

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, September 5, 2012 – 7:00 p.m.
1st Fl. Council Conference Room – City Hall
-MINUTES-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Jackie Hardy

Absent: None.

Also Present: Councilor LeBlanc; Linda T. Lowe; Gregg Cademartori

The meeting was called to order at 7:31 p.m. Items were taken out of order.

1. SCP2012-009: GZO Sec. 1.5.5(b) Sec. 3.1.6(b) and Sec. 3.2 for building height over 35' Re: Wingsheek Road #132

Attorney Robert Coakley, 63 Middle Street was before the Committee to representing the applicants, Antonio M. Bertone (present) and Alexandra Drane for a Special Council Permit for a height exception over 35 ft. for a new residential structure to be not more than 37 feet, 6 inches. An Affidavit for Notice to Abutters was presented to the Committee. He showed them an aerial view of the area and pointed out the property in question, across the street from the “two castles”. Most of another adjoining area he indicated on the photograph is an Essex County Green Belt Association preserved area. He also pointed out an area where a house that has been built since this aerial photograph was taken. There is a coastal dune and in part is one of the reasons why they’re looking for increased height. If they were to reconstruct this house which has a slab grade, they would be restricted to a slab grade as well.

Permitting Authorities: They went before the Conservation Commission (ConCom) in early summer. ConCom approved their application unanimously. They appreciated the reduction of the footprint of the building and reducing the impervious soil. They have applied for and received the necessary zoning relief from the Zoning Board of Appeals (ZBA) in order to demolish and reconstruct a single-family residence. The special permit to alter and expand a pre-existing non-conforming structure was coupled with the permission to rebuild because they lose the grandfathered status if they tear down a structure. A tear down would become a vacant lot; therefore, all the new zoning requirements apply as opposed to the non-conforming. Although the ZBA was in favor of what they were proposing and was unanimous in their approval, the Board wanted to make sure they weren’t opining on the height over 30 feet. They are applying for a height of 37 feet, 6 inches which is within the jurisdiction of the City Council. He showed a photograph of the existing structure and the house proposed to be built. The new house was before the ZBA a few years ago that met with resistance from the neighbors; but it was worked out. Part of the concern was the location of the existing road which is not actually as laid out. There was an agreement reached by the neighbors and the new house went up. Part of that agreement was recognition of retaining certain rights of all in the road. When the Bertone’s bought the property, the Cennerazzo’s who owned it, asked them to sign a document agreeing to recognize and to abide by the agreement negotiated with the neighbors in the future, which they did.

Property History and Current Status: The Cennerazzo’s three daughters bought the property and built a small house. The house they built is one of the reasons why they are before the Council. The new house took away the view into the mouth of the Essex River. They propose going up higher to recapture that view and that of Coffin’s Beach; currently the view is “peek-a-boo” through the existing structure. The current height of the home now is about 26 feet. In the submitted plans, the third floor, the top of the roof is 34-1/2 feet. They’re asking for 37 feet, 6 inches because they are proposing an open enclosed deck. The deck must be encompassed by a fence three feet high to comply with the Code, and hence the height of 37 feet, 6 inches. The footprint analysis was shown (on file). They overlaid the existing structure on the existing house; and on an outbuilding, pulling the house back a bit. It is smaller than the existing house footprint. The existing deck on the present house is being retained as to location and using the same parameters. He showed colored blueprints to the Committee (black and white were submitted to the Council) showing rear, front and side views of the proposed house.

This property has a small two-foot wide walkway down to Coffin’s Beach through the houses across the road. The lower level is split by a passageway that goes through the bottom of the house which is open but articulated with a structure and has to be walked around in order to retain privacy in the backyard. The Building Inspector said although the second floor elevation straddles both structures, it is all one structure.

This is two acre zoning. The lot was developed is under R-5 zoning which is 5,000 square feet. The house is only 7-1/2 feet from the property line whereas the Bertone’s house is 20 feet from the property line; the distance between

the two buildings is 27/28 feet. These are two separate lots. He pointed out the separation of the two lots. The only portion his client bought was pointed out to the Committee on the aerial photograph.

Sunlight Analysis: The architect took noontime readings from three different perspectives on the property over twelve months that shows the shadow changes taken at noon, the optimum time to look for shadow. He showed the Committee three shadow study figures indicating there is no shadow thrown over the property line. On the height exception criteria they are consistent with the neighborhood. The City Council has granted many height exceptions in this particular neighborhood. There is no overshadowing of other properties. There is no impairment of utilities. It is on septic with a four bedroom system. They see no detriment to the neighborhood. It is a single family house with no increase of traffic flow. There is more room to take family cars off the road by the configuration. There are no negative impacts to the quality of the natural environment. As to fiscal impact, the property is more valuable once the project is completed. They also meet the specific criteria of the height exception. They met their neighbors for the first time tonight and offered to share materials presented by email to them.

Mr. Coakley concluded his remarks by asking that the P&D Committee to recommend to the City Council the granting of the Special Council Permit for the height exception.

Councilor Hardy asked on the application that every indication where applicable should be Assessors Map 260, Lot 18. Lot 16 is a separate lot and that lot appears on the application in error. She asked Mr. Coakley to amend the application to be consistent.

