



# TOWN OF SWAMPSCOTT

## ZONING BOARD OF APPEALS

ELIHU THOMSON ADMINISTRATION BUILDING  
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

**MEMBERS**  
MARC KORNITSKY, ESQ., CHAIR  
DANIEL DOHERTY, ESQ., VICE CHAIR  
BRADLEY CROFT, ESQ.  
ANTHONY PAPROCKI  
ANDREW ROSE

**ASSOCIATE MEMBERS**  
RON LANDEN  
HEATHER ROMAN  
EMILY STUART

# DECEMBER 21, 2016 MEETING MINUTES

**Time:** 7:00PM – 10:16PM  
**Location:** Swampscott Senior Center, 200 Essex Street (rear)  
**Members Present:** M. Kornitsky, D. Doherty, A. Paprocki, B. Croft, H. Roman, A. Rose, E. Stuart, R. Landen  
**Members Absent:** A. Rose  
**Others Present:** Ken Shutzer (attorney), Judith Golditch (resident), Robert McCann (attorney), Julia Mooradian (architect), Stephen Banks (applicant), Philo Pappas (applicant), Joy Pappas (applicant), Peter Ogren (engineer), James Emmanuel (landscape architect), Peter Pitman (architect), Deborah Harris (resident), Gary Finari (applicant representative), Morris Tobin (attorney), Chris Drucas (attorney), Max Kasper (applicant), Ernest DeMaio (architect), Tom Stephens (resident), Tim Rhoades (resident)

Meeting called to order at 7:00PM by Chairman Kornitsky.

## MEETING MINUTES

The Board reviewed the minutes from the November 12, 2016 hearing. There were no comments. On a motion by B. Croft, seconded by A. Paprocki, the November minutes were unanimously approved.

## ZONING RELIEF PETITIONS

### PETITION 16-29

### 14 BAY VIEW DRIVE

Application of KENNETH SHUTZER o/b/o STEVEN P. BANKS seeking a special permit (nonconforming use/structure), dimensional special permit, and dimensional variance to rebuild a single-family residence replacing a structure destroyed by fire on a nonconforming lot. Map 20, Lot 141. *Continued from November meeting*

Attorney Kenneth Shutzer, representing the petitioner Steven P. Banks began by asking the Chairman of the Board, M. Kornitsky, whom the five voting members would be. M. Kornitsky designated them as being, himself, D. Doherty, H. Roman, B. Croft, and A. Paprocki.

Attorney Shutzer then started his presentation. Attorney Shutzer believed that the Board had last left off on the issue raised By Attorney McCann, regarding the definition of rafters and the ceiling height for calculating gross square footage.

Attorney Shutzer also went on to say that the Board had requested supplemental information and that Attorney Shutzer mentioned he got this information to the Board and Director of Community Development, Peter Kane, within days of being asked. Attorney Shutzer the explained to the Board what the supplemental maps contained. Attorney Shutzer stated that the maps showed the area in question has an additional 567 square feet which would bring the total square

footage of the proposed home to, 2985 square feet. This square-footage Attorney Shutzer states is still underneath the trigger of 3,000 sf for a site plan review.

Attorney Shutzer then explained that his client (Mr. Banks, who was also present) was away during the last ZBA meeting, but that his client had previously mentioned that after hearing from neighbors and the Board that he wanted to scale down his proposal for a second time. Attorney Shutzer then explained what the third iteration of the project proposed. This new proposal includes the reduction in space in the attic area by enlarging a deck and taking away a portion. Attorney Shutzer states that with the new iterations they have a total of 2,847 sf. Attorney Shutzer then handed the presentation off to Julia Morradian the architect for the project to explain and answer any questions regarding the project.

Ms. Mooradian begins by using a map with the new proposal on it to show that the new proposal has the elimination of a dormer on the back of the home. Ms. Mooradian mentioned that on the opposite side of the home was another proposed dormer that was to go out farther than the one being removed, but that the new changes call for it to be brought back in slightly. Ms. Mooradian also mentioned that the new proposal reduces the attic space from 566 sf to 428 sf, and that 428 was calculated to the rafter height at 7.3. Ms. Mooradian then used a map to show areas in attic that are above 7.3 in height. Ms. Mooradian ends by stating these were the only new changes made in the new proposal.

Attorney Shutzer then states that in essence, the new structure is smaller than the two previously submitted plans. Attorney Shutzer goes on to explain that Attorney McCann representing an abutter to the property had previous to the meeting emailed a letter to the Board and Attorney Shutzer outlining the main issues with the proposal. Attorney Shutzer then asked that if they Board has any questions he would now answer them.

M. Kornitsky then asks the Board if they have any questions, which they do not. M. Kornitsky mentions that the changes to be straight forward.

Attorney Shutzer then continued his presentation by going through the questions that have been raised throughout the hearings regarding this petition. The first question that Attorney Shutzer raises, is under what Town Bylaw section is the petitioner seeking relief from. Attorney Shutzer explains that because the home was destroyed by fire then according to the Bylaw the only section that deals with fire is 2.2.7.5. Attorney Shutzer explains that section has language and wording in it which is not used in other sections of the Town Bylaws. These words are volume and area.

Attorney Shutzer and Ms. Mooradian then explained that the new proposed home will be 18% larger than the home that was previously destroyed. Attorney Shutzer then states the question, what section would this petition default too, as the other sections regard self-demolition. Attorney Shutzer further went on to explain that he did not have much guidance for a situation like this, and that he has addressed each section in the Bylaws which gives the ability to rebuild. Attorney Shutzer brings up Bylaw section 2.2.7.3 which regards the self-demolition of a home. Attorney Shutzer states that he would assume that rebuilding a home after self-demolition of the previous would have stricter regulations than that of a petitioner trying to rebuild after their home was destroyed by catastrophe.

Attorney Shutzer explains Town Bylaw section 2.2.7.3, which deals with the re-construction of single and two-family structures after self-demolition. Attorney Shutzer reads a statement from 2.2.7.3. A, which state that the rebuilt home may not become more non-conforming. Attorney Shutzer then mentions that the proposed foundation for the home will be less non-conforming. Attorney states that if a home is becoming less non-conforming and adheres to the general Town Bylaws, then it is in the best interest of the town. Attorney Shutzer then goes on to mention other sections and other regulations and criteria that they have, but how it does not apply to his client's petition.

Attorney Shutzer then brings up section 2.2.7.3.2 which states that the structure becomes more compliant by becoming less non-conforming. Attorney Shutzer explains that because the petition did not fit into all the parameters they were a little surprised by section because it dealt with self-created demolition and not fire. Attorney Shutzer then went on to state that it was mentioned that this petition should address the section with special permits. M. Kornitsky asked if section 2.2.7.3. has the language that Attorney Shutzer is mentioning? Attorney Shutzer states that you could make the argument that it does. Attorney Shutzer then goes on to mention that at the first hearing for this petition there was some curiosity from the Board regarding what the applicant was seeking. Attorney Shutzer mentions that Attorney McCann is right, and that the petition was filed under 3 separate sections, because they were unsure which ones apply because the demolition of the home was caused by a fire. Attorney Shutzer then reiterates again that it would be easier to seek relief had their home been self-demolished, because the section regarding reconstruction due to catastrophe mentions "volume" and "area" and the others do not.

