

# LITCHFIELD PLANNING AND ZONING COMMISSION

Litchfield Firehouse, 258 West Street, Litchfield, CT 06759

## REGULAR MEETING MINUTES (REVISED)

August 19, 2013 7:02 p.m.

Chairman Susan Lowenthal called the meeting to order at 7:02 p.m.

**Present:** Commissioners Susan Pitman Lowenthal, Curtis Barrows, Carol Bramley, Peter Losee, David Pavlick, Sky Post and Tom Waterhouse. Alternate Commissioners Ed Doyle and Ralph White and Land Use Administrator Dr. Dennis Tobin.

**Absent:** Erin Kennedy

**Public Comment:** There was no public comment.

**Appointment of Alternates:** Chairman Lowenthal did not appoint alternates as full members.

**Appointment of Temporary Secretary:** Jo Ann Jaacks was present as recording secretary.

### Approval of Minutes for August 5, 2013

**Motion:** Carol Bramley moved to accept the 8-5-13 minutes with the following minor edits. Tom Waterhouse seconded the motion. It was agreed Mr. Waterhouse did not have to abstain: although he was not present at the 8-5-13 meeting, he had listened to the recording of it. All voted aye and the motion carried. (Edits: Page 1, ¶1, Line 2, Curt Barrows should be Curtis Barrows; Page 1, ¶5, Line 3, should read “. . .Mr. Grimes **objected.**” Page 1, #1 should read “. . .the **addition** of Building B . . .”; Page 2, #8 should read “. . .as **recommended** . . .”; Page 2, ¶2, Line 3 should read “. . .they had **several daily deliveries.**”; Page 5, , ¶6, Line 2 should read “. . .he recommends the future parking aisle separation from the parking space.”

Carol Bramley recused herself prior to the Bosson Optical topic since she is a member of the Board of The Greater Litchfield Preservation Trust which owns and leases 29 West Street, and left the room.

**Commissioners' requests:** Sky Post requested that the Commission go to Executive Session at the next meeting on September 16 to discuss process.

## APPLICATION RECEPTION

### **Bosson Optical – 29 West Street**

**8-19-13**

Receive and set public hearing (9-16-13) for Special Exception Business and Professional Offices without hazardous materials for eye doctor offices.

Michael Smith and Michael Bosson were present to discuss this application. Mr. Smith requested the Commission to reconsider the zone change from retail since Bosson Optical consisted of a showroom, waiting room, exam room, office for Mr. Bosson and one eye doctor and their business was selling eyeglasses and contact lenses. They had been told their move from Village Green to the historic district necessitated a Special Exception. He provided site maps for the new space, which was in half of the old Talbot's store.

Dennis Tobin explained the issues of municipal parking, sign approval and permit and building permit for remodeling. Chairman Lowenthal said their application was being received today and a decision would be made at the next meeting.

**Motion:** David Pavlick moved to set a public hearing on this application. Curtis Barrows seconded the motion. All voted aye and the motion carried.

Carol Bramley resumed her seat.

## CONSIDERATION

### **Stop & Shop Supermarket Company, LLC – Village Green Drive**

**8-19-13**

Site plan for demolition of 3 existing buildings C, D & E to construct 1 new building (38,000sf), a 2500sf addition to building B and associated site improvements.

Chairman Lowenthal said it was the Commission's consensus at the 8-5-13 meeting that due to the late hour, they would postpone consideration of the Stop & Shop application to the 8-19-13 meeting.

Steven Byrne, Attorney, said the regular members of the Commission present tonight are called to vote on this application and Tom Waterhouse was qualified because he listened to the 8-5-13 meeting recording. Two reports were distributed to Commissioners and are appended to these minutes as Exhibit #1 The Case Against Stop and Shop written by Ralph White, Alternate Commissioner, and Exhibit #2 Peer Review Site Plan Application for Stop & Shop at Village Green MMI #2664-17-4 written by Vincent McDermott of Milone & MacBroom, Inc.

Mr. Byrne said he received a response from Attorney Tom Cody concerning Mr. White's letter and there was discussion concerning the fact that Mr. White is an Alternate Commissioner. If this matter should be reviewed in court, the Commission's decision could be jeopardized. Since all of Mr. White's concerns had been previously expressed and discussed, he advised against making this letter part of the record. Chairman Lowenthal noted that since Ralph White's memo had been received by the Land Use office earlier today when it was unclear whether he would be seated as a full Commission member that his letter should be in the record of tonight's meeting.

Tom McGowan, town planner consultant, noted there may be a problem in a future case for "failure to follow procedure" and Steven Byrne agreed.

**Motion:** Tom Waterhouse moved that Commissioners disregard Mr. White's letter. Carol Bramley seconded the motion. All voted aye and the motion carried.

**Motion:** Sky Post moved to deny the Stop & Shop application and recited a list of reasons for doing so. In reply to Mr. Byrne's query about the document being read, Mr. Post replied that it was Ralph White's letter. Mr. Byrne said that since the Commission had voted to disregard Mr. White's letter, it could not be used for consideration.

**Motion:** Sky Post moved to withdraw his motion. Carol Bramley seconded the motion. All voted aye and the motion carried.

**Motion:** Mr. Post moved to deny the Stop & Shop application (based upon specific reasons to be included) and recited a list of reasons for doing so. It was then discovered that this was the same document (Mr. White's letter) inadvertently being read again.

**Motion:** Sky Post moved to withdraw his motion. Carol Bramley seconded the motion. All voted aye and the motion carried.

**Motion:** Sky Post moved to deny the Stop & Shop application and recited the following list of reasons for doing so:

Whereas Stop & Shop Supermarket Company LLC (the "Applicant") has submitted a Site Plan Application (the "Plan") to redevelop an 8.03 acre property known as Village Green Drive, identified at Map 196, Block 49, Lots 21, 29 and 30, and

Whereas the Applicant has proposed to demolish three existing structures and construct a 38,000 square foot supermarket building and related parking and stormwater management facilities (the "Project"), and

Whereas such activities are regulated by the Litchfield Planning and Zoning Commission (the "Commission"), and

After consideration of all of the evidence submitted, and with the professional guidance of Commission staff on technical issues, and also relying upon the individual expertise of Commission members, and upon the testimony in support of and in opposition to the application,

Now, therefore, it is resolved that the Commission denies the Application for the reasons here listed:

1. The Project would contribute to traffic congestion at the entrances and exits from and to public streets, and
2. Congestion would be created within the site by numerous delivery trucks, many of which would not be designed to utilize the loading docks and thus would have to unload elsewhere on the site, and
3. Large trucks making wide turns would encroach into oncoming traffic lanes both on site and entering and exiting the site, creating a public safety hazard, and
4. The proposed prohibition against tractor trailers using Commons Drive is neither viable nor enforceable, and
5. The number of parking spaces provided in the Plan falls far short of the number required by Regulations, and

6. Twenty-seven parking spaces are positioned along the internal truck delivery routes, thus creating a public safety hazard, and
7. Provisions for pedestrian safety within the site are inadequate, and
8. Parking spaces are not sized according to regulations, and
9. Stormwater management practices are inadequate, and
10. Existing soil and ground water contamination presents an environmental hazard which threatens Litchfield's aquifer, and
11. Inadequate green space is provided, and
12. Since there is no provision for siting the multiple dumpsters which the grocery store would require, dumpsters would likely be placed either on parking spaces designated for customers or in driving lanes. Additionally, these dumpsters stink and they attract rats, creating a public safety hazard.

Peter Losee seconded the motion. Discussion was held among the Commissioners and Chairman Lowenthal said the site plan has gone through many revisions in an attempt to address concerns raised about truck volume, proximity of the loading dock to the entrance, hazardous and pedestrian safety impacts. She said there are still serious problems such as difficulty of regulating truck deliveries and insufficient space for truck maneuvering. She said Stop & Shop has done their best to work with this site but this situation is "putting a square peg in a round hole."

Curtis Barrows noted that discussion was held at the last meeting about the addition to Building B being taken out of the equation. Mr. McDermott said the elimination of the addition to Building B should be an attachment to the motion, but this vote should be on the site plan as presented at the 8-5-13 meeting.

**Motion:** Carol Bramley moved to amend the motion to include page 4 of the Stop & Shop site plan. Curtis Barrows seconded the motion. All voted aye and the motion carried.

Chairman Lowenthal called for a vote on the motion as amended. A "Yes" vote is to deny and a "No" vote is to approve. The following were the voting results: YES: Susan Lowenthal, Peter Losee and Sky Post. NO: David Pavlick, Curtis Barrows, Carol Bramley and Tom Waterhouse.

Carol Bramley asked if conditions submitted by the applicant's attorney at the 8-5-13 meeting were included in Steven Byrne's Suggested Reasons to Support a Motion to Approve Stop & Shop Planning and Zoning Application (Exhibit #3 appended hereto) and Mr. McDermott said yes. She asked about adding language to the motion, specifically about the change from restaurant to office space, prohibition of retail merchandise displayed outside the building, directional signage including the existing stop sign not shown on site plan, and relocating one handicapped space.

Chairman Lowenthal asked about dumpsters and Mr. McDermott said Stop & Shop would have a compactor only, adjacent to the 2 loading docks. She requested that delivery trucks be limited to 4 at a time and that smaller delivery trucks cannot park in a fire lane or the truck maneuvering space.

A member of the audience (speaking out of turn following the end of public comment) said that Commissioner Bramley should recuse herself from the Stop & Shop vote since she had "a conflict of interest." Chairman Lowenthal asked Ms. Bramley if she had any such conflict of interest concerning this vote and Ms. Bramley said she did not.

**Motion:** Carol Bramley moved to approve the Stop & Shop application and recited the reasons for doing so:

Whereas, The Stop & Shop Supermarket Company, LLC (the Applicant) has applied to the Litchfield Planning and Zoning Commission (the Commission) for approval of a site plan to demolish three existing buildings having a ground area of approximately 26,000 square feet and a total floor area of approximately 44,000 square feet; to construct a new grocery store containing approximately 38,000 square feet, an addition to an existing building containing 2,500 square feet for use as a restaurant, the total floor area of the development having approximately 61,000 square feet; and to make modifications to the existing parking lot, access drives, lighting, landscaping, drainage, and other site improvements at a property located in the B202 zone at Village Green Drive, referred to as Village Green owned by 6645 Federal Realty Square, LLC;

Whereas, the application included site plans and other supporting documents submitted in accordance with Article IX, Section 1 of the Litchfield Zoning Regulations;

Whereas, the application has been referred by either the Applicant or the Commission for comment and recommendation to the town's Architectural Review Committee, Water Pollution Control Commission, Fire Marshal, Aquarion Water Company, and the Connecticut Department of Public Health (CTDPH);

Whereas, the Applicant applied to and received approval with conditions from the Litchfield Inland Wetlands Commission for certain regulated activities related to the proposed site development;

Whereas, the Commission initiated a public hearing on June 3, 2013 and continued the hearing on three subsequent occasions with appropriate extensions of time for continuations granted by the Applicant;

Whereas, interventions to the application have been filed pursuant to Section 22a-19 of the Connecticut General Statutes by PLAN Litchfield and other individuals;

Whereas, the Applicant has modified the application and site plans in response to issues and concerns raised by the Commission, its planning and engineering consultant, the interveners, and others during the public hearing process;

Whereas, the Commission makes the following findings:

1. The proposed use of the property is permitted as of right in the B202 zone subject to approval of a site plan by the Commission.
2. The architectural plans for the proposed building as amended have received a favorable recommendation from the Architectural Review Committee.
3. The application has received favorable recommendations from the town's Water Pollution Control Commission with respect to the adequacy of sewage disposal and from the town's Fire Marshal with respect to fire safety.
4. The application has received favorable comments from Aquarion Water Company stating that the proposed use is not a regulated activity under Section 4 of Public Act 06-53 related to aquifer protection, and the proposed changes are compliant with Aquifer Protection Area requirements and incorporate accepted groundwater protection practices.
5. CTDPH has provided comments pursuant to Section 25-32f of the Connecticut General Statutes with respect to potential impact on the Hamill Wellfield noting that the proposed development is consistent with aquifer protection measures contained in Connecticut's Aquifer Protection Area *Program Municipal Manual*, and the proposed stormwater management conditions "...appear to be an improvement over current conditions; therefore, reducing the potential for negative impact to the water supply."
6. The application and site plan are consistent with the requirements of Article IX, Section 1.5 of the Zoning Regulations in that the plans meet the submission requirements of Section 1,5.a; have proper and adequate provision for vehicular traffic, service access, control of site entrances and exits onto Route 202, and parking and loading; have proper provision for the protection of existing residences through the maintenance and enhancement of the existing vegetation on the east side of the property and by providing site landscaping in accordance with the regulations; provide building illustrations that have been approved by the Architectural Review Committee; provide adequate sewage disposal through the approval of the Water Pollution Control Authority and for water supply utilizing the existing public water supply system; and have provided for underground utilities.
7. The application and plan meet the area, dimension, and use regulations set forth in Article IV, Section 2 of the Regulations.
8. The application and site plan meet the requirements of Article VI, Section 1 of the Regulations related to access, circulation, and off-street parking and off-street loading in that access to and from Village Green is

now and will continue to be from U.S. Route 202 and not a local street in a residential zone; Route 202 has and will continue to have the traffic-carrying capacity with the improvements proposed by this application including extension and improvements to turning lanes, traffic direction islands, and traffic controls; the connection to the adjoining nonresidential property referred to as the Commons will be maintained and improved; the number of parking spaces required by the Regulations consistent with the Commission's past practices and application to uses at Village Green will be provided; and parking spaces that exceed the minimum requirement of 300 square feet per space consistent with the Commission's past practice and application to the parking on the Village Green property will be provided.

9. Except for tractor trailers, traffic from the Village Green property will continue to have the ability to utilize Commons Drive on the adjacent property consistent with the existing easement.
10. The proposed modification to the existing Village Green property will improve the existing environmental condition and will not have a significant impact on the water resources of the town, particularly the Hamill Well, a position supported by CTDPH and Aquarion Water Company.
11. The short-term environmental impacts associated with proposed construction, including work in wetlands, are deemed to be acceptable given the long-term benefit of implementing the proposed improvements to the stormwater management system consistent with guidelines set forth in the *Stormwater Quality Manual*. This finding is consistent with the approval by the Inland Wetlands Commission.
12. Irreversible and irretrievable loss of wetland and other natural resource systems will not occur as a result of the proposed activity. Direct wetland impact is associated only with implementation of the alternative basin planting plans, and such alternative plan will benefit the wetland system by enhancing habitat value. This finding is consistent with the approval by the Inland Wetlands Commission.
13. The proposed activity constitutes a reasonable use of the property and is consistent with the character of the existing site and the underlying B202 zone. The proposed activities do not present a risk to the health and safety of surrounding water resource systems and do not preclude the reasonable use of adjacent properties including the downstream wetland resources.
14. Feasible and prudent alternatives do not exist that would cause less or no environmental impact to the natural resources of the town. This position is consistent with the approval of the Inland Wetlands Commission.

Now therefore be it resolved that the Litchfield Planning and Zoning Commission approve the above-described application by Stop & Shop Supermarket Company, LLC and the modified site plan for the redevelopment of the Village Green property as shown on the maps and plans attached to this resolution. Said approval is subject to the following modifications and conditions:

1. The application is approved with the plan sheets as shown on the attached list.
2. The grading, drainage, and site utility plans shall be modified to reflect the reconfigured parking area associated with Building B without the 2,500-square-foot addition, and the detail sheets approved with this application shall include a detail showing a clearly marked and easily accessible valve handle.
3. All tractor trailer trucks shall be restricted by legal instrument from using Commons Drive subject to town attorney review and approval. This modification shall be implemented through the posting of signs and the establishment of operation controls, including truck delivery management, by Stop & Shop, a copy of which shall be filed with the Land Use Administrator. Said Truck Management Plan shall limit number of trucks at Stop & Shop to a maximum of four at any one time all of which must be within the loading area or turning circle. No unloading of trucks of any size associated with Stop & Shop shall be allowed except from within the loading and turning circle at any time. Trucks delivering to other buildings on-site can be in excess of the four.
4. Commons Drive shall be striped for a distance of 150 feet from the intersection of Route 202 providing for an exclusive left-turn lane separate from the shared through/right-turn lane. The entrance to this property

from Route 202 shall be widened so that tractor trailers can exit the property without needing to cross over into other lanes on Route 202.

5. The Applicant's submission to the Connecticut Office of the State Traffic Administration shall include a proposal for the restriping of Route 202 from South Lake Street to Constitution Way, a copy of such submission to be filed with the Land Use Administrator.
6. All crosswalks and accessways shall be appropriately striped and shall include appropriate directional and traffic control signage in locations approved by the Land Use Administrator.
7. A drop structure shall be included on the plans to reduce the slope of the pipe discharging into Detention Basin 2.
8. The table indicating the percent of green space shall be modified to eliminate the watercourse in Detention Basins 1 and 2 from the calculation of green space.
9. The owner of the property shall provide a sworn affidavit in a form approved by the Commission's attorney stating that Building A shall only be used for office use and that this be recorded on the Litchfield Land Records.
10. The owner of the property shall apply for and obtain a zoning permit for Building A for office use.
11. The parking table shall be modified to indicate that the retail space in Building A has eight spaces per 1,000 square feet.
12. The Applicant shall use clean fill on the project and shall adhere to the material testing protocol presented to the Commission and the requirements of Connecticut Department of Energy & Environmental Protection (CTDEEP) in order to assure proper quality assurance and control for the clean fill and shall provide testing reports and other appropriate documentation to the Land Use Administrator on a weekly basis during the placement of the fill and the construction process.
13. The Applicant shall provide quarterly reports to the Commission concerning the status of the ongoing groundwater sampling; the results of the sampling; a comparison of the results to the numerical criteria specified in the Remediation Standard Regulations (in particular, the water and groundwater protection criteria) and the Connecticut Water Quality Standards (aquatic life criteria); and the status of compliance with current and future directives, requests, and orders from the CTDEEP. The quarterly reports shall include copies of all correspondence including email with CTDEEP related to the ongoing environmental activities on the site. This condition shall remain in effect until such time as CTDEEP provides notice that the terms of the existing consent order have been fulfilled.
14. The Applicant shall conduct regular site inspections before, during, and postconstruction in accordance with the State of Connecticut General Permit for the Discharge of Stormwater and Wastewater Associated with Construction Activities and the Site Inspection Program for Construction and Post-Construction Erosion and Sedimentation Control as contained in the letter from BL Companies dated April 4, 2013. All inspection reports on such activities shall be provided to the Land Use Administrator.
15. No retail merchandise shall be displayed outside of the Stop & Shop store.
16. No dumpsters associated with Stop & Shop shall be allowed on-site.
17. The handicap space located closest to the loading docks of Stop & Shop shall be relocated to the opposite side of parking row.

Tom Waterhouse seconded the motion.

Discussion included conditional changes to be made include limiting the loading area to 4 trucks, easement language to be submitted via legal instrument, no dumpsters allowed, no retail merchandise of any kind to be displayed outside Stop & Shop, directional signage to be provided to DRAC and reviewed by the Land Use Administrator, relocation of

one handicapped space that is nearest to the loading dock and moving it to the opposite side of the parking row of 13, and the stop sign at the end of the boulevard is to remain.

**Motion:** David Pavlick moved to amend Carol's motion with these additional changes and conditions (as shown in red on the document displayed on the screen by Nicole Burnham, Milone & MacBroom consultant). Curtis Barrows seconded the motion. All voted aye and the motion carried.

