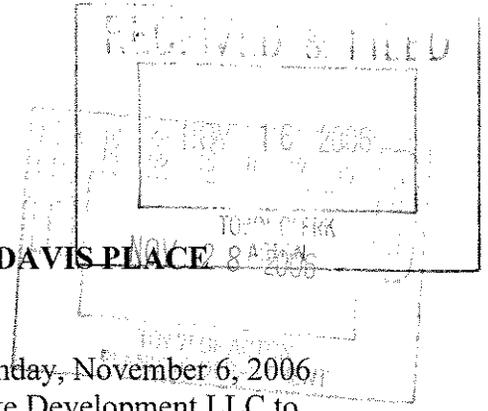


Planning

**Zoning Board of Appeals
Davis Place
Comprehensive Permit
Minutes
Hearing # 06-04**



RE: APPLICANT'S REQUEST TO AMEND DECISION #06-04 DAVIS PLACE

At the regularly scheduled meeting held in the Town Hall on Monday, November 6, 2006, at 7:30 PM, the Board of Appeals considered the request of Northeast Site Development LLC to amend Decision #06-04 as an "insubstantial" change not requiring a full public hearing of the Board of Appeals. Present at the meeting were Jonathan Wagner, Chairman; Ken Kozik, Member; Richard Fallon, Alternate; Garry Rhodes, Building Commissioner; Cheryl Frazier, Board of Appeals secretary, Attorney Louis Levine representing the Applicant, Susan Sullivan, Civil Engineer and various principals of the Applicant.

Jonathan Wagner, Chairman opened discussion and first stated that Board Member Cara Voutselas had participated in all 06-04 hearings and was a signatory on the final decision but was not present at tonight's hearing. He further stated that he felt that even though Alternate Richard Fallon (who was sitting as replacement for Cara Voutselas) did not participate in the 06-04 hearings, he could participate in the Board's consideration and cast a vote if the Board decided to vote on the Applicant's request. The Board could reach a decision so long as a majority of the sitting members agreed on the decision. Mr. Wagner requested the Applicant to explain what was being requested and why.

Louis Levine, Attorney for Davis Place stated that the Applicant was requesting the Board to approve (a) the amended Plans which has been submitted with their written request and (b) the transfer of the permit to Davis Place LLC. Attorney Levine further stated the Board of Appeals decision required final Plans to be submitted to the Engineering Department for approval before the Board endorsed the Plans, the Applicant had made all changes requested by Engineering and they had approved the amended Plans. In addition to making the changes to the Plans requested by Engineering, the Plans were altered from the original Plans because of a property line dispute; but this was an "insubstantial" change, which the Board could approve without convening a public hearing.

Attorney Levine stated further that since the final decision permitted assignment of the permit, he was not really "requesting" the Board's approval but more informing the Board of the transfer as required by the decision. He further stated that Northeast Site Development and John J. Flannery, Inc. are partners and owners of the property; and the Comprehensive Permit has been transferred to Davis Place LLC, the members of which are Northeast Site Development LLC and John J. Flannery, Inc. (both having a fifty percent membership interest).

Susan Sullivan, Engineer for the project, explained that a survey issue had arisen along the property line between the abutter and the Davis Place site with overlapping deeds. In order to keep the project moving forward, they decided to move the affected buildings back from the abutter's property while impacting the overall Plans as little as possible; and this in fact was accomplished. She then gave a detailed explanation of the changes from the original Plans. Attorney Levine said they wanted to keep the same design parameters for the site and that none of the setbacks changed from the original Plans. The footprint of the buildings, the distance from

the wetlands, and the driveway configuration were the same. Everything is the same except they moved buildings back because they didn't want a conflict with the abutter.

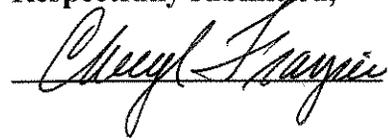
Chairman Jonathan Wagner stated he was troubled by whether the moving of buildings (however slight) was "insubstantial" as the term is meant in the regulations. Ken Kozik said that the moving of the buildings doesn't bother him and he doesn't have any issues with that. In his opinion the moving of the buildings back from the original property line was slight and constituted an "insubstantial" change. Richard Fallon stated that in comparing the original and amended Plans he thought there appeared to be other changes that were not explained and he asked Ms. Sullivan to explain them.

Nancy Tavernier stated she supported the Applicant's request because they had continued to be very cooperative with her and that the changes did not represent a substantial change from her perspective.

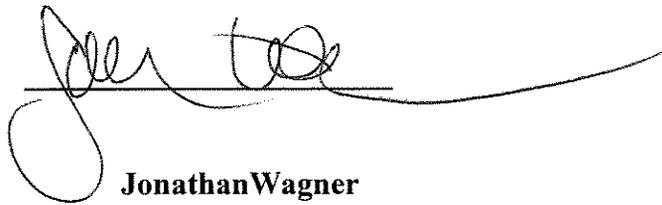
Ken Kozik moved that the Plans as amended constituted an "insubstantial" change and therefor should be approved. The motion was seconded and a vote taken. Ken Kozik and Jonathan Wagner voted "yes". Richard Fallon abstained. The vote passed 2-0 with 1 abstention. The Plans as amended and submitted to the Board were approved without further hearing of the Board.

Garry Rhodes said he would make arrangements for the Board of Appeals to have the amended final Plans available to be signed by Board Members at the next scheduled meeting on Wednesday, November 15th.

Respectfully submitted,



**Cheryl Frazier
Board of Appeals Secretary**



**Jonathan Wagner
Chairman
Board of Appeals**