

**AMESBURY ZONING BOARD OF APPEALS
AMESBURY CITY HALL AUDITORIUM, 62 FRIEND STREET
THURSDAY, JULY 24, 2014 – 7:00 P.M.
Meeting was called to order at 7:05 P.M.**

Present: Bill Lavoie, Donna Collins, Matt Sherrill, Bob Orem, Matt Vincent.

Absent: David Haraske.

Also present: Denis Nadeau, Code Enforcement Officer, Sue Yeames, Secretary.

Minutes: - May 22, 2014: Matt Sherrill's name should have been included in attendance and voting.

Donna Collins moved to accept the minutes of 5-22 as presented. Motion was seconded by Bob Orem. All in favor.

Stephen Noon, 2 Swetts Hill, filed for an Appeal of the ZBA decision issued on March 27, 2014, to deny a Special Permit for the property at 4 Field Street, Amesbury, in an R-8 district, Precinct 6. All five board members will sit in on this.

Malcolm McKay, attorney, is here to represent the applicant, who is absent.

This is concerning a conversion of an existing structure from a one family to a two family. The applicant wishes to create a place for he and his wife to live in the future. The original petition was denied on March 27, 2014. An appeal was timely filed. The applicant feels he was wrongly denied per conditions of the zoning bylaw. Section K1 sets out specific criteria for the board to consider in approving a special permit for a conversion. The applicant fulfilled all requirements: 16000 square feet, 91 foot frontage, parking for four vehicles, meets dimensional requirements, building inspector approved, setbacks all comply, so all the provisions of subsection K1 relating to conversion of single family to two family housing have been complied with. I submit that the applicant is entitled to the relief which he seeks, and the conversion. I read the minutes of the prior meeting and there was a fair amount of discussion about traffic, roads, difficulty getting around in winter, and if the board chooses to get into those, that's fine. I'm willing to address those. Bottom line, I think he is entitled, and the facts will show he is entitled to the relief which he seeks.

Bob Orem: All due respect, Mr. McKay, we recognize that section K1 sets forth 9 conditions. But in my mind, one of the key words is in the very first line of that section: the word "may." So granting a special permit is not a mandatory requirement even if conditions are met.

Malcolm McKay: I don't think this board can be told what to do. I would agree with that, and I noticed the word MAY as well, and I think clearly when the bylaw was drafted, it was the intent of the drafters that people like Mr. Noon would come to the board and make their case. I agree the boards hands are not handcuffed, if you will.

Kate Curry, 6 Field Street, abutter: We urge the board to deny granting a special permit to Mr. noon for the purpose of using 4 Field Street as a two family structure and income property. Our objections are the same as the other speakers from the neighborhood that you'll hear. I use the term neighborhood deliberately, in the classic sense of the word. It is far more than just a collection of houses. Our neighborhood, the Brickyard, is identified as unique neighborhood in the City of Amesbury Preservation Plan. Per

the city's zoning bylaws, all of the following general conditions must be fulfilled: requested use is essential and or desirable to the public convenience or welfare.

This conversion is neither essential, nor desirable to the general public and the neighborhood. The non-owner occupied two family structure will change the family and child friendly character of the neighborhood. Currently it consists of single family dwellings consistent with its R9 single family zoning designation. The requested use will not create undue traffic congestion or unduly impair pedestrian safety. We feel it is a concern of mine and all of our neighbors. Field, Chase and Dublin Streets are very narrow, wide enough for only one vehicle to pass and because many of the houses are early twentieth century, they are built on the edge of the street and there are no sidewalks. Field Street inscribes a half circle as it joins Chase Street. Visibility is limited, increased traffic, and there are already two cars at 4 Field Street with only one apartment rented, will make the area less safe for our children and families. The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety, or the general welfare. The tenants occupying 4 Field Street have already resulted in reduced water pressure for several abutters. The neighborhood is already a high density zoned R8 single family area, and introducing multi-family dwellings will only increase the population density. The parcel was purchased in a private sale with the knowledge that the area is zoned single family. The owner still built a two family income property using a single family building permit for zone R8. We urge the board to deny the special permit application. Both the letter and the spirit of the zoning laws have been completely ignored. We also believe that granting this permit will degrade the special character of our neighborhood. Thank you.

