

## DRACUT ZONING BOARD OF APPEALS

**Meeting Minutes of December 20, 2012 at 7:00 p.m. @ Harmony Hall, 1660 Lakeview Avenue, Dracut.**

**Continued BOA 2005-13 @ 341 Broadway Road – Comprehensive Permit** for 278 rental units with 4 buildings. Petitioner: First Dracut Development, LLC.

Mr. Lania and Mr. Parekh were present. Mr. Lania stated he has received correspondence from David Paulson of National Heritage dated December 20, 2012 indicating the project is permit-able pursuant to MESA. A copy was passed out to all Board Members. He stated that it will take three (3) months to receive the permit. They will approve the plans as shown. Mr. Lania also presented a copy of a proposed Purchase Agreement between First Dracut and Vengren Nominee Trust to allow a Conservation Restriction to be placed on a portion of the adjacent Vengren property to help satisfy the NHESP Requirement imposed on First Dracut.

Mr. Lania will have the revised plans completed by the end of February and get them to Fay, Spofford & Thorndike for peer review.

**Abutters: Who came forward in favor or in opposition? None.**

A motion to continue to March 21, 2013 was made by Mr. Mallory and seconded by Ms. Ina Hakkila. The Board voted unanimously to continue.

**2012-31 & 32 @ 25 Brigham Avenue – Special Permit 2.16.25 and Variance 2.12.50** for proposed 48.7'x28.1' addition with insufficient front yard setback. Petitioner: Laura Romanowski.

Chairman Crowley opened the meeting and signed in a set of prints drawn by James D. Aho, Professional Land Surveyor dated 10/21/2012. Mr. Mallory passed out aerial photographs of the property.

Ms. Romanowski stated that she is planning to renovate the existing house and add two (2) additions, but does not meet the front yard setback. The addition will not come out any further than the existing house. The garage portion of the house is now 4.4' further back than the existing house, but she would like to bring the addition even with the house which is 21.2' from the front. Chairman Crowley noted that a bay window is being put on the front of the house which impinges slightly on the front yard setback and an addition on the north side of the building which is squared with the existing footprint so there is no change in the frontage. The rear yard on the new addition is at 31.4'. The other proposed addition in the back is a bump out to make the bigger kitchen.

Chairman Crowley noted that the land seems to drop off pretty quickly in the back. Ms. Romanowski stated it does and there is also a brook. There are wetlands and she is in the process of going to the Conservation Commission. Norse Engineering is preparing the paperwork. Chairman Crowley noted that this proposal would be subject to an Order of Conditions by the Conservation Commission.

Mr. Mallory asked if the current house was a single story. Ms. Romanowski stated it is a single story and the addition will be no higher. Mr. Mallory questioned the existing garage. Ms. Romanowski stated there is a garage with a breezeway, but that is going to be replaced with the proposed new addition containing two bedrooms and two bathrooms. There will be a new garage to the north side of the proposed addition. Chairman Crowley asked who owns the property behind her house. Ms. Romanowski is not sure, but knows the gas line travels behind her property. It was noted that there is no residential homes anyway near the back of this property. Chairman Crowley feels the petitioner has some topographical issues with an oddly shaped lot, but what mitigates the request for additional rear yard in his mind is the fact that the petitioner is up against an area that cannot be built, on a very steep grade, is pretty much remote and does not impact any neighbors.

**Abutters: Who came forward in favor or in opposition? None.**

A motion to close was made by Ms. Ina Hakkila and seconded by Mr. David Meli. The Board voted unanimously to close.

A motion to approve the Special Permit was made by Mr. Scott Mallory and seconded by Ms. Ina Hakkila. The Board finds that the petitioner meets the following three requirements of the Special Permit: that the change does not (1) substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed; (2) create a danger to public safety by reason of traffic access, flow and circulation; and (3) be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed. The Board voted unanimously to approve.

A motion to approve the Variance was made by Mr. Scott Mallory and seconded by Mr. David Meli. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. Chairman Crowley noted this is a single family home and will remain a single family home. It is a single story home with the addition being no higher than the existing structure. It is understood that this is subject to an Order of Conditions from the Dracut Conservation Commission. The Board voted unanimously to approve.

