Office of the
ZONING BOARD OF APPEALS

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TOWN OF SHREWSBURY

Richard D. Carney Municipal Office Building
100 Maple Avenue
Shrewsbury, Massachusetts 01545-5398

April 25, 2016

LOCATION: Selectmen's Meeting Room, Municipal Office Building

MEMBERS PRESENT: Ron Rosen, Chair
Paul George, Clerk
Fred Confalone
Melvin Gordon
Dale Schaetzke
Lisa Cossette, Associate Member

STAFF PRESENT: Matthew Sarcione, Assistant Town Planner

Mr. Rosen opened the meeting at 6:30PM and reviewed the procedures**.**

Minutes:
The minutes were not ready for approval.

Sign Bills:
Mr. Rosen announced the following bills:

- $216.00 to the *Telegram & Gazette* for the March 28, 2016 legal notices.
- $645.82 to Conley Associates for additional traffic peer review services.
- **Total = $861.82**

VOTE TAKEN:
Motion: Mr. Schaetzke moved to approve the bills. Mr. George seconded. Motion carried.

Hearing 1:
56 Hartford Tpke (Limited Business) – Maria Guedes
2 Special Permits – Operate an auto sales and auto repair business

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Jairo DosSantos, manager, and Fernando DaSilva, were present to represent the appellant. They would like to relocate their business, which is in Worcester, to Shrewsbury. Although there had been a previous auto sales dealer at this location, they represent the new ownership, They are requesting to sell vehicles and run a repair shop. The respective business names would be Mass Auto Sales and Mass Auto Repair. They have several employees. They propose to have ninety (90) vehicles.

Board Questions

- Mr. Rosen asked if they had been before the Board of Selectmen for their license. Yes. When? March 22nd. For how many cars were you approved? Seventy-five (75).
- There was some discussion amongst Mr. Rosen, Mr. Schaetzke, Mr. Sarcione and the appellant representatives regarding the limitations of also having a car washing facility. It was known that they were not properly equipped to deal with the drainage due to the absence of a gas and oil separator system (or MDC trap). An email from the Building Inspector, Patty Sheehan, dated April 4, 2016, was referenced to support this. The Water and Sewer Department had also been consulted.
- Mr. Schaetzke asked for clarification on the parking plan they submitted. They admitted it had been copied from the previous use at the site, which had shown spots for one hundred twenty-five (125) vehicles. Mr. Schaetzke found it inappropriate that they had not submitted a plan properly representing their own business's intentions showing only the seventy-five (75) spaces approved by the Board of Selectmen.

Abutters

- Robert Murphy, 35 Bay View Dr, submitted a letter that he and his neighbors had signed. They had two (2) concerns related to both the current and proposed uses. They felt that it was inappropriate because 1) the use is different from the original intentions for which the Edgemere Overlay district was established, and 2) because since there is no proper drainage provided and entire southern border of the property abuts Lake Quinsigamond.
    - Mr. Rosen checked as to whether they owned the building themselves. No.
    - Mr. Sarcione offered that he had spoken to Brad Stone, the Town's Conservation Agent, about the drainage. Mr. Stone had submitted a letter to the Board of Selectmen (dated March 17, 2016) when the appellant had been undergoing the licensing process. He was not concerned since the footprint of the building had no changes proposed.
        - The appellant representatives added that when they took over the property, they removed a lot of trash and hired a landscaping company. They also intend to have the landscaper return to do more work.
- As there were no additional comments from the public, the hearing was closed.

Board Discussion

- None.

VOTE TAKEN:
Motion: Mr. Schaetzke moved to continue the hearing for 56 Hartford Tpke to the next regularly scheduled meeting. Mr. George seconded. Mr. Gordon opposed. Motion carried.
Hearing 1: The hearing for 56 Hartford Tpke was continued to May 31, 2016 at 6:30 PM, 4-1.