Sharon Nichols, 30 Chase Street, abutter: My property immediately abuts his but across the street, so my front windows look at the back of his house. I agree with everything Kate has said. I'm very much opposed to this dwelling becoming a two family. Mr. Noon told me prior to any foundation or building that he was there to build a single family colonial home. He was a well respected builder. He invited me to go look at other homes he built in town. When building began, I immediately said wait, there is something wrong here. The whole dynamics as the house was being built, the stairs and doors that were put in, just set off alarms inside me. I called some friends who are construction guys and everyone immediately said, no way, he is putting in a two family home, that was looking like an apartment house. So it was clear early on with some of the final touches being put in, because it was a very long process for him to build this, it was obvious this was his intent, to make it two family. When I got the notices for this, I was not surprised. But it was too late. The first floor was already one apartment, with a second apartment upstairs. I have very legitimate concerns, re: the size of the neighborhood, the integrity of the neighborhood. There's a great many children in the neighborhood. The streets are very narrow, and 3 weeks ago, National Grid retained Asphlunt, and their trucks are there all the time making sure the power lines coming through are ok. We couldn't get through with their trucks there. Couldn't drive down the road or get around the trucks, garbage trucks had to back up to get out. It's worse in winter, with snow banks, the roads are impassable. So I have huge concerns about neighborhood children's safety.

Lisa Humphries, 8 Field Street, next to the Curry family as an abutter: I agree with my two neighbors that just spoke. Another concern I have on top of that is people in the future going down there and building and putting in two family homes. I'm against that happening. Talking to

people on Aubin Street, when this happened to them, some said that they are very upset, now that they have many multi family homes which are rental properties.

Malcolm McKay, attorney for applicant: There are two multi family homes on Aubin Street, and there are many more houses than two. There are no two families in the area we are talking about. The streets are narrower than some, but wide enough for two cars to go by, one past the other. Traffic is not particularly heavy there. Mr. Noon has been there many times to mow the lawn, generally around late afternoon, 4:30 or so. On the 5 occasions that he took note of, twice there were no cars, once there was one car, and once there were two cars. So it isn't a heavily trafficked area. In terms of this particular issue, there would be at most two more cars. There are some houses down there that habitually has 4 cars. They may be one family, but there are still four cars that are there. Others almost all have more than one. So I suggest that if this permit is issued, one more family unit and their one bedroom units, so we're not talking about a lot of people, would not overload the area, and certainly not put undue burden on the public facilities. In winter, all roads are more narrow due to snow, not just this road. Mr. Noon has no control over that. Everyone agrees it is an attractive house and has raised the value of the neighborhood significantly. There is no opportunity to build any other two family structures to be constructed there. There is one other lot across from Mr. Noon that is overgrown and in my opinion, an eyesore to the neighborhood. Mr. Noon's lot is large, almost large enough for two separate lots. There is a significant distance between the back of his house and the house on Chase Street. In the summer, you can't see it for the trees. I suggest that even if the special permit criteria are applied, it still is a valid request and Mr. Noon has done everything required. It will be owner occupied.

Matt Vincent: Just so I understand the process here, this is a house that was built under a single family house permit. Denis Nadeau, when you look at the floor plan of the house, it sounds like there was a second floor rear stairwell?

Denis Nadeau, building inspector: The floor plan of the house shows bedrooms upstairs and downstairs. The only thing Mr. Noon did was run rough plumbing up for a bathroom and a kitchen, and there is no law against that. He did mention that in the future he might go for a two family, but he built a single family home, which is what is there right now, under the definition of a structure being a bathroom, kitchen and living space. If you had two of them, then it's a two family home. It was mentioned, but he was building a single.

The only districts that you can build a two family is in an R8 and an R20. The bylaw intended any two families be put in these two districts only.