**Acceptance of Minutes:**

A motion to accept the November 15, 2012 minutes with amendments was made by Ms. Ina Hakkila and seconded by Mr. Michael Pagonis. The Board voted unanimously to accept the minutes with amendments.

**Grassfields Development Comprehensive Permit Amendment @ 474 Mammoth Road Continued:**

Attorney Smolak and Mr. Campbell were present. Chairman Crowley stated for the record that what the Board voted for at the last hearing was allowing the petitioner to move forward without a public hearing. The Board did not grant anything other than that. There was some confusion about contacting the Town Engineering office that led to some discussions. He thinks it was presumptuous on the part of the petitioner to go forward and do that since the Board had not given any approval to the change to include the fact that the petitioner would use the Town Engineer, if the Board so voted, as their site review for the engineering as opposed to hiring somebody. Attorney Smolak

believes Mr. Coravos only inquired about the services of the Town Engineer as this is a requirement of the LIP Program.

Attorney Smolak noted that he made a correction on Page 9 of the proposed Second Amendment and submitted to the Board the proposed replacement page. Under N. Amendments #16. was added which reads: “The Decision is hereby amended under Exhibit B – List of Exceptions on page 3 under the column labeled as “Proposed” by replacing on the 3<sup>rd</sup> line, the term “garden-style homeownership” with the term “rental”. Chairman Crowley read a letter from Attorney James A. Hall dated December 19, 2012 stating he has reviewed the Comprehensive Permit Decision, dated August 16, 2006, as amended, the letter from Attorney John T. Smolak dated November 8, 2012 and the proposed Findings and Decision on (In) Substantial Change and Second Amendment to the Comprehensive Permit Decision. Attorney Hall did suggest that the tenant selection provides for local preference to Dracut residents and U.S. military veterans residing in Dracut. The Findings and Decision meets with his approval as to form and content. Attorney Smolak noted the preferences are at the discretion of the DHCD. Chairman Crowley understands but feels all should be done to encourage this going forward. Chairman Crowley noted for the record that Ms. Santiago-Hutchings will not be voting or participating in this discussion as she has a relationship with one of the principals on the project.

Chairman Crowley asked when a letter of project eligibility would be received. Mr. Campbell stated the LIP application has been submitted and should have an answer by the end of January 2013.

Chairman Crowley read a letter from the Board of Selectmen relative to the unanimous vote taken at their October 9, 2012 meeting to support the project being changed from a condominium to a rental project. He also read a letter from Cathy Richardson, Chairperson Board of Selectmen sent to Toni Coyne Hall, Department of Housing & Community Development dated November 19, 2012 stating the Board of Selectman are pleased to endorse and sponsor a LIP Application for the proposed Grassfields Commons project change.

Ms. Hakkila noted that on the Second Amendment Page 2, under I. Findings #2; R. Scott Mallory should read Clerk not Member. Attorney Smolak will make the change.

Chairman Crowley also noted that under #10, sidewalks were deleted from the maintenance agreement. He is not even sure if there were any sidewalks on the project and was just bringing it to the attention of Attorney Smolak.

A motion to approve the Second Amendment changing the project from condominium to rental as submitted and discussed and add to the Comprehensive Permit Decision was made by Ms. Ina Hakkila and seconded by Mr. David Meli. The Board voted unanimously to approve with Ms. Heather Santiago-Hutchings abstaining.

**New Business:**

Chairman Crowley read a letter from Attorney James P. Hall dated November 29, 2012 with the Appeals Court decision in regards to Patenaude v. ZBA.

Chairman Crowley read a letter from Attorney James A. Hall dated December 11, 2012 regarding an article that was published in the Lawyers Weekly on November 29, 2012 regarding the Patenaude v. ZBA. Copy passed out to the Board Members.

**Next Meeting:**

The next meeting will be Thursday, January 17, 2013.

**Adjournment:**

A motion to adjourn was made by Mr. Scott Mallory and seconded by Mr. Michael Pagonos. The Board voted unanimously to adjourn.

**Board of Appeals Members**

_____ Chairman, John Crowley	<b>Absent</b> _____ Vice Chairman, Stephen Hamilton
_____ Clerk, R. Scott Mallory	_____ Member, Ina Hakkila
_____ Member, David Meli	_____ Alt. Member, Heather Santiago- Hutchings
_____ Alt. Member, Michael Pagonos	