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MINUTES OF MEETING April 14, 2016

The Marion Zoning Board of Appeals convened at 7:30 p.m. on Thursday, April 14, 2016 in the main conference room of the Marion Town House to hear case numbers:

- Case #715, that of 20 OIT Realty Trust, c/o Jacqueline Gaffey, 20 Old Indian Trail, for a special permit under sections 6.1.3, 6.1.5 and 7.2 to allow razing of one dwelling and the construction of a single family residence (2 bedroom), with a height of 28', keeping the existing footprint as it relates to the property line. The property is further identified on Assessors' Plan 26, Lot 27. (Continued from March 10, 2016)

Zoning Board members present were Eric Pierce, Betsy Dunn, Domingo Alves, Marc Leblanc and Kate Mahoney.

Also present: Scott Shippey, 2 Spring Street; Dana Nilson, 116 Converse Road; Cindy Visotski, 657 Mill Street; Joseph E. Singleton, Jr., 5 Parlowtown Road; Joanne Singleton, 5 Parlowtown Road; Gordon Sequeira, 12 Old Indian Trail; Valerie Sequeira, P.O. Box 1145, Onset; Delores Sequeira, 12 Old Indian Trail; Jorge Figueiredo, 12 Cross Neck Road; Dena Xifaras, 34 Piney Point Road

Upon arrival the Board was presented with the following information for the evenings Business:

- Agenda
- Additional Materials for Case # 715, which include:
 - Updated plans dated April 7, 2016 from GAF Engineering
 - Peer Review information dated April 13, 2016 from Merrill Engineers & Land Surveyors
 - Memo from the Board of Health dated April 13, 2016
 - Letter dated April 6, 2016 from abutters Thomas & Patricia DeCosta
- Minutes from March 24, 2016 to be approved

At 7:30pm, Mr. Pierce revisited Case # 715, 20 OIT Realty Trust, c/o Jacqueline Gaffey. He mentioned concerns with flooding the area. Dana Nilson was present to represent the Gaffeys. Mark and Jacqueline Gaffey were also present. The town's engineers and the applicant's engineers have been working on a solution.

Mr. Pierce read aloud a memo received from the Board of Health (BOH) dated April 13, 2016

regarding the installation of fill. The BOH recommended that the Zoning Board table a decision until the issue is resolved. Mrs. Dunn read aloud another memo from the BOH. She said that the applicant will be receiving a letter from the BOH regarding these issues and concerns. The BOH said the septic system did not follow the plan.

Mr. Nilson referred to a previous discussion about this special permit request being a separate issue from the septic system that was put in before this application. He noted that the new house will use the same footprint and that they have gone to great lengths to address the roof runoff concerns. He mentioned that the installation of the septic system at the property was paid for by the town and not the Gaffey's (septic betterment). At least one other abutter also had a septic betterment.

There was a discussion regarding the fill that was brought up to the stone wall and the system at the "house on the hill", 647 Mill Street. The flooding issues on both properties were also discussed. Mr. Nilson said that the subsurface drainage system they have designed for the new house addresses any runoff/flooding concerns. The drainage system has been revised based on the input of the engineers. All of the roof runoff will be recharged into the ground.

Joanne Singleton, 5 Parlowtown Road, expressed her concerns regarding the amount of fill on the property and the other Gaffey property. She felt that water runs from the Gaffey properties onto their property and it is due to the amount of fill that has been brought in.

Mr. Nelson reiterated that the drainage system they have designed will improve the runoff issue. He noted that they have the engineering calculations to prove that it will greatly improve the situation and will reduce the amount of water onto the neighbor's properties.

Mr. Gaffey presented pictures from the past 30 years at the location showing water on the property. He said that he needed to build the house at 647 Mill Street higher than the original. This was due to the water level. The house rotted out from underneath, floors collapsed. At times the water was up to 4 feet in the yard which he said was due to the road water running into his yard. Mr. Gaffey said that the water runoff from Route 6 also affects the abutting properties as well as his own. He said that he has a swale between his property and Mr. Singleton's property and three drywells on his property.

