

**MINUTES
HAMPTON ZONING BOARD OF ADJUSTMENT
THURSDAY, OCTOBER 19, 2006**

MEMBERS PRESENT: Tom McGuirk, Acting-Chairman
Bill O'Brien, Clerk
Matt Shaw
Jennifer Truesdale
Bryan Provencal, Alternate

OTHERS PRESENT: Kevin Schultz, Building Inspector
Angela Silva, Recording Secretary

The Chairman called the meeting to order at 6:58 p.m. and lead the Pledge of Allegiance to the Flag. He then introduced the members of the Board and called for review and approval of the minutes of September 21, 2006.

Mr. O'Brien made a correction to the final vote on petition #51-06 on page 7. It was 4 For, and 1 Opposed (MS).

Mr. Shaw **MOVED** to accept the minutes as corrected, **SECONDED** by Mr. O'Brien.

VOTE: For 3, Oppo 0, Abst 2 (JT,BP)

MOTION PASSES.

50-06 The postponed petition of Kenneth Fisher for property located at 26 Island Path seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to construct a new first floor addition to create a 2-car garage under to allow for off street parking. This property is located at Map 282, Lot 17 in a BS zone.

Mr. Fisher and his sister Kelly Lajoie came to the table to speak on this petition.

Ms. Lajoie explained that Chairman Lessard was supposed to check with the Conservation Commission Chairman on their opinion regarding moving the house back 4-6 feet for safety purposes, and to be in line with the front of the homes on either side. She noted that the Conservation Commission had approved them previously to raise the home in the same location, with a small deck for egress at the rear.

The Board was not aware of any conversation occurring with Chairman Lessard and Mrs. Goethel, the Conservation Commission Chairman.

Mr. Shaw noted that this property was granted a variance back in 1991. Then Ms. Lajoie added it was to raise the building and move it back in line with the neighbors.

Mr. O'Brien **MOVED**, to preclude the petitioner from having to come back to this Board again, to approve the petition as presented, and to recommend that they go back to the Conservation Commission and seek relief to move the home back 6 feet to be more in line with the neighbors, for safety purposes, **SECONDED** by Mr. Provencal. Mr. O'Brien added that said structure will still be further from the wetlands than the neighbors on either side who are about 15' further back than him presently.

VOTE: For 5, Oppo 0

MOTION PASSES.

PETITION GRANTED.

Mr. Schultz clarified that the Board wants the petitioner to make a consorted effort to work with the Conservation Commission to move the structure back 6 feet.

Chairman McGuirk requested a letter from the Conservation Commission to confirm the allowance or not. Ms. Lajoie will contact Ellen Goethel and explain the situation.

33-06 Rehearing of the petition of Richard & Janice Clermont for property located at 515 Winnacunnet Road #6 seeking relief from Articles 1.3, 2.3.4(B) and 8.2.3 to add a 10'x18' screened porch on existing building within 50 feet of tidal marsh. This property is located at Map 222, Lot 118 in a RB zone.

Atty. Peter Saari came to the table to speak on this petition. He explained that the only article that a rehearing was requested on was 2.3.4, an area variance. This is a Planning Board issue. We can present how we would deal with the drainage, but this is a Planning Board issue. The Conservation Commission said to move the porch somewhere else, but we can't just do that. The condo association said no, he said. They want it in back. There's only a 10 foot difference between where it's going to be in the front and where it's going in the back.

Comments from the Audience: None.

Back to the Board:

The Board discussed the fact that the Conservation Commission requested this rehearing and now hasn't even shown up to provide the Board with their comments and concerns. Mr. Shaw reported that he voted against this rehearing. Mr. McGuirk reported that those who voted for it, did it for clarification on the comments in the memo.

Mr. Shaw **MOVED** to approve the petition subject to Planning Board and Conservation Commission approvals, exactly the same as last time, **SECONDED** by Mr. O'Brien.

