



City known as the Town of
GREENFIELD, MASSACHUSETTS

ZONING BOARD OF APPEALS

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1549 • Fax 413-772-1309
EricT@greenfield-ma.gov • www.greenfield-ma.gov

William F. Martin
Mayor

Members:
Twarog, Eric
Director, Planning & Dev.

Conti, Scott (2016)
Joseph, Christopher (2014)
Maloney, Mark (2016)
McLellan, Thomas (2016)
Ronhave, Steven (2015)

ZONING BOARD OF APPEALS

Minutes of June 19, 2014
Police Station Meeting Room
321 High Street

The meeting was called to order by Chair, Tom McLellan at 7:00 p.m. with the following members:

PRESENT: Tom McLellan, Chairman Mark Maloney, Clerk Scott Conti
Christopher Joseph Steve Ronhave

ALSO PRESENT: Maureen Pollock, Assistant Planner & Conservation Agent and Applicants.

CHAIRS STATEMENT: This meeting is being recorded, if any other persons present are doing the same, you must notify the chairperson at this time. No one responded.

Public Hearings:

1. 7:00 p.m.: Application of EDS Enterprises, LLC for property located at 72 Prospect Street (Assessor's Map 26, Lot 27), which is located in the Urban Residential (RA) Zoning District, for a special permit pursuant to Sections 200-6.1(C) and 200-8.3 of the Zoning Ordinance in order to allow the reconstruction of the front porch on the original footprint which encroaches in the required Front Yard setback.

McLellan explained the public hearing process to the applicant. Maloney read the public notice into the record. Members sitting were Tom McLellan, Chair, Mark Maloney, Clerk; Scott Conti; Christopher Joseph; and Steve Ronhave. Also in attendance was Bob Obear, representative to Applicant; and members of the public.

McLellan Introduced the Board members sitting and asked the Applicant to introduce himself and explain what he wants to do, where he wants to do it, and why.

Obear Stated he recently purchased the property. The house is in rough shape. His company will repair the porch. The repairs will have a positive impact for the neighborhood. The only work will include the porch repair work.

Maloney Read a letter of support from Anna Morrison, 21 Grinnell Street

Maloney Read correspondence from the Planning Board, Historical Commission, Department of Inspection and Enforcement, and DPW which had no issues with the request

Chairman McLellan opened up the hearing for public comment.

No Comments

Public Hearing closed at 7:10 p.m.



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Discussion/Decision

EDS Enterprises, LLC, 72 Prospect Street (Assessor’s Map 26, Lot 27)

Maloney States he has no issue with the project. The project is just for the renovation of an existing building. The special permit is only needed for the front yard setback.

Conti States he has no issue with the project

Joseph States he has no issue with the project

Ronhave States he has no issue with the project

McLellan States he has no issue with the project

MOTION: Moved by Maloney, seconded by Joseph, and voted 5:0 to approve the applicant of EDS Enterprises, LLC for property located at 72 Prospect Street (Assessor’s Map 26, Lot 27), which is located in the Urban Residential (RA) Zoning District, for a special permit pursuant to Sections 200-6.1(C) and 200-8.3 of the Zoning Ordinance in order to allow the reconstruction of the front porch on the original footprint which encroaches in the required Front Yard setback.

- 2. 7:15 p.m.: Application of Western Mass. Electric Company for property identified as Assessor’s Map R41, Lot 28, which is located in the General Industry (GI) Zoning District, for a special permit pursuant to Sections 200-4.11(C3) and 200-8.3 of the Zoning Ordinance in order to allow the expansion of the fenced area of an existing electric substation to accommodate equipment upgrades and improvements as part of an area wide system upgrade.

McLellan explained the public hearing process to the applicant. Maloney read the public notice into the record. Members sitting were Tom McLellan, Chair; Mark Maloney, Clerk; Scott Conti; Christopher Joseph and Steven Ronhave; Also in attendance was Jim Clark and Russ Burke, representatives to Applicant; and members of the public

McLellan Introduced the Board members sitting and asked the Applicants to introduce themselves and explain what they want to do, where they want to do it, and why.

Burke Stated WMECO is requesting a special permit for the expansion of the existing electric substation, which known as the Cumberland Substation located on Wisdom Way.

