

Exhibit 60



TOWN OF FRAMINGHAM

*Memorial Building
150 Concord Street Room 121
Framingham, Massachusetts 01702*

Board of Selectmen
Dennis L. Giombetti, Chair
John H. Stasik, Vice Chair
Charles J. Sisitsky, Clerk
A. Ginger Esty
Jason A. Smith
508-532-5400
selectmen@FraminghamMA.gov

Town Manager
Julian M. Suso

November 7, 2006

Mr. Peter Adams
STEPPS
222 Edgewater Drive
Framingham, MA 01702

Dear Mr. Adams:

I want to thank you, Cynthia Laurora, Larry Hendry, and Laurie Lee for the discussion and information provided at our October 20 meeting on Dover amendment issues in general, and 517 Winter Street in particular. I have shared this extensive information with Acting Building Commissioner Mike Foley and Town Counsel Chris Petrini. As noted in our meeting, pursuant to a discussion with the Board of Selectmen, we are developing a set of standardized, routine guidelines for Building Commissioner review of proposed Dover-exempt projects in the future. I want to assure you that the information you have presented to me has been shared with Mr. Foley and Mr. Petrini and will be taken into account in the development of this standard review process. If all goes well, it is hoped that this process for review of future Dover-exempt project proposals is in place by year-end.

The information that you presented also included a number of inquiries on 517 Winter Street Dover-related review issues. I will attempt to address those in general terms, as follows:

- (1) It was suggested that no determination had been made by the Building Commissioner that 517 Winter Street is Dover protected. I am advised that in a memorandum to Planning Board Director Jay Grande dated 6/13/06, then-Building Commissioner Mikielien wrote "it is my opinion the proposed use of the existing facility at 517 Winter Street would meet the legal standards as an exempt use under the Dover amendment."
- (2) Questioning the burden of proof that education is the dominant use. A letter from attorney James Hanrahan dated 8/19/05 outlined educational and training programs to be provided, some of which are: parenting skills education; domestic violence and trauma support education; education/vocational assessment and referral; child development education. I understand that in a supplement to the application for Site Plan Review these programs and more are indicated as being

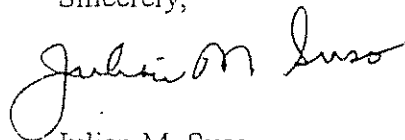
provided. I am advised that the educational use must be the predominant use of the facility in question in order to qualify for protection under the Dover Amendment. I also have been advised that the courts have been fairly broad in interpreting what constitutes "education" to qualify for protection under the Dover Amendment.

- (3) Raising a concern that staff members do not have clear education duties, educational qualifications, state education certificate, or significant interaction with clients. Also, a concern was raised that education activities must be held on site. I am advised that a detailed assessment of the precise qualifications of the teacher, educator or trainer is not the responsibility of the Building Commissioner. Certainly the Commissioner may request information as to what is required by the educational program. I am further advised that state certification of teachers is not an absolute requirement; I have been referred to the case of Fitchburg Housing Authority v. Board of Zoning Appeals of Fitchburg, 380 Mass. 869 (1980). In addition, I understand that while educational activities are to be held on site, that there is not a restriction from receiving some education/training also from other locations.
- (4) A question raised as to how many residents will participate in programs. I understand that a letter from attorney Hanrahan confirms that all adult clients must participate in the educational programs.

It is my hope that the above comments are of assistance in further understanding the process the Town has been following. I am confident that further clarity in the Dover review process will be forthcoming when the guidelines now being worked on by the Building Commissioner are completed. These guidelines will help standardize the Dover Amendment exemption application process by applicants seeking an exemption from certain zoning requirements.

I want to emphasize that I recognize that you and others in the community have reasonable concerns regarding this and other Dover exempt projects. I ask for your appreciation of our continuing efforts to work in a responsible manner within the limits provided by State law and related court decisions as guided by Town Counsel.

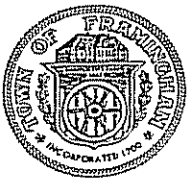
Sincerely,



Julian M. Suso
Framingham Town Manager

Cc Cynthia Laurora
Laurie Lee
Larry Hendry
Board of Selectmen
Chris Petrini
Mike Foley

Exhibit 61



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection

Memorial Building, Room 203
150 Concord Street
Framingham, Massachusetts 01702-8368

Michael F. Foley, C.B.O.
Assistant Director of Inspectional Services
Acting Building Commissioner

Telephone: 508-532-5500
Fax: 508-628-1362
Email: Building.Dept@FraminghamMa.gov

November 22, 2006

James Hanrahan
Bowditch & Dewey
Attorneys at Law
161 Worcester Rd
P.O. Box 9320
Framingham, MA 01701

Re: 517 Winter Street Property
Proposed Use

Dear Attorney Hanrahan,

Please accept this letter as a follow up to our conversation this past Friday, November 17, 2006.

As I explained, the Town Manager has requested that I contact your client, South Middlesex Non-Profit Housing Corporation and request of them to complete a Supplemental form developed by this office for applicants seeking zoning use exemptions pursuant to MGL c 40A § 3.

As you review the form, the information that is being requested, is similar to information that has been submitted with other applications to this office. The Supplemental Information Sheet will assist this office and applicants in qualifying the use exemption being sought and expedite the process of review.

Where this office has reviewed the application for 517 Winter Street and has provided opinion as to the use exemption. Any assistance your clients can provide in completing the form, collating the documents previously submitted and providing any additional information referenced will be appreciated. As explained this form was not available at the time of application for the proposed use, and therefore any cooperation and effort in forwarding the requested documents and information is not mandatory.

Thank you, for your understanding and assistance

Respectfully

Michael Foley, CBO
Assistant Director
Acting Building Commissioner

Cc, Julian Suso, Town Manager
Chris Petrini, Town Counsel



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room 203
150 Concord Street
Framingham, Massachusetts 01702-8368

Michael F. Foley, C.B.O.
Assistant Director of Inspectional Services
Acting Building Commissioner

Telephone: 508-532-5500
Fax: 508-628-1362
Email: Building.Dept@FraminghamMa.gov

Supplemental Information for Applications
Seeking Exempt Use Status
MGL c.40 A § 3. / Dover Amendment

The building official is the decisive authority on exempt use applications as to whether the applicant is exempt from the zoning by-law for use requirements. The building official is required to make this determination based on the information submitted on the application for a building permit. Because the application for a building permit is designed as a multi purpose document, other information and documentation that are required for the determination of a use exemption is not outlined on the building permit application. This supplemental information sheet is the minimum additional information necessary to assist in documenting the proposed use.

Address of Building: _____ Date: _____

Owner's Name: _____ Zoning District _____

Owner's Address: _____

Telephone Home: _____ Business: _____

Applicant/ Non-Profit _____

Address: _____

Telephone Home: _____ Business: _____

Building Type: Residential: Single family _____ Multi family _____
Commercial: Sq. Ft. _____ Industrial: Sq. Ft. _____

Describe Use Exemption. _____
E.g. religious, education/training, housing

Existing Use _____ Proposed Use _____

Brief description of proposed use: _____
(e.g. residential care, temporary housing, education/training facility, ect.)

Please provide the following additional Information

- Articles of Organization as Non-Profit as filed with the Secretary of State

- List programs and services to be offered on site, including educational, training, medical, residential, or other components
 - Schedule of Programs for Educational Purposes
 - Indicate the percentage of use of the property as it relates to educational, training programs
 - Description of programs offered and provided off site
 - Qualifications of Staff and educational providers
 - Description and hours of service (e.g. teachers, trainer, clinical)
 - The quantity of staff to be maintained on site and the number of staff/professionals who will provide service on and off site
 - Provide information on the transportation for clients to and from this address
 - Will transportation be garaged at this site, for what periods of time, quantity and type of vehicle
 - Provide off street parking calculations that compare the existing use to the proposed use and identify the minimum off street parking requirements based on the Zoning By-law
 - Provide floor plans illustrating gross floor area of facility, where educational programs may be offered and what percentage of gross area is devoted to educational/ training
 - Provide a site plan illustrating existing and proposed parking

The following information will further assist the building official in his determination and support the applicant as being recognized by other authorities

- Are Licenses, Certifications, or other registrations with State, Federal, Local or Regional Government Agencies required?
- Provide copies of licenses, certifications or registrations from the issuing authority.
- Is the funding of the use supported by grants or contracts through government funding sources?
 - Please provide copies of grants and contracts and the purpose in which they have been approved for.

Religious Uses

- What is the denomination? _____
- Please provide copy of the Mission Statement.

Please note the building official may request additional information as it relates to the proposed change in use, proposed construction/re-construction as well as other documents that would be applicable to the building official's review of the application for approval.

Signature of Applicant: _____

DATE

Exhibit 62



11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date _____

11/27/06

COMPLAINANT (Optional: not required) Blanca Medina,

MAILING ADDRESS MILTON STREET
(Street) (City/Town) (Zip)

Home Phone 508 620 0120 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 61 Clinton Street

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) now

Nature of Violation(s) NOT COMPLIANCE WITH ZONING.

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

[Signature]
SIGNATURE

11 27 06
DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

91:41 PM 27 NOV 2006

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

Town of Framingham
Bldg Inspections

11/27/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO:

Date 11/27/06

COMPLAINANT (Optional: not required) Ashley De Souza
MAILING ADDRESS 43 Clinton St. Framingham 01702
(Street) (City/Town) (Zip)

Home Phone (508) 820-7385 Work Phone (508) 380-6736

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address Smac 101 Clinton Street

Property Owner Smac

Alleged Violator Smac

Date(s) of Alleged Violation(s) _____

Nature of Violation(s) Not in compliance with the law

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

A. Mikielien 11/27/06
SIGNATURE DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

NOV 27 PM 4:16
COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

Town of Framingham
Bldg. Inspections



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection

Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date 11/8/06

COMPLAINANT (Optional: not required) Dawn Roche

MAILING ADDRESS Winter St.
(Street) (City/Town) (Zip)

Home Phone (508) 620-2855 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 61 CLINTON STREET (Sage House)
Property Owner SMOC

Alleged Violator NON COMPLIANCE OF ZONING

Date(s) of Alleged Violation(s) ongoing

Nature of Violation(s) smoc

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE

DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
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NOV 27 PM 4:16

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

Town of Framingham
Bldg Inspections

11/27/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building_dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date 11/10/06

COMPLAINANT (Optional: not required) KEVIN LOON
MAILING ADDRESS 10 Edgewater Drive - 01702
(Street) (City/Town) (Zip)

Home Phone 508-375-6468 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address ~~10 Edgewater Drive~~ 61 CLINTON ST.

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) CONTINUING

Nature of Violation(s) NOT A COMPLAINT WITH ZONING
BUILDING COMMISSIONER NEEDS TO THROUOUT
PLUMBING PROGRAM

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

[Signature] 11/10/06
SIGNATURE DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

NOV 27 PM 4:16

11/27/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date 11-3-06

COMPLAINANT (Optional: not required) Susan Bennett

MAILING ADDRESS 132 Salem End Rd
(Street) (City/Town) (Zip)

Home Phone 508-871-7328 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 61 CLINTON ST.

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) 9 years

Nature of Violation(s) SMOC DOES NOT MEET

DEVELOPER AT THIS ADDRESS + SHOULD
NOT ON 517 WINTER ST - NON COMPLIANT

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE Susan Bennett DATE 11/3/06

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO:

Date NOV. 3, 2006

COMPLAINANT (Optional: not required) Cynthia + Massimo Lauria

MAILING ADDRESS 11 WINTER LANE FRAMINGHAM 01702
(Street) (City/Town) (Zip)

Home Phone 508-872-5634 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 61 CLINTON STREET - FRAMINGHAM

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) Ongoing

Nature of Violation(s) Question Building Commissioner's ruling that this is a DIVER. Exempt property

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE

DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

11/27/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room 203
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Director of Inspectional Services/Building Commissioner

Telephone: 508-532-5500
Fax: 508-628-1362
Email: Building.Dept@FraminghamMa.gov

COMPLAINT FORM

NO:

Date

11/14/2006

COMPLAINANT (Optional: not required)

ENZO ROTATORI

MAILING ADDRESS

550 WINTER ST. FRAMINGHAM,
+ (Street) 61 CLINTON ST. (City/Town)

01702
(Zip)

Home Phone

508-872-6817

Work Phone

NA

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY.

Address

517 WINTER ST. + 61 CLINTON Street (Sage House)

Property Owner

SMOC

Alleged Violator

SMOC CORP.

Date(s) of Alleged Violation(s)

ATTEMPTING TO OPEN A NEIGHBORHOOD DRUG REHAB. CENTER.

Nature of Violation(s)

THIS TYPE FACILITY IS UNFIT FOR THIS CONCENTRATED NEIGHBORHOOD.

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE

Enzo Rotatori

DATE

11/14/2006

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room 203
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C B O
Director of Inspectional Services/Building Commissioner

Telephone: 508-532-5500
Fax: 508-628-1362
Email: Building.Dept@FraminghamMa.gov

COMPLAINT FORM

NO: _____

Date 11/14/06

COMPLAINANT (Optional: not required) _____

MAILING ADDRESS 100 Ardmore Rd. Framingham 01702
(Street) (City/Town) (Zip)

Home Phone 508-872-5827 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 Winter St. + 6th Clinton Street

Property Owner Smoc

Alleged Violator Smoc

Date(s) of Alleged Violation(s) ongoing

Nature of Violation(s) NOT in compliance with zoning - Sageshawe
NOT Diver protected

NOV 27 PM 4:17

Town of Framingham
Bldg. Inspections

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

May Whitworth
SIGNATURE

11/14/06
DATE

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COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

11/27/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date 11/13/06

COMPLAINANT (Optional: not required) Judy Leeper
MAILING ADDRESS 395 Winter Street, Framingham 01702
(Street) (City/Town) (Zip)
Home Phone 508 879 4020 Work Phone 508 879 0660

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 WINTER ST + 61 Clinton Street - Sage House
Property Owner SMOC
Alleged Violator SMOC
Date(s) of Alleged Violation(s) 211-gang
Nature of Violation(s) determination by Building Commissioner
is questionable regarding DOVER -

Town of Framingham
Bldg. Inspections
6 NOV 27 PM 4:

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE _____ DATE 11/13/06
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PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



11/13/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date Nov 13, 2006

COMPLAINANT (Optional: not required)

MAILING ADDRESS

Home Phone 508 879 4020

Work Phone 781 643 8000

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 Winter St. + 61 Clinton Street (Sage House)

Property Owner SMDC

Alleged Violator SMDC

Date(s) of Alleged Violation(s) current

Nature of Violation(s) ruling by Building Commissioner regarding

Dover is questionable; use by SMDC needs more review

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

David J. Rooney
SIGNATURE

Nov. 13, 2006
DATE

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COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building_dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date _____

COMPLAINANT (Optional: not required) ELLEN E. CASEY
MAILING ADDRESS 77 ARDMORE ROAD FRAMINGHAM, MA 01702
(Street) (City/Town) (Zip)
Home Phone 508-875-0195 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 WINTER ST + 61 CLINTON ST. (Sage House)

Property Owner Smoc

Alleged Violator Smoc

Date(s) of Alleged Violation(s) on going and for Nov. 1, 2006

Nature of Violation(s) A thorough review on the Dover Amendment

has not been done and the building commissioner has not acted
with due diligence. He is just adhering to a previous decision which
I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to
institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE Ellen E Casey DATE 11/11/06 I don't feel we
done thoroughly.

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
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COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date _____

COMPLAINANT (Optional: not required)

MAILING ADDRESS

(Street)

(City/Town)

(Zip)

Home Phone _____

Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address

Property Owner

Alleged Violator

Date(s) of Alleged Violation(s)

Nature of Violation(s)

review

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham

SIGNATURE

DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
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COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

11/21/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building_dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date 11/12/06

COMPLAINANT (Optional: not required) Betty Sullivan

MAILING ADDRESS 90 Ardmore Rd Framingham, MA 01702
(Street) (City/Town) (Zip)

Home Phone 508-872-8902 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 61 Clinton Street - SAGE House
517 Winter St, Framingham MA

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) on going

Nature of Violation(s) complaint that building commissioner
did not conduct thorough review for DOVER

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE Betty Sullivan DATE 11/12/06

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO:

Date 11/11/06

COMPLAINANT (Optional: not required) Chris Titcomb

MAILING ADDRESS 36 Ardmore Rd Framingham 01702
(Street) (City/Town) (Zip)

Home Phone 203-314-7050 Work Phone 781-444-9040

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 Winter St + 61 Clinton St. (Sage House)

Property Owner SMOE

Alleged Violator SMOE

Date(s) of Alleged Violation(s) On going from week of 11/5/06

Nature of Violation(s) Building Commissioner did not conduct thorough review for proper enforcement

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE

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11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building_dept@framinghamma.gov

COMPLAINT FORM

NO:

Date 11/11/06

COMPLAINANT (Optional: not required) Eric and Tammy Vallerder
MAILING ADDRESS 24 Ardmore Rd. Framingham, MA 01702
(Street) (City/Town) (Zip)
Home Phone 508-207-2938 Work Phone 617-918-4848

Town of Framingham
Bldg. Inspections
NOV 27 PM 4:19

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 Winter St + 1st Clinton Street
Property Owner SMOC
Alleged Violator SMOC

Date(s) of Alleged Violation(s) Ongoing

Nature of Violation(s) Building Commissioner has not done a complete job renewing 517 Winter St.

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

[Signature]
SIGNATURE

11/11/06
DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

11/21/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date _____

COMPLAINANT (Optional: not required) LILLIAN CAIRNEY

MAILING ADDRESS 53 ARDMORE FRAMINGHAM 01702
(Street) (City/Town) (Zip)

Home Phone 508-875-4892 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY: Sage House

Address 517 WINTER ST. + 61 WINTER ST.

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) NOV. 1, 2006

Nature of Violation(s) Bldg Com. Policy has not conducted
A Full Review of SMOC's Educational program

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

Lillian E. Cairney
SIGNATURE

11/2/06
DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

Town of Framingham
Bldg. Inspections

NOV 27 PM 4:18



11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO:

Date 11/11/06

COMPLAINANT (Optional: not required) Ed Bard.

MAILING ADDRESS 40 ARDMORE RD. FRAM. 01702
(Street) (City/Town) (Zip)

Home Phone 508 872 9504 Work Phone

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 WINTER ST.

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) NOV 1, 2006

Nature of Violation(s) COMMON DID NOT CONDUCT A
COMPLETE REVIEW OF SMOC CLAIM

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE

E. Bard

DATE

11/11/06

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER
PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!



11/27/06

TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection
Memorial Building, Room 203
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielien, C.B.O.
Director of Inspectional Services/Building Commissioner

Telephone: 508-532-5500
Fax: 508-628-1362
Email: Building.Dept@FraminghamMa.gov

COMPLAINT FORM

NO:

Date 11/14/06

COMPLAINANT (Optional: not required) _____

MAILING ADDRESS 107 Lockland Ave
517 WINT
(Street) (City/Town) (Zip)

Home Phone 508 872 6097 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 517 WINTER ST.

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) 11/09/06

Nature of Violation(s) Bldg owner has not produced documents to verify certification

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

Thomas A. @ Neil 11/14/06
SIGNATURE DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

11/27/06



TOWN OF FRAMINGHAM
Inspectional Services Division
Department of Building Inspection

Memorial Building, Room B-10
150 Concord Street
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.
Building Commissioner
Director of Inspectional Services

Telephone: 508-620-4838
Fax: 508-628-1362
Email: building.dept@framinghamma.gov

COMPLAINT FORM

NO: _____

Date 11-2-06

COMPLAINANT (Optional: not required) Lillian Belfont

MAILING ADDRESS 23 DAW STREET
(Street) (City/Town) (Zip)

Home Phone 508-872-5188 Work Phone _____

This is a formal request for enforcement of an alleged violation of Framingham's By-Laws.

THIS COMPLAINT IS IN REFERENCE TO THE FOLLOWING PROPERTY:

Address 61 CLINTON STREET

Property Owner SMOC

Alleged Violator SMOC

Date(s) of Alleged Violation(s) Over many years

Nature of Violation(s) SMOC DOES NOT COMPLY WITH THE DOVER AMENDMENT.

I believe that the above facts are true and understand that if it is necessary for the Town of Framingham to institute legal action in the courts, I will agree to testify as a witness on behalf of the Town of Framingham.

SIGNATURE

DATE

THIS DOCUMENT IS PUBLIC INFORMATION AND CAN BE REQUESTED PER PUBLIC INFORMATION REGULATIONS.

COMPLAINANT NAME AND ADDRESS WILL NOT BE RELEASED!

Exhibit 63

1155-06



TOWN OF FRAMINGHAM
Massachusetts
Office of the
TOWN COUNSEL
Christopher J. Petrini

Town Office:
Office of the Town Council
Memorial Building
150 Concord Street, Room 127
Framingham, MA 01702
(508) 532-5406
Facsimile (508) 620-5910
E-mail: cpetrini@framinghamma.gov

Framingham Office:
Petrini & Associates, P.C.
The Meadows
161 Worcester Road, Suite 304
Framingham, MA 01701
(508) 665-4310
Facsimile (508) 665-4313
E-mail: cpetrini@petrinilaw.com

MEMORANDUM

To: Board of Selectmen

From: Christopher J. Petrini
Town Counsel

Date: November 28, 2006

cc: Julian M. Suso, Town Manager
Michael Foley, Acting Building Commissioner
Zoning Board of Appeals
Eugene F. Kennedy, Senior Planner
Jay W. Grande, Planning Board Director

Re: Ability of Building Commissioner to Reconsider Decision as to Applicability of Dover Amendment and to Retroactively Apply new Dover Criteria to Evaluate Past Dover Determination Decisions

You have requested an opinion as to whether the Building Commissioner has the authority to reconsider and reverse a previous determination that a particular proposed use is exempt from the Zoning Bylaws' use provisions as an educational use under the Dover Amendment, codified at G.L. c. 40A §3. The Dover Amendment provides in pertinent part as follows:

No zoning ordinance or by-law . . . shall . . . prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining

"Dedicated to excellence in public service"

November 28, 2006
Page 2

yard sizes, lot area, setbacks, open space, parking and building coverage requirements (emphasis added).

FACTUAL BACKGROUND

On June 13, 2006, Building Commissioner Joseph Mikelian, in response to a question from the Planning Board, issued a memorandum to the Planning Board Director, stating in pertinent part that "it is my opinion that the use of the existing facility at 517 Winter Street would meet the legal standards as an exempt use under the Dover Amendment." The Building Commissioner's June 13, 2006 memorandum is attached hereto as Exhibit A. The proposed use of the Winter Street site has continued to be subject to scrutiny. The Board of Selectmen voted to have myself, the Town Manager, and Acting Building Commissioner Michael Foley review the Dover Amendment determinations for 517 Winter Street and Vernon Street. As requested by the Board, I participated in the meetings with Mr. Suso and Mr. Foley, although I made it clear to the Town Manager prior to the meetings and at the meetings themselves that my role was strictly to provide legal advice. While I am always prepared to provide legal advice to Mr. Foley and other town officials as to Dover Amendment issues, as I have stated in previous opinions, the determination as to whether a use qualifies under the Dover Amendment is required by law to be made by the Building Commissioner. During and outside the meetings, Mr. Foley examined additional information in connection with his review. Mr. Foley subsequently prepared and issued a memorandum dated November 1, 2006, concurring with Mr. Mikelian's determination that the proposed use of 517 Winter Street falls within the educational use exemption of the Dover Amendment. A copy of Mr. Foley's November 1, 2006 Memorandum is attached hereto as Exhibit B.

