

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MARCH 25, 2003

The Board consisted of:

Jonathan G. Gossels, Acting Chairman
Stephen M. Richmond, Acting Clerk
Thomas W.H. Phelps
Stephen A. Garanin, Alternate
Jeffrey P. Klofft, Alternate

Notice was published in the Sudbury Town Crier on March 6 and 13, 2003, posted, mailed and read at this hearing.

Mr. Gossels, Acting Chairman, explained the requirements necessary to substantiate the granting of a special permit. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

John MacKinnon was present to represent a petition for renewal of Special Permit 00-2 to allow the sale of antiques and collectibles only at 5 Concord Road. He has been operating under a special permit for the past eleven years without any problems or complaints. Renewal was being requested under the same terms and conditions.

Mr. Gossels pointed out that since the last renewal, the Zoning Bylaws have been recodified and there appears to be a procedural question with regard to this petition. Previous permits have been issued under Section III,B,3,q of the Zoning Bylaw which allows for "such similar uses as the Board of Appeals may approve and grant special permits therefore,..." That section has been eliminated from the recodified Bylaw; therefore, no vehicle is currently available to grant renewal of this permit.

It was pointed out that this, and similar situations, have occurred and in three of four cases (Especially for Pets, Carpet Carousel, Sudbury Animal Hospital) the Board has voted to take no action. A vote to take no action would allow Mr. MacKinnon to continue his operation under the same conditions as the previous permit until such time as the Bylaw is addressed to either require renewal or allow it to continue as a nonconforming use without the requirement for renewal.

The Board will strive to address these situations with the Planning Board to provide for a mechanism to be put in place within the Bylaw to allow the uses to be grandfathered.

The public hearing was then closed.

A motion was made, seconded and unanimously voted to take no action on the petition of John and Michael MacKinnon for special permit renewal and to contact the Planning Board in an effort to explore resolutions to address these situations.

Jonathan G. Gossels, Acting Chairman

Stephen M. Richmond, Acting Clerk

Thomas W.H. Phelps

Stephen A. Garanin, Alternate

Jeffrey P. Klofft, Alternate

JULIE VANDERFEEN
82 New Bridge Road
03-15

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
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Julie Van der Feen was present to represent a petition for renewal of Special Permit 01-3 to conduct a Home Business, specifically the practice of psychiatry at 82 New Bridge Road.

Renewal was being requested under the same conditions as the previous permit. Dr. Van der Feen reported that there have been no problems or complaints associated with the business.

Mr. Gossels asked whether there were any other employees. Dr. Van der Feen replied that she was the only employee.

There were no further comments. No abutters were present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Julie Van der Feen, MD, owner of property, renewal of Special Permit 01-3 under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically the practice of psychiatry, property located at 82 New Bridge Road, Residential Zone A-1, provided that:

1. Hours of operation will be Monday-Friday, 8AM-5PM, with two days allowed for extended hours to 8PM.
2. All parking will be located in the area shown on the plan dated June 19, 1997 which is incorporated herein and made a part of this Decision.
3. No more than two client vehicles will be parked in the parking area at any one time.
4. There will be no other employee associated with this business other than the owner.
5. No sign, except for a name on the mailbox, will be allowed.
6. No more than forty (40) vehicle trips per week, associated with this business, will be allowed.
7. No additional exterior lighting will be allowed.

JULIE VANDERFEEN
82 New Bridge Road
03-15 Page 2

8. This permit is non-transferable and will expire in three (3) years on March 25, 2006, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: (5) unanimous Opposed: 0

REASONS: The petitioner seeks renewal of a special permit to conduct the practice of psychiatry. The Board finds the use to be in harmony with the general intent and purpose of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood, and does not by its presence significantly alter the character of the zoning district. The conditions have been imposed to ensure that there will be no adverse impact on the neighborhood in terms of visibility, traffic and safety. As a result, the business has been in operation since 1998 without incident. The Board notes that no abutters were present to oppose renewal.