Hearing 2:
206 South Quinsigamond Ave (Residence B-2) – Shrewsbury Youth and Family Services, Inc.
Special Permit – Allow existing non-conforming parking to remain for new use
Variance Amendment – Remove condition of ownership

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Tom Kennedy, President of Shrewsbury Youth and Family Services (SYFS), was present, as was Atty. Richard Ricker to represent them.
- Atty. Ricker reminded the Board that they were before them recently at the December 2015 meeting. They were present now to request 1) that the second condition imposed regarding building ownership

when the Use Variance had been granted be removed, and 2) for a Special Permit to allow a reduction in the number of parking spaces.

- Regarding the first request, Chapter 48, Section 10, prohibits conditions placed on a Variance. This condition would also make it difficult for SYFS, which is a non-profit, to make their investment in the building only to have their Variance become invalid if the Knights of Columbus were to merge with another entity or sell the building.
- Regarding the second request, Atty. Ricker had checked with to the Building Department, and a Special Permit becomes necessary even when the change in use by the tenant changes the parking requirements by reducing them.
- Mr. Kennedy added that "business is booming". In other words, SYFS is trying to meet an increasing need while they are running out of space, and the K of C have a room available.

Board Questions

- Mr. Rosen checked that the number of existing parking spaces would not be changing. No, not changing.
- Mr. Rosen likened these requests to "house cleaning". Atty. Ricker, Yes.

Abutters

- As there were no comments from the public, the hearing was closed.

Board Discussion

- The Board realized that technically it could not condition a Use Variance per Chapter 48.

VOTE TAKEN:
Motion: Mr. Schaetzke moved to approve the Special Permit and Variance Amendment for 206 South Quinsigamond Ave. Mr. George seconded. Motion carried.
Hearing 2: The Special Permit and Variance Amendment for 206 South Quinsigamond Ave were unanimously approved.

Hearing 3:
115R Colonial Drive (Residence A) – Imran Khusro
2 Variances – Create two single family lots having no frontage
Variance – Common driveway exceeding 300 feet

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Mr. Khusro was present, as was Atty. Richard Ricker and engineer Andrew Liston to represent him. Atty. Ricker submitted new exhibits consisting of a portion of a deed mentioning easements, a MapsOnline printout out the neighborhood, as well as a three (3) versions of preliminary subdivision plans dated November 21, 2005 by Cox Environmental Engineering, and April 22, 2016 and April 25, 2016 by Thompson-Liston Associates, H3:E1-7.
- The request is to create two house lots, with a common driveway.
- The property consists of 8+ acres, but with no frontage.
- In 1967, the State took away the frontage for Route 290. With that taking, the State also created an easement. Atty. Ricker read aloud from the deeded easement language. He argued that this is a unique situation, and that it was looked at differently then than it is today. This piece of land could have been subdivided into four (4) or more lots. The taking of the land by the State is the hardship.
- He argued there would be no derogation from the Bylaw to add two (2) houses on the property – one (1) for himself and one (1) for his son's family. It is a residential use and would be in keeping with the neighborhood.

- Mr. Liston explained that this property could be developed. In 2005, a plan for an eight (8) lot subdivision for this land had been before the Planning Board. However, with the economic downturn at the time, the idea was halted. However, now with a common driveway plan, three (3) houses could be built.
- The Sewer Commissioners will only allow one (1) sewer connection. The other houses would have to be on septic.
- There would be private maintenance on the driveway. Atty. Ricker added that if they did go before Planning Board now for a subdivision and a cul-de-sac that would lead to making it a Town maintained road.
- Although it has no frontage, there is a right of way (ROW) on Colonial Dr. The Commonwealth did the taking without compensation at the time.
- Mr. Khusro added that he currently lives on a 40-acre farm and would prefer to retire here and leave most of the acreage surrounding this property.