B. Croft then clarifies that the fact is, is that the applicant is seeking to rebuild their home which was destroyed due to fire. Attorney Shutzer agrees, that this is a fact, and then reiterates again the question of what section to seek relief. B. Croft responds that the section would be 2.2.7.5, to which Attorney Shutzer responds would be his initial assumption.

B. Croft then hypothesizes as to why the Bylaw section was worded in such a way as to include criteria for volume and area. B. Croft hypothesizes that the reasoning for the Bylaw could be that it has to do with a safety issue. Attorney Shutzer then stated that he wonders why there is a greater burden inflicted on someone whose home burnt down by fire, rather than someone that tore their home down on purpose. Attorney Shutzer mentions that someone could possibly tear their home down on purpose and then easily rebuild their home. B. Croft hypothesizes that the section of demolition by fire could be different because the writers of the Bylaws possibly did not want a home that is susceptible to fire to be rebuilt even larger. Attorney Shutzer responds by explaining the new proposed home fits in the envelope of the houses on either side, and that the front of the home has now become more conforming. B. Croft mentions that the fire did not affect the front of the home. Attorney Shutzer mentions that even if the proposed front was to be pulled closer to the street, it would still have the same distances on the sides. Attorney Shutzer then once again reiterates that the application had many different vehicles of relief checked because they were unsure of what they were seeking, and that he did not think the authors of the Bylaws anticipated a type of conversation and discussion like this. B. Croft asked what would happen if the home was designed with the same amount of volume. Attorney Shutzer stated that if it was redesigned with the same volume, then the applicant would not be there.

B. Croft asks Attorney Shutzer if the words in the bylaw say one thing, and only one thing? Attorney Shutzer mentions that he does not believe the writers of the Bylaws thought a discussion like this would occur.

Attorney Shutzer then went through the process of rebuilding a home after a self-demolition, or a demolition by fire. Attorney Shutzer then again poses the question of what section does the applicant seek to satisfy the Board? At this time an abutter tried to clarify what Attorney Shutzer is saying. A. Rose then as well tries to clarify Attorney Shutzer's thoughts and what the issue is in front of the Board. A. Rose agrees, that the burden is greater for a home destroyed by fire. A. Rose then went through some hypothetical situations that the wording of the Bylaw could allow. A. Rose mentions that one of the main reasons that this proposal has been met with such contention is that the home is going to affect certain views. B. Croft mentions that he understands what A. Rose is saying, but that they have the language in front of them that tells them what to do for rebuilding when a home is destroyed by fire. Attorney Shutzer mentions that his client could have sought a variance, but that the topography is very steep. B. Croft asked if the additional 400 sf being added to the new home is a self-created hardship. Attorney Shutzer replied that he did not think so, and that in the Bylaws it is confusing where it is mentioned. B. Croft states that he believes it is understandable. Attorney Shutzer

stated that if you interpret it like he is, then the Bylaw does not make sense. Attorney Shutzer then went on to say that there cannot be an explanation given of where to go in the Bylaws that is standard for a home destroyed by fire.

Attorney Shutzer then mentions that there is not much in the Bylaws that states what needs to be done if a home is destroyed by fire. M. Kornitsky then mentioned that the petitioner has done quite a bit, such as calculated and got concrete numbers, and reduced the proposed home under 3,000 sf. M. Kornitsky mentioned that the application has changed since the last meeting, and that he wishes to hear Attorney McCann's thoughts on the petition.

Attorney McCann then began, he explained that he is representing the Goldritches who are abutters to the property. Attorney McCann then read aloud an email to the Board and Attorney Shutzer he had previously sent which outlines nine issues that Attorney McCann has highlighted for the petition. Attorney McCann asks the Board to take these nine issues into account when they are making their decision.

Attorney McCann then hands to the Board transcripts of email correspondence between Attorney McCann and Attorney Shutzer. Attorney McCann states to the Board that he did not know that re-calculations to the property had been done. Attorney McCann stated that he would like to add in the Bransford case to his nine issues he had already outlined. Attorney McCann explained that there is an undersized lot and the home being proposed needs a special permit, but that the current application might be defective because there is a need for a special permit. Attorney McCann then went on to explain that his client has a note from their insurance company that says that their home burnt down due to the proximity to their neighbors. Attorney McCann then mentions that the proposed home will be 4-feet closer to his client's home. Ms. Goldritch then mentioned her home sits 2.8 inches from the property line. Ms. Goldritch then continued to explain that the home going closer to her home is a safety issue, and that she is upset over the thought that the home will be closer. Ms. Golditch then handed to the Board a report from the Fire Marshal with highlighted lines and a sketch. Again, Ms. Golditch reiterated that she is scared about the home coming closer, and explained that the homes in the neighborhood were built a very long time ago, and in a way where they work with the neighborhood and the space given. Ms. Golditch again mentions that she cares about the proposed home coming closer. Ms. Mooradian then clarifies the proposal is for the home to move two-and-a-half feet closer, not previously stated four feet.

M. Kornitsky then read aloud the highlighted section in the Fire Marshals report. Attorney McCann then stated that the home will be four feet closer, and the architect for the petitioner, Ms. Mooradian replied only two-and-a-half feet closer.

Attorney McCann then explained to the Board that the Petitioner has applied for a special permit, but that to rebuild, Attorney McCann believes the Petitioner should be seeking a variance. Attorney McCann explained the Petitioner is building a home different than what the regulations state for after a casualty, while his clients are rebuilding, following the statutes. Attorney McCann then explained that the Petitioner's proposal is proposing for the new home not to meet the front yard setback, and the proposed home being 12 feet back from the street. Attorney McCann then reiterates again that the Petitioner should be seeking a variance, and that this is critical in the decision making for this hearing. Attorney McCann went on to explain that a variance would have a much different set of criteria for the Petitioner to follow, and that currently the Petitioner is not proposing the home to be built following the statutes for a home destroyed by fire. Attorney McCann explained that the proposal is calling for certain things to be done that would trigger the need of seeking a variance, and believes and asks that the Board must look at and consider the criteria of a variance for the petition. Attorney McCann said that he thinks that the Board is capable of making a decision.

At this time, Attorney Shutzer asked if he could respond, to which M. Kornitsky allowed.

Attorney Shutzer begins by stating his thoughts on the rebuild by the abutting neighbors.

Attorney Shutzer stated that the abutter mentioned that they are scared about the home being closer, yet they are rebuilding their home in the same spot. Attorney Shutzer then mentioned that his client is moving their proposed home closer, but doing it within their envelope. Attorney Shutzer explained that his clients needed to design their home to meet the neighbor's home, which they are making nonconforming. Attorney Shutzer then asked and stated that the abutters move their home more from the property line. Attorney Shutzer went on to state that his client has done more than enough to meet the need and requirements from the neighbors. At this time, Attorney Shutzer's client and Petitioner, Stephen Banks, asked to speak.

