

**AMESBURY ZONING BOARD OF APPEALS MEETING  
AMESBURY CITY HALL AUDITORIUM  
62 FRIEND STREET, THURSDAY, JANUARY 23, 2014**

**Meeting started at 7:15 P.M.**

**Present: Sharon McDermot, Matt Sherrill, Donna Collins, Bob Orem, Bill Lavoie,**

**Absent: Olyce Moore.**

**Also Present: Denis Nadeau, Building Inspector, Susan Yeames, Secretary. Transcription by Paul Bibaud.**

MINUTES: Dec. 12, 2013: Motion to accept by Sharon McDermot. Motion was seconded by Bill Lavoie. Donna Collins abstains. Others voting were all in favor. The board will have Donna file an affidavit that says that she has read the minutes, so she can sit on the continuation of the case tonight. Minutes have been approved.

**CONTINUED BUSINESS from 12-12-13 meeting:**

**CUMBERLAND FARMS-** seeking a **Special Permit / Finding** under Amesbury Zoning Bylaws Section IX, Paragraph B and Section X.J to alter a pre-existing lawful non-conforming use and structure by adding a 216 square foot building addition to extend cooler capacity, and proposes landscaping, building signage, and canopy enhancements to improve aesthetics at 132 Elm Street, Amesbury in an R-8 Zoning District, Precinct 2.

**Matt Sherrill:** We had asked the applicant to consider some different landscaping and building conditions per this technical assistance group report that we shared with the applicant. So they are back in front of us addressing the technical assistance group report, and have filed an amended application with a little bit different landscaping, etc.

Bill, Bob, Donna, myself and Sharon are sitting on this hearing. You may take up where you left off.

**John Smolak, attorney representing the applicant, Cumberland Farms:**

Last time, I indicated that property 132 Elm Street is zoned R8 and we are seeking a finding with respect to renovations being undertaken at the site...largely cosmetic. When last we met, the board had directed us to look at some modifications. We've identified a proposed landscape area to break up this corner on Morrill and Elm Streets. There are areas that are much too open for access purposes. In addition to the slope granite curbing, landscaping the area that we proposed, the applicant has included a landscaped island parallel with existing dispensers and about the same length as the pump island, so we include landscaping there. We've removed the two proposed parking spaces in this area. Concern was expressed with concern with respect to conflicts in that area, so we removed those, added landscaping to the area, in the rear will be grass. We've also proposed some additional landscaping to the rear of the site. The dumpster area will be screened by a chain link fence with green privacy slats. Those are the changes we made in response to the boards comments last meeting. We'll be using the same size sign as exists today.

**Matt Sherrill:** I understand Nipun had presented a bit of an alternative plan for the front façade of the building?

**John Smolak:** Right. Like yourselves, I just received a copy of that minutes ago. I know that there are good intentions here. We had filed this on November 14, and there is no way that I

could get any authorization tonight to make these changes, and we're on a very tight schedule. We'd consider them but we can't commit to them. Frankly, by law, there is nothing requiring us to.

**Matt Sherrill:** Of course. I agree that presenting stuff to you at the night of the meeting is not something that should happen. The only thing then that we as a board can ask is that you would consider these options. Apparently you have a metal awning façade on top of the building. Apparently, we are suggesting wood panels instead of the flat face sign. Instead of single pane glass, you put in more architectural windows. So, if that is something you'd consider, then apparently the sign is something they would allow you to make a little bigger, if you went along with this plan.

**John Smolak:** There's no way I could have any input from Cumberland Farms. I don't know all the materials, the cost, so we couldn't commit to it at this time.

**Matt Sherrill:** I understand that. We only ask that you'd consider it.

Is that all we have to consider? You asked 216 square foot addition for the cooler?

**John Smolak:** Correct. It's a pre-fabricated component to the building. The materials have been submitted. We reviewed that with the building inspector as well. It's being used for additional storage, not for additional retail space.

**Matt Sherrill:** Currently on that side of the building, there is two, maybe three parking spots and I don't see those in the plan. Are you getting rid of those parking spaces?

**John Smolak:** There would be no parking spots in this area. They'll be removed. CF feels they have more than adequate parking capacity.

**Bob Orem:** Is there anything raised in this letter from the police department that we need to address?

**Matt Sherrill:** The Jan. 17 letter from the police I think was in conjunction with the technical assistance report that we'd asked him to consider. It had to do with landscaping and delineating the entrances and exits from the area so it would be a little safer. We asked that of the applicant and they've done what we asked them to do. Such as, they put curbing on the side of Elm and Morrill, an island has been added on Elm in front of the pumps, Morrill Street will remain the same except for the addition of landscape island, parking should be more clear, so the technical report has been addressed.

The current signs are all pre-existing non-conforming. They will be replaced with the exact same sized signs.

Close and discussion: **motion** made by Sharon McDermot and was seconded by Donna Collins.

1. additional 216 square foot addition
2. canopy
3. landscaping
4. curb cuts.

Audio tape cut out at this point from the time frame of 12:40 to 15:25.

Pre-dates zoning? 1972.

How does it non-conform? R8 non-conforming use.

More or less? Less.

Alter or create new non-conforming? No.

**Motion** to close and vote made by Sharon McDermot. Motion was seconded by Donna Collins.

Vote went as follows:

Bill Lavoie: Yes.  
Bob Orem: Yes.  
Donna Collins: Yes.  
Matt Sherrill: Yes.  
Sharon McDermot: Yes.

Audio tape continued to chatter with heavy static making for choppiness in words that are audible. Minutes may resort to notes taken at the meeting.

## **NEW BUSINESS:**

**Deborah and Gary Larson** are seeking a **Variance** under Amesbury Zoning Bylaws Section XI, Paragraph K 1; Residential Conversions to alter the interior of existing single-family home to create a two- family residential home at **25 Carpenter Street**, Amesbury in an R-8 Zoning District, Precinct 6.

### **Deborah Larson, owner:**

(audio tape continues very choppy or blank. Only alternative is to type exactly as written in hand written notes from meeting).

Since 1984.

Original two family

Refinance – changed status.

Requesting to restore two-family to generate income.

Rebuild the kitchen.

Conditions need to be met.

Lot of 12,000 square feet or more.

Off street parking for 3 vehicles.

Can only convert from one to two.

Everything in building is designed for 2 family except the kitchen.

Plenty of land.

Variance on the square feet of the lot.

Front and left side lot lines are less. Need a variance, then a Special Permit needed to change from one to two family.

What is the hardship? Because of age, the zoning hardship is placement of the house on the lot.

Dimensions amount for the small lot size.

**Motion** to close and discuss was made by Bob Orem. Motion was seconded by Sharon McDermot.

Hardship? Placement of house on the lot.

Does it effect the district? No.

Detriment? None.

Intent of the bylaw? No.

Variance can pass.

**Motion** to close and vote was made by Sharon McDermot. Motion was seconded by Donna Collins. Vote went as follows:

Bill Lavoie: Yes.

Bob Orem: Yes.

Donna Collins: Yes.

Matt Sherrill: Yes.

Sharon McDermot: Yes.

Close and discuss on Special Finding. 11K  
Changing dwelling from 1 family to 2 family.  
K1 condition met.

1. exists in table? Yes.
2. Yes.
3. No.
4. No.
5. Yes.
6. No.
7. No.

**Motion** to close and vote was made by Donna Collins. Motion was seconded by Sharon McDermot. Vote went as follows:

Bill Lavoie: Yes.

Bob Orem: Yes.

Donna Collins: Yes.

Matt Sherrill: Yes.

Sharon McDermot: Yes.

Application was approved.

**MARK WOJCICKI** is seeking a **Variance** under Amesbury Zoning Bylaws Section II, Definitions and Section VI, Dimensional and Density Regulations to seek zoning relief to support subdivision of the lots for construction of two (2) single-family structures at 99 – 101 Friend Street, Amesbury in an R-8 Zoning District, Precinct 4.

**Nick Cracknell, 13 Pickard Street, speaking on behalf of the applicant and land use consultant, as well as neighbor to this project:**

Mark Wojcicki is the applicant and owner and he is present tonight. John Paulson is the surveyor and civil engineer involved with the project. He did the survey included in the application as well as the preliminary subdivision plan that lays out the 3 lots for the two properties, two of the lots being new for the single family homes. If we're successful with this, Paul Gagliardi will be the lawyer for the deed easements to the Amesbury housing Authority for portions of the right-of-way that are included in the definitive subdivision plan that we hope to file with the Planning Board, who will review and hopefully give their approval. I'll give an overview of the permitting process. We'll go over property description and the planning and design process that we've looked at with city staff and Planning Board. We'll go over development options laid out in your packages, then talk about the preferred definitive subdivision plan that we conceptually presented to the Planning Board last week. We'll discuss the public benefits that we foresee that plan including to both neighbors, housing authority and to the applicant, Mark. We'll finish up with an overview of the findings and stipulations that the board may want to consider in its deliberations after the public hearing.

Permitting process: after working with everyone involved, we appeared before the Planning Board last week for a pre-application conference for the definitive subdivision plan. This conference was the first step of the process. The city planner forwarded a letter dated Jan. 22, 2014 to the ZBA in support of the Planning Board for the conceptual plan. They also support the stipulations or draft conditions that we presented to them. Tonight, we'll be asking you for

zoning relief for the four variances. The second step is tonight with the variance application. The third step, if all goes well, is to file a formal application with the Planning Board under a definite subdivision plan that would hopefully include the stipulations, the same conditions discussed with the Planning Board we're amenable to carrying it forward for the benefit of the neighbors and abutters, so the quality assurance items would move forward with the project. We need to work out a formal binding agreement with the housing authority for the easement needed.

Property description: there was significant environmental contamination.

The property has 120 feet of frontage on Friend Street. There is encroachment of the way onto the Wojcicki property. That needs to be addressed. The contamination is being remediated. Need single family homes in this area, which is mostly multi family. This would increase the diversity of housing stock. Currently there is no sidewalk on Friend Street in front of this property. We will build one, with granite curbing, plus we'll improve the way Amesbury Housing Authority. One of our proposed houses will face Friend Street. It will be 1800-2200 square feet with a garage behind the second house to be built

**Mr. Quinn, abutter:** He keeps referring to the Housing Authority pushing the snow and storing it onto this empty lot that hasn't been used in years. It's not correct. The housing authority does plow, but they plow it from Friend Street back, and they place it in the center circle of the housing authority in the back. So there is no storage from the snowstorms on this property at this time. However, a six or 8 foot snow would fill the two foot buffers, as he refers to them as, with one swipe of the plow. At that point, any freezing and there is no more plowing. You're not going to push it back any further, without damaging your plow or sidewalks. Sidewalks won't be getting cleared, who is going to do it? They will be non-functional. He's brought up runoff. This area where the back of the housing is, there is a cellar that provides heat for this section of the building. In my younger years, that cellar was flooded numerous times and needed pumping out and fixed. I'm 50 years old, I grew up in the house in question. The runoff which goes to the front of my dad's garage, there is also a wet area behind the second set of housing of Powow Villa. It used to be the back of Thivierge area, Pendergast, And in winter and especially spring time, that water could become 6-8 inches deep, fifteen feet wide, 35-40 feet long. They're cellar in that area would also flood also.

**Matt Sherrill:** You need to focus on the fact that this particular board are only concerned about tonight would be the setbacks and the findings, stipulations and variances for the particular project across the street from your dad's house. As presented by the applicant, there are stipulations that he suggests that we put into this application. One of the stipulations is that the existing drainage associated with the proposed improvements along Powow Villa Way will not have a detrimental impact on the abutting properties. So if we put that stipulation in our decision that when he moves forward to the Planning Board stage, the Planning Board has to adhere to the stipulations of the zoning board. So all of your worries about water and all that stuff, if that is not addressed and approved by the Planning Board, then the project doesn't move forward. So I just want to refocus you on the problems that you have with the property or the application, I want you to focus on setbacks, the lot size or configuration. If that is what you have an issue with, then that is fine. We'll listen. If you are comfortable with the stipulations that the applicant suggests we put into the decision, that addresses all of what you've spoken of so far, then I agree with the applicant moving this forward or delaying the decision making process is not going to help you with your problems, because your problems are going to be addressed at the next stage.

**Mr. Quinn:** Understood. Then I'll start with ZBA about their answers. Their answer is a disfavored form of relief. As such, it should not be granted sparingly. It should be noted that

substantial hardship must be related to the land, not the owner's personal problems. There are certain factors that occur that courts have said do not justify a variance. A lot too small qualifies a building as buildable, insufficient frontage variances to be based only upon circumstances which directly affect the real estate and not the circumstances which cause personal hardship to the owner. The deprivation of the potential economic advantage to the land owner will not qualify as a substantial hardship. So, I know it's probably costing a good amount of money for remediation. But the applicant should've been well aware of that, prior to purchasing the property. I don't have any degree in remediation or how much it costs, but it's pretty clear here that he wants to put in two houses to offset what it will be costing him to clean up the property. He doesn't have the setbacks required to put in a two-family, and not only is he trying to put in two single houses, but he's also adding two car garages to these properties. So I don't see that that meets the variance stipulations.

Personal hardship of the owner neither financial is not a hardship warranting the granting of a variance. He stated on a couple occasions here tonight, and it says in his paperwork," remediation continues today and is expected to be complete in early spring." We hoped for a continuance, to give us time for a little more information. The added effort has added significant cost to the clean-up. The average lot size of the abutting properties with single family houses is approximately 6500 square feet. These houses were built before my father's day, and he's 83. I'm not sure about guidelines back in those days. I wasn't here to discuss the Michaud property which keeps being brought up. He states in his paperwork, "the average lot per dwelling is reduced to 5100 square feet." So, I believe the zoning for this is 8000 square feet? And although these houses were built 100-200 years ago, and they are at 6500 square feet. Again, putting two houses in here and reducing his square footage to 5100 square feet doesn't meet the intent of the bylaws here for the granting of the variance. At this point, we see the best effort for him would be to put in a single house, facing Friend Street, be it a duplex or single household, with a garage in the rear, have his entrance be on the left side of the house, if you are standing in Friend Street looking at it. It would blend in considering the aesthetics with the existing buildings. Then he wouldn't require as many variances. He also mentioned a Special Permit if he can't have his variance for his two single family homes. His second proposal would be a two family, single permit option. As he's noted in here, the ZBA has not granted that.

The original property owner was Bibaud. Bibaud owned a section of this Powow Way and I think he said Ellis, who had a carriage facility there a long time ago. But the back section of what is now Powow Villa at one time was a factory. No zoning bylaws or boards existed back in those days to discuss this. But this right-of-way was granted by my great aunt with the signature of Mr. Ellis, to allow the state to go back there and put these houses in this facility. But allowing him to use this private way as a public or access driveway for his housing proposal I don't believe fits your bylaw requirements, either. I'll let Mr. Cracknell respond, and if allowed, maybe I could return to the podium.

**Nick Cracknell:** Just a couple clarifications: Importantly, when you look at the report and supporting data, the 6500 square feet on some of the earlier points about the average lot size for single family structure in this neighborhood, that is only for 12 lots, and it includes the 5 lots that were just approved across the street, four of which met the 8000 square foot minimums. Only one didn't meet the lot area. That was the point of looking at the neighborhood today. The 5100 square feet per unit as the average typical density of this neighborhood, that doesn't include any of the high density residential properties in this neighborhood. If you included the stuff built in 1969 to 1971, before we adopted zoning, when we had 1500 dwelling units under construction in

this same year, in 1971. The Amesbury Garden Apts. was on of these many projects throughout the town. This was because we were the last town to adopt zoning. If you included those into the mix, I'd argue the average would be under 1000 square feet per unit. So the 5100 square feet does not include the high density housing. That's just all the multi family houses like mine that is within the neighborhood. We only have about 5100 square feet per unit. This proposal has over 6000 square feet per unit, because there would be four units on that three lots, a two family and two singles at about 2400 square feet. Those are the numbers. In terms of the streetscape, I wouldn't argue that somewhere over there, there might be some nice granite curbing, but if it's buried, what good is it? There is no edge to this street. It was paved over for the BP station. That station no longer exists. This is a chance to have this seamlessly integrated into a residential neighborhood that the town decided in 1971 that it should be, when they came up with the R\* in 1971. We want to create an edge, put in some grass and a concrete sidewalk that goes from whatever we call that Way when it gets approved to the abutting property. All of these improvements won't be cheap. Most of these improvements probably would not happen if this was putting in just one single family house. You can ask Mark Wojcicki. We want to revitalize and restore this neighborhood and create a lot of added value. To claim that there would be an overburdening of some sort of easement, how could two homes overburden an easement into the housing authority? Dozens of units have used it since 1958. Even if Mr. Quinn is correct that there might be some sort of title issue, an overburdening aspect...if he's right, it will halt this project in its tracks when it presents itself. But nothing has presented itself to the attorneys, the surveyors, or the housing authority. We don't see that, but if we're wrong, it doesn't work and we can't continue.

**Mr. Quinn:** Mr. Cracknell said earlier that one of the hardships was environmental. He also stated that not going from one non-conformist to another non-conformist is not a good policy. But that is what he is doing. He's going from one non-conforming to create another two non-conforming properties. Even if he does put in just one single family, which would be aesthetically pleasing to the rest of the community, that he's got a grass strip and a curb. So even if he puts a house in here, they are going to have to do some curb work. They are going to turn the house around. It will face Friend Street and not Powow Villa Way. That would take care of any curb issues that he keeps bringing back up. Whether he gets this or not, or puts in a duplex, or puts a large single family with a garage in the back, he has to do some curb work in front of it, to look right. He keeps coming back to a hardship of economics and environmental. I'm sorry that is an issue for Mr. Wojcicki, but that should've been planned out better prior to the purchase of the garage area, or more investigative work should have been done.

Topography: the houses today are built higher that they were in the past. A concern is runoff, with increased impervious surface being added to the lots.

Impact to the district: there is an impact to my father, who has lived in his house for 65 years, because this is not a public way or right-of-way, when he exits his house, his car is parked right here. If the project goes as they plan, this house in the front will back up and be right about where my father parks his car. For 66 or 67 years, not only him but my great aunt and uncle that lived there before also parked there. So maybe there is no general effect to the district, but it'll be a general effect to my elderly father. Will there be a substantial detriment to the public good? Other than the fact that this would be more of a public way, because for the last 57 years, the only cars that used this way are the people who live in the back. When I was younger, there were maybe 4-5 applicants that travelled through there. Not just elderly but also those with hardships, both physical as well as mental hardships. So there is a little bit more traffic. This could add a

hardship for my father and family. Does this position derogate from the intent of the bylaw? I've already discussed that with what the stipulations are for a variance. We shouldn't give them out. It's supposed to be a disfavored form of relief. He probably would not have to have as many variances if he would change this to a single family home, with frontage on Friend Street with the entranceway being off Friend Street.

**Matt Sherrill:** Ok. I don't know if I need to hear any more, Nick.

**Nick Cracknell:** Just a bit, real fast. I appreciate Lawrence's comments. We've never met before tonight. Larry, we will work with you and your father if this project continues. I hadn't heard of a parking issue in terms of the conversation I had with your father. In talking to Mark, we will work with you to see what we can do about parking, if and when we get to the Planning Board stage. Regarding hardship, our hardship is the soil conditions, but not exclusively. There is an encroachment issue here that almost nobody else has: some else using their property for a use that is not at least presumably presented itself as lawful. We are trying to address an unlawful use of the subject property at 99 Friend Street, and do it in an amicable way that not only works for the person or entity using it, but for the abutters as well. I mentioned removing a non-conforming use. No mention was made of moving from a non-conforming use to a non-conforming setback. This property is finally transitioning from a non-conforming use to a conforming use, even though there will be dimensional variances, we are not asking for a use variance. It's apples and oranges, but the point is well taken. There are still non-conformities that will continue here, but a less serious one, because this town does not allow use variances. So one has to assume that it's a very different entity than a use variance to ask for dimensional relief. Regarding the curb work: We've got Buzz, my former client, across the street, doing zero to the Friend Street right-of-way, because he doesn't have to, and the town can't make him. We have a bad sidewalk on the other side of Friend Street that looks like there is still a gas station sitting there. The marketplace did not fix 98 Friend Street. Mark, out of the goodness of his heart, said he'll work with DPW to raise a curbing. Mark is willing as long as DPW allows him to do it. We are willing to work with the Quinns on drainage, make sure they are not negatively impacted, work on parking, the fence, the sign.