VOTE: For 4, Oppo 0, Abst 1(JT)

**MOTION PASSES.
PETITION GRANTED.**

52-06 The petition of Ernest & Janet Bernard for property located at 16C Perkins Avenue seeking relief from Article 4.5.3 and Article IV Footnote 12 to place a 10'x7' shed in the same location as existing shed. This property is located at Map 293, Lot 2 in a RB zone.

Ernest and Janet Bernard came to the table to speak on this petition. Mr. Bernard said he had an 8x6 shed that was deteriorating. He took it down and put up a 10x7 shed. At the time he didn't think he needed a permit as he has owned other properties in other towns and it wasn't necessary. When he found out, he did come in and was told he had to go to the ZBA. He hopes it gets approved so that he can keep it, he said. He then read through the 5 criteria as submitted with his petition.

Questions from the Board:

Mr. O'Brien clarified the plan. It doesn't show the deck and the 2nd floor overhang. He asked how close the shed is to the house?

Mr. Bernard said there is a 2 foot overhang and a 4 foot deck. The shed is 2 feet from the overhang and 4 feet from the first floor of the house. When asked, he explained that his neighbor took his old shed. The other shed on the lot is his old shed, but it's not his.

Mr. McGuirk commented that that will have to be taken care of under an additional application.

Mr. Schultz commented that he would need a letter of assent signed by the other condo owners before he can give an after the fact permit. Mr. Bernard explained that he has no condo association whatsoever, no fees and no meetings. He was told a letter signed by all 3 owners would still be needed.

Mr. O'Brien asked Mr. Schultz what he's going to do about the old shed and how far a shed should be from a house. It doesn't show on this plan. Mr. Schultz said he will address the situation of the old shed. Utility buildings have no code for that. The Hampton Zoning Ordinance, however, in the RA and RB zones, states that no structure will be within 7 feet of another structure. He would recommend a fire rated wall on the side near the house.

Comments from the Audience: None.

Back to the Board:

Mr. Shaw MOVED to grant the petition, SECONDED by Ms. Truesdale. The Board discussed adding a fire retardant to the wall adjacent to the house, such as sheetrock. The petitioner agreed to work with Mr. Schultz on this.

VOTE: For 4, Oppo 1(BO)

MOTION PASSES.
PETITION GRANTED.

53-06 The petition of Sheila Marlowe for property located at 10 Thorwald Avenue seeking relief from Article 4.1.1 to build a single family house on the lot where the lot does not conform to the lot area per dwelling unit requirement for this zone. This property is located at Map 223, Lot 110 in a RB zone.

Sheila Marlowe and Paul Banacos came to the table to speak on the petition. Ms. Marlowe said she would like to build a 2 bedroom house. She had a variance and permit for 2004 and it has expired. She then read through the 5 criteria as submitted with the petition.

Questions from the Board:

Mr. McGuirk questioned the fact that the lot is pre-existing is undersized. Shouldn't she be able to build on this lot? He asked. Mr. Schultz explained even though it's a lot of record and is not required to meet the 10,000 square foot minimum lot requirement in the RB Zone, it's still required to meet the 7,500 square feet per dwelling unit, unless they get a variance.

Comments from the Audience:

Norbert Pestana, 532 Winnacunnet Road, asked if the property is going to be 2 story and single family.

Ms. Marlowe agreed. Ms. Truesdale clarified she sees 3 stories in the submission.

Mr. Pestana asked that this new building be similar to the neighborhood. The lot is already undersized and to put a 3 story building here would be out of character for the neighborhood. There is an issue with view and airflow. He objects to the petition.

Ms. Marlowe said she has plans for a smaller house than she originally submitted. The Board does not have these plans, nor does she have a copy.

Ms. Truesdale **MOVED** to table this petition until correct plans are submitted to the Board.

Mr. Pestana said if she builds a 3-story home he will be in a hole looking up. Ms. Truesdale said the Board cannot restrict height. She can build up to 35 feet.

Mr. O'Brien **SECONDED** the motion.