Jonathan G. Gossels, Acting Chairman

Stephen M. Richmond, Acting Clerk

Thomas W.H. Phelps

Stephen A. Garanin, Alternate

Jeffrey P. Klofft, Alternate

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17, 18, 19, 20

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MARCH 25, 2003

The Board consisted of:

Jonathan G. Gossels, Acting Chairman
Stephen M. Richmond, Acting Clerk
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Notice was published in the Sudbury Town Crier on March 6 and 13, 2003, posted, mailed and read at this hearing.

Mr. Gossels, Acting Chairman, explained the requirements necessary to substantiate the granting of a variance. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Michael Couto, Sudbury Design Group, was present representing the petitioner, Craig Wambolt, also present, for four variance requests: (1) to locate refuse storage in a residential zone, (2) to locate parking in front of the building, (3) to relocate the existing sign which will result in front and side yard setbacks, (4) to allow a reduction in the landscape buffer requirement.

Mr. Couto displayed the existing site plan explaining that he has attempted to address the applicant's needs relative to reallocation of space in the building, and that this reallocation has necessitated some site changes to accommodate the parking and other issues.

Mr. Couto gave a brief history of the property which was developed in 1997 and comprises 77,100 s.f. The existing building sits approximately 50 feet from the front property line. At that time the setback requirement was 40 feet. In the subsequent year, that setback requirement was changed to 20 feet. Had it been changed a year earlier, this property would have looked remarkably different.

The majority of the parcel is in BD#6 and is a split-zoned property. From the plan, Mr. Couto pointed out a pink line 150 feet back from Route 20 which is the line of separation between BD#6 and the residential zone at the rear of the property.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17, 18, 19, 20 Page 2

The parcel is also encumbered by a wetland resource area which lies to the northwest of the main building envelope and creates a limitation on the development of the parcel in conjunction with this 150-foot split zone.

Basically the lot is approximately 77,000 s.f. with 30,000 s.f. in the residential zone and 46,000 in the business zone. Of that 46,000 s.f., 9,000 s.f. ± in the business zone is in a resource area that encumbers the development of the business parcel, which leaves approximately 48% of the property usable.

The building footprint, as it was approved, is approximately 6,700 s.f., and there is no intent to increase that amount. The plan is merely an interior allocation of space changing from warehouse-type space and storage space to more office rental space.

Mr. Couto said the original site plan was a bit inept and was developed in anticipation of a business plan that changed. The front of the parcel was approved as a display area and garden center type of situation. As a result of the evolution of the business and in conjunction with competition and the economy, that has proven to be an area of the business that is no longer viable. For that reason, the applicant must eliminate that part of his business.

Mr. Couto said he has tried to come up with a plan that maintains the intent of the zoning bylaws and creates a friendlier site. Currently the entrance is one-way on the east side of the property, comes around the back of the building and exits on the west side of the property onto Route 20. There are substantial safety issues as a result of this configuration. The rear of the building is a very active area because of the type of business and all customer traffic must come around to the rear to exit which has created an unsafe condition. It is proposed to move the customer parking to the front of the building, which is the major portion of this application.

With the allocation of space, 43 parking spaces are required; 45 are allocated which includes two handicapped spaces. This parking meets zoning in terms of allocation per square foot for all the various uses. In order to do this, there can only be a single lane of parking in the front. It would remain a one-way access onto the site and one-way egress off the site.

Mr. Couto said the applicant needs relief from the landscape buffer in order to make the parking configuration work and to meet parking standards. In addition, the sign which is currently in the display area is proposed to be cut down and lowered, mounted on granite posts with a planting beds and relocated as shown on the plan. The design and relocation has been reviewed by the Design Review Board who support it.

The other issue is the storage of trash. Mr. Couto said there is a need for dumpsters to run this business which exceeds what was anticipated when the site plan was first developed. The dumpster originally was to be located in the back of the building. There is not even enough

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17, 18, 19, 20 Page 3

room for a trash truck to pick up a dumpster there. What is proposed in a fenced-in area for the trash containers, the location as shown on the plan, which will also include an evergreen screen.

In addition, a portion of the property is located in Zones 2 and 3 of the Water Resource District, and there are restrictions on that area as well. Although that line is not shown on the plan, Mr. Couto pointed out that area on the plan which is approximately 120 feet from Route 20.