**Matt Sherrill:** With that said, we're done. Any others wishing to speak?

**David Mazzone, director of Amesbury Housing Authority, in my position for fourteen years:** To clarify some issues, all of the streets in the Villa have been named for us by the Post Office. They are now called Powow Villa Street. It might be to our detriment if we had to change that. The water problem on that street: I've not paved that street since I've been director. So it was paved probably by the town at least 15 years ago. One catch basin tends to overflow. It is our catch basin, but the town doesn't always let us know when they are contracting out to clean out catch basins so we can get on the list. So it does fill up with silt and back up. With regard to the placement of the property, this is a fairly new thing to us. We became aware of it three weeks ago, when Nick came into my office and talked to me about it initially. We did attend the last Planning Board meeting last Monday. Jim O'Leary and I, our counsel. I don't think this project would be a detriment to the neighborhood with regards to the people in our housing. Yes, we occasionally get flooding in our basements and have to re-light the pilots, but generally it is a manageable situation. Conceptually, we support this plan. The fact that Mr. Wojcicki is willing to deed a strip of land to the authority in order to make that street as parallel as possible, because right now it is a trapezoid. It is acceptable to us. We're concerned about our tenants, but nothing here is negative, only an improvement. This has to go before our board, and once the ZBA and Planning Board have made a decision, we will have to bring it to our board to approve any final

recommendation. We've considered any adverse effects, and consider them minimal, vs. this improvement to the neighborhood. I'll introduce James O'Leary now.

**James O'Leary, attorney for Amesbury Housing Authority, 39 Market Street, Amesbury:** I've lived in town 30 years. I want to address a couple points. The pass way in question is a pass way deeded to the town, actually taken by eminent domain in 1958. That pass way became the housing authority property. It's been maintained by the AHA since then. It just didn't get done right in 1958. It wasn't properly designed, not by modern standards, etc. I asked this board to consider there are 70 elderly residents living there in the Villa. This plan creates an opportunity to straighten out the encroachment of the property (1200 square foot deed of easement that has to come and get straightened out). That has been a mess for 40 years. We'll get that correctly with this project, we'd get a sidewalk with appropriate dips for handicap accessibility, so the added value to this dense neighborhood an opportunity to have proper access to Friend Street. Those added plans which you have in your packets and in the hands of the Planning Board and will be part of a bilateral binding agreement, which Mr. Mazzone will present to the AHA board for approval, it will be signed, then deeds of easements, etc. The AHA generally speaking is willing to work with Mr. Wojcicki to move this forward. This was a blighted area that didn't and still doesn't have really good emergency access for the 70 people in the Villa. This allows better, wider access, for emergency vehicles and police to access the Villa. This is the best thing we can do, and support the project.

**Matt Sherrill:** Does the board have any more questions for the applicant before we close and discuss this application? No. Are you going to bring any new information that we haven't already heard?

(Mrs. Quinn in audience spoke from her seat inaudibly. She said she'd be satisfied that we make note that she has concerns about this project).

**Motion** was made by Donna Collins to close and discuss. Motion was seconded by Sharon McDermot.

**Matt Sherrill:** I think we should discuss Mr. Quinn's concerns and his wish to delay the application. Most concerns will be addressed by the Planning Board process.

**Bill Lavoie:** I think we should move forward, as long as the stipulations are included.

**Bob Orem:** Most of the concerns that I've heard raised will be addressed before the Planning Board, provided we put the stipulations into our decision.

**Donna Collins:** Based on everything that has been presented, it sounds like there is a long road ahead, and there is no value in delaying it at this point. If deeds, rights, etc. comes up, nothing can be done. I don't think us moving forward will have a negative effect on the Quinns or anybody else. With including stipulations, I think we should go forward.

**Sharon McDermot:** I'm in agreement with the other board members. I think including the stipulations and that we are step one, not step ten, I think it best for us to continue.