Mr. Shaw expressed concern with comments in a letter in the file from Doris Bussierre. This Board had nothing to do with approving the OC Suites. People can apply for anything, Mr. Shaw said, we're here to look at the facts and see if they should have a variance.

VOTE: For 5, Oppo 0

**MOTION PASSES.
PETITION TABLED.**

The Board advised Mr. Schultz that this petition should fall in proper sequence when the plans are submitted to his office. Ms. Marlowe said when she purchased to property the sellers said she could build this house.

54-06 The petition of Steven & Sarah Jane Constantine for property located at 7 Hemlock Street seeking relief from Articles 4.1, 4.1.1, 4.2 and 4.3 to re-subdivide what are two separately deeded lots, but assessed as a single lot, to recreate the two separate lots, each one being 45'x 90'. This property is located at Map 209, Lot 22 in a RB zone.

Atty. Peter Saari and Steven Constantine came to the table to speak on this petition.

Mr. Saari explained that the deed describes this property as 2 separate lots. The building is off to 1 side. He proposes to create 2 lots of approximately the same size and conformity as the other homes on the south side of Hemlock Street. He can meet the side setback with the existing home. The idea is for Mr. Constatine's father to build a home on the new lot. He cannot tell the Board why or when the lots were joined on the tax map. He then read through the 5 criteria as submitted with the petition. The structure will conform to all setbacks.

Questions from the Board:

Ms. Truesdale asked if this were granted, will they have to come back again to build a house.

Mr. Schultz said no, they're getting relief from the 7500 square feet here. As long as they meet all the other requirements.

Mr. O'Brien asked if they were asking for setback variances also. They are not. Mr. Schultz said they will need to go to the Planning Board to approve the plan.

Mr. O'Brien was concerned that the Board asked the other petitioner to show what they were building, and here we're talking about approving without seeing anything.

Comments from the Audience: None.

Back to the Board:

Mr. O'Brien feels the Board needs to be consistent. Mr. Shaw argued that the other people didn't have a correct plan. The Board discussed the differences between this petition and the previous one. This petitioner is claiming to build a small cottage comparable to the neighborhood.

Mr. Provencal MOVED to approve the petition, SECONDED by Mr. Shaw for the sake of discussion and a vote.

The Chairman polled the Board on their agreement that the 5 criteria have been met. All said yes except for Mr. O'Brien who said he will abstain because he can't rectify the difference in his mind from this petition and the previous one, and 4.1.1 will be in perpetuity.

VOTE: For 3, Oppo 0, Abst 2(JT,BO)

MOTION PASSES.
PETITION GRANTED.

55-06 The petition of John & Bette Lessard, Trustees of the BJ Realty Trust through Brother's North LLC for property located at 845 Lafayette Road seeking relief from Articles 4.8(b), 2.5.4(B) and 6.3 to construct a retail/restaurant plaza in the business-zoned portion of the lot which exceeds the unsealed surface requirements of the business district, but falls short of the aquifer requirements, and which will be just shy of the required parking requirement. This property is located at Map 90, Lot 31 in a B/RA zone.

Atty. Peter Saari and Ted Kougianos, Restaurant Operator, came to the table to speak on this petition. Mr. Saari also introduced Lisa DeStafano, Architect, Peter Lukas, co-applicant and Joe Coronati, Engineer. Elevations of the proposed building and a site plan were posted on the easel. Mr. Saari explained that they are proposing to build on the currently vacant site of the former Newick's Restaurant. They propose a retail and restaurant use that conforms to almost everything except for parking. They are 7 spaces short if you measure the outside of the building. They also need relief from impervious surface. The building and operations will be entirely in the B Zone. There is residential property to the rear and commercial on either side. The site is level.

Lisa DeStafano, DeStafano Architects, explained the building design. She said there will be 3 anchor tenants, with the restaurant being the main one. There will be an arcade along the front so that one can move from business to business and stay protected from the weather. The structure will be built with low maintenance materials. The watershed will be taken care of on site. The mechanical units will not be visible, and will be behind the parapet wall.