Mr. Couto said if these variances are granted, it will also be necessary to go before the Selectmen, Board of Health and Planning Board.

Mr. Gossels asked how much office space was being created.

Mr. Couto replied that originally the site was approved for 9,543 s.f. of area and was broken up into 2,195 s.f. for retail, 1,435 s.f. for office and 5,900 s.f. for greenhouse, assembly and storage. It is proposed to change this to 4,343 s.f. for retail, 3,300 s.f. for office and 1,732 s.f. for greenhouse, assembly and storage, for a total of 9,398 s.f. He said there is a minor discrepancy in what was originally submitted on the site plan, what was actually built and how this has been taken off. The parking requirements are met based on that square footage.

From conceptual images, Mr. Couto described the front streetscape noting that with the parking and landscape, the design will serve to keep the business viable yet still create a buffer.

Next to this property is the Wayside Plaza which does not have an attractive parking lot or the required landscape buffer. Mr. Couto said there isn't a business, from Frugal Flower to Star Market, that meets any of the criteria he was asking for relief from. He said signs up and down that whole section are all close to the street, landscape buffers in some instances are non-existent, and parking is in front of the building.

One of the two key issues, aside from aesthetics, is the financial aspect. In order for this property and building to continue to exist and for Frugal Flower to continue to exist they need to get out of that garden center area of their business, and in order to keep the building viable they need to rent space to adjust for income revenue. Safety is the other main concern. The site plan originally developed, aside from the one-way entrance and exit, in terms of pedestrian interaction, cars and just vehicular circulation was poor. It wasn't anticipated how the business would evolve and has become a problem.

In response to a question from Mr. Phelps as to why the original plan contained only 26 spaces, Mr. Wambolt replied that the spaces were identified as warehouse area. That area was designated to be on the top floor, some of the downstairs and greenhouse area. Because of the change in use he now requires 43 plus 2 handicapped.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18, 19, 20 Page 4

Mr. Phelps asked whether the nature of what's going to be left of Frugal Flower takes up more space since there are dumpsters and all kinds of space in back.

Mr. Wambolt said it speaks to the original site plan and the evolution of the business which went from a cash and carry that has declined over the years. With Home Depot down the street he can't compete in the annual/perennial area. In order to maintain viability he has been forced to do things he hasn't done before such as the service business with 800-Flowers and FTD. This requires more space.

Mr. Wambolt said he was not happy with the appearance of the property, that it is a mess and an embarrassment and far from what it could be. Since 1997, he has been putting away funds in preparation for something which will be more permanent and more appropriate.

Mr. Gossels asked Mr. Wambolt why he felt he could rent second floor office space. From experience he said it is very difficult to do.

Mr. Wambolt said there are a lot of people in Sudbury who have a desire to be in town. It is convenient for people who want to be in town rather than work from their house.

Mr. Couto said because the business has changed, it has become more labor intensive. The parking requirements for just the flower business alone is putting tremendous pressure on what exists right now and probably adding to the unsafe situation because of dealing with the interaction of the customers and the business.

Mr. Phelps asked whether Mr. Wambolt was creating more problems because of the nature of his business. He has two dumpsters there plus the storage area.

Mr. Couto said there is no usable space behind that building. After exercising all of the options between the wetland resource area, the topography of the rear of that 150 foot line, and the configuration of the space, there is no way to get in another lane of parking . Working with that as an option, thinking he could apply for a variance to get additional parking in the residential zone, there's no way to properly lay that out. Given the restraints of the Zone II Water Protection District, the wetland resource area and the topography it just does not work out.

There was a departmental review which included Town Engineer and the Conservation Coordinator and while there are some outstanding issues relative to this parcel, there is a comfort level that their concerns relative to those incomplete items will be addressed if this site plan is completed.

Mr. Gossels read the following letters:

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 5

- from Town Engineer dated March 12, 2003 which encloses a letter dated July 24, 2002 from Jan Silva, Selectmen's Office, listing seven incomplete items with regard to the original site plan. Town Engineer notes those issues have still not been complied with.

