

July 10, 2001 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF JULY 10, 2001

520TH MEETING

Present were: Messers. Almeida, Cunha, Gerstein, Poland, Robinson, Sullivan, Diane Feather (staff), James Moran (staff), Steve Coutu, Acting Director of Public Works, and City Solicitor William Conley.

I. SEATING OF ALTERNATE MEMBER

Mr. Cunha was seated in place of Mr. Fisher who was absent.

II. APPROVAL OF PLANNING BOARD MINUTES

It was noted the minutes of March 13th and June 12th would be forthcoming.

III. APPROVAL OF PLANNING BOARD CORRESPONDENCE

On a motion by Mr. Sullivan, seconded by Mr. Almeida, the Board approved the following correspondence:

A. Memo dated 6/14/01 to the City Council, Re: "Warren Avenue School Property".

IV. NEW BUSINESS

A. Appl. #2000-13 Minor Subdivision - Final Bond Release - Pilgrim Avenue Subdivision.

Ms. Feather explained that this is a minor subdivision located in Rumford and involves the extension of sewer and water lines. The road has recently been reconstructed and the Department of Public Works require that they put a new layer of asphalt over the road where the utility lines are located.

Mr. Coutu stated that initially the request was denied by the Department of Public Works due to deficiencies, but the work has since been completed and approved by the Department as of July 5th. The amount of the bond is \$10,000.

Mr. Sullivan asked about the condition of the roadway. Mr. Coutu stated that at the time Mr. Mateus originally requested a bond release, his request was premature. He stated that some of the neighbors had called requesting that the trench be patched. Mr. Sullivan asked if Mr. Mateus was made aware that the trench was causing problems with the neighbors. Mr. Coutu responded yes and Mr. Mateus repaired the road.

Motion

On a motion by Mr. Sullivan, seconded by Mr. Cunha, the Board voted to approve the complete release of the \$10,000 bond to Mr. Mateus.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

B. Public Hearing - Application #1999-12 LDP, IGUS Manufacturing, Ferris Avenue - Request for a Preliminary and Final to be combined.

Ms. Feather explained that this is a public hearing for the preliminary plan for IGUS Manufacturing. She stated James Moran would be handling the presentation.

Mr. Michael Sousa, 18 Eton Road, Barrington, RI, Carsten Blaze, 31 Bullocks Point Avenue, Riverside, RI were sworn in by City Solicitor Conley.

Mr. Sousa explained that the site that IGUS is looking to locate from their existing North Broadway facility is located on Ferris Avenue. He said initially this site was previously approved by the Planning Board as a seven lot industrial park subdivision back in 1998. There is an existing road near Handy and Harmon which almost looks like it is part of their property, but this road extends and opens up to a gravel area frequented by dirt bikeriders. There were six lots previously subdivided back in 1998. The road and all the drainage as well as the waterline and utilities were installed for that particular

subdivision. However, that subdivision was never recorded and IGUS bought one lot. He stated since the improvements are already located in the property, they will work with them. He said the lot ends in a cul de sac and a railroad right-of-way runs to the west of the property line. The applicant has received new approval by RIDEM and stated they do conform to Planning requirements. Mr. Sousa said the applicant has received approval for a variance essentially upon the amount of impervious area that is being covered with the new structures. Phase I of the subdivision will be about 95,625 sq. ft.. He also noted they obtained a variance from the Zoning Board. He noted the water is treated for stormwater quality before it gets discharged. Mr. Sousa noted that they would be running a flow test as soon as the hydrant that is damaged is fixed.

Mr. Sousa stated that the traffic impacts will be less than what was previously approved for the industrial subdivision because it will just be the one building rather than the six or seven separate businesses that was previously approved. The proposal complies with the Comprehensive Plan. They are asking for waiver of signage and will comply with the signage requirements of the City. He noted they have no designs for signage as yet.

Mr. Cunha asked about the railroad company and their issues. Mr. Sousa stated that the railroad right-of-way is about a foot and a half or two feet higher than the site. There is no way that the drainage runoff will cause erosion into that right-of-way.