McLellan Inquired who owns the property

Burke Responded WMECO owns the property



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Maloney Inquired if this project is part of a system wide update

Burke Responded this project is one of 13 substation upgrades across western Massachusetts

Maloney Inquired whether the road leading into the Cumberland Substation is a public right-of-way

Burke Responded the Technical Review Team determined the road is a public right-of-way

Maloney Stated the plans, as submitted are clear

Conti Stated the plans are clear. Stated he conducted a site visit of the property earlier in the day

Maloney Read correspondence from the Conservation Commission, Planning Board, Technical Review Group, and DPW.

Chairman McLellan opened up the hearing for public comment.

No Comments

Public Hearing closed at 7:30 p.m.

Discussion/Decision

Western Mass. Electric Company, Assessor's Map R41, Lot 28

ZBA members had no issues with this request

MOTION: Moved by Maloney, seconded by Joseph, and voted 5:0 to approve the applicant of Western Mass. Electric Company for property identified as Assessor's Map R41, Lot 28, which is located in the General Industry (GI) Zoning District, for a special permit pursuant to Sections 200-4.11(C3) and 200-8.3 of the Zoning Ordinance in order to allow the expansion of the fenced area of an existing electric substation to accommodate equipment upgrades and improvements as part of an area wide system upgrade with the following conditions:

All requirements mentioned in the Conservation Commission memo dated, June 11, 2014 shall be met, including:

1. The proposed improvements to the Cumberland Road Electrical Sub-station are outside the jurisdiction of the Greenfield Conservation Commission, but where the ground slopes towards a wetland area, a properly installed siltation fence and/or straw bale barrier shall be required.
2. Siltation fencing and/or straw bale barriers are to be maintained and cleaned until all slopes have a healthy stand of native grass or other approved native vegetation.



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3. **All soils, aggregate, debris, fill, excavated material, construction material and building material stockpiling shall be stockpiled far enough away from designated wetlands or other resource areas, and at a location to prevent sediment from surface runoff entering these resource areas.**
 4. **All disturbed areas shall be graded, loamed and seeded with native grass other approved native vegetation prior to November 30, of each year. No disturbed areas or stockpiled materials will be left unprotected or without erosion control during the winter.**
 5. **After all disturbed areas have been stabilized, the temporary erosion control measures are to be removed. Disturbed areas resulting from removal of the temporary erosion control measures shall be repaired and seeded**
3. 7:30 p.m.: Application of Padula Brothers, Inc. – John Deere Dealership for property located at 189-191 Shelburne Road (Assessor’s Map R25, Lots 9 & 10), which is located in the General Commercial (GC) Zoning District, for a special permit pursuant to Sections 200-4.9(C23), 200-6.5(A6), 200-6.7(F1) and 200-8.3 of the Zoning Ordinance in order to allow the open storage of raw materials, finished goods, or equipment; allow relief from parking requirements; and to allow relief from sign regulations.

McLellan explained the public hearing process to the applicant. Maloney read the public notice into the record. Members sitting were Tom McLellan, Chair, Mark Maloney, Clerk; Scott Conti; Christopher Joseph; and Steve Ronhave. Also in attendance were representative to the Applicant, including: Brian Mansfield; Bill Hannigan, Hannigan Engineering; and members of the public.

McLellan Introduced the Board members sitting and asked the Applicant to introduce himself and explain what he wants to do, where he wants to do it, and why.

Mansfield Stated that the John Deere Dealership received an administrative approval for one free standing sign on April 10, 2014. The John Deere Dealership would like to now propose a wall sign on the southeastern side of the building, open storage of equipment in the back of the lot and under the building’s roof. The prior use of the property was a Hyundai Dealership, so the proposed plan is a re-use of the existing property.

The Planning Board expressed concern regarding traffic flow for the proposed parking layout, and suggested a re-configuration. The Planning Board’s suggestion made a lot of sense; therefore, the parking layout has been re-configured. Mansfield submitted revised plan. Due to the revised plan, there are 34 parking spaces, instead of 35 parking spaces. Employee parking will be located in the back of the property. The proposed plan is to leave the existing curb cuts as it is. The back curb cut is intended for pickup and deliveries.

The applicant believes the proposed plan is the most reasonable use for the existing property. There are no other alternatives for the applicant. Public safety will not be compromised. There will be no adverse impact to neighbors.



