

**Town of Milford
Zoning Board of Adjustment Minutes
July 7, 2016
Case #2016-07
Red Oak Apartment Homes, Inc.
Special Exception**

Present: Michael Thornton, Acting Chairman
Joan Dargie, Alternate
Jason Plourde
Len Harten, Alternate
Rob Constantino, Alternate
Robin Lunn, Zoning Administrator

Absent: Kathy Bauer, Board of Selectmen Representative

Secretary: Peg Ouellette

The applicant, Red Oak Apartment Homes, Inc. for the property located at 9 Capron Road, Milford NH, Tax Map 43, Lot 57, Special Exception from the Milford Zoning Ordinance, Article V, Section 5.03.8.C to permit a maximum height of 46' 10" for the construction of three proposed 36-unit apartment buildings and a maximum height of 45' 6" for four 4-unit townhouses where 35' is the maximum height allowed in the Residential "B" Zoning District.

MINUTES APPROVED ON 11/3/16

Michael Thornton, as Acting Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He then introduced the Board. He continued by informing all of the procedures of the Board. M. Thornton stated there was a full agenda and since their rules allow adjournment by 10 pm., all cases might not be reached. He gave the applicants and abutters of the last two cases the opportunity to choose to stay, or to request their cases be tabled to the next regular meeting, with no further notice to applicants or abutters. He read the notice of hearing into the record, stating this case was continued from a previous meeting. The list of abutters was read. Mr. Dupont, owner of the land was present. Representative of Little Nell Trust and Red Oak Apartment Homes, Inc., One Brick. LLC present: Attorney John Cronin of Cronin, Bisson & Zalinsky; Patrick Colburn of Keach-Nordstrom Associates; Dennis Mires, Architect were present.

J. Cronin came forward to present the case. This property came before ZBA and Planning Bd about a year ago. Initially planned to have a community block grant for tax credit financing for 60 units with potential development on the land with apartments before the Bd currently. NH Housing Finance administers it and chooses what they believe is most appropriate project. Town did not support that

project for tax credit. Limited number available in the State and because Milford had already received one in recent times those resources went elsewhere. It did receive a Special Exception for height.

Engineering team and architect went back to the drawing board. Preference was for market rate property. There are pre-existing multi-family housing project at end of Capron Rd. Want something that co-exists and works well. Coming back to this plan, layout is three garden style buildings and four townhouses. When they went before Planning Bd it was on introductory basis. Only feedback from abutters was making sure buffer wasn't disturbed. On record they are willing to work with them and Planning Bd in that regard. Ordinance re special exceptions and how it varies from variance. Variance has a hardship criteria and others. Special exception doesn't include hardship and based on specific terms of the ordinance. Milford ordinance is somewhat unique, more focused on use changes, i.e. in a residential zone but certain exceptions allows by special exception. He feels their application meets all of that. This use is allowed in this zone. More use-based than dimensional-based. Seeking special exception for height. They meet all other zoning criteria. Limited relief being sought could be utilized by applicant today with exception for variance in height for the townhouses. Last time case didn't go forward because of limited number of Board members. They came back and then tabled because of visuals. Mr. Mires has some elevations and context drawings. Didn't have landscaping. Did well in the context of reality. Other thing discussed was balloon test. He spoke with staff about what they wanted to see and vendors available to do it and the right location. Looking a special exception for height, part of it is art of measuring when you have uneven surfaces. When you have different grades it is more difficult. Not unwilling to do a balloon test – will do it if required if they can get guidance. Mr. Mires was asked to make drawings as contextual with landscaping and other buildings. Discussed with staff and they shared belief that what they were submitting this evening was more effective and realistic than balloon test. If not sufficient, and the Bd would prefer balloon test they will take into consideration, but feels it is probably not very effective and not worth doing. He then said he'd turn it over to Dennis Mires. Stated they were talking about height. They were not asking up to the peak height but to the additional allowed by right.

R. Constantino asked him to explain problem the neighbors had with the buffer.

J. Cronin said someone from the mobile home park expressed concern whether buffer would be removed.

R. Constantino asked if it would.

J. Cronin said there are trees right now. He asked if neighbors minded them being planted on their property. Not sure the man there that evening had authority to allow that. They told Planning Bd that if that was what the property owners wanted they would try to do something. The aforementioned man was more concerned it would be clear cut.

R. Constantino asked what the plan was.

J. Cronin said Planning Bd asked them to work with Planning Bd and they were receptive to their suggestion.

L. Harten asked, in discussion with Planning Bd about vegetative barrier, were they discussing it being planted on their property, or abutters'?

J. Cronin said generally on their own, because that is what they can control. In other cases he got agreements from abutters to put on the abutters' property because they could control it. Didn't think it could be done unilaterally. Probably with Planning Bd. In a manufactured home park there are probably by-laws, etc. They want to maintain buffer and cooperate with neighbors. Recognizes buffers are important to abutters. They are willing to take that into consideration to the best of their ability.

J. Dargie said the same group came to the ZBA about a year ago. Asked him to point out original two buildings.

J. Cronin deferred to Patrick Colburn.

P. Colburn said there are two buildings. Building A sits within previous footprint approved. It is smaller because it was reconfigured. Building B was pushed back to the south a bit. In other plan, building in back with double bank of parking in front and none to the rear. They are moving one bank of the parking and move building where parking was.

J. Dargie said if this is approved, the other goes away. But if not, will they be bringing up the other plan?

P. Colburn believed the attorney would say the previous approval remains valid. They could advance plans for the lower area.

J. Plourde said he works for land development projects and involved with balloon tests. It's not just for cell towers, Wal-Mart, home improvements stores. In this case, feels architectural renderings are sufficient. How that impacts ZBA re building height, that vegetation in the buffer area is important, especially from aesthetic for adjacent homes. They will get into some of those renderings. The pictures provided, does that assume all trees and vegetation remain, or some removed. Doesn't want to be misrepresentation. Wanted to make sure they are reviewing and approving it on what they will see.

J. Cronin said intent was to make it as realistic as possible. Asked Mr. Mires to come forward.

D. Mires, Architect, office in Manchester, showed some architectural drawings. Five buildings. Three 36-unit buildings referenced in the request for 46 ft. 10 in overall. Adding to the ridge from the average grading. Question last time on the elevation of the eave. He may have misspoken; it is actually 28 ft. 1 in. above the first floor. Varies a foot or two as grade moves. Other two are townhouses. Not requesting 46 ft. 10 in. for those. Requesting relief because the grade varies as it slopes to the wetlands. It goes from two-story to a walkout in back. Net difference from overall height to average grade is approx 3 ft, so they are requesting 38 ft for the two townhouse buildings. Wanted to clear that up. Tried to give realistic view coming down Nashua St. As you go down, street becomes further away from the site. He then showed pictures on the monitor. First picture is of Burger King for reference, on the eastbound traffic lane and eye doctor on the corner of Capron Rd. Building A can be seen in approximately same location and approximately same height as prior approval. Narrow gable facing the street and change in texture and tone of siding materials. Dark roof - architecture shingle roof. Color called slate - blend of reds and greens. On far side of road from the same position the eye doctor would be blocking most of the building. this view between existing trees between Burger King and eye doctor's.

R. Constantino as how he took the pictures. At eye level?

D. Mires said with a hand held camera. At eye level, approx. 5 ft 6 in. for all. Next picture is intersection of Capron Rd on Capron Rd side of Nashua St. Existing vegetation would remain and existing vegetation in back - a few trees behind building will be taken out but existing buffer will remain in that height. Very deep now between parking and existing building. Taking some out on their side, but still significant buffer remaining.

R. Constantino said will be similar looking height, with no gaps?

D. Mires said no. It is thick enough and enough depth. Density of trees is all mixed. View would be same, but would be a few feet back. Next picture is driveway across from Capron Rd over top of eye doctor's. Two have 28 ft 1 in. and roof and little of third floor windows. Vegetation in back will remain. On side, what is seen remains. Next view at next drive down west of the drive across from Capron Rd. There is a shot that shows existing condition with building superimposed but doesn't show any additional landscaping that will be added in front of those.

J. Plourde asked about vegetation being provided in area between eye doctor and the trees, where utility pole is.

D. Miles said have to go to landscape plan maybe and Planning Bd. Trees forward of property are remaining.

J. Plourde asked if something between existing trees.

D. Mires said yes. Planting scheduled for that and other areas on their property. Next property down after Capron Rd between eye doctor and residential property. Can see ridge of roof. Don't see anything below the eave. Trees in foreground would stay and ones on right over garage will be cut back a bit from the side of the house to maybe side of the garage. No building there.

J. Dargie asked if any trees are evergreen. Will look like this in summer.

D. Miles said most are deciduous but in Eastern Trails are fairly dense. Branching is pretty good and they are tall and more than 5 or 10 ft deep. Feels it still has buffering capability. Coming from west to east, probably would not know they were there until you were by them and looking back into that gap where they are adding trees approaching manufactured home park driveway. Trees in foreground stay. Other drive into manufactured home. All vegetation from sign to the left will not be touched from their side. Going in same vegetation will stay until coming around corner will be taking a few trees in the buffer. Existing vegetation is in their opinion pretty dense. From Nashua St you can't see 36 unit building in back because of the foreground building and because they're cutting that pad site down.

Distance from road and building on lower level on reduced building plan mean you can't see it from Nashua St. That is what they did in attempt to explain and demonstrate some of the points of concern at last meeting.

L. Harten asked, the first picture of first building was Building A – would it be behind that and sit down lower?

D. Mires said there are two buildings. A on the right. B is to the left. May be hard to distinguish there are two buildings. But there are, separated by drive and walkways. Can see gables that are basically one unit wide.

J. Dargie asked any reason none of the renderings are on opposite side of street? They had asked for them on same side [as the proposed property].

D. Mires said he showed ones on same side of the street.

J. Dargie said pictures looked far away.

P. Colburn said problem is when you close, the Eye Associates building is in your face. The closer you get to that the less you can see over the roof. So, he had to cross the street to get a view to see buildings behind the gray.

M. Thornton asked applicant to read application into the record.

NOTE: Following is text of application as submitted. Mr. Cronin also inserted other comments, which are listed subsequently.

1. The proposed use is similar to those permitted in the district because:

Red Oak proposes to construct three buildings each containing 36 units and four, four-unit townhouse-style structures. A multi-family use is a permitted use of Lot 57. Like the only other multi-family development in the immediate area, Eastern Trails, Red Oak seeks to construct three-story buildings. As such, the basic design is not out of character for the immediate area in terms of multi-family development. The additional height of the proposed buildings is attributable to the use of pitched roofs as a part of the architecture. Pitched roofs appear to be the form for residential development in general in the immediate area and indeed required in the nearby Nashua and Elm Street Corridor Overlay District. Accordingly the proposed use is similar to those permitted in the district.

2. The specific site is an appropriate location for the proposed use because:

Height restrictions in zoning ordinances, at least, in part, serve to provide adequate light and air. RSA 674:17,I(d). Red Oak proposes to construct two-three-story multi-family building on an approximately 25 acre parcel. The only other multi-family development in the immediate area also has three story buildings. Red Oak does not seek relief from the general setbacks for its proposed development. Capron Road, which will provide access to the development, is lined in significant part with mature trees and Red Oak proposes to maintain a wooded buffer along the edges of Lot 57. In light of these circumstances, notwithstanding the additional height of the proposed buildings, air and light will not be impeded by the proposed structures.

Additionally, the relief sought will allow for more pleasing architecture. The roofs of these residential buildings will be pitched, rather than flat. In addition, the design calls for changes in the elevation of the roofline so as to assist along with other architectural features, in breaking up the mass of the buildings. Breaking up the mass of larger buildings through architectural features is preferred as is evident from the design guidelines for some of the Town's districts. In short, the additional height and the aesthetic features it provides help the development to blend better with its surroundings.

3. The use as developed will not adversely affect the adjacent area because:

As noted above, Lot 57 is large enough such that the proposed three story buildings may be constructed without encroaching into the general setback or otherwise being in close proximity to the development on any adjacent properties. The only other residential development on Capron Road itself is another multi-family development consisting of three story buildings. In addition, mature trees, some of which appear to exceed the height limitation at issue here, line not only

Capron Road, as noted above, but other edges of Lot 57 as well. Red Oak, as is evident from the plan, intends to generally maintain these wooded buffers and the tall trees therein. In short, the natural features of Lot 57 will diminish any arguable impact. Furthermore, as noted above, relief from the height restriction in this case allows for a more aesthetically pleasing development with the mass of the otherwise permitted multi-family buildings broken up with the use of varying rooflines and pitched roofs. With regard to the proposed development's closest neighbor, Souhegan Valley Manufactured Housing Cooperative, the building closest to this abutter is not one of the buildings requiring a special exception request. In sum, the proposed buildings will not be looming over some adjacent residence or building despite their height and that additional height will better allow the buildings to fit within the area architecturally and visually with their pitched roofs.

4. There will be no nuisance or serious hazard to vehicles or pedestrians because:

The proposed buildings will not be constructed near Capron Road so as to arguably impede any line of sight for traffic on Capron Road. Likewise, potential traffic within the proposed development will travel in between the buildings as shown on the plan such that the proposed buildings will not impede the line of sight for vehicles travelling on Lot 57 either. The proposed buildings will provide access to the existing development at Eastern Trails for emergency vehicles. The proposed height of the buildings will not have any foreseeable impact on pedestrian traffic either as the proposed development will include sidewalks and path between and to and from the proposed buildings and the parking areas.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

The proposed development will be served by municipal water and sewer. The plan provides for two curb cuts along Capron Road, a dead end street which serves limited properties. The proposed development will have sufficient parking for the proposed buildings and will include a recreational area and community play area. Red Oak proposes to maintain the majority of the wooded buffers along the edges of Lot 57. The buildings themselves have been designed by an architect to mitigate their mass through varying rooflines and other architectural features. Moreover, the use of pitched roofs to which this request for relief is attributable avoids the load bearing issues which are more common with flat roofs, particularly with respect to snow during winters like we commonly have. As such, the pitched roofs contribute to the safety of the proposed tenants of the building.

Additional comments made by Mr. Cronin during reading of application:

Criteria 1: Red Oak proposes to construct buildings that are allowed as a matter of right in this zoning district in the town. The multi-family buildings are a permitted use. They are similar in design and style to at least a portion of those previously approved, with height restrictions. Additional height of proposed buildings is attributable to the pitched roofs, up to elevation and grade is approx. 28 ft. On townhouses, much smaller. (applicants & representatives) believe they have satisfied the first prong of the criteria that the proposed use is similar to those permitted in the district.

Criteria 2: It was his understanding, and there was some comment last time, that there was some concern when this (zoning ordinance) was adopted, about impacts to abutters. It was his understanding that was really not the genesis of it; it was really done and amended to satisfy the Fire Dept. We know that the Fire Dept. is satisfied with this particular proposal. Construction of multi-story buildings is on a large parcel with plenty of spacing, adequate light and air. One of the abutting properties most impacted is owned by an affiliate and certainly they have no objection to this proposal and support it and believe it enhances their value. Capron Rd. area which will provide access -there will be maintenance of the wooded buffer and supplemental of that according to landscape of the plan and the wishes of the Planning Bd.

Criteria 3: Lot 57 is large parcel and these building are allowed as a matter of right. The large residential development on Capron Rd supports this particular project and believes it not only

enhances it but adds to its features and attractions. The mature trees, which are very thick and there is a dense and depth to it, will remain in large part with only limited precision cutting to provide for some of the buildings. They talked about impacts of landscaping which will be supplemented.

Criteria 4: If this plan is approved, some of the conditions call for supplementing the sidewalks patterns there, which will be an advantage not only to people in this development but also people up in the existing development in the area. There was some discussion at the Planning Bd about impact fees and how that would be structured. They way they left it – preliminary and conceptual - was there would be some cooperative effort, with perhaps the town even chipping in some funds along the main drag to extend that sidewalk. So we meet that particular criteria.

Criteria 5: (re municipal sewer and water) we do have signoffs from the public safety officials. We believe the facilities were determined to be adequate in the prior approval of this Board.

R. Constantino said, regarding the statement that they intend for buffers and trees to remain, Attorney Cronin said “they will” do it, which is what it should say.

J. Cronin thinks it would be very common practice that there be some condition. Not opposed as long as it doesn’t conflict with Planning Bd and they end up going back and forth. They want to be proud of it and well received.

J. Plourde said at the last hearing, per Criteria 1, the proposed use shall be similar to those permitted in the area, Atty. Cronin mentioned pitched roofs appear to be the norm in residential developments the immediate area in general and be required in the nearby Nashua Corridor and Overlay District. He had asked at last meeting if J. Cronin knew what buildings and what zoning district was for those.

J. Cronin said it is one of Milford zoning districts that has requirement in the planning regs.

J. Plourde said it was not pitched roofs, but height they are looking at. If it is in area and will be similar in nature but height as well.

J. Cronin said what you are looking at is what you get. Doesn’t think it will be adjacent where you are going from one building right into the next. Those buildings have been there for awhile.

P. Colburn said in response to concern at last meeting he took a stroll with Google Street View. Ran the corridor. Half of development projects permitted prior to 2005 when height restrictions went from 45 to 35 ft. Heritage Apartments, Cahill Place. James Street next to them. Off 101A garden style and townhouses. Sent someone to town hall, and all approved without special exception because, in 2004, 45 ft. was permitted.

J. Plourde asked if all were 45 ft.

P. Coburn said they are all pitched roofs, so would have to assume so.

J. Dargie said the reason for additional height if actually to fit more units? They could build these without additional height?

J. Cronin said they could, but would not look as nice. They discussed at last meeting whether some way to get same number of units with flat roofs. Could, but not as desirable. After last time they discussed flat roofs, etc. to make it fit to get same number of units. There is, but not desired. Other way would be to move Building B back to prior approved position.

J. Dargie said those two with the higher heights and could still do the rest.

J. Cronin said it would take a lot of additional engineering. Would have to go back to the drawing board.

J. Dargie commented that printout, without evergreen trees it will look like buildings will be more visible.

J. Cronin didn’t think there would be much visibility difference. Can’t change character of trees.

Despite limitations and things in every case, Mr. Mires and Mr. Coburn have done best to be sensitive to those concerns. Goes back to legislative issue; it was really a fire issue more than anything.

J. Dargie didn’t think so. Building behind her needed special exception before 2005. James St had to get special exception for additional height.

J. Cronin said James St benefited from special exception.

J. Dargie said they had to get one. Intent was to keep character of Milford. At one point in time the look was not what they wanted and that was why it was put in place. Not for Fire Dept. It was to limit tall

buildings. That is why zoning is put in place. Town votes that is how they want town to look. Limit height and size, etc.

J. Cronin gets that, re the voters. Some say they don't believe in variances. Milford ordinance requires there are instances where that height should be increased. Granting is not going against the will of the voters.

J. Dargie said that is why they are here. It gives relief. But not there to give relief to everyone who comes in asking for it.

J. Cronin agreed.

R. Dupont, owner of the property trying to build buildings with an elevator. He owns 4 bedroom apartments with no elevator. Trying to building 3 bedroom apartments. Currently not a lot of them. They are in high demand. A lot of buildings built a few years ago in Milford don't have elevators in building. They are putting them in. Elevators extremely expensive to install and maintain. Reason they can install is they are building 36 unit building rather than 24 or 12. Townhouses will be three floors in some cases and two in others. When someone calls in Milford looking for 3 bedroom apartment he has to tell them to call someone else. Building a market based product. Will have few 2 bedrooms with elevator access. Doesn't know of any in Milford.

J. Cronin made it clear that R. Dupont is principal owner of abutting property and in that capacity bought it.

R. Dupont – yes.

There were no further public comments. Chairman closed public comment portion.

L. Harten said Atty Cronin, in speaking about James St. Thinks building on left, free-standing building. Ordinance may have changed but believes it exceeds 35 ft.

P. Coburn said he drove Nashua St, used Street View. Every property is 3 story. James Street is one of them.

Sent someone to town hall and spoke with Shirley (in Community Development) who pulled files of those projects. Advised that zoning in 2005 they reduced height to 35 ft. that it is today. Based on that data, approval of James St., and others mentioned, none of them would relate to them re special exception but all would in terms of look and feel.

M. Thornton read into the record a memo received from Lincoln Daley at Office of Community Development which said the Planning Bd. held its first meeting on May 25, 2016 on this case. One of the items involved visual of proposed building facing Nashua St and abutter property. Planning Bd discussed planting additional vegetation within 25 ft buffer area. Addition of vegetation, but not removal of vegetation, does not require special exception from the ZBA. For purposes of this application and result of discussions possible conditions of approval it is his determination that addition of native trees and plantings would be permitted within the 25 ft. wetland buffer area.

M. Thornton asked for further discussion from the panel. None.

Board moved on to discussion of criteria.

A. The proposed use shall be similar to those permitted in the district:

J. Dargie – The proposed use of apartment building is similar to those in the district. However, as stated multiple times, zoning was changed in 2005 on height to prevent overgrowth of apartment buildings or density – whatever reasons = and could not have been for fire trucks because all fire trucks could reach 35 or 45 ft. No, it is not similar to those permitted in the district.

L. Harten – believes this request for relief is similar to those permitted in the district even though changed in the ordinance. Re height of pitched roof, looks at Milford as pretty much a colonial community. Not a big fan of flat roofs and problems they can generate with snow load and other problems. No problem with the first criteria.

J. Plourde – proposed development in its use, is an allowed use.

R. Constantino – agreed with Len. Pitched roofs are better because of snow. They look better. Agrees with Joan re preserving character with the buffering and trees and have to consider, but thinks that is more for one of the other issues. Yes.

M. Thornton – agreed with most. Yes, it is similar to those uses permitted in the district. Believes it should carry forward.

B. The specific site is an appropriate location for the proposed use:

J. Plourde – Yes. You already have residential development in back and along Nashua St. that subject site abuts. No direct access or frontage where structures will be along Nashua St. yes, it is appropriate location for proposed use.

R. Constantino – Agreed with Jason.

L. Harten – agreed. Believes the site under consideration is appropriate location. Substantially large lot and buildings would probably fit. Also an apartment at the end of that road, he believes. No problem with it being an appropriate location. In that part of Milford on the east side of town there are numerous apartment buildings. This is probably one of the better sites for the use as requested.

J. Dargie – following previous interpretation of the proposed use, apartment building, does fit into the area; with additional height considering it is probably not best location for the proposed use because of higher elevations and changing elevations. No.

M. Thornton – it is site that is appropriate for the proposed use.

C. The use developed will not adversely affect the adjacent area:

J. Dargie – because of additional height of buildings, will affect look, feel and character of the neighborhood. It is large complex and especially in winter will stick out like a sore thumb. Will create light issue with adding lights, which will happen anyhow. Will affect mobile homes with no leaves on the trees. Has that from personal experience with buildings near her; there is never any darkness.

Her vote is the use as developed will adversely affect adjacent area.

R. Constantino – they talked about impact – adequate light was one. There are other impacts. He got ideas from zoning ordinance. Not sure they exactly apply. Talking about new element proposed on contrasting background. That means that in pictures you can see buildings but there is a tree line. They are planning that tree line will still be there. Can see building, but doesn't affect tree line. Talking about preserving of view corridor. That is same idea. Would like to make a change to add in #3 in application that read "intends to generally maintain these wooded buffers and the tall trees therein" and change "intends to" to "will" to prevent later changing it and cutting them all down. Would say yes, if they make that change from "intends to" to "will". M. Thornton said they will take that into discussion at time of voting. J. Cronin said they are fine with that.

R. Constantino – would vote yes, with that change.

J. Plourde - agreed with Rob. The renderings of the proposal helped. Rob is right. Will change tree line. Original concern was buffer - not the wetland buffer – but actual view from the mobile homes to the proposed structures. Where there will be work with Planning Bd re buffer and tall trees. As Rob stated, would support making that a condition to maintain those. Would say yes, use as developed will not affect adjacent area.

L. Harten – didn't believe it would adversely affect adjacent area. Developers put great amount of effort to placing buildings in most suitable location for the lot. Quoted from the application, "the proposed buildings will not be looming over some adjacent residence or building despite their height and that additional height will better allows the buildings to fit within the area architecturally and visually with their pitched roofs." He spoke about pitched roofs before. Would answer yes.

