

The May 12, 2010 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman  
Ted C. Case, Vice Chairman  
Daniel J. Cunningham, Jr., Clerk  
James M. Stanton, Member  
James S. DeCelle, Member

Meg Kundert, Associate Member  
Matthew Zuker, Associate member

**7:00 p.m. – Phoenix Walpole, LLC – Case #05-10**

Ms. Murphy read the public hearing notice for **PHOENIX WALPOLE, LLC., Case 05-10**, with respect to property located at 600 Main St., Walpole and shown on the Assessors Map as Lots No. 26-9 & 18-218, General Residence Zone.

The application is for:

Variance from Section 7 – Sign Regulations – of the Zoning Bylaws to allow a standing sign of 17.5 square feet (per side); and

Special Permit under Sections 5.B.4, Use Table, Item 4.1 and 11.3.B of the Zoning Bylaws to allow the construction of an office building (per the bylaw) within a General Residence District and to allow the placement of fill within a 100-year flood area with compensatory flood storage provided.

Attorney James Brady represented the applicant, Mike Gallagher, who owns a number of RE/MAX offices, with the main office in Foxboro. The property this evening is across from McDonald's on Rt. 1A. The house was built in the 1820's and is in dilapidated condition. The applicant has gone through the Historic Commission process and they agreed that the house was beyond salvaging. However, the applicant intends to retain the two granite posts on the property and use them for the sign, and to install a plaque explaining the history of the house. The applicant has met with the neighbors, the Conservation Commission, the Board of Health and is meeting with the Planning Board next Thursday; is meeting with the Conservation Commission again this evening. The majority of the neighbors are in favor of the project. The stone wall will be removed in order to improve the site line which was a concern of the neighbors.

Daniel Merrikin, Merrikin Engineering, explained the plan. The property is a little over one acre and has wetlands on Town owned land; some of the land is subject to flooding which will be mitigated per the plan. The existing building will be demolished and a smaller office building will be built. A parking area will be built in front of the building off Gill St. and will have 21 parking spaces, including one handicap space. The structure will have two floors. RE/MAX will have the first floor with a second level storage area, and there will be 2-3 rentable office spaces in the rear of the building, which is consistent with the Zoning Bylaws. The residents and traffic will only see a one story structure because of the way it will be positioned on the property.

The architecture will have a colonial feel and the siding will be clapboard. The new driveway will be off Gill Street because it is safer than using Rt. 1A/Main St. A buffer will be planted between the property and the residential property. The location of the dumpster has been moved to behind the parking area and it will be screened. The project meets all the setback, height and impervious coverage requirements. The light poles are low and will be shielded in order not to illuminate the residential properties. The will be on a time and will turn off between 8 and 9 p.m. The building will be connected to Town water and sewer. The conditions requested by the Town Engineer have been satisfied.

Regarding the flood plain, there is a ridge of land that someone cut a trench through which could flood the area in a 100 year flood event. The corner of the building is within that area, which is why they are requesting to fill 90 cubic feet and offset it with 215 cubic feet in another area. The flood water cannot come in contact with any of the utilities.

Regarding the Variance: Attorney Brady explained the applicant is requesting a 17.5 square foot sign. To not allow the sign would be a detriment to the area and the public good because people looking for the building would otherwise have difficulty finding it and could cause a traffic accident.

Mr. Merrikin said the sign would be 4.6 feet above grade and 1.4 feet above grade.

Ms. Murphy read comments from Town Engineer, Margaret Walker, dated May 11 and April 6; Conservation Commission, Planning Board, dated May 6; and Board of Health, dated April 14.

Mr. Merrikin informed the Board that the Town Engineer's comments have been added into the draft decision for the Zoning Board.

Mr. Cunningham asked if there were going to be sprinklers in the building.

Mr. Merrikin said there would not be because the size of the building does not require sprinklers.

Jack Mee, Building Commissioner, asked the Board to hold off on making the decision this evening in order to get comments from the Fire Department. The building is two square feet short of requiring sprinklers, but he recommends it is the smart thing to do.