Mr. Moran stated for the record that it appears that the P&W letter is written like a form letter. If you take a look at the "West" subdivision from two months ago, the letter is verbatim of the previously submitted letter. He noted he is not sure if this is a letter that they send out for subdivisions that may abut their property. Erosion control measures are what staff requested in the recommendation. The other element, getting a boundary survey has been completed. P&W can get a copy of the survey if they want Mr. Sousa said. Mr. Sousa stated the applicant is on record as stating they will not allow erosion at the entrance to the railroad right-of-way. He stated he would put erosion controls in where there may be a low point in the property to prevent any erosion that may occur during construction. Mr. Sousa stated they are two feet lower than the rail right-of-way.

Mr. Poland states he feels the explanation that he and Mr. Moran stated satisfies him.

Mr. Sousa states he agrees to all the stipulations of Planning and Public Works and noted he will work out the issues with the waterline.

Mr. Poland asked if there were any other questions.

Mr. Sousa stated he would like to work out the square footage requirements with handicapped parking spaces. He stated they follow federal guidelines established by ADA for handicapped geometric parking spaces. He said the discrepancy is the five foot side striped area between the two parking spaces. He notes he will comply with the square footage required by the City. Mr. Sousa noted he will conform to what the Zoning Officer wants and will meet the minimum parking spaces required.

Mr. Moran briefed the Board by stating this is a project that was before the Board for master plan approval in August of 1999. The approval was about to lapse; the applicant asked for an extension of the approval, which was granted by the Board in September 2000. This represents a preliminary submission at this point. In the attachments is a letter from Joe Delsesto requesting that this be reassigned from a preliminary/final combination to a preliminary only submission due to the fact that the applicant would like to keep their options open for an administrative action under final approval. Staff agrees with this.

Mr. Moran stated the development is located on 12.58 acres. There was a seven lot major subdivision several years' back. In their submission, they have used that plan as a perimeter survey. The reason why this is attached to the administrative packet is to include the required perimeter survey boundary survey. He noted this will not be a City street. It is going to be a driveway. It will not require City services to maintain it. The Fiscal Impact Analysis indicates that we would receive approximately 481,000 dollars in revenue as a result of this development. It will have positive revenue issues relating to this development for the City.

Drainage and Utilities

Mr. Moran stated a wetland permit use approved in 1988 with a very different drainage system. A new wetlands determination has been submitted to the RI DEM and they are proposing to use a vortechs system which separates solids and pollutants. It is a very interesting system and one of the first used in this City. It meets all DEM requirements and RIDEM and have issued an approval.

Zoning Permits

Mr. Moran stated the applicant did approach the Zoning Board for variance approvals and received them for percent pervious and outside storage issues.

Traffic Impact Assessment

Mr. Moran stated there was a previous traffic impact assessment submitted for this particular development when it was a seven lot subdivision. This assessment which was done using the Trip Generation Manual applied the standard of manufacturing land use and came up with a total trip rate of 764 total trips during the weekdays and a weekday peak hour rate of 94 vehicles exiting and 54 vehicles entering. This is somewhat lower than what was provided in the previous traffic impact assessment. He said Ferris Avenue probably would not have any trouble accommodating the additional traffic that would be associated with this development.

Shade Coverage

The landscaping plan denotes that the shade coverage for the development have been covered. It shows all the various plantings associated with this development and more than adequately meet the requirements for shade under the development plan review standards.

Mr. Moran stated staff will work with the developer to develop something that would be logical in terms of reducing erosion if there is a problem between the P&W property and the construction site.

Comprehensive Plan

Mr. Moran stated the area is identified as general industrial in the Comprehensive Plan and is in compliance with the Plan. It is consistent with what is being proposed for this development. He noted to the west and south there are already industrial uses that are operating in the area.

Waiver Requests for Signage

Mr. Moran noted that staff has reviewed the waiver requests for signage and stated the applicant will meet all requirements for signage under the Zoning Ordinance.

Recommendation

Based upon a finding that the proposed development is consistent with the East Providence Comprehensive Plan, meets the general purposes stated in Article 1 of the Regulations and further that the required findings of Section 54 of the Regulations are met, staff recommends conditional approval for this land development project preliminary plan submission as proposed subject to the following conditions of preliminary approval being incorporated into the final plan submission:

1. That all comments provided in the Planning Department recommendation and in the technical staff memorandum to the Planning Department as applicable be incorporated into the plans as submitted and that any and all conditions of the Planning Board approval be reflected in the final plan submission;
2. That the appropriate stable construction and the erosion control measures be applied to insure no washout or the drainage of foreign materials onto the railroad right-of-way as identified in the Providence and Worcester Railroad's letter dated June 29, 2001; and
3. That the final plans and supporting documentation be based upon this preliminary plan approval and that the final plans meet all City regulations and ordinances and all applicable state and/or federal regulations.

