

PLANNING BOARD MINUTES

August 3, 2015

Call The Meeting to Order

Chairman Stephen Johnson called the meeting to order at 7:00 P.M. in the Town Hall Auditorium. Present at the meeting were, Robert Fowler, Nancy Reed, Vincent Fratalia, Keith Anderson, and Recording Secretary Dawn Cathcart. Director of Community Development Steve Sadwick was not in attendance.

(A) Approval of Minutes – July 13, 2015

There were no minutes to approve.

(B) Committee Reports/Administrative Actions

(B1) Master Plan

Mr. Johnson stated that there is no discussion for the Master Plan.

(B2) Zoning Bylaw Change – Westside Neighborhood Business District

Attorney David Plunkett and Amy Grant appeared to discuss proposed changes to the Westside Neighborhood Business District. Mr. Plunkett stated that Brookwood Financial Partnership bought the property off Billerica Ave in 2010. The new bylaw presents conflicts with current uses. In the Use Table C, #32 used to be “PB” now is a “N”, #37 used to be “Y” now a “SP” and #38 used to be “Y” now a “N”. There are six sites currently that have HI vehicles. In Table D, #2, #3 and #4 used to be “Y(1)” and are now “PB(1)” and #16 used to be “PB(1)” and is now a “N”. There are already parcels that have these uses. Mr. Plunkett asked that the following changes be made: to Table C: #32 change N to PB(1), #37 change SP to Y, #38 change N to Y(1), Table D: #2 change PB(1) to Y(1), #3 change PB(1) to Y(1), #4 change PB(1) to Y(1), #16 change N to PB(1).

Mr. Plunkett stated that he met with Mr. Sadwick and Mr. Montuori last week to discuss these possible changes. The Industrial Park already has some of these uses prior to the change. Mr. Plunkett also suggested that Section 3110 be amended to read “PB(1) – Westside Neighborhood Business District – Special Permit/Planning Board Westerly side of Woburn Street and Parcels of land on the Easterly side of Woburn Street that abut the Town of Billerica/Town of Tewksbury town line and parcels that are immediate abutters to said parcels only”. Mr. Plunkett also would like to add “Y(1) – Westside Neighborhood Business District – Permitted use of right Westerly side of Woburn Street and Parcels of land on the Easterly side of Woburn Street that abut the Town of Billerica/Town of Tewksbury town line and parcels that are immediate abutters to said parcels only.” Mr. Plunkett asked that the Planning Board submit these changes.

Mrs. Reed stated that the proposed changes make sense.

Mr. Fratalia stated that the changes make sense and it was not the intent of the bylaw to handicap existing tenants.

Mr. Anderson stated that he is all set and economic development is important.

Mr. Fowler stated that Judy Barrett discussed less restrictive uses and more design standards. The zoning bylaw can be tough and he would agree to the changes.

Mr. Johnson stated that there are no major issues with the proposed changes and it affects a limited number of parcels. Mr. Johnson asked if the Board would agree to submit the article.

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Mrs. Reed stated that she would agree either way. Mr. Fratalia stated that the Board should submit the article. Mr. Fowler asked when the articles are due. Mr. Johnson replied the warrant closes August 21st. Mr. Fowler agreed the Board should submit the article. Mr. Anderson also agreed.

MOTION - Mrs. Reed made a motion that the Planning Board submits the article for the proposed changes as outlined above for the Westside Neighborhood Business District with the inclusion of a zoning map showing the four parcels affected and with the addition of an executive summary. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

(B3) Committee Reports

Mrs. Reed stated that CPC had a meeting last week. There have been no bids on the Pike House. There will be another meeting to discuss potential uses.

Mr. Fratalia asked when the Town Hall will be ready. Mrs. Reed stated that they are looking at sometime in October.

(B4) 298-308 Pine Street – Conceptual Plan

Marc Ginsburg, Dick Cuoco and Jim Hanley appeared for the conceptual plan for 298-308 Pine Street. Mr. Cuoco stated that they are proposing an OSRD project. This consists of two parcels with 7.386 acres. They will be proposing seven lots at approximately 15,000 SF and 3.7 acres of open space. This project will have public water and sewer and meet all storm water management requirements.