Mr. Banks explained to the Board and audience present the reasoning behind what they are proposing and why they are proposing certain things. Mr. Banks explained that they had an opportunity to add certain things to the new home, such as a closet, and that while some of the proposed items will make the home bigger, he mentioned they pulled the home in, in the back to where it was at the request of the neighbors. Mr. Banks continued to state that he did hear the concerns about the road ridgeline, and that they have pulled one of the dormers in the new proposed plans. Mr. Banks explained that he believes the home looks better, and that it will add more to the neighborhood, and that the home next to his has a larger footprint. Mr. Banks continued to explain that the proposed home was moved over because they would violate the setback with the home to the right of theirs. Mr. Banks then stated that he is anxious to bring his family back to the neighborhood.

A. Rose mentioned that he believes Attorney McCann to be partially right. A. Rose continued to explain that if the proposed home is being pushed back four feet then it would be eligible for a dimensional special permit. M. Kornitsky asked if it will still need a dimensional special permit if it is moved back four feet because then he believed it would conforming, A. Rose stated the applicant would still need a dimensional special permit because of the 20% rule. A. Rose then mentioned that he also agrees with Attorney Shutzer's statement about not building the home in the same spot after their neighbor's home burnt down. A. Rose then mentioned that if the proposed home is going back four feet, then they can get out of the questions regarding which bylaws to use. B. Croft then asked the plans show four feet being removed off of the rear. Attorney Shutzer then explained the previous proposals of the plans and the issues that arose. M. Kornitsky then asked if they would need a dimensional special permit or if they can use Bylaw section 2.2.7? A. Rose mentioned that if the Petitioner skipped the Bylaw and could go for the dimensional special permit and explained other situations similar to this one that explain his point.

M. Kornitsky mentioned that he is struggling with the seeking of a dimensional special permit on the front setback, and he mentions it is allowed to be rebuilt at 8 feet back, but gets tripped up in the language of section 2.2.7.3b when it is talking about section 6 special permit. M. Kornitsky mentions there is language in there at the end that states "only conforming changes". M. Kornitsky explained that the new building is not conforming with the 20-foot setback, but is more conforming than the home that burned down. The Board then discussed which section and Bylaw to use in this decision.

Attorney Shutzer then asked that the Board look at the language in 2.2.7.3A the fourth line down which states "does not increase the nonconformity", Attorney Shutzer then explained his thoughts on this language and his interpretation.

Attorney Shutzer mentioned that there is a guidance issue to which M. Kornitsky mentioned is revolving around what the drafters of the Bylaws wanted. M. Kornitsky then asked for thoughts from the Board on what sections they think apply. M. Kornitsky mentioned that the email outlining the key issues and points in the decision-making process should be added to the public record (which it has been).

D. Doherty mentioned that he agreed with Attorney McCanns analysis on the case, and does not want to try and get the petition to fit into Bylaw section 2.2.7.3b, but that the language is tricky to him, specifically the part about “a section 6 special permit shall only permit conforming changes to nonconforming structures and nonconforming lots”. D. Doherty mentions that this situation shed light on the language, as something like this has not particularly happened before. D. Doherty continued to explain that the proposed home can’t be almost conforming.

M. Kornitsky then mentioned the section for which this petition applies must be found. A. Rose mentioned that if the home was to move back four feet, then the petitioners could seek a dimensional special permit, and would have the right to do so and for the Board to grant it. M. Kornitsky asks if there is the ability to move the proposed home back four feet? Attorney Shutzer explains that the front doors on the proposed home will be in the front, not the side, like before. The new proposed home will now have a front yard. A member of the Board asks if there is the ability to move the home back four feet? Mr. Banks stated that he does not want to.

Ms. Golditch then stated that 15 years ago she bought her home that the home is 2.5 feet on one side, and 7.5 feet on the other, and that the home needs to be built again in the same spot, and mentions that it suits the neighborhood.

B. Croft then stated that he does not believe that the Petition falls under section 2.2.2.7, and does think that the drafters might have considered the issues and consequences of rebuilding a home that was destroyed by fire even larger. B. Croft mentioned that he is interested in hearing and learning more about the concept of volume in this case and that he believes there to be a difference between volume and area. B. Croft mentioned that he does not know if a home with the same volume can have more square-footage. B. Croft then mentions that the language states that a home being rebuilt after fire must have the same volume or area. B. Croft mentions that he does think that the petition falls under 2.2.2.7 but that the square footage analysis the Board has for the proposal would not mean a positive decision.

M. Kornitsky mentions that it looks as if the petitioner might have to apply for a dimensional variance. At this time four members mentioned that they believe the Petitioner should be seeking a dimensional variance. T. Paprocki mentioned that if the proposal is not for the same size house, then he doesn’t see anything besides a dimensional variance, unless they followed A. Rose idea to move the home back. H. Roman stated that the only place the reconstruction excludes fire is in 2.2.7.5 second paragraph, and that this is the only place the exclusion is made.

M. Kornitsky mentions that all the questions can be answered if the Board makes a finding for a dimensional variance under section 5.5.0.0. A. Rose makes the suggestion that M. Kornitsky as the Board, that if the applicant moved his home back four feet would the Board grant a dimensional special permit, which would then leave this up to the neighbors if they would want to take the petitioner to court or not. M. Kornitsky and A. Rose discuss this.

M. Kornitsky mentioned that he looks at it and thinks this is one that he can find facts for a dimensional variance, and could decide on a dimensional special permit if the proposal was four feet back.

M. Kornitsky then made a motion to close the public hearing, H. Roman seconded, and it was unanimously approved, the public hearing was closed.

M. Kornitsky then asked for thoughts on the hearing.

M. Kornitsky explained that he believed the petition fit the need for a dimensional variance because of the topography and nature of the structure being proposed, and being put onto a less non-conforming setback then what the applicant has the right to rebuild. But, M. Kornitsky mentions there are facts in the petition to find for a dimensional variance as well as if the house was moved back four feet he could find in favor of a dimensional special permit. D. Doherty mentions that he agrees with the idea of seeking a variance, then D. Doherty and the Board discussed the circumstances around seeking a dimensional special permit. A. Rose brought up a past petition of similar circumstances and mentioned

he is stunned the Board would grant a variance. M. Kornitsky and A. Rose then discuss the possibilities and opportunities on how to structure the home to fit into the bylaw.

M. Kornitsky mentioned that because a home burnt down then the owners should not be held at a higher standard, and believes this is a petition that has serious facts for a variance finding. D. Doherty agrees with that statement. B. Croft explained, that he is hung up on the part about substantially derogated from the intent of the bylaw in terms of variance. B. Croft thinks that there is some self-inflicted hardship relayed in section 2.2.7.2.5, from the addition of the extra 400 sf. B. Croft mentions that if the home is moved back or forwards four-feet this will not affect the neighbors home on the side. B. Croft mentioned that he struggles to see the petition meeting the very high burden for the granting of a variance, because if the petitioner had proposed the same sized home, the hardship would not exist. B. Croft explains that he believes the bylaw provides it clear for what the Board needs to do in these types of circumstances. B. Croft then brings up what H. Roman mentioned in section 2.2.7.3, and thinks that this is an interesting argument, but states it is not up to a section 6 special permit.

