Saaed and then the other one being rented out.

MS. DOTSON: I thought there were apartments in this building, there's a lot of questions about that building.

MR. NOVESKY: With that, do you have more you want to say or--

MR. DRABICK: No, well, I understand that in order for the project to go forward we're looking at a number of variances so basically that's where I'm looking to get to.

MR. NOVESKY: We'll get to where we need to go here with Leslie's comments.

MS. DOTSON: Yeah, I had a lot of comments, you've covered some them. I'll try not to duplicate. Comment 1 just describes what you're trying to do. We know that you need variances, we know that you're seeking a referral to the ZBA but some of these I did have some questions about, you know, what specific variances you would necessarily be needing. Comment number 2 addresses my questions about history, Steve's just addressed some of that. And you also addressed who has the rights to use that proposed defined right-of-way. Comment 3 with respect to the scale that's just a picky point, it did mess me up when I was first trying to make measurements though, it still messes me up cause it's a wacky scale. The bulk table I just feel that you need to make some changes to include more complete information because that's a little bit of a switch-a-roo going on here in order to try to conserve the same amount of land with lot number 8 which is in the front, he's shifted some land that was previously

in the back to lot 8 but I really think that the ZBA needs to get a very good picture as to what the limitations are in the rear parcel because half of that parcel is kind of under water and I'm not saying that it wasn't, that land wasn't always restricted but if you look at the tax map, the attachment in the rear of 3.2 which is where this parcel 17 came from you can see how much Idlewild Creek consumes of that lot, it was not terrifically usable so but it's challenging. And I think that the Zoning Board really needs to know what's usable and exactly what all the deductions are and some other corrections and so forth. I don't want to take the Planning Board's time but we need to talk about the lot width just because I'm not sure how you got that and I played with it several different ways, we can talk.

MR. DRABICK: Okay.

MS. DOTSON: My big concern with this was parking just because this relies on the Main Street parking waiver and I'm not really thinking that it's eligible for that because I couldn't find the record that the parent parcel had paid into the parking district. I don't know if that's something that can be rectified but it's a real concern to me because this is a very intense use that's being proposed of the property and it's a real concern. I don't think that any parking other than on-street parking and for the parking district is allocated for the front building 298-300, I don't believe that we have any kind of a site plan for that that shows any kind of parking calculation beforehand so basically this is making use of some of the land that's on this to park in the rear and there's a very intensive demand for parking in the back. I'm noting that if you're going to be using the parking spaces that are partially on lot 8 to provide for lot 17 you need to have a deed restriction to bind it, that's required in the code. Another concern that I have is that there's currently a truck trailer body that's located on the back of tax

lot 17 that's not shown on the plan, this would have to be removed because it interferes with this plan. Comment number 8 has to do with the right-of-way, if you could address whether the proposed defined right-of-way has any restrictions that would affect it anyone who's using it routinely now to park if they pulled off the side, garbage cans, that sort of thing just because in a sense this is going to require them to reconsider their plan whether it's formalized as a plan or not. And I kind of addressed that number 9 waste containers for all existing uses should be shown on future plans. Comment 10 questions what's proposed use with the use and extent of use. When the applicant had first come before the planning board workshop, he proposed to come in for a car sales and we explained that that use would have required a use variance and we even had discussed the possibility of having the planning board suggest just because we were concerned about the idea of having a lot of traffic coming up and down the driveway just because it's kind of a narrow little canyon there we were concerned about having a lot of traffic coming down there and crossing the sidewalk because it's dangerous. And the site distance really isn't all that good coming between parked cars and so forth. So our concern especially having a business, having an intensive use back there we felt that the planning board might be more, what's a nice way of saying it, more understanding of a desire to use this more just for two residential uses rather than the office use plus two residential uses. So even though the office plus two residential uses is what's provided for in the code, we felt that the planning board might be willing to entertain a recommendation to the Zoning Board in favor of just the two residential uses in consideration of the circumstances of the property. That's something that's not proposed on this plan but it's something that I'm raising because it had been discussed at the workshop and I think that the planning board ought to be aware of it just because I'm sure that the planning board has some of the same concerns

