Town of Westford
Zoning Board of Appeals
Town Hall
55 Main Street
Westford, Massachusetts 01886
(978) 692-5524 · Fax: (978) 399-2732

REVISED

MEETING AGENDA
Tuesday, March 31, 2015
7:00 p.m. Meeting

RECEIVED
MAR 30 2015
TOWN CLERK

Blanchard School Cafeteria
14 West Street
Westford, MA 01886

7:00 p.m.

1. **Review of Draft Minutes**
   February 25, 2015
   March 18, 2015

2. **BOA 1501 SP (2) VAR (2) – 20 Commerce Way (also known as 540 Groton Road) (Newport Materials LLC and 540 Groton Road LLC)**

   a. Review Board actions of March 18, 2015

   b. Discussion regarding correspondence received from Applicant
      1) Request for Reconsideration
      2) Request for Reopening the Public Hearing

   c. Approve denial decisions pursuant to March 18, 2015 votes.
      1) BOA 1501 A - Variance under Section 3.1.1 to allow an additional principal use on the lot

      2) BOA 1501 D - Special Permit under Section 3.6.2 for the extension of a pre-existing nonconforming use on the property to allow for an additional principal use where multiple principal uses currently exist.

The above-listed petitions are related to a recent Decision issued by Land Court (10 MISC 429867). Materials related to these applications and the Land Court decisions can be found on the Planning Board's Web Page under the tab "Asphalt Plant" at:
http://www.westfordma.gov/pages/government/towndepartments/boardsandcommittees/WestfordMA_planning/index

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Victoria Johnson at 978-692-5524 or email to vjohnson@westfordma.gov.

TOWN OF WESTFORD
ZONING BOARD OF APPEALS
55 Main Street
Westford, Massachusetts 01886
Phone (978) 692-5524 Fax (978) 399-2558

MEETING MINUTES
Wednesday, February 25, 2015, 7:00 p.m.
Blanchard Middle School Auditorium
14 West Street, Westford, MA

Board Members Present: Bob Herrmann, David Earl, Jay Enis, James Kazeniac, Scott Fitzgerald, Scott MacKay, Paul MacMillan

Not Present: Mark Conlon

Staff Members Present: Chris Kluchman, AICP; Jeff Morrissette, Town Planner; Jonathan Silverstein, Town Counsel

Herrmann opened the meeting.

Public Hearing:

BOA 1501 SP (2) – 20 Commerce Way (also known as 540 Groton Road), Newport Materials LLC and 540 Groton Road LLC – *Public hearing for 540 Groton Road LLC and Newport Materials LLC to request the following petitions (and any other permit or relief as may be required under the Town of Westford Zoning Bylaw) in association with the development of an asphalt manufacturing facility and associated materials stockpile yard. The subject property is identified as Assessor's Map 048 Parcel 0011 Lot 0234 and is within the Industrial A Zoning District:*

- *Variance under Section 3.1.1 to allow an additional principal use on the lot*
- *Variance under Section 10.2 regarding the definition of the term "quiet" within the definition of Light Manufacturing*
- *Special Permit under Section 9.3 pursuant to Section 3.1 to allow for multiple principal uses on the site*
- *Special Permit under Section 3.6.2 for the extension of a preexisting nonconforming use on a single lot*

Mr. Herrmann provided an overview of the meeting and procedures. He stated the Zoning Board of Appeals is a Board that reacts to issues rather than plans around issues. The applicant has brought forth four actions which the Board will review. He stated safety measures or how the plant is powered do not fall under the jurisdiction of the Board.

Douglas Deschenes, representing Newport Materials LLC and 540 Groton Road LLC, requested to withdraw the special permit requested under Section 9.3.

Motion made by Mr. MacKay to allow the applicant to withdraw special permit request under Section 9.3. Motion seconded by Mr. Kazeniac. The motion passed unanimously.

Motion made by Mr. MacKay to open the public hearing. Motion seconded by Mr. Kazeniac. The motion passed unanimously.

Motion made by Mr. MacKay to waive the entire reading of the public hearing notice. Motion seconded by Mr. Kazeniac. The motion passed unanimously.

Herrmann indicated voting members for this hearing will be himself, Enis, Kazeniac, MacKay, and MacMillan.

Deschenes addressed the Board. Present with him was Rick DeFelice, Manager of 540 Groton Road LLC and Newport Materials LLC, and Matt Waterman from LandTech Consultants, Inc. He stated they are seeking three permits associated with the proposed bituminous concrete manufacturing facility to be located at 540 Groton Road. They are currently before the Planning Board on a number of permits on remand from the Land Court. He stated regardless of the outcome of this hearing, they will still be obligated to obtain all four permits they are seeking from the Planning Board.

Deschenes provided an overview of the proposed site. This is a 115 acre lot located in the Industrial A zone. A subdivision was approved by the Planning Board for this property, however, they have not effectuated that permit and are not looking at multiple lots on a subdivision road, but rather one lot. The area is surrounded primarily by commercial and industrial uses. There are two existing quarries to the north, one which blasts stone and one which crushes stone. The Fletcher Granite quarry and a concrete manufacturing facility are also in the surrounding area. There are commercial buildings along Route 40, including the Fletcher Granite Company. The closest residential neighborhood is about 1360 feet away from this property.

On this site there is currently an asphalt, brick, and concrete processing operation which is operating under a special permit granted by the Zoning Board of Appeals. Wood storage, truck and trailer storage, retail sales of product to industrial and commercial buyers, and a solar farm are also located on the site. Historically there have been multiple uses on this site.

They are proposing a manufacturing plant located 1400 feet off of Route 40. This plant will manufacture bituminous concrete (asphalt). It will produce on average 1200-1500 ton of material a day. They will know how much to produce on any given day based on orders placed in advance. A small fraction of material may be needed for small jobs such as driveways. The ABC processing plant previously permitted will continue to operate independently. The only connection between them is that as part of the manufacturing process recycled asphalt pavement (RAP) will be provided by them to the asphalt plant. They will have four storage silos on site to store the manufactured material. The ABC plant has a right-hand turn limitation and they anticipate this will facility will have the same restriction. The proposed hours of operation are 6:00 a.m. to 7:00 p.m. , but they do not anticipate much activity after 4:00 p.m. as they will not be providing material for night paving jobs.

Kazeniac asked if the aggregate being used will come from the quarry on site or from outside. Deschenes stated they expect to get some stone from the quarry, but will be having stone, liquid asphalt, sand, and No. 2 fuel oil delivered onto the site. DeFelice stated half the stone at minimum will come from the quarry. That amount could be more but for traffic planning they assumed 50% will be trucked in. They are proposing two 30,000 gallon tanks of liquid asphalt and a 10,000 gallon tank of

No. 2 fuel oil. The No. 2 fuel oil will be used as a backup to their natural gas system, as well as an insulating and heating element for the liquid asphalt.

Kluchman asked where on the applicant's site quarrying has been conducted. DeFelice stated they have quarried in several locations on the site. He provided an overview of these locations on the map. She asked if this use was accessary to the ABC facility. DeFelice stated the quarrying was not associated with the ABC facility. Jonathan Silverstein, Town Counsel, asked if the quarrying on this site was taking place before DeFelice took ownership of the site. DeFelice stated absolutely. He indicated Modern Continental mined hundreds of thousands of tons for the Route 3 project. Silverstein asked how frequently material has been taken out since he has owned the property and how much. DeFelice stated he has been on the property since 2009 and for a three year period 20,000 to 30,000 ton of material was quarried, but not in recent years. Deschenes indicated they can provide specific information to Mr. Silverstein to answer these questions. Matt Waterman, LandTech Consultants, stated the northerly portion of this parcel was quarried when the Greystone subdivision was being constructed.