At the same meeting that the Board requested a fresh review of the Dover determinations for 517 Winter Street and 20 Vernon Street, the Board requested further review of the procedures used to review claims of Dover Amendment exemptions. I prepared a memorandum dated October __, 2006 that addressed these topics, and the Acting Building Commissioner is in the process of adopting new [form checklist] guidelines for applicants who wish to apply for a Dover Amendment exemption.

The Acting Building Commissioner has now been asked whether the determinations issued on June 13, 2006 and November 1, 2006 may be reconsidered and reversed prior to an occupancy permit being issued, and whether new guidelines that may be issued by the Acting Building Commissioner for Dover Amendment applicants should apply retroactively to the Winter Street property.

ANALYSIS

Whether a proposed use is entitled to the Dover Amendment exemption requires an examination by the Building Commissioner, using his independent judgment, of the information presented to him. The determination of the Building Commissioner must be an honest, uninfluenced opinion rendered in good faith. Castelli v. Board of Selectmen of Seekonk, 15 Mass. App. Ct. 711, 714 (1983). An applicant is entitled to the independent judgment of the

November 28, 2006
Page 3

Building Commissioner, not a decision resulting from interference with the Building Commissioner's duties by other town officials. Id.; see also Oullette v. Building Inspector of Quincy, 362 Mass. 272, 276 (1972).

**A. DOVER DETERMINATIONS AND BUILDING PERMIT ISSUANCES
AND REVOCATIONS SHOULD BE MADE BY THE BUILDING
COMMISSIONER FREE OF POLITICAL INTERFERENCE**

General Laws Chapter 40A, §7 provides in part that:

The inspector of buildings... or person or board designated by local ordinance or by-law, shall be charged with the enforcement of the zoning ordinance or by-law and shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered, or moved would be in violation of any zoning ordinance or by-law; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of any zoning ordinance or by-law.

Pursuant to this Section, the Building Commissioner, as the Zoning Enforcement Officer designated by Section V.A.1 the Zoning By-law, is required to issue the building permit if he is satisfied that the proposed work complies with the Building Code and pertinent laws applicable thereto. 780 CMR 111.1. One of the pertinent laws that the Building Commissioner must examine under 780 CMR 111.1 prior to issuing a building permit is the Town of Framingham Zoning Bylaw. See 780 CMR 111.2.

Where there have already been two determinations issued, one by the Building Commissioner on June 13, 2006, and the second by the Acting Building Commissioner on November 1, 2006, that the proposed use of the facility at 517 Winter Street is an exempt use under the Dover Amendment, the Building Commissioner should stand by these determinations unless he obtained evidence that the information provided by the applicant that was relied upon by the Building Commissioner contains fraudulent misrepresentation.

The State Building Code does provide a mechanism for revocation of building permits:

The building official shall revoke a permit or approval issued under the provisions of 780 CMR in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. (780 CMR 111.12).

Should the Building Commissioner issue a building permit for 517 Winter Street, this does not mean that there is no further redress for citizens who question the status of this property as an exempt educational use. General Laws chapter 40A provides a right for aggrieved parties to appeal a building permit on the grounds that the proposed use allegedly violates the Zoning By-law. Specifically, General Laws chapter 40A §8 provides that:

An appeal to the permit-granting authority as the zoning ordinance or by-law may provide, may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of this chapter... or by any person... aggrieved

November 28, 2006

Page 4

by an order or decision of the inspector of buildings, or other administrative official, in violation of any provision of this chapter or any ordinance or by-law adopted thereunder.

As stated in prior opinions, there is a mechanism in G.L. c. 40A §7 and Section V.A.1 of the Zoning By-law for a person to request the Building Commissioner to investigate potential zoning violations and take appropriate zoning enforcement once a use is operational if warranted. Further, the Town through the Building Commissioner may enforce the provisions of the Zoning By-law should there be a violation, with or without a citizen request for enforcement. See Commonwealth v. A. Graziano, Inc., 35 Mass. App. Ct. 69 (1993). A city or town may bring an action in Superior Court pursuant to G.L. c. 40A §7 to enjoin a violation of a zoning by-law, and it may seek fines for zoning violations in the district court. Burlington Sand & Gravel, Inc. v. Harvard, 31 Mass. App. Ct. 261, 265(1991). These enforcement options are available should there be an alleged violation of the Zoning By-law at any time.

**B. BUILDING PERMIT DECISIONS (ISSUANCES OR DENIALS)
MAY BE APPEALED TO ZONING BOARD OF APPEALS**

Pursuant to Section V.D.2 of the Zoning By-law, the Zoning Board of Appeals is empowered to hear appeals brought under G.L. c. 40A §8, and therefore would be the proper board to hear an appeal under G.L. c. 40A §8. Such an appeal must be brought within 30 days after the issuance of a building permit and must follow the procedures of G.L. c. 40A §15.

The determination as to who has standing to appeal a decision of the Building Commissioner to the Zoning Board of Appeals is the same as the determination as to who has standing to appeal a decision to the courts under G.L. c. 40A §17. Green v. Board of Appeals of Provincetown, 404 Mass. 571 (1989). That is, a person must be a "person aggrieved". Dufault v. Millennium Power Partners, L.P., 49 Mass. App. Ct. 137, 139 (2000). A person "is a 'person aggrieved' if he suffers some infringement of his legal rights....The injury must be more than speculative." Marashlian v. Zoning Board of Appeals of Newburyport, 421 Mass. 719, 720 (1996). Persons entitled to notice of the board of appeals public hearing, that is, abutters, abutters to abutters within 300 feet, and persons owning land directly across the street, have the benefit of a rebuttable presumption that they are "persons aggrieved", but this presumption can be challenged. Denneny v. Zoning Board of Appeals of Seekonk, 59 Mass. App. Ct. 208, 212 (2003). A general civic interest in the enforcement of zoning by-laws is not sufficient to confer standing to appeal the Building Commissioner's determination. Harvard Square Defense Fund, Inc. v. Planning Board of Cambridge, 27 Mass. App. Ct. 491, 495 (1989).¹

¹ Attorney Hanrahan implies in his letter to the Planning Board dated October 5, 2006, that the Building Commissioner's "decision" of June 13, 2006 can no longer be challenged as it was not appealed within 30 days to the Board of Appeals. Mr. Hanrahan cites no authority for this statement. In my opinion, the provisions of G.L. c. 40A §8 provide for an appeal to the Board of Appeals from a decision made by the Building Inspector to issue or not issue a building permit, as to alleged zoning violations, by a party aggrieved. See Green v. Board of Appeals of Provincetown, 404 Mass. 571 (1989); Chongris v. Board of Appeals of Andover, 17 Mass. App. Ct. 999 (1984).

November 28, 2006
Page 5

**C. RETROACTIVE APPLICATION OF NEW DOVER GUIDELINES,
CHECKLISTS AND FORMS SHOULD BE AVOIDED**

You have asked whether any new procedures or checklists suggested by this office for future projects and placed into draft form by the Acting Building Commissioner relative to reviewing applications under the Dover Amendment should apply to the property at 517 Winter Street. The property at 517 Winter Street has already been reviewed on two separate occasions for a determination as to whether it is entitled to the educational exemption (once by Mr. Mikielian and once by Mr. Foley). It is my understanding that the Building Commissioner has informally applied the new Dover guidelines and checklist to the Winter Street application and has come to the same conclusion that it is entitled to the Dover exemption based on the information provided by the applicant. I recommend that the Building Commissioner go no further than this for the reasons discussed below.

Generally, new by-laws or regulations may not be applied retroactively. Rogers v. Metropolitan District Commission, 18 Mass. App. Ct. 337, 340 (1984). This is particularly true where the substantive rights of land owners would be affected. Building Inspector of Acton v. Board of Appeals of Acton, 348 Mass. 453, 456 (1965). This is why the principle of grandfathering arose. Thus, in my opinion, any new Dover procedures, guidelines, checklists or forms adopted by the Building Commissioner should be applied prospectively only, particularly if such application will lead to a reversal or change in the decision of Dover exemption.

Applying new guidelines or procedures for determining Dover Amendment educational uses, where the Town does not generally apply guidelines or procedures retroactively, could be deemed to violate the federal Fair Housing Act ("FHA") if challenged in court. See 42 USC §3604(f). The FHA makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of a handicap of that person or a person residing in or intending to reside in the dwelling. This provision prohibits local zoning decisions and practices which discriminate against those with a handicap. See Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F. 3d 775 (2002). In addition, the Americans with Disabilities Act and the Federal Rehabilitation Act also prohibit a town from zoning practices which discriminate against handicapped persons.

"Handicap" is broadly defined under the FHA to include a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such impairment, or being regarded as having such an impairment. See 42 USC §3602(h). Persons recovering from alcohol and drug addiction, who are no longer using illegal drugs, are considered to be within the definition of "handicapped". Oxford House, Inc. v. Town of Babylon, 819 F. Supp. 1179 (E.D.N.Y. 1993).

Under the FHA, exempt educational uses which include a residential component and which provide services to handicapped persons, as defined by the Act, may not be discriminated against by a municipality by virtue of that handicap in zoning decisions and practices. In my opinion, the singling out of one educational use over another for retroactive application of new guidelines,

November 28, 2006

Page 6

forms and checklist could be viewed as a form of prohibited discrimination, particularly if such application leads to a revocation of prior Dover determinations by the Building Commissioner.

Violations of the federal statutes discussed herein would result in an award against the Town for damages, treble damages, attorneys' fees, costs, and injunctive relief. As you are aware, there presently are two civil rights lawsuits pending in the United States District Court against the Town, one involving the denial of a public way access permit to Wayside Youth and Family Services and the second involving the denial of special permits to Great Brook Valley Health Center to establish a health center in downtown Framingham. This office and/or counsel appointed by the Town's insurer, Massachusetts Interlocal Insurance Association ("MIIA"), will vigorously defend the Town and its positions in these lawsuits. If either of these lawsuits is successful, however, they will result in the imposition of substantial liability against the Town. It is unclear whether insurance coverage will be available to indemnify the Town against any judgment, damages or attorney's fees that may be issued against the Town in either of these actions, as MIIA has issued a reservation of rights letter in the Wayside case disclaiming coverage and so has denied coverage and refused to assume the defense of the Town in the GBVHC civil rights lawsuit.

Moreover, if individual members of the Board of Selectmen or other boards or officials are named as individual defendants in any civil rights actions and liability is found against such individuals for civil rights violations, the Town is not permitted under G.L. c. 258, §13 to indemnify such individuals. (A separate memo on principles of indemnification for civil rights claims is being prepared by my office as requested by the Board and will be issued shortly.)

I hope this memorandum is of assistance to the Board. Please let me know if you have any further questions regarding the foregoing.

2006 11.21 Memo to BOS re retroactive Dover application (600-109)

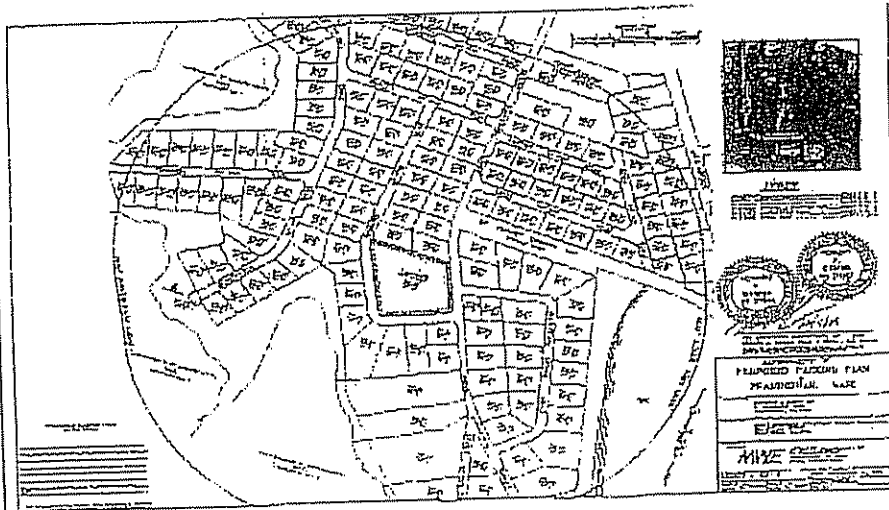
Exhibit 64

Neighborhood Requests for SMOC's Proposed Use of 517 Winter Street

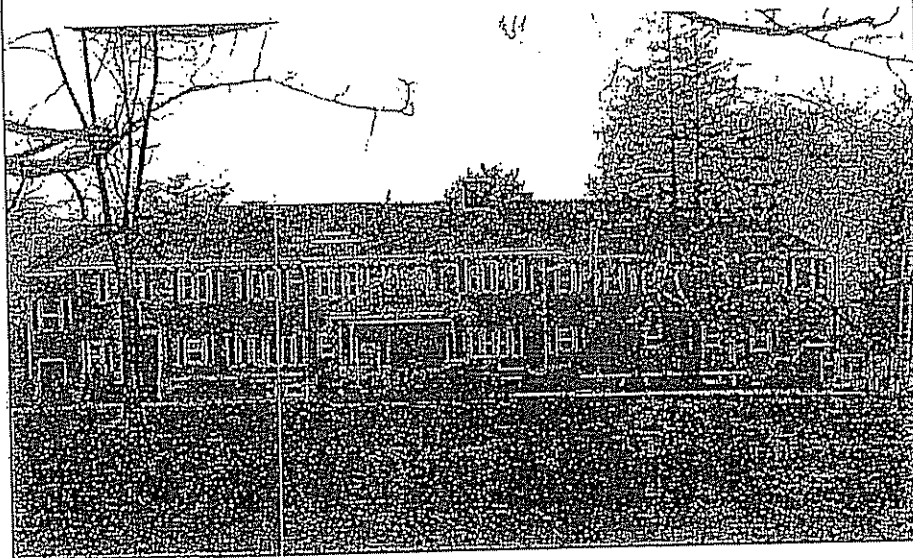
Background-

- Neighborhood still has issues and concerns with Dover compliance however, we understand the limitations before us and within the scope of these hearings have gathered neighborhood requests for fair policy.
- We understand compliance lies with the applicant's willingness to show respect and consideration for the community they seek to become a part of.

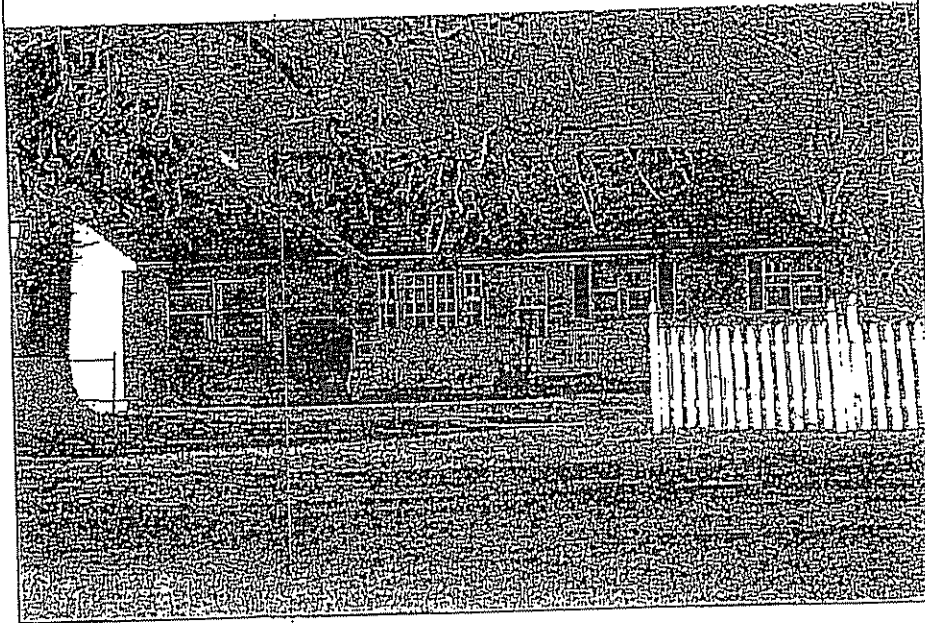
517 dominates stable residential neighborhood –
change of use to transitional housing will have an impact



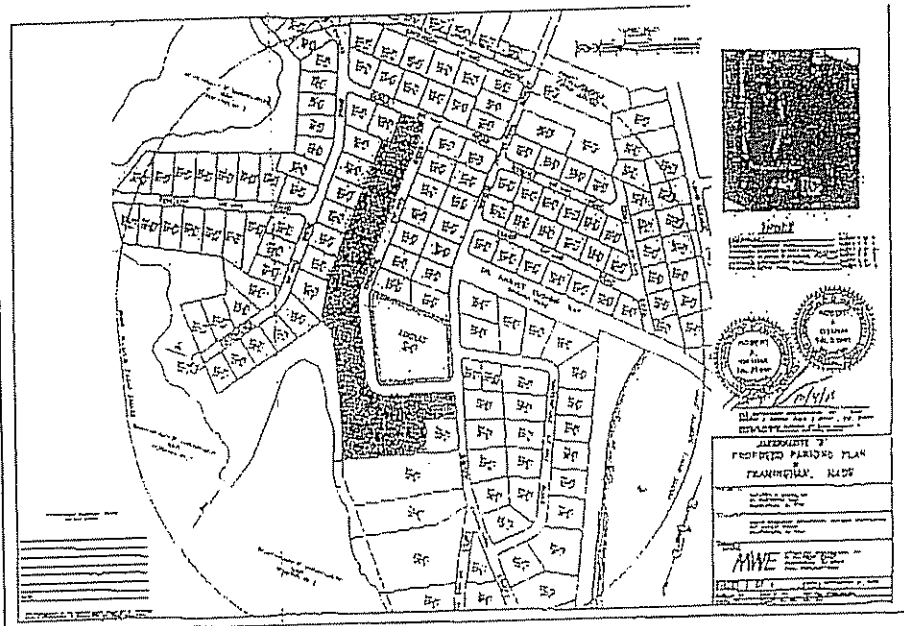
Dominance seen in comparison to home on right



And to a typical single family home



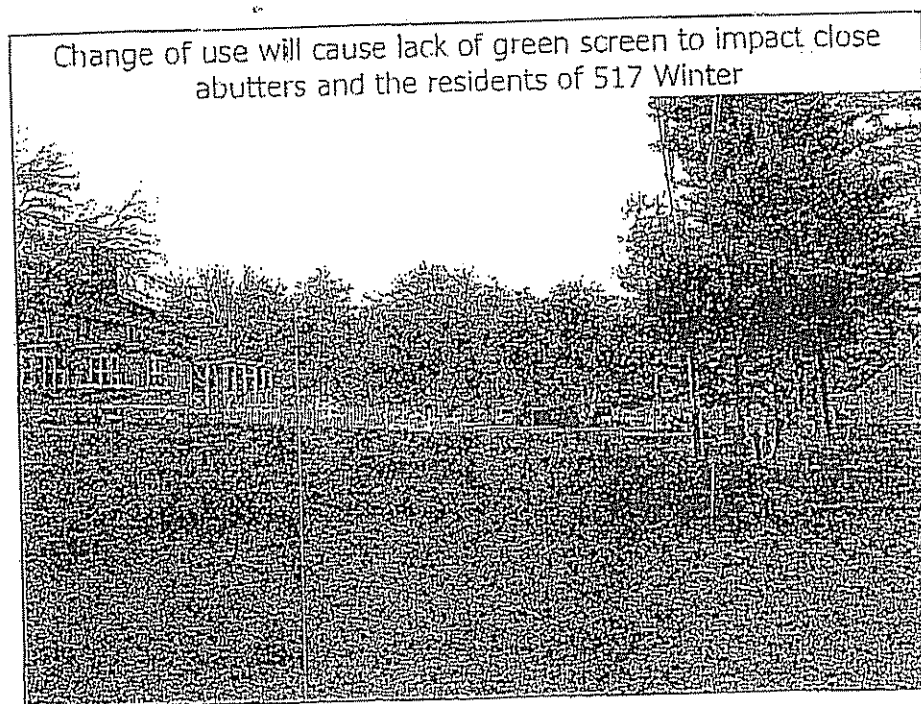
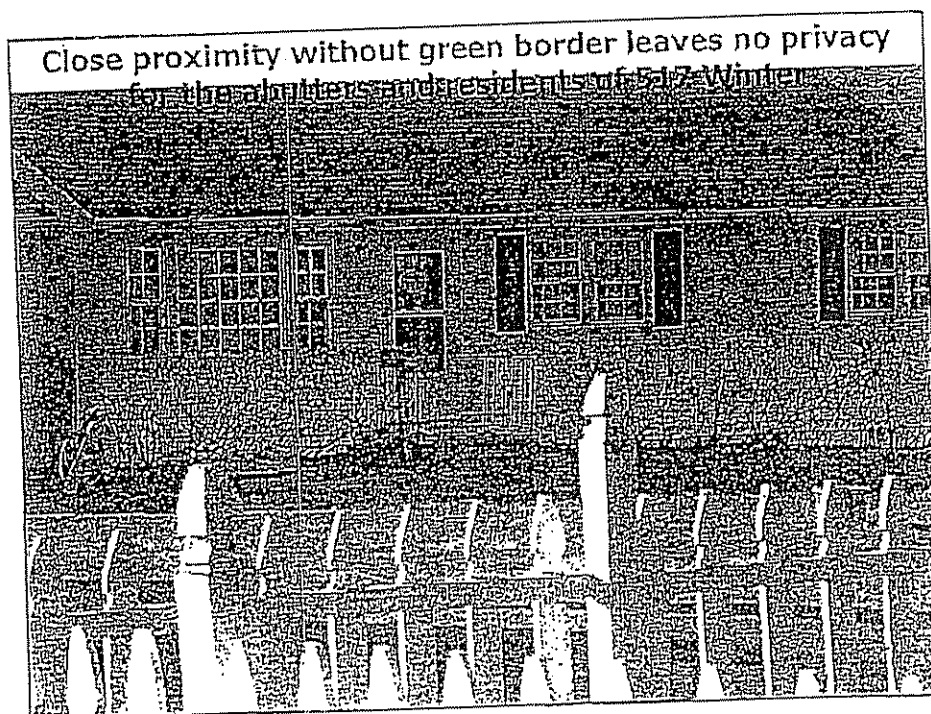
Footprint: Square footage of 517' equal to 15 single family homes