that we all do as to the fact that, you know, given the parking schedule this is clearly a very intensive use of the site, it's building right up to the very tippy edge of the bank for this building extension anyway. So of course he can also eliminate a dwelling in the interest of reducing the dwelling and that wouldn't require a use variance. And lastly my concern is just about the structural integrity. This is being described as an addition to the existing garage but from a structural standpoint, I wondered whether that's actually really technically what's going on because I'm not thinking that the existing structure's really in a mode to be added onto. So, I mean, that's kind of more not my bailiwick but I just figured it would be nice to be accurate.

MR. NOVESKY: Speaking of the existing residence, Erik, why don't you give us a little bit of contemplation on the existing structure?

MS. DOTSON: Well, I enclosed a picture because I thought one picture's worth a thousand words, it comes out better in the county tax website, it's a concrete block structure, got cinderblock walls, it may be perfectly sound but it doesn't look--

MR. NOVESKY: Erik, do you have a comment?

MR. DENECA: Specific to the existing building?

MR. NOVESKY: No, any comments.

MR. DENECA: I'll go through Mark's comments quickly and the board can discuss. Mark's comments they're mainly concerning the right-of-ways, one would be the one that runs through the property parallel to Main Street where the parking lot, Mark is just concerned that the town have the ability to access that right-of-way off Main Street through the existing parking lot. I'm skipping down to number 2 because

number 1 essentially Leslie already covered. Mark's also requesting a copy of the documents in connection with the right-of-way. Second item the right-of-way appears to extend onto the adjoining property of J & B so just want to get some supporting documentation that they're on board with the same uses. On to the second page the documents associated with the sewer easement should be submitted to the attorney for the Town for review. And the plan appears to propose widening of the drive off Main Street which Leslie touched on. I believe the six foot wide section Steve also discussed, Mark is just suggesting that the widening between the properties supporting documentation should suggest that that property is in line with what the applicant's claiming. Second to last bulleted item just in reference to the classification of the stream, you can see where the proposed drainage pipe outlets towards the embankment of the stream because it's a classified stream typically requires a permit for stream disturbance from the DEC. Mark I believe just suggesting that maybe because of the limited amount of permeable surface that's being added you may be able to provide a scenario that maybe does not disturb the stream embankment to avoid the involvement of DEC. That's something maybe you and Mark can discuss a little further. And lastly, additional clarification seems to be needed for the sewer and water services and Mark's last bulleted item and number 3 the board should determine if a referral to the Orange County DPW is needed since the drive is expanded off Main Street which is a county road which I think typically is the practice with any increased use and modifications to the driveway entrance.

MR. NOVESKY: It's your opinion that a referral is necessary?

MR. DENEGA: Typically, if you develop an access through a county road they usually require their standard details and approval for the driveway access

so I think so, yes.

MR. BRODMERKEL: Main Street is a county road?

MR. DENEGA: Yes.

MS. DOTSON: They get cranky if you don't.

MR. DENEGA: If you take the chance of not doing it you face the wrath of the DPW.

MR. GRABE: We wouldn't be changing the opening?

MR. DENEGA: I just think--

MS. DOTSON: Just because they also get concerned about drainage.

MR. DENEGA: They particularly of late have been particularly concerned about applications that you thought may have not needed to go and then they find out about it and then you get a call the from the Orange County DPW very upset. I think we'd be on the safe side, not making any physical changes to the entrance, it may just go well.

MR. BRODMERKEL: He is making physical changes, he's widening it.

MR. NOVESKY: And there's more activity.

MR. BRODMERKEL: And that intersects with Union.

MR. DENEGA: If there's physical changes they're going to see it.

MR. NOVESKY: Do we need a resolution or is that standard procedure?

