

Town of Scarborough

Zoning Board of Appeals

February 8, 2006

AGENDA

1. Call to Order (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (January 11, 2006)
4. Appeals
  - a. Appeal No. 2287 – An Appeal by Sam’s Club Real Estate Trust, 440 Payne Road, Assessor’s Map R37 Parcel 4, to reduce the number of required parking spaces in the B-2 Zone
  - b. Appeal No. 2288 – A Special Exception Appeal by Hospice House of Southern Maine, 15 Hunnewell Road, Assessor’s Map U48 Parcel 34, to construct and operate hospice facility in the R-2 Zone
  - c. Appeal No. 2240 – Miscellaneous Appeals by Peter and Nicholas Truman, dba Lighthouse Inn, 366 Pine Point Road, Assessor’s Map U22 Parcels 108 and 109A, to convert and expand a nonconforming motel into a 6 unit condominium project in the R-4A Zone
  - d. Appeal No. 2241 – A Practical Difficulty Variance Appeal by Peter and Nicholas Truman, 366 Pine Point Road, to add a third story with nonconforming setbacks in the R-4A Zone
  - e. Appeal No. 2243 – An Administrative Appeal by David Miley, dba Commercial Place, 200 Enterprise Drive, Assessor’s Map U39 Parcel 4702, against the decision of the Code Enforcement Officer who determined that a detention pond is not allowed in the Stream Protection Zone
5. Zoning Board Comments
6. Adjournment

NO NEW APPEALS SHALL BE TAKEN UP AFTER 10:30 P. M.

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February 8, 2006

MINUTES

Members Present

Staff

Mr. Blaise  
Mr. Craft  
Mr. Dryzga  
Mr. Maroon (arrived 7:10 P. M.)  
Mr. Massengill  
Mr. Temm

Mr. Grysk, Code Enforcement Officer  
Mrs. Logan, Recording Secretary

1. Call to Order and Pledge of Allegiance

Mr. Dryzga called the meeting to order at 7:00 P. M. The Pledge of Allegiance was recited.

2. Roll Call

The Recording Secretary called the roll; Mr. Maroon was absent. Mr. Dryzga authorized Mr. Temm to vote. Mr. Maroon arrived at 7:10 P. M.

3. Approval of Minutes (January 11, 2006)

Mr. Blaise moved to approve the minutes of January 11, 2006; Mr. Massengill seconded.

Voted 4-0-1 – Mr. Craft abstained.

4. Appeals

a. Appeal No. 2287 – An Appeal by Sam’s Club Real Estate Trust, 440 Payne Road, Assessor’s Map R37 Parcel 4, to reduce the number of required parking spaces in the B-2 Zone

Attorney John Bannon explained their parking conclusions as presented in his letter of January 26, 2006. He stated that the August 2005 parking study used a tenant ratio to calculate the number of spaces required to accommodate the parking. He stated that the Board requested parking figures based on actual usage of the site at Sam’s busiest time rather than the State’s requirement of the 30<sup>th</sup> busiest day. He stated that they had gotten sales data from Sam’s but that did not necessarily correlate with the required parking. Mr. Bannon stated that the data showed that 11% of Sam’s annual sales were made in December and 10% of the annual sales were in August so the Board needed to decide whether the discrepancy rendered the August data unreliable. He stated that some of the December sales would have been higher dollar purchases rather than more customers. Mr. Bannon stated that to conclude that December was a very different month from August, one would have to look for a substantial difference in sales figures. He stated that one distinction between the two months was that there was no holiday in August that would generate gift sales so that was not influenced by high seasonal buying patterns. He stated that August presented the highest routine sales so August was the legitimate time to estimate the average parking load.

Mr. Bannon stated that they could predict the parking; he stated that they started with 3.13 spaces per 1,000 square feet in August and increased that by 10% for 3.44 spaces and multiplied the area of the building after expansion for a total of 474 parking spaces for a peak, which is 46 more spaces than estimated in August. He stated that the needed 474 spaces were well within the 588 spaces that Sam’s

provided. Mr. Bannon stated that, to use all the existing spaces, their calculations showed the need for those spaces would be 4.27 per 1,000 square feet so they had gone from the initial peak tenant use of 3.13 in August to 3.44 and then to 4.27 and it would take an error of 24% in their calculations to use up all the rest of the parking spaces. Mr. Bannon stated that there were some practical considerations such as what kind of precedent this appeal would set; he stated that Sam's was different because it is physically constrained by wetlands and surrounding roads with a very small amount of buffering. He reiterated that there was no reason to think that the August data did not reflect peak parking demand and they would request that the Board vote to allow the 588 spaces.

Mr. Craft asked what the plan would be if the business changed and there was an enormous increase in traffic; Mr. Bannon replied that there was no opportunity for expansion of the parking. Mr. Massengill asked whether Sam's sales of gift cards accounted for increased sales in December; Mr. Aaron Shaw, engineer, replied that they did. To a question from Mr. Massengill, Mr. Bannon replied that they were told by Sam's that they did not track the number of sales; he stated that he thought the data presented demonstrated that the 10% difference between December and August showed that they could provide more than accounted for a 10% difference. Mr. Massengill confirmed that the appellant felt they had 114 extra parking spaces as a buffer for future growth. To questions from Mr. Massengill, Mr. Bannon replied that they had 357 spaces occupied during the test day in August and that Sam's did not expect their proposed expansion would change their sales very much.

Mr. Grysk stated that he often had a difficult time determining parking for particular businesses; he stated that the B-2 Zone allowed retail including warehousing which required one space for 180 square feet of leaseable space. He stated that he had spoken with the town's planners who were trying to come up with parking for warehousing use as part of retail businesses. He stated that the Ordinance would be fine tuned so he could look at retail and warehousing separately for the same business. Mr. Bannon stated that they had calculated their needs based on retail requirements which were the highest requirement.

Mr. Dryzga opened the public hearing; no one spoke for or against the appeal; Mr. Dryzga closed the public hearing.

Mr. Craft stated that he could support the appeal with restrictions that the Code Officer bring the Sam's back to the Board if any parking issues arose and that the appeal apply only to Sam's and not run with the land; Mr. Dryzga agreed. Mr. Dryzga stated that Sam's was a mature business and would not grow more than 24%; he stated that he agreed there was probably more traffic in August than in December. Mr. Maroon stated that the Board needed to differentiate between this business with a proven track record and any new business.

Mr. Blaise moved to approve the appeal with the following conditions:

1. That the approval apply only to Sam's and not carry with the property;
2. That the Code Officer be required to bring Sam's back before the Board with any parking issues;

Mr. Massengill seconded.

Voted 5-0

##### 5. Zoning Board Comments

There was discussion regarding the tabled items on the agenda. Mr. Dryzga stated that he would get in touch with the Board's Town Council liaison to determine whether the tabled appeals should be removed from the agenda or voted upon.

6. Adjournment - The meeting was adjourned at 7:45 P. M.