In addition, Town Engineer notes the following:

Loading area should be located on the site plan
Drainage calculations must be submitted in accordance with Section 3527d
One-way direction arrows should be placed in view to ensure uniform traffic flow

Entrance and exit signs should be placed at each curb cut
Existing and proposed topography will be required for site plan review
Shade trees should be set back so as not to interfere with power lines
Suggest bond be posted by owner to ensure site work is completed to plan
Site landscaping along street frontage should not interfere with sight distance

-from Town Planner Jody Kablack dated March 17, 2003 which provides an overview of the property and its constraints and supports the applications subject to the following:

- Landscaping, or other vegetative screening, to be installed along Route 20 and along the eastern side of the lot be in order which effectively shields the parking from the public way, subject to sight distance and traffic safety concerns. It is assumed that landscaping installed in this area will exceed the minimum required by the Zoning Bylaw, and shall be subject to review after installation to assure that it meets the performance standards required by this condition. If additional screening vegetation is required, the applicant will be required to supplement the area with additional vegetation.
- Complete enclosure of the trash receptacle by a 6 foot high wooden stockade fence
- Site Plan approval by the Selectmen
- Order of Conditions from the Conservation Commission.
- Water Resource Protection District Special Permit from the Planning Board
- Design Review Board approval for the sign.

-from the Design Review Board dated March 18, 2003 which recommends approval including a recommendation that the sign position be revised so that it is perpendicular to the road. The Board also suggests a change in tree species and notes the photographic rendering does not accurately depict the number and species of street trees proposed.

- from the Conservation Commission dated March 25, 2003 which notes that other than the initial request for a sample Conservation Restriction, the Commission has not heard from the applicant and this continues a pattern of the applicant being unresponsive to follow through on his commitments.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 6

The letter lists four requirements which are outstanding on the Order of Conditions and notes the proposed new work will require modifications and upgrades to the existing drainage system due to the proposed increase in impervious surface. The site is almost entirely within wetland jurisdictional areas, including the 200' riverfront area. The Commission will not accept any new applications until the previous commitments from past activities are met.

The Commission requests the applicant withdraw without prejudice or request a continuation from the ZBA until he has met the requirements of the previous town permit issued for activities at 736 Boston Post Road.

-from the Planning Board dated March 21, 2003 which believes that the proposed changes to the site comply with the economic development objectives of the Master Plan and therefore recommend approval.

The Planning Board notes the proposal appears to meet the statutory criteria for the granting of variances and recommends approval should be subject to the following:

- Landscaping proposed along Route 20 and along the eastern side of the lot shall effectively shield the parking from the public way, subject to sight distance and traffic safety concerns, and shall be subject to review after installation to assure that it meets the performance standards required by this condition. If additional screening vegetation is required, the applicant will be required to supplement the area with additional vegetation.
- Complete enclosure of the trash receptacle by a 6-foot high wooden stockade fence and vegetation, as proposed on the plan.
- Site Plan approval by the Selectmen
- Order of Conditions from the Conservation Commission.
- Water Resource Protection District Special Permit from the Planning Board
- Design Review Board approval for the sign and exterior changes to the site.

Mr. Phelps said the ZBA doesn't normally receive four requests for variances because variances are very difficult to justify. One of the problems with this is that the building built in 1997 was received with open arms because it was one of the first examples of a business that included parking in the rear which was the spirit of the Bylaw at that time. It seemed to him what has happened is just because of the business downturn we're basically rezoning, or we're saying we built the building and it's not working, so let's change it all. While he respected Mr. Couto and his planning and landscaping and understood the business conditions, he felt there has to be some way to make this property work as it exists. He believed if the property was cleaned up and landscaped it would look quite attractive and the building could be useful as it is. He felt it a stretch to go for zoning variances just because of a situation resulting from a business downturn.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 7

Mr. Richmond asked for a response to the Conservation Commissions comments.

Mr. Wambolt said it was his understanding that it was recommended at the time that there be a Conservation Restriction. In principle he agreed; however, he thought he would be giving up his land. He has since spoken with the Conservation Coordinator and is now actively working on it.

Mr. Richmond asked whether there was a Order of Conditions.