Attorney Brady informed the Board that Deputy Fire Chief Laracy wanted a sprinkler system in the building, but it is not required by law and would be an incredible expense to the applicant. The Police and Fire Departments did comment on the project for the Planning Board.

Mr. Gallagher, the applicant, explained that he has 18 employees with 3-9 within the building at any one time. He could expand to up to 25 employees.

Ms. Murphy said she wanted to see the comments from the Fire and Police Departments.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to close the hearing contingent upon the two documents with comments from the Police and Fire Departments.

The vote was **5-0-0 in favor.**

A copy of those comments were found in the Planning Board files and presented to the Board.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, that the Board grant to Phoenix Walpole, LLC, a SPECIAL PERMIT under Section 5-B, Table 5-B.1, Use Table, Item 4.1 of the Zoning By-Laws to allow the construction of an office building (with tenant uses per the bylaw limitations) within a General Residence District, as shown on a seven-sheet plan prepared by Merrikin Engineering, LLP entitled “RE/MAX Building, 600 Main Street, Site Plan of Land in Walpole, MA” and dated March 2, 2010, revised through April 24, 2010.

The vote was **5-0-0** in favor; therefore the **Special Permit** is hereby **granted, subject to the following conditions:** (Murphy, Case, Cunningham, Stanton, DeCelle voting)

1. The types of tenants allowed in the office building shall be limited to those enumerated in Item 4.1 of the Use Table, which reads “*office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession not a resident of the premises, or the studio or office of an artist, musician, teacher, real estate or insurance agent not a resident of the premises or a group of such offices.*”
2. The applicant shall construct the site in accordance with the approved site plan referenced herein except that the applicant shall install a trench drain across the mouth of the entrance driveway, as close to the Gill Street front property line as grades will permit with the drain discharging into the shallow infiltration basin.
3. The applicant shall permanently maintain in good working order, the drainage system in accordance with the submitted Drainage System Operations and Maintenance Plan as included in the submitted document entitled “600 Main Street, Walpole, MA, Site Plan, Stormwater Report” prepared by Merrikin Engineering, LLP, dated March 2, 2010 and revised through April 23, 2010.
4. An As-built plan, complete with utility information and swing ties, shall be submitted to the Walpole Engineering Department and Building Inspector.

### **REASONS FOR DECISION:**

It is the finding of the Board that the Applicant was able to meet the requirements of Section 2-2 of the Zoning By-Laws, in that with the above imposed conditions the Board finds that the proposed office use in a General Residence District is in harmony with the purpose and intent of the Zoning Bylaw and is appropriate for the proposed site. Accordingly, the Board determines that the granting of a Special Permit under this By-Law is warranted.

#### **1. Special Permit Section 2-2.A Requirements**

Special Permits may be granted by the Board of Appeals and the Planning Board (the Special Permit Granting Authority or “SPGA”), as provided in this Bylaw, only for uses which are in harmony with the purposes and intent of this Bylaw and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use.

The Board finds that the proposed use, an office building limited to tenant types enumerated in the bylaw, is appropriate for this site, which has significant frontage on Main Street (Route 1A) and which lies directly across the street from an existing

McDonalds and other commercial/business developments. Section 4-2.A(4) of the Zoning Bylaw states that the purpose of the GR District is to provide “*an area for high-density, single and multifamily residential land use, public, semi-public, institutional and recreational uses and professional offices compatible with low density, residential land uses, and to provide a transition area between single-family residential and commercial or industrial land uses.*” The proposed site lies at the outer edge of the GR district along a Business District and will act as a transitional area between the nearby single-family and multifamily residential uses and the surrounding commercial and business uses. The site plan has incorporated protections for adjoining properties including properly design drainage systems and required vegetated buffers. For the reasons described herein, and with the conditions imposed above, the Board therefore finds that the proposed office use is in harmony with the purposes and intent of the Zoning Bylaw.