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Customers who come into the store to look at equipment will park in the front of the store. Customers who are picking up purchased equipment will park in the back of the building.

The proposed front sign on the southeastern side will include illuminated channel lettering. The intention of the southeastern sign is to allow passersby on I-91 to see it. The proposed wall sign on the southwestern side will include a John Deere symbol and lettering. The size of the wall sign will be 50 square feet.

- McLellan Read the ZBA administrative approval for the pillar sign, dated April 10, 2014.
- McLellan Inquired whether the applicant is asking to change the pile sign
- Mansfield Responded yes
- Maloney Inquired whether the display along the southeastern side of the property will be fenced
- Mansfield Responded no
- McLellan Inquired whether repair work will occur on-site
- Mansfield Responded yes. Stated he was told by the Planning Department that on-site repair work is allowed
- McLellan Read correspondence from the Planning Department, Planning Board, Board of Health, and DPW.
- McLellan Inquired how many employees will work at this location
- Mansfield Responded roughly 10 people
- McLellan Inquired if any food/snacks will be offered at this location
- Mansfield Responded no
- Maloney Inquired about the snow storage on-site. It is not shown on the submitted plans
- Mansfield Responded the snow will be stored in the back of the property.
- Maloney Inquired about the proposed plantings
- Mansfield Responded shrubs will be planted
- Maloney Inquired about the lighting



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Mansfield Responded that lighting will not be changed. The applicant will use the existing lighting

George Touloumtzis, 27 Abbott Street

Inquired about the rationale for the proposed signage on the southeastern side of the property. Stated he recently was driving along I-91 and observed the existing tree coverage will block passersby from seeing the sign

Mansfield Responded he understands there is a lot of deciduous tree coverage. The sign will be seen during the non-growing seasons, when the leaves are not present on the trees.

Public Hearing closed at 8:05 p.m.

Discussion/Decision

Padula Brothers, Inc. – John Deere Dealership, 189-191 Shelburne Road (Assessor’s Map R25, Lots 9 & 10)

Maloney Stated the proposed re-use of the property is good. Stated the re-configuration of the parking layout makes sense.

McLellan Stated he has no problem with the encroachment on the front setback

Conti Stated he has no issues with this request

Joseph Stated he has no issues with this request, as presented. Stated he would like the applicant to keep the property nicer than the previous owner did.

Ronhave Stated he has no issues with this request

MOTION: Moved by Maloney, seconded by Conti, and voted 5:0 to approve the applicant of Padula Brothers, Inc. – John Deere Dealership for property located at 189-191 Shelburne Road (Assessor’s Map R25, Lots 9 & 10), which is located in the General Commercial (GC) Zoning District, for a special permit pursuant to Sections 200-4.9(C23), 200-6.5(A6), 200-6.7(F1) and 200-8.3 of the Zoning Ordinance in order to allow the open storage of raw materials, finished goods, or equipment; allow relief from parking requirements; and to allow relief from sign regulations.

ZBA Deliberations:

1. Application of Larry and Sue Channel for property located at 9 Holland Avenue (Assessor’s Map 43, Lot 10), which is located in the Suburban Residential (RB) Zoning District, for a special permit pursuant to Sections 200-4.3(C16) and 200-8.3 of the Zoning Ordinance for a kennel license to allow nine (9) dogs at this location.



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Members sitting were Tom McLellan, Chair, Mark Maloney, Clerk; Scott Conti; Christopher Joseph; and Steve Ronhave. Also in attendance were Larry and Sue Channel Applicants; and members of the public.

Maloney Read correspondence from Larry and Sue Channel, dated June 5, 2014

Channel Stated ZBA members are welcome to conduct a site visit of the property. As the ZBA members will see, there is a kiddie pool in the back yard; there are no runs or kennels outdoors.

Ronhave Stated that although the Channels have provided supporting documents to show they take good care of the dogs and property, the request is not about that, it is about zoning.

Stated he appreciates that the Channels are lovers of animals, but he cannot support this request

Conti Stated he serves on the Licensing Commission, which deals with similar requests to the Channels. The Town Council changed the issuing authority to the ZBA about 6-7 years ago. The word, "kennel" is defined by Massachusetts General Law, so the Channels will need to deal with a kennel licensing no matter what MA community they move to.