M. Thornton – agreed with most of the Board. Doesn't believe it will be a problem.

D. There will be no nuisance or serious hazard to vehicles or pedestrians:

J. Plourde – They are looking at it with respect to building height. Need to look at how it would impact vehicles and pedestrians. It would not. They're not talking about cars trying to enter and exit on Capron from Nashua St. Dense traffic will be reviewed by Planning Bd. Believes no nuisance or serious hazard.

L. Harten – agreed. Doesn't believe any hazard to vehicles or pedestrians on foot. Nashua St is very busy street. Getting on and off is sometimes an adventure. Planning Bd will address that. Issue tonight is height of the buildings. As far as development is concerned, doesn't believe hazard to vehicles or pedestrians.

J. Dargie – additional height allows for additional units. While Nashua St is already in failure mode they are talking about allowing 45ft building with additional units. While looking at height, have to

consider that means more vehicles, more traffic. Will say no. Thinks there will need to be a set of lights there or something. Crazy to add more traffic.

R. Constantino – agrees with traffic issue. Doesn't think the height has any relevance to making more apartments or hazard to vehicles or pedestrians. No hazard or nuisance.

M. Thornton - Playing devil's advocate and saying there will be no nuisance or serious hazard to vehicles or pedestrians. Not directly, but there will be greater number because of height – adding one more floor throughout. Doesn't see direct correlation between hazard to vehicles and pedestrians and the height. Yes.

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use:

L. Harten – believes appropriate facilities will be provided for proper operation of proposed use. It has municipal water and sewer. Doesn't know what other facilities to be provided. Will be putting in sidewalks and driveways – anything and everything they determine in development phase is useable by tenants.

R. Constantino – Yes, adequate facilities will be provided for.

J. Dargie – adequate facilities higher height.

J. Plourde – agrees.

M. Thornton – agrees.

L. Harten asked about a condition.

M. Thornton said it will be part of the motion to approve if they recommend approval.

J. Plourde read language for the motion.

R. Lunn asked for name of specific plan, since there are a number of them.

Discussion follows re order of proceeding.

It was determined that the wording of questions changed, so Board revisited the questions:

A. Is the proposed use similar to those permitted in the district?

M. Thornton – yes.

J. Dargie – no

L. Harten – yes

R. Constantino – yes

J. Plourde – yes

B. Is the specific site an appropriate location for the proposed use?

M. Thornton – yes

L. Harten – yes

J. Plourde – yes

J. Dargie – no

R. Constantino – yes

C. Will the use as developed not adversely affect the adjacent area?

J. Plourde – yes

M. Thornton – yes

L. Harten – yes

R. Constantino – yes

J. Dargie – no

D. There will be no nuisance or serious hazard to vehicles or pedestrians.

J. Dargie – no

M. Thornton – yes

L. Harten – yes

R. Constantino – yes

J. Plourde – yes

E. Will adequate appropriate facilities be provided for the proper operation of the proposed use?

M. Thornton – yes

J. Dargie – yes

L. Harten – yes

R. Constantino – yes

J. Plourde – yes

Other Criteria:

1. Is the exception allowed by the ordinance?

R. Constantino – yes, with the condition

L. Harten – yes

J. Dargie – no

J. Plourde – no

M. Thornton – no

L. Harten didn't think Joan could vote no, because if it wasn't allowed they wouldn't be there.

J. Dargie agreed, but it wouldn't make any difference.

2. Are the specific conditions present under which the exception may be granted?

J. Dargie – no

L. Harten – yes

R. Constantino – yes

J. Plourde - yes

M. Thornton – yes

Condition:

J. Plourde suggested changing “intends to” to read that they “will maintain the wooded buffers and the tall trees therein.

L. Harten seconded.

Vote on Condition:

L. Harten – yes

R. Constantino – yes

J. Dargie – no

J. Plourde – yes

M. Thornton – yes

M. Thornton informed the applicant the special exception was approved by 4 to 1 vote and reminded them of 30-day appeal period.