Mr. Fowler stated that this seems to fit with the area.

Mr. Anderson stated that this is similar to April's Way and likes the way it is laid out.

Mrs. Reed asked if there will be screening along the lots on Maureen Drive. Mr. Ginsburg replied yes, additional trees will be added.

Mr. Fratalia asked how large the wetlands are on the lots. Mr. Cuoco replied that there is about 6,000 SF of wetlands.

Mr. Johnson stated that the concept plan is fine and laid out well.

Mr. Cuoco stated that in an OSRD project a registered architect is required and they asked that this be waived. Mr. Johnson stated that from his perspective color renderings of landscaping are ok. Mr. Anderson agreed and stated that we should look at each application.

(B5) 209 Salem Road OSRD Definitive Subdivision Street Name Change

Jeff Rider appeared for a street name change at 209 Salem Road. Mr. Rider stated that the original subdivision called out the street as Upland Way. This plan was recorded but there was concern with some Town departments with that street name because of a similar named street. They are now proposing that the street be called Winterberry Lane.

MOTION - Mr. Fowler made a motion to accept the street name change to Winterberry Lane and sign the new Mylar. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

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(B6) National Grid – Route 38 Landscape

Dan McIntyre appeared for the landscape plan for National Grid. Mr. McIntyre stated that there was a condition of approval that a landscape plan along Rt. 38 be submitted for approval so a plan has been submitted.

Mr. Anderson asked who will maintain the landscaping. Mr. McIntyre stated that the landscaping is on our property so we will maintain it.

Mr. Fowler stated that the landscaping plan is good and what we are looking for. Mr. Fratalia agreed and asked when it is going to be started. Mr. McIntyre stated that they are planning on starting the plantings in the fall because they are going before Conservation this week.

MOTION - Mrs. Reed made a motion to accept the landscape plan for Rt. 38 as presented. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

(C) 841 Main Street, CLG LLC – Use Special Permit

MOTION - Mr. Fowler made a motion to waive the reading of the public hearing notice. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

Dick Cuoco and Hugh Fitzpatrick appeared for the Use Special Permit for 841 Main Street. Mr. Cuoco stated that they are proposing converting the second story building in the back to three residential units. There will be two (1) bedroom units on the first floor and one (2) bedroom unit on the second floor. Mr. Cuoco stated that one of the (1) bedrooms will be affordable. There will be no exterior changes. The required parking is 2.3 spaces per unit and there is enough parking for the residential units and commercial unit. Mr. Cuoco stated that after speaking with Mr. Sadwick, he suggested that a Site Plan Special Permit is not required and only a Use Special Permit is required.

Mr. Fratalia asked if there is enough parking. Mr. Cuoco replied yes.

Mr. Fowler stated that he was all set.

Mr. Anderson asked if a fence could be constructed between this unit and 885 Main Street. Mr. Cuoco replied no, there is not enough room. Mr. Anderson asked if the unit will be handicap accessible. Mr. Cuoco stated that the architect will meet with the Building Commissioner to make sure the unit is ADA compliant.

Mrs. Reed stated that according to the bylaw, Section 8640 a Site Plan Special Permit is also required. Mr. Johnson stated that we can modify the hearing to include the Site Plan Special Permit.

There were no audience questions.

MOTION - Mr. Fowler made a motion to close the public hearing. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

MOTION - Mrs. Reed made a motion to amend the application and approve the Use Special Permit and Site Plan Special Permit at 841 Main Street as proposed. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

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(D) 265 Main Street, TMC CF New England, LLC Special Permit, Site Plan Special Permit and Sign Special Permit

MOTION - Mr. Fowler made a motion to waive the reading of the public hearing notice. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