## **2. Special Permit Section 2-2.B(1) Requirements**

Prior to granting a special permit, the SGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for special permit:

**(a) Does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

The only criteria or standard as set forth in Section 5-B, Table 5-B.1, Use Table, Item 4.1 of the Zoning By-Laws is that the types of tenants be limited to those enumerated therein. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

**(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The proposed use will generate small volumes of additional traffic, most of which will be car traffic, in relation to the heavy volume of traffic that currently traverses Main Street, and that such additional traffic will not adversely affect the immediate neighborhood. The proposed work will improve traffic conditions in the area by removing an existing stone wall and trees at the corner of Main Street and Gill Street, thereby significantly improving sight distance around the corner. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

**(c) Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The proposed use is a small office building situated at the boundary between a multifamily zoning district (GR) and a Business District, where professional offices uses can be permitted. The proposed use, which will contain a real-estate office and a few other offices, will not generate significant numbers of employees or visitors that would adversely affect the immediate neighborhood. The Board therefore finds that with the conditions imposed

above, the proposed office use meets this criterion.

**(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The site plan submitted by the applicant indicates that all of the various setback requirements are met, that the proposed use will generate 30.0% impervious coverage where 50% is allowed, that the proposed use will generate 8.1% building coverage where 30% is allowed, and that the required 10' wide buffer to the westerly single-family abutter is provided. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

**(e) Shall not be dangerous to the immediate neighborhood of the premises through fires, explosion, emission of wastes, or other causes;**

Office uses of the type allowed by this provision of the Bylaw do not generate emissions of waste except as is properly handled through the use of the municipal sewer system and the proposed screened dumpster. The Board finds that these provisions are adequate. Office uses are not considered dangerous relative to fire or explosion as they do not involve the use of substances which are unusually prone to such occurrences. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

**(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.**

Office uses of the type allowed by this provision of the Bylaw do not create significant or unusual amounts of noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazards. Proposed parking lot lighting has been designed to be low-intensity with house side shields and full-cutoff fixtures which are designed to mitigate glare concerns. The stormwater report submitted by the applicant includes provisions to control dust during construction. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

**(g) Shall not adversely affect the character of the immediate neighborhood; and**

Offices uses of this type are specifically provided for within the Bylaw in the General Residence District and given the location of the site, with frontage on Main Street, a major commercial roadway, the use is appropriate for the area. The building has been designed to mimic residential construction styles with clapboard and colonial trim and cape-style roof lines. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

**(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The Board finds that the proposed use, an office building limited to tenant

types enumerated in the bylaw, is appropriate for this site, which has significant frontage on Main Street (Route 1A) and which lies directly across the street from an existing McDonalds and other commercial/business developments. Section 4-2.A(4) of the Zoning Bylaw states that the purpose of the GR District is to provide *“an area for high-density, single and multifamily residential land use, public, semi-public, institutional and recreational uses and professional offices compatible with low density, residential land uses, and to provide a transition area between single-family residential and commercial or industrial land uses.”* The proposed site lies at the outer edge of the GR district along a Business District and will act as a transitional area between the nearby single-family and multifamily residential uses and the surrounding commercial and business uses. The site plan has incorporated protections for adjoining properties including properly design drainage systems and required vegetated buffers. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

3. **Consistency:** This decision is consistent with the purpose and intent of the Zoning By-Laws.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: “...special permits granted under this section shall lapse within a specified period of time, not more than two years, ... from the granting thereof, if a substantial use thereof has not sooner commenced except in good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause.”

### **1. Special Permit Under Section 11.3.B**

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, that the Board grant to Phoenix Walpole, LLC, a SPECIAL PERMIT under Section 11.3.B of the Zoning Bylaws to allow the placement of fill within a 100-year flood area with compensatory flood storage provided, as shown on a seven-sheet plan prepared by Merrikin Engineering, LLP entitled “RE/MAX Building, 600 Main Street, Site Plan of Land in Walpole, MA” and dated March 2, 2010, revised through April 24, 2010.