A. Papricki mentioned that he is of the same opinion that he doesn't know if he supports the variance, because the hardship is self-inflicted, and does not support a variance for this hardship. A. Paprocki mentions that the Bylaw has a section detailing what to do if a home is burnt down by fire. M. Kornitsky then asked Attorney Shutzer what he wishes to do?

Attorney Shutzer says if the Board was to vote at this moment, what criteria would they be using? M. Kornitsky replied they would use dimensional variance. A. Rose suggested an idea of approving a special permit and adding a condition that the home must be moved the front yard back four-feet, M. Kornitsky explained that he would like to see the plan. Mr. Banks then explains that the original plan provided was four feet back, but that the proposed home was also larger in that rendition.

M. Kornitsky mentions that he would want to see how the home would lay in the lot if the setback was at 16 feet, especially the parking. M. Kornitsky mentioned that if the home is proposed to be moved four-feet back then M. Kornitsky believes then that would require another meeting if the applicant chooses. Or, M. Kornitsky asked the applicant and Attorney Shutzer if they would want the Board to continue and vote on a dimensional variance? Attorney Shutzer responds that the proposal could be moved back four feet and become conforming, but that it would not meet what the neighbor wants, as the home would still have the same side-yard setbacks. Attorney Shutzer then asked if he could have a quick meeting with his client to discuss.

Attorney Shutzer comes back and states that he has listened to what the Board has said and that his client will push the home back, becoming conforming and will return with a plan, and asks for a continuance.

An audience member then asked M. Kornitsky if the applicant was to come back with plans moving the home back four-feet, could there be a possible poll on how the members might vote on this concept. M. Kornitsky explains that he would have to see the plans first.

The Board then discusses the next meeting date for the Board. Attorney McCann asks if a condition can be made that if new plans are entered, they are to be entered two weeks beforehand and if not the meeting continued to February. Attorney Shutzer stated that they will do their very best to get the plans in, in a timely manner, but there is no bylaw requiring them to do so. M. Kornitsky mentioned that it would be helpful to have the plans in two weeks before the meeting, and if not then to consider continuing, but cannot bind the applicants to this.

MOTION : By M. Kornitsky to continue the hearing to January 18<sup>th</sup>, Seconded by B. Croft, unanimously approved.

## **PETITION 16-36**

## **96 & 96A PURITAN ROAD**

Application by Patricia Cashman to appeal the findings and order by the Inspector of Buildings to immediately evict any persons living in the rear structure and anyone living in the front building to vacate on December 1, 2016 and any resultant fines in violation thereof.

Attorney Kenneth Shutzer representing the owner/petitioner Ms. Cashman in the matter, stated he is requesting a continuance. Attorney Shutzer explained that there has been an offer made on the property, and the but no purchase and sales agreement signed yet. Attorney Shutzer mentioned the applicant will be coming before the Board and requesting zoning relief, different than what has been requested, and that Attorney Shutzer then would possibly withdraw the petition.

M. Kornitsky asks if Attorney Shutzer had relayed this to the Building Inspector? Attorney Shutzer responded that he had reached out to Mr. Peter Kane (Director of Community Development), and that Mr. Kane had reached out to the Building Inspector.

M. Kornitsky asked if there was any audience present in opposition to the matter, there was none.

MOTION : By M. Kornitsky to continue the hearing till January 18<sup>th</sup>, Seconded by B. Croft, unanimously approved

## **PETITION 16-32**

## **51 LINCOLN HOUSE AVE**

Application of PHILO T. and JOY R. PAPPAS seeking a dimensional special permit, site plan special permit, special permit (nonconforming use/structure), and special permit under the Bransford line of cases to demolish an existing single-family dwelling and build a new single-family dwelling with reduced rear yard setback on a nonconforming lot.

Attorney Robert McCann began his presentation by stating that he is representing Joy and Philo Pappas. Attorney McCann states that the Pappas have flown in from out of state, and are moving back to Swampscott. Attorney McCann explained that the application which was filed requests a dimensional special permit because the petitioners are tearing down and rebuilding, and also seeking a site plan special permit. Attorney McCann mentioned that the petitioner is also seeking a special permit under the Bransford Case, but mentioned might not have needed it because it is only going up 100 sf, but under 200 sf.

Attorney McCann stated that Peter Ogren, of Hayes Engineering, Peter Pitman the architect for the project, and James Emanuel landscape architect for the project are also present.

Attorney McCann then begins by explaining that in regards to the zoning issues, the proposal meets the front yard setbacks and that he met with Building Inspectors to make sure the definition and interpretation of sidelines and rear lines was correct. Attorney McCann then used a map of the property to show that he agreed with the Building Inspectors interpretations and showed on the Board the side-lines of the property. Attorney McCann then explains why certain property lines are considered rear and side lines according to the Town Bylaw.

The dimensional special permit, non-conforming use/structure, is being sought, because they are increasing the setback from 8 feet 16.1 feet, Attorney McCann explained. Attorney McCann also mentioned that all other dimensional requirements of the Bylaw are met. Attorney McCann mentions that there was a lengthy discussion and meeting



between the owners and the neighbors and the Planning Board. Attorney McCann mentions that the first iteration of the plans brought to the Planning Board meeting had the roof at 9-feet taller than a neighboring home. Attorney McCann mentioned that another significant concern heard by the neighbors was that they thought the mass of the property will be too big for the neighborhood, even though the square-footage would not be increasing, so the architects reduced it. Attorney McCann mentions that there was still some concern over the height of the proposed home, so the architects lowered the proposed roof four feet for the Planning Board meeting. Attorney McCann explained that there was still concern heard on the height, so after the Planning Board meeting, the roof is now two-feet lower than the roof of the adjacent home. Attorney McCann then mentioned that at the November 8<sup>th</sup> Planning Board meeting the Board endorsed the project with favorable action, but with conditions, such as the massing of the proposed house. Attorney mentions that the Zoning Board was sent two letter from the Planning Board. Attorney McCann addresses the first letter, dated November 8<sup>th</sup>. Attorney McCann explains that the Planning Board was unanimously favorable, but added conditions. Attorney McCann then reads the conditions, including compromising with the neighbors regarding the massing of the proposed house. Attorney McCann then moves to the letter from the Planning Board dated December 12, which specifically references building height. Attorney McCann then stated that the applicant has since revised the overall size of the home and building height. The homes roof will be higher than the currently existing structure, but this increase will be more modest, and keeps similarity with other homes in the neighborhood. Attorney McCann also explains that the massing of the house has been brought down.

