

TRANSCRIPT OF PUBLIC RECORD
ZONING BOARD OF APPEALS MEETING
DECEMBER 17TH, 2008

This Regular Meeting of the **Zoning Board of Appeals** was held in the Great Hall of Searles Building, City Hall, and was called to order at 7:11 PM.

MEMBERS IN ATTENDANCE:

Mr. Matthew D'Agostino, Chairman
Ms. Laura Walta, Vice Chairman
Mr. Richard Lacroix, Clerk
Mr. Jesse Ramirez, Member
Ms. Patricia. Uliano, Member

MEMBERS ABSENT:

Mr. Peter Giordano, Alternate Member

OTHERS IN ATTENDANCE:

Ms. Gwen Martone, Public Recorder

ATTENDANCE:

Board Clerk, Richard Lacroix called the roll with five (5) members present at this meeting.

ROLL CALL:

Board Clerk, Richard Lacroix called the roll of Applicants.

ACCEPTANCE OF MINUTES: October 23rd, & November 19th, 2008

MOTION: *Laura Walta moved to accept the Minutes.*
 Richard Lacroix seconded this motion.

VOTE: 5-0-0 UNANIMOUSLY APPROVED

NEW BUSINESS:

#2008-61 Almont Realty Trust, c/o Kenneth Hyde, Tr., 236 Pleasant Street, Methuen, MA 01844

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to construct a duplex dwelling without the required frontage in a Residential G (RG) District at AM 615, Block 150, Parcel 10 Almont Street, Methuen, MA 01844.

Attorney Ken Hyde, Trustee for Almont Realty Trust appeared before the Board on this petition. According to Atty. Hyde, St. Mary's Church Society has owned this property for decades but the land is not conducive for the use for burial stones since it abuts several homes along it's borders. Additionally it is separated from the main cemetery by a major wetland area. When the property was first obtained, wetland regulation were not what they are today and the property could have been filled for it's original use. However, today those wetlands cannot be filled

rendering the property useless to the cemetery. He further indicated that funds from the sale of the property would be used for its non-profit function as it relates to the cemetery and the families that it serves.

The parcel in question consists of 20,000 sq. ft. in a RG residential district, far in excess of the required 12,000 sq. ft. The lot size is two times and sometimes 3 times the size of abutting RG neighborhood lots which consists of two-family and single-family homes along Ashland Avenue. He further stated that developing the parcel will assist in deterring foot traffic through people's yard as a shortcut to Gill Avenue and Almont Street and that the new construction will enhance the neighborhood. Additionally he stated that municipal sewer is available as he extended the sewer to the area when he developed another parcel. This will help the neighborhood by allowing those who are currently on septic to change over should they face any problems. He indicated that Mr. Shawn King of 56 Gill Avenue has already entertained plans to enhance his property now that he has access to sewer.

Chairman D'Agostino opened the meeting to Public Participation with the following speaking in favor or in favor of this petition.

Shawn King, 56 Gill Avenue, Methuen, MA 01844

Mr. King indicated that he had acquired his property in 1994 and has made several improvements since then. However, because of the wetlands and the septic system issues it was their intentions to sell the property when they had outgrown it. He stated he met the petitioner about year ago and at first, had some reservations of the property being developed. However, since working with him his concerns have been clarified and the improvements made by Atty. Hyde in the area has now made it economically feasible for him to add on to his home to accommodate his expanded, extended family. He also stated that he welcomes new neighbors to the area because it was quite desolate back there prior to Atty. Hyde developing the area.

James Jacobs, Cemetery Director

Mr. Jacobs indicated that although he does not live there, he is very familiar with the neighborhood. He indicated that there have been complaints about properties the end of that street. He stated that upon investigation it was determined that the cemetery property was not involved but he concurs with Mr. King on how desolate that area really is. He also believes that increasing activity in the area would serve as a deterrent to crime. He further reiterated that the Cemetery had no use for the property and believes that a residential use is the best use for the neighborhood at this location.

Mr. Henry Theberge of 14 Rachel Road spoke in opposition to this petition. Mr. Theberge indicated that he was an abutter to the wetlands and only one of 3 individuals who received a notification from this Board. He further indicated that a letter was sent to the Board from Councilor Zanni on behalf of residents living on Rachel Road, Marc Avenue, East Capitol Street, Emsley Terrace, Deborah Avenue and Hide-A-Way Lane. He indicated that certain parcels on those streets abutted the wetlands area, which he stated has not been managed by anyone, including the City. He alleged that ever since improvements were made and a retention pond was put in on Gill Avenue, everybody's property that abuts the wetlands has been deteriorated. He indicated that he has had to rebuild his foundation because the water level in that area has been allowed to increase. He further alleged that any development along the wetland area would further compound that issue. At this time he distributed a packet of several letters dating back to January 8, 2007, relative to problems in this area. Copies of these documents may be found attached to the rear of the Minutes on file in the Office of the City Clerk, 41 Pleasant Street, Methuen, MA 01844. He further indicated that he believes that by not managing those wetlands the City has allowed those properties to deteriorate, thus decreasing property values and wants his opinion to go on record.