Joe Coronati, Jones and Beach Engineers, explained that when Newick's was operating the entire front of the lot was paved and the rear portion was gravel. The plan is to have a drain in the center of the parking lot leading to a water infiltration system. The water will be treated and put back into the aquifer. The roof drain will lead to a sandy area at the rear. DPW uses this same system at the beach where they've had water problems. Currently the sign is in the northwest corner of the lot, where it exists currently. This is probably a Planning Board issue.

Mr. O'Brien was concerned that they asking for 50% relief from the sealed surface requirement. Mr. Coronati explained that the water will still be going into the aquifer, but it will be cleaner than before. When this application goes to the Planning Board, they will probably have the Town Engineer review it and Aquarion Water. They will probably have to do a test pit and soils review. The Town Engineer will probably review the construction and installation of the system.

Mr. O'Brien commented that as long as he has been on this Board, nobody has asked for relief from this ordinance.

Mr. Coronati added that there's not a problem with the water now, and this will make it better. Newick's was there for 30 years. When asked, he said the sealed area is 83% of the lot.

Mr. Shaw asked if he could make part of the parking lot with pavers.

Mr. Coronati said this comes down to a usage issue. There's higher use here than with a small condo development.

Possibly reducing the sealed surface was discussed. The location of the dumpster was discussed.

Mr. Kougianos explained that he's been in the restaurant business for 30 years. He will be offering breakfast, lunch and dinner and all different types of food. Right now his business is cafeteria style. He would like to do both cafeteria style and a sit-down restaurant and lounge here. He will also be having a patio with an outside area for summertime eating. There will be 60-65 seats in the patio and lounge area and close to 200 seats in the restaurant.

Mr. O'Brien commented that if he took out 25 seats he wouldn't need the parking variance.

Ms. Truesdale commented that she has visited their Peabody location and they had no parking at all and she never had a problem. There was public parking. She also said their food was very good.

Mr. Kougianos said there are 120 seats at that location.

Peter Lukas, co-applicant, said they need these seats to make the numbers work and to give the restaurant a quality look. In Danvers they have 4200 s.f. with 130 seats. They originally had a larger project proposed, but have scaled it down.

Atty. Saari said most of the restaurant use is at night when most of the retail businesses will be closed, except weekends.

Mr. Shaw commented that this is similar to the Galley Hatch situation with their abutters. Ms. Truesdale added the Old Salt too.

Mr. Lukas explained that in Danvers there are maybe 75 public parking spaces and maybe 50% are used by the restaurant at any given time. This project will add flavor to that area of Town, he said. The lot has been a blatant eyesore for the last 10 years. This will be top quality. He's proud to have Ted for a partner and restaurant owner.

Atty. Saari said open space is to protect ground water. This is a benign use. It's not going to generate toxic chemicals or anything like that. The Planning Board will send the proposal out to engineers for review. A lot of times you see vacant hot top sitting around. It is in the public's interest to put this on this site. Every town needs attractive buildings. The Town should seriously entertain this. The infiltration system will be dealt with at the Planning Board. The businesses surrounding the property are similar in character.

Comments from the Audience: None.

Back to the Board:

The sign was discussed. They may have to come back to the Board for it. Mr. Jack Lessard said the sign is grandfathered. It's never been taken down.

Mr. O'Brien MOVED to grant the petition subject to the understanding that the Aquifer District requirements will be reviewed in detail by the Planning Board, Building Inspector and engineers.

Mr. Schultz argued that the proposal will control the runoff by slowing it down and at the same time purify it more than it probably would have been if they met that variances. He's not responsible for making sure it works correctly.

Mr. O'Brien AMMENDED HIS MOTION to approve the petition as presented, SECONDED by Ms. Truesdale.

The Chairman polled the Board on their opinion of the petition meeting the 5 criteria and the all agreed.

VOTE: For 5, Oppo 0

MOTION PASSES.
PETITION GRANTED.

