

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

December 12, 2006 Minutes

Present: Raymond Arsenault, Kristen Rao, Gabriella Halmi, Arthur Russo, Jr., David Gobeille, Jina Karempetsos, Town Solicitor Mark Krieger

Excused: Nicholas Rampone

Correspondence

None

Applications:

David Garneau, 1 DuCarl Drive, Lincoln, RI/Steven & Joann Enander, 9 Blue Mist Drive, Manville, RI – Dimensional Variance seeking relief for the construction of an addition.

AP 39, Lot 69 Zoned: RS 20

Member Gobeille recused himself as he is an abutter of the applicant. Member Russo sat with full privileges. Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance.

Mr.Garneau informed the Board one of the notices was returned. He

went to the abutter's home (Janet Malenfant AP 39, Lot 111) and obtained her signature to show notice was received (submitted as Exhibit #3 record card for property at 6 Birchwood Drive identifying the Malenfant as current owners of the property and signature on notice stating they had no opposition to the application). Chairman stated the problem was the signature was not notarized and asked Attorney Krieger if proper notice had been met. Attorney Krieger replied that notice is a jurisdictional requirement and it would be preferable for a signature to be notarized and it was up to the Board to make a determination that the signature on the notice is sufficient for the application to go forward. Chairman asked applicant if it was the signature of Janet Malenfant. Applicant replied he went to her house and whoever came to the door signed it. Russell Hervieux, Zoning Official stated he has no problem with what was presented and stated for the record that Mr. Garneau has done work in the past at his home and has no financial interest in the his company.

Chairman addressed applicant and stated that because he could not testify that this is the signature of Janet Malenfant there is a problem with sufficient notice and recommended the application be continued to allow him to make sure she receives sufficient notice. Mr. Garneau replied he asked for her drivers license and she stated she was the abutter and signed in his presence. Chairman replied he earlier asked him if he could state it was abutter and applicant had replied that the lady who came out of the house was her. Chairman then informed applicant if he was willing to submit to the Board that the

owner of the property signed the notice. Applicant replied he did not see a drivers license but she stated she was Janet Malenfant. Chairman asked for a motion to accept the signature as sufficient notice. Motion made by Member Rao to accept the Malenfant signature. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

House was built around 1972 on a uniquely shaped corner lot and applicant submitted into the record a site plan (Exhibit #1) and floor plan (Exhibit #2). House was built in non-conformance in 1972 and the original plot map shows that the house was built and then a garage and breezeway added on afterwards. The architect did not want to encroach on the existing non-conformance. Attorney Krieger informed the Board that he met with Russell Hervieux to determine whether it was a corner and they concluded it was not. While it is on the corner it is on a curve and by extending the curb of Sunset Drive into Blue Mist it would not be a corner lot. The existing deck is wooden and bolted to the house which would change the requested dimensional relief. Attorney Krieger calculated the dimensions and determined applicant needs a 10 foot side yard setback and not 25 feet as listed on his application. Chairman asked applicant to amend his application to reflect they were requested a 10 foot setback from the corner of the existing deck to the side yard lot line. Motion made by Member Russo to allow applicant to amend his application. Motion seconded b Member Rao. Motion carried with a 5-0 vote.

Member Halmi asked Mr. Garneau if it was an in-law apartment and applicant replied no because there will be no interior or exterior doors just an open hallway. Parents have sold their home and are moving in with the Enanders and they need additional living room. Garage door will not be used as a means of egress. Entrance will be through an existing door in the breezeway. There is an existing staircase at the rear of the home. Laundry room is non-existing and there is an existing doorway in the den that will be the door to access the new living space. They will have their own kitchen and bathroom but because there is no separated access it is not considered an in-law apartment. Member Rao asked if the addition will match on the exterior and roofing and he replied yes. Existing driveway will remain the same with access by Blue Mist Drive. Bedrooms would be located to the far left looking at the house from the street.

Attorney Krieger addressed the Board stating that the ordinance does not currently address in-law apartments so there can never be a door put between the main house and the apartment and this could never become a two family home. Mr. Garneau replied that is why they decided to make a hallway instead of putting a door in.

Chairman read into the record Planning Board recommendation: Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application. The Planning Board determined that the layout of the existing single family limits the

owners to the area in which they can locate an in-law addition. This corner lot also presents a unique building envelope that limits the area to build. The Board finds that the applicant presents a realistic site layout that meets the intent of the zoning and would not be detrimental to the neighborhood.

No opposition present.

Motion made by Member Russo to grant a 10 foot side yard setback with a condition that there shall never be a door installed in the connecting hallway creating a two family dwelling. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Rao.

Member Halmi stated that perhaps they should state relief is for the northerly side yard and the condition should be that no door or wall be installed in the connecting hallway.

Member Russo made a motion amended his original motion to reflect relief was for the northerly side yard and that a door or wall shall never be installed in the connecting hallway. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Motion to approve application carried with a 5-0 vote.

Anthony Marchetti, 10 Morning Star Court, Lincoln, RI – Dimensional Relief seeking relief for the construction of an addition.

AP 26, Lot 238 Zoned: R 40

Chairman read into the record standards that need to be met for a Dimensional Variance.

Applicant wants to construct an eat in kitchen. House is 70 feet deep and not very wide and was built in 2000. They are a family of five and need additional living space. Lot is unique and oddly shaped. Cannot build to either side because there is a fireplace, gas service and central air that would need to be moved. Closest structure to the rear is a lot is about 1,000 feet away. Land slopes up creating a natural barrier. He is not adding a family room just an eat-in kitchen. Kitchen will be extended. Exterior and roofing will match existing

house. Will be installing security lighting at the rear of the house. Member Halmi asked applicant to clarify plans as they did not look correct because they showed a dining room. Applicant replied the plans were not accurate and needed to be changed to reflect an eat in kitchen. Chair stated that because the plans were not accurate it was his recommendation to applicant to continue the application so the Board could review revised accurate site and building/floor plans as the building official's office will be referring to the plans when he obtains a permit. Applicant requested a continuance to the February 2007 agenda.

Motion made by Member Karempetsos to continue the application to the February agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Town of Lincoln, 100 Old River Road, Lincoln, RI – Dimensional Variance seeking pole height relief for school and athletic fields located at 152 Jenckes Hill Road, Lincoln, RI.

AP 26, Lots 38/39/41/43 Zoned: RA 40

Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance

Represented by: Charles Roberts, Gilbane Building Company Project Manager

Applicant is asking for height relief to install six light poles – two (2)

70 foot poles and four (4) 90 foot poles. The 90 foot poles would be installed on the corner of the two larger fields and the shorter poles would be for the smaller back fields. The town moved the fields as far away as possible from the north property lot where most of the neighbors are located. Basis for pole heights is driven by the light levels on the fields. Lighting levels were based upon existing standards by the Illuminating Engineers Society of North America. For the type of sports that will be played in the fields, they recommend an average of 50 foot candles for small ball sports. Submitted recommended pole height requirements as Exhibit #1. Original application packets had field sketches with numbers on a grid pattern that showed actual guaranteed foot candles. This system is computer designed. When the lights come in they go on the poles and each light fixture is angled to guarantee the level of illumination for ten years so it does not deviate by more than 10%. This is the best sports lighting system using MUSKO lighting. Foot candles measure light over one square foot. This is new technology has come about over the past year and focuses light on the field with minimum spillage. These lights can be shut off by cell phone satellite technology in case a game is called off so the lights do not stay on.

Witness poke with some of the neighbors after the last meeting and he is willing to meet with them on a regular basis to discuss some of their concerns. This is the top of the line sports lighting system that controls the lighting requirements. Lights use 1500 watt metal halide.

Member Rao asked if the school has a curfew for lighting. Mr. Roberts replied they do not but there is a town curfew for turning off lighting. She stated she has an issue with sky glow like there exists at Lincoln Park. Would this type of problem exist with the proposed lighting. Witness replied there is a shield that encloses the light reflecting it downwards and submitted into the record Athletic Field Lighting Technical Report as Exhibit #2. There will be a total of 76 fixtures including the six they are seeking height relief for.

Chairman Arsenault read into the record Planning Board recommendation:

The application was not available for the Technical Review Committee or the Planning Board to review. Therefore, no recommendation can be offered.

Russell Hervieux, Zoning Official addressed the Board stating he commends the school department for submitting an application and did not see a problem with the airport hazard zone with regards to the height of the poles.

Opposed:

Christine Giroux, 9 Tattersall Drive, Lincoln

She is an abutter to the fields. When the school was being planned, the neighbors met with the Planning Board and were assured that no bleachers would be installed and there was no need for lighting. Feels lighting would be too much of an intrusion and construction

would create a dust problem during the day.

Opposed:

Lorraine Choiniere, 7 Tattersall Drive, Lincoln

The athletic fields are located behind her house. She was told there would be no night games and would like to see a curfew of 7:00pm in writing which is a reasonable time. Worried what poles will look like from her back yard.

Opposed:

Della Kay, 5 Tattersall Drive, Lincoln

Could not use her back yard during the school's construction. Knows that children need sports and the 7:00pm curfew is reasonable. Unhappy about lighting going in.

Mr. Roberts stated he does not have authority to agree to a curfew but would request a continuance to work that out with school administration. Chair asked if there was a contract with the neighborhood about erecting bleachers and lighting. Mr. Roberts replied he could not answer because he was not involved in that process but would also raise that question to the school. Attorney Krieger asked what type of sports would be utilized at the fields and Mr. Roberts it was an all purpose field for just field sports like soccer, field hockey, lacrosse but no baseball. Chair stated that since there is a lack of fields in the town this field could be rented and would like to see the school department agree to a curfew.

Motion made by Member Halmi to continue the application to the February 6, 2007 agenda and requested that applicant obtain information whether or not a meeting had been held with neighbors addressing the question of no bleachers. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

BCO, Inc., 89 Central Street, Manville, RI – Special Use Permit to maintain existing 2-family dwelling, demolish the garage and construct 5 additional town house style units.

AP 35, Lot 10 Zoned: RG 7

Attorney Mark Krieger recused himself as Town Solicitor. Attorney Gannon sat as Board Counsel.

Chairman Arsenault read into the record standards that need to be met for a Special Use Permit. This application came before the Board in August 2006 but was continued on two occasions to afford applicant time to discuss the application with abutters.

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Submitted into the record site photos as Exhibit #1. Applicant has

amended their application to reflect the address of the subject site as 74-76 Main Street, Manville (submitted into the record Amendment to Application as Exhibit #2). This created confusion as the town lists the site as 74-76 Main Street, Lincoln as well as 74-76 Main Street, Manville. To avoid any notice issues, they have noticed all abutters at both the Manville and Lincoln addresses. Motion by Member Halmi to accept the Amendment into the record. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Applicant owns the subject lot which has a two family house on it. It is his intent to leave the two family house and build five additional townhouse style units and remove an existing garage (submitted site plan of the location as Exhibit #3). What applicant is proposing is a permitted use under Section 9 of the current zoning ordinance for an RG 7 zone. The project will be serviced by municipal water and sewer and will not create any drainage issues. There is a 30 foot right-of-way which will not be obstructed by their proposal. The code requires 16,000 sq.ft. to accommodate all seven units (submitted into the record survey/site plan prepared by Flynn Surveys Inc. as Exhibit #4). Applicant appeared before the Planning Board and Technical Review Committee (TRC) who concluded applicant met all zoning requirements for this type of multi-family development and recommended applicant dedicate two units as affordable housing. Applicant does not feel this project presents the proper setting for two affordable units and is not required or mandated under the current code (submitted into the record Planning Board

recommendation as Exhibit #5). Both tenants in the current two family will be allowed adequate moving time and applicant will give a first offering to the tenants to purchase prior to units being placed on the market. Both tenants have expressed a desire to purchase a unit.

Witness

Edward Pimental, AICP, Pimental Consulting, Inc., 26 Avon Road, Cranston, RI

Mr. Pimental has appeared before this Board on several application as a land use/zoning expert.

Motion made by Member Halmi to accept Mr. Pimental as an expert witness. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Witness is familiar with the comprehensive plan, zoning ordinance and the application as he performed preliminary work for applicant. He examined the site plan and prepared a report which he submitted into the record as Exhibit #6. Attorney Frank Milos who represents abutters objected to the submittal of this exhibit as he had not seen the report. Chair informed Attorney Miles that he would afford him an opportunity to review the report once applicant makes his presentation.

Applicant's counsel contacted him to look at the property and render a determination on the proposal. Property is approximately 23,845 square feet and is an irregularly shaped lot with five property

boundaries with 190 linear feet on Pine Street and 125 linear feet along Main Street. Multi family is permitted by Special Use Permit and is the only zone that allows multi-family by special use with no municipal zone. Density is based on two criteria – lot area and lot frontage. Witness went out one lot in all directions and found 51 lots with the makeup of the neighborhood being predominantly multi family. The Comprehensive Plan states “High density housing will be allowed only within the existing villages.” The units will consist of 2 bedrooms each. Based on the character of the area, it was his recommendation that seven units in total would be an equitable proposal but the site could support more than seven units. Applicant decided to go with only five additional units because there are two existing units at the site. He is familiar with the requirements which need to be met for a special use permit.

With regards to the standards that need to be met for a Special Use permit, Mr. Pimental addressed each stating:

1. That the Special Use is authorized by this ordinance. Article II (A) (2.3) specifically permits by special use permit multi-family development in the RG 7 zoning district.
2. That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use. Some of the special uses permitted uses actually have additional specific criteria – lot area requirement and additional lot width which is 7,000 sq.ft for first unit and 1,500 sq.ft for each additional unit. Also you need 60 feet plus 10 feet for each additional unit. Applicant not only meets these specific

criteria but all dimensional criteria as well.

3. That the granting of the Special Use Permit will not alter the general character of the surrounding area. 66% of this neighborhood is comprised of two units or greater either across the street or in a one block area.

4. That the granting of the Special Use Permit will not impair the intent or purpose of this Ordinance, nor the Lincoln Comprehensive Plan. There have been steps taken to amend the zoning ordinance to address some of the goals of the Comprehensive Plan. The Comprehensive Plan states that they would like maintain a balance of 1/3 multi family to 2/3 single family.

Mr. Pimental's opinion is that the application meets all standards for the granting of the Special Use Permit.

Member Halmi asked Mr. Pimental to address parking. He replied they meet the criteria regarding the quantity of parking spaces and deferred the question for the Traffic Engineer. They were going to provide additional parking but would prefer to keep green at the site.

Witness

Wilbert L. Luetschwager, RAA, GAA, Patrick Barry Limited, PO Box 856, Coventry, RI

He is an expert real estate broker and appraiser and has testified before this Board in the past (submitted resume as Exhibit #7).

Motion made by Member Rao to accept Mr. Luetschwager as an

expert witness. Motion seconded by Gobeille. Motion carried with a 5-0 vote.

He is familiar with the area and has toured the neighborhood. All requirements have been met for a Special User Permit. The construction of five units will have no detrimental effect on the neighborhood and is authorized by the zoning ordinance. Applicant meets all required criteria and will not alter the general character of the neighborhood. Majority of the neighborhood is multi family units which were built in the early 1900s. Proposal fits into the neighborhood.

Witness

Michael W. Desmond, PE, Vice President Bryant Associates

Traffic expert and has testified before this Board in the past (submitted resume as Exhibit #8). Motion made by Member Halmi to accept Mr. Desmond as an expert witness. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

He is familiar with the neighborhood, topography, site plan, parking requirements and prepared a traffic report which he submitted as Exhibit #9. Main Street in the vicinity of the site is 34 feet wide with two 12-foot travel lanes, an 8-foot shoulder on the east side and a 2-foot shoulder on the west side and the speed limit of 25mph is not posted. There is granite curb and concrete sidewalks on both sides of the roadway and land use in the area is residential. The

determining amount of traffic anticipated to be generated by this project was based on data compiled by the Institute of Transportation Engineers (ITE). The number of trips anticipated by these proposed condominium units were based using Land Use Code for residential townhouse condominiums. Existing street volumes for this area were developed from traffic data obtained from another traffic study in 2005 for Main Street, Railroad Street, New River Road and Manville Hill Road which amounted to approximately 5,000 vehicles per day in a 24 hour period. The increased traffic from the proposal would result in an increase in traffic of .06% on Main Street. The proposed site plan was reviewed with regard to its layout and vehicular/pedestrian circulation. The driveways allow for safe egress and ingress and the interior parking layout allows for safety traffic operations and safe movement of emergency vehicles. From a traffic safety point of view, the proposal provides public health safety for the town. Parking layout on the site plan meets the requirements in the number of parking spaces and dimensions of the spaces, meets the general character of the surrounding area, and will not negatively impair the intent or purpose of the ordinance. The project will not impair or hinder the abutter's use of the right-of-way. Parking spaces as proposed are 9 feet wide by 18 feet long and meet requirements. Interior parking spaces will be properly landscaped.

Member Rao asked if emergency vehicles will enter through Main or Pine Street. Witness replied the plans have not been reviewed by the fire department. She further asked about snow removal and was

informed the condominium association will be responsible for plowing and snow will be stored at the site possibly in extra parking spaces.

Chair addressed Mr. Pimental stating his report talks about the formality of the Comprehensive Plan and Zoning ordinances regarding density but did not qualify it. What is his opinion about the impact of increasing the number of units in the area upon the quality of life of the neighborhood? Mr. Pimental replied that only 3-4% of the community is zoned RG 7. The Comprehensive Plan is trying to set a goal of maintaining the 1/3 to 2/3 ratio which is unrealistic based on the current zone. The current ordinance is not affecting the Comp Plan which is the overriding document. State law states that you change your Comp Plan your zoning regulations need to be brought into conformance. Member Rao asked Mr. Pimental about signage and he replied they will meet all zoning codes, the dumpster will be located at the rear and tenants will walk to the rear of the building to deposit their trash, and drainage will tie into dry wells at the site. He would like to keep area green as much as possible. Member Rao asked if the site were to be divided into individual lots, how many could be created. Mr. Pimental replied he did not do that type of an analysis.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and

reviewed the submitted plans and application. The Planning Board recommends approval with conditions of this application. The Planning Board feels that the granting of a special use permit will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. The application successfully meets all other zoning requirements for this type of multi-family development such as site drainage, parking requirements and layout, fire line requirements and dumpster screening. The recommended conditions of approval are that the applicant dedicates and deed restricts two units as affordable according to the standards set out by Rhode Island Housing and the standards presented in the Town of Lincoln's Affordable Housing Production Plan. The other condition of approval is that a landscape plan be developed and reviewed by the Zoning Enforcement Officer.

Opposed

**Representative for James and Muriel Haller and various remonstrant:
Frank Milos, Esquire, 103 Cottage Street, Pawtucket, RI**

Called Mr. Pimental to the microphone. Attorney Milos cross-examined Mr. Pimental in detail reiterating and re-addressing all the issues he testified to during his testimony for applicant (see testimony above). Chair asked Attorney Milos to focus on new facts and conditions rather than go over previous testimony.

Attorney Milos addressed Mr. Luetschwager that he testified that this application meets all the requirements and how he came to that conclusion. Mr. Luetschwager replied he reviewed the plans and sat in on work sessions. He did not do any independent analysis or review the dimensional table of the zoning ordinance and compared it to the site plan. He testified that this application meets the standards set forth in the ordinance as it pertains to a Special Use Permit, specifically the four standards. He arrived to this conclusion by reviewing the requirements as set forth in 260-67 Standards of Approval. The special use meets all criteria as it is allowed in a RG 7 zone. The use of this property for multi family must meet certain criteria under a special use permit. He came to the conclusion it would not alter the general character of the area by viewing the area and seeing what existing in the area. Majority of the houses in the area are 2 family. There is a multi family being built across the street. If the 5 unit is built it will not diminish property values.

Attorney Milos addressed Mr. Desmond stating during his testimony he stated snow removal was not part of the analysis he presented. Mr. Desmond replied he was not aware of any snow removal plan. He is aware that the right of way is utilized by neighbors. The trip generation report he prepared is computer generated. His field analysis was based on the physical characteristics of the area and then looked at the traffic. The .06% listed in his analysis was based on 5,000 vehicles per day and the additional 29 trips per day from this project.

Opposed

James Haller, 72 Main Street, Manville

Has lived across the street from the lot since 1998 and is familiar with the neighborhood and the has reviewed the application before this Board. Knows that applicant has a right to use the property but is concerned about the impact on the neighborhood. Applicant is asking to place five units on the property and he is afraid it will affect the quality of life in the area. Property has been vacant back to mill era of the village. Neighbors thought it was deeded as a park and common area. Would like to see something built conducive to the area which are two family homes. He bought his house because he thought it was open space for children to play in. He met with the developers asking if they would like to see three units built instead of five but applicant never got back to them. Knows something will be built there but would like to see less than 5 units.

Opposed

Carol Zadorozny, 72 Chestnut Street, Manville

Lives in house father purchased in 1939. Most two family homes in the area were built between 1870 and 1895. The mill sold the houses to private parties in the 1930s. The lots between Pine and Locust were split by a right of way. Many of these duplex houses have been passed to second and third generations. They grew up believing this lot was a park for the neighborhood and that there existed an agreement that it was to remain undeveloped. In 2005, the lot was

sold to the applicant. The town plows the right of way and uses it for rubbish pickup. They feel multi family units will not fit into the neighborhood.

Opposed:

Rebecca Ferry

Read into the record statement on behalf of her grandmother, Ruth Kokolski, who lives at 3 Pine Street, Manville

Opposed

Janice Ferry, 1 Pine Street, Manville

Read into the record prepared statement.

Chair asked all present who opposed to please stand. He then passed around a legal pad and asked that they sign in so the Board would have a record of who was present for the meeting.

Opposed

Muriel Haller, 72 Main Street, Manville

Her husband and she drafted a letter and mailed it to all the Board members and hope they came by and visited the site. Chair informed her that all the members went and visited the lot in question.

Attorney Milos submitted into the record a notarized petition signed

by neighbors asking that the Board deny the application (Remonstrant Exhibit A).

Rene R. Menard, 3 Sunset Drive, Manville

He is the State representative for the district. He wanted to know when BCO purchased the property. Attorney Shekarchi replied it was bought on June 30, 2005. Mr. Menard also asked if there was a drainage study to ensure that the dry wells will be able to handle the water. Chair replied that the Technical Review Committee stated the application met all the zoning requirements for a multi family development such as site drainage, parking requirements and layout and the Board relies on the TRC recommendations. Mr. Menard further stated applicant testified there will be two curb cuts on Main Street which is a State road and has the State approved the two curb cuts. Mr. Shekarchi replied the approval was subject to obtaining the curb cuts. Mr. Menard they asked if anyone had spoken to the fire department regarding fire apparatus. Attorney Shekarchi replied the traffic expert did a study and regulations are met. Mr. Menard then stated if the expert could answer the question if Manville ladder truck can enter the facility and operate in a fashion to sustain protection to the units. Mr. Desmond replied the proximity of the buildings to Main Street would allow access by emergency vehicles.

Opposed

Joanne Boroszny, 86 Main Street, Manville

Their house is second generation ownership. Almost all homes in the

area are owner occupied. She does not want development in the area but wants to keep her privacy.

Attorney Shekarchi asked Mr. Pimental that as a certified planner was it good land use practice to go beyond the 200 foot radius when doing an analysis. Mr. Pimental replied that the 200 foot radius is just a general requirement by the State for notice purposes. He goes out one block in all directions because it is good proper practice for notification. Attorney Shekarchi submitted into the record subdivision plan dated October, 1935 AP 35, Lot 10 showing when the parcel was created (Exhibit #10).

Chair asked Attorney Shekarchi that there was testimony from the neighbors that there was a meeting and the neighbors asked for three additional units instead of five and they received no response. Attorney Shekarchi replied that they did meet with the neighbors but were unable to come to an agreement and applicant is not open to reducing the number of units.

Motion made by Member Gobeille to deny the application stating:

- That the Special Use does not meet all the criteria set forth in this Ordinance authorizing such special use
- That the granting of the Special Use will alter the general character of the surrounding area
- That the granting of the Special Use will impair the intent or purpose of this Ordinance and the Lincoln Comprehensive Plan

Motion to deny seconded by Member Halmi. Motion to deny carried with a 5-0 vote with Chair Arsenault, Members Gobeille, Halmi, Karempetsos and Rao voting to deny.

Motion made by Member Rao to adjourn the meeting. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

**Respectfully submitted,
Ghislaine D. Therien
Recording Secretary**