Earl asked what is on the site between the proposed operation and the nearest home at 1300 feet. Deschenes responded commercial vehicles, trailers, and piles of materials, storage buildings, a cell tower, and a very large wetland are between the house and their site.

Deschenes stated in the context of the litigation regarding this site the judge pointed out that the Westford Zoning Bylaw under Section 3.1 expressly prohibits multiple principal uses on a site in the Town of Westford, unless otherwise allowed. The judge indicated if they want to have multiple principal uses on the site they would need a permit to do so and suggested they seek a variance. However, they already have multiple uses on the site which constitute a preexisting nonconforming use. If there is a preexisting nonconformance it can be changed or extended by special permit, provided it will not be significantly more detrimental to the neighborhood.

Deschenes stated they are agreeing to limit truck traffic to 125 trucks in and 125 trucks out. They feel the project will serve social, economic, and community needs. The Highway Department is in need of this material, as well as private projects in town. He stated there is sufficient water, electricity, sanitary services, telephone, and data lines readily available to the site. The only new utility being brought in is the gas line. The project has been reviewed by Fire and Police and both have provided letters indicating this project could be safe as long as they meet specific requirements.

Deschenes indicated there have been extensive environmental studies conducted on this site. The site has changed so much over the years it is hard to define the natural environment. There are wetlands on the site. There is little, if any, natural vegetation. He stated the facility will not have a detrimental effect on the natural environment. There was a study conducted which determined the proposed plant would not produce any detrimental health impacts, and this was verified by the town's peer reviewer. They have received a clean air permit from the DEP which determined the operation will be safe for the environment and people in the neighborhood. Silverstein clarified that at trial the town did not pursue a particular argument, but at no point did they stipulate there would be no impact on health.

Deschenes indicated this facility will result in increased property values for the site resulting in an increased tax base for the town, which will generate additional revenue to the town. The facility will

generate new employment opportunities, increased business opportunities, and potential cost savings within the construction industry and town, adding to the overall health and growth of the local economy. He stated allowing a special permit to extend their existing array of principal uses to include a new principal use will not be more detrimental to the neighborhood than what is currently operating. He asked the Board to consider granting this special permit. He stated if this special permit is granted their application for a variance under 3.1.1 would not be necessary and would be withdrawn.

Herrmann asked what facility that is currently on the site will be changing or extending that will fall under the special permit. Deschenes stated there are two preexisting nonconforming situations on which the Board could base its determination. The retail sales of stone, sand, and granite to industrial and commercial buyers is the nonconforming use on which they based their request to extend for the ABC processing and they are asking for an extension of that for this facility.

Silverstein clarified that to be a preexisting nonconforming use the use has to preexist the zoning bylaw Section 3.1. He stated the solar facility does not predate Section 3.1 and the office building may not predate Section 3.1, and asked that Deschenes provide the current and historic uses of the site indicating which uses predate Section 3.1, and which uses are currently continuing. He stated this information would have to be determined in order for the Board to make a decision on whether the multiple use of the site predates the prohibition, and if the use is a principal use or an occasional use, or has at any point been discontinued for a period of two years, during which time the grandfathering protection would have been lost.

Deschenes stated that the Board concluded several years ago that the quarry has been operating for over 100 years and selling material to industrial and commercial buyers and was a preexisting nonconforming use occurring on the property. The Board can extend that use or change it as long as the applicant can show that the nonconforming use will not be significantly more detrimental to the neighborhood than what is going on there today. Silverstein clarified that the bylaw states you can either change or extend, or you can change from one to another, and in this instance they are not eliminating the retail sales. He questioned if this will be the addition of another principal use, where there were multiple principal uses when 3.1 was adopted.

Deschenes stated he feels adding another principal use would be an extension. Silverstein stated that is correct, however, the Board needs to address were there multiple principal uses as of the date that 3.1 came into effect and are they the principal uses that continue through to today, apart from those that have received zoning relief. Deschenes stated there have been quarrying and retail sales to industrial and commercial buyers on this site since the turn of the century, and they exist today. These are two principal uses that pre-dated Section 3.1. He indicated they would have to get specific information on the current quarrying operation.

Deschenes stated he would like to review the request for variance from the sound standard. Herrmann stated he is going to ask the Board to continue this item at the end of the hearing because what the Planning Board does has a direct bearing on this variance. He stated he does not feel this should be before the Board until the Planning Board makes their decision. Deschenes stated typically he would come to the Zoning Board for a variance before moving forward with permitting of a project. He asked that he be able to present information to the Board.

Deschenes stated the Major Commercial Project (MCP) permit has very clear sound standards that must be met and the definition of light manufacturing only indicates the machinery has to be quiet. He stated the judge pointed out that there is no definition of quiet in the bylaw so he instructed that in determining what is or is not quiet they should apply the sound standards for the MCP, which state you cannot exceed 70 dBA sounds levels at your property lines, nor can you increase the ambient sound level at your property line by more than 10 dB. They have determined there is one property boundary where they do not meet that standard. He stated they are before the Planning Board and have requested a waiver to having to provide sound attenuation. If they are granted that waiver they will still need a variance because they will have no way of meeting the judge's definition of quiet machinery.

Jeff Morrissette stated typically when trying to create a lot that lacks frontage applicants would have to go the Zoning Board first, before they go to the Planning Board. This situation is unique in that whether or not relief is needed stems from a future Planning Board action, which is very unlike most applications. In this case no relief is needed unless the Planning Board takes a very specific action. He stated the Zoning Board, when considering whether or not to grant a variance, which is breaking the bylaws, should grant the absolute minimum relief needed for a given proposal and right now it is uncertain if any relief is needed. He stated it would not be wise for this Board to break the bylaws until such time as they know how much relief is needed, and whether it is needed at all. He stressed sound is still being analyzed through the Planning Board process, is still not finalized, and the Board should have the benefit of making as informed a decision as possible.

MacKay asked which property boundary does not meet the sound requirements. Deschenes indicated the westerly boundary, directly adjacent to the Fletcher Quarry. At the westerly property boundary they are 75 dBA, which is 5 dBA over the 70 dBA limit. Additionally, because the ambient sound at that boundary was 43, going up to 75 is an increase of 32 dB and the bylaw says they can only increase by 10. The bylaw states to get a variance you must show a hardship owing to the soil, shape, and topography of the site. He indicated the site is very large, over 115 acres, and has a relatively small amount of road frontage and only a single access point. Due to the quarrying on the site all of the topography has been dramatically altered by excavation and filling creating topography changes. Denial of the variance would create a hardship in that the applicant is continuing to pay real estate taxes based on the allowed uses on the property of 115 acres and they are being told they can have only one principal use on it. He stated the proposed use will not constitute a public health or safety hazard and the intent of the bylaw is to protect people outside of the site, however, their neighbor they are looking to protect is a granite quarry 35 to 50 feet above their site.

Kluchman clarified that under Section 9.3 the more important standard is not the difference between 75 and 70 dBA, it is the difference between the 10 dB they exceed at that boundary, which would be a sound limit of 53 dB, which is 22 dB above. She clarified that in this variance application the applicant did not state what number is being requested, as they do not know what that number is because it is unknown what the Planning Board is going to do with the waiver. She compared this to an applicant coming for a variance from a side yard setback but not knowing the amount of the setback.