Stated he does not believe a kennel is going on the Channels' premises; therefore, he will support their request.

Joseph Stated one of the key questions he asks for each project request is, 'what do the neighbors think.' Stated he does not like how the neighbors treated you during the May 8, 2014 public hearing, but he will need to support the neighbors' opposition.

McLellan Stated the public hearing is closed, but he will call on anyone in the audience who has changed their mind since the May 8, 2014 public hearing.

No Comment

Maloney Inquired what the kennel license requirements in Virginia Beach, Virginia are

Channel Responded she did not know

Maloney Stated he did a little research. The threshold for requiring a kennel license is 5 dogs

Maloney Stated the ZBA usually only permits kennel licenses for properties in rural residential zoning districts

Conti Stated the ZBA has permitted a kennel license in denser zoning districts, e.g. 410 Adams Road

McLellan Stated he spoke to the Animal Control Officer, who has visited the property. The Animal Control Officer has no problem with the property conditions.



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- Channel Inquired if the ZBA denies the special permit, can they have 1 year so she and her husband can move back to Virginia Beach. They have leased out their Virginia Beach house, and it will not be available until July 2015.
- Maloney Stated the Board does not have the authority to extend the time period.
- Joseph Inquired how long is an appeal process
- McLellan Responded an appeal process can last a long time, sometimes, it can last years. It is costly to appeal a decision
- McLellan Stated he will need to side with the protective nature of the Zoning Ordinance
- Conti Stated the Channels are not operating a kennel. The Board should not be dealing with noise issues; the Town has a Noise Ordinance which handles such matters
- Joseph Stated like it or not, the Board needs to listen to the neighbors
- Ronhave Stated the Channels made their decision to purchase their property based on the facts presented by their real estate agent. The real estate agent should be held accountable for not providing all the facts about the property and local zoning regulations.
- Channel Inquired when the Animal Control Officer will take away their dogs
- McLellan Responded he does not know
- MOTION: Moved by Conti, seconded by Maloney to keep the existing 9 dogs until the natural reduction in the number of animals as they pass away.**

Discussion

- Maloney Stated it seems like a popularity contest in this neighborhood. The Animal Control Officer has given the verbal okay. The Channels have been walking their dogs around the neighborhood since the May 8, 2014 meeting.
- McLellan Stated the Board can table making a decision for 90 days from the date of the closing of the public hearing or the Board can vote tonight and the aggrieved party can appeal. An appeal from the Board's decision may be made by any person aggrieved pursuant to MGL chapter 40A, section 17 as amended within twenty (20) days after the date of filing of a notice of decision in the Office of the Town Clerk. Notice of the appeal and a copy of the complaint must be given to the Town Clerk within the twenty-day appeal period.



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McLellan Stated the Board can wait until the Board's July meeting to make a decision. The July meeting will be within the 90 day period.

Amended Motion

MOTION Moved by Joseph, seconded by Conti, and voted 5:0 to table the decision for the application of Larry and Sue Channel for property located at 9 Holland Avenue (Assessor's Map 43, Lot 10), which is located in the Suburban Residential (RB) Zoning District, for a special permit pursuant to Sections 200-4.3(C16) and 200-8.3 of the Zoning Ordinance for a kennel license to allow nine (9) dogs at this location.

- Application of Cumberland Farms, Inc. for property located at 315-317 Federal Street (Assessor's Map 94, Lot 41 and 42), which is located in the Limited Commercial (LC) Zoning District, for a special permit pursuant to Sections 200-4.8(C8); 200-6.7(F), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to use the premises as a convenience store with gas pumps, and to permit exception to the sign requirements.

Members sitting were Tom McLellan, Chair, Mark Maloney, Clerk; Scott Conti; Christopher Joseph; and Steve Ronhave. Also in attendance were representative to the Applicant, including: Bill Goebel, Bohler Engineering; Tom Reidy, Bacon Wilson, P.C.; Steve Savaria, Fuss & O'Neil; and members of the public.

Reidy His client, Cumberland Farms has revised the plan based on feedback during the May 8, 2014 public hearing. Revisions include: the proposed 20,000 gallon underground storage will be reduced to 12,000 gallons, but now is reduced to 12,000 gallons; there is now a bike rack included in the plan; increased vegetation to buffer around the loading zone and around the parking area in the northeastern side of the property.