MR. DENEGA: I don't think you need a resolution.

MS. DOTSON: We may, well, Mark usually does it but I think we might want to wait till they come back from the Zoning Board. I think there's a concern because Mark discussed with me he didn't put it in the written comments but he discussed the idea of having two separate applications for this to handle it, sort of the same way we did for NYMA where the lot line change was one, subdivision was one component and the site plan was another component and but this is just more because one has to get filed in, you know, with the county and the other just gets filed with the town. But we need to differentiate I think for right now it's probably--

MR. NOVESKY: We need a legal opinion.

MS. ZAMENICK: Dominic completely agreed that he wanted to separate the application and he didn't want you to worry about the easements until the variance was granted so we know what we're dealing with before we send it out.

MR. DENEGA: It's going to provide more clarity if you have separate site plans from the lot line change.

MR. NOVESKY: Let's start with the lot line change one at a time.

MR. BRODMERKEL: I have a question. Previously we talked about two parking spots?

MS. DOTSON: Well, I think that they're two parking spaces short if they don't actually if they aren't eligible for the reduction to the business district so correct.

MR. NOVESKY: Kenn, are you suggesting a variance by the zoning board?

MS. DOTSON: Well, the planning board could request so do you want to, this is an area and no, seriously, like so I have deep concerns about the extent of use that's being proposed back there.

MR. BRODMERKEL: The other thing is the question usable lands, actual land, the creek takes up at least 30 percent of this property, probably 40 or 50 percent of this property.

MR. DRABICK: If I can just interrupt though.

MR. BRODMERKEL: Go right ahead.

MR. DRABICK: To answer your concerns about that, the difference between what I've shown on that bulk table between gross and usable lot area is the subtraction out for that portion of the lot that not only falls in the creek but would also include what would be the limit of the flood plain there.

MS. DOTSON: So you did not deduct the easements?

MR. DRABICK: No, I did not deduct the proposed defined easement for the sewer line and the access easement.

MS. DOTSON: If you take away the easements, there's hardly anything left.

MR. DRABICK: But that figure that you see between the difference between the usable and the gross is a reflection of that portion of the property that falls in the creek and flood zone.

MS. DOTSON: That's kind of what I thought but that's also what I'm kind of all about like going to everything all itemized because it gives you a better idea of what you're looking at.

MR. BRODMERKEL: Is there sufficient property left to

do what they're asking?

MS. DOTSON: They need variances.

MR. BRODMERKEL: The answer would be no without a variance.

MS. DOTSON: Yes, no without a variance, they need a variance.

MR. BRODMERKEL: I'm trying to understand.

MR. DRABICK: Not with regard to usable lot area.

MR. BRODMERKEL: That was my question, is that a correct statement?

MS. DOTSON: It's existing, you're making it smaller.

MR. DRABICK: On what lot?

MS. DOTSON: On 17.

MR. DRABICK: But the usable lot area is 5,000 square feet.

MS. DOTSON: You're still making it smaller by a small amount but you're still making it smaller, that's why I'm saying it's not flagged on this table as to what requires a variance but because it's already--I see what you're going.

MR. DRABICK: I'm saying the minimal requirement is 5,000.

MS. DOTSON: But I'm not sure whether, you do need to deduct some of these other easements.

MR. NOVESKY: Let me move on to the board's questions because we get the idea.

MS. DOTSON: I think he may need to deduct the access easements.

MR. BRODMERKEL: If we refer this to the county, if we, I think they're going to have a problem because it's like an intersection with Union.

MR. NOVESKY: Yeah, I agree, we have already determined that we'll refer that to the County Planning Department. Led, questions?