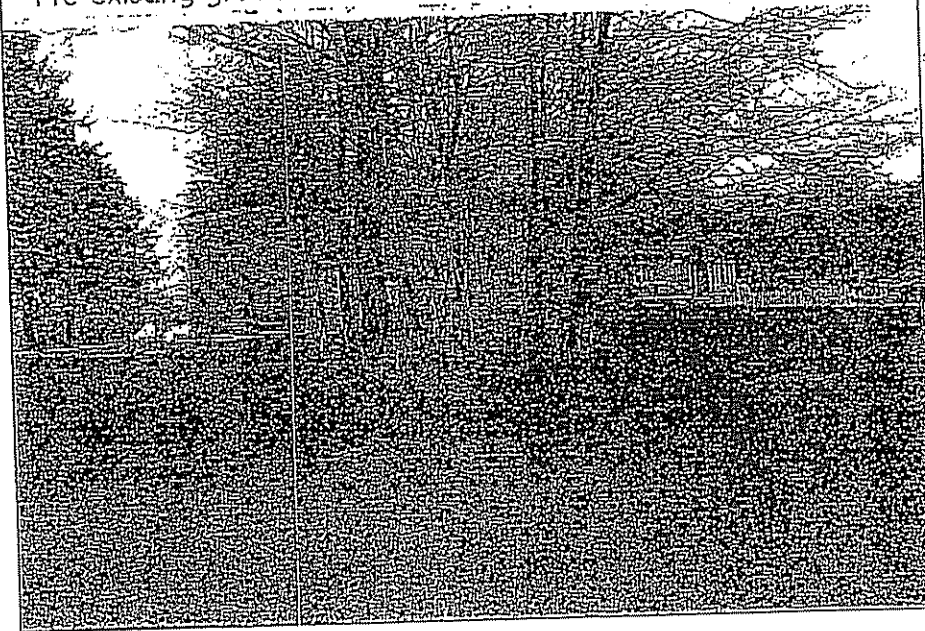
The Winter Street Neighborhood Requests -

A natural growing evergreen screen
bordering the entire rear lot line
of 517 Winter Street

- Scotch pine or Douglas fir screen
 - provide a measure of privacy for the abutters
 - be consistent with the dimensions of the property and house
- Reduces impact due to the change of use to transitional housing for 15 young and active families
- Proposed intensive use by 15 families of the rear yard and sun-room overwhelm the abutting homes
- Proposed intensive use by 15 families of the rear yard and sun-room will produce significant noise for abutters



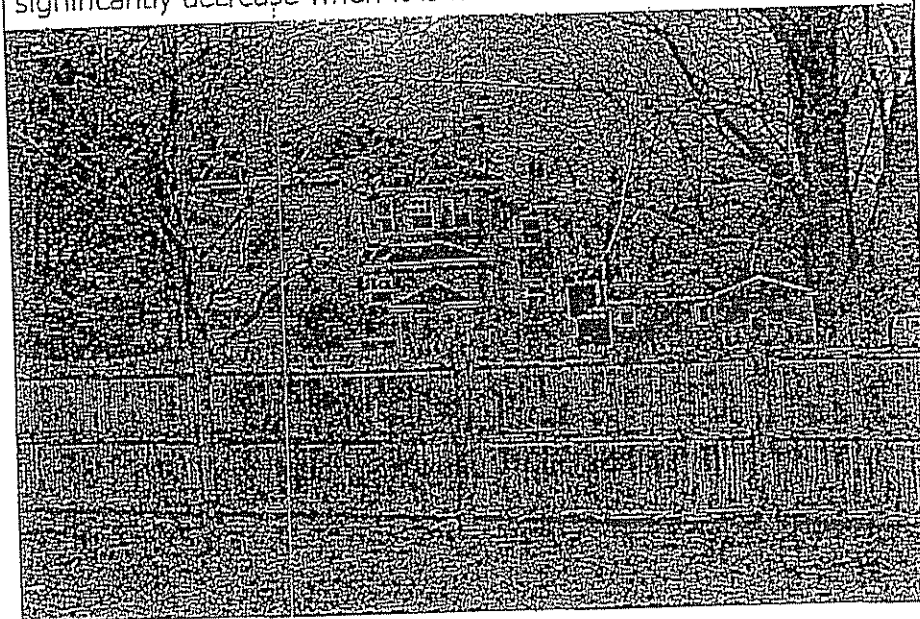
--Pre-existing green screen shows benefit to quality of life for all



10 foot high side yard fence along border at 53 Ardmore Road

- An 8-10 foot high fence will help reduce the impact due to SMOC moving the fence towards neighbors lot line
 - by request of the resident
 - Reduces noise and light
 - Increases privacy

Any privacy provided to 53 Ardmore by this six foot fence will significantly decrease when it is moved towards neighbor's lot line



Use of Sage House should be predominantly for Framingham residents

To benefit the Framingham community

- At least 70% of the residents occupying Sage House shall be Framingham residents
- where "resident" is defined as having lived in the Town of Framingham prior to receiving any form of social service
- State central intake system should filter clients to find Framingham residents in need of services

Use of Sage House shall be
limited to the 40 residents

- All programs at 517 Winter Street are to be provided exclusively clients of Sage House
- No extra or outside programs are to be held on the premises of 517 Winter Street, other than for the clients of Sage House
- Additional programming and services will burden this owner-occupied neighborhood

Agree not to develop any of the 4
ANR lots that have been
surveyed by SMOC

- To preserve and respect the historic value of the 517 Winter Street property
- To offer 15 families living on the property "breathing room"
- To honor SMOC's 5/17/05 statement to the State that the house offers 2 acres of land to the clients

Obtain a lodging house license from the town of Framingham and comply with annual review and renewal regulations

Request a maintenance bond for landscaping and preservation of 517 Winter Street

- This is an historic property located on a scenic road
- Upkeep of house
- Preservation of protected trees

Motion sensor lighting for public safety

- The neighborhood requests motion/sensor lights along dark perimeter of the property to quell concerns about public safety

Smoking Area

- Designate the smoking area to be under front portico and/or in the front parking area

Public Safety-Stipulation that no resident of Sage House shall have a criminal background for any crimes of violence or crimes against the person

- ▣ The neighborhood has concerns about the criminal background of prospective clients because of SMOC's statement in their contract that " Sage House staff will be trained to view substance abuse and criminal activity as co-occurring disorders needing to be addressed in conjunction with each other"
- ▣ Allow the Framingham Police to perform compliance checks

Submit copies of DPH/BSAS reviews of 517 Winter Street to the Building Commissioner

- ▣ Include updates in form of general information regarding status of clients in the program
 - ▣ number families released and completed and where they have been placed
 - ▣ Number of families dropped out
 - ▣ Incoming clients
 - ▣ Program/schedule changes
- ▣ Keep lines of communication open

Trash Disposal

- Only trash generated by the clients of the facility to be disposed on site
- No refuse will be brought to the facility or property for the purpose of disposal
- No disposal of medical or other hazardous waste in the dumpster, including syringes or anything contaminated with any infectious agent such as HIV or hepatitis
- No trash will be left outside of the dumpster

Trash pick up will be between

- 7 am - 7 pm weekdays
- 8 am - 7 pm weekends

All staff shall be subject to criminal background checks made available to the Police Chief

- CORI checks with the Criminal History Systems Board of employees and volunteers protects the youth in Sage House and the neighborhood
- The Town of Framingham should offer support for this service if asked

SMOC assumes full legal liability for any criminal activity of any resident or employee while residing at or working at the facility

PILOT payment

- Line item #390 in Sage House Budget allocates \$48,650 for facility items specifically including a PILOT
- Request that a PILOT to the town of Framingham be paid by SMOC for 517 Winter Street

Re-route traffic onto Winter Street

to be considered as part of the road access permit and necessary due to the, change of use of property and reasonable alternative offered by Winter Street

This rerouting is in consideration of several factors

- The minimization of traffic impacts to Ardmore Road, historically a quiet residential road
- Recognition of dominance of property and proximity of rear abutters
- Consistency with Winter Street properties

Only 2 properties with Winter Street addresses do not have curb cuts on Winter Street

1. 173 Winter Street
2. 517 Winter Street

Winter Street Study

Between (not including) Salem End to Fountain St.

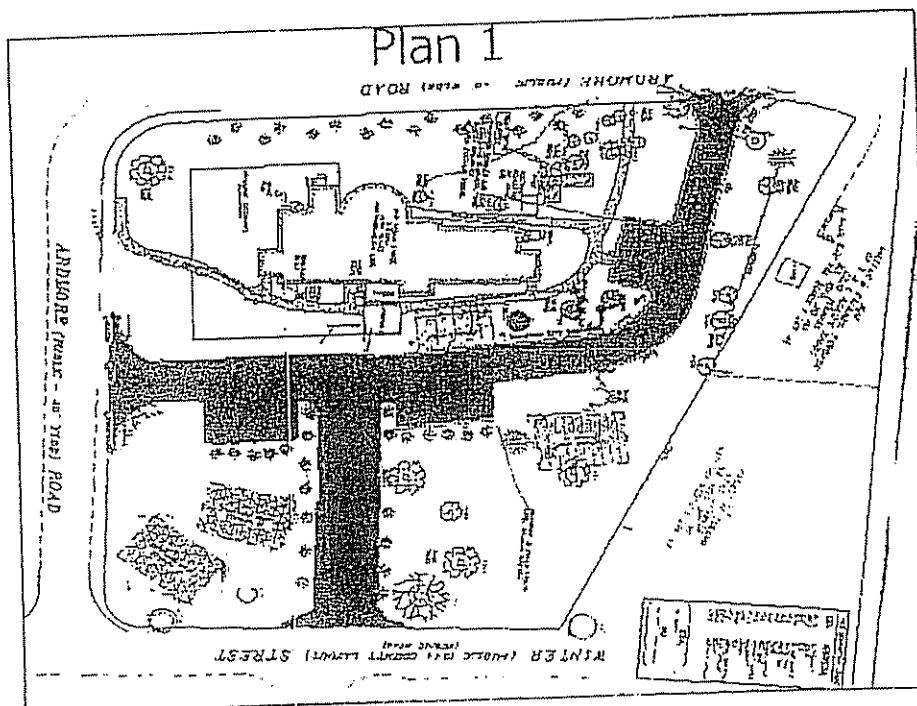
- 132 total driveway curb cuts and side streets
- 70.5% of side streets have driveway curb cuts or another side street directly opposite them
- The average distance between a curb cut and side street is 70 feet
- With 208 feet of frontage 517 Winter has ample footage for a curb cut
- Carlyle House, a 55 bed facility, has a curb cut on Winter Street directly opposite Croydon Road

Neighborhood Plans

1. Entrance and exit on Winter Street, Emergency access only on Ardmore
2. Entrance only on Winter, exit only on Ardmore South with emergency only at rear of building

In addition, enlarge and relocate playground to the side of building

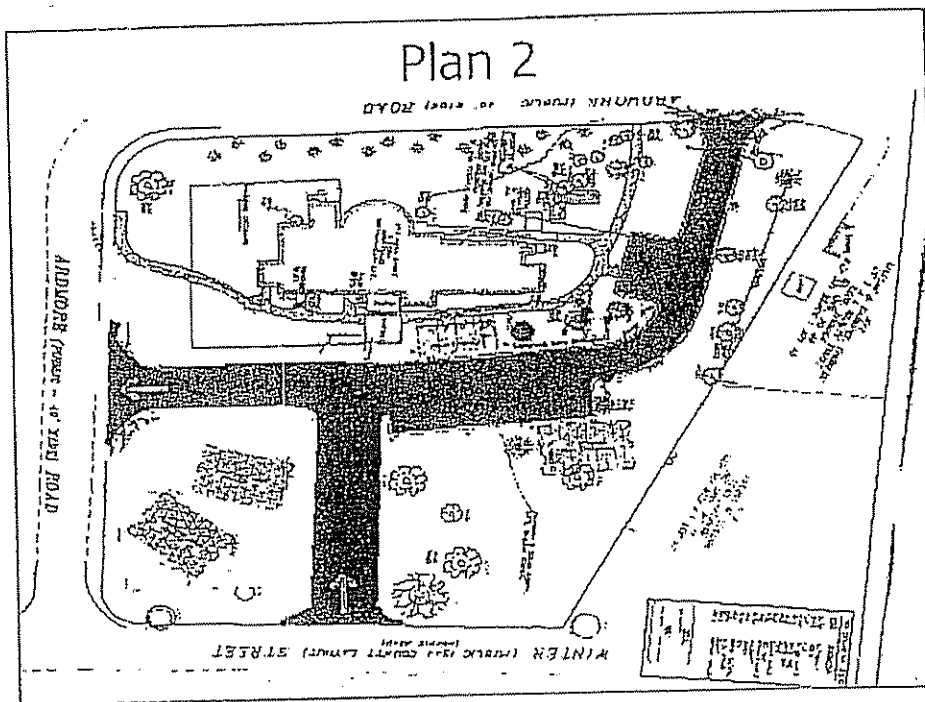
- Current configuration not large enough
- Current configuration on sloped land
- To incorporate handicap ramp and front walk
- Minimize noise and visibility at closest proximity



Main features of Plan 1

- Entrance and Exit on Winter Street
- Both Ardmore driveways remain for emergency vehicles only. Chain across both
- Straighten out Ardmore South for access and safety from blind corner
- This design offers a symmetrical parking plan with simple shrubbery to create an elegance suitable for this building

The playground is moved to the side of the building and enlarged. Access to the screened porch is retained. In addition, access to the front and handicap exit is accessible.



Main features of Plan 2

- Entrance only on Winter Street
- Exit only on Ardmore south
- Rear Ardmore driveway is accessible for emergency vehicles only. Chain across.
- Straighten out Ardmore South for access and safety from blind corner
- Landscaping as in plan 1 suggested

The playground is moved to the side of the building and enlarged. Access to the screened porch is retained. In addition, access to the front and handicap exit is accessible

Additional Benefit of Winter Street Driveway

- Provides pedestrian access to Winter Street using the front driveway

We believe our requests are reasonable, can be supported by the planning board and will enhance the use of 517 Winter Street

- According to Chapter 40A section 3 "land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining **yard sizes, lot area, setbacks, open space**, parking and building coverage requirements"

Inform the DPH/BSAS of our good neighbor agreement

- A letter of cooperation with these terms should be submitted to DPH/BSAS the Town Manager, Building Commissioner and the Planning Board

Reasons for our Requests: Summary

- Dominance of property in neighborhood
- As SMOC stated in contract: "The neighborhood is one that is safe and is comprised of mostly *owner occupied* homes"
- Impact of 30 or more transitional families placed through the State central intake system every year
- Public safety impact of placing families with substance abuse and potential criminal justice issues
- Concern about a 57% failure rate as reported by DPH
- Concern for the integrity of this historic property
- Concern for the quality of life of the current residents of the Winter Street neighborhood

Comments and Questions

December 1, 2006

Winter Street Study

115 - Total driveway curb cuts

17 - Side Streets

The following are side streets off Winter Street:

Ransom Road

Crest Road North

Crest Road South

Ardmore Road

Bexley Road

Dunster Road

Croydon Road

Winter Park Road North

Winter Park Road South

Robert Road

Louis Road

Long Avenue

Maple Street

Russell Road

Winter Lane

Winter Terrace

Dr Harvey Cushing

The following are addresses of institutional or multi-unit housing on Winter Street:

342 Winter Street - Carlyle House - 55 Bed Facility

153 Winter Street - Countryside Nursing Home - 30 Bed Facility

139 Winter Street - 8-Unit Condo

125 Winter Street - 8-Unit Apartment Building

The following is a listing of all side streets and the distance between a side street and a curb cut. 0 indicates directly across from a side street. Some instances a side street is across from another side street. The method used was to take a side street and measure the distance between it and surrounding curb cuts. Both sides of the street were considered.

17 side streets and 68 curb cuts were considered.

Winter Lane - 1 driveway curb cut directly across the street

Eastside North - 0 feet

Eastside South - 50 feet

Westside North - 75 feet

Westside South - 50 feet

Winter Terrace - proposed new construction curb cut directly across the street

Eastside North - 24 feet

Eastside South - 24 feet

Westside North - 90 feet

Westside South - 0 feet / 60 feet

Russell Road - 1 driveway curb cut 10 feet diagonally across the street

Eastside North - 18 feet

Eastside South - 10 feet

Westside North - 100 feet

Westside South - 110 feet

Maple Street - 1 driveway curb cut 10 feet diagonally across the street

Eastside North - 65 feet

Eastside South - 65 feet

Westside North - 95 feet

Westside South - 10 feet

Long Avenue - 1 driveway curb cut directly across the street

Eastside North - 180 feet

Eastside South - 90 feet

Westside North - 0 feet

Westside South - 0 feet

Dunster Road - 1 driveway curb cut directly across the street

Eastside North - 0 feet

Eastside South - 6 feet

Westside North - 60 feet

Westside South - 50 feet

Croydon Road - 2 driveway curb cut directly across the street

(One a former Nursing Home, the other Carlyle House Nursing Home)

Eastside North - 0 feet

Eastside South - 0 feet

Westside North - 36 feet

Westside South - 90 feet

Bexley Road - Robert Road directly across the street

Eastside North - 54 feet

Eastside South - 0 feet (Robert Road)

Westside North - 69 feet

Westside South - 120 feet

Robert Road - Bexley Road directly across the street

Eastside North - 100 feet

Eastside South - 115 feet

Westside North - 0 feet (Bexley Road)

Westside South - 75 feet

Louis Road - 1 driveway curb cut directly across the street

Eastside North - 115 feet

Eastside South - 90 feet (Dr. Harvey Cushing Way)

Westside North - 0 feet

Westside South - 30 feet

Dr. Harvey Cushing Way -1 driveway curb cut directly across the street

Eastside North - 90 feet (Louis Road)

Eastside South - 135 feet

Westside North - 0 feet

Westside South - 36 feet

Ardmore Road

Eastside North - 15 feet

Eastside South - 60 feet

Westside North - 240 feet

Westside South - 45 feet

Winter Park Road North

Eastside North - 27 feet

Eastside South - 30 feet

Westside North - 135 feet

Westside South - 54 feet (Ardmore Road)

Crest Road North - 1 driveway curb cut directly across the street

Eastside North - 0 feet

Eastside South - 75 feet (Winter Park South)

Westside North - 0 feet

Westside South - 270 feet

Winter Park Road South

Eastside North – 30 feet

Eastside South – 65 feet

Westside North – 75 feet

Westside South – 170 feet

Crest Road South

Eastside North -165 feet

Eastside South – 60 feet

Westside North – 90 feet

Westside South – 100 feet

Ransom Road*

Eastside North – 420 feet

Eastside South – 150 feet

Westside North – 96 feet

Westside South – 75 feet

*Note: It should be noted that there are two driveway curb cuts across the street from the Keefe Tech parking lot which is an ultra busy lot with bus, car, student and faculty traffic.

The average distance to a curb cut from a side street is 70 feet

There are only 2 properties with Winter Street addresses that do not have curb cuts on Winter Street.

173 Winter St. and 517 Winter St.

Exhibit 65

STEPPS

January 22, 2007

Dear Planning Board Members and Mr. Grande,

The STEPPS group and the neighborhood would like to thank you for conducting the best review that you were able to under the constraints of a limited site plan review. We appreciate all the expertise, time, effort, late nights and background work that all of you devoted in reviewing the 517 Winter Street project.

As requested at the last Planning Board meeting on January 4, 2007, we are forwarding a list of neighborhood requests that we believe would lessen the impact of this development in our neighborhood and on the Town of Framingham. We ask that you please consider how the proposed development will impact what has been a long standing, quiet single-family neighborhood, many of whose residents are elderly or have young children.

We hope that the Planning Board will ask SMOC to respond to each of these requests in writing, either agreeing or explaining why they refuse.

We also hope that some of these requests be formalized by the Board as conditions. In particular, we hope the Board will require SMOC to devote the entire 517 Winter Street parcel to their proposed use. Anything else would forever change the character of what is a wonderful and solid Framingham middle-class neighborhood. If SMOC is allowed to develop or subdivide this parcel, the site will resemble an institutional campus and not just a group residence.

We ask that SMOC consider that we are not a transient neighborhood of rentals and we ask that they respect the "very stable and prestigious Winter Street neighborhood"; words that SMOC used as a selling point in their application to the state. The people in this neighborhood value their homes as their largest and most prized investment and we ask that SMOC put equal value on the neighborhood that they seek to become a part of.

In the year 2014, when this contract expires, are we going to look back and say that we did everything we could to preserve the integrity of a great neighborhood, or will we lament a lost opportunity? What will become of this neighborhood if we do not rise to the occasion and stand up for the citizens of Framingham?

Again, we thank you for the wonderful service that you perform weekly for our town. Framingham is a better place because of all of your efforts.

Yours truly,

Members of STEPPS and the Ardmore Road and Winter Street Neighborhoods

Neighborhood Requests for SMOC 517 Winter Street ("Sage House")

We, the members of STEPPS and the residents of the Winter Street and Ardmore Road neighborhoods, request the following concessions from SMOC as part of a "Good Neighbor Agreement" that shall constitute conditions of approval for SMOC's proposed Sage House program at 517 Winter Street.

1. A natural growing evergreen screen bordering the entire western lot line of 517 Winter Street (e.g. spruce, fir, or arborvitae).
2. An eight to ten foot high fence along the border of 53 Ardmore Road and 517 Winter Street. This abutter prefers this taller fence because 517 Winter Street is a much higher building on a higher grade.
3. At least 70% of Sage House residents should be from Framingham (resident defined as having lived in Framingham at least 60 consecutive days prior to receiving any form of social service).
4. All prospective Sage House clients shall have undergone 90 consecutive days of detoxification treatment immediately prior to entering the Sage House program.
5. All programs at 517 Winter Street are to be provided exclusively for residents of Sage House. No extra, additional or outside programming for any individuals who are not residents of Sage House shall be conducted on the premises of 517 Winter Street.
6. There shall never be more than 18 residents at 517 Winter Street. This limit would comply with the current applicable state law regarding this use.
7. SMOC agrees not to develop any of the four ANR lots that SMOC has surveyed on the 517 Winter Street parcel. Further, SMOC shall promise to dedicate the entire two plus acres of land that is the 517 Winter Street parcel to the 18-person Sage house program as they stated in their contract application to the Massachusetts Department of Public Health.
8. SMOC shall provide a maintenance bond for landscaping and maintenance of the historic 517 Winter Street property and should seek consultation and coordinate maintenance of this property with the Framingham Historical Commission.

9. Security Lighting shall be provided on this site; especially along the dark perimeter of the west side of the parcel in such a way as to provide for public safety without unnecessarily disturbing the neighbors.

10. That the entire Ardmore west side of the property be designated a "no smoking" area because of the close proximity to the homes situated along this side of the property.

11. No resident or staff member of the Sage House shall have any criminal record of violent crimes or crimes against the person and that the Framingham Police be allowed to make compliance checks.

12. All Sage House staff shall be CORI checked annually and this information will be made available to the Framingham Police Department.

13. SMOC will assume full legal liability for any criminal activity committed by any residents, visitors or employees while living, working or visiting at 517 Winter Street.

14. Regular DPH/BSAS reviews of Sage House shall be submitted to the Building Commissioner and Human Services Coordinator that would include information about the number of families who have completed the program and where they have been placed, the number of families who have dropped out of the program, incoming clients and any program or schedule changes.

15. SMOC shall make an annual PILOT payment to the Town of Framingham equal to 75% of the tax that would have been for a taxable entity (Approximately \$44,745, based on a purchase price of \$2.1 million and a commercial tax rate of \$28.41 per thousand) or a PILOT payment that would be in accordance with any new local policies established by the Town of Framingham. Such payments are allowed under SMOC's state contract (line item #390 in the Sage House contract was increased from \$30,000 to \$48,650 annually in 2005 and specifies that this money may be used for the facility, property taxes, or a payment in lieu of taxes to be paid annually to the host community).

16. The trash dumpster shall be enclosed with decorative fencing and trash pickups shall be scheduled to occur only between 8:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 6:00 p.m. on Saturdays. No trash is to be left outside of the dumpster, there shall be no disposal of medical or hazardous waste (including syringes) and no trash is to be brought to 517 Winter Street from any other addresses for disposal.