Mr. Moran stated the Board also would need to make a vote on the issue of redesignating this submission from a preliminary/final submission to a preliminary only submission as requested by the developer.

The applicant has requested that the final plan review be delegated to the Administrative Officer as allowed under Section 9-10 of the Land Development and Subdivision Review Regulations.

On a motion by Mr. Almeida, seconded by Mr. Robinson, the Board voted to make the staff recommendation and all the attachments part of the Board's official records.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

In regard to the design change of the building, Mr. Moran stated that originally it was considered to be a four-phase development with 45,000 sq.ft. per phase. The development would also have the use of towers that would support the structure which would be a very modern design. The developer has proposed a new design which eliminates the towers.

Mr. Carsten Blase, of IGUS stated originally the building was going to be like the one they have in Europe with 20-foot tall towers and suspension pylons which would hold up the roof. Because they ran into several issues for the East Providence Plan, they decided to change it to a more modern looking building that does not look like a factory. He stated there will be a lot of natural light throughout the whole building. He showed the Board the new plan.

Mr. Sullivan asked if Mr. Blase had done away with the portable walls that were originally on the first plan. Mr. Blase stated the walls on the outside were removable. He stated the roof actually sits on the steel supports. He said they could take out panels very easily to make a 12 foot x 12 foot opening into the wall.

Mr. Poland states this is a public hearing and asked if anyone from the audience has comments or questions.

There were none.

Motion on Sign Waiver

On a motion by Mr. Sullivan, seconded by Mr. Almeida and Mr. Cunha, the Board voted to grant the requested waiver as it relates to signage.

Roll Call Vote

Mr. Almeida	Aye
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Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

On a motion by Mr. Sullivan, seconded by Mr. Robinson, the Board voted to approve the request to designate this development from a preliminary/final to a preliminary only submission.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Motion - Approval of the Subdivision

On a motion by Mr. Sullivan seconded by Mr. Cunha, the Board voted to approve the subdivision with the following conditions for preliminary plan submission as follows:

1. That all comments provided in the Planning Department recommendation and in the technical staff memoranda to the Planning Department, as applicable, be incorporated into the plans as submitted; and that any and all conditions of the Planning Board approval be reflected in the Final Plan submission;
2. That appropriate stable construction and erosion control measures be applied to ensure no washout or other drainage of foreign material onto the railroad right-of-way as identified in the Providence and Worcester Railroad letter of June 29, 2001; and
3. That the Final Plans and supporting documentation be based upon this Preliminary Plan approval, and that the Final Plans meet all City regulations and ordinances, and all applicable State and/or Federal Regulations.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Motion - Delegating Final Plan approval to the Administrative Officer

On a motion by Mr. Sullivan, seconded by Mr. Cunha, the Board voted to delegate Final Plan review to the Administrative Officer.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

C. Utility Easements - Infrastructure improvements for Gordon School Storm Drain Easement and Dexter road Sewer Project.

Ms. Feather explained the action before the Board tonight is a recommendation to the City Council on two easements; one of which is an existing storm drain that crosses the Gordon School property and the other is a proposed easement for the new installation of sanitary sewers on Dexter Road. She stated there are two legal documents attached to the recommendation. Those documents when approved by the City Council will be recorded in the Land Evidence Records. She stated that Mr. Conley and Mr. Coutu were there to answer any questions the Board might have and stated that staff recommends that the Board recommend approval of both easements to the City Council.

Mr. Poland asked if there were any questions. Mr. Conley asked that the Board vote on each easement separately.

Gordon Storm Drain Easement

On a motion by Mr. Sullivan, seconded by Mr. Robinson, the Board voted to recommend to the City Council approval of the Gordon School Storm Drain easement.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Dexter Road Easement

On a motion by Mr. Sullivan, seconded by Mr. Robinson, the Board voted to recommend to the City Council to approve the proposed Dexter Road Sewer Project.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

V. CONTINUED BUSINESS

A. Appl. #00-3 (Gois Subdivision) 100 Warren Avenue - Request by David and Tina DaSilva to remove a subdivision condition of approval.