Herrmann opened the floor up for public discussion.

Bob Krankewicz, 15 Boston Road – He stated Judge Sands made it clear on December that the court was not ordering the Planning Board to approve the special permits. Also, the Zoning Board is not

under the court's jurisdiction for the pending application for variances and special permits. He asked the Zoning Board not to approve these variances and special permits. He stated knows the intent of the bylaw as he participated in writing it and the judge overlooked the overall values the community expressed in its 2009 Master Plan and has gone out of his way to craft a means to coopt the community into allowing a business that it does not want. He stated if the Board approves a variance they will be ignoring the will of the community and acting counter to the intent of the Master Plan and its zoning bylaws.

Carol Savoy, Russell's Way – She stated she feels this would be a detriment to the community. She believes this plant would take away from her beautiful neighborhood. She expressed concern with odor and air quality, property values, and truck traffic.

Marie Bernam, 255 Groton Road – She stated she lives about 1/10th of a mile from this site. She expressed concern that the abutting properties have been misrepresented. She stated Groton Road is a residential road and consists of 18 single family homes. The businesses on the site historically have been a bus and truck company. Directly behind her is a light industrial. She stated 200 feet in each direction is purely residential, not commercial or industrial. She indicated they were told there was an insignificant health risk, not that there is no health risk. She stated Route 40 is a town owned road and she is currently researching limitations on weight and the enforcement of those limitations, which would prohibit taking left turns from 540 Groton Road. She stated she finds a lot of disrespect toward the residents of Chelmsford with this project.

Herrmann clarified that Route 40 is a state numbered road that is maintained by the town with state funds, it is not a town owned road.

Martin Corbett, 7 Danley Drive – He stated the Rita Edward Miller School will be impacted by the smell from this site. He stated the trucks will be going by the daycare center located on Route 40. He expressed concerns with emissions from the trucks. He asked if Fletcher Granite ever sold industrially and commercially from this piece of property. He stated the 22 dB discussed is a 128 x increase in the amount of sound. He asked if there is any waste product produced. He asked if the employment opportunities are guaranteed for Westford residents.

Deschenes responded there is no waste product, the asphalt is ground up and reintegrated into the system. He indicated they will be an equal opportunity employer and the opportunities are not necessarily for Westford.

Corbett asked what the plans are for further growth on the site and what would prohibit the applicant from increasing from 250 truck trips to 400. Deschenes stated if they want to add another principal use to the site they would have to come in for another variance or special permit, and they would not be able to violate the 250 truck trip limit if the permit limits them to that amount.

Wendy Welch, 11 Edwards Ave, Nabnasset – She expressed concern with the odor from the asphalt plant, as her son is sensitive to smells. She stated this would be a significant detriment for her. She also expressed concern with being able to sell her house if there were odor from the plant, which would be a significant detriment to her and all her neighbors. She asked the Board not to approve the variances. She expressed concern with the definition of quiet.

Kathy Leafquist, Crown Road – She stated the addition of a gas line, plus three silos, two of which contain 30,000 of chemical and one that contains 10,000 of fuel oil, sounds a lot different than the existing quarrying activities that are happening on the site and do not sound like an extension of what is currently going on at the site. She expressed concern with potential contamination at the site, similar to Superfund sites in other towns. She stated the asphalt plant will decrease the property values in Westford.

Alisa Nakashian, Betty Lane – She provided the Board with a letter outlining her concerns. She expressed opposition to the requested variance and special permit to allow multiple uses on the property. She expressed concern with truck traffic and monitoring. She urged to Board to hold off on voting on the issue regarding noise until the Planning Board makes a decision. She stated she can hear noise from Route 3, so would most certainly hear noise from this operation. She urged the Board to consider waiting on all these matters until the traffic study has been reviewed. She stated this will be a substantial detriment to this neighborhood. She recommended the Police and Fire Departments of Chelmsford also be consulted regarding this project and she hopes the Board will consider the residents of Westford, and Chelmsford, in their decision making.

Arun Mulpur, Danley Drive – He stated he provided a letter to Mr. Morrissette today. Herrmann stated he does have that letter and it has been entered into the official record. He expressed concern with the impact this project will have on the residents, schools, and doctor's offices in the area.

A resident expressed concern with the odor that will be emitted from the site. She stated she was within a half mile of an existing asphalt plant and the smell of asphalt was very strong and very offensive. She asked for clarification on the information provided that there would not be an odor from this asphalt plant. DeFelice stated an additive named Ecosorb will be added to the liquid asphalt and neutralize the odor. She asked for a guarantee that there will be no smell of asphalt from the plant at all. DeFelice stated that is what they have been told by the manufacturer. He stated he grew up next door to an asphalt plant and none of the residents have done the studies that he has done and do not know what they are talking about.

Hui Huang, 9 Vineyard Road – He stated the applicant asserted this project would not be a detriment but he did research and there are property value studies documenting losses of up to 56% of value because of asphalt plants. He stated he hopes the Board will take that into consideration.

Resident, 29 Morrison Lane – He asked how the applicant can ask for a variance on an extension when retail sales are part of the quarrying business. Herrmann clarified that Westford's bylaws allow this if the applicant comes before the Board and it is approved. Deschenes stated the bylaw defines the actual quarrying and the sale to retail and wholesale buyers as separate principal uses. Deschenes indicated Westford allowed multiple uses on a site for years until the judge pointed out that multiple uses were not allowed per the bylaw.

There was no one present to speak in favor of this request.

Herrmann recommended continuing this discussion to the Board's March meeting. In the interim he would like to review the traffic study. Kazeniac asked that DeFelice provide the Board with additional information on the additive he discussed which will neutralize odor because he experiences odors near

other asphalt plants and the Board raised the possibly a sample of this material. The Board requested information on noise be provided prior to the next meeting. MacMillan requested additional information about the types of traffic generated by the facility. Deschenes responded that such information would be part of the traffic study provided prior to the next hearing.

Eric Lindquist – Crown Road requested that the applicant bring in a bucket of asphalt with the odor neutralizing agent to the next hearing.

Motion made by Mr. Enis to continue this hearing to March 18, 2015 at 7:30 p.m. in Meeting Room 201, Town Hall. Motion seconded by Mr. MacMillan. The motion passed unanimously.

Motion made to adjourn. Motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Public hearing notice BA 1501 SP VAR
2. Staff report dated February 20. 2015 for BOA 1501 SP SP VAR VAR
3. Plan of Land ANR, 540 Groton Road, prepared by LandTech, dated 7/28/11
4. Cover letter from Douglas Deschenes and Application for VAR under 9.2.2 in accordance with Land Court Decision for relief relative to sound and the definition of Light Manufacturing.
5. Cover letter from Douglas Deschenes and Application for VAR under section 9.2.2 for multiple uses on one site.
6. Cover letter from Douglas Deschenes and Application for Special Permit under Section 9.3 for multiple uses on the site.
7. Cover letter from Douglas Deschenes and Application for Special Permit under 3.6.2 for the extension of a pre-existing nonconforming use on the property to allow for an additional principal use where multiple principal uses currently exist, pursuant to Section 3.6.2 of the Westford Zoning Bylaw to allow for the addition of an Asphalt Manufacturing Facility at 540 Groton Road.
8. Other application materials such as abutter lists, deeds.
9. Land Court decision (10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants).
10. Aerial photograph of the site.
11. "Zoning Board of Appeals Plan" prepared by LandTech, dated December 31, 2014.