17. Traffic entering and exiting the parcel, 517 Winter Street, shall be rerouted onto Winter Street. This rerouting was approved by the Traffic and Road Safety Committee and would greatly minimize the impact that this development would have on the neighborhood. Again, 132 properties with Winter Street addresses enter and exit onto Winter Street; the only exceptions are 173 and 517 Winter Street.

18. All parking areas, entrances and exits shall be "softened" with plantings of small hardy evergreens such as but not limited to Inkberry, Japanese, Blue or China Doll Hollies; Boxwoods; Emerald Green Arborvitae or Junipers.

19. SMOC shall enlarge and relocate the playground to the southeast or front side of the property and incorporate the handicap ramp.

20. The Ardmore Road west entrance shall be closed with a chain or other barrier; this entrance should be for emergency access only.

21. SMOC shall provide pedestrian access to Winter Street via a stone dust, pea stone or bricked pathway and provide a pedestrian crosswalk across Winter Street linking the new sidewalk with the existing one for the safety of residents and convenience of neighbors.

22. SMOC shall inform the Department of Public Health/Bureau of Substance Abuse Services of this Good Neighbor Agreement and provide copies to the Framingham Human Services Coordinator and all abutters within 300 feet of the property. This notification shall also include the Sage House schedule and contact phone numbers for the Sage House, SMOC corporate offices, and the Department of Public Health.

Exhibit 66

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Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

From "Steven W. Orr" <steveo@syslang.net>

Subject Re: SMOC's client "Spare Change Guy"

Date Fri, 2 Feb 2007 15:00:40 -0500 (EST)

[Part 1 text/plain US-ASCII (2.0 kilobytes)] ([View Text in a separate window](#))

On Friday, Feb 2nd 2007 at 14:37 -0500, quoth Chris Walsh:

=>Liesa asked who owns 12 Lexington where Mr. Bubier lives... Mr. Sean McGrath,
=>partner/owner of Stonegate Group 83 Speen Street Natick. They have many
=>properties in the area. Chris Walsh

As has been pointed out on a few occasions here on frambors, SMOC has an entire division devoted to housing. This division maintains a database of landlords who are known to not conduct CORI checks. The fact that SMOC or one of its affiliates is not the owner of the property should not be an excuse to forget that SMOC is the party that placed Mr SCG in Framingham from where he was panhandling with the rest of the members of that industry in Boston. When asked why he was in Framingham, his answer was that he was brought here but he doesn't know why.

The bottom line is that SMOC brought him here and we have to pay for the not insubstantial costs of his actions. We pay by adding a burden to our already overburdened public safety departments and we pay by continuing down the path of allowing the "continuum of care" to continue to operate. Of course, SMOC probably is unhappy at the public relations problem that Mr SCG has caused, but it's also likely that they are unhappy with the fact that whatever intro program he may have flunked out of has caused a delay in getting the next substance abuser, sex offender, arsonist, or other violent offender to enter the continuum of destruction.

I'd like to offer a toast: To a town who's demographics continues to be altered by an increasing number of the aforementioned undesireables. As we go forward, this toast will be celebrated with less spirit(s) and more cocaine, heroine, crack, crank, pot and whatever can be used to further burden our police.

You should all feel free to complain. Sometimes it helps.

--

steveo at syslang dot net TMMP1 <http://frambors.syslang.net/>
Do you have neighbors who are not frambors?

<http://frambors.syslang.net/cgi-bin/>

10/21/2007

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Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

From "Peter C.S. Adams" <peter.adams@umb.edu>

Subject Wayside prevails in first round of "screw Framingham" contest

Date Fri, 16 Feb 2007 11:29:19 -0500

[Part 1 text/plain US-ASCII (4.9 kilobytes)] ([View Text in a separate window](#))

Wayside has won a land court decision against Framingham in their effort to move facilities from Marlborough and consolidate them into one huge, oversized campus in Framingham (Wayside CEO Eric Masi calls it "uniting the teenagers and staff from our group homes in a single setting").

Wayside triumphs: Land Court backs permit for Framingham teen campus
<<http://www.metrowestdailynews.com/homepage/8998931319064887295>>

It is unclear what the decision means in the long run, since it has no real impact on the building of the campus. That will be decided in federal court, where Wayside's lawsuit against the town over its refusal to give Wayside a needed Public Way Access permit is being heard. Work cannot proceed without the permit. However, the unequivocal nature of the decision and the reaffirmation of the unchecked power of the Dover Amendment does not bode well for towns like Framingham which have been unilaterally declared "hubs" of social service activity.

Based on this virtually unchecked power, four social service agencies are actively working on a "Screw Framingham" contest:

1. Wayside. This grotesquely oversized facility will dominate the Lockland Ave. neighborhood and place additional load on already overburdened Route 9, hampering efforts to revitalize Framingham. This is a clear victory for Marlborough and a setback for Framingham. Remember a year ago when a near-riot broke out at a Wayside facility and Eric Masi said that because they had cut down on physical restraint by 75% they would "be calling the police more often"? I guess we'll be looking forward to more from Wayside if they're allowed to "unite" the teenagers from their area group homes.

2. SMOC. Clearly the worst of the bunch, they are bringing prostitutes, drug addicts, and other criminals from across the state to live in Framingham using their the Dover Amendment trump card. If anyone complains, they cry "discrimination" and threaten to sue. When the Board of Selectmen wants to hold a social services summit, SMOC thumbs their noses and ignores them, calling their meetings a "public circus." SMOC even claimed that "cities and towns outside Framingham have been less hostile toward SMOC's plans" --

despite vocal opposition in Worcester and Millbury, among others. They say they're a good neighbor, but refuse to even discuss elements of the "good neighbor agreement" presented to the Planning Board to improve the proposed facility at 517 Winter. It is unclear whether SMOC is so clueless as to believe they are good neighbors, or if they think anyone besides the editors of the local paper will believe a word they say.

3. Great Brook Valley Health. They are suing the town over its decision to deny their application to build in downtown Framingham a huge, oversized health clinic designed to serve indigents in 25 towns and further overload an already overburdened water system in the area. After years of discussion and hundreds of opportunities to do so, they never once claimed to be a Dover use, but as soon as they were turned down, they sued, claiming Dover. An expanded health clinic would help SMOC expand further in Framingham, and I'll bet Jim Cuddy and Eric Masi told GBVH chief executive Zoila Feldman, "Hey, this is Massachusetts -- if you want something, just cry Dover!"

4. And let's not forget our friends at the methadone clinic: Spectrum Health Systems. They haven't sued Framingham recently, but have been attracting heroin addicts for years, and their presence in town is a linchpin in SMOC's growth strategy. (For instance, SMOC sends its Sage house residents to the methadone clinic for treatment.) Spectrum also recently won a court case allowing them to build a drug rehab overlooking a day care center in Weymouth. (Perhaps they are hoping expanding their operations will help them pay back the millions of dollars they misappropriated from the state and are being allowed to pay off -- interest free -- over time.) In Weymouth, Spectrum canceled a private meeting with neighbors and officials when word of it spread -- does this arrogance sound familiar?

Framingham is being targeted, both by the social service industry and the state. If the town doesn't present a united front and build up outside support, we will wind up in receivership like Springfield and Chelsea.

First, Town Meeting must commit itself to fully funding all legal challenges to decisions by the town. One crack in the dike and the flooding starts.

Second, the Board of Selectmen and Town Manager must reach out to other afflicted towns -- like Worcester, Waltham, Northborough, Millbury, and Brockton -- and work on a unified strategy to demand change, starting with reform of social service siting procedures and the Dover Amendment.

Together, we can put Framingham first and build for the future.

--

Peter C.S. Adams
Communications Director
STEPPS (Stop Tax Exempt Private Property Sprawl)
<http://www.steps.info>
"Enough is enough"

Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Exhibit 68

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Message Index for 200703, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

From "Steven W. Orr" <steveo@syslang.net>

Subject Re: School Budget Cuts + PILOT

Date Thu, 22 Mar 2007 17:41:53 -0400 (EDT)

[Part 1 text/plain us-ascii (4.3 kilobytes)] ([View Text in a separate window](#))

David, I wish you could have been on the PILOT Committee with us :-)

On Thursday, Mar 22nd 2007 at 16:51 -0400, quoth DMoralesLaw@aol.com:

=>As I weigh the issues the school system deficits for FY 2007 and FY 2008
=>bring to the forefront, out from left field I got to thinking about the
=>PILOT program. I've always liked the idea that there is a social
=>service net in Framingham to take care of our own, but found it
=>difficult to take the influx of people from other towns (and states?)
=>that need those services and are directed to Framingham for social
=>services.

You wouldn't find it hard to swallow if there was any substantial number
of people who were clients and had lived here for some amount of time
prior to becoming clients. Alas, our work on PILOT showed us that that's
just not the case. AND, there's a reason for it:

<DarkOminousMusic>

The Continuum Of Care (COC)

</DarkOminousMusic>

SMOC's very business model is defined such that for them to continue to
thrive the way they have been, they *have* to get people from outside of
Framingham. They troll the cities, the prisons, everywhere they can to
find substance abusers and violent criminal offenders to place them here
in Framingham. Once they're here, they get some of the help they need in
a "program" which lasts for some period (maybe 6 weeks, 6 months,
whatever) and then they graduate to the next program in their COC. That
opens a spot in the previous program which is then occupied by the next
wino^H^H^H^Hcrim^H^H^H^Hclient.

=> ..

=>It should be fairly easy for social service agencies to figure out

<http://steveo.syslang.net/cgi-bin>

10/16/2007

=>Framingham residents and non-residents from the data they probably need
 =>to share with the state agencies that provide them funding. The
 =>determination of residency should probably be a one-year term, after
 =>which they would be considered Framingham residents. You may apply
 =>other useful factors.

(gasp) David! Are you somehow suggesting that they should VIOLATE the
 PRIVACY of their CLIENTS? Shame on you. ;-)>

=>I have not yet figured out whether Framingham could legally charge the
 =>social service agency or the city or town where the social service
 =>client came from. Neither have I figured out how to collect the payment
 =>or how to ascertain the value per out-of-town client. Perhaps
 =>implementing a plan such as this could affect the town's finances in a
 =>positive fashion. I know there are enough of you with good ideas who
 =>may come forth with suggestions.
 =>
 =>The point is that if the rules work for special education funding
 =>determinations, why not for social service agencies' PILOT purposes?

As an extreme case, Framingham was able to shut the infamous wet shelter
 down. This was a situation where huge amounts of public safety
 infrastructure was spent (translate that into dollars please) to manage
 the problems that SMOC created for us. Before the shelter was closed, SMOC
 was caught multiple times with their pants down (so to speak), secretly
 importing winos from Waltham and using the Store 24 as their drop-off
 point so that people wouldn't see them getting door-to-door service
 directly to the shelter. This is just one example and there are others,
 but the point is that if we just had a buck for every buck that has been
 spent in the last five years to handle emergency calls for their clients,
 we probably wouldn't be in the fix we're in now.

So please: Continue to look for solutions. Complain loudly and officially
 when you see something wrong. Be creative. Don't put up with factors that
 impact your quality of life and your childrens' educations

At the State level:

If you want funding from the State to help us pay for costs imposed on us
 from outside of our municipality, you need to contact our State Reps. Make
 them accountable for these costs. Make them accountable for the increase
 in growth of the social service agencies in Framingham under their watch.
 Make them accountable for the money they don't bring in.

We are in grave danger of entering into a financial spiral that can
 seriously ruin us all. But right now, everyone needs to understand the
 situation and not trivialize it by thinking that we can just throw money
 at the problem.

--

steveo at syslang dot net TMMP1 <http://frambors.syslang.net/>

Do you have neighbors who are not frambors?

Message Index for 200703, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

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Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

From "Steven W. Orr" <steveo@syslang.net>

Subject [SSAWatch] Another model SMOC Client living in Framingham

Date Thu, 15 Feb 2007 16:37:12 -0500 (EST)

[Part 1 text/plain US-ASCII (3.7 kilobytes)] ([View Text in a separate window](#))

On an almost daily basis, we have crime being handled by our police force, committed by people who have been brought here by the social service agencies. It's frustrating right now especially because we're currently in the middle of Town Meeting, struggling to figure out how to pay the bills. If only we were spending less on Public Safety, we could use the difference to meet level services for things like schools, or public works, just to name a few.

The crime that happens is in the newspaper and on the police blotter, both of which are available on-line. The trick is that you can't tell HoozHoo unless you know what addresses are associated with the social service agencies.

Unless I hear gigantic howls of objections from people who are afraid of either being bored or offended, I would like to offer the following proposal: Frambors should have an occasional posting of items, plural, from the paper or the police blotter, of people who are contributing to the draining of our resources, whose addresses are owned or run by social service agencies. Why do this you ask? So that we can contribute to people's consciousness elevation of just how overburdened we are by the agencies. It's not as simple as the money they don't pay in taxes. It's all about how we are allowing our infrastructure to be taxed. The number of times that the police were called to assist you in the last ten years is the type of model that we should be "shooting" for. The imports by the agencies have a much lower expectation.

The Subject lines of the messages should all begin with [SSAWatch].

I offer one from today's paper as an example:

The gentleman below lives at 10 Pine Street which is a SMOC 15-room, nontaxed, locally licensed, lodging house. We presume that this individual flunked the curriculum that was offered via the "educational values" that were offered as part of SMOC's requirements for being tax-exempt.

http://www.metrowestdailynews.com/local_news/8998932290230812671

Man arrested in fake money order scheme

By Norman Miller/Daily News staff

Wednesday, February 14, 2007 - Updated: 11:06 PM EST

FRAMINGHAM - A Framingham man actively participated in a scheme to cash counterfeit money orders with a man from Nigeria, police said.

Enrico Taylor, 24, was arrested Tuesday at the Metropolitan Credit Union on Rte. 9 after he tried to cash a fake money order for \$750, police spokesman Lt. Paul Shastany said.

Allegedly, Taylor, of 10 Pine St., had previously cashed three U.S. Postal Service money orders for \$850 from the same bank branch.

"He said he was contacted over the computer by someone who said if he cashed the money orders, he could keep a portion and return the rest to a man in Nigeria," Shastany said.

On Tuesday, at 2:30 p.m., the credit union manager called police because a man who had previously cashed the three fake money orders had come in to attempt to cash a fourth one, according to police.

The man, Taylor, was still there when the officer arrived and allegedly admitted he was there to cash the money orders. He also gave the officer five more fake money orders, each for \$700, he planned cashing at a later date.

Police believe Taylor knew it was a scam, and was not a victim, so he was charged with uttering, forgery, larceny of more than \$250, counterfeiting and attempting to commit a crime.

"He cashed them even though they were fake," Shastany said.

Taylor pleaded not guilty at his Framingham District Court arraignment yesterday and was released without bail. He is due back in court March 22 for a pretrial conference.

--

steveo at syslang dot net TMMP1 <http://frambors.syslang.net/>

Do you have neighbors who are not frambors?

Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

For assistance, please contact [the.syslang.net administrators](mailto:the.syslang.net.administrators).

<http://frambors.syslang.net/cgi-bin/>

10/21/2007

Exhibit 70

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steveo's Home Server

Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

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Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

From Tony Siciliano <ajsiciliano@yahoo.com>

Subject Re: [SSAWatch] Another model SMOC Client living in Framingham

Date Thu, 15 Feb 2007 15:55:24 -0800 (PST)

[Part 1 text/plain iso-8859-1 (1.8 kilobytes)] ([View Text in a separate window](#))

Steve,

I think you know how I feel about your idea, so let's go for it. Frambors does have some power and influence in Framingham, if for no other reason than its sheer numbers. If we do this for a year, and come out with a net of one less social service agency in town, or we stop the expansion of another, then it is well worth the space on your server.

Tony Siciliano
ajsiciliano@yahoo.com

----- Original Message -----

From: Steven W Orr <steveo@syslang.net>

To: Framingham Neighbors <frambors@syslang.net>

Sent: Thursday, February 15, 2007 4:37:12 PM

Subject: [frambors] [SSAWatch] Another model SMOC Client living in Framingham

Unless I hear gigantic howls of objections from people who are afraid of either being bored or offended, I would like to offer the following proposal: Frambors should have an occasional posting of items, plural, from the paper or the police blotter, of people who are contributing to the draining of our resources, whose addresses are owned or run by social service agencies. Why do this you ask? So that we can contribute to people's consciousness elevation of just how overburdened we are by the agencies. It's not as simple as the money they don't pay in taxes. It's all about how we are allowing our infrastructure to be taxed. The number of times that the police were called to assist you in the last ten years is the type of model that we should be "shooting" for. The imports by the agencies have a much lower expectation.

The Subject lines of the messages should all begin with [SSAWatch].

<http://frambors.syslang.net/cgi-bin/>

10/21/2007

We won't tell. Get more on shows you hate to love
(and love to hate): Yahoo! TV's Guilty Pleasures list.
<http://tv.yahoo.com/collections/265>

Message Index for 200702, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

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Exhibit 71



TOWN OF FRAMINGHAM
Massachusetts
Office of the
TOWN COUNSEL
Christopher J. Petrini

Town Office:
Office of the Town Council
Memorial Building
150 Concord Street, Room 127
Framingham, MA 01702
(508) 532-5406
Facsimile (508) 620-5910
E-mail: cpetrini@framinghamma.gov

Framingham Office:
Petrini & Associates, P.C.
The Meadows
161 Worcester Road, Suite 304
Framingham, MA 01701
(508) 665-4310
Facsimile (508) 665-4313
E-mail: cpetrini@petrinilaw.com

MEMORANDUM

To: Planning Board

From: Christopher J. Petrini *C. J. P.*
Town Counsel

cc: Jay W. Grande, Planning Board Director
Board of Selectmen
Julian Suso, Town Manager
Michael Foley, Acting Building Commissioner
Barbara J. Saint André, Esq., Petrini & Associates, P.C.

Date: February 8, 2007

Re: 517 Winter Street – Proposed Site Plan Conditions set
forth in draft decision dated February 8, 2007

You have requested that this office review a draft of the Planning Board's decision on the application by South Middlesex Non-Profit Housing Corporation (SMNPHC) for site plan review approval and public way access permit approval for a change in use at 517 Winter Street (the Site). SMNPHC proposes to change the use of the property from its previous use as a nursing home to house a program known as the Sage House Family Treatment Program for up to 15 families. The applicant claims, and the Building Commissioner has agreed, that the proposed use constitutes an educational use which is protected by G.L. c. 40A §3, the so-called Dover Amendment. The change in use, nevertheless, is subject to limited site plan review under Section IV.I of the Zoning By-law. The proposed decision lists a number of conditions that are standard conditions for site plan approval. It also lists a number of proposed additional conditions, some of which raise issues as to whether they are within the allowable scope of conditions for site plan review.

As has been explained in prior opinions from this office, the scope of the Planning Board's review of an exempt educational use under site plan review is limited. The Town amended the Site Plan Review By-Law at the August, 2005 Special Town Meeting, deleting language which specifically exempted Dover-protected uses. Although the By-Law amendments were approved by the Office of the Attorney General pursuant to G.L. c. 40, sec. 32 as valid on their face, the Attorney General's November 16, 2005 approval letter specifically cautioned the Town on pages 4 and 5 that the Town may not apply the Site Plan requirements in violation of the protections accorded under the Dover Amendment. A copy of the Attorney General's letter is attached hereto as **Exhibit A**. If the Planning Board interprets the limited site plan review it is entitled to conduct under Section IV.I. to permit it to impose conditions aimed at the use of the facility as an exempt educational use, it would run afoul of the Attorney General's caution and could result in invalidation of the limited site plan review bylaw for Dover properties or the imposition of civil rights or other liability against the Town if challenged in court.

In addition, in a memorandum dated April 6, 2006, I responded to a number of questions from the Planning Board as to the allowed scope of its Site Plan Review for exempt uses. A copy of my April 6, 2006 Memorandum is attached as **Exhibit B**. As the attached memorandum explains in detail, the scope of the Planning Board's review is limited by G.L. c. 40A, §3. As set forth in the memorandum, with regard particularly to the Sage House, the scope of review is limited to Parking Impact Assessments and Standards and possibly Traffic Impact and Environmental Impact Assessment (upon the showing of demonstrated concerns in these areas), as no exterior changes are contemplated to the existing structure. See Exhibit B, p. 5.

Within the scope of its review, the Board may impose conditions pursuant to Section IV.I.8 on issues such as the location and type of access, the number of vehicles entering or leaving during peak hours, conditions to mitigate off-site impacts, screening of parking facilities, and mitigating impacts from noise, dust, fumes, odors, lighting, headlights, and hours of operation.

I offer the following comments on each of the proposed special conditions set forth at pages 12-14 of the draft decision (within Section II, "Additional Requirements/Limitations"). For the reasons described below, a number of the proposed special conditions appear on their face to be beyond the scope of the Board's authority to impose conditions under site plan review, unless the applicant voluntarily has agreed to the condition in question. My comments on each of the special conditions is as follows:

Proposed special condition 1 pertains to landbanking three parking spaces that has agreed to by the applicant and is within the purview of limited site plan review.

Proposed special condition 2 requires the applicant to inform the Massachusetts Department of Public Health in writing that Framingham has requested that current Framingham residents or relatives of Framingham residents be given preference for selection. In my opinion, this condition would be subject to challenge as it does appear to relate to any of the criteria for site plan review.

Proposed special condition 3 purports to prohibit the applicant from subdividing the lot for additional development. As justification for the proposed condition, this condition recites that it is based on the fact that the amount of open space and setbacks are appropriate for the building and use. In my opinion, this condition can also be challenged as beyond the scope of the Board's authority under site plan review. This condition, in essence, attempts to impose stricter zoning requirements for an exempt use than provided for in the Zoning Bylaw by requiring that the entire approximately 2 acre lot be restricted to this use. The table of dimensional regulations provides that, in the Residential R-1 district, which includes the Site, the minimum lot size for one and two family dwellings is 8000 square feet, and the minimum lot size for any other principal use is approximately one acre. The Table also sets forth the required setbacks. In my opinion, the limited site plan review provisions under which the Planning Board is operating do not grant the Board the authority to in effect amend the zoning requirements for a parcel of land, and impose a condition to prohibit otherwise lawful uses of the Site.

Proposed special condition 4 limits the number of persons occupying the Site. In a memorandum dated June 13, 2006, the Building Commissioner determined that, for purposes of determining the required number of parking spaces, the proposed use of the Site should be deemed to be a "Residential Care Facility" under Section IV.B.1 a. As such, the number of required parking spaces is one per four occupants, plus one per two employees. According to the narrative of the public hearing set forth on page 4 of the proposed decision, SMNPHC advised the Board that there will be a maximum of 40 occupants and 14 employees at the site at any time, thus resulting in a requirement for 17 parking spaces. The narrative further states that the applicant's original plan showed a total of 24 spaces, of which three would be land banked. After discussion, the Board requested that the number of parking spaces be reduced to 17, of which four are to be land banked. To the extent the number of parking spaces for the Site is based upon the occupancy limit of 40 persons as set forth in the condition, which limit was the number provided by SMNPHC, then the condition seems to be properly related to the purposes of site plan review.

Proposed special conditions 5 and 14 prohibit sleeping accommodations in common areas and attempt to regulate the use of the basement. In my opinion, the site plan review process does not include regulating the interior layout of the building, or where the sleeping accommodations are placed. Further, G.L. c. 40A §3 provides that no zoning bylaw shall regulate or restrict the interior area of a single family residential building. To the extent that the Board is imposing restrictions on an exempt Dover use that it cannot impose on single family homes, it raises issues of potential violations of state and/or federal law, as detailed more fully below.