MR. KLOSKY: Yeah, I personally am, I see that moving of the lot lines seems to provide a pipe stem to 24-11-7 while removing an existing access from 24-18 so I don't see that there's really a benefit to moving the lot line for that reason. Twenty-four-eighteen I think uses that parking in the back right now and makes use of the access that they have to Main and all we're doing is flipping it from one to the other and stealing beneficial use from dash 8 to push it over to dash 17, I don't see that it improves access, in fact, it will increase the flow of traffic on the proposed plan across from the intersection with Union, my feeling about sight lines, pedestrian traffic, parking in that area of Main Street we're already passed safe capacity when I walk through that, that's the impression I get and I think that's backed up by the numbers.

MR. BRODMERKEL: What about private road, is that now a private road with the additional-

MS. ZAMENICK: No, it's just an easement.

MR. KLOSKY: The 24-1-8 would be continuing to use that so 1-8-1 would still be coming out over that same pipe stem.

MR. DENEGA: Can I make a suggestion? Maybe Leslie covered this with the parking is that if since the

applicant's proposing to use parking on 24-1-8, I would typically think a separate calculation for that lot's parking requirement be included on the plan to show they still have their sufficient parking.

MS. DOTSON: That's a question because we don't know if they're really parking in the back.

MR. KLOSKY: We move property lines to gain some benefit and I don't think that that's demonstrated.

MR. NOVESKY: Let's try and simplify, it appears as though we need to refer it to the Orange County Public Works in order to clarify the transportation issue.

MR. BRODMERKEL: Led just brought up an important issue in granting or looking at a lot line change if it takes too much property from the existing piece to allow for a sufficient parking then we can't allow the lot line change and if that doesn't happen, he doesn't have the 5,000 square feet and the whole thing falls apart.

MS. DOTSON: This is all conditioned upon the lot line change going through.

MR. NOVESKY: I don't want to belabor the point.

MR. KLOSKY: Increasing.

MR. BRODMERKEL: Would you like a motion to refer this to the Zoning Board?

MR. NOVESKY: Exactly.

MR. BRODMERKEL: And Orange County Planning?

MR. KLOSKY: Can we send it to the ZBA with a suggestion?

MR. GOLD: One thing I don't know if it's relevant or

not considering the fact that there's some question as to whether or not the Sarasoli (phonetic) building may be condemned, does that have any impact on this? That's the building where the roof caved in.

MS. DOTSON: Yes, I don't know that that necessarily affects this except insofar as they may, I don't know if they have rights to go in the back.

MR. GOLD: I want to make sure that point is on the record. The other concern that I have, I don't know whether this is relevant but I want the Zoning Board of Appeals to consider access by emergency vehicles to this property.

MR. KLOSKY: That's a good point.

MR. GOLD: What we're calling the right-of-way or easement.

MR. NOVESKY: It's a shared driveway, is it not?

MR. GOLD: I'm concerned.

MR. NOVESKY: Well, it's a commercial building in the back that's what they're proposing that would require some sort of enhanced access.

MR. KLOSKY: I'm wondering how do you get a pumper truck and ambulance back there?

MR. GOLD: Just wanted to get that on the record.

MR. NOVESKY: Any other members of the board wishing to make comment on this? With that, is there any action other than the proposed action that Mr. Brodmerkel just proposed that would be?

MR. BRODMERKEL: We would refer them to the Zoning Board of Appeals and to the Orange County Department of

Public Works.

MR. KLOSKY: Leslie, can we append somehow our comments from tonight's meeting to the document that is forward to the ZBA?

MS. DOTSON: Yes.

MR. GRABE: We're not clear on the motion.

MR. NOVESKY: Want to make it again?

MR. GRABE: Where is it going?

MR. NOVESKY: ZBA and Orange County Department of Public Works.

MR. KLOSKY: Amend your motion maybe we can attach the commentary from tonight's meeting to that having to do with emergency access, pedestrian crossing, the pedestrian right-of-way and the parking issues which are significant.

MR. BRODMERKEL: With that additional amendment, would you like to second the motion?

MR. KLOSKY: I will second your motion.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

MR. BRODMERKEL: Motion to adjourn.

MR. GOLD: Second it.

April 5, 2010

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ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer