East Longmeadow Planning Board

60 Center Square

East Longmeadow, Massachusetts 01028 since 1894

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April 22, 2014

Present were: Chair, Michael Carabetta; Vice Chair, Alessandro Meccia; Clerk, Tyde Richards, George Kingston and Ralph Page.

Mr. Meccia opened the meeting at 4:00 p.m. in the hearing room and stated that the Board just had a meeting with the Board of Selectmen to reappoint Michael Carabetta and Tyde Richards to the respected positions each being a year and now they will re-organize the Board. Upon motion duly made by Ralph Page and seconded by Alessandro Meccia the Board voted (4-0) to re-appoint Michael Carabetta as Chairman to the Planning Board. Upon motion duly made by Michael Carabetta and seconded by George Kingston, the Board voted (4-0) to re-appoint Tyde Richards as Clerk of the Planning Board. Upon motion duly made by George Kingston and seconded by Ralph Page the Board voted (4-0) to elect Alessandro Meccia as Vice Chair. Upon motion duly made by Michael Carabetta and seconded by George Kingston, the Board voted to adjourn at 4:10 p.m.

Present were: Chair, Michael Carabetta; Vice Chair, Alessandro Meccia; Clerk, Tyde Richards, George Kingston and Ralph Page.

Mr. Meccia opened the meeting at 6:00 p.m.

Discussion with East Longmeadow Storage re: signage

Present were David Chapdelaine, Lisa Chapdelaine and Edward Bellrose.

Mr. Chapdelaine said that they would like to put the sign from the fence 6 feet off the property line on the left side of the property for the exit where the sliding gate will be. He said they will connect to the side with a 4 foot fence putting the sign 10 feet of the property line and another 4 foot leg of fence going to the gate for the entry which slides to the right. Mr. Chapdelaine said that puts the fence at 38 feet off the road leaving room for cars to pull in with trailers. He said the sign will sit on top of a brick structure and they have made the structure smaller and a little less obtrusive and it is little narrower sign that is 30.3 square feet. Mr. Chapdelaine said the reason for the brick structure is to have the pads to get in and out and it will be a place to put some lighting for the sign and a post for the sign.

Mr. Richards asked when cars pull in can the hit the key pad or do they have to get out of the car to touch it. Mr. Chapdelaine said that they can hit the key pad from inside their car and a concrete curb will be under it.

Mr. Carabetta asked if the fence on the right will continue around. Edward Bellerose said once it clears the 14 foot opening then it will be a straight line.

Mr. Page asked if they will be showing a garage door on the sign or is the entire bottom going to be brick with two lights on it and a key pad. Mr. Chapdelaine said that structure will either be brick or pvc and the panel will be metal and they are waiting for prices. Mr. Page said to make it look like a garage door. Mr. Chapdelaine said correct. Mr. Page said that is what he has a problem with and said the definition of a sign is anything that draws attention to it or the business that is considered part of the sign and if that structure is considered part of the sign they will exceed the square foot limit. Mr. Chapdelaine asked what the square limit is. Mr. Page said that it is 100 square feet. Mr. Chapdelaine said that it is 99.7 including the brick. Ms. Macdonald said that a ground sign is 50 square feet and 100 square feet is for a building sign and that is where the difference lies.

Mr. Kingston asked if they do the same for a ground sign as they do on building sign by squaring it off to get the square footage. Ms. Macdonald said they could either be square or rectangle. Mr. Kingston said then if they made it rectangle it would be 46 square feet not 30 square feet.

Mr. Page said his concern is looking at the sign he considers the whole unit a sign. He said his opinion is if it was a plain brick base on it that didn't draw attention and just a brick that the key pad lighting was on he would just think that the top was the sign.

Mr. Kingston said that he disagreed because there is no lettering on the green panel.

Mr. Richards said that it can be looked at both ways, one is looking at the garage doors it is part of the sign because storage lockers are all garage doors or it can be looked at that the bottom is just the base and the top is the sign. He said the question is how do they want to look at it and it is a big base but he thinks the top is really the sign.

Mr. Meccia said that he agrees with Mr. Richards and he doesn't think it's part of their sign because the logo is on top and thinks just the top is the sign.

Mr. Carabetta said that he also agrees with that and what they are asking for he feels is unreasonable and he doesn't think there is going to be traffic issues and the Police have signed off on it as far as setbacks from the road.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted (4-1) to approve the sign as presented.

<u>Request for Waiver of Site Plan – McRae Consulting Solutions – 57 Merriam Street</u>

Clerk, Tyde Richards read a Request for Waiver of Site Plan Review from Mary McRae, McRae Consulting Solutions, 57 Merriam Street to have a home office for consulting in education and workforce development.

Upon motion duly made by Ralph Page and seconded by George Kingston, the Board voted unanimously (5-0) to approve the Request of Waiver of Site Plan Review for Mary McRae, McRae Consulting Solutions, 57 Merriam Street conditioned on there being no retail operation at the location, no employees other than the owner, no signage and no clients going to the site. The office is not to occupy any more than 20% of the total floor area of the dwelling, including the basement area.

Request for Waiver of Site Plan – Travel with Paula Jean, 65 Porter Road

Clerk, Tyde Richards read a Request for Waiver of Site Plan Review from Paula Alger, Travel with Paula Jean to operate a travel agency at this location. Ms. Alger will be the only employee and the site is for office work only. There will be no commercial vehicles on site, no storage of materials or equipment and all work will be done by phone or computer.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to approve the Request of Waiver of Site Plan Review for Paula Alger, Travel With Paul Jean, 65 Porter Road conditioned on no retail operation at the location, no employees other than the owner, no signage and no clients going to the site. The office is not to occupy any more than 20% of the total floor area of the dwelling, including the basement area and there will be no clients going to this site. If there are any changes in this operation, the applicant must appear before the Planning Board again to discuss those changes.

East Longmeadow Lacrosse plant sale fundraiser

Clerk, Tyde Richards read a request for a Plant Sale Fundraiser for the East Longmeadow girls lacrosse program from Carmela Bonavita. The plant sale will take place on Saturday, May 10, 2014 from 7:00 a.m. to 3:00 p.m. in the parking lot of the Senior Center.

After further discussion and upon motion duly made by Ralph Page and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to allow the plant sale at the Senior Center on Saturday May 10, 2014, 7:00 a.m. to 3:00 p.m. because the Senior Cent is closed on Saturday.

Request for Signage – Hampden County Physician Associates, LLC., 98 Shaker Road

Clerk, Tyde Richards read a Request for Signage from Hampden County Physician Associates, LLC., 98 Shaker Road.

Attorney Larry Levine was present on behalf the of applicant and Al Ogoley for the applicants. He said that there are three existing signs on the face of the building and also a free standing ground sign that is 50 square feet. He said the other three signs total currently 93.75 square feet and that includes the ground sign. He said the sign for Hampden County Physicians is going to be increased a little more than 15 feet.

Mr. Page said that he knows that the Board has always gone by the maximum square footage allowed of all signs combined is 100 square feet. He said that he was going back through to find exactly where the 100 square feet comes in. Mr. Page said that 5.822 talks about a sign attached on the front of the building shall not be more in area than 3 square feet per linear foot of building front and says “no sign shall exceed 100 square feet in area”. Mr. Carabetta said correct primary sign. Mr. Page said 5.823 the very last line says “in no case will the total area of all signs exceed 100 square

feet" and said if you go back one sentence it is talking about the directory signs. He said if there is a building that has fifteen businesses within each business is allowed a small sign and what he understands after reading it that a directory sign can't be more than 100 square feet. Mr. Page said that he always thought all signs combined and reading it again he is not convinced on it and he would like to hear what the Board says and Attorney Levine.

Mr. Carabetta said that he thinks it is one of those things that has been interpreted in different ways. He said that they could probably argue both ways but he thinks in the past the Board has allowed it and have done it. He said in looking at the drawings he doesn't think that it will be rewriting the whole town by-law and to go a few feet over one interpretation it will be legal and the other would probably cover them to be legal as far as approval. Mr. Carabetta that he doesn't have a problem with what has been presented to the Board as far as the way the by-law reads and or interpreted versus what they are going to approve.

Mr. Kingston said the he agrees with him and clearly large buildings with individual business in them exist where the total of square footage of the individual signs is well over 100 square feet. He thinks it has been interpreted that each sign should not be more than 100 square feet and he said that it is a large building with a lot of people in it and he thinks they are entitled to it.

Mr. Carabetta said the by-law has existed a long time and they haven't any adverse effects from it.

Mr. Richards said that he is going to go forward with it but thinks that the Zoning Review Committee should clean up the language a little bit and will bring it to committee's attention the next time they get together.

After further discussion and upon motion duly made by George Kingston and seconded by Ralph Page, the Board voted unanimously (5-0) to approve the proposed signage for Hampden County Physician Associates, LLC, 98 Shaker Road measuring 10' x 36" for a total of 30 square feet. The sign will be installed on the building to read "Urgent Care Center Hampden County Physician Associates, LLC Walk ins Welcome" conditioned upon the applicant obtaining sign permits from the Building Inspector.

<u>Request for Signage – EMA Dental, 16 Gerrard Avenue</u>

Clerk, Tyde Richards read a Request for Signage from EMA Dental, 16 Gerrard Avenue.

After review of the proposed signage and upon motion duly made by Alessandro Meccia and seconded by George Kingston, the Board voted unanimously (5-0) to approve the proposed signage for EMA Dental, 16 Gerrard Avenue to be installed on the building measuring 41 $^{3}/_{8}$" x 89 ½ "for a total of 26.25 square feet conditioned upon the applicant obtaining sign permits from the Building Inspector.

<u>Public Hearing Special Permit Section 6 – David Schmidt, 66 Norden Street</u>

Chair, Michael Carabetta opened the public hearing for David Schmidt, 66 Norden Street. Clerk, Tyde Richards read the legal notice into the record.
Mr. Carabetta asked the applicant to explain to the Board what he would like to do.

Bill LaPlante, LaPlante Construction said that Mr. Schmidt is proposing to construct an addition to a pre-existing non-conforming structure and the addition was designed so that it does not become more non-conforming then the existing structure. He said the project consists of the addition of a two-car garage and family room with some renovations to the kitchen area and the dinning area. Mr. LaPlante said on the plot plan they are showing that they are maintaining the side yard requirement and they meet all of the other requirements with regard to setbacks with the exception of the rear setback which is already about 30.7 which is the area that becomes the non-conforming lot line.

Mr. Carabetta said that they are continuing with the non-conformity but they are not increasing it. Mr. LaPlante said correct. Mr. Carabetta said that it is Residential B which is 15 foot set line and 35 foot rear yard.

David Schmidt said that his is a corner lot so it is two primaries of 40 feet.

Mr. Carabetta said that they are encroaching a little less than 5 feet and asked when the house was built.

Mr. Schmidt said it was built in 1957.

Mr. Page asked Mr. Schmidt were the driveway is located. Mr. Schmidt said that it is on Norden Street. Mr. Page said the reason why he asked is because it is not on the plan and said that there is a list of things that are supposed to be on the plan. Mr. Page said that the addition it is a pre-existing, non-conforming structure and he doesn't think that the plans meet the Board's requirements of what they are asking for. He said that it is a pet peeve on his part but when there is list of eight items that are asked for and the surveyor only decides to put three or four or five on.

Mr. Carabetta said that he thinks part of the problem is they have done so much in the past that everyone has gotten used to the fact. He said that now that the Board is looking at things more closely and more clearly he thinks it is a footnote that needs to be discussed further especially with surveyors. Mr. Carabetta said the criteria the Board is most interested in are the setbacks and he addressed the Board for any questions .

Mr. Kingston said that his concern is that the applicant has a fence which is not shown on the plan and second of all the fence is non-conforming. He doesn't understand how a building permit was issued for a non-conforming fence by the Zoning Enforcement Officer, but apparently he overlooked the by-law or decided to ignore it. Mr. Kingston said the point being is that there is a non-conforming fence on the property currently and his concern is by issuing a Special Permit the Board is essentially accepting that non-conformance as well and he has a problem with that.

Mr. Carabetta asked Mr. Kingston if he knew when the fence was installed and asked how he found out about it. Mr. Kingston said that it was installed in 2010 and there was a building permit issued for it. He said that is more than 25% solid and it is approximately 4 feet tall and it exceeds the required setbacks for fences on corner lots even before the clarification that was put in last year. Mr. Carabetta asked if that is a zoning issue and is that relative to their decision. Mr. Kingston said by the Board issuing a Special Permit and they are gratifying what is already there.
Mr. Richards asked if a building permit was issued for the fence. Mr. Schmidt said yes.

Mr. Carabetta asked Mr. Schmidt if it was inspected. Mr. Schmidt said that he couldn't verify that and said that he didn't remember and knows that they pulled a permit and that a police officer asked to see the building permit. Mr. Carabetta asked if the officer said why he needed t see it. Mr. Schmidt said no and said as far as the setback for the fence they are 6 inches off of the property line.

Mr. Kingston said the required setback for a fence on a corner lot is the same setback as the primary building on both sides. Mr. Schmidt said that it was his understanding as if it was taller than 4 feet it's a primary setback. Mr. Kingston said or more that 25% solid and that fence is clearly more than 25% solid. He said it was approved by the Building Inspector in error in his opinion and he doesn't want to hold the applicant responsible for errors by the Building Inspector or omissions by the Building Inspector but he just wanted to go on record that the Board is not approving the fence they are only approving the addition and he thinks it should be mentioned in the Special Permit when they issue it.

Mr. Carabetta said unfortunately they are not in charge of the Building Inspector and how he does his job is not up to them. He said that he is concerning himself with what he has in front of him and they want to put an addition on and they are not encroaching on the setbacks. Mr. Carabetta said the fence is not what they are trying to approve that evening and if somebody wants to make a complaint to the Building Inspector about the fence that's fine but it is not up to the Planning Board to do that. He said that he has mixed emotions and is inclined to vote for it because in his opinion they are voting for the addition and the setbacks are not being encroached on and said the fence is a separate issue.

Ms. Macdonald said if they want her to she can include that because it is a Section 6 finding proving that the addition is no more detrimental to the neighborhood than the existing building as is sets currently. She said that she can also say that the approval of the Special Permit does not approve the existing fence that was installed under the building permit issued and she can give the date on that and the number of the building permit. The Board agreed to Ms. Macdonald's suggestion.

Mr. Carabetta addressed the audience for any questions.

<u>Felix Pepper, 44 Marshall Street</u> said that he abuts Mr. Schmidt's property and he doesn't see any issue with the addition.

<u>Christine Calabrese, 65 Norden Street</u> said that they live across the street from the Schmidt's and thinks the addition will be welcomed into the neighborhood and they are great neighbors and she approves the addition and they do need the fence because they have two small children.

<u>Bob Hildreth, 17 Susan Street</u> said that there are homes in their neighborhood that have garages with attached family rooms and he thinks it improves the looks of the entire neighborhood.

<u>Steve Castonguay, 6 Lori Lane</u> said that he also approves the proposal and would like the Board to reconsider the fence because it is a corner lot on a very busy street. He said a fence is an added safety for anybody residing there with children.

Mr. Carabetta said as the Planning Board they are there to address the addition issue and that the fence is a separate issue which is not part of the Planning Board. Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to close the public

hearing. Upon motion duly made by Alessandro Meccia and seconded by Ralph Page, the Board voted unanimously (5-0) to approve the Special Permit, Section 6 because construction to add a breezeway and garage measuring 22' x 24' and 14' x 8' will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

Request for Signage – 51 Prospect Street

Clerk, Tyde Richards read a Request for Signage from Schaler Photography, 51 Prospect Street.

Mr. Carabetta said they have a pre-existing non-conforming sign. Mr. Page said he is not sure on that and asked if there was ever a variance for the sign. Ms. Macdonald said no and that it is a very old sign. Mr. Page said that it can't be that old because he pulled out the Assessors property card for that address and the building was built around 1979. He said the by-laws went into effect in 1962 and read Section 5.86 Non-Conforming Signs into the record. Mr. Page said in reading the description he doesn't see how the sign was built 17 years before the building. Mr. Carabetta asked if the original building was knocked down. Ms. Macdonald said that she is not sure what was going on at the particular time because that piece of property is residential. She said from what she understands there was a house there and then all of sudden there was a business there and then businesses kept changing and whether they received permits she does not know.

Mr. Kingston said the building went up in 1979 and no action has been taken against the sign or building in the succeeding 35 years and the failure of the Building Inspector to take any action for 35 years is kind a constructive approval.

Mr. Page said with that being said lets assume that it is a non-conforming sign and said in the by-law it states "such a sign shall not be enlarged, reinstated, altered or the copy and wording thereon may not be changed in any way other than the normal maintenance and repair". He said that they are adding another sign to it and the lettering and everything is being changed and it is his opinion that they need a variance.

Mr. Kingston asked what the non-conformance is. Ms. Macdonald said the setback. Mr. Kingston said if they are going with a whole new sign can they achieve the setback on the lot they have got. Ms. Macdonald said no and they only thing she can equate it to was Frigo's. She said when that was the deli it was a pre-existing, non-conforming sign and if they were made to put 25 feet back it would be in the middle of the parking lot. Ms. Macdonald said that they received a variance and that's how that Frigo's sign was able to stay where it was. She said it is the issue with that sign if it is put back 25 feet it would be difficult to see.
Mr. Meccia said his opinion is that it has been there and the police haven't really said anything about it and if you push the sign back it is not going to be seen. He thinks it would be more of a problem. People driving by it and would have turn around and come back and back through the center. He said it is in a decent spot and you see when you pull out and there really isn't that much traffic going in and out of there.

After further discussion the Board agreed to table it and recommend that they apply for a variance. Upon motion duly made by George Kingston and seconded by Ralph Page, the Board vote unanimously (5-0) to table the request.

Miscellaneous

Ms. Macdonald said Friends of East Longmeadow Library have invited the Board to their 10th Anniversary Celebration to be held on Saturday, May 3rd at 1:00 p.m. and would like an RSVP. Mr. Kingston said that he will get back to her.

Mr. Carabetta signed the letter to The Arbors Kids.

Ms. Macdonald presented the Board with the procedure for transcriptions.

Minutes

The Board reviewed the minutes of February 11, 2014 and upon motion duly made by George Kingston and seconded by Ralph Page, the Board voted (5-0) to approve to approve the minutes.

Mr. Richards signed approved minutes of April 15, 2014.

Graziano Appeal

Ms. Macdonald explained to Mr. Carabetta in his absence in order to meet the timeline for the notice of appeal to the Building Commissioner's response with regard to Graziano she did put the paper work in so that they met the requirement. Ms. Macdonald said that Mr. Page wanted to talk about that because she has not set the hearing date yet. She said that they have 65 days and they have plenty of time to set the hearing to set the hearing but she didn't want to lose out on the appeal time. Mr. Carabetta asked if it is the issue of frontage on one street and product on the lot. Ms. Macdonald said according to counsel.

Mr. Page said that the letter states he his violation of the frontage on Maynard Street. He believes he has no access from Maynard Street so with no access he is in violation of the frontage. He does have a 140 feet of frontage, in his opinion he does have access from Maynard Street onto a buildable portion of the lot and when you look at it is 30 to 40 feet into the lot. Mr. Page said that he knows there is product on the lot and he is not happy with the agreement that the Board sent to him but he doesn't agree what they are saying that he is not compliance with the frontage. He said that he believes he is, he believes when you look at not the access but the frontage he thinks he is in compliance and the reason he brought forward was so that they didn't miss the deadline for the Board to appeal it. Mr. Page said that he disagrees with the way letter is written and that two wrongs don't make a right.

Mr. Carabetta said that he agrees with him and he is going to disagree with him and said that he is correct that two wrongs don't make a right but there are subdivision control laws, there are paper street and by-laws and the excess part of that by-law is emergency vehicles can respond to that address. He said that is not the intent for someone to get an address and they say they can walk to it. Mr. Carabetta said that is not what the intent is he said that the intent is when you have a house that is on a public right of way for argument sake on a paper street before you are allowed to get a building permit you have to put up a bond and bring the road up to town standards so vehicles, mailman, what have you can access the building. He said what the Graziano's have done is to circumvent the by-law by taking the frontage on one street and instead of brining up the road to town standards on the other half. Mr. Carabetta said that he is getting both parts of it now and he has his

business on the residential land and the footnote is that the grandfathered piece of land has been turned over to residential land and the grandfathering that went with that is now gone. He said in his opinion he doesn't think the lot that is being used currently for the business and he doesn't think it can ever be used for that business because the grandfather it was entitled to is gone.

Mr. Page said that was not they were looking they are looking at frontage access. Mr. Carabetta said right the frontage is on Maynard Street. Mr. Page said there is a 140 feet of frontage and Mr. Carabetta said again he is not disagreeing. Mr. Page said under an ANR which they look at all the time and they just dealt with one because there was wall across the front and in this case there isn't. He said that there is plant material and the plant material is not planted, it's easily moved around on the lot and the only definition they have to go by is one that is in the zoning by-law and access isn't identified. Mr. Page said under the ANR it says vehicular access to the buildable portion of the lot and no where can he find in the zoning book says you have to have a driveway go all the way to your house.

Mr. Kingston said clearly there is a disagreement between the Board on it, there is a disagreement with the Building Inspector and with the Graziano's and that is why they have a Zoning Board of Appeals. He said that it is up to them to interpret the Zoning By-law and see whether or not what they are complaining about is in fact a violation. Mr. Kingston suggested that they make their points and let them do their job and the Board agreed to that. He said that he needs to look into what the procedures of the ZBA are and whether individuals can file a brief separately from the actual appeal and said he doesn't know that the process is. Mr. Kingston said that it is an appeal and asked if the ZBA only looks at the record or do they take additional testimony. Ms. Macdonald said that they look at the record and the will take verbal testimony if people want to stand up for or against just like a public hearing and said that it is from the Planning Board and you give them the record as to the happens as it is for their issue the complaint, the response. Mr. Kingston said for instance as an individual can he present his point of view. Ms. Macdonald said that he can speak and or write something.

Mr. Carabetta asked as a member of the Board of Appeals would he be representing the Planning Board or a member of the Board of Appeals. Ms. Macdonald said that he would be a member of the Board of Appeals and she thinks he would also have to mention that it might be a possible conflict of interest and then just make the determination as to whether he can be bias or not. Mr. Carabetta said so in essence his discussion may count but his vote will not. Ms. Macdonald said yes. Mr. Carabetta thanked the Board for all of their kind words and support regarding the election issue and said that he received a lot of kind words and phone calls. Ms. Macdonald said that the Clerk was very happy that Mr. Richards and Mr. Carabetta were as kind as they were in dealing with an unfortunate event.

There being no further business and upon motion duly made by George Kingston and seconded by Ralph Page, the Board voted to close the meeting at 8:00 p.m.

For the Board,

Tyde Richards, Clerk