Mr. Wambolt said his Order of Conditions recommends a Conservation Restriction. As to the other issue with respect to drainage calculations, he said he has documentation and letters to his engineer where he clearly instructed him to follow up on that portion of the project to provide those drainage calculations, which is why the first time that he was aware that he didn't have those calculations was the other day.

Mr. Couto added that the Engineering Department will be reviewing them; that it is important to understand as far as Town Engineer was concerned, he voiced some issues of noncompliance with the prior site plan but also recognized that if we were to move forward those issues will be resolved by completion of the new site plan. The same is true with Conservation Commission. Ms. Dineen, after departmental review, made it clear that the position of the Commission was that he did have to give the Conservation Restriction. Mr. Wambolt agreed to that and has already contacted his attorney to work on it. This departmental meeting was only a week ago. It turns out that the other outstanding issue with the Order of Conditions is that they have to do primarily as-built plans and drainage maintenance, and those again are things that will be addressed as we move forward with this new project. If there is no approval by the ZBA, Mr. Wambolt will have to comply with the original conditions.

Mr. Richmond said the Board looks at an application and decides if it can proceed on its own or with conditions. He felt there is a question as to whether conditions can be applied here because of past experience.

Mr. Wambolt said he agreed to a bond, which he believed the Selectmen would certainly impose given the history of this property and its development.

Mr. Couto agreed this is a concern and had spoken with Mr. Wambolt early on that there were things in the past that were going to affect moving forward that have to be dealt with, whether it's done through the performance bond or whatever other mechanisms the Board of Appeals or Selectmen deem necessary.

Frank Sweet, 735 BPR, abutter, voiced concerns that Mr. Wambolt is already parking out front and has the dumpsters. He said he had called him asking not to have the Class 2 trucks picking up and delivering in the front that that hasn't stopped. He said he even spoke to the

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 8

Assistant Building Inspector. He did not believe Mr. Wambolt trustworthy to comply with what he says he is going to do.

In response to a question from Esther Brockman, 12 Revolutionary Road, resident, Mr. Couto said there is a total of 45 spaces. The entrance stays the same, exit stays the same. Traffic flow would also come to the rear of the building but there would also be one-way parking immediately in the front of the building that would accommodate people coming in, pick-ups, flowers, etc.

Ms. Brockman asked whether there would be any changes to the back of this property that would impact the neighborhood.

Mr. Couto said the back parking spaces will stay exactly the same but will be cleaned up. Refuse storage will be organized closer to the commercial property to the east rear, enclosed by a fence and Norway spruce which are dense evergreen plantings.

William Rynne, 25 Washington Drive, abutter, asked how many dumpsters there were and how many are proposed.

Mr. Wambolt said he has two now and that number will remain at two.

Mr. Rynne asked whether the nature of the business will change, for example, where there would not be selling pumpkins or Christmas trees.

Mr. Wambolt said if this is done, it will be severely decreased.

Mr. Rynne said his property is at the rear of Frugal Flower. When there are no leaves on the trees those dumpsters are visible. He would prefer the dumpsters be enclosed with a stockade fence with vegetated screening along the whole backside.

Mr. Couto said there is approximately 160 feet in total along the backside to the wetland. Some of it is vegetated, not wide open although it is deciduous in nature. It is proposed to cover approximately 65 feet with the evergreen screening that goes around the dumpster. Moving down towards the wetlands will require going to the Conservation Commission. Any additional planting that they may require will be native species.

Mr. Sweet said there are two floodlights that shine on his property. At the original meeting he said he didn't want parking up front or lights shining on my property. He was told at the meeting that the poles would be mounted and the lights would not shine on the property. Mr. Sweet asked whether the sign is in compliance.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 9

Mr. Couto said the basic sign that is on the property is in compliance with the Sign Bylaw. There are no height restrictions for signs. What is there now was approved by the Design Review Board (DRB). That Board was also in favor of cutting down the height of the sign and also recommended that it be turned 90 degrees to the road. This will eliminate the ability to hang accessory signs. All other signs will go on the building.

Mr. Phelps expressed amazement at how the original plan ever got approved. He felt Mr. Couto should probably provide more background information on this.