DRAFT COPY, BOARD APPROVAL REQUIRED

TOWN OF WESTFORD
ZONING BOARD OF APPEALS
55 Main Street
Westford, Massachusetts 01886
Phone (978) 692-5524 Fax (978) 399-2558

MEETING MINUTES
Wednesday, March 18, 2015, 7:00 p.m.
Town Hall, Meeting Room 201
55 Main Street, Westford, MA

Board Members Present: Bob Herrmann, Jay Enis, Scott Fitzgerald, Scott MacKay, Paul MacMillan

Not Present: David Earl, James Kazeniac

Staff Members Present: Jeff Morrissette, Town Planner

Herrmann opened the meeting.

Public Hearings:

BOA 1424 SP, 8 Pine Road, Continued from February 18, 2015 – *Daniel J. Doherty requests a Special Permit under Section 3.6.8(2) of the Westford Zoning Bylaw (and any other permit relief as may be required under the Westford Zoning Bylaw) to allow for the demolition of the existing nonconforming single family house and its reconstruction with a larger volume and new footprint. The property is within the Residence B Zoning District and is identified as Assessor Map 069 Parcel 0033 Lot 0000.*

Herrmann stated the applicant has requested to withdraw without prejudice.

Motion made by MacKay to accept the withdrawal without prejudice. Motion seconded by Fitzgerald. The motion passed unanimously.

BOA 1503 SP VAR, 27 Chamberlain Road – *Daniel Ollila of Jones Architecture requests a Special Permit to allow for the construction of an Accessory Dwelling Unit, a Variance from Section 3.3.4(1) to allow for the construction of a 994 SF Accessory Dwelling Unit whereas 800 SF is allowed, and a Variance from Section 3.3.4(3)(a) to allow for the construction of an Accessory Dwelling Unit that creates more than a 15% increase in the gross floor space of the structure (and any other permit relief as may be required under the Westford Zoning Bylaw). The property is within the Residence A Zoning Distrit and is identified as Assessor Map 038 Parcel 0001 Lot 0000*

Herrmann requested that Scott Fitzgerald sit in on this hearing.

Motion made by Fitzgerald to open the public hearing. Motion seconded by MacKay. The motion passed unanimously.

Motion made by MacKay to waive the entire reading of the public hearing notice. Motion seconded by Fitzgerald. The motion passed unanimously.

Daniel Ollila, representing the applicant, addressed the Board. He stated they are requesting a Special Permit and Variance for an Accessory Dwelling Unit that will be an in-law apartment for the applicant's parents. He reviewed the plans. They propose demolition of an existing 310 SF sunroom and the addition of a mudroom, along with the Accessory Dwelling Unit, to allow access to the existing house and the addition. The existing living space of the home is 2,035 SF, and the proposed addition is 1,100 SF. This is more than is allowed by Special Permit so they are also seeking a variance. If the square footage of the garage and sunroom were included they would only be adding 827 SF.

MacKay asked if the Board has to approve the septic system. Ollila stated yes, this application was submitted to the Board of Health. John Norton addressed the Board. He stated the 1,000 tank will have to be replaced with a tank and a half at the same site, and they have to ensure the D-Box is located in the correct position and workable. They currently have a permit for the removal of the existing tank.

There was no one present to speak in favor of, or opposition to, this request.

Herrmann stated because houses are bigger than they used the be the Board may have to be more flexible on the 800 SF. He stated what makes the extra space more acceptable is the fact that the plan includes wider doorways and hallways, looking ahead to the future.

MacMillan asked if the loft space will become a bedroom. The applicant responded no. MacKay stated he would want that to be a condition of approval.

Motion made by MacKay to close the public hearing. Motion seconded by MacMillan. The motion passed unanimously.

Motion made by MacKay to approve Variance from Section 3.3.4(1), area limitation of an Accessory Dwelling Unit in a Residence A. Motion seconded by Fitzgerald. Mr. MacMillan, Mr. Enis, Mr. Fitzgerald, Mr. MacKay, and Mr. Herrmann voted unanimously to approve.

Herrmann informed the applicant that they are required to sign an affidavit indicating this Special Permit is only in effect as long as they own the house.

Motion made by MacKay to approve a Special Permit to Section 3.3.2 for an Accessory Dwelling unit, referencing plans done by Jones Architecture, Inc. dated January 16, 2015, and revised February 20, 2015, and the plot plan done by Forsythe Engineering dated January 15, 2015, conditioned upon the loft area not being used as a bedroom. Motion seconded by Fitzgerald. Mr. MacMillan, Mr. Enis, Mr. Fitzgerald, Mr. MacKay, and Mr. Herrmann voted unanimously to approve.

Herrmann stated Morrissette has 14 days to write the decision. It then has to be registered with the Town Clerk and the Registry of Deeds. The public has the right within 20 days to appeal the decision.

BOA 1504 VAR, 154 Plain Road – *Bruce J. Harper requests a Variance from Appendix C, Table of Dimensional and Density Regulations of the Westford Zoning Bylaw (and any other permit relief as may be required under the Westford Zoning Bylaw) to construct an attached garage that would be located 12 feet from the easterly side lot line whereas 15 feet is required. The property is within the Residence B Zoning District and is identified as Assessor Map 070 Parcel 0070 Lot 0000.*

Motion made by MacKay to open the public hearing. Motion seconded by Fitzgerald. The motion passed unanimously.

Motion made by MacKay to waive the entire reading of the public hearing notice. Motion seconded by Fitzgerald. The motion passed unanimously.

Herrmann indicated Scott Fitzgerald will sit in on this hearing.

Bruce Harper, applicant, addressed the Board. Present with him was his wife, Kathleen Harper. He stated they would like to construct a 14' x 30' single story garage. He stated Plain Road has a slight curve and his lot is straight to the road, so he loses some of his side yard. He stated he owns a vehicle which measures 14' with both doors opened so the garage would have to be 14' wide. The garage, if approved, will abut the neighbor's garage, who have indicated they have no problem with this proposal.

There was no one present to speak in favor or, or opposition to, this request.

Motion made by MacKay to close the public hearing. Motion seconded by Fitzgerald. The motion passed unanimously.

Motion made by MacKay to approve the variance, referencing plot plans done by P.M. Flaherty Associates, dated December 7, 2014, and the plans done by Clark Architectural dated December 5, 2014. Motion seconded by Fitzgerald. Mr. MacMillan, Mr. Enis, Mr. Fitzgerald, Mr. MacKay, and Mr. Herrmann voted unanimously to approve.

Herrmann stated Morrissette has 14 days to write the decision. It then has to be registered with the Town Clerk and the Registry of Deeds. The public has the right within 20 days to appeal the decision.

BOA 1501 SP (2) – 20 Commerce Way (also known as 540 Groton Road), Newport Materials LLC and 540 Groton Road LLC, Continued from February 25, 2015 – *Public hearing for 540 Groton Road LLC and Newport Materials LLC to request the following petitions (and any other permit or relief as may be required under the Town of Westford Zoning Bylaw) in association with the development of an asphalt manufacturing facility and associated materials stockpile yard. The subject property is identified as Assessor's Map 048 Parcel 0011 Lot 0234 and is within the Industrial A Zoning District:*

- *Variance under Section 3.1.1 to allow an additional principal use on the lot*
- *Variance under Section 10.2 regarding the definition of the term "quiet" within the definition of Light Manufacturing*
- *Special Permit under Section 3.6.2 for the extension of a preexisting nonconforming use on a single lot*

Mr. Herrmann listed for the record communications sent to the Board: John Pecora, 249 Groton Road, N. Chelmsford in opposition; Paolo & Daniella Zetto in opposition; Patty & Mike Arnold, 17 Vineyard Rd. in opposition; Ron Mulper, 2 Daniel Drive, Westford, in opposition; David Hudson in opposition; Robert Creegan, 16 MacQuarrie Lane, in opposition; Bob Krankewicz, Boston Road, in opposition. He noted that he takes offense to the last paragraph of Mr. Krankewicz' letter. He indicated this Board acts upon what is in the best interest of the Town of Westford, as well as the applicant and abutters.