Board Questions

- Mr. Schaetzke commented that he did not see the taking as the hardship.
    - Mr. Liston further explained that it had been a large parcel that was "sliced through the middle" and the frontage taken away.
- Mr. George asked the length of the common driveway.
    - Mr. Liston, sixteen hundred (1,600) feet.
- Mr. Gordon remembered that when it had last been reviewed by the Planning Board, it would have been one of the most expensive projects in Town.
    - Mr. Liston agreed. Because there is a forty (40) foot grade change, it was not all that practical.
- Mr. Gordon checked that it really would have been eight (8) or ten (10) lots developed if approved in 2005.
    - Mr. Liston, Yes, or more, but not all of the land is in Shrewsbury. He added that the property formerly had seven hundred ninety-two (792) feet of frontage, and now has none with an easement.
- Mr. Rosen thought this was a case of a self-created hardship. The current owner knowingly bought the land under these conditions. He would have had more sympathy for the previous owner with those conditions imposed on him by the State.
- Mr. Schaetzke wondered that the State had not compensated the previous owner at all. The market value should have been determined then; now the property is land locked.
    - Atty. Ricker admitted that it is viewed differently then and now. The owner may have unknowingly felt he was compensated. But he argued that the hardship – or the State's taking of the frontage - stays with the land. He believed the State was allowing for building on it because of the easement document.
- Mr. Gordon argued he would prefer to see some high valued houses there to help contribute to the Town's taxation.

Abutters

- Michael Mikitarian, 28 Bridle Path, was opposed. He did not think it a feasible area to put houses in no matter how few were planned at this point. He said that with that length of "driveway" needed, it should more likely be categorized as a "road". He agreed that if this were the original owner, he might feel differently.
- Bob Massad, 22 Bridle Path, was opposed. The cutting down of trees necessary to build the driveway alone would cause a lot of environmental destruction. The decrease in buffering would also add to the noise pollution affecting the neighbors. He added there are currently eleven (11) houses for sale in their neighborhood now, the applicant should simply buy two of them.
- Elie Sakhat, 25 Bridle Path, was opposed. He agreed with Mr. Massad that the cutting down of trees would increase the highway noise.

- As there were no additional comments from the public, the hearing was closed.

Board Discussion

- Mr. Rosen and Mr. Schaetzke were against it.
- Mr. Gordon and Mr. Confalone were for it. They believed it was a hardship the State had created. They thought it was not detrimental.

VOTE TAKEN:
Motion: Mr. Gordon moved to approve the Variances for 115R Colonial Dr. Mr. Confalone seconded. Mr. George, Mr. Rosen, and Mr. Schaetzke opposed. Motion was denied.
Hearing 3: The Variances for 115R Colonial Dr were denied, 2-3.

Hearing 4:
910 Boston Turnpike (Limited Industrial) – Lauren Mangano
Use Variance – Operate a dance studio

Mr. Rosen recused himself. Mr. George read the legal notice into the record. Other acting Board members included Mr. Confalone, Ms. Cossette, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Ms. Mangano was present. She said Elite Academy of Dance had been in Shrewsbury for eight (8) years, five (5) of which had been in their current location in the Ranger building. They service two hundred (200) families in Shrewsbury and the surrounding towns.
- About two (2) years ago she began searching for a new location. She has found one at 697 Hartford Tpke, but construction there has had delays and she needs a few more months in the current location in order to obtain the certificate of occupancy first.

Board Questions

- Mr. Rosen asked when the new location should be ready for occupancy. June 1st, then they hope to be in the new location to hold their end of year dance recital on June 6th and open their summer season.

Abutters

- As there were no comments from the public, the hearing was closed.

Board Discussion

- There was a brief discussion as to how long the conditioned time limit should be. Mr. Sarcione reminded the Board that the applicant had asked for one (1) year in her application, and her previous Use Variance had been for eighteen (18) months. However, in her presentation, she had mentioned only needing a few more months.

VOTE TAKEN:
Motion: Mr. Schaetzke moved to approve the Use Variance for 910 Boston Tpke, with a six (6) month condition. Mr. George seconded. Motion carried.
Hearing 4: The Use Variance for 910 Boston Tpke was unanimously approved, with the following condition:

1. A six (6) month time limit.

Hearing 5:
11 George Street (Residence B-2) – Gregory Pratt
Special Permit – Construct a second floor on an existing non-conforming single family dwelling

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Mr. Pratt was present with his wife, Crystal. He explained that they have a one (1) story/two (2) bedroom home, which their family is outgrowing. He explained that his sister lives next door and they would like to stay in the neighborhood. They would like to build a second story in order to have some additional room. Mr. Pratt submitted a 9-page document, including some new exhibits such as a photograph of the existing house as well as two (2) letters from neighbors (one being his sister).