Attorney John Smolack, Phil Henry and Shawn Kelley appeared for the Site Plan Special Permit and Sign Special Permit for 265 Main Street. Attorney Smolack stated that they presented a concept plan to the Board on November 14, 2014. The original building was on the left side and canopy was on the right side of the site. We appeared before the Zoning Board of Appeals and received a variance for setbacks. That variance was appealed. They are now proposing the building on the right and the canopy with gas pumps to the left of the site. This allows the building to be a buffer for the residential homes. This proposed change has removed the need for a variance for the side setbacks. In May, they obtained a variance for the front yard setback and that variance was appealed. They have decided to move forward with the Planning Board hearing. This site is 1.88 acres and is located in the commercial zone and Interstate Overlay District. They have had informal and formal IDRs including one last week. They have also had three neighborhood meetings. They have had the Fire Department and DPW review as well as peer reviews on traffic and engineering. They are proposing a 4,956 SF one-story retail building. This will be a New England style building. There will be three rows with six gas dispensers. There will also be two 20,000 gallon underground storage tanks. There will be screening and landscaping added.

Attorney Smolack stated that they are requesting a Site Plan Special Permit, Auto Refueling Special Permit, Multiple Structures on one lot, Major Commercial Project, Use Special Permit for traffic, Sign Special Permit for wall sign higher than 3' in height, a free standing of 82 SF with an electronic reader board and a total of 5 signs.

Mr. Henry presented an aerial view of the site. The dumpster will be enclosed and will be north of the entrance as well as the free standing sign. The driveway will now line up with the Wal-Mart entrance. The grade in the back drops 15' so they will be installing a 16' high retaining wall in the back. They will plant a creeping vine that will grow over the wall over time. The only access will be on Main Street. At the lights there will be an in and out and there will be a right only entrance on the north side. There will also be sidewalks that will connect to a cross walk to Wal-Mart. There will be six site lights that will be 16' in height with zero foot candles at site line. The tanker access will use the left turn in. Architect renderings have been provided.

Mr. Henry stated the free standing sign is 8' wide x 20' high. There will be an electronic price message. There will be a stone veneer at the base. There will be (2) 11 SF signs on the canopy and (2) signs on the building above each of the doors. This project meets all storm water management requirements. The plans have been updated per the comments received by GCG and the Town Engineer. They received favorable soil testing results.

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Mrs. Reed asked what the fence will look like at the retaining wall. Mr. Henry stated that the retaining wall be 15' to 16' in height with a 6' vinyl fence on top. Mrs. Reed asked if the fence could be softened with adding shrubs. Mr. Henry stated that they could look at moving the fence back a little and adding low lying shrubs. Mrs. Reed stated that the proposed price sign is red and green letters, we only allow for amber letters. She would want more information on the electronic message board sign because it doesn't meet our criteria.

Mr. Fowler stated that he agrees that the red and green letters can conflict with traffic signals but this sign is setback 40' so it shouldn't be a problem. Mr. Fowler asked if the applicant has spoken with Mass DOT. Mr. Henry stated that updated plans were re-submitted today. Mr. Fowler stated that our peer review had concerns with the tractor trailer flow. Mr. Henry stated that the parking spaces are 20' and the travel lane is 27' wide so there shouldn't be a problem. They can also schedule gas delivery during off peak hours and if there is a chance a delivery does happen during peak hours, the manager will block off the parking spaces.

Mr. Fratalia asked if all items have been addressed. Mr. Henry stated that all items have been address and the responses were sent to Mr. Sadwick. Mr. Fratalia asked how the meeting went with the abutters. Mr. Henry replied that it was mostly favorable and they updated the landscape to block the lights from Wal-Mart. They also reshaped the left hand turn lane onto Main Street.

Mr. Anderson stated that there will be no entrance to Old Main Street. Mr. Henry replied that was correct.

Mr. Johnson stated that we need to confirm the resolution of issues from the Town Engineer and consulting engineers. Attorney Smolack stated that they have done their best to address all the Town and neighborhood issues. The hours of operation will be 5:00 AM to Midnight.

Shawn Kelly presented the traffic study. There are approximately 25,000 trips per day on Rt. 38. During the peak AM hours there are 1,650 trips and during the peak PM hours there were 1,950. They have accounted for 7 years of growth and used ITE trip generation models. They received the review letter from TEC and they adjusted the right only lane and two out lanes. The plans were updated and resubmitted. They will be applying for a Mass DOT access permit. Mr. Fowler asked if a deceleration lane on Rt. 38 was considered. Mr. Kelly replied not yet, but they can discuss it with Mass DOT. Mrs. Reed stated that we did not receive the traffic study. Mr. Fratalia asked how far from Vic's Waffle house will the entrance be. Mr. Kelly replied about 1,000'. Mr. Johnson stated that there should be a no left turn sign.