Herrmann indicated James Kazeniac, who sat in on the hearing last month, is not present. Scott Fitzgerald will now be sitting in on this hearing.

Mr. Herrmann indicated he reviewed the traffic reports provided and they indicate there would be a negligible change to the present conditions. The Board also received information from Ecosorb regarding what can be added to asphalt to eliminate the odor. A noise study was received which indicates the only potential impact is in the area of the proposed operation and Fletcher Quarry.

Douglas Deschenes, representing the applicant, addressed the Board. Present with him was Rick DeFelice from Newport Materials, LLC. He reviewed the permits they are seeking. They are seeking a Variance and Special Permit relative to the number of uses on the site, and a Variance to the sound levels.

Deschenes stated the Land Court decision found that the Town of Westford zoning bylaw does not allow multiple uses on a single site. This came as a surprise because there are many examples throughout the town where multiple uses are allowed on a single site. Due to this, the judge instructed them to seek a relief from this requirement of the Bylaw and therefore they have applied for a Variance and Special Permit. Regarding the Special Permit for multiple uses, Deschenes stated staff has opined that the applicant is incorrect in applying for a Section 3.6.2 Special Permit to achieve relief for multiple uses. He reported that Staff have requested a history dating back before zoning showing every use of the property to demonstrate that the uses preexisted the requirement and were nonconforming. He indicated compiling this information would take a tremendous amount of time and he is not going to continue to argue this, and that they are not applying for multiple uses on the site under the Section 3.6.2 Special Permit provisions.

Deschenes stated, however, that he will continue to argue that they have a preexisting, nonconforming use of materials processing and retail sales to commercial and industrial buyers, uses which are not allowed, and those uses have existed on the property since the turn of the century. This Board accepted that information and allowed them to expand that nonconforming use to include the ABC Processing in 2009. He referenced a covenant the town required back in the 1990's when the Greystone project was developed, and that covenant details all the operations that were being conducted on the site. Deschenes did not submit this written information to the Board.

Deschenes stated they are narrowing their argument to state they are seeking an extension of the preexisting, nonconforming use on site of materials processing and retail sales to be extended to include the manufacturing of bituminous concrete and the retail sales of that material. In order to apply for this special permit they have to show that this extension will not be significantly more detrimental than what is there today.

Morrissette reminded the Board that the court's decisions and judge's opinions are not binding on this Board, as they are not a party to that decision, the Board is free to make their own decisions. He referenced Deschenes statement that the Board has to make a finding that the proposed use is not significantly more detrimental than what is out there today. He qualified that the Board needs to make a finding that the proposed use is not significantly more detrimental than the base nonconforming use they are using as a foundation to expand, not the entire site. Deschenes indicated he was in agreement with this analysis.

Morrissette asked the Board to consider whether the proposed activity is a change or extension of the base nonconforming use, and at what point should it be examined as an addition, or a new use entirely, versus an extension.

Enis asked for an explanation of the Ecosorb process. Deschenes stated the product Ecosorb provides is a natural product, biodegradable, and nonhazardous. He stated it is not a masking material, it actually absorbs the smell. It is a liquid that is added to the liquid asphalt, one gallon for every 10,000 gallons of liquid asphalt. They fully intend to utilize this material to eliminate any possible odors from the plant. Rick DeFelice, Newport Materials, stated the manufacturers will come out and do an independent study on the property and if it needs to be tweaked to increase success this will happen.

A Board member asked if the applicant is going to accept all the recommendations made by MDM in the traffic study. Deschenes indicated yes, they have made a commitment to the Planning Board that they accept the recommendations of the town's peer reviewer. They have also agreed to limit the activity to no more than 250 vehicle trips a day. He noted that 250 trips is equivalent to 125 vehicles.

Deschenes addressed the Variance they are seeking relative to sound limitation. He stated the court concluded the sound levels on the property boundaries must meet criteria that they cannot create the lesser of 70 dBA of sound, or cannot increase the ambient sound by more than 10 dBA. The ambient sound measured on the site is 43 dBA, which allows them to go to 53 dBA. They cannot have more than 70 dBA at the boundary line and they are at 75 dBA. This variance is requesting the Board to allow the project to be 75 dBA at the western boundary line.

Deschenes stated that the staff report, which he takes exception to, states that this is not really a dimensional variance but a use variance. He stated they are not seeking a use variance, they are asking for a variance from that number requirement to allow 75dBA, a dimensional type variance.

Morrissette stated he agrees they can apply for this variance based upon an alert from the judge, however, they are asking for relief from the definition of light manufacturing, one of the component pieces to what qualifies as light manufacturing. The judge has indicated if they do not provide the sound attenuation then the proposed use no longer meets all the criteria such that it can be defined as light manufacturing. He stated if the Planning Board waives any of the sound attenuation the proposed use is not allowed because it does not qualify as light manufacturing. He stated they are looking to get permission to do something that would not be allowed by right under the zoning bylaw in that district. He stated seeking variance relief for a use that is not allowed by right under the bylaw is effectively a use variance.

Deschenes stated he is asking for a variance with respect to one aspect of light manufacturing, which is the numerical quiet. He indicated he is asking the Board to look at a dimension aspect of the project and allow them to waive it.

Herrmann asked if the Planning Board does not waive the sound attenuation requirement and the applicant has to build a wall does the applicant have the legal right to come to the Zoning Board to request a variance from building the wall. Morrissette stated he is not disputing that, he is disputing the fact that the applicant filed under the definition section of light manufacturing. Deschenes stated there

is a dimensional requirement of meeting a certain sound level on one boundary and he is asking for a variance from that one dimensional requirement.

Herrmann opened up discussion to the audience.

Carol Savoy, Russell's Way – She stated she agrees they signed a covenant about the quarry and the quarrying activities. Nowhere in the covenant was it stated that an asphalt plant could go in. If that were stated she would not have purchased her house. She walked the property before any houses were built to see what the quarry was like and to determine if she wanted to live there. She stated it was quiet, peaceful, and there were no problems. She stated in her opinion the asphalt plant is going to be a problem, will decrease the value of her home, and affect the quality of her living.

Marie Burnham, 255 Groton Road, N. Chelmsford – She submitted letters to be entered into the record. She asked if the variance is granted will it allow the applicant to do whatever they want up to 75 dBA. Herrmann stated absolutely not, the variance would be boundary specific. He stated they are under the criteria for all the other borders.

Kevin Jansen, 57 Oak Hill Road – He stated he feels the traffic will be detrimental. He travels Oak Hill Road to Route 40 every day. He stated any truck pulling out of the site road would cause a log jam back to Oak Hill Road. Herrmann stated two different firms have concluded that the trucks will not impede the traffic flow any worse than they are now. They are not addressing the intersection, which he agrees is horrible, but it has nothing to do with the operation at 540 Groton Road. Jansen stated all it takes is one truck coming out and having to gear up to try to get out to Route 3 and this slows everyone down.