Malcolm McKay: What is there now is a single family residence. He plumbed the upstairs for future kitchen and bath, but has not done it. He intends to stay in town.

Motion was made by Matt Vincent to close and discuss this appeal of our decision.

Matt Sherrill: So before us we have an appeal from the applicant for our decision last time. Having had a couple months to think about this application, I know that most times this board is very concerned about neighbors and their comments, views that impact that need to be taken into consideration, and most of these times when we hear from abutter concerns, they have to do with a finding or a variance. Variances obviously needs a hardship in order to get a variance, and under a finding, it has to do with is it more or less detrimental to the neighborhood. That is a hurdle that would have to be crossed, should this be either one of those two: a variance or a finding. In this case, it is neither. It's a special permit. Under the zoning bylaws, it says that the special permit may be granted by the ZBA for the purpose of a conversion of a one family dwelling to a two family dwelling, and of a two family into a three family, in accordance with

the following provisions. As long as the applicant meets the following provisions, I just feel it is difficult for this board to find a reason to say no. After thinking about it and I think I got caught up in neighbors concerns, maybe losing sight of the fact that this is simply a special permit, and if conditions are met, then we have no legal right to say no. So I think it would be in our best interest to go over the conditions to be sure that the conditions have been met before we discuss this further as to what we want to do. Zoning Bylaw Section XI.K1 Residential Conversions Conditions:

1. Lot cannot be less than 12000 square feet. This lot is 16000s square feet. **Passes.**
2. Minimum lot frontage be at least 80 feet in R8 zone and not less than the required minimum in all other zones. It has 91 feet of frontage, and all other required minimums are met. **Passes.**
3. Must have minimum off street parking for three cars: there is room for four. **Passes.**
4. All other dimensional requirements of the zoning district from which the conversion is proposed are met. **Passes.**
5. Maximum number of dwelling units allowed in any previously existing one family dwelling shall be two, and two family dwellings shall be three. **Passes.**
6. If permit is requested for three dwelling units in a residential structure... this doesn't pertain to this case. **Not applicable** in this case
7. All health and safety regulations of the town and commonwealth shall be met, and a report to that effect shall be obtained by the applicant from the building inspector. We do have a letter from the inspector. Mr. Nadeau's letter said "I visited the site, then checked our records and find no outstanding issues on 4 Field street, except that the rear stairway from the second floor is incomplete. My understanding is that this will be completed upon the completion of this hearing, so it will either be taken down or completed." There is the letter satisfying condition **Passes.**
8. No applicant for a residential conversion special permit shall apply to the building inspector for a building permit or an occupancy permit unless and until a special permit for conversions is approved by the ZBA. Again, this **doesn't apply** because it already has an occupancy permit. But he must get approval from us before he can apply for a building permit or occupancy permit from the building inspector. Further, all building permits and occupancy permits issued by the building inspector shall be in conformance with the conditions, if any, stipulated in the special permit approval.
9. All proposals for conversions are subject to the special permit requirements and procedures set forth in Section X.J of the bylaws. This is where we could have some discussion, looking at this section in the bylaws.

Section X.J.5 "Findings required: Before granting a special permit for any use requiring such permit under the provisions of this bylaw, the special permit granting authority (ZBA) shall find all of the following general conditions to be fulfilled:

- a. The use requested is listed in the table of use regulations as a special permit in the district for which the application is made (**it is**).
- b. The requested use is essential and or desirable to the public convenience or welfare." So we can talk about that. Do we feel that a residential conversion from one to two families is an essential and/or desirable to the public convenience and welfare? Personally, I feel I've seen many older homes being bought up and converted from single to two family dwellings. It seems to be a general trend in Amesbury. I could use that argument and say

that yes, it is an essential or desirable convenience to the public for that to have that as an option in town.

Bob Orem: Apparently, neighbors do not feel that this is a beneficial improvement to the area. I believe also that another consideration that we should make is that if this special permit were granted, we'd be setting a precedent for this neighborhood. Sounds to me like that is not a good precedent to set.