56-06 The petition of The Pines Ocean Boulevard, LLC for property located at 9A Ocean Boulevard seeking relief from Articles 1.3 (as to 4.5.1 and 4.5.2) to reconstruct the front wall of the existing building to bring it back to the front lot line (the building currently encroaches into the Town right of way), remove the existing front canopy (which also currently encroaches into the right of way), remove the side canopy and drip edge (both of which currently encroach onto the abutting property) and construct a second floor deck above the rebuilt first floor. This property is located at Map 296, Lot 125 in a BS zone.

Atty. Peter Saari and Chuck Hughes, property owner, came to the table to speak on the petition.

Mr. Saari said you can see from the elevations that there are a lot angles on the building. They are asking for a variance from the front and side setbacks. They are not extending out any further. In fact they are coming in by removing the canopy encroachment in the right of way and drip edge to the north. They propose to eliminate all encroachments. They need to improve the head room inside in that front 1-story area. This area isn't exactly compliant with fire safety regulations. We are also proposing a 2nd story deck with railings around. This is shown on sheets 4 thru 6. There will be a 6 foot high barrier on the north side of the deck at the request of that abutter. The use we feel is appropriate for this resort community. This is the Business Seasonal Zone. We can't raise the roof without great expense. Chuck is willing to do that. To make him move the deck back 4 feet would make no difference to the neighborhood, he said. He then distributed pictures of the interior and exterior of the building, showing the low head room and condition of that area of the building.

Questions from the Board:

Mr. O'Brien asked if he will be reconstructing the whole front wall?

Mr. Hughes said that is his intention. All that's left of the old building is this front section. To set the deck back 4 feet would make it so small it would be almost non-useable. This deck will be level with the existing 2nd floor. There are several unreparable leaks in that area right now.

Mr. Schultz said he would need further approvals from the Board of Selectmen, Fire Department and Health Department to serve food outside on this deck.

Mr. O'Brien asked if he has spoken to his neighbors?

Atty. Saari said he submitted 2 letters from abutters.

Comments from the Audience:

Steve Joyce, 12 Dover Avenue, said since they have been running karaoke there's a lot of noise coming out of there. It has gotten better since he built the new building. But this didn't help with the noise from the patrons leaving at closing time. He's BS Zone, we're RB Zone. It is a detriment having those patrons around our neighborhood at night. With the deck, doors will be open and noise will come out of the building. He's always picking up beer bottles and trash people drop out of their cars. He requests the Board not to allow the 4 foot setback or the deck at all if they can.

Andrew Guthrie, Boston Avenue, said he's been coming here 51 years. There's never been a deck up there. He spoke of sitting on his deck and hearing the noise from this establishment. He questions the hardship and deed restriction. He also commented that one of the neighbors who submitted a supporting letter is probably doing the work.

Mike Robinson, 4 Dover Avenue, said he's 25 yards from this property...directly across the street. He enjoys going there, but he also enjoys his sleep. Our quiet time is after 2 a.m. People come out of the bar and hang around. A deck will increase the noise level. There has never been a deck up there as far as he knows and he's been here since '71. You should check with the Hampton PD regarding call statistics on this place, he said. If this is approved he would like to see restrictions for quiet time and no entertainment on the deck. This property also has zero parking.

Mr. O'Brien reported that there are no parking requirements from A Street all the way up to here.

Mark Pollock, 6 Dover Avenue, said he's been there for 5 years. He is opposed to the deck.

Mr. O'Brien advised that if the petitioner wants to pull the building back 4 feet on the east and the north he could put a second floor deck on without any approval from this Board.

Mr. Pollock said he sees Stacey Janes from his porch. The only hardship here would be on the neighborhood. This is of no benefit to the community. It will be fixed either way. There will be noise out there all night with the deck. He asked that the Board remove the deck from the approvals.

Mr. Schutlz added that relief is given from these articles he could build the second floor deck.