Cheryl Freedman, Scotty Hollow Drive, N. Chelmsford – She stated the world does not end at the border or Route 3 and there are a lot of people in Chelmsford near the site. Scotty Hollow condominiums in particular is a large community that would be affected by this plant. She opposes the plant. She advised the Board there are a lot of people out in the hallway that they cannot see.

Jocelyn Bishop, 270 Groton Road – She stated she lives on the primary road where the operation will potentially exist, she also has children at Westford Children's Learning Center, and she has a cottage at Summer Village. She is pro business and pro commerce, but is concerned with the potential for additional noise. She stated Groton Road is already very noisy, substantially noisier than it was ten years ago. She is extremely concerned this will negatively impact her life, the life of her family, and other people who live on Groton Road. She expressed concern with the potential for pollution, especially with the Westford Children's Learning Center being so close, and other neighborhoods. She stated she commutes to Boston daily and often there are trucks that pull out aggressively in front of her. The additional traffic will negatively impact that situation and add additional danger and harm to the area.

Martin Corbett, 7 Danley Drive – He stated the west side variance for the sound is not a difference from 70 dBA to 75 dBA, they are also not allowed to go greater than 10 dBA over what is currently there, which is 43 dBA, so this is a 22 dBA above the 10 dBA allowed increase, not a 5 dBA difference. A 22 dBA difference is 128 amplification in sound model. He stated the restriction to go left is only for trucks leaving, which means all other trucks arriving can come through the center of Westford, go

through the Oak Hill intersection area, and there is no provision to ensure there is no problem caused by those trucks entering the property. He asked why Newport Materials needs enough build capacity for close to three times the amount required to support 250 trucks of asphalt. He stated based on discussion at a Planning Board meeting 37 trucks would be accessing the site during primary traffic hour. He stated that is the bigger number, not the 250 per day, the 37 during the prime traffic hours. He stated he has never gone past a construction site on the highway and not smelled asphalt. He referenced the multiuse conforming to neighborhood character and asked what the definition of neighborhood is. He stated the covenant document referenced is not greater than 17 years old and cannot be used to compare against the zoning bylaws because it does not predate the zoning bylaws.

Wendy Welsh, 11 Edwards Ave – She indicated where the Miller School and the Children's Learning Center are in relation to the plant. She stated this is less than a mile. She stated when she thinks of the sound from a quarry she thinks loud, so 10 dBA above loud cannot be quiet. She stated she has battled cancer and is nervous about chemicals. She is concerned about the Ecosorb. She asked if they can guarantee there will be no hydrogen sulfide, chromium, formaldehyde, cadmium, arsenic, or toxins in the air.

Deschenes stated they received a clean air permit from the DEP which limits what they are allowed to exhaust. Requirements put into the plant, partially in response to a Chelmsford abutters group appeal of the permit, will make the plant the cleanest plant in Massachusetts. As part of the Planning Board process they conducted a health risk assessment study which concluded the plant would not have any health risk to the abutters. This study was peer reviewed by the town and it was concluded that there would be no health risks generated by this plant.

Welsh cited health problems reported within a two mile radius of other, much smaller, asphalt plants. She asked the Board not to approve this. If it is approved she would like the applicant to pay for an environmental study to have a baseline of the air quality prior to construction of the plant.

Mary Yao, Cobblestone Lane – She stated in Chelmsford on 16 Oak Street is Aggregated Industries. They are a large supplier of asphalt and assorted aggregates. This is 3.5 miles away on a map, by major roads 7.2 miles away, and by going through the town it is 6.2 miles away. She asked why they need two large asphalt plants within 3.5 miles of each other. She questioned the economic need for this plant. She expressed concern that this might be the safest plant that can be built, however, they cannot control the trucks coming and going from the site. She stated if bitumen or asphalt falls in a wetland it is an ecological disaster. She stated this is significantly more dangerous than what is going on now.

Alisa Nakashian, Betty Lane – She expressed concern that the concept Ecosorb will be used to mask an odor that is supposed to alert danger. She does not think any concept of using any agent that neutralizes an odor should be considered. She stated the bylaws are very clear, light manufacturing means no foul odors. She stated the suggestion that this applicant wants to use Ecosorb to eliminate the odor is proof in and of itself that this is not a light manufacturing use. She asked how the town proposes to enforce such a use. She has looked at the conditions of many permits granted in this town and found violations. She stated the gas station across the streeet from her is not supposed to charge for air for tires, however, they do. She stated if the town cannot regulate being charged for air in a tire how are they going to regulate whether chemicals are used to eliminate the odor of more chemicals in this town. She stated this is not what the residents want.

Nakashian expressed concern that the traffic peer reviewer did not review the data files or the amount of detail they should have. She strongly disagrees there will be no impact to traffic on Route 40. She stated she has requested the data files as of yesterday and asked that the Board not close this hearing and vote before the public has had an opportunity to adequately represent themselves in studying this data. She expressed concern with the bursts of trucks carrying hot material that needs to be delivered quickly. She stated there will be a truck in that driveway every minute of the hour during peak traffic. She asked the Board to deny this.

Jason, Greystone – He stated there are 115 asphalt plants in Massachusetts. He researched the property values in a two mile radius and in each instance the property values dropped. He stated he does not see how the asphalt plant is going to help the property values and economy in Westford. He stated having tanks of chemicals on the site is not the same safety level as the current quarry business. He does not think Westford will continue to be in the top ten communities to live in once an asphalt plant is built.

Aisha Iyer, 10 Danley Drive – She asked what kind of Ecosorb they plan to use. Looking at the material safety data sheet for Ecosorb it states it may irritate skin and eyes, contains materials which causes moderate skin irritation. Prolonged exposure can cause dermatitis. The product can cause skin sensitization and allergic skin reactions which may be severe in certain individuals. It can also contain materials irritating to the eyes and can include blurred vision, burning sensation, and tearing. Deschenes stated the material they are planning to use is on record with this board and they will be happy to submit additional information. Iyer asked if the air quality study included the trucks. Deschenes stated it took in everything required under the law.

Fitzgerald asked how frequently the DEP inspections occur. DeFelice stated the first inspection is 120 days after operation begins. He was unsure about subsequent inspections.

Motion made by MacKay to close the public hearing. Motion seconded by MacMillan. The motion passed unanimously.

Herrmann stated he would like to take action on the application for Special Permit to allow for multiple principal uses on the lot. Morrissette stated that staff recommend the Board have benefit of draft decision language before taking a vote. Herrmann stated whatever action taken tonight will not be finalized because it will have to be reduced to writing for review at the Board's next meeting. Morrissette stated staff needs direction as to whether the Board would like to see a draft decision for approvals or denials.

Motion made by MacKay to approve a Special Permit to allow for multiple preexisting nonconforming uses on a single lot. Motion seconded by MacMillan. The motion failed by a 3-2-0 vote. (Yes: Fitzgerald, MacKay, Herrmann) (No: MacMillan, Enis).

Motion made by MacKay to approve a Variance per Section 3.1.1 to allow for an additional principal use on the lot. Motion seconded by MacMillan. The motion failed by a 3-2-0 vote. (Yes: MacKay, Enis, Herrmann) (No: Fitzgerald, MacMillan).

Motion made by MacKay to approve a Variance to allow the dBA level to be 75 dBA on the westerly property line. Motion seconded by Fitzgerald. Mr. Fitzgerald, Mr. MacKay, Mr. MacMillan, Mr. Enis, and Mr. Herrmann voted unanimously to approve.