Ms. Feather stated this is a continuation from the last Planning Board meeting. She briefly explained that an issue came up at the last meeting involving the location of the proposed overhead door and the access to the overhead door that Mr. DaSilva was proposing on the property. The plans that the Board receives from staff showed it facing Warren Avenue, but plans submitted by the applicant at the meeting showed it facing the westerly property line. The Board continued it to get additional information from Mr. DaSilva for this meeting. She noted there is a revised site plan included in the Board's packet; the site plan does show the parking configuration as the Zoning Board approved it. The first parking space shows it up towards the Warren Avenue frontage, and then you have the skipped space, which use to be the number 2 space where Mr. DaSilva is proposing some landscaping. The Zoning Board required the landscaping, and then you have that third space that is to be designated for employee parking.

Ms. Feather referred to two letters from Mr. DaSilva relating to the use of the overhead door and relating to the metal pipes in the ground. (At his curb cut off Warren Avenue there are three metal posts in the ground that would limit the ability of a vehicle to pull in and access the parking). Mr. DaSilva has indicated that those are to be removed, the overhead door is not to be used on a daily basis but for special movement of larger machinery. Ms. Feather stated this was referred to the Zoning Officer and to the Building Inspector so that we could resolve all the questions before the Board's meeting tonight. The Zoning Officer corrected the parking and we were able to get a revised site plan in time for the Board's packets. Ms. Feather noted that the Building Inspector looked at it and it looks like Mr. DaSilva will be demolishing more than 50 percent of the structure, in which case certain building code provisions could come into play including a parking space related to a handicapped accessible van. The Building Inspector stated that Mr. DaSilva could petition for relief from that requirement to the Building Board of Appeals. Staff indicated we would support that as well, that perhaps he could provide a handicap space on the street. Ms. Feather stated Mr. DaSilva did provide additional information and is trying to work within the constraints of the site. She stated the Planning Department is the process of putting together a study of Warren Avenue that will be presented to the City Council relating to commercial district revitalization that is similar to the one we did on Taunton Avenue.

Ms. Feather noted that Mr. DaSilva's efforts to improve the property is consistent with our vision for revitalization of Warren Avenue. Staff is asking that the prior subdivision condition that stated there could be no further intensification or no new construction be removed so this particular addition may be built, but that does the provision stay in place for any future construction or intensification. She noted that staff does not want to see any more intensification of the building giving the parking constraints. We have detailed the conditions in the staff recommendation and noted that Mr. DaSilva get all required permits and that he resolve the question of the handicapped parking space, and that all plans meet City, State and Federal Regulations.

Ms. Feather told the Board that notice for this meeting went out to all certified abutters within a 200-foot radius. She stated Attorney Cooney was present at the last meeting representing an abutter and is here again to verify that there will not be an over hang to abutting property and to address other issues as well.

Mr. Sullivan asked for the legal view of granting permission for this garage door to open on the west side of the building where 10 feet of the property would belong to the petitioner, and the other piece of the property is owned by someone else. His concern is a truck backing up in there and having enough room. He asked if the property that is owned by the abutters under any kind of grandfathered rights when it comes time for the abutter to do something with their own property? Will there be any restrictions on the abutter that would not let them develop because they would be obstructing Mr. DaSilva's passage into his own building? Mr. Conley answered that the ingress and egress by the petitioner into his own property or would need to be through his own property through an agreement with the abutter so that any restrictions on the abutter would be self imposed for that agreement, otherwise the abutter would not be subject to any special restrictions simply because this petitioner is allowed ingress and egress through the 10 feet of the west side of the property.

Mr. Sullivan asked if the City would be liable for granting an easement across someone else's property. Mr. Conley stated the City is not granting an easement across this property. Mr. Poland stated he could take whatever equipment he has and put it in through the door and doesn't see any problem with a truck backing up in there and he said the truck would back up into his own property and they would take the equipment off the truck and bring it into the building.

Mr. Robinson asked for clarification about last month's recommendation of the Department which was to deny the petition based, in part, on the fact that a purchaser of the property had been present when the restriction was imposed and should have known of the restriction. He asked if the change in recommendation is simply based on the recent revision of the location of the overhead door that is changing the position of the Planning Department?