Matt Sherrill: I'd normally agree with that. The only reason I would say that I semi don't agree is because I think the testimony heard tonight is that there is really no place to build in this neighborhood. It is built out with only one last possible lot that could be built on.

Bob Orem: True, but there are existing homes in this neighborhood that presumably could be converted into two family homes.

Matt Vincent: I moved here a year ago. I don't have kids in the school system, so I have no skin in that game. But I think we need to recognize, that this town has suffered from, is a really high density of kids, to the point in homes where the tax base for that home doesn't support even the town's contribution to their education. When I look at conversions from single to two family, my concern is going to be that if we continue that trend, we are going to put that much more stress on our school system. We ought to be encouraging development in this town where the impact of the neighborhood is as minimal as possible with regard to the school system against the tax base of that neighborhood. I don't see that as being the case here. I see this as being the possibility of putting multiple kids into the school system in a two family house that the tax base for it is only going to be incrementally greater as a two family than it is as a single, and it won't make up for the cost to our school system or to this town in terms of educating these additional kids that may be there. I'd like to believe that the owner intends to occupy this, but my view is I have to discount that. I have to assume that this was designed to be a rental property from the beginning. It was roughed with the goal of eventually turn it into a two family dwelling, and I have to assume the worst case scenario. To me, when I look at this town and think about what we have in front of us, I do worry that we have to start looking at the impact of our decisions around bringing more kids into our school system that is already strained.

Denis Nadeau: Are you aware that most of your multi family homes have less kids than any single family home with a three bedroom or more?

Matt Vincent: That may be the case, I agree.

Denis Nadeau: The biggest issue in any kind of school or anything you do is when you get to a three bedroom unit. Most rental properties with 1 or 2 bedrooms might have one kid. If you check the standards on it, a three bedroom is going to have more kids.

Matt Vincent: With most conversions from two family to two family condos, do you have people buying them to occupy them or for rentals?

Denis Nadeau: Zoning doesn't define whether it is a condo or an apartment unit, or anything. Zoning just defines whether it is a one or two family, or am multi family.

Matt Sherrill: In this case, one unit will have two bedrooms and one unit will have one bedroom.

Denis Nadeau: I haven't seen plans for the second floor conversion. All we have are the plans for it as a three bedroom home, for a single family.

Matt Sherrill: Ok, back to the list of conditions:

- c. "The requested use will not create undo traffic congestion or unduly impaired pedestrian safety." So obviously, there are neighborhood concerns that it is already a very narrow

road. We'd be in a losing argument if we tried to say... first, I don't know what undo traffic congestion actually means? Looking at it just as a board of appeals member and what we've seen over the years, that I have never thought one more apartment was ever going to create undo traffic congestion. I think as a board, we've always felt that that may be an additional 2, maybe 3 cars, if an adult child is part of the mix. I don't think we've ever felt that 2 more cars on a street was going to create undo traffic congestion. But we've heard testimony that it is a very tight neighborhood, with narrow streets, and any vehicle down there is going to be blocking the street. But we have to remember that Mr. Noon didn't create that situation. Adding a couple more cars down there, most people in most homes nowadays, it takes 2 people to make a home run. In most instances, both husband / wife or boyfriend/girlfriend both have jobs and you are going to have one or both vehicles out in the morning and back in the afternoon. On a weekend, yes, maybe you'll have a little more traffic. But I can't see 2 more vehicles rising to the definition I would thin undo traffic congestion would mean. My opinion. I'm open to hear what you all have to say.

Mr. Lavoie: I look at it like, if it is a 3 bedroom house, what is to prevent Mr. Noon from selling the house and having someone move in there that has 6 cars? So what does it really matter if it's a one bedroom second unit than a 3? It's 3 already?