Board Questions

- Mr. Gordon asked whether his sister lived on the right or left side. Left.
- Mr. Rosen asked if they intended any bump outs that would alter the setbacks or whether they were simply building up. The existing footprint will not change.

Abutters

- As there were no comments from the public, the hearing was closed.

Board Discussion

- None.

VOTE TAKEN:
Motion: Mr. Schaetzke moved to approve the Special Permit for 11 George St. Mr. George seconded. Motion carried.
Hearing 5: The Special Permit for11 George St was unanimously approved.

Hearing 6:
27 Appaloosa Drive (Rural B) – Pradeep P. Nazarey
Variance – Construct a deck (side setback)

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Mr. Nazarey and his wife Stephanie were present. He explained that they would like to construct an extension to their existing deck. This would bring it approximately eighteen (18) feet away from the side property line. New exhibits submitted consisted of five (5) photographs showing the existing deck from various viewpoints in the yard, H6:E1-5.
- This would make it more accessible and provide a better flow of egress for the family when their children play outside. Currently, the children have to go outside the fenced yard area to access the deck.
- This is a corner lot, so it is considered to have two (2) front and two (2) side yard setbacks.
- This would not affect their neighbors. They have spoken to most of them, and they had no problems with it.

Board Questions

- Mr. George asked if there was any way to do it without encroaching. No, they had looked at other locations with their builder, but all would require a Variance. They also need to work around the current location of the retaining wall.
- Mr. George clarified the size of the extension. Eight (8) feet out by twenty (20) feet long.
- Mr. Confalone asked if they thought the slope/topography was the hardship. Yes.

Abutters

- Madhumita and Kansihka Bhattacharya, 3 Shetland Way, commented that they had no problem with the plan, but that the Nazarey's fence had gotten placed on their land.
    - Mr. Rosen replied that that is an issue to be worked out between the neighbors themselves.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- Mr. Gordon noted that as long as the deck steps were per the plan, he was OK with it.

VOTE TAKEN:
Motion: Mr. Schaetzke moved to approve the Variance for 27 Appaloosa Dr. Mr. George seconded. Motion carried.
Hearing 6: The Variance for 27 Appaloosa Dr was unanimously approved.

Hearing 7:
12 Jamie Lane (Residence A) – Kevin Kieler
Variance – Construct a sunroom (rear setback)

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Kevin Kieler, chief designer for Brady Built Sunrooms, was present to represent the owners, Scott and Klaudia Dang. Mr. Kieler began that this is an unusual shaped lot (on a cul-de-sac), and the house was built on the lot in such a way as to consider the rear yard a side yard.
- They have tried to place it as best as they can for the least encroachment. They would like it to line it up with the house; otherwise, they would have to move the air conditioning units. However, even if they moved slightly, it would still be in the setback.
- They had also spoken to the Building Inspector, who had suggested reducing the size to fourteen (14) feet by sixteen (16) feet.
- This would be on the back side of the house and not be seen from the street.
- They believe asking for 5.4 feet of relief from the rear yard line would not be a derogation.

Board Questions

- Mr. George confirmed that the relief was only sought in the one (1) rear corner. Yes.
- Mr. Rosen asked the appellant if it was understood that if they cut off that corner, they would be in compliance. Yes.

Abutters

- Russ Young, 21 Morningside Dr, said he was the abutter on the side they are requesting relief from. He commented that he had no problem with it. However, he noted that since his house is at a higher elevation, his view will be down on it. So he requested an accommodation to help ensure privacy.
- Thomas Kesman, 19 Morningside Dr, requested the same privacy consideration, e.g., an evergreen barrier to be maintained all year. He added that the Dangs had both a motor home and a Bobcat in their yard.
    - Mr. Rosen asked if having those there was a temporary situation. Mr. Kieler replied that once the sunroom was put in, the privacy landscaping could then take place.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- None.

VOTE TAKEN:
Motion: Mr. Gordon moved to approve the Variance for 12 Jamie Ln. Mr. Schaetzke seconded. Motion carried.
Hearing 7: The Variance for 12 Jamie Ln was unanimously approved.