The vote was **5-0-0** in favor; therefore the **Special Permit** is hereby **granted, subject to the following conditions:** (Murphy, Case, Cunningham, Stanton, DeCelle voting)

1. The applicant shall construct the site in accordance with the approved site plan referenced herein except that the applicant shall install a trench drain across the mouth of the entrance driveway, as close to the Gill Street front property line as grades will permit with the drain discharging into the shallow infiltration basin.
2. The applicant shall permanently maintain in good working order, the drainage system in accordance with the submitted Drainage System Operations and Maintenance Plan as included in the submitted document entitled “600 Main Street, Walpole, MA, Site Plan, Stormwater Report” prepared by Merrikin Engineering, LLP, dated March 2, 2010 and revised through April 23, 2010.

3. An As-built plan, complete with utility information and swing ties, shall be submitted to the Walpole Engineering Department and Building Inspector.

### **REASONS FOR DECISION:**

It is the finding of the Board that the Applicant was able to meet the requirements of Section 2-2 and Section 11.3.B of the Zoning By-Laws, in that with the above imposed conditions the Board finds that the proposed placement of fill in a 100-year flood area with compensatory flood storage provided, is in harmony with the purpose and intent of the Zoning Bylaw and is appropriate for the proposed site. Accordingly, the Board determines that the granting of a Special Permit under this By-Law is warranted.

#### **1. Special Permit Section 2-2.A Requirements**

Special Permits may be granted by the Board of Appeals and the Planning Board (the Special Permit Granting Authority or “SPGA”), as provided in this Bylaw, only for uses which are in harmony with the purposes and intent of this Bylaw and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use.

The purpose of the Flood Plain District as enumerated in Section 11.1 of the Bylaw include, in part, protecting the public health, safety, and general welfare from the hazards of seasonal or periodic flooding of land... The applicant’s proposed filling of land subject to flooding during a 100-year flood event (as determined by FEMA) is quite small, at only 90 cubic feet. Furthermore, the applicant proposes to provide 215 cubic feet of compensatory flood storage, which is 2.4 times more storage than will be filled. This will actually improve flooding conditions in the flood plain by providing additional flood storage. The proposed building will be located with the lowest floor elevation 1.8 feet above the FEMA 100-year flood elevation and will therefore not be subject to flooding during such an event. The applicant’s stormwater management system includes treatment and recharge facilities meeting DEP requirements. For the reasons described herein, and with the conditions imposed above, the Board therefore finds that the proposed filling is in harmony with the purposes and intent of the Zoning Bylaw.

#### **2. Special Permit Section 2-2.B(1) Requirements**

Prior to granting a special permit, the SGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for special permit:

- (a) **Does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

Section 11.3.B of the Bylaw enumerates criteria which much be met as follows:

- (1) *The proposed use shall comply in all respects with the provisions of the underlying District unless subject to provisions of Section 9 of this Bylaw;*

The Board has determined that the proposed use including, but not limited to the structure, parking, layout, and utility systems, comply with the requirements of the Zoning Bylaw and that the facility is not subject to the provisions of Section 9 (non-conforming) of this bylaw. The Board therefore finds that with the conditions imposed above, the proposed office use meets this criterion.

- (2) *All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that compensatory storage is provided for the one hundred (100) year flood.*

The proposed filling will displace 90 cubic feet of existing flood plain capacity at the extreme outer edge of 100-year flooding and actually occurs in an area not shown as subject to flooding on the FEMA FIRM. The project engineer, however, has determined that with the 100-flood elevations calculated by FEMA (100-year flood elevation of 142.47), portions of the site would experience shallow flooding during a 100-year event. As evidenced by the site plans stamped by Daniel J. Merrikin, P.E., a registered professional engineer, the proposed work will provide 215 cubic feet of compensatory flood storage, which more than accounts for the small volume proposed to be filled. The Board therefore finds that with the conditions imposed above, the proposed work meets this criterion.