Attorney McCann mentioned that the owners worked with their architect and neighbors to try and work out issues. Attorney McCann mentioned that the Saturday previous to the Zoning Board meeting, the owners had a meeting with neighbors. The owners went through the changes and showed that the proposed home is now lower. Attorney McCann stated that the proposed home now conforms to the Planning Board recommendations for height and massing. Attorney McCann then brought attention to a “tree report” done for the property. Attorney McCann explained that 12 trees would be removed from the property due to health. Attorney McCann then stated that he believes that the landscape architect has come up with a landscape plan that will work. Attorney McCann mentions that they want to reserve right to potentially modify landscape plan with help of neighbors to adapt landscape plan. Attorney McCann also mentioned that the neighbor to the right of the property would like to have input on work being done on an outcropping. Attorney McCann mentioned that the petitioners and architects will work with her. Attorney McCann then explained that this proposal will be going in front of the Conservation Commission as well. Attorney McCann also explained that there is a dimensional special permit being sought for the rear yard setback, but other than that, the entire property conforms, unless using the Bransford case.

Next, Peter Ogren (engineer) explained why the home will be going in front of the Conservation Commission. Mr. Ogren explained that the home on the ground now is considerably closer than the one that is being proposed, and that the proposed home reduces much of the lot coverage. Mr. Ogren explained that the lot does front on the ocean, and used a map to show the hightide line on the property and explained why it is measured to there. Mr. Ogren mentioned there is going to be a 6 - 7 ft tall new, reinforced concrete wall in front of the line. Mr. Ogren mentioned that the home sits on a slight cove, and then opens up to the open ocean. Mr. Ogren explained that all of the construction will stay back behind the velocity zone, then reiterated that they have filed with the Conservation Commission.

Next to present for the architect, Peter Pitman, of Pitman and Wardley Architects. Mr. Pitman explained that the intent is to tear down the existing structure, and then went on to explain the existing structure is a mid-century style ranch style home that has had some additions added on, a second floor and a wing off of the side. Mr. Pitman explained the current home has been reworked and reconfigured, so there aesthetic or historic value to the home as it currently exists. Mr. Pitman then, using a presentation board, put up the proposed plans for the home. Mr. Pitman explained that there will be a two-car garage with a mudroom attached, as well as the entry to the home will be at the intersection

of the home, which is being built in a “L” shape. Mr. Pitman explained there will be a half-bath, dining, room study, and kitchen, with an open porch off of the living room, and the first floor will be open space concept. The second floor will have a bathroom, closet, family room, study, three kid’s bedrooms and bathroom, and a master bedroom. Mr. Pitman then used the Sullivan’s home (an abutter) as reference to show the height of the proposed home. Mr. Pitman explained that the new home will be 27.8 ft in height. Mr. Pitman explained that the new proposal is trying to make the house not seem so massive from the street. Mr. Pitman explained there will be a two-car garage, and showed the front entry on the map, also using the map Mr. Pitman explained the skew of certain things due to the “L” Shape of the proposed home. Mr. Pitman then went on to show a quick summary of the proposed home and the changes that have been done. Mr. Pitman then used different maps with the different angles of views of the proposed home. Mr. Pitman then showed the ocean side elevation of the property, and used the map to show the kitchen, dining, and living room as well as the master bedroom area. Mr. Pitman then explained that the rear of the home, which is thought be the side yard, is really the rear of the home. Mr. Pitman continued to use large maps to show the different elevations of the home, including the gambrel on the North side. Mr. Pitman explained that the neighbors had voiced concern about the home, and how it will come much closer to the lot line. Mr. Pitman then uses a map to show the Sullivan home overlaid with the new proposed home.

Next up was landscape architect James Emanuel. Mr. Emanuel explained that the main component in regards to the landscaping was the large evergreen, spruce, and pine trees on the property. Mr. Emanuel explains that the report that was handed to the Board showed that the trees, due to health problems, should come down. Mr. Emanuel explained that there will be trees planted on the right of way where a fence exists now with evergreens. Mr. Emmanuel explained that the dead trees will be taken down and new evergreens will be put in, and the fence will become reconfigured. Mr. Emmanuel also explained that new pavers will be put in the same spot as the current driveway, as well as retain the shrubbery around the border on the North end of the property. Mr. Emmanuel also explained that buffer of shrubs currently will be maintained, but that during construction the shrubs will be removed around the home. Mr. Emmanuel also showed and explained that there will be a patio off of the kitchen towards the water, and shrubs atop the seawall as a buffer. Some pavers will be re-set by the seas edge, and it was proposed that some concrete be added to the porch to extend the view as well, Mr. Emmanuel explained. Mr. Emmanuel mentioned to the Board that two trees (points to them on the map) will stay during the construction, but might be pruned. M. Kornitsky then asked the Board if they had any questions, the Board did not, Attorney McCann mentioned he did not have anything further to add as well.

M. Kornitsky then asked if there were any abutters present that wish to be heard on the petition.

Deborah Harris of 39 Lincoln House Avenue, an abutter to the property asked to review the Tree Report for the property as well as the letter from the Planning Board from December 12.

To give time to Ms. Harris to review the landscape plan and proposals, M. Kornitsky allowed for a short pause in the hearing.

On a motion by M. Kornitsky, and all members of the Board in favor, the hearing was continued for a short period of time.

**While the representatives of Petition 16-32 and the abutter discussed plans, M. Kornitsky called forth petition 16-37.**

## **PETITION 16-37**

168C HUMPHREY STREET

Attorney Kenneth Shutzer is representing Mr. Olvadi the owner of the property. Attorney Shutzer explained that Mr. Olvadi purchased the property which was formerly occupied by a business that used it very lightly. Attorney Shutzer

mentioned that the only question that he has for the hearing is what relief for parking should his client seek? Attorney Shutzer mentioned they had originally filed under section “G” of the Bylaw, which required one parking space for every 200 sf, then under different section, section “I” which required one parking space for every 200 sf and two spots for employees. Attorney Shutzer explained that on Humphrey Street there is very little amount of off street parking. Attorney Shutzer said that the previous owner has one deeded space, but that the proposed use, as an off-site home healthcare business, and then Attorney Shutzer explained what the Business entails. Attorney Shutzer mentioned that there will probably be very little to no parking associated with the use. Attorney Shutzer then stated the Bylaw is not specific and you default to either section “I” or “G” regarding no off-street parking. Attorney Shutzer then stated their request is for parking relief. Attorney Shutzer mentions that the proposed lease is attached, which is subject to the zoning relief, then the lease will be executed. Attorney Shutzer stated that the sign design will be brought to the Building Inspector and it will be conforming and meet all the conditions.

M. Kornitsky asked if there was anyone in attendance in opposition, there was none. M. Kornitsky then asked if there were any questions from the Board, there were none.

M. Kornitsky constitutes the five regular members of the Board as the voting party.

MOTION : By T. Paprocki to approve Petition 16-37 for parking relief, given location and use being similar to the previous, B. Croft seconded, unanimously approved.

Attorney Shutzer asked which section is being granted, I or G? M. Kornitsky mentioned that the section is irrelevant at the moment and to confer with the Building Inspector. A. Rose and M. Kornitsky discussed the current parking situation on Humphrey Street. M. Kornitsky then mentioned that the Fire Department asked that the fire depression system be tested and at a state of readiness. Attorney Shutzer mentions that he has been advised that before the certificate of occupancy is granted to advise the check of the system.