Hearing 8:
151-155 Main Street (Limited Commercial) – Healthcare Enterprises, LLC
Variance – Construct a new medical building (rear setback)

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Atty. Marshall Gould was present to represent the appellant, as were Steve McCarthy, Senior Director of Real Estate & Facilities with Shields Health Care Group and architect Matt Tharp with JACA Architects. Also in the audience were engineer Patrick Healy with Thompson-Liston and traffic engineer Jennifer Conley with Conley Associates.
- Atty. Gould began that they are requesting a Variance for the rear yard setback because of the proximity to the abutting residential district, which is about 77-78 feet away. This area of Main St has been re-zoned in the past five (5) years. This was formerly a site for a proposed hotel. Site plans were displayed. A new exhibit submitted was a site plan by Thompson-Liston dated April 17, 2016 specifically showing dimensions to the nearest abutters, H8:E1.
- Mr. McCarthy added that UMASS and Shields have had a partnership for fifteen (15) years now. They propose to have an ambulatory, outpatient surgery center on the site.
- Mr. Healy continued with how this is a 4.9 acre site. It is in the Limited Commercial district and abuts the Rural A&B (residential) districts. This would be a four hundred (400) square foot building, with two hundred (200) parking spaces. It would have one (1) driveway for in and out traffic.
- Approximately ninety percent (90%) of the site work is been done due to the work for the previously planned hotel, although there is a retaining wall planned for the hill leading up to the residential area. Also, the previous developer had put in plantings in 2010, and since then those have been maturing.
- The nearest house is two hundred four (204) feet away. The next nearest ones are two hundred forty (240) feet and two hundred fifty-five (255), respectively.

Board Questions

- Mr. Rosen asked if the business name mentioned would indeed be the name of the company's joint venture. Mr. McCarthy, Yes.
- Mr. Rosen followed with would it be a for-profit company. Mr. McCarthy, Yes.
- Mr. Gordon asked what the neighbors would see.
    - Mr. Gould explained that with the previous hotel plan, the neighbors would have seen the top story and a half of the building. With this project, they will see part of the roof on the far end closest to Main Street. Also, because of the reduction in planned use with this project, there will not be the same amount of sound and lighting. The retaining wall will help too. There will be regular business hours, and the water, sewer, and traffic use will be drastically less than the previously granted plan.
- Mr. Schaetzke asked what was the exact nature of the relief sought, and might the building location be moved within the site or be made smaller?
    - Atty. Gould said they actually want to ask to be within seventy-five (75) feet of the residential district to leave some leeway for the construction of the footprint.
    - Mr. McCarthy said that for operational efficiency they really need the planned 40,000 square foot footprint since this is a one (1) story building.
- Mr. George asked what mechanicals would be involved.
    - Mr. Tharp replied that the building façade would have an eighteen-twenty (18-20) foot façade height, then there would be a penthouse of mechanicals on the roof which would help screen them from view.

    - Mr. Rosen asked if this was at the furthest point of the roof away from the residential area. Yes.
- Mr. Gordon asked if regular business hours meant a twelve (12) hour day and safety lighting only afterwards. Mr. McCarthy, Yes, the day would end by 6pm, and there would be some lighting just for safety and for the cleaners.
- Mr. Gordon also asked if this request was due to a location moving or if it was a new location.
    - Atty. Gould and Mr. McCarthy answered that the focus here is for outpatient surgery while allowing the hospital to focus on inpatient surgery. It should allow for more efficiency at the hospital.

Abutters

- Kornath Madhavan, 11 Dana Rd, asked for clarification on the proximity to other abutting lots and for more detail about the exhaust system.
    - Mr. Rosen answered that the nearest point was at seventy-five (75) feet, but that was to Town land.
    - Atty. Gould added that the hotel had had a terraced plan. This building would be one (1) level.
    - Mr. Tharp said the exhaust air would go through an air handling unit, not a chimney like at UMASS. It would be large, but screened.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- The Board thought this was a less intrusive use – less hours, etc. – than the hotel previously proposed.
- Mr. Sarcione added that the applicant is still before the Planning Board at this time too.