John Christiansen, 12 Epping Avenue, said he hates to go after a good business man. But he objects to the deck. If you enforce the setback it will be a very small area, but that small area will impact a lot of people. It's similar to the Sea Shell Stage down at this end. If a whole area is against something, it may be legal, but it's morally wrong.

Ronald Wanderlich, abutter to the South, has residential units abutting the proposed deck. This gentleman's gain would be his loss.

Craig Mullen, 8 Dover Avenue, said the newer part of this building is a lot quieter than the older part. He asked the Board to keep the 4 foot buffer. He hopes the owner would consider a fully enclosed deck.

Steve Driscoll, 13 Dover Avenue, said he has no objections to the building. He thinks most of the people don't care about the 4 feet off the property line, but the deck should be enclosed.

Mr. Schultz said he can repair the wall as it is. If he came in for a deck meeting the 4 foot setback he could get a building permit. How he chose to use that deck could need other approvals, like for food, people, health, place of assembly etc.

Mr. McGuirk added we can't stop him from putting a deck up there. We can stop him from putting it up to the road.

Andrew Guthrie feels this is an expansion of a non-conforming use. He doesn't see how he can be given a building permit. Also he believes there is a deed restriction.

Mr. Schultz explained that the Atlantic Avenue property that Mr. Guthrie is referencing had a specific deed restriction for setback. This one doesn't.

Mike Robinson added that the petitioner is asking to move his building back 2 inches and to add a deck. If the Board does grant this variance then he can move the deck out the additional 4 feet.

Mark Pollock reiterated "We're asking you not to approve the deck."

The leased land deed restrictions were discussed.

Back to the Board:

Mr. O'Brien said he'll vote against this. He's an advocate for the 4 foot setback. If he wants to repair in-kind he would have to give up the 2 inches.

Mr. Provencal feels that by reconstructing the building, it would cut down on the noise and look a lot better. He's all for it. Maybe there's a possibility of adding a glass wall on top of a 3 foot wall to help with the noise.

Ms. Truesdale is for fixing up the property. It's an eyesore. With the deed restriction, this variance is not contrary to the laws in force of the Town of Hampton.

Mr. Hughes said he's not proposing any entertainment out there.

Mr. McGuirk feels he has done a nice job with the rest of the building. He can, however, go back the 4 feet and meet the setback.

Ms. Truesdale **MOVED** to grant the petition to allow the first floor to the property line and to set the deck back the 4 feet, **NO SECOND**.

Mr. Shaw **MOVED** to deny the petition, **SECONDED** by Mr. O'Brien.

The Chairman polled the Board on their agreement that the 5 criteria have been met. Msrs. Shaw, McGuirk and O'Brien say no, the others say yes.

VOTE: For 3, Oppo 2(JT,BP)

MOTION PASSES.
PETITION DENIED.

57-06 WITHDRAWN

58-06 The petition of Finard & Co LLC/Linear Retail Hampton #1 LLC through Barlo Signs for property located at 356 Lafayette Road seeking relief from Articles 4 Table II, 4.5.1 and Article 5.4.3 to allow the relocation of internally illuminated non-conforming ground sign. Sign will be placed at a 5' setback where 10' is required. This property is located at Map 175, Lot 1 in a B zone.

Donald Reed of Barlo Signs came to the table to speak on the petition. He said he wants to relocate a pre-existing, non-conforming side into a new location on the lot. The main issue is the amount of obstruction in seeing the sign when traveling north on Route 1. They want to move the

sign in conjunction with completely reconfiguring the parking lot. The sign itself will not be altered at all, just moved with some landscaping. They are asking for a 5 foot setback from Route 1 as opposed to the 10 feet required. He read thru the 5 criteria as submitted with the petition.

Questions from the Board: None.

Comments from the Audience: None.

Back to the Board:

Mr. Shaw commented that they have been doing a lot of work at the property already, clearing etc.

Mr. O'Brien is concerned with site distance.