Ms. Feather answered said that we were kind of getting into this back and forth of who know what when. Maybe Mr. DaSilva should have known, but maybe he did not fully understand exactly what limitations were imposed at those hearings. We decided to take

a look at what he was doing to see if it was all that bad. When we realized that he did make an effort to take the bollards out, and was trying to work within the constraints of the site and to provide us with the correct information, our recommendation changed.

Mr. Robinson stated that he is in agreement that everyone is concerned about the condition of Warren Avenue, but feels the condition was in the recommendation for a reason and improving the property could be done within the existing footprint of the property. Ms. Feather stated that it is not based on the business that he operates; that it is not the kind of intensification we were talking about when the recommendation was put on. If he were proposing a very labor-intensive use of the property, so you would not see an increase in off street parking.

Mr. DaSilva was sworn in and explained what he has done by way of repairs to the building and explained the process that he went through from the beginning.

Attorney Eileen Cooney was sworn in. She is the attorney for the abutters, Jose and Olga Gois who own the property to the north of the site on School Street and to the east of this site at 102 Warren Avenue. She stated the Gois's concerns are with the east side of the building, and that based on the original drawings that were submitted showing the sloped roof and gutter originally provided for a 12 inch overhang over the Gois property. We objected to that and new drawings were submitted which showed no change in the overhang. The new drawings show no overhang; however, they only show 3 x 5 gutters. She said she is requesting 4 x 6 gutters on the east side of the building. She stated she understood that Mr. DaSilva agreed to this change. We also want to make sure that with the new design there will be no runoff either on 102 Warren Avenue or on the School Street property to the rear. she asked that the Board make certain conditions on the petition that that there be no change to the east side of the footprint of that building and in the parameters to the present gutters; that they do not protrude any further than they presently do. Ms. Cooney also asked that there be a runoff design that provides no runoff onto the Gois property either to the rear or to the east, and that no construction be done involving the Gois property. These conditions were agreed to by Mr. DaSilva.

Mr. Sullivan asked if the gutters were going to extend over the Gois property? Ms. Cooney stated no, it would not be a problem if they stick to the plan and have the 4 x 6 gutters installed. She states she wants to make sure there is no runoff to 102 Warren Avenue to the east or the School Street site in the back.

Motion

Removal of the Subdivision Condition

On a motion by Mr. Almeida, seconded by Mr. Cunha, the Board voted 4-1 to grant ***Conditional Approval*** of the requested removal of the subdivision condition of approval which states: "that there will be no new construction and that there be no further intensification of the uses of these parcels" in order to permit the current proposed 237 +

square foot addition, with the continuance of this condition for any further intensification on these parcels, subject to the following:

1. that the applicant obtain any and all necessary permits, including any required relief from building code regulations pertaining to a handicapped accessible van space;
2. that the construction shall meet all applicable City, State, and/or Federal regulations and requirements.
3. Stipulations agreed to in the course of the meeting by Mr. DaSilva and Attorney Eileen Cooney, representing Jose and Olga Gois (owners of 102 Warren Avenue And 61-63 School Street), as follows: gutter size to be increased from 3x5 inches to 4x6 inches: that there be no change to the building footprint on the east side; and that stormwater runoff be directed to the Gois property.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Nay
Chairman Poland	Aye

B. Staff Report

1. Ms. Feather stated the Board will probably have two meetings next month; the regular meeting and a special meeting for Taco Manufacturing. The plans are under review for completeness and we anticipate a Certificate of Completeness by the end of July. She stated Taco and Gilbane Assoc. will be hosting a neighborhood meeting in Riverside in late July or early August. This will not be a City meeting or public hearing, and the applicant will advertise for this and send out notices to the residents. It will probably be held at the Legion on Willett Avenue or the Riverside Middle School on Forbes Street.

Ms. Feather noted the public informational hearing of the Planning Board will be held the last week of August in the City Council Chambers, probably August 28th.

Mr. Almeida asked if the Department had received any information on a traffic light at that area. Ms. Feather stated staff has had several meetings with the applicant's traffic engineer, RIDOT and also the Planning Board agreed to have the City hire another traffic consultant. She noted that DOT would not agree to a traffic light at this location at this time, so the plans being proposed do not have a traffic light. There are other improvements that they are proposing along that stretch of Wampanoag Trail including adding a third dedicated lane for turning movements, acceleration and deceleration.