Mr. Richmond added that it would probably be helpful to continue this hearing and resolve the Conservation Commissions issues and report back.

With regard to the drainage issue, Mr. Couto said there is no final coat of asphalt on the existing parking lot. He felt it wouldn't make a whole lot of economic sense to go in and finalize the catch basin height and pave the parking lot if it's going to be repaved in a couple of months.

Mr. Klofft asked whether other alternatives were considered or whether consideration was given to making some other use of the building where there could be less parking yet still be a higher degree of economic viability than there is now

Mr. Wambolt said the financial realities are what they are; that there are only so many things he can do with his business. He said in the past couple of years he lost over \$100K. In order to retain economic viability he spent a lot of time looking over the possibilities and meeting with the Town Planner and others. The reality is that the geographic split zone and Zone 3 leaves no options.

With regard to the original site plan and whether there should have been more parking, Mr. Wambolt said he would say "yes". However he had never built a building before and went from a 1,100 s.f. hut to a building where he couldn't ever envision needing any more room.

Mr. Klofft said this gets to the point that this is a difficult lot and the problem is exacerbated by the fact that the building is so much further from the street. Given all of that, he asked if there was a way to come to some middle position. He said this plan seemed extreme and very dense relative to the space on the lot. Now, the business has changed, and that property may have been appropriate for the business at the time, but not now.

Mr. Couto said from a design standpoint there are no options in terms of parking.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 10

Mr. Klofft was suggesting a change in the required spaces and to look at the potential uses within the building as to whether they are ones that would require reduced spaces and thereby relieve some pressure.

Mr. Couto said the market dictated the evolution of this business and the revised business plan.

Speaking now as an abutter, Mr. Couto said he fully understood Mr. Sweet's and the Board's concerns about compliance with past issues. As an abutter, he felt there is no better

opportunity to bring this up to the standards that the town expects and to do it with the cooperation of all the Boards, and to force compliance. There are issues that can be very easily dealt with. Whether or not the catch basins function 100% right now is less important than when this project is done are they going to function properly and protect the resources. From a business perspective, Mr. Couto said he would like to see this move forward, protect the resource area, protect the safety of our citizens who are going in and out of that facility, and correct the lighting.

Mr. Couto said we can delay it tonight, but where do we go? He asked whether he had to go through all the engineering, and all the site plan approval.

Mr. Gossels said it is unlikely that this plan will be approved this evening. There are two choices: One is to withdraw and come back with something fresh and slightly different that you feel might have a better chance of getting approved. Or, delay it and answer some of the existing questions.

Mr. Klofft said there are a lot of issues. For whatever reasons, Frugal Flower has been unable to comply with some of the issues. What the Board is looking for is a show of good faith to address some of the past performance, or lack of performance, and an understanding of the background would certainly help. If the business is going to move from warehouse to multi-use space, whether that's retail or office or whatever, it creates more density. Delaying this will allow the Board to be presented with more information. Right now, given a choice of approving something we're uncomfortable with or rejecting something we're more uncomfortable with, the latter is a much safer course.

Mr. Sweet said he's there and running his business and he's not complying. He could not understand why he was even allowed to start running the business before he complied.

Mr. Klofft said this is why the Board is suggesting a show of good faith.

Mr. Richmond, while appreciating Mr. Couto's comment about this being an opportunity, said this is a property that's in somewhat disrepair. There are neighborhood concerns about what is going on in the property. It is a great opportunity and, given the comments we've

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 11

received, there is an opportunity to shape something here that is a little different that wouldn't cause a tremendous hardship and accommodates people's concerns, and the Board might be able to work with that. However, he personally needed to see a show of good faith in resolving these issues.

Mr. Cuoto asked whether the issues were primarily with the Conservation Commission and Town Engineer. He believed Town Engineer had a very clear understanding at the meetings that all of those issues would be dealt with down the road and understood that the drainage can't function properly until the final pavement is done. Looking at Town Engineer's letter, Mr.

Couto felt there were no outstanding issues that will not be addressed upon completion of the project.

With regard to the Conservation Commission, Mr. Couto felt the only issue was with the Conservation Restriction.