Proposed special condition 6 provides that, based on the number of parking spaces, all programs at the Site shall be provided only for occupants of Sage House. This appears to be an attempt to regulate the use, rather than to impose appropriate conditions as to the site. Although there is a required minimum number of parking spaces for the proposed use, this parking requirement does not purport to prohibit visitors or otherwise forbid vehicles other than those belonging to occupants and employees.

Proposed special condition 7 requires exterior modifications to be reviewed and approved by the Framingham Historical Commission. Is this building in an historic district or otherwise subject to the Historical Commission? If not, this condition does not seem related to the requirements of site plan review as set forth in the Bylaw. If so, then is this condition necessary?

Proposed special condition 8 requires SMNPHC to meet with town officials to discuss a payment in lieu of taxes. This is not one of the criteria for site plan review and should, in my opinion, be removed from the decision.

Proposed special conditions 9 and 10 relate to traffic entering and exiting the site, and pedestrian access to Winter Street and a crosswalk. These appear to be related to the site plan review criteria of the Bylaw.

Proposed special condition 11 requires SMNPHC to provide a name and telephone number to the Police and Fire Department. This seems beyond the scope of site plan review.

Proposed special conditions 12 and 13 relate to screening of the generator and security lighting, which concerns generally are within the scope of site plan review, although they may be beyond the limited scope of review for an exempt Dover use.

It is important to note that the site plan review process involves a degree of discussion of alternatives and potential conditions and mitigation to address local concerns. I have not been present at the public hearings and therefore do not have knowledge regarding the give and take of such discussions. Thus, it is possible the Sage House has agreed on a voluntary basis to the imposition of some of the above special conditions. If that is the case for one or more of the aforementioned special conditions, such compromise is certainly part of the give and take of the review process so long as it is voluntary on behalf of Sage House.

Imposing conditions on the Sage House outside of the scope of site plan review, and without similar conditions on other non-protected uses, could be deemed to violate the federal Fair Housing Act ("FHA") if challenged in court. See 42 USC §3604(f). The FHA makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of a handicap of that person or a person residing in or intending to reside in the dwelling. This provision prohibits local zoning decisions and practices which discriminate against those with a handicap. See Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F. 3d 775 (2002). In addition, the Americans with Disabilities Act and the Federal Rehabilitation Act also prohibit a town from zoning practices which discriminate against handicapped persons.

"Handicap" is broadly defined under the FHA to include a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such impairment, or being regarded as having such an impairment. See 42 USC §3602(h). Persons recovering from alcohol and drug addiction, who are no longer using illegal drugs, are

considered to be within the definition of "handicapped". Oxford House, Inc. v. Town of Babylon, 819 F. Supp. 1179 (E.D.N.Y. 1993).

Under the FHA, exempt educational uses which include a residential component and which provide services to handicapped persons, as defined by the Act, may not be discriminated against by a municipality by virtue of that handicap in zoning decisions and practices. In my opinion, the singling out of an educational use for the imposition of conditions not imposed on other residential uses could be viewed as a form of prohibited discrimination.

Violations of the federal statutes discussed herein would result in an award against the Town for damages, treble damages, attorneys' fees, costs, and injunctive relief. As you are aware, there presently are two civil rights lawsuits pending in the United States District Court against the Town, one involving the denial of a public way access permit to Wayside Youth and Family Services and the second involving the denial of special permits to Great Brook Valley Health Center to establish a health center in downtown Framingham. This office and/or counsel appointed by the Town's insurer, Massachusetts Interlocal Insurance Association ("MIIA"), will vigorously defend the Town and its positions in these lawsuits. If either of these lawsuits is successful, however, they will result in the imposition of substantial liability against the Town. It is unclear whether insurance coverage will be available to indemnify the Town against any judgment, damages or attorney's fees that may be issued against the Town in either of these civil rights actions, as MIIA has issued a reservation of rights letter in the Wayside case disclaiming coverage and so far has not agreed to assume the defense of the Town in the GBVHC civil rights lawsuit.

If you have further questions in this regard, do not hesitate to contact me. Thank you.

2007 02 07 Memo re proposed site plan conds (600-109)



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION
1350 MAIN STREET
SPRINGFIELD, MASSACHUSETTS 01103-1629

THOMAS F. REILLY
ATTORNEY GENERAL

(413) 784-1240
www.ago.state.ma.us

November 16, 2005

Valerie Mulvey, Town Clerk
150 Concord Street
Framingham, MA 01702

RE: Framingham Special Town Meeting of August 3, 2005 — Case # 3545
Warrant Article # 1 (Zoning)

Dear Ms. Mulvey:

Article 1 - I return with the approval of this Office the amendments to the town by-laws adopted under this Article on the warrant for the Framingham special town meeting that convened on August 3, 2005, except as provided below.

As required by G.L. c. 40, § 32, the Town Clerk properly forwarded to us Town Meeting's vote together with a request for its approval by the Attorney General, whereupon the Attorney General then had ninety days in which to ascertain whether the amendments voted by the Town are inconsistent with the Constitution and laws of the Commonwealth. The Attorney General's power to disapprove town by-laws is limited, and he may disapprove a by-law only if it violates state substantive and procedural law, with every presumption made in favor of the by-law's validity.

In his review of the by-law's consistency with procedural law, the Attorney General must ascertain, for each by-law presented for his approval, that statutory procedures prescribed for such by-law were followed. In his review of the by-law's consistency with substantive law, the Attorney General must ascertain, for each by-law presented for his approval, that the subject matter of the by-law itself is not in conflict with, or preempted by, state law. The power to disapprove, moreover, requires that the conflict with state law be facial rather than as applied, meaning that the by-law must be approved if there is a way in which it can be applied that does not conflict with state law. In such instances, the Attorney General will ordinarily caution the Town to apply the by-law only in a manner that does not conflict with state law. In contrast, a by-law is facially flawed if every application of the by-law entails a violation of state law, and a disapproval rather than a caution is required.

In reaching our conclusion that the proposed by-law adopted under Article 1 is, in part, facially consistent with state law we have received and taken into account the views of many who have written both in support of or in opposition to the proposed by-law amendments. We have received a number of letters urging the Attorney General to disapprove the proposed amendments, arguing that the amendments are substantively inconsistent with the protections accorded to exempt uses under G.L. c. 40A, § 3. We

EXHIBIT

A

have also received a number of letters urging this Office to approve the proposed amendments because the substance and effect is facially consistent with the protections accorded to certain exempt uses under G.L. c. 40A, § 3.

The amendments adopted under Article 1 make a number of changes to the town's zoning by-laws pertaining to site plan review and uses protected under G.L. c. 40A, § 3. Article 1 of the Town Meeting Warrant provided as follows:

To see if the Town will vote to amend the Zoning By-Law of the Town of Framingham as follows:

Amend Section II.A.1 by deleting the existing words in Paragraph i. and replacing with the following words.

"Charitable and philanthropic buildings for religious purposes or educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided, however, that such land or structure shall be subject to regulations concerning the bulk and height of structures, yard size, lot area, open space, parking, building coverage, and site plan review requirements in accordance with the provisions of this By-law."

Amend Section IV.I. Site Plan Review, Subsection 2, General Provisions, by deleting the following words in the parenthesis as they appear in the second sentence:

"(excluding subdivisions for detached single-family dwellings, planned unit developments, and all uses exempt from such zoning regulation as set forth under MGL Chapter 40A, Section 3)"

The vote by Town Meeting under Article 1 provided as follows:

That Town Meeting amend the Zoning Bylaw of the Town of Framingham as set forth under Article 1 of the August 3, 2005 Special Town Meeting as printed in the handout, as amended.

The handout given at town meeting contained five changes to various sections of the town's zoning by-laws that were not specifically mentioned in the warrant article. While we deem most of the changes proposed in the handout to be companion changes without which the town's zoning by-laws would be internally inconsistent or confusing, we call the town's attention to the change to Section IV.I.2.c. Section IV.I.2.c pertains to the general requirements for site plan review, and the amendments to Section IV.I.2.c in the handout would have provided as follows:

Amend Section IV.I.2.c by striking the numbers and words "5,000" and "the addition of 20" and inserting in place thereof the numbers and words as follows:

c. any new structure, group of structures, substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which either results in the development, redevelopment, reuse, change in use, or an increase of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section IV.I. in its entirety.

We first point out that the amendments to Section IV.I.2.c would render it grammatically indecipherable. While the vote under Section IV.I.2.c deletes specific numerical references from Section IV.I.2.c and inserts new numerical references, the vote also inserts language that already exists in the text of Section IV.I.2.c. The insertion of language that already exists in Section IV.I.2. renders it grammatically indecipherable. Notwithstanding the grammatical deficiency of the amendments to Section IV.I.2, we disapprove and delete the changes to Section IV.I.2.c. as outside the "scope" of the warrant article and thus inconsistent with G.L. c. 39, § 10, [Disapproval # 1 of 2]. General Laws Chapter 39, Section 10, limits the authority of town meeting to the subjects set forth in the warrant. This requirement allows voters to be apprized of the nature of the matters to which town meeting is authorized to deal. Burlington v. Dunn, 318 Mass. 216, 219 (1945).

The text of the changes to Section IV.I.2.c. would, in effect, change the threshold of those structures and uses that are subject to site plan review. The amendments set forth in Warrant Article 1 pertain to site plan review and uses that enjoy protections accorded under G.L. c. 40A, § 3. Nowhere in Warrant Article 1 was there any mention of amending the requirements of site plan review for uses that do not enjoy protections under G.L. c. 40A, § 3. By changing the threshold requirement for site plan review for all structures and uses, the text of the amendments to Section IV.I.2.c dramatically expands the scope of Warrant Article 1. In short, the town meeting warrant did not adequately "warn" the citizens of the changes to Section IV.I.2.c actually voted under the Article. As such, the vote of the town impermissibly expanded the scope of the article. For these reasons, we disapprove and delete the changes to Section IV.I.2.c. We point out that substantively, the changes proposed under the floor amendment are not inconsistent with state law. If the town were to adopt such changes under the appropriate warrant article at a future town meeting, the town could anticipate our approval.

We also call the town's attention to the floor amendment to Section III.A.1.i. Section III.A.1.i. pertains to uses allowed in the town's single residence districts. The vote on the floor amendment to Section III.A.1.i would have provided as follows:

That Article 1 be amended by inserting the following words after the word structures, "frontage on an existing public way."

Section III.A.1.i would then read as follows:

"i, "Charitable and philanthropic buildings for religious purposes or educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided, however, that such land or structure shall be subject to regulations concerning the bulk and height of structures, frontage on an existing public way, and determining yard sizes, lot area, setbacks, open space, parking, building coverage requirements."

(Emphasis added.)

We disapprove and delete the floor amendment to Section III.A.1.i. as inconsistent with the protections accorded to certain uses under G.L. 40A, § 3. [Disapproval # 2 of 2] General Laws Chapter 40A, Section 3, provides exemptions from local zoning for the use of land or structures for religious

purposes and educational purposes, but authorizes the reasonable regulation of such uses in exactly eight areas as indicated by the text underlined below. Specifically, Section 3 provides in pertinent part:

No zoning . . . by-law shall prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements . . .

Certain uses enjoy protection from local zoning under G.L. c. 40A, § 3. However, such uses may be subject to reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. Frontage on an existing public way is not included in the list. Thus, it is inconsistent with G.L. c. 40A, § 3, to subject protected uses to reasonable regulations concerning frontage on an existing public way. Therefore, we disapprove and delete the insertion of the words "frontage on an existing public way" that was inserted into Section III.A.1.i by way of an amendment on the floor of town meeting.

Lastly, in approving the remaining changes to the town's by-laws, we remind the town of the lawful application of site plan review to uses that enjoy protections under G.L. c. 40A, § 3. Specifically, the vote under Article 1 delete from Section IV.I.2, "Site Plan Review," text pertaining to uses exempt from local zoning under G.L. c. 40A, § 3. Section IV.I.2 provides in pertinent part as follows [deleted text in strikeout]:

2. General Provisions

The Planning Board shall conduct site plan review and approval. Notwithstanding any provision of this By-Law to the contrary, any structure, use, alteration or improvement which meets any of the following criteria (~~excluding subdivisions for detached single-family dwellings, planned unit developments, and all uses exempt from such zoning regulation as set forth under MGL Chapter 40A, Section 3~~) shall require site plan review and approval as set forth in this section:

Before the amendments adopted under Article 1, Section IV.I.2 expressly exempted from site plan review uses protected under G.L. c. 40A, § 3. Based on the amendments adopted under Article 1, it seems that the town could now apply site plan review to uses protected under G.L. c. 40A, § 3.

As stated in more detail above, G.L. c. 40A, § 3, provides exemptions for the use of land or structures for religious purposes and educational purposes. While Section IV.I.2 no longer expressly exempts uses protected under G.L. c. 40A, § 3, any application of the site plan review process to such uses may only be applied to the extent allowed under G.L. c. 40A, § 3, that is, to check for compliance with reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. It is only in those instances in which site plan review may be utilized. It is our view that site plan review is not facially inconsistent with state law to ascertain whether a protected use complies with those reasonable regulations. However, we caution the town that it may need to modify its site plan requirements and process in order to avoid a challenge that the town is applying unreasonable regulations to a protected use. For example, requiring the submittal of a lengthy,

detailed site plan application or requiring an application to wait nine to twelve months for a site plan review may be found to be an unreasonable regulation of a protected use, and thus, inconsistent with G.L. c. 40A, § 3.

Because we see a lawful application of the proposed by-law, we approve the amendments adopted under Article 1. We, however, strongly suggest that the town discuss the application of the proposed by-law amendments to use protected under G.L. c. 40A, § 3, with town counsel.


Note: Under G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of this section. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

If the Attorney General has disapproved and deleted one or more portions of any by-law or by-law amendment submitted for approval, only those portions approved are to be posted and published pursuant to G.L. c. 40, § 32. We ask that you forward to us a copy of the final text of the by-law or by-law amendments reflecting any such deletion. It will be sufficient to send us a copy of the text posted and published by the Town Clerk pursuant to this statute.

Nothing in the Attorney General's approval authorizes an exemption from any applicable state law or regulation governing the subject of the by-law submitted for approval.

Very truly yours,

THOMAS F. REILLY
ATTORNEY GENERAL


By: Kelli E. Gunagan, Assistant Attorney General
By-law Coordinator, Municipal Law Unit
1350 Main Street, 4th Floor
Springfield, MA 01103-1629
(413) 784-1240, x 117

enc.

pc: Town Counsel

Exhibit 72

**Decision Of The Framingham Planning Board On The
Application Of South Middlesex Non-Profit Housing Corporation
For Site Plan Review Approval and Public Way Access Permit for
517 Winter Street, Framingham, MA**

Date of Decision: April 5, 2007

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STATEMENT OF FACTS

This Decision relates to property of South Middlesex Non-Profit Housing Corporation ("SMNPHC") known as 517 Winter Street (the "Property") which is zoned Single Residence R-1 under the By-law. The Property is shown on Framingham Assessor's Plan Sheet 38, Block 1, Lot 31. The total lot area is 89,826 square feet, the total gross floor area of the building is 10,750 square feet and the Floor Area Ratio is 0.119. The value of project related improvements is estimated at \$25,000.00.

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On January 11, 2006, the Applicant, SMNPHC pursuant to Section IV I. of the Framingham Zoning By-law (the "By-law") filed a draft Application for Site Plan Review Approval with Joseph R. Mikielien, the then Framingham Building Commissioner. The Applicant claimed that the project Property was a non-profit educational use subject to protection under M.G.L. c. 40A § 3 (the "Dover Amendment").

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Subsequently, the Applicant filed an Application for Site Plan Review pursuant to Section IV.I of the By-law. By memorandum dated February 23, 2006, John W. Grande, Planning Board Director, requested guidance from Christopher J. Petrini, Town Counsel, as to the proper review process for a Dover Amendment protected Application. By letter dated March 9, 2006 John W. Grande advised the Applicant that the Application was considered incomplete and that the matter had been referred to Town Counsel for review to determine the proper administrative procedure. By letter dated April 7, 2006 Jessica Levensgood, Senior Planner for the Planning Board, advised the Applicant that a supplemental submission was required to complete the Site Plan Review Application. The Applicant submitted a Supplemental Memorandum addressing the remaining issues on May 8, 2006.

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Pursuant to receipt of a grant from the Department of Public Health - BSAS for a group home for recovering substance abusers, the Application was filed in connection with the Applicant's plan to change the use of the Property from its previous use as a nursing home to the Sage House Family Treatment Program for up to fifteen (15) families.

After notice of the public hearing for Site Plan Review published in "The Metrowest Daily News" on June 5, 2006, and June 12, 2006, and mailed to parties in interest pursuant to the By-law and M.G.L. c. 40A, the Planning Board opened the public hearing on June 22, 2006 at 7:45 p.m. in the public hearing room, Memorial Building, Framingham. Continued sessions of the public hearing were held on September 7, 2006; October 12, 2006; November 9, 2006; December 7, 2006; January 4, 2007; and

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January 25, 2007, at which time the Planning Board closed the public hearing. On April 5, 2007, the Planning Board voted to the application of SMNPHC for Site Plan Review Approval.

On October 12, 2006 pursuant to Article IV § 8 of the Town of Framingham By-law (the "General By-law") the Applicant filed a Public Way Access Permit Application. After notice of public hearing for the Public Way Access Permit published in "The Metrowest Daily News" on November 20, 2006 and November 27, 2006 and mailed to parties in interest pursuant to the By-law and M.G.L. c. 40A, the Planning Board opened the public hearing for the Public Way Access Permit Application on December 7, 2006 at 7:45 p.m. Continued sessions of the public hearing were held on January 4, 2007 and January 25, 2007, at which time the Planning Board closed the public hearing. On April 5, 2007, the Planning Board voted to the application of SMNPHC for Public Way Access Permit

The Applicant believes they have filed with the Planning Board all plans, reports and requested waivers required under Section IV.1.5. or other applicable provisions of the By-law. During the review process, the Applicant and its professional consultants also submitted various revisions to the same, along with various supplemental memoranda and correspondence, in response to requests by the Planning Board and by the various departments within the Town of Framingham that reviewed the project. All of these plans, reports, and correspondence are contained in the Planning Board's files and are hereby incorporated into this Decision by reference. Included with the Applicant's submittals were the following:

1. Application for Site Plan Review dated February 17, 2006;
2. Supplement to Application for Site Plan Review dated February 17, 2006;
3. Supplement to Application for Site Plan Review and Request for Waivers dated May 8, 2006 including Environmental Impact Assessment, Parking Impact Assessment, Traffic Impact Assessment, and Request for Waivers from certain submission requirements;
4. Traffic Memorandum dated June 15, 2006 prepared by MDM Transportation Consultants, Inc.;
5. Supplemental Submission relative to traffic dated December 6, 2006 from MDM Transportation Consultants Inc
6. Proposed Parking Plan prepared by MetroWest Engineering Inc, dated July 18, 2006 with revisions through December 27, 2006 consisting of six (6) sheets including a Locus Plan, Existing Conditions Plan, Proposed Parking Layout Plan, Proposed Grading and Drainage Plan, Proposed Landscaping Plan, and Proposed Detail Plan.;
7. Building Elevation and Building Footprint Plans prepared by Garlicki Gray Architects, Inc. dated January 30, 2006; and
8. Application for Public Way Access Permit dated October 12, 2006.

The Planning Board received correspondence from the Conservation Commission, Department of Public Works, Department of Building Inspections, Police Department, Fire Department and Town Counsel. The Planning Board also received information from a group known as STEPPS and accepted a

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72 Powerpoint presentation by a group of Framingham Residents which was presented at the December 7,
73 2006 public hearing. The Applicant and its consultants also submitted additional reports, correspondence
4 and plans during the public hearing process. The aforesaid correspondence is contained in the Planning
75 Board files and incorporated herein by reference.

76 HEARINGS

77 During the course of the public hearings, the following individuals appeared on behalf of the Applicant:

78 James T. Cuddy, Executive Director, Jerry Desilets and Charles Gagnon of South Middlesex Non-Profit
79 Housing Corporation, Robert J. Michaud, PE, Managing Principal of MDM Transportation Consultants,
80 Inc. and James D. Hanrahan, of Bowditch & Dewey LLP, counsel to the Applicant

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81 At the initial public hearing on June 22, 2006, Planning Board Member, Thomas F. Mahoney recused
82 himself from participating in the hearings on this matter. Mr. Mahoney explained that his wife had
83 recently taken a part time position with the Applicant and that although the state ethics commission had
84 indicated that a conflict of interest did not result from such employment, Mr. Mahoney recused himself to
85 avoid the appearance of a conflict of interest.

86 During the initial presentation, the Applicant explained that the Property had previously been operated as
87 The Framingham Nursing Home, a fifty-five (55) bed nursing home facility supported by thirty-five (35)
88 full-time and five (5) part-time staff. The Applicant further explained that Building Commissioner,
89 Joseph Mikielian, had determined that the Applicant's proposed use was a non-profit educational use
90 subject to the protection of M.G.L. c. 40A, Section III (the "Dover Amendment"). However STEPPS and
91 some members of the Planning Board disagreed with the Building Commissioner's additional
92 determination that the proposed Application was an R-2 Use under the State Building Code (See CMR's
93 308 and 780) and therefore the proposed number of occupants (40) was, in fact, not allowed for the
94 proposed use. The Building Commissioner also advised the Board that is was the Applicant's position

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95 that the Board's review of this Application was limited to review of compliance with reasonable
96 regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking,
97 and building coverage requirements. The Applicant advised the Board that the project complied with all
98 dimensional regulations for "any other principle use" in the R-1 District as set forth in Section IV.G (2)
99 Table of Dimensional Regulations of the By-law and could comply with the parking requirements subject
100 to Planning Board guidance on the proper parking lot configuration and location. The Applicant
101 explained that the project could comply with the parking requirements but asked the Board for guidance
102 on determining an appropriate configuration for the parking lot and the number of spaces the Board
103 deemed appropriate for Applicant's proposed use. The Applicant advised the Board that Joseph
104 Mikielian, the Building Commissioner, by letter to the Applicant dated April 11, 2006, had determined

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105 that for parking calculations the proposed use should be considered a residential care facility requiring
106 one (1) space per four (4) occupants plus one (1) space per two (2) employees. Further, the Applicant
7 advised the Board that the project would have a maximum of forty (40) occupants and a maximum of
108 fourteen (14) employees on site at any time resulting in a parking requirement of seventeen (17) spaces.
109 The Applicant's submitted parking plan proposed twenty-four (24) parking spaces, three (3) of which are
110 to be land banked, and two (2) of which are to be handicapped accessible. The Applicant stated that
111 fewer spaces were required for its program but that the larger number were shown to afford the Planning
112 Board parking design flexibility and to insure that there would be no need for street parking.

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113 The Applicant explained that proposed use of the Property was for the Sage House Program intended to
114 house up to fifteen (15) families to provide a structured and comprehensive rehabilitative environment to
115 families as they learn new skills for living in recovery. The Applicant explained that the program will be
116 fully staffed according to the Department of Public Health-BSAS staffing requirements providing staff on
117 site at all times, twenty-four (24) hours a day, seven (7) days a week. The Applicant further explained
118 that the existing building with a footprint of approximately 5,834 square feet would remain in its current
119 configuration and that the only site changes proposed were reconfiguration of the parking lot, improved
120 site landscaping, removal of two wooden storage sheds, and re-fencing of a children's playground located
121 at the southwest corner of the project building. The Applicant explained that project locus consisted of
122 89,826 square feet of land with 870.82 feet of frontage along Winter Street.