Matt Sherrill: I don't want to try to define what undo traffic congestion means, or unduly impair pedestrian safety. I'd like to think people don't drive 30 MPH on that street. I'd also like to think parents would have good control of their kids, not running wild in the streets, with no sidewalks there. But it sounds like people there respect their neighborhood for what it is. I understand the concern that renters don't have the same level of respect of the neighborhood that an owner would. I'm not totally convinced that this would create undo traffic congestion. Back to the conditions:

d. "The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of town would be unduly subjected to hazards affecting health, safety or the general welfare." I can't believe that one additional apartment is going to create an overload on public water, drainage, sewer systems, etc. I think it is safe to say that we'd be ok with that one.

e. "Any special regulations for the use set forth in Section 11 of this bylaw are fulfilled." We went over that list, and all were fulfilled.

f. "Says that the required use will not impair the integrity and character of the district or adjoining districts nor be detrimental to the health and welfare." I think we've heard testimony from neighbors that it was an improvement to what was there. The only issue is converting it to a two family home.

Bob Orem: Neighbors are concerned about the impact on the character.

g. The requested use shall not by its addition to the neighborhood cause an excess of that particular use that could be detrimental to the character of the neighborhood." So if we look at this neighborhood as the Field Street area, this would be the only two family use down there, so it wouldn't cause excess of that use in this area. So, I think what we need to do is consider traffic congestion and the integrity of the neighborhood. If we can discuss that and come to some sort of agreement, or not, on those two things, then we can move this forward and vote on this application for appeal.

Matt Vincent: I don't have the application in front of me: if the special permit is granted, will the ultimate plans be limited to two bedroom on one floor, one bedroom on the other? Or is it open ended?

Matt Sherrill: I don't remember ever setting conditions on what can and cannot be put in an apartment in a residential conversion. I don't think we can say that you can only have one bedroom here and two there.

Matt Vincent: But to me, as it has been presented, it says one will be one bedroom, one will be two bedroom. If the special permit is granted, is it limited to just that, or does it become that the discretion now of Mr. Noon to build whatever he wants on that second floor, at that point.

Denis Nadeau: ZBA has the right to put conditions on this special permit.

Matt Sherrill: OK. So if you are considering approving this, and you want to put conditions on it, I'll listen. Conditions can be added.

Matt Vincent: I listened to what the neighbors said, as well, and what Denis has said.

For me, if this were 2-3 3 bedroom units, I would be very concerned. My school system issues may be dated a bit. I'm just listening, no opinion yet. The ability to put conditions on this may influence what might be acceptable to me.

Matt Sherrill: What about the integrity or character of the district or adjoining districts?

Donna Collins: I have no problem with two families in general, and I find it insulting that renters are considered of a lower quality. There are good and bad renters just as there are good and bad owners. I don't think you can assume that the integrity of the neighborhood is going to be ruined because there is one 2-family home thrown in I also would be more comfortable if we limited it to a three bedroom dwelling that was approved, because that does leave some control as to how many people can live in the house. If it's a total of 3 bedrooms for two households, overpopulation of kids is much less likely to happen.

Matt Sherrill: So Matt Vincent, would you feel more comfortable if we discussed a condition and conditioning it to 2 bedrooms in one unit and 1 bedroom in another, or feel more comfortable conditioning it as a total of three bedrooms in the entire dwelling?

Matt Vincent: That would sway my opinion toward a level of comfort. I appreciate everyone's opinions, but I think it would create a balance in terms of impact on the neighborhood. My experience with single bedrooms is that you usually get pretty good folks moving in who want to improve the property that they are on.

Matt Sherrill: And if the story is true that the applicant wants to use this residence as his retirement residence, they are not going to need any more than one bedroom. So certainly a condition of that type would not hurt the applicant at all.

Bob Orem: Are you prepared then if next year, one of the houses down the street decides to convert, meets requirements and Section K, wanting to convert to 2 family, you are prepared to approve that?

Matt Sherrill: At that point, I think we'd have to really start to look at G, which is by its addition to a neighborhood, cause an excess of that particular use. Right now, this would be the only two family home in that neighborhood. So if another one was coming along, we'd have to take that into consideration.

Bob Orem: The question is, Matt, where do we draw the line?

Matt Sherrill: You draw the line when it reaches the level of what G was intended to be.

Donna Collins: The other thing I would say on that is, the minimum lot size doesn't seem like anybody in the neighborhood would meet it. It is 12000 for a conversion.