Conti Inquired if any changes have been made to the fence

Reidy Responded no, Cumberland Farms does not own the fence

Maloney Inquired about the monitoring wells located at 11 Smith Street

Reidy Responded the monitoring wells were installed in 2000 by Cumberland Farms. It is Cumberland Farm's policy to decommission the monitoring wells as long as they are not used for groundwater disposal characterization. Cumberland Farms would be happy to speak to the Hansens regarding the removal of the monitoring wells.

Maloney Inquired about the gated access to the outdoor patio

Reidy Stated Cumberland Farms would prefer to keep the outdoor patio accessible 24/7, but if the Board prefers to gate it during nighttime hours that would be fine



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McLellan Inquired what time would the outdoor patio be gated and locked

Reidy Responded, the outdoor patio will be gated and locked at 10:00PM and re-open at 6:00AM daily

Maloney Inquired what the Noise Ordinance specifies for dumpster pickup time restrictions

Ronhave Responded, under the Noise Ordinance no dumpster pickup shall take place between 10:00PM and 7:00AM

Maloney Stated the proposed plan will be an overall improvement to the property

Maloney Inquired what will between the loading area and fencing

Reidy Responded shrubs

Maloney Inquired whether the existing curb cut will be maintained on Federal Street

Savaria Responded yes

Maloney Inquired why Cumberland Farms doesn't propose one ingress/egress on Federal Street

Savaria Responded it is due to sales, Cumberland Farms would like to offer one way traffic flow for entering and existing. Also, it is good for tanker trucks.

Maloney Inquired whether it would help if an arrow was painted on the south ingress and arrow was painted on the north egress. Inquired whether arrows would encourage drivers to self regulate and evenly distribute the amount of traffic between the ingress/egress.

Savaria Responded the arrows would not help. The property will need relief from the south entrance

Ronhave Stated that means the person going to the convenience will have to drive around the gas station to exit the property

Maloney Inquired whether the snow removal will be disposed off-site

Reidy Responded, correct

Joseph Stated the neighbors complained during the May 8, 2014 public hearing about Cumberland Farms being a bad neighbor. The proposed plan, as presented is an improvement to the property

Maloney Inquired what is the plan for cleaning up litter on the property



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- Goebel Responded there are trash receptacles around the property. The store manager will be responsible to walk the property twice a day and pick up litter
- Ronhave Stated he received a letter from a constituent from Smith Street who expressed concerns about the project
- Ronhave Stated the elevation on the Cumberland Farms is higher than the adjacent abutters. Currently, stormwater runs off onto the adjacent abutters.

Inquired will the proposed drainage continue to pool onto the adjacent properties.
- Goebel Responded the proposed drainage will be pitched to the center of the Cumberland Farms property and will be treated in an underground infiltration basin before leaving the site.
- Ronhave Stated if the Cumberland Farms is not a destination, then the patio should not be proposed there
- Ronhave Stated Cumberland Farms should consider sponsoring the Lunt baseball fields
- McLellan Stated he will allow Paul Bourdreau, 4 Lincoln Street to speak.

Paul Bourdreau, 4 Lincoln Street

Stated he emailed Cumberland Farms. He is now satisfied with the proposed drainage. He still has an issue with the fencing, and would like Cumberland Farms to install a continuous fence from Lincoln Street to Smith Street. Stated he believes the proposed shrubs are too low growing, and would like to see arborvitaes planted.

- Reidy Responded, Cumberland Farms cannot take down the abutters' fence, but can install a continuous 6 foot in height fence
- Joseph Stated if a continuous 6 foot in height fence is installed, then higher vegetation would not be needed
- Reidy Stated, Cumberland Farms would still prefer to have the outdoor patio. The patio will be in front of the store and it will be well lit

MOTION **Moved by Maloney, seconded by Joseph, and voted 5:0 to approve the application of Cumberland Farms, Inc. for property located at 315-317 Federal Street (Assessor's Map 94, Lot 41 and 42), which is located in the Limited Commercial (LC) Zoning District, for a special permit pursuant to Sections 200-4.8(C8); 200-6.7(F), 200-8.3, and 200-8.4 of the Zoning Ordinance in order to use the premises as a convenience store with gas pumps, and to permit exception to the sign requirements with the following conditions:**