M. Kornitsky asked Attorney McCann if the representatives of Petition 16-32 and the abutter were ready to finish the hearing? Attorney McCann and M. Kornitsky then both note that there was discussion still ongoing.

**M. Kornitsky then calls forth Petition 16-38 to be heard while the abutter and Petition 16-32 representatives still discuss.**

## **PETITION 16-38**

## **36 EDGEHILL ROAD**

This is application by UBW Inc to construct a single-family dwelling in an A2 district on an irregularly shaped lot containing less than the minimum lot size with less than required frontage.

Gary Finari comes before the Board. Mr. Finari explained that he is representing UBW Inc. Mr. Finari explained that his client is seeking a dimensional special permit and variance for an undersized lot, with less than the required 20 feet of frontage, and under the 20,000 sf of lot area.

M. Kornitsky explains to Mr. Finari that the criteria for a variance is very hard, and prefaced Mr. Finari’s presentation with that information, and then asked Mr. Finari to explain the proposal.

Mr. Finari begins his presentation and states the petitioner is looked to build a 40 by 32-foot two-level single family home most likely on slab, as there is ledge in that area. Mr. Finari mentioned the petitioner is looking for to build a single-family dwelling for someone to move into, and mentions that some of the other homes in the neighborhood in the past were built with 50-feet of frontage and around 5,000 sf.

A. Rose asks what the dimensional variance being sought is, and M. Kornitsky mentioned that it needs to be proved that the lot pre-exists zoning and is a buildable lot. Mr. Finari then introduced Attorney Morris Tobin, who is a title searching specialist. Mr. Tobin then mentioned that the lot has been in existence for well over 60 years and mentions that more than that there is a plan that was recorded that shows the lot as it existed in 1914 and it is recorded at the registry of deeds. M. Kornitsky asked if there is a title reference, and Attorney Tobin responded the title reference is 24-68. M. Kornitsky explained that the Board is looking to see if the lot pre-existed zoning, then the Board likes to see legal opinions on it, and needs copies of the plans. M. Kornitsky mentions that he would like to see the plans in advance, because it would be substantial relief they (the Board) would be granting. M. Kornitsky allows Mr. Tobin some time to continue looking through his materials to search for the information needed.

**While Attorney Tobin continues searching for the information, M. Kornitsky notes representatives from Petition 16-32 and the abutter had finished discussing the project and M. Kornitsky re-opens the hearing.**

## **PETITION 16-32**

51 LINCOLN HOUSE AVE

M. Kornitsky motions to re-open Petition 16-32, A. Rose seconded it, unanimously approved, the hearing is back open for Petition 16-32.

Attorney McCann states that the abutter, Ms. Harris, is not in opposition but would like to make a statement. Ms. Harris begins by using the map of the proposal to show where her home is how she can see the construction from her home. Ms. Harris explained that she is impressed by how the Pappa's have worked with the neighbors. Ms. Harris continued to state that her concern is the massing of the house, and that her home looks out at the home and it feels really big. Ms. Harris mentions that her other concern is that there is currently a large tree on the property that is slated to come down. Ms. Harris explained the arborist has mentioned it is diseased, but that Ms. Harris thinks it still looks really nice, Ms. Harris continues to explain that if the tree was to stay then it would help break up the massing of the home. Ms. Harris mentions that the tree is getting taken down due to the arborist report and the expansion of the driveway. Ms. Harris then reiterated again how she is impressed with how the owners have been working with the neighbors. Ms. Harris states that she looks forward to working with the owners, and to try and get a large planting there to break up the massing of the home to make it fit more within the neighborhood.

Motion by M. Kornitsky to close the public hearing, unanimously approved.

M. Kornitsky constitutes the five regular members of the Board as the voting members, and asks if Attorney McCann will write the decision, Attorney McCann stated he will.

**MOTION :** By M. Kornitsky to approve a dimensional special permit, site plan special permit, and special permit related to the demolishing of the existing structure to make a single-family dwelling, with reduced set back on a nonconforming lot with all construction done in accordance of most recent plans filed, seconded by A. Rose, unanimously approved.

**M. Kornitsky then asks the representatives of Petition 16-38 to continue.**

## **PETITION 16-38**

36 EDGEHILL ROAD

Attorney Tobin then approached the Board and showed the Board a plan recorded in 1924, and was mentioned by Mr. Tobin that the original plan was drawn much earlier than that. M. Kornitsky explained there are still many things the

Board would need to see, and asked if there was common ownership and Mr. Tobin explained there is no common ownership on the land. M. Kornitsky explained to Mr. Tobin and Mr. Finari that for the Board to make an informed decision that there is much more information that needs to be provided to the Board. D. Doherty also stated that he agrees with M. Kornitsky and there is more information and documents needed. M. Kornitsky explained these items to the representatives and then asked the gentleman if they would agree to a continuance and that they circulate any new materials to the Board before the hearing.

**MOTION** : By A. Rose to accept the request for continuation to the January 18<sup>th</sup> meeting, unanimously approved.

## **PETITION 16-34**

## **16,18, 20 ATLANTIC CROSSING**

Petition 16-34 is an application filed by Versacon LLC seeking an appeal of the determination of the Inspector of Buildings regarding the location bulkheads with setback requirements. *Continued from the November Meeting.*

Representatives of the Petitioner were not present at the meeting and did not come forward.

Attorney Kenneth Shutzer then at this time stated that he is present for this petition and representing Mr. Dan Glosband, an abutter to the properties in question. Attorney Shutzer began by stating that he was not present for the original hearing in November. Attorney Shutzer then explained that he and his client felt that the Petitioners failed to send out appropriate notice to the abutters. Attorney Shutzer also mentioned that the Petitioners explained they would meet with the neighbors, an occasion that never took place according to Attorney Shutzer. Attorney Shutzer also mentions that he could not find any certified plans that show the distances of the bulkheads. Attorney Shutzer and M. Kornitsky discuss further options.

The Board discussed the potential options that the Board can exercise.

M. Kornitsky is concerned that if a decision is not made, that the timer for the situation of “constructive approval” would take place. The Board then further discusses the options.

**MOTION** : By M. Kornitsky to deny Petition 16-34 without prejudice, based on the applicant not appearing and not contacting the Board to ask for a continuance, seconded by D. Doherty, unanimously denied.

Attorney Shutzer asked if it was possible that the Building Inspector changed his mind, the Board responded that they did not think he did.

## **PETITION 16-34**

## **51 GLEN ROAD**

Application by Kasper Properties LLC seeking a dimensional special permit for lot coverage and front and side-yard setbacks to convert a two-family nonconforming structure into a three-family use. Applicant is also seeking a special permit (nonconforming use/ structure) in an A3 district and a site plan special permit and any other special permit or variance under the applicable sections of the By-laws the Zoning Board shall deem required.

Attorney Chris Drucas stated to the Board that he is present representing the petitioners and that he would explain some points to the project to the Board and answer any questions. Attorney Drucas also mentioned that he was present with the owner of the property, as well as also present is Ernest DiMaio the architect for the project who would also be answering any questions and presenting for the Board.