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Paul Pereira of 274 Old Main Street – Mr. Pereira stated that he is concerned with the tight fit on this site. There is an appeal of the ZBA decision and asked how this affects the Planning Board hearing. Mr. Johnson stated that it doesn't affect this Board. The project could not move forward until the appeal was finalized. Mr. Pereira stated that he is concerned with graffiti on the 15'-20' wall. There are health concerns with extra traffic, idling and fumes. There are concerns with crime and the closeness of this business to Rt. 495. This project will negatively affect property values. Mr. Pereira asked what will happen to the open area to the right of the project. Mr. Henry stated that 1/3 of it will be used as a detention area and the additional landscaping will be added to help with water run off in this area. Mr. Pereira stated that he is concerned with the hours of operation and if someone misses the entrance they will turn around on Old Main Street which will create more traffic. Mr. Pereira stated that he found needles at the site and is concerned criminal activity will increase. There are 11 to 12 gas stations now along Rt. 38 and there doesn't need to be any more. Mr. Pereira asked the Board to deny this.

MOTION - Mr. Fratalia made a motion to continue the hearing until August 31, 2015 at 7:05 PM. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

(E) 82 Pleasant Street, Keith Anderson Site Plan Special Permit

Mr. Anderson provided a disclosure for the record which was provided to the Town Clerk today. This is his property and he would be recusing himself from the hearing and left the meeting room.

MOTION - Mr. Fowler made a motion to waive the reading of the public hearing notice. The motion was seconded by Mr. Fratalia and unanimously voted 4-0.

Jeff Rider and Dick Cuoco appeared for the Site Plan Special Permit at 82 Pleasant Street. Mr. Johnson stated that there are only four members present so a unanimous vote is needed. Mr. Cuoco stated that they understand. This site is .83 acres and is located in a R40 district, Town Center Overlay District (TCOD) and Ground Water Protection District (GWP). The current use is a single family home. This project is not in the flood hazard area. They are proposing a 2 story 3,500 SF mixed use carriage style building. The first floor will be 525 SF office for Mr. Anderson's flooring business as well as a 2 bay garage. The second floor will have a 2 bedroom residential unit which will be occupied by a family member. An IDR was held on this project and the plan will be revised to add an additional parking space at the request of the Building Commissioner. The water and sewer will be tapped from the existing service and they will be using porous pavement for the additional parking. They had originally requested a waiver from 5100, 8608, the traffic study, landscape plan and lighting plan. They will only be adding one pole light that is similar to the one already existing. The waiver from 5100 is no longer needed. They are requesting a dimensional setback waiver since the building will only be 15' from the Gale property in the back and the proposed sign will be low to the ground and will be well under the minimum square footage allowed.

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Mr. Cuoco stated that in the Town Engineer's letter issue #1 has been addressed with adding the additional parking space. Items #8, #9 and #10 deal with the issue of two driveways. There is a conflict between the zoning bylaw and right of way regulations and they are not sure what the rationale is for not allowing two driveways. These driveways are over 200' apart. The applicant has spoken with the DPW Superintendent and they could reduce the driveways down to 16' if necessary but they ask that this be a condition that they could handle this administratively with the DPW.

Mr. Fratalia asked what the hours of operation would be. Mr. Cuoco stated that this will be an appointment only business. The typical hours would be 9:00 AM to 5:00 PM but they may have an occasional evening appointment not later than 7:00 PM. Mr. Fratalia asked if using the porous pavement resolves the storm water management issues. Mr. Cuoco replied yes.

Mrs. Reed stated that this proposal is keeping with the neighborhood. The Gale family has run a nursery/florist business from the neighborhood for years. Mrs. Reed stated that she loves the style of the building and it fits in the neighborhood.

Mr. Fowler stated that this type of business is what the TCOD is about. A house down the street was approved for three residential units and one commercial unit and has a more intense use than this building.