2. Appl. # 2000-20 LDP Phase II Hotel Development on Warren Avenue.

Mr. Moran stated this will be on the agenda for the September meeting. The first phase was for the 950 Warren Avenue building. The plan has not changed, but there is a slight change on the footprint of the building. The hotel developers have submitted their design plans for the building and are still awaiting the Underground Injection Control (UIC) permit. If they do not receive the UIC permit from RIDEM they will not be on the August Planning Board docket.

The applicant did unroll the design plans for the Phase III Office which will be 60,000 square feet. They will come in with more complete plans within the next month or so. Mr. Moran stated this piece property on Warren Avenue will be generating a fairly substantial tax revenue for the City.

VI. COMMUNICATIONS

On a motion by Mr. Sullivan, seconded by Mr. Cunha the Board approved the following communication:

A. Memo dated 6/22/01 to the Zoning Board of Review re: Requests for Variance or Special Use Permit to be held on June 27, 2001;

On a motion by Mr. Sullivan, seconded by Mr. Cunha the Board approved the following communication:

B. Copy of Supreme Court Case No. 99-441-MP, Anthony Sciacca et al vs. Gloria Caruso et al.

Mr. Conley explained to the Board that there is a more formal memo being written to the Planning Department from the Law Department on this. Mr. Conley explained this is a fairly significant case. He explained that when one seeks hardship he is not entitled to relief when that hardship is the result of that applicant's action or conduct; that you cannot create the hardship from which you seek relief. Mr. Conley stated that when the text came out in the case, from a Planning and Zoning point of view it was probably the most important case in the last decade to be issued by the Supreme Court. There are two reasons for this: First, the RI Supreme Court announces that the Viti doctrine is dead. The Viti doctrine was a longstanding principle in Rhode Island that an applicant before the Zoning Board of Review was entitled to relief on a dimensional or deviational variance as long as they could show that the hardship resulted in more than a mere inconvenience. Over the course of time in RI, that term "mere inconvenience" essentially had been analyzed to the point where even the slightest dimensional inconvenience was sufficient to meet the standard. This court in this decision in a footnote at the bottom of the document states that all that changed in RI in 1991. In 1991 the comprehensive zoning statute was enacted by the General Assembly in an attempt to create uniformity in Zoning procedures throughout the State of RI. One of the things the Statute did in 1991 was to provide a definition for the terms "mere inconvenience". The statutory definition was and is now that there is no other reasonable alternative way to enjoy a legally permitted

beneficial use of the subject property which is a significantly higher burden for the applicant to meet than a mere inconvenience.

Mr. Conley stated when the Comprehensive Plan amendments were enacted there was some discussion at various seminars specializing in zoning issues as to whether or not it was window dressing or whether or not it was subject to change in zoning laws. He noted the Viti doctrine is gone and one of the consequences of that is the findings that we make at every Zoning Board meeting that is we modify whenever we grant a deviational or dimensional variance. He noted that 90 percent of the work that the Zoning Board's do are in the area of deviational or dimensional uses.

Mr. Conley stated that what the court is saying in this document is that if the Planning Board grants conditional approval, it is exactly that. If further Zoning approval is required, then an applicant come back to the Planning Board again for final approval or to staff for administrative final approval. That is a very important procedural point especially given that most communities, including us, have proceeded with those kinds of projects. It may not be as important in substance, but conceivable could be where the Zoning Board relief may not be exactly what the Planning Board contemplated or may have certain conditions or stipulations attached to it that were not contemplated by the Zoning Board. In the future, it means that there will be an additional step required before on conditional approvals that also involve Zoning Board approvals. Mr. Conley noted that this explanation is in a memo forthcoming to the Board. Mr. Conley noted that on projects that require zoning, the Planning Board retains complete control to the very end.

VII. ANNOUNCEMENT

The next meeting of the Board will be held on August 14, 2001, 7:30 p.m., Room 306.

VI. ADJOURNMENT

The meeting adjourned at 9:02 p.m.

Respectfully submitted,

Peter Poland, Chairman

PP/JMB/sac