Ms. Truesdale commented that it will be 5 feet from the property line and there's a sidewalk on the other side of that. She feels there will be plenty of room. The sidewalk is 3-4 feet and the 5 foot setback makes 9 feet.

Mr. O'Brien MOVED to grant the petition, SECONDED by Ms. Truesdale.

The Chairman polled the Board on their acceptance of the 5 criteria. They all agreed.

VOTE: For 5, Oppo 0

MOTION PASSES.
PETITION GRANTED.

59-06 The petition of Leonard & Carolyn Paul for property located at 23 Whitten Avenue, Unit 3 seeking relief from Articles 1.3, 4.5.2, 8.2.3, 8.2.4 and 8.2.6 to construct a second story on existing condominium unit with deck and remodel first floor. This property is located at Map 295, Lot 56/3 in a BS zone.

Atty. Steve Ells and Surveyor Ernie Cote came to the table to speak on the petition. Atty. Ells said that since 1989 this has been a 4 unit residential condominium.

The Board discussed the proposal and the drawings. The proposal is for a 2nd story and the drawing shows a 3rd story area with a roof deck. Atty. Ells argued that there is not a third story, just a deck with a walk-up area. He said the petitioners originally wanted an observation tower, but the association didn't go for that. He showed elevations of the first proposal. They did however allow this roof deck. The Board recognized that the proposal is for three levels; however they decided to continue.

Mr. Ells went on to say this unit has 3 bedrooms, the others have 2, 3 and 4 bedrooms. The property has been very well maintained. There is a fair amount of open space. The request is reasonable for the neighborhood. They will raise the main portion of the building with the exception of the porch. 1628 square feet of living space is proposed. He then read through the 5 criteria as submitted with the petition.

Questions from the Board:

Mr. O'Brien asked if the bump out in the back was also denied by the condo association.

Mr. Ells said yes. They're not changing the rear at all. The new proposal maintains the cut out of the porch.

Mr. McGuirk said that if the lot were cut in 2, this variance wouldn't be necessary.

Mr. Ells reported that there is 29% of sealed surface on the plan.

Mr. O'Brien argued maybe originally, but today there's maybe 10% unsealed surface. There's a lot of hot top on the lot now. He reminded Mr. Ells that the Board required floor plans and asked him to supply them in the future.

Comments from the Audience: None.

Back to the Board:

Ms. Truesdale **MOVED** to grant the petition, **SECONDED** by Mr. Provencal.

The Chairman polled the Board on their acceptance of the 5 criteria. They all agreed.

VOTE: For 5, Oppo 0

**MOTION PASSES.
PETITION GRANTED.**

46-06 The postponed petition of Alan Painten for property located at 96 Glade Path seeking relief from Articles 1.3, 4.5.2 and 4.5.3 to replace an existing storage shed in disrepair with a new 10'x10' storage shed. This property is located at Map 262, Lot 15 in a RCS zone.

Mr. O'Brien explained that Mr. Schultz wasn't here at the last meeting and Mr. Painten was asked to come back when he was present.

Mr. Painten said he didn't show up last month because he thought he'd get a notice in the mail. He wasn't aware of the meeting.

Mr. Schultz noted that the Board was concerned with the setback requirement and distance between buildings. There is no code for distance between buildings.

Mr. O'Brien asked Mr. Painten if he would be willing to meet with the Building Inspector regarding a fire rated wall. He agreed.

Mr. Provecal **MOVED** to grant the petition as long as he meets with the Building Inspector and satisfies him with a fire rated wall on the side of the shed that is nearest to the house, **SECONDED** by Ms. Truesdale.

The Chairman polled the Board on their acceptance of the 5 criteria. They all agreed.

VOTE: For 5, Oppo 0

**MOTION PASSES.
PETITION GRANTED.**

Ms. Truesdale **MOVED** to adjourn the meeting at 10:55 p.m., seconded by Mr. Shaw. **SO VOTED.**

Respectfully submitted,

Angela L. Silva, Recording Secretary