Matt Sherrill: And I have no idea what the other lot sizes are.

Donna Collins: Several under 8000 square feet, according to the documentation that we got from McKay. So if that did come up, that would be a reason in itself to deny the request, regardless of anyone's other concerns.

Matt Sherrill: Let's discuss conditions prior to a vote. Would you like to condition that if this application is approved, that it states no more than 3 bedrooms are allowed in total within the structure?

Matt Vincent: To me, that would be worth considering. Again, Bob, you have some sense of history as to what happens in towns when you do grant special permits. So where is your level of concern in this? Seems like you are feeling the slippery slope argument.

Bob Orem: Correct. One of the things that bothers me was that originally, the home was built and it appeared to be a single family home to the neighborhood. The neighbors were not aware of how it was roughed out.

Matt Sherrill: I think we all saw, on the board, what everyone in the neighborhood saw. I think that has something to do with our prior vote saying no, that you don't build something and then come before the board asking for forgiveness. That is not how it is done. But on the second time around, if the conditions are met, there really is not much we can do.

Matt Vincent: For me, in the end, I took that as one piece in thinking about it, but also saying what is the likelihood this happens all over the neighborhood, once we start down this slippery slope, how many other houses do you start seeing looking into this. I'm a little more comforted knowing it would only be a 1 bedroom unit and a two bedroom unit. But again, I wanted to get a sense from Bob, if he cared to articulate it, where your level of concern might be.

Bob Orem: I guess I've lived in a residential neighborhood most of my life, and I think I would be sympathetic to the owners that don't want a multi family in the neighborhood. That may be a bias, but that is one I have to live with.

Matt Sherrill: I think, Bob, that I don't think there is a person on this board that isn't sympathetic to that, otherwise we would not have voted no the first time around. We all feel the same way, that the neighbors had lots to say and the board listens. If the neighborhood doesn't want what is going on, normally we err on the side of caution and lean towards the opinion of the neighborhood. The only reason again that I'm having trouble with that this time around is that the fact that those two, the hardship and is it more or less detrimental to the neighborhood argument is not in a special finding. It's not there. Are the conditions met, and if they are, where is the basis to say no? Other than the two that we've been talking about, the integrity and character of the neighborhood, and the congestion of the traffic. If we can feel comfortable saying that we'll limit this to three bedrooms total, that will help with the undo traffic congestion condition, and the integrity or character of the district, I don't know. That's a personal feeling.

Matt Vincent: Staying with the three bedrooms, would the plans include expanding the footprint of the house in any way?

Matt Sherrill: They'd have to come in front of us.

Denis Nadeau: He can increase the footprint of the building. He has plenty of zoning. He doesn't need anything from us, except if you put a condition on bedrooms, he'd have to come back and change the amount of bedrooms. If he wasn't adding bedrooms, then they can make it as big as they want.

Matt Sherrill: Provided that they meet all the zoning requirements.

Denis Nadeau: But he's got all kind of land, so in an R8, he only has to be 15 feet from the lot lines. Will they make it bigger? My guess is maybe a garage, but maybe later on, I don't know.

But if you put bedroom conditions on, then he can put an addition on it, but he can't add a bedroom, unless he came back in front of the ZBA.

Bob Orem: Are bedrooms defined someplace? If he can add an additional 500 square feet and not call it a bedroom, would that...

Denis Nadeau: Well, if they put a closet in it and it looks like a bedroom, it's going to be defined as a bedroom.

Bob Orem: So if it didn't have a closet, then it wouldn't be a bedroom?

Denis Nadeau: Right. A closet has to have a bedroom to be determined to be picked as a closet. We go the other way too. We say if it has a closet, it is a bedroom. The board of health looks at it the same way. It's a case by case basis. You can only define so much.

Matt Vincent: So is it possible in issuing a special permit to put not only conditions in terms of number of bedrooms, but put a limitation under the special permit in terms of expansion of any living space in the house? Who would have the right to put on a garage, for example, but not a dwellable space?