Fredrick Winthrop, 200 Topsfield Road, Ipswich stated he met their new neighbors this evening and learned about their project. He is a co-owner of a family property at 153 Wingersheek Road although he does not reside there, pointing it out on the aerial photograph. He was present this evening in light of some controversy last year about the "daughters' house" (separate from this Special Council Permit process). He didn't see any problems with this project. They are concerned, however, about the height proposed, and what the profile will look like. He asked if they could see what 37 foot, 6 inches would look like by erecting something to show that height, and also asked the Committee to make a site visit. **Councilor Tobey** asked Mr. Coakley to have something erected on the property to show the potential height which **Mr. Coakley** assured the Committee they would. **Fred Winthrop**, 35 Mill Road, Ipswich, co-owner of 153 Wingersheek Road added that part of their settlement with the family was a height restriction as they were concerned with another family's construction in the recent past. They wished not to see overshadowing and also would like a site visit. **Mr. Coakley** stated they would need three weeks to set up a site visit in order to give the Committee accurate story poles. **Councilor Tobey** stated there would be a site visit for Saturday, September 22nd at 8 a.m. **Councilor Hardy** asked if there are plans to cover the deck which **Mr. Coakley** confirmed there were not.

This matter is continued to October 3, 2012.

2. Memorandum and relevant material from Acting Community Development Director re: modification to the Varian wind turbine under SCP#2007-12 (Decision Adopted 12/11/07; Modification Adopted 12/01/09; Extension of Permit under MA Acts of 2010 to expire 6/2013)

Gregg Cademartori stated he has a letter dated July 22, 2012 from Attorney Michael Faherty, representing Varian Semiconductor Equipment Associates, Inc. on their wind turbine project. There is specific language in the zoning ordinance for commercial wind turbines for the connection of the actual turbine to the public utility, or National Grid system, and allows for the potential for overhead utility. In their initial application, they proposed to install underground utility installation from the poles on the boundary of the property to the turbine location. After very significant geotechnical studies were performed, knowing the issues of that area, there are two things accomplished – there is less disruption in the parking area which is the staging area for the construction is their overflow lot which is completely consumed and want to avoid having a utility installation through the entire length of the parking lot immediately adjacent to the building. All the utilities in the business park are overhead. **Councilor Tobey** inquired was there any Council action necessary on this matter. **Mr. Cademartori** explained that the Building Inspector and he felt this is to be considered a field change and is consistent with the ordinance. As they have done with other major projects, they wished to keep the Council abreast of any modification they are aware is coming in advance of coming back to show that is in compliance; therefore, there is no Council action required. **Councilor Hardy** stated her agreement there is substantial evidence that the soil and topography of the site makes the use of the underground transmission lines unreasonable and as provided for in GZO Sec. 5.22.6 (g).

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend City Council to accept the recommendation of the

Acting Community Development Director that Varian Semiconductor Equipment Associates, Inc. who was previously issued a Special Council Permit for two wind turbines for a field change to allow above-ground connection to the public utility services of one turbine located at 35 Dory Road.

3. CC2012-049(Tobey/Verga) Council review of matter of self-storage service facilities and determine whether they should be restricted or regulated by City ordinance or Zoning Ordinance

Councilor Tobey noted City Clerk, Linda Lowe provided the Committee with a Billerica zoning ordinance pertaining to self-storage service facilities which indicates a minimum lot size for such a facility, in that case it is 10 acres. He asked this concept be referred to the Acting Community Development Director to determine given the existing configuration of self-storage units and the concern that prompted this was a scenic site across the street from Good Harbor Beach (a.k.a. Briarneck Crossing) not have "spite" development occur; and that this site and others like it in the City are protected from such an occurrence. Without objection the matter was referred to the Acting Community Development Director.

This matter is continued to October 17, 2012.

4. RZ2012-005: Amend GZO Sec. 3.1.8 re: Lot Frontage

This matter is continued to October 3, 2012 pending a Planning Board recommendation.

5. Discussion on possible creation of Planning & Development Advisory Committee re: Special Events permitting, etc. pursuant to City Charter Sec. 2-9(c) (Cont'd from 08/22/12)

Councilor Hardy was going to craft a possible ordinance amendment akin to the Traffic Commission as it acts as an advisory group to the O&A Committee. She wished to hear from her fellow Committee members as to whom should make up the P&D advisory committee, asking they think about what part of the community they'd like to draw membership from; business, entertainment, etc., as well as City staff. **Councilor Tobey** stated they want to hear from Police and Fire as well. **Ms. Lowe** asked they consider the Licensing Commission they already have composed of her and both Chiefs. The Licensing Commission already has some authority over some special events and is another body that does some work on this; suggesting that they could bring in more members on some occasions to their meetings for the permitting process for all special events. She further suggested the GCO needs amending to allow for the new body. She asked they keep the existing body in mind. **Councilor Verga** also noted the DPW would need to be included. The City Clerk was asked by the Committee also to obtain an after action report from the Police, Fire and Health Department regarding the Blues Festival which took place in August at Stage Fort Park. The organizers would be invited to attend the Committee's review. **Ms. Lowe** noted whatever they learn; she suggested the Committee should integrate it into GCO Chapter 11 so it will help them to better manage the permitting of such events.

This matter is continued to October 17, 2012.

6. Compliance by businesses holding DEP Chapter 91 licenses pursuant to City Council discussion of 07/24/12 and a Councilor Request to the Mayor dated week of 07/23/12: Review by Building Inspector regarding posting of signage for public restrooms (Cont'd from 08/22/12)

The Clerk of Committees informed the Committee they were in receipt of an email from **Bill Sanborn**, Building Inspector requesting this matter be continued at least 30 days pending receipt of a requested list from the Department of Environmental Protection of commercial establishments with Chapter 91 licenses who are by virtue of their licenses to provide public access to rest rooms and to post appropriate signage indicating same.

This matter was continued to October 3, 2012.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:15 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS RECEIVED AT MEETING:

- Aerial photograph of the area of 132 Wingaersheek Road; shadow studies (3 sets); line drawings of site plans (all filed solely in City Council Special Council Permit file) and Affidavit of Notice to Abutters (filed in P&D Committee files) by Attorney Robert Coakley on behalf of applicant re: 132 Wingaersheek Road