VOTE TAKEN:
Motion: Mr. Gordon moved to approve the Variance for 151-155 Main Street at 75 feet for a setback, i.e., 25 feet of relief. Mr. Schaetzke seconded. Motion carried.
Hearing 8: The Variance for 151-155 Main Street was unanimously approved.

Hearing 9:
440 & 526 Hartford Tpke – Smart Growth Design, LLC
Cont'd from 12/14/15, 12/28/15, 1/25/16, 2/29/16, 3/21/16, 3/28/16, & 4/11/16
Comprehensive Permit (Limited Industrial) – Construct a 280-unit, multi-family apartment community

Mr. Rosen read the legal notice into the record. Other acting Board members included Mr. Confalone, Ms. Cossette (serving for Mr. George, who recused himself), Mr. Gordon, and Mr. Schaetzke.

Consultants Present: Atty. Paul Haverty, Blatman, Bobrowski, Mead & Talerman, LLC (40B); Iric Rex, Davis Square Architects (Sewer Peer Review).

Presentation

- The developer, Mr. Zarette, was present, as was architect Peter Bartash, Cube 3 Studio. Owner Atty. Rod St. Pierre was in the audience.

Board Questions

- Mr. Rosen asked what the delay was with regard to the sewer issues.
    - Mr. Sarcione replied that some of the issues remained unresolved. There were more work sessions to be scheduled, but they were cognizant of the timeline.
    - Mr. Zarette admitted they were still working on the sewer and traffic items, but were working collaboratively with the Town staff and peer reviewers and were making progress. He felt they would be prepared to present more next time.

Architecture Peer Review

- Mr. Rex gave the architecture peer review. He touched on many aspects of the site and building plans. He said he had visited the site and had taken photos. He recognized that the various developmental versions of the plans had shown great improvement. However, he thought in some ways they were still generalized and that more detail could be added. He sees the general intent, e.g., with regard to landscaping, but not the final version yet. He thought they could take some cues from the neighbors' concerns about the grading, relative topographical heights, fencing, parking, etc.
- Here is a brief summary of his recommendations, which he said he would itemize in a forthcoming letter (which was received on April 29th). Ideally, he suggested the appellant do the following:
    - Submit drawings with views perpendicular and adjacent to the neighboring houses, as the neighbors have requested.
    - Submit solar shading studies.
    - Show building wall sections citing more specific materials for the facades. Example: A "materials board" can show samples of the siding, shingles, trim, and roofing. When they are further along, a color board could also be produced to show the color schemes of the materials planned.
    - Markers, e.g., orange stakes, could be placed on the land at the corners to help visualize where the buildings would be placed.
    - Submit a detailed site plan with landscaping, fencing, sidewalks, dumpsters, etc.
    - Submit more information as to whether school buses will enter the site or stop or impede traffic outside the site. A large radius is needed for school buses to turn.
    - Show articulation of the 3-unit façade.
    - Show the courtyard at the center and show how it relates to what surrounds it.

Abutters

- The following abutters – Dale Martin, 6 Pheasant Hill Dr; Dale Mercuri, 108 Stoney Hill Rd; Scott Payne, 70 Stoney Hill Rd; Peter Reilly, 19 Pheasant Hill Dr; Suzanne Remington, 73 Stoney Hill Rd; Steve Danielson, 70 Stoney Hill Rd; and Jose Reyes, 5 Pheasant Hill Dr – asked questions and offered suggestions on the following topics:
- Fencing vs. vegetation.
    - Mr. Rosen explained that fencing over time can wear out and look unsightly, which is the reason behind developers preferring vegetation as a natural buffer instead.
- Landscaping/fencing responsibilities over time.
    - Mr. Rosen stated that it is the owner's responsibility. Mr. Haverty added that this can be conditioned in the decision. Then if the landscaping fails, it is considered out of compliance and a zoning violation. Fencing would be considered the same.
- Dimensions of homes, which generally range from 1,200 sf to 2,000 sf vs. the dimensions of the proposed buildings.
    - Mr. Bartash and then Mr. Rex offered some dimensions to help present the differences in scale.
- Again, dimensions/elevations/sight lines of the buildings compared to the existing neighboring homes.
- Making a decision based on only the preliminary plans.
    - Mr. Haverty explained that is one of the "quirks" of a 40B hearing, that the applicant is only required to submit preliminary plans at this stage. However, these particular plans are much further along than he has seen for other hearings. When the Board issues its decision, it can request final plans. Some items may not be vetted by this Board before the project goes on to its next stages.
- When are final building plans submitted?
    - Mr. Haverty explained that is done following this Board's decision and before the applicant receives the building permit. Along with their building permit application, they submit the list

of conditions to be complied with as well. There can be a meeting - the public can comment - but it is not a publicly noticed hearing.