- (3) *Any new residential construction or substantial improvements (the cost of which equals or exceeds fifty percent (50%) of the market value of the structure) shall have the lowest floor, including basement elevated to or above the base flood level (the one-hundred (100) year flood elevation) designated on the FIRM. Nonresidential structures must be flood-proofed and watertight to the base flood level.*

The proposed project is a non-residential use (office) with the lowest floor elevation (144.5) being 1.8 feet above the FEMA 100-year flood elevation of 142.7. The Board therefore finds that with the conditions imposed above, the proposed structure meets this criterion.

- (4) *All structures (including subsurface structures) are designed so as to prevent contamination of flood waters by chemicals, waste products, and other pollutants.*

The proposed office building is 1.8 feet above the FEMA 100-year flood elevation and no utility systems lie within the land subject to flooding except for a foundation drain, which will also be above the 100-year flood elevation. The Board therefore finds that flood waters on this site could not come into contact with the various facilities that could generate chemicals, waste products, or other pollutants, and that with the conditions imposed above, the proposed work meets this criterion.



**(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The proposed use will generate small volumes of additional traffic, most of which will be car traffic, in relation to the heavy volume of traffic that currently traverses Main Street, and that such additional traffic will not adversely affect the immediate neighborhood. The proposed work will improve traffic conditions in the area by removing an existing stone wall and trees at the corner of Main Street and Gill Street, thereby significantly improving sight distance around the corner. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**(c) Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The proposed use is a small office building situated at the boundary between a multifamily zoning district (GR) and a Business District, where professional offices uses can be permitted. The proposed use, which will contain a real-estate office and a few other offices, will not generate significant numbers of employees or visitors that would adversely affect the immediate neighborhood. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The site plan submitted by the applicant indicates that all of the various setback requirements are met, that the proposed use will generate 30.0% impervious coverage where 50% is allowed, that the proposed use will generate 8.1% building coverage where 30% is allowed, and that the required 10' wide buffer to the westerly single-family abutter is provided. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**(e) Shall not be dangerous to the immediate neighborhood of the premises through fires, explosion, emission of wastes, or other causes;**

The act of placing fill and excavating soils are not considered to be a substantive source of fire, explosion, or emission of waste and are not in any way unusual for this type of project. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.**

The act of placing fill and excavating soils will generate construction activities which are typical of the construction of any type of development or structure and which will not adversely affect the immediate neighborhood. Such work will be conducted in accordance with typical construction requirements and will be subject to oversight by the Conservation Commission and other town officials. Once complete, the work area will be

fully stabilized. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**(g) Shall not adversely affect the character of the immediate neighborhood; and**

The act of placing fill and excavating soils will have no affect on the character of the immediate neighborhood and the Board has found that the proposed office building and appurtenant facilities will not adversely affect the character of the immediate neighborhood. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The purpose of the Flood Plain District as enumerated in Section 11.1 of the Bylaw include, in part, protecting the public health, safety, and general welfare from the hazards of seasonal or periodic flooding of land... The applicant's proposed filling of land subject to flooding during a 100-year flood event (as determined by FEMA) is quite small, at only 90 cubic feet. Furthermore, the applicant proposes to provide 215 cubic feet of compensatory flood storage, which is 2.4 times more storage than will be filled. This will actually improve flooding conditions in the flood plain by providing additional flood storage. The proposed building will be located with the lowest floor elevation 1.8 feet above the FEMA 100-year flood elevation and will therefore not be subject to flooding during such an event. The applicant's stormwater management system includes treatment and recharge facilities meeting DEP requirements. The Board has also found that the proposed use, in general is compatible with the purpose of the Zoning Bylaw. The Board therefore finds that with the conditions imposed above, the proposed use meets this criterion.

**3. Consistency:** This decision is consistent with the purpose and intent of the Zoning By-Laws.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...special permits granted under this section shall lapse within a specified period of time, not more than two years, ... from the granting thereof, if a substantial use thereof has not sooner commenced except in good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause."