123 After some discussion and public comment, the Board requested that the Applicant configure a seventeen
124 (17) space parking lot with four (4) of the spaces to be land banked. A revised parking plan dated July
125 18, 2006 was submitted to the Board on August 31, 2006. In response to comments from the Fire
6 Department, the two driveway entrances were reconfigured, modifying the curb cut radii to allow access
127 to and from the site by the Fire Department's largest vehicle. This request by the Fire Department and the
128 Applicant's modification of the entrance ways triggered a requirement for Application for a Public Way
129 Access Permit to allow for modification of the existing curb cuts. An Application for a Public Way
130 Access Permit was filed on October 12, 2006.

131 At the September 7, 2006 public hearing there was disagreement among Board members as to the
132 appropriate parking lot configuration. As a result, the Applicant prepared two alternative parking plans,
133 each consisting of seventeen (17) spaces. Each plan reduced the width of the project driveway from 24'
134 to 18'. Alternative A showed thirteen (13) parking spaces (2 handicap accessible) located on the north
135 side of the building with four (4) land banked spaces to the east of the building. Alternative B showed
136 eleven (11) spaces to the east of the building together with four (4) additional land banked spaces to the
137 east of the building with two (2) handicapped accessible spaces remaining to the north of the building.

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138 The alternative plans, Alternative A dated September 20, 2006 and Alternative B dated September 21,
139 2006 were filed with the Board on October 10, 2006 and discussed at the October 12, 2006 public
140 hearing. At the October 12, 2006 public hearing there was discussion by the Board regarding further
141 reconfiguration of the site driveway and parking lot with some members urging study of a Winter Street
142 access. Robert Michaud, the Applicant's traffic consultant, testified that a Winter Street access was not
143 advisable based upon sound planning principles, the likelihood that a number of mature trees would have
144 to be removed to accommodate a new driveway, and the inadvisability of adding another access point to
145 Winter Street, a heavily traveled connector road.

146 Both parking lot alternate designs included site landscaping, grading and drainage plan, and a lighting
147 plan proposing installation of nine (9) bollard lights to illuminate pedestrian areas of the proposed parking
148 lots. Following the October 12, 2006 public hearing and at the direction of the Board, the Applicant
149 further revised the site plan based upon the Alternative B parking configuration showing eleven (11)
150 parking spaces to the east of the building, four (4) land banked spaces to the east of the building and two
151 (2) handicapped accessible spaces to the north of the building. The plan also relocated the property
152 dumpster to a pad in the north parking area. The further revised plans were submitted to the Board on
153 October 30, 2006 and discussed at the November 9, 2006 public hearing.

154 At the December 7, 2006 meeting the Board, despite objections from the Applicant, allowed a Powerpoint
155 presentation by a group of Framingham residents. The presentation addressed a number of requests for
156 site plan modifications including full screening along Ardmore Road and re-location or reconfiguring of
157 the children's playground, sought imposition of additional program requirements for the Sage House
158 Program, asked for submission of Department of Public Health/BSAS reviews by the Applicant to the
159 Building Commissioner on an annual basis, asked for limitation on trash disposal and pick-up, sought
160 criminal background checks on all staff members, requested an assumption by the Applicant of full legal
161 liability for criminal activity at the Program, sought agreement by the Applicant to make payments in lieu
162 of taxes to the Town of Framingham, and requested rerouting of traffic from the site onto Winter Street.

163 Following the neighbors' presentation, Board members were unable to agree on the location of the project
164 driveway, with some Board members finding the proposal for a Winter Street entrance worthy of further
165 study. Some Board members requested a plan showing an access driveway from Winter Street.

166 Following the hearing, the Applicant prepared a revised set of site plans reconfiguring the children's
167 playground and moving the southerly driveway entrance twelve (12) feet closer to Winter Street. The
168 revised plans were submitted to the Board on December 29, 2006.

169 The hearing on Applicant's Application for a Public Way Access Permit was opened on December 7,
170 2006 at 7:45 P.M. and was continued until January 4, 2007 and to January 25, 2007. at which time the

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171 | Planning Board closed the public hearing relative to that application. The Board heard testimony at the
172 | December 7, 2006, January 4, 2007 and January 25, 2007 hearings relative to the Applicant's
3 | modification of the existing curb cuts. The Applicant explained that the curb cut modifications were
174 | required because the Fire Department had requested modification of the curb radii to accommodate the
175 | Fire Department's largest vehicles. The Applicant stated that it would otherwise not seek to modify the
176 | curb cuts.

177 | The Planning Board and Framingham residents posed several questions to the Applicant at the various
178 | public hearings regarding the application of the so-called Dover Amendment to the proposed use of the
179 | Property. In response to these inquiries, the Applicant and its representatives presented oral and written
180 | responses to the proposed educational use of the Property and the application of the Dover Amendment.
181 | The Applicant, through its counsel, presented a memorandum dated October 5, 2006 setting forth the
182 | history of the review of this project under the Dover Amendment by the Town of Framingham Building
183 | Commissioner and Town Counsel. Additionally, the Planning Board was provided with a copy of a
184 | memorandum dated November 1, 2006 from Michael F. Foley, Assistant Director of Inspectional
185 | Services and Acting Building Commissioner to Julian Suso, Town Manager, reaffirming the previous
186 | Building Commissioner's determination that the project was entitled to zoning use exemptions pursuant
187 | to the Dover Amendment, and received a copy of a memorandum from Town Counsel to the Board of
188 | Selectmen dated November 28, 2006 relative to the Dover Amendment.

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189 | FINDINGS

190 | Having reviewed all the plans and reports filed by the Applicant and its representatives, considered the
191 | correspondence from various Departments within the Town of Framingham that have reviewed the
192 | project, and viewed the site, and based on a memorandum from Town counsel dated April 6, 2006
193 | concerning the scope of the Board's review of the Site Plan, specifically, which of the Development
194 | Impact Standards under Section IV.I.6. were to be evaluated, the Planning Board determines that the
195 | Applications comply with all applicable provisions of the By-Law including the requirements of Section
196 | IV I. of the By-law and Article VI, § 8 of the General By-law. Specifically, the Board makes the
197 | following findings:

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198 | A. Dimensional Requirements:

199 | The Applicant is not altering the footprint of the building and is therefore not changing the building's
200 | dimensional measurements as related to yard size, lot area, setbacks, open space, bulk and height of the
201 | structure or building coverage. The Property's children's playground will be reconfigured as shown on
202 | the Site Plan. Two outside storage buildings will be removed. The existing dumpster location will be
203 | moved to a pad in the north parking lot. A fence located near the abutter's property on the northerly

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204 boundary line of the Property will be replaced, subject to a private agreement between Applicant and the
205 abutter to allow the abutter a license to continue to maintain a fence on the Applicant's Property.

206 **B. Parking Standard:**
207 **§ IV.I.6.(e).**

208 By letter dated April 11, 2006, Joseph R. Mikielian, then Building Commissioner for the Town of
209 Framingham, determined that the parking requirements for a residential care facility, at one per four
210 occupants, plus one per two employees, would be the appropriate use classification for zoning purposes to
211 apply to the use of the Applicant's proposed parking plan. At the request of the Planning Board, the
212 Traffic Roadway and Safety Committee reviewed the facility and voted in the affirmative on a
213 recommendation to provide an access driveway from Winter Street. The Applicant's parking plan
214 proposes a parking lot, driveway and access ways which complies with the present Zoning Bylaw. §
215 IV.B.1 which requires that the proposed building and use have seventeen (17) off-street parking spaces.
216 The southerly driveway access onto Ardmore will incorporate a sign prohibiting right turn vehicle
217 movements on the chained driveway as shown on the Site Plan. The Fire Department determined the
218 emergency access to be adequate. The Applicant's parking plan provides seventeen (17) parking spaces,
219 four (4) of which, at the direction of the Planning Board, will be land-banked. Based on the application
220 submittal and public testimony, the Planning Board finds that the proposed number of parking spaces will
221 provide adequately for all uses served by the parking facility and that the access driveways and parking
222 facility will not create a hazard or cause any adverse impacts to abutters, vehicles or pedestrians.

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223 **C. Public Way Access Permit**

224 Article VI, § 8 of the General By-law authorizes the Planning Board to grant a Public Way Access Permit
225 where the Applicant provides "sufficient roadway improvements to facilitate safe and efficient roadway
226 operations, or when the construction and/or use of the access applied for would [not] create a condition
227 that is unsafe or endangers the public safety and welfare." The Applicant's parking plan proposes a
228 parking lot, driveway and access way which complies with the present Zoning Bylaw. § IV.B.1 which
229 requires that the proposed building and use have seventeen (17) off-street parking spaces. Further, the
230 southerly driveway access onto Ardmore will incorporate a sign prohibiting right turn vehicle movements
231 on the chained driveway as shown on the Site Plan. Based on the information provided and testimony
232 provided by the Applicant's representatives, the Planning Board so finds as further modified by the
233 following conditions.

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235
236 **CONDITIONS OF APPROVAL**

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237 The Planning Board finds that the Applications and plans submitted by the Applicant comply with all
238 applicable provisions of the By-Law including the requirements of Sections IV.B., and IV.L of the By-
9 law and Article VI, §8 of the General By-law. Accordingly, the Board votes to grant the Applications for
240 Site Plan Review Approval and Public Way Access Permit subject to the following conditions:

241 I. STANDARD CONDITIONS OF APPROVAL

242 A. General Provisions

- 243 1 Prior to the commencement of authorized site activity, the Applicant and the Applicant's general
244 contractor shall meet with Planning Board Office Staff to review this approval.
- 245 2 Prior to the commencement of authorized site activity, the Planning Board Office shall be given
246 48 hours written notice. If the activity on site ceases for longer than 30 days, 48 hours written
247 notice shall be given to the Planning Board Office prior to restarting work.
- 248 3. Prior to the commencement of authorized site activity, the Applicant shall provide to the Planning
249 Board Office and the Inspectional Services Department the name, address and business phone
250 number of the individual representing the Applicant who shall be responsible for all construction
251 activities on site and who can be reached twenty-four hours a day, seven days a week.
- 252 4. A copy of this Decision shall be kept on site
- 253 5. In the event of a discrepancy between the Decision and the plans, the Decision shall take
254 precedence over the submitted plans.
- 255 6. Any request for modification of this approval shall be made in writing to the Planning Board for
256 review and approval by the Planning Board and shall include a description of the proposed
257 modification, reasons the modification is necessary, and any supporting documentation No
258 material corrections, additions, substitutions, alterations, or changes shall be made in any plans,
259 proposals, and supporting documents approved and endorsed by the Planning Board without the
260 written approval and modification of this decision by the Planning Board following a public
261 hearing noticed pursuant M.G.L. c. 40A and Section IV.L
- 262 7. Members or agents of the Planning Board shall have the right to enter the exterior of the site at
263 reasonable times and with at least one business day's written notice to the Applicant to gather all
264 information, measurements, photographs or other materials needed to ensure compliance with this
265 approval. Members or agents of the Planning Board entering onto the site for these purposes
266 shall comply with all safety rules, Regulations and directives of the Applicant and the Applicant's
267 contractors.

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268 8. The Applicant shall record this Decision with any exhibit(s) at the Middlesex South Registry of
269 Deeds within sixty days of the close of the appeal period and prior to the commencement of
270 authorized site activity and shall submit proof of recording to the Planning Board. Failure to
271 record the decision or comply with the conditions of approval herein shall render this Decision
272 null and void.

273 **B. Infrastructure/Site Design/Landscaping**

274 11. Prior to issuance of any use and occupancy permit, the Applicant shall either substantially
275 complete the landscaping improvements shown on the approved Landscape Plan or post a
276 performance guarantee in an amount equal to 110% of the estimated cost of landscaping
277 improvements in accordance with this decision, as confirmed by the Planning Board.

278 Plants will be watered on a regular basis until established. Once plants are established, watering
279 shall be required only to supplement rainfall to a total amount necessary to maintain the plants in
280 a healthy condition. All on-site landscaped areas shall be maintained in good condition in
281 perpetuity so as to present a healthy and neat appearance. The Applicant shall follow regularly
282 scheduled routine maintenance including, without limitation, replacing, repairing and/or
283 removing winter damage, edging and weeding of mulched areas, re-mulching of beds and tree
284 pits, fertilization, necessary weed control, necessary pest control, timely mowing of turf, pruning
285 and replacement of dead trees and plants with trees and plants of similar variety and size to those
286 in the approved Landscape Plan. Pruning shall be limited to that which is necessary to maintain
287 the health and appearance of trees and shrubs. Litter and debris at the Property shall be removed
288 as necessary to maintain a neat and orderly appearance.

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289 12. The Applicant shall maintain all on-site drainage in working condition at its own expense, which
290 shall include inspecting the catch basins twice annually (Spring and Fall) and cleaning the catch
291 basins, if necessary, to remove sediment.

292 13. Parking pavement markings shall be in white. Fire zone and traffic markings shall be as per the
293 applicable code.

294 14. Any free standing signs shall comply with the Sign By-Law of the Town of Framingham.

295 15. All bollard lighting shall be installed as shown on Applicant's approved Site Plan.

296 16. Applicant shall install a left-turn only sign at the southerly terminus of the Property's driveway to
297 Ardmore Road

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17. The children's playground shall be fenced with Walpole Woodwork Princeton designed fence, sixty (60) inches in height, or equivalent design approved by the Planning Board. Any fencing installed as a result of a private agreement with the Property's northerly abutter, Lillian Cairney, shall be of similar design and shall be seventy-two (72) inches high.

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18. The trash dumpster shall be enclosed with decorative fencing and doors shall be kept closed at all times except for during trash pickups. Pickups shall be scheduled to occur only between 8:00 a.m. and 7:00 p.m. on weekdays and 9:00 and 6:00 p.m. on Saturdays. No trash is to be left outside of the dumpster and there shall be no disposal or storage of medical or hazardous waste in the dumpster area. No trash is to be brought to 517 Winter St. from any other address for disposal purposes.

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19. The northerly terminus of the Property driveway shall have a chained access which can be easily removed by Fire Department personnel for emergency access only. It shall be chained at all times, but not locked.

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C. Environment

20. The Applicant agrees to minimize the use of salt in the parking area to reduce any negative impacts to vegetation and ground water. Snow storage shall be on-site in the snow storage areas designated on the approved Site Plan.

21. The stormwater drainage system for the Project shall be in accordance with the Massachusetts Department of Environmental Protection Stormwater Policy relating to water quality and flood control using Best Management Practices as the standard of performance.

D. Fire Protection

22. Prior to the issuance of any use and occupancy permit, the Applicant shall provide all document and information requested by the Planning Board or Planning Board Director demonstrating that the Applicant has complied with, or will comply with, all the requirements of the Framingham Fire Department as set forth in correspondence to the Planning Board.

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E. Site Construction

23. Prior to the issuance of any use and occupancy permit, the Applicant shall provide all documents and information requested by the Planning Board or Planning Board Administrator demonstrating that the Applicant has complied with, or will comply with, all the requirements of the Department of Public Works as set forth in correspondence to the Planning Board.

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24. Prior to the commencement of authorized site activity, the Applicant shall clearly mark all existing trees, bushes and other vegetation which are to remain.

25. The Applicant shall perform daily clean up of construction debris, including soil, on Town Streets within 200 yards from the entrance of the site driveways, caused by the site construction.

26. Outside construction work shall be performed only during the following hours: Monday through Friday: 7:30 A.M. to 5:30 P.M. and on Saturday: 9:00 A.M. to 3:00 P.M. Absent an emergency condition, no construction is permitted on Sunday or holidays. No vehicles are to arrive at the construction site before the designated construction hours, which includes vehicle parking, standing, or idling on adjacent streets.

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F. Performance Guarantees/Conformance Reporting/As-Built Plans

27. The Applicant is responsible for providing the following performance guarantees for the development Project.

a. Prior to the issuance of any use and occupancy permit, the Applicant shall post a performance guarantee satisfactory to the Planning Board for all improvements including mitigation measures and landscaping, which are incomplete or not constructed, in an amount not to exceed the cost of such improvements.

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b. The Applicant, prior to the issuance of any use and occupancy permit, shall provide to the Town of Framingham, a Landscape Performance Bond in the in an amount equal to 110% of the estimated cost of incomplete landscaping improvements, as confirmed by the Planning Board.

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c. Upon completion of the Project, and prior to the request for a permanent certificate of occupancy, the Applicant shall provide the Planning Board with "As Built Plans". The Landscape Performance Bond shall be released upon the Planning Board's satisfaction that the landscaping has been planted substantially in accordance with the approved Landscape Plan, at which time a Landscape Maintenance Bond shall be required.

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d. The Applicant shall provide to the Town of Framingham a Landscape Maintenance Bond in an amount equal to 20% of the cost of all landscape improvements, as determined by the Planning Board, to replace any trees which are improperly pruned, or dead trees, shrubs or lawn areas, as shown on the approved Landscape Plan, which

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shall be posted for a period of two (2) years commencing with the completion of the landscaping and certification of the Landscape Plan, as required above.

28. Prior to the request for issuance of any use and occupancy permit, the Applicant must demonstrate that the Project is substantially complete at the ninety percent level. To demonstrate substantial completion to allow for occupancy, the written request for an occupancy permit must be accompanied by a written itemization of the level of completeness for all improvements and also noting those items which are incomplete. The written request for a temporary use and occupancy permit must be accompanied by appropriate information to demonstrate substantial completion. Notwithstanding the foregoing, if winter conditions delay driveway and parking lot construction, a temporary occupancy permit may be issued subject to the Applicant's complying with the performance guarantee provisions set forth above.
29. Prior to the issuance of a final use and occupancy permit, the Applicant shall submit an as-built plan stamped by a professional engineer licensed in the Commonwealth of Massachusetts certifying that all improvements are completed in accordance with the approved plan in a form acceptable to the Framingham Engineering Department in both hard copy and digital format. The Applicant shall submit a statement certifying that all conditions of approval of this decision have been met.

II. SPECIAL PROVISIONS

Additional Requirements/Limitations

1. The Board approves three (4) landbanked spaces, in accordance with the plans. Such improvements need not be constructed until such time as the Applicant or the Board, on its own motion, identifies a need to construct some or all of the landbanked spaces. In the event that the Applicant identifies such a need, it shall promptly seek the Planning Board's approval to remove parking spaces from landbank status

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Deleted: 2. The applicant shall inform the Massachusetts Department of Mental Health in writing, with a copy to the Planning Board, that Framingham has requested that to the extent there are candidates who qualify for the Safe House Family Treatment Program who currently reside in Framingham or are relatives of Framingham residents, such candidates be given preference for selection for this program.

Deleted: 3. Relative to the bulk and height of the building, the existing yard size and lot area of 89,826 square feet, more or less, as well as the setbacks and amount of open space are appropriate for the building and use. Therefore the parcel of land shall not be further divided or subdivided for additional residential or nonresidential development.

Deleted: 4. The Applicant shall limit occupancy of the Property to forty (40) occupants. (Alternative)

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Deleted: The maximum number of persons allowed to occupy or reside at the property shall comply with all applicable local, state and national building codes. None of the common areas may be used for sleeping accommodations. The basement shall be used solely for storage and laundry facilities and may not be used for sleeping or programmatic activities.

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Deleted: 5. Based upon the required number of parking spaces for this Site Plan, all programmatic activities shall be provided solely for the occupants of Safe House.

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2. With the exception of routine maintenance, any proposed exterior modifications to the building shall be reviewed and approved by the Framingham Historical Commission as may be applicable.

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3. Traffic entering and exiting the site shall be only from the Ardmore south driveway. A no right turn sign shall be placed where this driveway exits onto Ardmore Road. The Ardmore Road west entrance shall be closed with a chain or other barrier and may be used for emergency access only.

Deleted: 7. Prior to the issuance of any use and occupancy permit of the building, SMNPHC will meet with the Framingham Town Assessor, Framingham Social Services Director and any other appropriate parties to discuss a Payment in Lieu of Taxes (PILOT). ¶

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Deleted: 9. SMNPHC shall provide pedestrian access to Winter Street via a stone dust, pea stone or ¶ bricked pathway and provide a pedestrian crosswalk across marking across Winter St. linking the new sidewalk with the existing one for the safety of residents.

4. The exterior generator on the west side of the building shall be screened with landscaping.

5. Security lighting shall be provided on site in such a way as to provide for public safety in accordance with the approved plan.

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10. SMNPHC shall provide a name and phone number to the Framingham Fire and Police Departments of a contact person who may be reached twenty-four hours a day, seven days a week. ¶

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Deleted: 13. The basement of the project building shall be used only for storage and operation of a laundry facility for Sage House residents only. ¶

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WAIVERS:

Given the limited project scale associated with the Project, the Applicant requested several waivers from Site Plan Review Approval. The Applicant requested waivers of:

1. Section IV.1.5.a.1 of the Bylaw, requiring that topography of the property be based on Mean Sea Level Datum of 1927. The Applicant requested a waiver from this requirement on the basis that the Property is already developed and there are only minor elevation changes
2. Section IV.1.5.a.2 of the Bylaw, requiring location of all buildings and lot lines on the lot, including ownership of lots, and street lines, including intersections within 300 feet of the Property. The applicant requested a waiver of this requirement on the basis that the scale of the drawings does not readily lend itself to depict both a reasonable scale of development as well as intersections within 300 feet on the same plan sheet. Additionally, the intersections are indicated in the locus map provided with the application material
3. Section IV.1.5.a.10 of the Bylaw, which requires submission of a polar diagram showing direction and intensity of outdoor lighting indicating fixture height, location, type of lighting and wattage. The Applicant requested a waiver of this requirement because the proposed project will contain only low intensity bollard lighting along the edges of the driveway and parking areas as recommended by the Planning Board. No pole-mounted or building-mounted light fixtures are proposed
4. Section IV.1.5.b through IV.1.5.f of the Bylaw, showing, on separate drawings information including a detailed landscape plan, an isometric line drawing, a locus plan showing relation to other structures and roadways within 1000 feet of the Project, building elevation plans including an indication of types and colors of materials to be used on all facades and a parking plan. The

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432 applicant requested a waiver of these requirements on the basis that due to the size of the project,
433 the information required by Bylaw Sections IV.15.b through IV.15.f have been shown on the
434 plans submitted with the application for Site Plan Review.

435
436 5. Section IV.15.g1. Applicant stated that it was the Applicant's position that the requirement of a
437 traffic impact assessment is beyond the scope allowed for Site Plan Review of a project subject to
438 the Dover Amendment. Notwithstanding that position, and subject to reservation of rights, the
439 Applicant submitted a limited traffic impact assessment to assist the Board in determining an
440 appropriate number of parking spaces for this facility. Additionally, the Applicant supplemented
441 that traffic memorandum with additional information and testimony from the Applicant's traffic
442 consultant. Based upon such submission and in view of Applicant's position, the Applicant
443 requested a waiver of this submission requirement.

444
445 6. Section IV.15.g.3. Fiscal Impact Statement and Section IV.15.g.4 Community Impact Statement.
446 The Applicant requested a waiver of these submission requirements stating that they were beyond
447 the scope of legally permissible review for a project subject to the Dover Amendment. This
448 position was supported by a memorandum from Town counsel dated April 6, 2006.