- When would the appellant file for the Conservation Commission hearing?
    - Mr. Haverty said it is up to the applicant. The Board's are not dependent on one another's timing/decisions. But the applicant cannot begin work until they have their Order of Conditions.
- What if the appellant feels the conditions imposed in the decision are too onerous?
    - Mr. Haverty answered that they would appeal to the Housing Appeals Committee.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- None.

VOTE TAKEN:
Motion: Mr. Schaetzke moved to continue the hearing for the Comprehensive Permit for440 and 526 Hartford Tpke. Mr. Confalone seconded. Motion carried.
Hearing 9: The hearing for 440 and 526 Hartford Tpke was continued to the next regularly scheduled meeting on May 31, 2016 at 6:30PM at Town Hall.

New Business:
5 Edgemere Blvd - Christopher Henchey – *Request for Withdrawal*
Variances – Construct a single family home (side setbacks)

Mr. Sarcione reminded the Board that Mr. Henchey had been before them in January, and they had granted his request. Then he came back in February, with an altered plan/request, and they had denied it. He was now requesting that the denial be withdrawn.

VOTE TAKEN:
Motion: Mr. Gordon moved to accept the request for withdrawal for 5 Edgemere Blvd. Mr. Confalone seconded. Mr. Rosen and Mr. George opposed. Motion was denied.
New Business: The request for withdrawal for 5 Edgemere Blvd was accepted, 3-2.

52 South Quinsigamond Ave – Lithuanian Charitable Club – *Interpretation Discussion*
Special Permit granted April 29, 2013 - Operate a dance studio

Mr. Sarcione explained that in a discussion with Patty Sheehan, Building Inspector, it was learned that upon her annual inspection of the facility, she had observed what appeared to be evidence of an unauthorized gym in addition to the authorized dance studio.

Mr. Rosen said that if it was a gym, the organization would have to come back before the Board to request a Special Permit for the new use.

Mr. Gordon said his understanding was that the Building Inspector was concerned about the means of egress being used there now.

Mr. Schaetzke asked how the "gym" term came about. Mr. Sarcione again referred to what had been observed by the Building Inspector at her annual inspection of the facility.

Vin Klimas, a senior member of the club, stated that the Board had previously granted that a dance studio be allowed to use the entire first floor, which was for their last tenant a year ago. The tenant has leased

part of the first floor. He argued it was still being used as a dance studio. There are no showers or gym equipment, only hand weights that the dancers use to limber up.

Mr. Klimas was encouraged to speak again to the Building Inspector about the use.

476 Boston Tpke – BW-Shrewsbury Operations, LLC – *Interpretation Discussion*
Special Permit granted February 29, 2016 – Outdoor food service

Mr. Sarcione explained that the Building Inspector was also bringing to their attention that when Buffalo Wild Wings recently applied for their building permit for the outdoor patio area, they planned to have outdoor heaters. This is a change from their request as presented at their February 29, 2016 hearing.

Some Board members did not see the significance in the change. However, it was noted that it affects lengthening the "seasonal" timeframe previously represented as well as the possible necessity for a new parking Variance.

Old Business:
Master Plan Update
Mr. Sarcione reported that he and Kristen Las, the Assistant Town Manager and Economic Development Coordinator, gave a presentation on the Master Plan to the Senior Center's Men's Group. Next, they will give a presentation at the Town's Annual Meeting in May.

Correspondence:
None.

The meeting adjourned at 9:25PM.

Respectfully submitted by,

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Michele M. Bowers, Administrative Assistant

Reviewed by,

_____
Matthew Sarcione, Assistant Town Planner

Approved by vote of the Board,

_____
Paul M. George, Clerk