### **VARIANCE**

**3. Variance under Section 7**

A motion was made by Mr. Case, seconded by Mr. Cunningham, in behalf of the applicant, that the Board grant a VARIANCE under Section 7 of the Zoning By-Laws to allow a two-sided standing/ground sign, with an area of 17.5 s.f. per side, to be installed in the location shown on a seven-sheet plan prepared by Merrikin Engineering, LLP entitled "RE/MAX Building, 600 Main Street, Site Plan of Land in Walpole, MA" and dated March 2, 2010, revised through April 24, 2010.

The vote was **5-0-0** in favor; therefore the **Variance** is hereby **granted, subject to the following conditions:** (Murphy, Case, Cunningham, Stanton, DeCelle voting)

1. As shown on the site plan, the sign shall not interfere with the improved sight-distance around the corner of Gill Street and Main Street.
2. As stipulated by the applicant, the lighting of the sign will only be from the ground.
3. As stipulated by the applicant, the sign shall be constructed as shown on the plan dated April 24, 2010, submitted at the public hearing.

### **REASONS FOR DECISION:**

**Variance Section 2.3 Requirement:** It is the finding of the Board that the Applicant was able to demonstrate fulfillment of the requirements stipulated in Section 2.3 of the Zoning By-laws, including that:

*Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise to the appellant or petitioner.*

The bylaw is unclear relative to commercial signage for office uses allowed in General Residence Districts. There are provisions for a “nameplate” of one square foot or less by right.

The Zoning Board of Appeals finds that the request for variance owes to the shape of the structures involved. The proposed use of a professional office building, which can be allowed by Special Permit, requires a certain amount of identification to allow customers and other visitors to readily identify the site. Given the unique configuration and location of this site and proposed building, a 1-foot square nameplate is woefully inadequate for proper identification. Without proper identification passing vehicles will be distracted so as to cause an adverse affect on traffic patterns as the sign would be too small to be easily read. The sign as proposed is reasonable given the circumstances of the area. A literal enforcement of the by-law would present a hardship for the applicant by not enabling them to provide a reasonable identification for the proposed office uses, which could cause traffic confusion in the surrounding area by visiting customers.

*That desirable relief may be granted without substantial detriment to the public good.*

The Zoning Board of Appeals finds that the granting of a variance is in the interests of the public good and not to its detriment. The sign is appropriately designed for the surrounding area, with granite posts and a low profile.

*Without nullifying or derogating from the intent or purpose of this Bylaw.*

The Zoning Board of Appeals finds that the granting of a variance to allow the proposed

standing/ground sign will not derogate from the intent of the Zoning By-law as adequate signage to identify properties for uses allowed by special permit is a necessary and desirable component of such developments.

This decision is consistent with the purpose and intent of the Zoning By-Laws.

**7:30 p.m. – Alexander Associates Nominee Trustee – Case #06-10**

**7:45 p.m. – Alexander Associates Nominee Trustee – Case #07-10**

Ms. Murphy read a letter from Attorney Gerald Blair requesting to withdraw the appeals of Case Numbers 06-10 and 07-10, without prejudice, dated April 28, 2010.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant, A. S. Alexander and Bruce E. Alexander, to grant a request to withdraw without prejudice the appeal against Case Nos. 06-10 and 07-10.

The vote was **5–0–0 in favor**; therefore the application for an Appeal of Case numbers 06-10 and 07-10 is hereby **withdrawn without prejudice**. (Murphy, Case, Cunningham, Stanton, DeCelle voting)

**REASONS FOR DECISION:**

It is the finding of the Board that the applicant requested withdrawal without prejudice at the hearing on May 12, 2010 and the Board had no reason to deny the request.

This decision is consistent with the purpose and intent of the Zoning By-Laws.

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

Board also approved your request to return check number 2413 in the amount of \$100 to Attorney Gerald Blair.

There being no further business, the meeting was closed at 9:30 p.m.

Daniel J. Cunningham, Jr.  
Clerk

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Minutes were approved on August 8, 2010.