There was further discussion about the fill up against the stone wall and the flooding that occurs on the neighboring properties. Mrs. Dunn showed the board members recent pictures of the area. Mr. Nilson asked if the grading is modified away from the stone wall would the Board of Health be satisfied and not have an issue. Mrs. Dunn said she is only one member but if it is modified to meet the engineered plans then that is a possibility.

Mr. Gaffey described how the water runoff from Route 6 has affected his and surrounding properties. He believes that the water in the abutting properties is not from his property but from the runoff from Route 6. Since his house is higher the water passes by and goes to the Singleton property and others behind them. Joe Singleton, 5 Parlowtown Road, disagreed with Mr. Gaffey and felt that the water does in fact come from the Gaffey property. Mr. Pierce noted that this is a different subject from the special permit request. Ms. Mahoney believed that they are related.

Mr. Nilson said they have addressed how to mitigate the situation and reiterated that the engineers agreed that the design has taken care of the issue. Mr. Leblanc asked Mr. Nilson if the

grade was done the way it was on the engineering plans, would it have modified his design for the new house. Mr. Nilson said no. He also said that since they know that water was a problem in the area they would be improving the runoff from the house dramatically by adding a subsurface drainage system that does not exist now.

There was a discussion about who was responsible for the plan not being followed. Scott Shippey asked if G.A.F. Engineering had in fact received the second response from Merrill Engineers. Mr. Nilson said yes they had and they are in agreement of every condition that they have recommended.

The engineers and applicants will be attending the next Board of Health meeting. There was further discussion about the amount of fill and concerns of water runoff onto neighboring properties. Mr. Nilson said that they are addressing this issue by installing the drainage system on the new house. He believed that the special permit request is a separate issue from the septic system concern. He felt that the Gaffey's have complied with the Board's request to have their plans reviewed since they did have the Town's engineers complete a peer review and have made adjustments as suggested.

Mr. Pierce said that there is a perceived preexisting problem regarding the fill and water runoff to the abutting properties but that is not part of this Board's purview. Mr. Alves noted that the Gaffey's have provided all the information that the Board had requested. Mr. Leblanc said that the problem of fill and water runoff isn't this Board's issue. Mr. Pierce agreed but said it is the Board's responsibility to not exacerbate a preexisting problem. However, the plan for the new house is designed to reduce/minimize the water runoff impact on the property at 20 Old Indian Trail. The subject of the fill up to the stone wall was discussed again. This will be taken up at the Board of Health hearing.

Mr. Pierce felt that the applicant satisfied the Board's request of having the peer review engineer review their plans and the Gaffey's have made adjustments as needed. The discussion of the other water runoff will be handled by the Board of Health. Mr. Alves motioned to take case # 715 under advisement; Ms. Mahoney seconded the motion; Mr. Pierce, Mr. Leblanc, Mr. Alves and Ms. Mahoney voted in favor, Mrs. Dunn abstained from voting.

Mr. Pierce said that Garrett Bradley, Case # 718 has withdrawn without prejudice.

Case # 720, Jorge & Tiffany Figueiredo at 12 Cross Neck Road, had been taken under advisement on March 24, 2016. This accessory apartment will be attached to the main dwelling. After a brief discussion Mr. Pierce motioned to grant the special permit for Case # 720 provided that all subheadings of by-law 8.6 are met. Mrs. Dunn seconded the motion; all members voted to grant the special permit.

Case # 721, Dena Xifaras at 34 Piney Point Road, had been taken under advisement on March 24, 2016. There was a discussion and some concerns were raised about the building being added to the property and that it will not be attached to the main dwelling. A decision was not made and the case will be listed on the next meeting agenda for further discussion.

Minutes from March 24, 2016 were approved. With no other business before the Board the meeting was adjourned at 8:30pm

Approved: April 27, 2016

Submitted by: Eric Pierce, Chairman