Mr. Johnson stated that if this use was to change, they would need to come back before this Board. Mr. Cuoco replied yes, they agree any use change would have to come back.

Katie McNamara of 81 Summer Street – Ms. McNamara stated that she has a few concerns including how the structure will fit in with the neighborhood. This is a commercial business. There are two schools in this area and kids walk to school. There is a lot of empty commercial space along Main Street and commercial uses should stay on Main Street. Ms. McNamara asked if the "by appointment only" is part of the business decision or part of the Special Permit. Mr. Johnson stated that it would be part of both. Ms. McNamara asked if the business could be sold separately. Mr. Johnson replied no, it is one parcel. Ms. McNamara stated that this will create traffic in an already congested neighborhood.

Paula Marshall of 117 Heritage Drive – Ms. Marshall stated that if this is approved, then everyone will want a business along Pleasant Street and it will look Main Street. Ms. Marshall asked what the GWP district means. Mr. Cuoco replied that the TCOD only extends down Pleasant Street to right past Heritage Drive so commercial cannot go past that. In a GWP district, we need to add steps during construction to make sure the runoff is cleaner when it discharges into the ground. The porous pavement provides cleaner runoff. The Town Engineer has no problem with the use of porous pavement.

Lois Collins of 81 Pleasant Street – Ms. Collins stated that the Anderson's are good neighbors but there are lots of children in the area and two schools. The kids walk to school and this would add traffic and take away from the residential neighborhood. This business should stay on Main Street. Mr. Cuoco stated that this is similar to a home occupation. The flooring business is not what it once was. If they had 50 to 60 customers coming in a day, they would stay on Main Street. That is no the case any more. The Anderson's take pride in their property.

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Charles Miller of 97 Pleasant Street – Mr. Miller asked where the business is located now. Mr. Cuoco replied it is temporarily housed behind Bernard’s Jewelers. Mr. Miller stated that he is against this moving into a residential neighborhood. Mr. Miller listed some vacant space along Main Street.

Marsha Stephens of 68 Pleasant Street – Ms. Stevens stated that she has lived in her house for 51 years. The Anderson’s are relatively new comers to Pleasant Street but have done a beautiful job on their property but she objects to a commercial use being put there. If this was approved, it would be opened up to allow a business to go into a residential zone. Pleasant Street is quaint and old fashion. Ms. Stephens stated that it’s hard to get out of her driveway now and this will add traffic.

Julie Costello of 71 Heritage Drive – Ms. Costello stated that understands the mixed use concept but we don’t need to put a business in a residential zone. Ms. Costello stated that she is concerned about the size of the sign. Mr. Cuoco stated that the size of the sign is modest.

Lois Collins of 81 Pleasant Street – Ms. Collins stated that the Anderson’s already have a business on Main Street and she doesn’t know why they want to upset the neighbors and try to destroy Pleasant Street. Mr. Johnson stated that this Board will not address why they are proposing this, they will only look at the merits of the application. Ms. Collins stated that she strongly opposes this project.

Nancy Anderson of 82 Pleasant Street – Ms. Anderson stated that the sign will be a small oval sign that will be mounted on a granite post. She has lived in Tewksbury for 57 years. They hope to get between five to seven appointments a week. The flooring business has changed and everyone goes online or orders by phone. There will be no trucks to the site and there will be no dumpster on site. There will be some sample books in the office with a desk. There will be no late evening appointments. She has lived at this property for 28 years and she is not trying to destroy Pleasant Street. Mrs. Reed added that the TCOB only goes down to Heritage Drive so not everyone on Pleasant Street can have a business.

MOTION - Mr. Fowler made a motion to close the public hearing. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

MOTION - Mrs. Reed made a motion to approve the following waivers:

1. Section 8608 – Minimum rear setback of 15’ is requested when a minimum rear setback of 50’ is required when abutting a residential district – Waiver requested for setback to be less than requirement.
2. Traffic study is not required.
3. Landscape Plan is not required but a review of the landscaping will be performed once it is in place.
4. Lighting Plan is not required.

The waivers support compliance with the purpose of the TCOB. The motion was seconded by Mr. Fratalia and unanimously voted 4-0.