Attorney Drucas began by explaining that this project entails a difficult renovation and that the final product will be a significant positive change to the use on the property. Attorney Drucas explained that the project will be adding two other structures to the property, and mentioned that each structure will be only two-stories and two bedrooms. Attorney Drucas also stated that the structures are being designed in this way to be used as starter homes or for a potential homeowner looking to downsize. Attorney Drucas explained that this idea is keeping with certain goals from the 2025 Town Master Plan. Attorney Drucas then stated that his client and architect are in front of the Board because their plans need a dimensional special permit to increase lot coverage from 30% to 32% and the side-yard setback moving within 20% of the allotted amount. Attorney Drucas explained that due to the location of the property, the property has two front-yards and two side-yards. Attorney Drucas also mentioned that the existing structures setback will be moving back to 10.7 feet, become less nonconforming. Attorney Drucas explained that the project had previously been in front of the Planning Board and that he asks the Zoning Board to make note of the letter from the Planning Board. Attorney Drucas also stated that he agrees with the comments and findings made by Director of Community Development, Peter Kane. At this time Attorney Drucas hands over the presentation to the projects architect, Ernest DeMaio.

Mr. DeMaio explained he would walk the Board through the design and motivations of the project and concept, as well as answer questions. Mr. DeMaio began by stating that the site is unique, and used a large presentation board to show photos from the site, from Humphrey Street looking up and from Cardillo Terrace, and used these pictures to explain the current structure on the property. Mr. DeMaio mentioned that the project calls for removing the corner portion of the structure, which will improve the visibility while driving on the road, as Mr. DeMaio explained. Mr. DeMaio continued to state that currently there is a concrete tandem parking area, but that the concrete will be changed to pervious materials, but the location will remain. Mr. DeMaio then explained to the Board that there is a low wall the runs up the Cardillo Terrace side of the property growing larger wrapping around the entire site. Mr. DeMaio mentions the wall becomes 6-feet tall in some places. Mr. DeMaio also mentions that there is a change of elevation of 19 feet on the property, and that on the Glen Road side of the property the structure will sit 6 feet below Glen Road. Mr. DeMaio also mentioned that the property is in the vicinity of many multi-story mixed use buildings and is also within 100 feet of the Humphrey Street shopping plaza as well as other multi-family buildings as well. Mr. DeMaio also mentioned that on Kennsington Road there are single-family homes, to which Mr. DeMaio mentioned he designing the proposal to act as a transition between the multi-family and single family homes.

Mr. DeMaio then explained that the plan calls for completely removing the siding on the existing home, and replacing the window. Mr. DeMaio mentioned that roof is already new, and that there will be the removal of an extension on the Cardillo Terrace and constructing a side entrance. The plan Mr. DeMaio explains is to take a 2-family home and make it a single family, and then build two, single family structures attached. Mr. DeMaio then mentioned that the parking on the Cardillo Terrace side is difficult. Mr. DeMaio explained the proposal calls for parking to be not only on-site, but also space for a turnaround as well. Mr. DeMaio mentioned that many use Cardillo Terrace as a passageway, and did not want vehicles to have to back out of the property onto Cardillo, and that the plan is to maintain the other existing parking space.

Mr. DeMaio then used maps to explain that an apron of pervious pavers will be added on the Cardillo Terrace side, and then there will be native pea-stone added in for the parking area surface. Mr. DeMaio explained that impervious materials will be removed and pervious added instead, and that this help reduce run-off.

Mr. DeMaio went on to explain that the plan is to maintain the original mass of the existing building, and then break down the mass of the other two units to be built. Mr. DeMaio mentioned that the buildings will be built and renovated with materials and certain building techniques similar to other homes in the neighborhood. Mr. DeMaio stated to the

Board that a connected two-and-a-half story large mass was considered, but that he believed that to be less neighborhood friendly, and that this plan will help enhance the usability of the site.

Next Mr. DeMaio moved on to explain the landscape and planting plan to the board, stating, he believes them to be very important. Mr. DeMaio mentioned that the plan wishes to create a screen along the Cardillo Terrace side, and our proposing a variety of plantings and materials that will give density and screen light pollution from car headlights. Mr. DeMaio, using a landscape plan showed on the map, larger trees will be added to help frame the site, and along the existing retaining wall, shrubbery will be added. Mr. DeMaio added that trash areas, in enclosures with siding that matches the buildings will be added. Mr. DeMaio added that the plan is using screening to help make the proposal friendlier, and that there will be ground plantings added to help accentuate the entries to the property. Mr. DeMaio explained that at unit C, there will be a small addition off the front added, and then the creation of a rain garden to help catch the runoff from the roof. The rain garden will collect the water the currently drains onto the pavement.

Mr. DeMaio then continued to explain that larger trees such as red maples will be added that will help frame the entry and the corners of the property. Mr. DeMaio used the map to show the edge of the property where arborvitaes would be added. Mr. DeMaio continued to show that ground cover such as inkberries will be added, because they are low and dense, as well as hydrangeas to be added as well. Mr. DeMaio stated that owners will not be removing any trees that are six-inch caliper or more from the site.

Mr. DeMaio then explained to the Board that the architectural plans have treated the site like it is almost a plateau and explained what is being done on the property to work with this. Mr. DeMaio mentioned that the new ridgeline of the new additions will be a little less than 29 feet high from the grade. Mr. DeMaio also explained that if you are to measure from the average grade around the perimeter to the median elevation of the roof, it would be 22 feet. Mr. DeMaio mentions that the intent of the plan is to help keep the scale of the project small, and that currently the property sits at about six feet below the grade on the Glen Road Side. Mr. DeMaio mentioned that he wanted the plan to keep with in scale of the neighborhood for the neighbors. Mr. DeMaio then used the presentation board and pictures to show other homes in the neighborhood and surrounding area and explain the elevation of the area.

Mr. DeMaio explains that if you were on the first floor of the abutting property, that the “eve” lines are 3 feet above the first-floor elevation. Mr. DeMaio continued to explain the different heights and elevations of the proposal relevant to the other homes in the neighborhood.

Mr. DeMaio mentions that the plans took into account view corridors and did not want to obscure views.

Mr. DeMaio then asked if the Board had any questions, which they did not.

Attorney Drucas then stated to the Board that his client, Max Kasper is the Assistant Building Inspector for the Town of Swampscott, and that Mr. Kasper has gone around to all the neighbors and talked with them about the proposal. Attorney Drucas also mentioned that on November 20<sup>th</sup>, Mr. Kasper had a meeting and dialogue with the neighbors, and neighbors that weren't able to attend, Mr. Kasper has tried to follow up with them. Attorney Drucas also added to the public record a letter of support from a neighbor regarding the project. Attorney Drucas stated that his client and the architect for the project worked very hard on trying to meet the needs of all the neighbors. Attorney Drucas explained to the Board that the plan has tried to stay within the setbacks as best they could, and that this project concept is trying to meet a need for the Town. Mr. DeMaio then added that the grade change from Humphrey Street to the site, and that you will not be able to see the new structure because it will be obscured.