- 1. Dumpster pickup shall only occur between the hours of 7:00AM and 10:00PM;**



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2. All matters related to the dumpster shall conform to all other City Ordinances related to dumpsters;
3. **One bike rack shall be installed per revised plan, dated May 21, 2014;**
4. **The outdoor patio shall be gated and locked between the hours of 10:00PM and 6:00AM;**
5. **All requirements mentioned in the DPW memo dated, May 6, 2014 shall be met, including:**
 - a. **Concrete curbing on Smith Street shall be installed to close the existing curb opening;**
 - b. **Prior to construction, the proponent shall provide a detail for saw cutting and marrying back to the existing pavement in the street(s);**
 - c. **The existing sewer line to remain shall be adequately plugged during demolition to prevent debris from entering the sewer line;**
 - d. **The sewer line shall be reviewed with a camera to determine if it is in good condition before connecting it to the new building;**
 - e. **An outside grease trap requirement is subject to review by the plumbing inspector;**
 - f. **A sump shall be required;**
 - g. **Periodic reporting on maintenance of the underground stormwater system shall be submitted to DPW;**
6. **Lighting is granted per the submitted application;**
7. **Fuel delivery shall not occur between 12:00AM and 6:00AM;**
8. **No snow storage shall occur on-site;**
9. **Landscape plantings shall be increased per revised plan, dated May 21, 2014;**
10. **A continuous 6 foot high fence shall be installed between the Smith Street and Lincoln Street;**
11. **The site shall be constructed in accordance with the submitted grading plan and the drainage report;**

Planning Board Recommendation

1. Application of Baystate Franklin Medical Center for property located at 164 High Street (Assessor's Map 79, Lot 17 & Map 80, Lot 14), which is located in the Health Service (H) Zoning District, for a special permit pursuant to Sections 200-8.3, 200-6.7(A1) and 200-7.12 (Major Development Review) of the Zoning Ordinance in order to build a hospital addition that is more than 40,000 square feet of gross floor area and for three (3) building mounting signs totaling 240 square feet.

MOTION Moved by Joseph, seconded by Maloney, and voted 5:0 to make a positive recommendation to the Planning Board for the Application of Baystate Franklin Medical Center for property located at 164 High Street (Assessor's Map 79, Lot 17 & Map 80, Lot 14), which is located in the Health Service (H) Zoning District, for a special permit pursuant to Sections 200-8.3, 200-6.7(A1) and 200-7.12 (Major Development Review) of the Zoning Ordinance in order to



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ZONING BOARD OF APPEALS

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William F. Martin
Mayor

Members:
Twarog, Eric
Director, Planning & Dev.

Conti, Scott (2016)
Joseph, Christopher (2014)
Maloney, Mark (2016)
McLellan, Thomas (2016)
Ronhave, Steven (2015)

build a hospital addition that is more than 40,000 square feet of gross floor area and for three (3) building mounting signs totaling 240 square feet.

Approval of Minutes:

MOTION: Moved by Maloney, seconded by Joseph, and voted 5:0 to approve the Minutes from May 8, 2014.

Discussion Items:

85 Shelburne Road Permit Extension

McLellan Stated the Board received a letter from Dan McCarthy, dated May 31, 2014 requesting that the permit to rebuild on 85 Shelburne Road be extended by one year. The permit will expire on December 31, 2014. Dan McCarthy requests it be extended until December 31, 2015. The McCarthy family recently purchased the property and would like more time to establish the financial aspects associated with rebuilding the house.

MOTION: Moved by Maloney, seconded by Conti, and voted 5:0 to extend the permit to rebuild the residence located at 85 Shelburne Road (Assessor's Map 61, Lot 15) until December 31, 2015.

Just Roots, 34 Glenbrook Drive

McLellan Stated the Board received a letter from Jay Lord of Just Roots requesting the fee be waived for the Just Roots special permit application for an off-premise sign.

Maloney Stated the Board would not want to start a precedent; therefore, the Board should not waive the fees

Adjournment:

MOTION: Moved by Maloney, seconded by Joseph, and voted 5:0 to adjourn the meeting at 9:55 p.m.

Respectfully Submitted,

Maureen Pollock
Assistant Planner & Conservation Agent