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MOTION - Mr. Fowler made a motion to approve the Site Plan Special Permit for 82 Pleasant Street with the following conditions:

1. The application meets the purpose of the TCOD specifically conditions A-F.
2. One additional parking space will be added to the plan.
3. This use will not adversely affect the existing neighborhood. If the use changes, the applicant would need to come back before the Planning Board.
4. There will be no large delivery trucks used for this business.
5. There will be no dumpster on site.
6. The hours of operation are by appointment only and will typically be from 9:00 AM to 7:00 PM.
7. The sign will meet all applicable zoning requirements.
8. The issue and approval of two driveways will be handled administratively with the DPW.

The motion was seconded by Mrs. Reed and unanimously voted 4-0.

Old Business

Mr. Anderson returned to the meeting.

There is no old business.

New Business

Mr. Fowler thanked Mr. Guilano from the DPW for the estimates for the sidewalk along Pleasant Street.

MOTION - Mr. Fowler made a motion to authorize \$34,000 from the Planning Board sidewalk fund for construction of sidewalks on Pleasant Street. The DPW will work to use Chapter 90 funds to complete the project. If the additional funds cannot be acquired then the money will stay in the Sidewalk Fund. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

MOTION - Mr. Fowler made a motion to begin the Special Permit revocation process for DiStefano Realty Trust in the case that the agreement is not signed. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

Director's Report

Mr. Johnson stated that MEPA has requested comments for the Victor Drive project. If there are any comments they can be sent to Mr. Sadwick.

Adjournment

MOTION - Mr. Anderson made a motion to adjourn the meeting at 10:15 PM. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

Approved on: 10/5/15

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*List of documents for 8/3/15 Agenda
Documents can be located at the Community Development Office*

- B. 7:00** Committee Reports/Administrative Actions
- 1- Master Plan
 - 2- Zoning Bylaw change—Westside Neighborhood Business District
 - *Memo from Sadwick dated 7/31.*
 - *Copy of Proposed Modification Westside Neighborhood Business District dated 8/3*
 - 3- Committee Reports
 - 4- 298-308 Pine Street – Conceptual Plan
 - *Letter dated 7/27/15 from Richard Cuoco including a Conceptual OSRD Plan dated July 15, 2015.*
 - 5- 209 Salem Rd OSRD Definitive Subdivision street name change
 - *Memo fr Sadwick dated 7/31/15.*
 - *Plan from Cuoco & Cormier revised 7/30/15.*
 - 6- National Grid - Route 38 Landscaping
 - *Color rendering of shrubs.*
 - *Planting plans L1-L-3 prepared by VHB dated July 20, 2015.*
- C. 7:00** 841 Main Street, CLG, LLC
Use Special Permit
- *Application packet dated 7/2/15.*
 - *Letter 7/28 from Board of Health.*
- D. 7:10** 265 Main Street, TMC CF New England, LLC
Special Permits, Site Plan Special Permit and Sign Special Permit
- *Application packet dated 7/7/15.*
 - *IDR held 7/28/15*
 - *Memo 7/20 from Fire Department*
 - *Letter 7/27 from TEC*
 - *Letter 7/27 from GCG Associates*
 - *Response letter 7/27 from Civil Design re: Fire Dept memo*
 - *Memo 7/31 from Sadwick*
 - *Letter 7/31 from Vanasse & Associates*
 - *Letter 8/3 from TEC*
 - *Letter 8/3 from Civil Design Group re: Town Engineer comments*
 - *Letter 8/3 from Civil Design Group re: GCG Associates comments*
- E. 7:20** 82 Pleasant Street, Keith Anderson
Site Plan Special Permit
- *Application packet dated 7/8/15.*
 - *IDR held 7/28/15*
 - *Memo 7/20 from Fire Department*
 - *Memo 7/24 fr Building Commissioner*
 - *Memo 7/30 from Town Engineer*
 - *Sign rendering*
- Old Business**
- New Business**
- *Memo 7/29 from Steve Sadwick re: Pleasant Street Sidewalk*
 - *Memo 7/29 from Steve Sadwick re: DiStefano Realty Trust*
 - *Request for MEPA Review Comments re: Victor Drive*