Denis Nadeau: You guys can put any conditions you want on it. Whether it would hold up in a court of law is another story.

Matt Vincent: My concern, teasing this out, is that there are a lot of things, once we issue a special permit that can be done to the house, beyond what we are seeing before us tonight.

Matt Sherrill: It could be done by right. He could do that if he had a single family home.

Matt Vincent: It comes back to "three bedrooms" made me comfortable, but now I'm starting more comfortable, but if we approve the special permit, now he has the right to make whatever modifications he wants, as long as he doesn't call it a bedroom.

Matt Sherrill: The only thing that we're voting on is a conversion. That's it. I don't think putting conditions in not allowing him to expand the footprint of his home would be something I'd be comfortable with. It wouldn't hold up in a court of law under an appeal.

I'm ok with voting. I think the condition is reasonable. I'd be more comfortable voting on this with the condition that the structure not have any more than three bedrooms in it, now or at any time in the future.

Matt Vincent: If we include the condition, it was appealed and a court struck it down, is it just that provision that gets struck down?

Matt Sherrill: I would think if that is all they are appealing.

Matt Vincent: Say we put in two conditions: 3 bedrooms total and no expansion of the house for any living space?

Denis Nadeau: My big thing on no expansion of the house is, he has an oversized lot. You are putting regulations on something that is completely regulated by this book.

Matt Vincent: What I'm saying is, he is asking for a special permit right now to change a single family to a two family house.

Denis Nadeau: He's asking for a special permit. It can be approved or denied. You have the right to put in conditions, but the conditions have to be reasonable.

Matt Vincent: My question is, what is the risk to us of putting both conditions in? Taking the applicant at his word, he doesn't want to do anything more than create a two bedroom on one floor and one bedroom on the other, he doesn't appeal the decision and does what he says he is going to do, if that is our balance, we're comfortable with it.

Matt Sherrill: Let's vote on conditions separately, voting on each condition separately, and if each condition gets a favorable vote, then they would end up as part of our final decision. Is that fair?

Matt Vincent: I'm not sure I would vote affirmatively for only the condition of the bedrooms.

Matt Sherrill: Let's vote, and it will fall where it falls.

So, on the condition that it has no more than three bedrooms now or in the future, then:

Condition #1: no more than 3 bedrooms in the building, now or in the future.

Bill Lavoie: yes

Matt Vincent: yes.

Bob Orem: Not voting.

Donna Collins: yes.

Matt Sherrill: yes.

No more than 3 bedrooms is approved. **Approved.**

Condition #2: If converted to a two family dwelling, the living space will not be increased beyond the current living space.

Bill Lavoie: no.

Matt Vincent: yes.

Bob Orem: yes.

Donna Collins: no.

Matt Sherrill: no.

Condition #2 does not pass. **Denied.**

Vote on appeal of Special Permit, a yes vote is to approve your special permit to convert to a two family home with condition #1 applied to the application. A NO vote is no, we do not want the special permit granted.

Bill Lavoie: yes.

Matt Vincent: no.

Bob Orem: no.

Donna Collins: yes.

Matt Sherrill: yes.

Vote has to be 4 in favor, therefore the Special Permit has been **DENIED.**

Barbara Ensign seeks a Special Permit under Amesbury Bylaws Section XI.F, Home Occupation to allow bread making business at 12 Horton Street, a single family residence in an R8 Zoning District, Precinct 6.

Barbara Ensign: I wish to be able to make bread in my home with bread machines. So I'm not altering my kitchen at all. I have four bread machines right now. They don't draw a lot of electricity, it is all on my application. I have already completed my process with the board of health, I've done my certification to serve food, along with my allergy awareness, etc. No customers will come to my house, it is all delivered or shipped, and I have a couple offers to sell in stores and farmers market.

Matt Sherrill: What about deliveries of product, your flour, your eggs, all the stuff you need for cooking?

Barbara Ensign: I get it at BJs, Sams, and Shaheen Brothers.

Matt Sherrill: If you were wildly successful, and your business took off, you'd have to move to a commercial space?