Chairman Lowenthal called for a vote on the motion as amended. A "Yes" vote is to approve the application and a "No" vote is to deny the application. The following were the voting results: NO: Susan Lowenthal, Peter Losee and Sky Post. YES: David Pavlick, Curtis Barrows, Carol Bramley and Tom Waterhouse.

It was noted that points raised by interveners concerning wetlands and other environmental issues were being addressed in this amendment, #s 11, 12, 13, 14 of the approval.

**Motion:** David Pavlick moved that the Commission has made the following findings with respect to the Stop & Shop Supermarket approval, those findings are enumerated in items 11, 12, 13 and 14 of the motion to approve and are in conformance with 22a-19 of the Connecticut General Statutes to approve the Stop & Shop application as amended. Curtis Barrows seconded the motion. The following were the voting results: NO: Susan Lowenthal and Peter Losee. YES: David Pavlick, Curtis Barrows, Carol Bramley, Tom Waterhouse and Sky Post.

At 9:27p.m., the Stop & Shop Consideration concluded.

## PUBLIC HEARINGS

**The Forman School – 54 Norfolk Road** – Modification to Special Exception Education Institution to increase campus by adding 21.4 acres with one existing single-family dwelling.

David Pavlick recused himself from this hearing due to a relationship with the Forman School and left the meeting. Chairman Lowenthal appointed Alternate Commissioner Edmund Doyle to replace Mr. Pavlick.

Robert D'Andrea appeared on behalf of the Forman School for a continuation of the 7-15-13 hearing. Chairman Lowenthal said if he was presenting new material, the public would have a right to respond. Mr. D'Andrea read several letters including those written by R. Derwin Clothiers, Colonial Greenhouse, Nick Fabbri-electrician, Mark Murphy-pharmacist, Flowers of Distinction, Sportsmen of Litchfield and William Jacobs – all in support of the Forman School's application.

He also read a letter from Oles & Jerram concerning assessed property value and Mr. Oles was present to confirm the contents were written by him. He displayed a photo of the property at 54 Norfolk Road (the Youngling property) taken in June and said the property would look identical to this when owned by Forman School. He said he has appraised the majority of Litchfield properties for the past 40 years and the Forman School properties have never lowered through appraised values.

Dennis McMorrow, Engineer, displayed a site plan depicting what an individual owner could do on this property without requiring Planning & Zoning approval. The current R-80 zoning would allow a subdivision into two lots and tennis courts could be added in the front where tall trees are now.

Adam Man, Forman School Headmaster, spoke about the financial health of the school; their endowment has grown by 21% and is approximately \$6Mil. He described how Forman School has been a "good neighbor" by offering their athletic facilities to Litchfield schools and residents, and patronizing local businesses and service professionals. He displayed photos of headmaster homes for other private schools in Litchfield County, indicating they are all larger than the one at 23 Norfolk Road where he currently resides. He said a larger space is necessary to host student gatherings, prospective student families, and entertain donors for fundraising. He said there are currently 190 students, and their goal is to have 200.

In answer to Dennis Tobin's query about Forman's sustainability and green movement programs, Mr. Man mentioned rain gardens, recycling, green dorm challenges, and solar panels. He did not know if the Youngling property could be transformed into a "green" building.

Chairman Lowenthal said a member of the public had asked about a conservation easement and Mr. Man replied the trustees agreed they would have such an easement of 150ft with no buildings being constructed within that easement.

Mr. Man answered questions about whether a larger home would lead to more donations, the history of the Harriet Beecher Stowe home, options on-site for a larger headmaster house, and concern about Forman's future need for more dormitories.

Tom Waterhouse observed that Forman could buy the Youngling house if they wished to, but what they were really asking for was a tax-exempt status for this property when it was not really for "educational purposes." Also, Forman's promised payment of \$10,000/year to the town in lieu of property taxes might not be continued if the financial health of the school declines and that would represent a loss of tax revenue to Litchfield.