A. Rose mentioned that he thinks that plan is fascinating, but that his issue is that between the two new houses there is a set of stairs that are redundant and also that the trash area will be in the front yard. A. Rose mentions that he does not

like the idea of the trash being in the front yard and asked if you could put the trash in the back of the property. A. Rose mentions that the stair case protruding from the common space in the middle is not needed.

Mr. DeMaio then mentioned to the Board that they are trying to make sure the area in the back is able to be used by the people living in the units.

A. Rose states that the trash structure is accessory and that it cannot be in the front yard, and continues to mention that there is room in the back for it.

Attorney Drucas and Mr. DeMaio and A. Rose discuss the back setback of the property. M. Kornitsky asks Mr. DeMaio to clarify the trash structure. Mr. DeMaio states that the structure will be shed like, with walls on three sides, but only be tall enough to fit trash. M. Kornitsky explained it is like a shed which is not permitted in the front yard. The Board and Mr. DeMaio discussed the possibilities about where the trash could go.

Mr. DeMaio mentions that the grading of the property and the site topography played into the location of the trash area. Attorney Drucas stated to the Board that if the trash area cannot go there, then they will take it off. M. Kornitsky mentions that the Board does not have jurisdiction to give them the structure in the front yard or a variance for the structure. M. Kornitsky asked if other Board members had any questions, there were none.

Tom Stephens of 63 Kennington Lane, an abutter to the property asked about proposed plantings on top of the retaining wall. Mr. DeMaio explains that the top of the wall is actually Mr. Stephens property.

Mr. Stephens mentioned that he greatly appreciates the effort to have the proposed concept fit into the neighborhood, but mentioned that he would be losing the ocean view currently enjoyed from his porch. Mr. Stephens mentions that the roofline on the existing structure is higher which affects his view, mentions that it could be worse. Attorney Drucas mentions to Mr. Stephens that his client would be willing to do some plantings on top of the wall if he would like.

Attorney Drucas and Mr. Stephens discuss the plantings and the property, and Mr. Kasper mentions he is open to working with the abutter.

M. Kornitsky asked if there was anyone else to be heard.

Tim Rhoades of 44 Glen Road, began by thanking Mr. Kasper for meeting and discussing with the neighbors the plans. Mr. Rhoades mentioned that he is concerned about parking, and concerned over the idea of trying to fit six cars on the site, and believes there is not enough space. Mr. Rhoades mentions that he also agrees with A. Rose thoughts on the trash area. Mr. Rhoades asked if there is a possibility of lowering unit B to help follow the grade more, rather than the current proposed retaining wall. Mr. DeMaio mentions that it was looked at as a possibility, but when looking at the turning radius of cars they are constrained, and if unit B is lowered, the ability to turn would be reduced even more. Mr. DeMaio then explained to the abutter the current breakdown of parking on the site, and that they have satisfied the Bylaws. Mr. Rhoades mentions that he is worried about even more cars parking in the neighborhood. Mr. DeMaio and the Abutters discuss the reasoning around designing the driveway and parking areas as they are.

A. Rose asks if there will be basements, Mr. DeMaio explained they are intended to have basements. A. Rose then asks Mr. DeMaio for some more information regarding grade and parking, Mr. DeMaio and Attorney Drucas clarify.

Next, Michael Sinrich, owner of two abutting properties stepped forward to comment. Mr. Sinrich used the presentation board with photos on it to show his properties and the parking situation currently. Mr. Sinrich mentioned that he had two concerns, cutting back the front structure, which he mentioned Mr. Kasper addressed in the proposal and plans and will now help open up driver's views coming down the hill. Mr. Sinrich mentioned his other concern is satisfying



drainage concerns. Mr. Sinrich used the board with photos to show downspout on the property and used the photos to show the direction the water goes and explained to the Board the water situation which occurs during winter time. Mr. Sinrich mentions that at the Planning Board meeting, the Board had made some recommendations that would help with runoff and drainage.

Attorney Drucas then asked Mr. Sinrich if he would explain the garages that are on his property. Mr. Sinrich explained how the garages were built into the hill on his property in the 1930's and that the area above the garages has some small trees on it. Attorney Drucas then mentioned that Mr. Kasper had spoken with Assistant Town Engineer Sean Lannon, and that he has a letter with his comments regarding storm water and other items discussed. Attorney Drucas mentioned that his client will work with the town to deal with some issues that may arise when the project starts. Attorney Drucas then hands the Board the letter received from Mr. Lannon and from their engineer regarding the storm water report. Attorney Drucas mentions that a rain garden will be added where the addition from unit C is being removed, and will be used to catch water coming off the roof.

M. Kornitsky then asked about comments from the Assistant Town Engineer regarding age and condition of the sewer on Cardillo, and what happens if the sewer is not suitable? Attorney Drucas mentioned then that his clients will have to make the sewer adequate and suitable. Mr. Kasper mentions they would deal with going down Humphrey, or pumping it up, but the sewer line would have to be scoped and looked at first. The Board and Attorney Drucas then further discussed the sewers.

Attorney Drucas mentions that there will be sprinklers in the units, per the Fire Departments comments.

M. Kornitsky asks if any other Board members have comments, there is none.

D. Doherty asks Attorney Drucas if he will write the decision, Attorney Drucas states he will.

As D. Doherty was about to make a motion, Mr. Stephens the abutter asked if there was any way before the plans were voted on that there would be a way to preserve his view. Attorney Drucas mentioned that Mr. DeMaio had looked into the possibility and then Mr. DeMaio explained that anything proposed does not affect the second floor of the home at 63 Kennsington. Mr. Stephens mentions the home is a two-family, and that he lives on the first floor. Mr. DeMaio mentions that the structure at 63 Kensington is much higher than 51 Glen, and Mr. Stephens mentions do to the grade and topography. Mr. DeMaio explained that the concern is over what the construction crews will find geo-technically speaking once they start digging. Mr. DeMaio mentioned that the unit might possibly go down in height, but that would not know until the digging begins, and is hesitant to say they will be able to lower unit B. M. Kornitsky mentions that it doesn't sound like the elevation will be lowered, and A. Rose clarifies to the abutter of the possibilities of what could happen with the elevation. M. Kornitsky also mentioned that the Board does not have jurisdiction to protect private views, but does encourage the applicant to consider lowering the elevation, but cannot bind them, and that it is ultimately up to them.

M. Kornitsky makes a motion to close the public hearing, seconded by B. Croft, public hearing is closed.

**MOTION** : By D. Doherty to grant the petition of Mr. Kasper seeking a dimensional special permit addressing the lot coverage on the front and side yard, a special permit (nonconforming use/structure) to convert a two-family structure to a three-family structure, and a site plan special permit, all of which in conformance with the plans submitted and the condition that the trash structure in the front will be removed, seconded by B. Croft, unanimously approved.

## **OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD**

Meeting dates for the next meetings were discussed, and January 18<sup>th</sup>, 2017 was decided on.

Motion by M. Kornitsky to close the meeting, all in favor, meeting adjourned at 10:16pm.

Andrew Levin  
Assistant Town Planner