Barbara Ensign: If I got that busy, then yes, I'd have to do that.

Matt Sherrill: Is this going to be your sole means of support for yourself?

Barbara Ensign: I've made bread forever. But this is not my sole means of support for myself.

Matt Sherrill: How many square feet will be involved.

Barbara Ensign: I think it is under 100 square feet in an enclosed sun room (bread room).

Matt Sherrill: Any sign on the premises?

Barbara Ensign: No. No customers coming to my house. No emission of foul odors.

No noise or electrical disturbance, no living in a multi family dwelling.

Matt Sherrill: It does say on number 8: Such uses as clinics, barber shops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospital, kennels or others of similar nature shall not be considered as home occupation. However we have taken bakeries to mean full scale bakeries.

Barbara Ensign: I will only be making bread. I make it, package it and sell it and deliver it. Period.

Donna Collins motion to close and discuss this permit, seconded by Bill Lavoie.

Matt Sherrill: Home occupation uses in the R district (R8 in this case). No more than one non resident shall be employed therein: none. The use is carried on within the principal building: yes, three season room, <100 square feet. Not more than 40% of the existing net floor area not to exceed 400 square feet is devoted to such use: 100 square feet. There shall be no display of goods or wares visible from the street: no. No advertising on the premises: no signage. The building or premises shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to exterior appearance, emission of odors, dust, noise, or electrical disturbance or in any other way: not an issue. In a multi family dwelling: it is not. Any such building shall include no feature or design not customary in building for residential use: there is none.

We allow this type of home application to be approved. Any questions or conditions?

Motion to close and vote made by Donna Collins, and seconded by Bob Orem.

1. Currently exists in table of uses: yes.
2. Essential or desirable to the public convenience or welfare: it would be.
3. Will not create undo traffic or impede pedestrian safety: will not.
4. Will not overload public systems: no.
5. Have expressed conditions on the Section 11 been satisfied: yes.
6. This will not impair the character, health, welfare of district: no.
7. This will not create excessive use in neighborhood: no.

Bill Lavoie: yes.

Matt Vincent: yes.

Bob Orem: yes.

Donna Collins: yes.

Matt Sherrill: yes.

Application for bread making business has been **approved**.

Paul Richard seeks a Variance under the Amesbury Zoning Bylaws Section VI, Dimensional and Density Regulations to construct small addition and two car garage plus additional off street parking at 8 Ashley Drive to a single family residence in an R40 Zoning District, Precinct 5. All present members will be sitting on this application.

Paul Richard: 25 year resident, 20 of which on Ashley Drive. I seek home improvement by adding a small addition and a two car garage. As part of this project, we encountered a wetlands

hardship. I know we had to stay out of the 50 foot no build zone. So we adjusted this addition would run parallel to the 50 foot no build. By doing so, it pushed the upper right hand corner of the garage beyond the 40 foot frontage setback, by a little bit more than 5 feet, so I'm asking for a variance for that corner of the garage that crosses the 40 foot frontage due to that wetlands hardship. I explained it all to abutting neighbors and got no negative feedback in response. They fully support the project. It is a very odd shaped lot. We'll have to go before ConCom, on August 4.

Matt Sherrill: If you show each member of the board your highlighted area on the plan board shows clearly why you are here. Seems like a classic case for a variance.

Donna Collins makes a motion to close and discuss. Motion was seconded by Bill Lavoie.

1. Substantial hardship? Wetlands limit where the applicant can build the garage and the shape of the lot.
2. Due to wetlands and lot shape.
3. No.
4. None.
5. No.

Motion to close and vote was made by Bob Orem and seconded by Donna Collins.

Bill Lavoie: yes.

Matt Vincent: yes.

Bob Orem: yes.

Donna Collins: yes.

Matt Sherrill: yes.

Variance is approved.

Letter from Kopelman and Page: re: John Davey.

Mr. Davey is done with his appeal. There is nothing the Board needs to do.

Donna Collins made a motion to close. Bob Orem seconded the motion.

Meeting adjourned at 8:45 P.M.