**Matt Sherrill:** Then let's go through the checklist.

Substantial Hardship on this application? Two factors have been discussed. One is the shape of the properties, and two is the soil condition or the requirement for soil remediation of the contaminated soil. We have used financial hardship as long as it relates to the soil conditions. We can't use financial hardship on it's own as a reason to give a variance. But if a variance is given as a result of the soil, shape, topography or structures, then it ties itself together. I agree that the substantial remediation that's been uncovered on this property being far greater than they originally determined that the soil conditions and the amount of money that has to be spent to clean this soil up does speak to #2, which is how does it relate to the topography, shape or

structures? So I'd feel comfortable using the prior non-conforming industrial use contaminating the soil and the financial hardship that it incurs would pass muster, as far as a substantial hardship is concerned, as well as the encroachment by the housing authority, causing the request for relief on the setbacks. The substantial hardship is: contamination of soil, lot shape, and the encroachment by the AHA.

How has this substantial hardship tie to the soil, shape, topography of the land or structures? Prior use caused the contamination in soil conditions, and the shape of the properties.

Re: variances: Lot 1, the required is 8000, the proposed is 5732. All other lots conform. Are we comfortable with why the want to go from 8000 to 5732 on lot one? Yes. Without the encroachment, they would've been a lot closer to the requirement.

Lot width: you have to maintain 80 feet all the way and lots 2 and 3, because of the shape of the lot, lot 3 is really quite small at 10 feet, but lot 2, it drops down to 47 in the back, but are we comfortable with the fact that probably 50% of that lot is in conformity, except for the back part of the lot causes it to dip to 47 feet. Comfortable? Board says yes.

Rear Yard Setbacks: On lot 1, required is 30 and the proposed is 12. Because this is a corner lot, that is why it's 12 and not the required 30. Comfortable? Board says yes.

Front Yard Setback: Required is 25, the proposed is 15, and on lot 2: required is 25 and the proposed is 15. Due in fact to the encroachment on the property, storage, and snow dumping all reduces their front yard setback from 25 to 15. With the proposed improvements on the property, that is reason enough to allow them to go from 25 to 15 feet. Comfortable? Yes.

Do the above features generally affect the district? Board says no.

What is the substantial detriment to the public good if this variance was granted? I don't see any, even taking the Quinn's concerns into account. As long as the stipulations are met, it sounds like they'll be in better shape than they are now. So there is no detriment.

Does this petition derogate from the intent of the bylaw? Board says no.

Stipulations: we have a letter before us from the Amesbury Planning Board, talking about four stipulations, and then we have a sheet given to us by the applicant regarding a summary of variances, findings and stipulations. On the summary that was given to us by the applicant, there is actually a fifth stipulation that says that the existing drainage associated with the proposed improvements along (Powow Villa Way or whatever it will be called). So what we're saying is that the Planning Board has to make sure that their approval takes into consideration that we don't want any detrimental impact on the abutting properties as far as drainage is concerned. So if you want to take the reasonable way out on this, we can just say in the stipulations that we include the letter of the Planning Board dated Jan. 22, 2014, that includes 4 stipulations that they would like to see as part of our approval, along with the summary of variances, findings and stipulations that given to us as part of the applicant's package, which also includes stipulations, but includes a fifth one regarding the drainage. We can include all of those as the stipulations.

Does that make sense? (board says yes).

OK, how do you want to craft the language on the stipulations, just that the Planning Board letter dated Jan. 22, 2014, and the sheet of summary of variances, findings and stipulations will form a part of our stipulations as something to adhere to. Board members said yes. So those things packaged together are included in our decision and all stipulations mentioned shall be adhered to. **Motion** to close and vote was made by Bob Orem. Motion was seconded by Donna Collins.

Voting went as follows:

Bill Lavoie: Yes

Bob Orem: Yes.

Donna Collins: Yes.

Matt Sherrill: Yes.

Sharon McDermot: Yes.

The application to the ZBA was approved with stipulations.

**Motion** to close made by Donna Collins. Motion seconded by Sharon McDermot.

**Meeting was adjourned at 9:45 P.M.**