Non-Public Hearing Items:

Herrmann stated he would like the Board to vote on the petition article of the Annual Town Meeting regarding how Board's prepare their agendas.

Morrissette stated this article will propose a significant hardship, particularly to many of the volunteer boards that do not have any formal staff support. It is going to place an undue burden on them in terms of minute taking. The amount of detail that will be required to be incorporated into minutes will double or triple the length of minutes and will add to staff time to prepare and review minutes. He stated in his opinion this will increase liability as it will not allow the Chairman to run the meeting as they are supposed to, will be contrary to the public hearing process, and will allow anyone to come and interrupt the process, even if a public hearing is closed, and force themselves upon the Board.

Motion made by MacKay not to support this article. Motion seconded by MacMillan. The motion passed unanimously.

Morrissette stated with respect to the Variance petition for multiple principal uses on a lot, the Board has a deadline of April 15 to issue the decision. Herrmann stated they will have to schedule a special meeting to approve the decisions. Morrissette stated he will send the members an email with potential dates for this meeting.

Motion made to adjourn. Motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. March 12, 2015 Staff Report
2. February 20, 2015 Staff Report
3. Public correspondence received between March 3, 2015 and March 13, 2015
4. March 12, 2015 Letter from Douglass Deschenes with attachments
    a. Information on Ecosrob
    b. February 2015 Traffic Impact Statement (TIS) by Vanasse and Associates
    c. March 10, 2015 Peer Review of TIS by Town's Peer reviewer MDM Transportation Consultants
    d. January 5, 2015 and January 19, 2015 Report by sound expert Cavannaugh Tocci Associates (CTA)
    e. February 12, 2015 Town's Peer reviewer Acentech report on CTA sound analysis by
5. March 11, 2015 Letter from Douglass Deschenes with attachment
    a. March 10, 2015 Report by sound expert CTA
    b. Portions of PowerPoint presentation
    c. Color Site Plan
    d. "Loudness Comparison Chart (dBA)"
    e. January 13, 2015 letter of support from abutting property owner (Fletcher Quarry)

FOR BOARD REVIEW

DRAFT

Zoning Board of Appeals
Town of Westford
55 Main Street
Westford, MA 01886

Record of Proceedings and Notice of Decision
Petition BOA 1501 D SP

Applicant:	Douglas C. Deschenes, Attorney
Property Owner:	Richard DeFelice/540 Groton Road, LLC & Newport Materials, LLC
Property Location:	540 Groton Road, Westford, MA 01886
Zoning District:	Industrial A (IA)
Assessors Map and Parcel:	Map 048 Parcel 0011, Lots 0234, 0248 & 0249
Application Submitted:	January 5, 2015
Public Hearing:	February 25, 2015 and March 18, 2015
Board of Appeals Vote:	Denied (3-2-0 to approve, therefore a denial)

Filed with Assistant Town Clerk: _____

Appeal Period Ends: _____
(20 days after filed with Town Clerk)

DECISION
At its regular meeting held on Wednesday March 18, 2015, the Zoning Board of Appeals (Board) voted **3-2-0** to APPROVE the Special Permit application of Attorney Douglas C. Deschenes, thereby **DENYING** the petition for lack of attaining a supermajority (4 out of 5) vote, for the extension of a pre-existing nonconforming use on the property to allow for an additional principal use where multiple principal uses currently exist, pursuant to Section 3.6.2 of the Westford Zoning Bylaw to allow for the addition of an Asphalt Manufacturing Facility at 540 Groton Road.

PROJECT SUMMARY

The applicant seeks permission to construct an Asphalt Manufacturing Facility (Facility) which is to be integrated with an existing materials processing yard with crusher machine. The proposed Facility is to be located on an approximately 115-acre lot; about 92 acres are located in Westford, with the remainder located in Chelmsford. The subject property consists of three tax parcels, all owned by the petitioners. An estimated twenty–two (22) acres of the subject property are currently developed with a solar array.

According to information provided by the applicant, the Facility would consist of the following major components:

- A 12' x 36' Operator Control Center on skids;
- Six (6) 10' x 14' Cold Feed Bins with a loading ramp from the materials yard;
- Conveyor belts between the bins, vibrating screener and the processing unit (Gencor 400);
- A 5' x 14' Vibrating screen between the bins and the Gencor 400;
- One (1) proposed and "Future" 10' x 15' Recycled Asphalt Product (RAP) bin adjacent to RAP stockpile and ramp in materials processing yard;

- Gencor 400, a machine that receives the ingredients from conveyor belts, which is controlled remotely and mixes the products together;
- An 86' conveyor belt that takes the mixed product from the Gencor 400 to the silos;
- Four (4) 200-ton silos (68' in height) that allow for hot asphalt to be loaded into trucks;
- Tank Farm with two (2) 30,000-gallon indirect fired Asphalt Cement (AC) vertical tanks with unloading pumps (36 feet in height);
- HYCGO Gencor 100 hot oil heater with expansion tank stand;
- Lawn area, landscaping;
- Parking spaces and sidewalk with curbing;
- Security fence with four entrance/exit gates;
- Two truck scales near the silos;
- One water well with a water line into the control booth;
- Proposed utilities – natural gas line to provide fuel for the burners in the Gencor 400;
- Site lighting with 20' fixtures around the asphalt manufacturing facility;
- Dumpster;
- Two (2) 31,000-gallon fire cisterns;
- Ground mounted signs including visitor, truck and directional signs;
- Stormwater management facilities such as water quality swales; and
- A 10,000-gallon above-ground storage tank for Number 2 fuel oil.

The Applicant sought multiple forms of relief for the proposal and filed the following four (4) petitions with the Zoning Board:

BOA 1501 A: (*Refer to separate decision*)
Variance under Section 3.1.1 of the Zoning Bylaw to allow an additional principal use on the lot.

BOA 1501 B: (*Refer to separate decision*)
Variance under Section 10.2 of the Zoning Bylaw regarding the term "quiet" within the definition of Light Manufacturing.

BOA 1501 C: (*Petition withdrawn without prejudice*)
Special Permit under Section 9.3 pursuant to Section 3.1 of the Zoning Bylaw to allow for multiple principal uses on the lot.

BOA 1501 D: (*Current petition*)
Special Permit pursuant to Section 3.6.2 of the Zoning Bylaw for the extension of a pre-existing nonconforming use on a single lot.
The petitioner sought Special Permit relief to allow for the extension of a pre-existing nonconforming use on a single lot. The petitioner is not under Court Order to submit this petition.

(Several of the petitions were filed as a direct result of a recent Land Court Decision (LC Decision). A copy of said LC Decision was included as part of the application materials. (*Refer to 10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants*)

In the January 5, 2015 application materials, and as asserted again by the Applicant at the February 25, 2015 public hearing, the Applicant claimed the base nonconforming use to be the existence of multiple principal uses on the lot. The following is an excerpt from the March 12, 2015 Staff Report:

> *"The Applicant has not provided written verification that multiple principal uses predated the adoption of Section 3.1 – Principal Uses – and have been maintained continuously to the present day. Staff is of the opinion that this petition is inconsistent with the intent of Section 3.6.2 of the Bylaw, which permits the change or extension of a nonconforming use, rather than the addition of other uses. In other words, with respect to Section 3.6.2, the number of uses is not considered a use unto itself.*

Staff cautions the Board against accepting the Applicant's approach. Under Section 3.1.1 of the Bylaw, increasing from a single principal use to two principal uses on a lot requires a Variance. However, using the Applicant's methodology, if there are two or more principal uses on a lot that predate the adoption of Section 3.1 of the Bylaw– Principal Uses – then the number of additional uses on a lot can be increased without limitation, provided that the Board makes the lesser finding that the proposal will not be substantially more detrimental than the existing nonconforming use. Staff views this approach as a means to circumvent a Variance petition, and reminds the Board that the concurrent Variance petition (BOA 1501 A) could accomplish the same goal."