Chairman Lowenthal read several letters from neighbors, parents of Forman students and Litchfield residents expressing opposition to this Special Exception Modification.

Attorney Peter Herbst, representing the co-applicant Mr. Youngling, spoke in favor of approval for this Special Exception.

Michael Zizka, Murtha Cullina LLP, Attorney for the opponents to the Forman School Special Exception Modification, read a letter (Exhibit #5 appended hereto) outlining the reasons this application should be denied, including: the application is legally unnecessary and would harm public interests, a similar application was previously denied, the application as presented has no valid land use purpose but is intended solely to create a financial benefit to one specific landowner, the application lacks an adequate factual predicate for approval, the special exception could not be limited to the Forman School and approval of the application would serve no public land use interest.

Allen Adriance, educational consultant, presented his professional opinion that it was not necessary for a headmaster's residence to be on the school campus nor was it necessary for a headmaster's home to be lavish for fundraising purposes. (Exhibit #6 appended hereto.)

Mr. Zizka also distributed copies of the town's previous denial to Forman School to purchase the Youngling property dated May 14, 1993 (Exhibit #7 appended hereto), a pertinent court case with a similar zoning change (Exhibit #8 appended hereto) and pertinent Connecticut Zoning Regulations Sec. 8-2 (Exhibit #9 appended hereto). He read a letter from State Trooper James Holmes stating there were no recorded accidents on Norfolk, indicating there was not an undue safety hazard for students and others to cross the road to the current headmaster's house.

John Gahl presented a signed petition in opposition of approval and Jay Abbott spoke in opposition, saying this would not be in the best interests of the neighborhood or Litchfield residents. A letter from Barbara Putnam was read, stating that the Youngling residence was built by her grandparents and her father taught at Forman School; she urged that this property remain residential.

Robert Doyle spoke in support of the Special Exception, indicating a longtime relationship with the Forman School serving on the Board of Trustees and the belief that a large headmaster's home is necessary to entertain and impress. Tom Witherspoon also spoke in support of the Special Exception, stating that the tax exempt status should not be relevant to Planning & Zoning.

Robert D'Andrea and Peter Herbst requested a continuation of the public hearing as Mr. Herbst said he would not be available on 9-16-13 and requested a different date. Chairman Lowenthal said that changing the set meeting time would not be possible but the hearing could be extended to 10-21-13. Mr. Herbst, after conferring with his client, said he would not be present but would submit a letter. The hearing will be continued to the 9-16-13 meeting, which will be held in the Bantam Annex.

Chairman Lowenthal noted that it was now past 11 p.m. and there was one more item on the agenda under public hearings. The applicant's representative indicated his presentation would be very brief.

**Motion:** Curtis Barrows moved that the meeting continue to include this agenda item. Sky Post seconded the motion. All voted aye and the motion carried.

Chairman Lowenthal called for a brief break, then reconvened the meeting. She read a legal notice that appeared in the newspaper concerning this Special Exception.

**Bert Audy – T.P.S. Inc. (Greenberg) – 184 Fern Avenue – Special Exception Accessory Apartment above new 3-car garage**

Mark Lancor, Dymar land surveyors and engineers, exhibited a site plan and floor plans showing an apartment that would be used to house the applicant's parents who regularly visit. This would be a converted use of existing space above the garage. The approximate 500sf apartment would include a bathroom, bedroom, kitchenette and small dining area, plus 2 means of egress.

**Motion:** Curtis Barrows moved to close the public hearing. Tom Waterhouse seconded the motion. All voted aye and the motion carried.

**Motion:** Carol Bramley moved to approve the application for a Special Exception Accessory Apartment. Sky Post seconded the motion. All voted aye and the motion carried.

There was neither old business nor new business and Chairman Lowenthal noted that she had already read correspondence into the record.

**Motion:** Curtis Barrows moved to adjourn at 12 a.m. Mr. Waterhouse seconded the motion. All voted aye and the motion carried.

Respectfully submitted,

Jo Ann Jaacks  
Recording Secretary

Date: October 9, 2013