Mr. Richmond read the four issues from the Conservation Commission letter: 1. At the public hearing in 1997, the applicant agreed to place a perpetuity Conservation Restriction on areas adjacent to the wetland beyond the limit of disturbance shown on the plan., The applicant has not followed through on this commitment. (2) Submission of a maintenance schedule for the drainage structure was required. None has been received after several requests in writing. (3) The Commission required a revised plan of the berm and drainage calculations for the 2 through 100-year storm events. These were never received. (4) A new as-built plan is required as the engineer who signed and stamped the 15 Sept. 1998 plan did not have a valid Register Professional Engineer certification at the time.

Mr. Couto said the three items aside from the Conservation Restriction, which have to do with the maintenance schedule for drainage calculations and as-builts are all part of the requirement for site plan approval as well as the Notice of Intent. Those will be dealt with very specifically when he goes to Conservation.

Mr. Richmond said a future development could be three years away. In the meantime there is drainage going off that site now. He felt Mr. Wambolt could still do the calculations and still have a drainage plan and maintenance plan that would reduce impact to the wetlands.

Mr. Phelps would also like to hear if there were any ideas for reconfiguring the building instead of surrounding the building with an asphalt parking area. He didn't think this was the intent of the Master Plan.

Mr. Klofft felt this to be a substantial denigration from the intent of the Zoning Bylaw. If this was a case where there wasn't parking on the sides or the back and more parking was needed, that would be one thing. This is literally parking all around and very substantial.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 12

Mr. Couto agreed to do some searching and try to get whatever information the Board wanted. Although he did not see any design changes, there might be some business plan changes.

Mr. Wambolt said he either maintains a presence here or finds a warehouse and loses 14 years of hard work. The current business, 800-Flowers and FTD involves piecework and he's bbinning to see a resurgence. His business now is labor intensive which is necessary in order to work.

Mr. Klofft asked whether there were any nearby properties that would work in terms of shared parking.

Mr. Wambolt said he has already explored that and nothing is available.

Mr. Couto said the plaza next door is already full. He, himself, shares parking with the Coach House Inn but that potential for sharing doesn't exist here. He's been working on this for over a year and a half trying to come up with a to resolve the issues with this parcel and to help Mr. Wambolt in terms of where his business is heading. He didn't know if he would be able to come back here with a whole different plan.

Mr. Gossels asked what parking was required just for the flower business.

Mr. Wambolt said he needs employee parking for 20-25 during business hours, plus vans.

Mr. Gossels felt the Board's concern is not the vehicles parking to support the flower business but the conversion of spaces to further increase the density. He didn't know whether Mr. Wambolt was saying is that the flower business by itself is not viable and it needs to have that other space.

Mr. Wambolt said in reality he needs the rentals. He should also be bringing cash and carry customers in, but there's not a good place to park, which is an issue.

Mr. Gossels asked whether Messrs. Wambolt and Couto wanted to continue or withdraw without prejudice and come back.

Mr. Couto asked whether there was specific information that this Board is going to require for a subsequent meeting.

Mr. Richmond wanted resolution of the conservation issues.

FRUGAL FLOWER
736 Boston Post Road
Case Numbers: 03-17,18,19,20 Page 13

Mr. Gossels said two Board members have a sense that there is just too much on that parcel that was being asked for. Regardless of the good faith comments, if there is something concrete to address those concerns, that will be helpful.

Mr. Phelps agreed. He said the facility is too big for the lot. There have to be creative ways to do something about that. He felt one of the problems is the extensive parking on the lot which is caused by the fact that the building is too large and because the function of the building is now different.

Mr. Klofft said for him the parking in the front in and of itself wasn't as big a deal because of the surrounding areas. For all intents and purposes there is the other plaza next door which has all the parking in the front. It's just that 45 parking spaces is tight considering the amount of land.

The hearing was continued to April 29, 2003.

Jonathan G. Gossels, Acting Chairman

Stephen Richmond, Acting Clerk

Thomas W.H. Phelps

Stephen A. Garanin, Alternate

Jeffrey P. Klofft, Alternate