449
450 The Planning Board hereby grants the aforementioned waivers requested by the Applicant.

451
452 The vote was in favor , opposed, abstained.

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456 VOTE:

457 | On April 5, 2007, the vote in favor of granting the Site Plan Review Approval and Public Way Access
8 Permit to allow South Middlesex Non-Profit Housing Corporation to rehabilitate a former nursing home
9 building for use as the Sage House Family Treatment program along with improved parking, lighting,
460 landscaping and other site improvements as shown on the Site Plans filed herewith dated July 18, 2006, as
461 revised through December 27, 2006, at 517 Winter Street, said Property being shown on Framingham
462 Assessor's Map, Sheet 38, Block 1, Lot 31 is as follows:

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463 Site Plan Review Approval

464 Susan P. Bernstein
465 Andrea Carr-Evans
466 Carol J. Spack
467 Ann V. Welles

Public Way Access Permit

Susan P. Bernstein
Andrea Carr-Evans
Carol J. Spack
Ann V. Welles

469
470 By: _____
471 Ann V. Welles, Chair Framingham Planning Board

472
473 Date of Signature: _____
474
475

476
477 I, James T. Cuddy, as Executive Director for South Middlesex Non-Profit Housing Corporation and not
478 individually, accept and agree to comply in all respects with the foregoing conditions of approval to its
479 Site Plan Review Approval and Public Way Access Permit. It is understood that these approvals and the
480 Conditions contained herein, shall be binding upon any heirs, successors, transferees or assigns of the
481 Applicant and shall run with the land. Furthermore, the Applicant represents that the Planning Board has
482 relied on true and accurate information in granting this approval.

483
484 In addition, South Middlesex Non-Profit Housing Corporation recognizes that, in accordance with
485 Section V.C. of the By-Law, the Planning Board must acknowledge its approval prior to the issuance of
486 any temporary or permanent occupancy permit for this proposed project from the Building Commissioner.
487 To ensure compliance with the provisions and intent of Section V.C., the Applicant agrees to notify the
488 Building Department and the Planning Board at least three (3) weeks prior to applying for any such
489 occupancy permit, to request the Town's inspection of the premises to confirm that all improvements as
490 prescribed in the above Conditions and as shown on the approved plans have either been completed or are
491 the subject to an adequate performance bond.

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492
493 South Middlesex Non-Profit Housing Corporation, Applicant/Owner

494
495
496 By: James T. Cuddy
497 Title: Executive Director

498
499
500 Date of Signature
501
502

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Hanrahan, James D.

From: Jay W. Grande [JWG@framinghamma.gov]
Sent: Thursday, April 05, 2007 12:25 PM
To: ace1027@rcn.com; avwaro@hotmail.com; cjspack@earthlink.net; treeladysb@hotmail.com;
Thomas Mahoney (Thomas Mahoney); Tom Mahoney
Cc: Peter C.S. Adams; Hanrahan, James D.; Christopher J. Petrini; Christopher J. Petrini; Julian M.
Suso
Subject: 517 Winter Street

Based on the Board's deliberations on the decision, correspondence from Town Counsel, including Town Counsel's letter of February 8, 2007, I have modified the decision. No additional changes have been made to the findings. I have deleted the conditions of approvals as recommended. The number of land-banked parking spaces is 4.

Any additional changes can be put forward this evening

The revised decision document has been made available to the the Applicant and STEPPS via this email.

Jay

John W. Grande, Director
Planning Board
Memorial Building
150 Concord Street
Framingham, Massachusetts 01702

Tel. 508-532-5450
Fax. 508-872-0523

jwg@framinghamMA.gov

"dedicated to excellence in public service"

"The future need not longer be taken at haphazard. What we see about us is not the finished product, but only the raw material. We should, therefore, frame an ideal of what we wish the city to be, and then work to make it real."

John Nolen, American city planner and City Beautiful proponent (1869-1937)

4/5/2007

Decision Of The Framingham Planning Board On The
Application Of South Middlesex Non-Profit Housing Corporation
For Site Plan Review Approval and Public Way Access Permit for
517 Winter Street, Framingham, MA

Date of Decision: April 12, 2007

2007 APR 19

P 1:13

ERK
HAM

STATEMENT OF FACTS

This Decision relates to property of South Middlesex Non-Profit Housing Corporation ("SMNPHC") known as 517 Winter Street (the "Property") which is zoned Single Residence R-1 under the By-law. The Property is shown on Framingham Assessor's Plan Sheet 38, Block 1, Lot 31. The total lot area is 89,826 square feet, the total gross floor area of the building is 10,750 square feet and the Floor Area Ratio is 0.119. The value of project related improvements is estimated at \$25,000.00.

On January 11, 2006, the Applicant, SMNPHC pursuant to Section IV.I. of the Framingham Zoning By-law (the "By-law") filed a draft Application for Site Plan Review Approval with Joseph R. Mikielian, the then Framingham Building Commissioner. The Applicant claimed that the project Property was a non-profit educational use subject to protection under M.G.L. c. 40A § 3 (the "Dover Amendment"). Subsequently, the Applicant filed an Application for Site Plan Review pursuant to Section IV.I of the By-law. By memorandum dated February 23, 2006, John W. Grande, Planning Board Director, requested guidance from Christopher J. Petrini, Town Counsel, as to the proper review process for a Dover Amendment protected Application. By letter dated March 9, 2006 John W. Grande advised the Applicant that the Application was considered incomplete and that the matter had been referred to Town Counsel for review to determine the proper administrative procedure. By letter dated April 7, 2006 Jessica Levensgood, Senior Planner for the Planning Board, advised the Applicant that a supplemental submission was required to complete the Site Plan Review Application. The Applicant submitted a Supplemental Memorandum addressing the remaining issues on May 8, 2006.

Pursuant to receipt of a grant from the Department of Public Health - BSAS for a group home for recovering substance abusers, the Application was filed in connection with the Applicant's plan to change the use of the Property from its previous use as a nursing home to the Sage House Family Treatment Program for up to fifteen (15) families.

After notice of the public hearing for Site Plan Review published in "The Metrowest Daily News" on June 5, 2006, and June 12, 2006, and mailed to parties in interest pursuant to the By-law and M.G.L. c. 40A, the Planning Board opened the public hearing on June 22, 2006 at 7:45 p.m. in the public hearing room, Memorial Building, Framingham. Continued sessions of the public hearing were held on September 7, 2006; October 12, 2006; November 9, 2006; December 7, 2006; January 4, 2007; and January 25, 2007, at which time the Planning Board closed the public hearing. On April 5, 2007, the Planning Board voted to approve the application of SMNPHC for Site Plan Review Approval.

On October 12, 2006 pursuant to Article VI § 8 of the Town of Framingham By-law (the "General By-law") the Applicant filed a Public Way Access Permit Application. After notice of public hearing for the Public Way Access Permit published in "The Metrowest Daily News" on November 20, 2006 and November 27, 2006 and mailed to parties in interest pursuant to the By-law and M.G.L. c. 40A, the Planning Board opened the public hearing for the Public Way Access Permit Application on December 7, 2006 at 7:45 p.m. Continued sessions of the public hearing were held on January 4, 2007 and January 25, 2007, at which time the Planning Board closed the public hearing. On April 12, 2007, the Planning Board voted to approve the application of SMNPHC for Public Way Access Permit.

The Applicant believes they have filed with the Planning Board all plans, reports and requested waivers required under Section IV.I 5. or other applicable provisions of the By-law. During the review process,

the Applicant and its professional consultants also submitted various revisions to the same, along with various supplemental memoranda and correspondence, in response to requests by the Planning Board and by the various departments within the Town of Framingham that reviewed the project. All of these plans, reports, and correspondence are contained in the Planning Board's files and are hereby incorporated into this Decision by reference. Included with the Applicant's submittals were the following:

1. Application for Site Plan Review dated February 17, 2006;
2. Supplement to Application for Site Plan Review dated February 17, 2006;
3. Supplement to Application for Site Plan Review and Request for Waivers dated May 8, 2006 including Environmental Impact Assessment, Parking Impact Assessment, Traffic Impact Assessment, and Request for Waivers from certain submission requirements;
4. Traffic Memorandum dated June 15, 2006 prepared by MDM Transportation Consultants, Inc.;
5. Supplemental Submission relative to traffic dated December 6, 2006 from MDM Transportation Consultants Inc.
6. Proposed Parking Plan prepared by MetroWest Engineering Inc, dated July 18, 2006 with revisions through December 27, 2006 consisting of six (6) sheets including a Locus Plan, Existing Conditions Plan, Proposed Parking Layout Plan, Proposed Grading and Drainage Plan, Proposed Landscaping Plan, and Proposed Detail Plan.;
7. Building Elevation and Building Footprint Plans prepared by Garlicki Gray Architects, Inc. dated January 30, 2006; and
8. Application for Public Way Access Permit dated October 12, 2006.

The Planning Board received correspondence from the Conservation Commission, Department of Public Works, Department of Building Inspections, Police Department, Fire Department and Town Counsel. The Planning Board also received information from a group known as STEPPS and accepted a Powerpoint presentation by a group of Framingham Residents which was presented at the December 7, 2006 public hearing. The Applicant and its consultants also submitted additional reports, correspondence and plans during the public hearing process. The aforesaid correspondence is contained in the Planning Board files and incorporated herein by reference.

HEARINGS

During the course of the public hearings, the following individuals appeared on behalf of the Applicant:

James T. Cuddy, Executive Director, Jerry Desilets and Charles Gagnon of South Middlesex Non-Profit Housing Corporation, Robert J. Michaud, PE, Managing Principal of MDM Transportation Consultants, Inc. and James D. Hanrahan, of Bowditch & Dewey LLP, counsel to the Applicant.

At the initial public hearing on June 22, 2006, Planning Board Member, Thomas F. Mahoney recused himself from participating in the hearings on this matter. Mr. Mahoney explained that his wife had recently taken a part time position with the Applicant and that although the state ethics commission had indicated that a conflict of interest did not result from such employment, Mr. Mahoney recused himself to avoid the appearance of a conflict of interest.

During the initial presentation, the Applicant explained that the Property had previously been operated as The Framingham Nursing Home, a fifty-five (55) bed nursing home facility supported by thirty-five (35) full-time and five (5) part-time staff. The Applicant further explained that Building Commissioner, Joseph Mikielian, had determined that the Applicant's proposed use was a non-profit educational use subject to the protection of M.G.L. c. 40A, Section III (the "Dover Amendment"). However STEPPS and some members of the Planning Board disagreed with the Building Commissioner's additional

determination that the proposed Application was an R-2 Use under the State Building Code (See CMR's 308 and 780) and therefore the proposed number of occupants (40) was, in fact, not allowed for the proposed use. The Building Commissioner also advised the Board that it was the Applicant's position that the Board's review of this Application was limited to review of compliance with reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. The Applicant advised the Board that the project complied with all dimensional regulations for "any other principle use" in the R-1 District as set forth in Section IV.G (2) Table of Dimensional Regulations of the By-law and could comply with the parking requirements subject to Planning Board guidance on the proper parking lot configuration and location. The Applicant explained that the project could comply with the parking requirements but asked the Board for guidance on determining an appropriate configuration for the parking lot and the number of spaces the Board deemed appropriate for Applicant's proposed use. The Applicant advised the Board that Joseph Mikielian, the Building Commissioner, by letter to the Applicant dated April 11, 2006, had determined that for parking calculations the proposed use should be considered a residential care facility requiring one (1) space per four (4) occupants plus one (1) space per two (2) employees. Further, the Applicant advised the Board that the project would have a maximum of forty (40) occupants and a maximum of fourteen (14) employees on site at any time resulting in a parking requirement of seventeen (17) spaces. The Applicant stated that they shall limit occupancy of the Property to forty (40) occupants and that the maximum number of persons allowed to occupy or reside at the property shall comply with all applicable local, state and national building codes. None of the common areas may be used for sleeping accommodations. The basement shall be used solely for storage and laundry facilities and may not be used for sleeping or programmatic activities. The Applicant's submitted parking plan proposed twenty-four (24) parking spaces, three (4) of which are to be land banked, and two (2) of which are to be handicapped accessible. The Applicant stated that fewer spaces were required for its program but that the larger number were shown to afford the Planning Board parking design flexibility and to insure that there would be no need for street parking.

The Applicant explained that proposed use of the Property was for the Sage House Program intended to house up to fifteen (15) families to provide a structured and comprehensive rehabilitative environment to families as they learn new skills for living in recovery. The Applicant explained that the program will be fully staffed according to the Department of Public Health-BSAS staffing requirements providing staff on site at all times, twenty-four (24) hours a day, seven (7) days a week. The Applicant further explained that the existing building with a footprint of approximately 5,834 square feet would remain in its current configuration and that the only site changes proposed were reconfiguration of the parking lot, improved site landscaping, removal of two wooden storage sheds, and re-fencing of a children's playground located at the southwest corner of the project building. The Applicant explained that project locus consisted of 89,826 square feet of land with 870.82 feet of frontage along Winter Street.

After some discussion and public comment, the Board requested that the Applicant configure a seventeen (17) space parking lot with four (4) of the spaces to be land banked. A revised parking plan dated July 18, 2006 was submitted to the Board on August 31, 2006. In response to comments from the Fire Department, the two driveway entrances were reconfigured, modifying the curb cut radii to allow access to and from the site by the Fire Department's largest vehicle. This request by the Fire Department and the Applicant's modification of the entrance ways triggered a requirement for Application for a Public Way Access Permit to allow for modification of the existing curb cuts. An Application for a Public Way Access Permit was filed on October 12, 2006.

At the September 7, 2006 public hearing there was disagreement among Board members as to the appropriate parking lot configuration. As a result, the Applicant prepared two alternative parking plans, each consisting of seventeen (17) spaces. Each plan reduced the width of the project driveway from 24' to 18'. Alternative A showed thirteen (13) parking spaces (2 handicap accessible) located on the north side of the building with four (4) land banked spaces to the east of the building. Alternative B showed

eleven (11) spaces to the east of the building together with four (4) additional land banked spaces to the east of the building with two (2) handicapped accessible spaces remaining to the north of the building. The alternative plans, Alternative A dated September 20, 2006 and Alternative B dated September 21, 2006 were filed with the Board on October 10, 2006 and discussed at the October 12, 2006 public hearing. At the October 12, 2006 public hearing there was discussion by the Board regarding further reconfiguration of the site driveway and parking lot with some members urging study of a Winter Street access. Robert Michaud, the Applicant's traffic consultant, testified that a Winter Street access was not advisable based upon sound planning principles, the likelihood that a number of mature trees would have to be removed to accommodate a new driveway, and the inadvisability of adding another access point to Winter Street, a heavily traveled connector road.

Both parking lot alternate designs included site landscaping, grading and drainage plan, and a lighting plan proposing installation of nine (9) bollard lights to illuminate pedestrian areas of the proposed parking lots. Following the October 12, 2006 public hearing and at the direction of the Board, the Applicant further revised the site plan based upon the Alternative B parking configuration showing eleven (11) parking spaces to the east of the building, four (4) land banked spaces to the east of the building and two (2) handicapped accessible spaces to the north of the building. The plan also relocated the property dumpster to a pad in the north parking area. The further revised plans were submitted to the Board on October 30, 2006 and discussed at the November 9, 2006 public hearing.

The presentation addressed a number of requests for site plan modifications including full screening along Ardmore Road and re-location or reconfiguring of the children's playground, sought imposition of additional program requirements for the Sage House Program, asked for submission of Department of Public Health/BSAS reviews by the Applicant to the Building Commissioner on an annual basis, asked for limitation on trash disposal and pick-up, sought criminal background checks on all staff members, requested an assumption by the Applicant of full legal liability for criminal activity at the Program, sought agreement by the Applicant to make payments in lieu of taxes to the Town of Framingham, and requested rerouting of traffic from the site onto Winter Street.

Following the neighbors' presentation, Board members were unable to agree on the location of the project driveway, with some Board members finding the proposal for a Winter Street entrance worthy of further study. Two of the four Board members sitting for this hearing requested a plan showing an access driveway and sidewalk from Winter Street and crosswalk. The Applicant declined to do so. Following the hearing, the Applicant prepared a revised set of site plans reconfiguring the children's playground and moving the southerly driveway entrance twelve (12) feet closer to Winter Street. The revised plans were submitted to the Board on December 29, 2006.

The hearing on Applicant's Application for a Public Way Access Permit was opened on December 7, 2006 at 7:45 P.M. and was continued until January 4, 2007 and to January 25, 2007, at which time the Planning Board closed the public hearing relative to that application. The Board heard testimony at the December 7, 2006, January 4, 2007 and January 25, 2007 hearings relative to the Applicant's modification of the existing curb cuts. The Applicant explained that the curb cut modifications were required because the Fire Department had requested modification of the curb radii to accommodate the Fire Department's largest vehicles. The Applicant stated that it would otherwise not seek to modify the curb cuts.

The Planning Board and Framingham residents posed several questions to the Applicant at the various public hearings regarding the application of the so-called Dover Amendment to the proposed use of the Property. In response to these inquiries, the Applicant and its representatives presented oral and written responses to the proposed educational use of the Property and the application of the Dover Amendment. The Applicant, through its counsel, presented a memorandum dated October 5, 2006 setting forth the history of the review of this project under the Dover Amendment by the Town of Framingham Building Commissioner and Town Counsel. Additionally, the Planning Board was provided with a copy of a

memorandum dated November 1, 2006 from Michael F. Foley, Assistant Director of Inspectional Services and Acting Building Commissioner to Julian Suso, Town Manager, reaffirming the previous Building Commissioner's determination that the project was entitled to zoning use exemptions pursuant to the Dover Amendment, and received a copy of a memorandum from Town Counsel to the Board of Selectmen dated November 28, 2006 relative to the Dover Amendment.

FINDINGS

Having reviewed all the plans and reports filed by the Applicant and its representatives, considered the correspondence from various Departments within the Town of Framingham that have reviewed the project, and viewed the site, and based on a memorandum from Town counsel dated April 6, 2006 concerning the scope of the Board's review of the Site Plan, specifically, which of the Development Impact Standards under Section IV.I.6. were to be evaluated, the Planning Board determines that the Applications comply with all applicable provisions of the By-Law including the requirements of Section IV.I. of the By-law and Article VI, § 8 of the General By-law. Specifically, the Board makes the following findings:

A. Dimensional Requirements:

The Applicant is not altering the footprint of the building and is therefore not changing the building's dimensional measurements as related to yard size, lot area, setbacks, open space, bulk and height of the structure or building coverage. The Property's children's playground will be reconfigured as shown on the Site Plan. Two outside storage buildings will be removed. The existing dumpster location will be moved to a pad in the north parking lot. A fence located near the abutter's property on the northerly boundary line of the Property will be replaced, subject to a private agreement between Applicant and the abutter to allow the abutter a license to continue to maintain a fence on the Applicant's Property.

B. Parking Standard: IV.I.6.(e).

By letter dated April 11, 2006, Joseph R. Mikieljan, then Building Commissioner for the Town of Framingham, determined that the parking requirements for a residential care facility, at one per four occupants, plus one per two employees, would be the appropriate use classification for zoning purposes to apply to the use of the Applicant's proposed parking plan. At the request of the Planning Board, the Traffic Roadway and Safety Committee reviewed the facility and voted in the affirmative on a recommendation to provide an access driveway from Winter Street. The Applicant's parking plan proposes a parking lot, driveway and access ways which complies with the present Zoning Bylaw. § IV.B.1 which requires that the proposed building and use have seventeen (17) off-street parking spaces. The southerly driveway access onto Ardmore will incorporate a sign prohibiting right turn vehicle movements as shown on the Site Plan. The Fire Department determined the emergency access to be adequate. The Applicant's parking plan provides seventeen (17) parking spaces, four (4) of which, at the direction of the Planning Board, will be land-banked. Based on the application submittal, memorandum from James Hanrahan dated December 6, 2006 document #1180-11, and public testimony, the Planning Board finds that the proposed number of parking spaces will provide adequately for all uses served by the parking facility and that the access driveways and parking facility will not create a hazard or cause any adverse impacts to abutters, vehicles or pedestrians.

C. Public Way Access Permit

Article VI, § 8 of the General By-law authorizes the Planning Board to grant a Public Way Access Permit where the Applicant provides "sufficient roadway improvements to facilitate safe and efficient roadway operations, or when the construction and/or use of the access applied for would [not] create a condition that is unsafe or endangers the public safety and welfare." The Applicant's parking plan proposes a parking lot, driveway and access ways which complies with the present Zoning Bylaw. § IV.B.1 which requires that the proposed building and use have seventeen (17) off-street parking spaces. Further, the

southerly driveway access onto Ardmore will incorporate a sign prohibiting right turn vehicle movements as shown on the Site Plan. Based on the information provided and testimony provided by the Applicant's representatives, the Planning Board so finds as further modified by the following conditions.

CONDITIONS OF APPROVAL

The Planning Board finds that the Applications and plans submitted by the Applicant comply with all applicable provisions of the By-Law including the requirements of Sections IV.B., and IV.I. of the By-law and Article VI, §8 of the General By-law. Accordingly, the Board votes to grant the Applications for Site Plan Review Approval and Public Way Access Permit subject to the following conditions:

I. STANDARD CONDITIONS OF APPROVAL

A. General Provisions

1. Prior to the commencement of authorized site activity, the Applicant and the Applicant's general contractor shall meet with Planning Board Office Staff to review this approval.
2. Prior to the commencement of authorized site activity, the Planning Board Office shall be given 48 hours written notice. If the activity on site ceases for longer than 30 days, 48 hours written notice shall be given to the Planning Board Office prior to restarting work.
3. Prior to the commencement of authorized site activity, the Applicant shall provide to the Planning Board Office and the Inspection Services Department the name, address and business phone number of the individual representing the Applicant who shall be responsible for all construction activities on site and who can be reached twenty-four hours a day, seven days a week.
4. A copy of this Decision shall be kept on site.
5. In the event of a discrepancy between the Decision and the plans, the Decision shall take precedence over the submitted plans.
6. Any request for modification of this approval shall be made in writing to the Planning Board for review and approval by the Planning Board and shall include a description of the proposed modification, reasons the modification is necessary, and any supporting documentation. No material corrections, additions, substitutions, alterations, or changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval and modification of this decision by the Planning Board following a public hearing noticed pursuant M.G.L. c. 40A and Section IV.I.
7. Members or agents of the Planning Board shall have the right to enter the exterior of the site at reasonable times and with at least one business day's written notice to the Applicant to gather all information, measurements, photographs or other materials needed to ensure compliance with this approval. Members or agents of the Planning Board entering onto the site for these purposes shall comply with all safety rules, Regulations and directives of the Applicant and the Applicant's contractors.
8. The Applicant shall record this Decision with any exhibit(s) at the Middlesex South Registry of Deeds within sixty days of the close of the appeal period and prior to the commencement of authorized site activity and shall submit proof of recording to the Planning Board. Failure to record the decision or comply with the conditions of approval herein shall render this Decision null and void.

B. Infrastructure/Site Design/Landscaping

9. Prior to issuance of any use and occupancy permit, the Applicant shall either substantially complete the landscaping improvements shown on the approved Landscape Plan or post a

performance guarantee in an amount equal to 110% of the estimated cost of landscaping improvements in accordance with this decision, as confirmed by the Planning Board.