Chairman D'Agostino stated that Mr. Theberge was focusing more on wetland issues than Atty. Hyde's petition and asked him to tie in what negative affects were associated with the plan before the Board this evening. Mr. Theberge indicated that he had not actually seen the plan but that trees have been taken down, which may or may not be appropriate, and that a foundation had already been put in. Chairman D'Agostino asked if he was

confusing this with the foundation installed on the property at the bend of the road. He further explained that foundation was another project and had nothing to do with the petition before them this evening. Mr. Theberge stated that he believes that if it's on Gill Avenue, it abuts and impacts the wetlands. Chairman D'Agostino stated that this project is further down the road and invited Mr. Theberge to view the plan. Mr. Theberge responded that he was not a surveyor and that he would like to have a surveyor view the plan. Chairman D'Agostino stated that he is giving him the opportunity to step aside and view the plan and to continue public participation if needed. Mr. Theberge questioned if his property should be listed and shown on the plan. The procedure for notifying abutters was explained to Mr. Theberge, that abutter and abutters to abutters within 300 ft and those directly across the street were required to be notified. It was further explained that generally, engineers only show direct abutters on a plan to help in identifying the property, and that as a resident of Rachel Road he was more than likely an abutter to an abutter.

Having no further discussion, Public Participation was closed and Atty. Hyde returned to the podium. Atty. Hyde indicated that the foundation for the proposed dwelling would be well over 100 ft. away from the wetlands and that this plan does not even have to file with Conservation.

At this time Board Clerk, Richard Lacroix read into the record the following correspondence:

- 1) Stephen J. Gagnon, Assistant Civil Engineer, dated December 9th, 2008
- 2) Joseph T. Giarrusso, Jr., Conservation Officer, dated December 17th, 2008
- 3) Stephen N. Zanni, Councilor at Large, Dated December 5th, 2008

Copies of these documents can be found attached to the end of the Minutes on file in the Office of the City Clerk, 41 Pleasant Street, Methuen, MA 0144.

MOTION: *Laura Walta moved to require that a granite identification marker be placed on Almont Street and that a residential fire suppression system be installed.*

Richard Lacroix seconded this motion.

VOTE: 5-0-0 UNANIMOUSLY APPROVED

ROLL CALL:

Mr. Richard Lacroix – yes, per plan, with conditions

Mr. Jesse Ramirez – yes, per plan, with conditions

Ms. Patricia Uliano – yes, per plan, with conditions

Ms. Laura Walta – yes, per plan, with conditions

Mr. Matthew D'Agostino – No

VOTE: 4-1-0 APPROVED

#2008-62 Anthony V. & Michelle Di Pietro, 2 Thornton Avenue, Methuen, MA 01844

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to construct a deck that will be too close to the rear lot line in a Residential D (RD) District at # 2 Thornton Avenue, Methuen, MA 01844.

The Petitioners appeared before the Board on this request. According to Mrs. DiPietro they are requesting to enclose an open deck for a better use.

Chairman D'Agostino opened the meeting to Public Participation and no one spoke either in favor or in opposition of this application. Having no discussion, Public Participation was closed and the Petitioners returned to the podium. Chairman D'Agostino questioned if the deck would remain the same size. Mrs. DiPietro indicated that it would be slightly larger and that she would like to enclose it with a roof, walls and windows.

ROLL CALL:

Mr. Richard Lacroix – yes, per plan

Mr. Jesse Ramirez – yes, per plan

Ms. Patricia Uliano – yes, per plan

Ms. Laura Walta – yes, per plan

Mr. Matthew D'Agostino – yes, per plan

VOTE: 5-0-0 UNANIMOUSLY APPROVED

ADJOURNMENT:

MOTION: *Matthew D'Agostino moved to approve at 7:44 PM adjournment.*

Richard Lacroix seconded this motion.

VOTE: 5-0-0 UNANIMOUSLY APPROVED

Respectfully submitted,

Gwen Martone, Public Recorder
Methuen, MA 01844