Plants will be watered on a regular basis until established. Once plants are established, watering shall be required only to supplement rainfall to a total amount necessary to maintain the plants in a healthy condition. All on-site landscaped areas shall be maintained in good condition in perpetuity so as to present a healthy and neat appearance. The Applicant shall follow regularly scheduled routine maintenance including, without limitation, replacing, repairing and/or removing winter damage, edging and weeding of mulched areas, re-mulching of beds and tree pits, fertilization, necessary weed control, necessary pest control, timely mowing of turf, pruning and replacement of dead trees and plants with trees and plants of similar variety and size to those in the approved Landscape Plan. Pruning shall be limited to that which is necessary to maintain the health and appearance of trees and shrubs. Litter and debris at the Property shall be removed as necessary to maintain a neat and orderly appearance.

10. The Applicant shall maintain all on-site drainage in working condition at its own expense, which shall include inspecting the catch basins twice annually (Spring and Fall) and cleaning the catch basins, if necessary, to remove sediment.
11. Parking pavement markings shall be in white. Fire zone and traffic markings shall be as per the applicable code.
12. Any free standing signs shall comply with the Sign By-Law of the Town of Framingham.
13. All bollard lighting shall be installed as shown on Applicant's approved Site Plan.
14. Applicant shall install a left-turn only sign at the southerly terminus of the Property's driveway to Ardmore Road.
15. The children's playground shall be fenced with Walpole Woodwork Princeton designed fence sixty (60) inches in height, or equivalent design approved by the Planning Board. Any fencing installed as a result of a private agreement with the Property's northerly abutter, Lillian Cairney, shall be of similar design and shall be seventy-two (72) inches high.
16. The trash dumpster shall be enclosed with decorative fencing and doors shall be kept closed at all times except for during trash pickups. Pickups shall be scheduled to occur only between 8:00 a.m. and 7:00 p.m. on weekdays and 9:00 and 6:00 p.m. on Saturdays. No trash is to be left outside of the dumpster and there shall be no disposal or storage of medical or hazardous waste in the dumpster area. No trash is to be brought to 517 Winter St. from any other address for disposal purposes.
17. The northerly terminus of the Property driveway shall have a chained access which can be easily removed by Fire Department personnel for emergency access only. It shall be chained at all times, but not locked.

C. Environment

18. The Applicant agrees to minimize the use of salt in the parking area to reduce any negative impacts to vegetation and ground water. Snow storage shall be on-site in the snow storage areas designated on the approved Site Plan.
19. The stormwater drainage system for the Project shall be in accordance with the Massachusetts Department of Environmental Protection Stormwater Policy relating to water quality and flood control using Best Management Practices as the standard of performance.

D. Fire Protection

20. Prior to the issuance of any use and occupancy permit, the Applicant shall provide all document and information requested by the Planning Board or Planning Board Director demonstrating that the Applicant has complied with, or will comply with, all the requirements of the Framingham Fire Department as set forth in correspondence to the Planning Board.

E. Site Construction

21. Prior to the issuance of any use and occupancy permit, the Applicant shall provide all documents and information requested by the Planning Board or Planning Board Administrator demonstrating that the Applicant has complied with, or will comply with, all the requirements of the Department of Public Works as set forth in correspondence to the Planning Board.
22. Prior to the commencement of authorized site activity, the Applicant shall clearly mark all existing trees, bushes and other vegetation which are to remain.
23. The Applicant shall perform daily clean up of construction debris, including soil, on Town Streets within 200 yards from the entrance of the site driveways, caused by the site construction.
24. Outside construction work shall be performed only during the following hours: Monday through Friday: 7:30 A.M. to 5:30 P.M. and on Saturday: 9:00 A.M. to 3:00 P.M. Absent an emergency condition, no construction is permitted on Sunday or holidays. No vehicles are to arrive at the construction site before the designated construction hours, which includes vehicle parking, standing, or idling on adjacent streets.

F. Performance Guarantees/Conformance Reporting/As-Built Plans

25. The Applicant is responsible for providing the following performance guarantees for the development Project.
- a. Prior to the issuance of any use and occupancy permit, the Applicant shall post a performance guarantee satisfactory to the Planning Board for all improvements including mitigation measures and landscaping, which are incomplete or not constructed, in an amount not to exceed the cost of such improvements.
 - b. The Applicant, prior to the issuance of any use and occupancy permit, shall provide to the Town of Framingham, a Landscape Performance Bond in the in an amount equal to 110% of the estimated cost of incomplete landscaping improvements, as confirmed by the Planning Board.
 - c. Upon completion of the Project, and prior to the request for a permanent certificate of occupancy, the Applicant shall provide the Planning Board with "As Built Plans". The Landscape Performance Bond shall be released upon the Planning Board's satisfaction that the landscaping has been planted substantially in accordance with the approved Landscape Plan, at which time a Landscape Maintenance Bond shall be required.
 - d. The Applicant shall provide to the Town of Framingham a Landscape Maintenance Bond in an amount equal to 20% of the cost of all landscape improvements, as determined by the Planning Board, to replace any trees which are improperly pruned, or dead trees, shrubs or lawn areas, as shown on the approved Landscape Plan, which shall be posted for a period of two (2) years commencing with the completion of the landscaping and certification of the Landscape Plan, as required above.
26. Prior to the request for issuance of any use and occupancy permit, the Applicant must demonstrate that the Project is substantially complete at the ninety percent level. To demonstrate substantial completion to allow for occupancy, the written request for an occupancy permit must

be accompanied by a written itemization of the level of completeness for all improvements and also noting those items which are incomplete. The written request for a temporary use and occupancy permit must be accompanied by appropriate information to demonstrate substantial completion. Notwithstanding the foregoing, if winter conditions delay driveway and parking lot construction, a temporary occupancy permit may be issued subject to the Applicant's complying with the performance guarantee provisions set forth above.

27. Prior to the issuance of a final use and occupancy permit, the Applicant shall submit an as-built plan stamped by a professional engineer licensed in the Commonwealth of Massachusetts certifying that all improvements are completed in accordance with the approved plan in a form acceptable to the Framingham Engineering Department in both hard copy and digital format. The Applicant shall submit a statement certifying that all conditions of approval of this decision have been met.

II. SPECIAL PROVISIONS

Additional Requirements/Limitations

1. The Board approves four(4) landbanked spaces, in accordance with the plans. Such improvements need not be constructed until such time as the Applicant or the Board, on its own motion, identifies a need to construct some or all of the landbanked spaces. In the event that the Applicant identifies such a need, it shall promptly seek the Planning Board's approval to remove parking spaces from landbank status.
2. With the exception of routine maintenance, any proposed exterior modifications to the building shall be reviewed and approved by the Framingham Historical Commission as may be applicable.
3. Traffic entering and exiting the site shall be only from the Ardmore south driveway. A no right turn sign shall be placed where this driveway exits onto Ardmore Road. The Ardmore Road west entrance shall be closed with a chain or other barrier and may be used for emergency access only.
4. SMNPHC will make a good faith effort to provide for and install a pedestrian access way from Ardmore Road to Winter Street within the public right-of-way or on the locus, if said pedestrian improvements are agreed to by both SMNPHC and the Town.
5. The exterior generator on the west side of the building shall be screened with landscaping.
6. Security lighting shall be provided on site in such a way as to provide for public safety in accordance with the approved plan.

WAIVERS:

Given the limited project scale associated with the Project, the Applicant requested several waivers from Site Plan Review Approval. The Applicant requested waivers of:

1. Section IV.I.5.a.1 of the Bylaw, requiring that topography of the property be based on Mean Sea Level Datum of 1927. The Applicant requested a waiver from this requirement on the basis that the Property is already developed and there are only minor elevation changes.
2. Section IV.I.5.a.2 of the Bylaw, requiring location of all buildings and lot lines on the lot, including ownership of lots, and street lines, including intersections within 300 feet of the Property. The applicant requested a waiver of this requirement on the basis that the scale of the

drawings does not readily lend itself to depict both a reasonable scale of development as well as intersections within 300 feet on the same plan sheet. Additionally, the intersections are indicated in the locus map provided with the application material.

3. Section IV.I.5.a.10 of the Bylaw, which requires submission of a polar diagram showing direction and intensity of outdoor lighting indicating fixture height, location, type of lighting and wattage. The Applicant requested a waiver of this requirement because the proposed project will contain only low intensity bollard lighting along the edges of the driveway and parking areas as recommended by the Planning Board. No pole-mounted or building-mounted light fixtures are proposed.
4. Section IV.I.5.b through IV.I.5.f of the Bylaw, showing, on separate drawings information including a detailed landscape plan, an isometric line drawing, a locus plan showing relation to other structures and roadways within 1000 feet of the Project, building elevation plans including an indication of types and colors of materials to be used on all facades and a parking plan. The applicant requested a waiver of these requirements on the basis that due to the size of the project, the information required by Bylaw Sections IV.I.5.b through IV.I.5.f have been shown on the plans submitted with the application for Site Plan Review.
5. Section IV.I.5.g.1. Applicant stated that it was the Applicant's position that the requirement of a traffic impact assessment is beyond the scope allowed for Site Plan Review of a project subject to the Dover Amendment. Notwithstanding that position, and subject to reservation of rights, the Applicant submitted a limited traffic impact assessment to assist the Board in determining an appropriate number of parking spaces for this facility. Additionally, the Applicant supplemented that traffic memorandum with additional information and testimony from the Applicant's traffic consultant. Based upon such submission and in view of Applicant's position, the Applicant requested a waiver of this submission requirement.
6. Section IV.I.5.g.3. Fiscal Impact Statement and Section IV.I.5.g.4 Community Impact Statement. The Applicant requested a waiver of these submission requirements stating that they were beyond the scope of legally permissible review for a project subject to the Dover Amendment. This position was supported by a memorandum from Town counsel dated April 6, 2006.

The Planning Board hereby grants the aforementioned waivers requested by the Applicant.

The vote was 4 in favor, 0 opposed, 0 abstained.

The votes in favor of granting the Site Plan Review Approval and Public Way Access Permit to allow South Middlesex Non-Profit Housing Corporation to rehabilitate a former nursing home building for use as the Sage House Family Treatment program along with improved parking, lighting, landscaping and other site improvements as shown on the Site Plans filed herewith dated July 18, 2006, as revised through December 27, 2006, at 517 Winter Street, said Property being shown on Framingham Assessor's Map, Sheet 38, Block 1, Lot 31 is as follows:

Susan P. Bernstein	Yes
Andrea Carr-Evans	Yes
Carol J. Spack	No
Ann V. Welles	Yes

Susan P. Bernstein.....	Yes
Andrea Carr-Evans.....	Yes
Carol J. Spack.....	Yes
Ann V. Welles.....	Yes

By: Ann V. Welles
Ann V. Welles, Chairperson Framingham Planning Board

Date of Signature: April 18, 2007

In addition, South Middlesex Non-Profit Housing Corporation recognizes that, in accordance with Section V.C. of the By-Law, the Planning Board must acknowledge its approval prior to the issuance of any temporary or permanent occupancy permit for this proposed project from the Building Commissioner. To ensure compliance with the provisions and intent of Section V.C., the Applicant agrees to notify the Building Department and the Planning Board at least three (3) weeks prior to applying for any such occupancy permit, to request the Town's inspection of the premises to confirm that all improvements as prescribed in the above Conditions and as shown on the approved plans have either been completed or are the subject to an adequate performance bond.

By: James T. Cuddy
Title: Executive Director

Planbd/sprosp/517 Winter Street/Final Site Plan Dec Doc 041207

Exhibit 73

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Planning Board Minutes

Thursday, April 12, 2007

Memorial Building
150 Concord Street, Public Hearing Room

Those present: Ann Welles, Chair, Thomas Mahoney, Vice Chair, Sue Bernstein, Carol Spack, Clerk, and Andrea Carr-Evans. Also present: Jay Grande, MaryRuth Reynolds.

Meeting was called to order at 7:15 pm.

Reading of the agenda into the record by Ann Welles

I. Approval of Minutes

The Board reviewed the minutes of March 15, 2007. *Sue Bernstein moved to accept the minutes of March 15, 2007, as amended. Tom Mahoney seconded the motion. The vote was 5 in favor and 0 opposed.*

The Board reviewed the minutes of May 15, 2006. *Tom Mahoney moved to accept the minutes of May 15, 2006, as presented. Andrea Carr-Evans seconded the motion. The vote was 5 in favor and 0 opposed.*

II. Miscellaneous Administrative

a. Master Plan Public Workshop Update. Jay updated Board members on the progress of the Master Plan workshop planned for April 17, 2007. He encouraged residents to attend. Tom Mahoney gave a brief summary of the evening's events.

b. Ann Welles noted that Tom Ryan has submitted a memo on the age-restricted units at Danforth Green. She asked that Board Members review and forward their comments to Jay.

c. Jay Grande noted that the Board needs to be aware that the schedule will be changing to Mondays because of Town Meeting. A discussion on upcoming events and Town Meeting items ensued.

- 1 d. Sue Bernstein noted that by next week the new Sign by-law draft should be out and
2 Board members should review it.
- 3 e. Ann Wells announced that Kathy Vassar was appointed as the Associated Member to
4 the Board until June 30, 2007. Jay should send a formal welcome letter.
- 5 f. Jay needs to send a letter to Lowes regarding the outside merchandising violations.
6 Jay also needs to meet with them before they come in for an occupancy permit on April
7 23, 2007, to work out these issues.
- 8 g. The Board will need a final letter from Mike Davis on the Arcade project.
- 9 h. Jay should send a letter to the Natick Planning Board regarding the pedestrian
10 crosswalks at the mall build out

11

12 **III. Continued Public Hearings for Special Permit for Use, Special Permit for**
13 **Reduction in the Required Number of Parking Spaces and Public Way Access**
14 **Permit and to Amend or Modify a Site Plan Review Approval for 1 Hamilton**
15 **Street, Walgreen's, North Framingham Plaza Realty Trust.**

16 In attendance were Paul Galvani, Jim Gordon, Richard Hunt and Joe Sullivan. Marybeth
17 Murphy, landscape consultant for the Board also was in attendance. Ann Welles noted
18 that documents 479-07, 488-07, and 487-07 are relative to the discussion. Paul Galvani
19 stated that as a result of comments from the landscape consultant and Board members the
20 landscaping, lighting and architectural plans have been revised. He also noted that he has
21 provided the Board with a draft decision document and would like to review the
22 conditions. Marybeth Murphy, 593 landscape consultant for the Board, asked the Board
23 for clarification on a few items: should the large open area be sod or screening option and
24 if the bench and trash receptacle were appropriate for the bus stop area. The Board
25 agreed on the screening and two benches and a trash receptacle at the bus stop. They also
26 asked that the bus stop surface be covered by pavers and the addition of a drip indicator
27 for the irrigation system. Richard Hunt reviewed the changes on the architecture based on
28 comment from the last meeting. He noted that they have dressed up the two large blank
29 brick walls with decorative goose neck lighting fixtures; he also presented a lighting plan
30 showing 3 light poles that will have 3/3 5' base. The Board reminded the applicant that
31 these bases will need to be colored to match the poles. A brief discussion on the changes

1 in the shape and height of the windows ensued; no outstanding issues were raised. The
2 Board discussed the roof plan,, no outstanding issues were raised except that the
3 screening materials need to be of a grey color. The Board reviewed doc# 502-07 the
4 proposed free standing signage. The Board agreed to have Mike Davis make
5 recommendations on the signage. Ann noted that the draft decision needs to have
6 construction hours added and that Board members should review it. Ann recapped
7 outstanding items; modifications to the decision, list of waivers, addition of the handicap
8 ramp, final letter from engineering on the drainage calculations. *This hearing was*
9 *continued to May 7, 2007, at 8:30 pm.*

10
11 **IV. Executive Session I**

12 *Tom mahoney moved to enter into Executive Session for the purpose of discussing*
13 *potential litigation then exit executive session to return to the regular session. Carol*
14 *Spack seconded the motion. The roll call vote was all in favor.*

15
16 **V. Executive Session II**

17 *Tom mahoney moved to enter into Executive Session for the purpose of discussing*
18 *ongoing litigation on the Nexum case then exit executive session to return to the*
19 *regular session. Carol Spack seconded the motion. The roll call vote was all in favor.*

20
21 { *Sue Bernstein moved to suspend the Planning Board rules to allow a public hearing to start*
22 *after 10:00 pm. Andrea Carr-Evans seconded the motion. The vote was 5 in favor and 0*
23 *opposed.* }

24
25
26 **VI. Continued Public Hearing for Site Plan Review Approval and Special Permit for a**
27 **Reduction in the Required Number of Parking Spaces, 280 Old Connecticut Path,**
28 **Metrowest YMCA.**

29 In attendance were James Hanrahan, Bruce Ey, Stephen Bansac and Vincent Rico. The
30 Board reviewed the revised plans doc # 503-07 showing 2 additional lights. Jim noted
31 that the YMCA could not control the Nstar lighting, but that the on site lighting could be
32 placed on a timer. The Board discussed the Nstar lighting and the two additional
33 proposed light packs. They will need to see a photometric plan of the lights for further
34 discussion at the next hearing. Vincent briefly reviewed the landscaping plans. Board
35 members concerns: 1. red maples conflicting with the power lines; 2. the need for
36 screening of car head lights from area neighbors; 3. possible repair/replacement of

1 damaged curbing, and additional plantings along OCP at the corner of Concord Street; 4.
2 replacement of the 3 pine trees within the island; 5. sloped granite curbing; 6. is a 593
3 review consultant needed for landscaping? The Board agreed to have a 593 consultant for
4 the landscaping. Ann recapped outstanding issues for the next meeting: confirmation on
5 the red maples, applicant to look into changes on lighting, finding a 593 consultant,
6 irrigation and a note on the plans show existing curbing will be repaired. *This hearing*
7 *was continued to April 23, 2007, at 8:30 pm.*
8

9 **VII. Continued Public Hearing for Amendments to the Zoning By-law of the Town of**
10 **Framingham.**

11 Delete Sections IV H 2. Earth Removal, IV H.3. Erosion Control and IV.H 4. Land
12 Clearing, and insert a new IV.H 2. Land Disturbance, and Other Zoning Amendments.
13 Amend Section I E. 1. by adding new definitions for "Glare", "Light Trespass" and
14 "Luminaire" and further amend Section IV.B 3.f. by deleting the existing text and
15 inserting new lighting requirements and to further amend Section IV I.5.a. deleting the
16 existing number 10. and replacing to require a photometric plan.

17 *Tom Mahoney moved to table the zoning hearings until April 19, 2007, at 8:30 as*
18 *shown on the current prospective. Andrea Carr-Evans seconded the motion. The vote*
19 *was 5 in favor and 0 opposed.*
20

21 **VIII. Reconsideration and Review of the 517 Winter Street Decision**

22 Ann started the discussion by reading the Planning Board Rules and Regulations related
23 to a reconsideration of a vote. She stated that, due to the fact that Monday night's
24 meeting was not a regularly scheduled meeting and that Tuesday's meeting was called for
25 a specific reason only, tonight's meeting was in fact the next regular scheduled meeting.
26 She further stated that according to regulations this meeting did allow the Board to
27 reconsider a vote on the 516 Winter Street project.

28 *Carol Spack moved that the Framingham Planning Board reconsider the vote for the*
29 *Public Way access portion of 517 Winter Street decision for the reasons stated by the*
30 *chair. Andrea Carr-Evans seconded the motion. The vote was 4 in favor and 0*
31 *opposed (4 members present).*

1 *Sue Bernstein moved to approve the Public Way Access decision document that was*
2 *previously voted. Carol Spack seconded the motion. The vote was 4 in favor and 0*
3 *opposed (4 members present).*

4
5
6 IX. Member Prerogatives

7 a. Andrea gave a brief update on the most recent TIP meeting

8
9 X. Meeting Adjournment

10 *Carol Spack moved to adjourn. Andrea Carr-Evans seconded the motion. The vote*
11 *was 4 in favor and 0 opposed.*

12
13 Meeting adjourned at 12.00 p m

14
15
16 Respectfully submitted,
17 Mary Reynolds
18 Recording Secretary
19

20 ****THESE MINUTES WERE APPROVED WITH AMENDMENTS AT THE**
21 **PLANNING BOARD MEETING OF _____ 2007**

22
23 _____
24 Ann V. Welles, Chair

Exhibit 74

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From "Steven W. Orr" <steveo@syslang.net>

Subject Re: Illegal activities within SMOC

Date Fri, 13 Apr 2007 14:32:44 -0400 (EDT)

[Part 1 text/plain us-ascii (2.2 kilobytes)] ([View Text in a separate window](#))

On Wednesday, Apr 4th 2007 at 23:27 -0400, quoth Steven W. Orr:

=>I am looking for any SMOC employees, either current or past, who have
=>any information about illegal activities that were or are being
=>committed by SMOC employees, to please contact me. This includes
=>employees from all levels, from the bottom to the top. Any employees who
=>contact me will not be alone

I got a number of responses to my query. It was very interesting. Everyone
has been very patient and that patience is much appreciated.

The following story seems to be apropos since we have a story in today's
paper about a SMOC employee who is a convicted murderer who was relocated
to Framingham and who tried to murder his girlfriend.

I received an anonymous contact which I have since confirmed. It seems
that a couple of SMOC employees who work at the SAGE house on Clinton St
are being investigated for smuggling drugs into one or more prisons. The
SAGE house on Clinton St is a program for "recovering" substance abusers
and their children. The charges are being investigated by the Dept of
Public Health Licensing Division, which is the agency that SMOC reports
to. The SAGE house is the same program that SMOC is trying to relocate to
the old former nursing home at 517 Winter St. The investigation is
somewhat more urgent simply because children are involved. I don't know
how many months the investigation has already taken, but it is "still
ongoing".

Last week, "Planning Board approved the site plan review 3:1, but on the
other hand the special permit for a public way access permit on Ardmore Rd
which required approval from all four of the voting members was turned
down 2:2." Last night the Planning Board took the extraordinary
procedural step of conducting a Reconsideration of their decision. (Was
that in the paper?) The new decision was 4:0 to approve the public way

access permit

To all the people who were willing to contact me when I asked, many thanks. And to the person who made initial contact, we all thank you.

--

steveo at syslang dot net TMMP1 <http://frambors.syslang.net/>

Do you have neighbors who are not frambors? Steven W. Orr

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From "Cynthia Laurora" <lauroramc@comcast.net>

Subject Re: Illegal activities within SMOC

Date Sat, 14 Apr 2007 00:09:59 -0400

[Part 1 text/plain iso-8859-1 (1.2 kilobytes)] ([View Text in a separate window](#))

On April 13, 2007 Steve Orr wrote:

>I received an anonymous contact which I have since confirmed. It seems
>that a couple of SMOC employees who work at the SAGE house on Clinton St
>are being investigated for smuggling drugs into one or more prisons. The
>SAGE house on Clinton St is a program for "recovering" substance abusers
>*and their children*. The charges are being investigated by the Dept of
>Public Health Licensing Division, which is the agency that SMOC reports
>to. The SAGE house is the same program that SMOC is trying to relocate to
>the old former nursing home at 517 Winter St. The investigation is
>somewhat more urgent simply because children are involved.

Thank you Steve for this notice. It's interesting that Framingham town government at first rejected, then blessed and voted to give SMOC drug dealing employees a larger environment to ply their trade. As Jim Hanrahan, SMOC's lawyer and a SMOC Executive Board of Directors member says, "There's no gratification other than the fact that the town is finally abiding by the law in granting this permit." My question to Jim is "Are your employees at least paying taxes on drugs they're peddling?"

Cynthia Laurora

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