At the March 18, 2015 continued public hearing, the Applicant indicated that while they do not agree with Staff's position on this matter, compiling the requisite information would take a tremendous amount of time, and that they would no longer seek special permit relief by using the number of principal uses on the lot as the base nonconforming use. Instead, they would pursue a special permit to extend the claimed nonconforming use of retail sales to industrial and commercial buyers.

Concurrent applications are being reviewed by the Planning Board for Site Plan Review, Special Permit for a Major Commercial Project, Special Permit for above-ground storage of hazardous waste in quantities greater than normal household use (10,000-gallon tank) within a Zone III of a Water Resource Protection Overlay District (WRPOD), and a Stormwater Management Permit.

1. On January 5, 2015, an application was submitted to the Zoning Board of Appeals. Included in the application were a narrative, a copy of the Land Court Decision (*10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants*), an unlabeled aerial map of the site, and a plan entitled "Zoning Board of Appeals Plan, Asphalt Manufacturing Facility, 540 Groton Road, Westford, MA" dated December 31, 2014 prepared by LandTech Consultants, Inc.

2. Thereupon, an advertisement was published in the Lowell Sun (a newspaper of local circulation) on Wednesday, February 11 and February 18, 2015.

3. Made part of this record is the Notice of Public Hearing. On February 5, 2015, notices were mailed via certified mail to the petitioner, abutters, owners of land within 300 feet of the property and to Planning Boards of every abutting municipality. The list of Westford abutters was certified by the Town of Westford Assessor on December 17, 2014. (*The list of Chelmsford abutters was certified by the Town of Chelmsford Assessor on December 16, 2014.*) The notice was posted at Town Hall on February 4, 2014.

4. On February 25, 2015, a public hearing was held at the Blanchard Middle School Auditorium located at 14 West Street, Westford, MA to consider the petition. The Board continued the public hearing to March 18, 2015 at Westford Town Hall, 55 Main Street, Westford, MA to give the Applicant an opportunity to provide additional information relating to traffic, noise and odor.

5. The following additional information was received from the Applicant on March 13, 2015:

    a. Information regarding Ecosorb, a product designed to mitigate odors associated with the asphalt industry;
    b. Transportation Impact Assessment prepared for Newport Materials by Vanasse & Associates, Inc. dated February 2015;
    c. Transportation Review Services memorandum prepared on behalf of the Town of Westford by Robert Michaud, P.E. of MDM Transportation Consultants, Inc. dated March 11, 2015;
    d. Acoustical Evaluation and Recommendations for Sound Barrier Wall Alternatives to Comply with Land Court Decision Acoustical Requirements prepared for Newport

Materials by Cavanaugh Tocci Associates, Inc. dated January 2, 2015, as revised January 19, 2015;

e. Acoustical Consulting Services – Peer Review of Newport Materials Application – Updated Acoustical Study for Asphalt Plant prepared for the Town of Westford by James Barnes, P.E. of Acentech, Inc. dated February 12, 2015;

f. Revised Acoustical Evaluation prepared for Newport Materials by Cavanaugh Tocci Associates, Inc. dated March 10, 2015.

6. On March 18, 2015, Scott MacKay moved, seconded by Paul MacMillan, the Board voted 3-2-0 (Enis, MacMillan in opposition) to APPROVE the following petition, BOA 1501 D SP, thereby denying the petition for lack of a supermajority as required by MGL Chapter 40A Section 10.06[B][1] for Special Permits.

Pursuant to Section 3.6.2 of the Zoning Bylaw, the following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. *Change or substantial extension of the use;*
2. *Change from one nonconforming use to another, less detrimental, nonconforming use.*

Special Permit Criteria:
Prior to granting approval for this petition, the Board must first determine that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

FINDINGS

The Applicant **failed to convince a supermajority of the Board that the project would not be substantially more detrimental**. In reaching the decision to deny, the dissenting members based their decision, in whole or in part, on the following:

1. The Applicant did not provide written verification, as requested both verbally during the February 25, 2015 Board of Appeals meeting and in writing via the March 12, 2015 Staff Report, that the claimed base nonconforming use (or uses) predated the adoption of the Zoning Bylaw (or relevant provisions of the Zoning Bylaw), and that said use (or uses) have been continuously maintained to the present day. Therefore, the Applicant has not met its burden of proof to demonstrate that they can request relief under Section 3.6.2 of the Zoning Bylaw.

2. The Applicant did not provide written verification, as requested both verbally during the February 25, 2015 Board of Appeals meeting and in writing via the March 12, 2015 Staff Report, that the previously claimed base nonconforming use (multiple principal uses on a single lot) predated the adoption of Section 3.1 of the Zoning Bylaw, and that said same multiple principal uses have been continuously maintained to the present day. Therefore, the Applicant has not met its burden of proof to demonstrate that they can request relief under Section 3.6.2 of the Zoning Bylaw by using the number of principal uses as a base nonconformity.

3. The Applicant previously received special permit approval (BOA 09002 SP recorded in Book 22848, Page 160 at the Middlesex North District Registry of Deeds) for an extension of a nonconforming use (retail sales to industrial or commercial buyers) to allow for a materials processing yard by bringing in offsite materials for processing, but limiting the number of trucks to an average of 30 per day (equivalent to 60 trips per day). The special permit was subsequently renewed and modified in 2010 (BOA 09002 SP – Renewal recorded in Book

24551, Page 91), but limiting the number of trucks to 75 per day (equivalent to 150 trips per day). Given that the Applicant intends to maintain the claimed base existing nonconforming use (or uses), *including* the materials processing yard (as previously authorized by special permit) in *addition* to the proposed Facility which proposes an additional 250 vehicle trips per day, the proposal is not considered either a change from one nonconforming use to another, less detrimental, nonconforming use, or simply a change of use. Furthermore, the impacts of the proposed Facility are so significant as compared to any claimed base nonconforming use, unextended by benefit of the aforementioned special permits, that the proposal exceeds the rational limits of being considered as a mere extension of an existing use, but rather rises to the level of an additional principal use on the lot. Consequently, a Variance petition is the proper form of relief required for the proposal, and it is noted that the Applicant (as directed by the LC Decision) has already submitted such a petition request (refer to concurrent petition BOA 1501 A VAR).

4. As compared to the claimed base nonconforming use (retail sales to industrial or commercial buyers), the Applicant failed to prove that the proposed Asphalt Manufacturing Facility would not be significantly more detrimental to the neighborhood. Testimony was provided by the Applicant that although the proposal would likely result in approximately thirty-seven (37) additional vehicle trips during the Weekday Morning Peak Hour (thirty-five (35) of which are anticipated to be large trucks), it would not result in any significant impact on motorist delays or material impact on the flow of traffic on Groton Road. However, testimony was also received from numerous abutters concerned that the introduction of the additional, consistent truck traffic would result in a substantial detriment to the character of the neighborhood. It was noted that environmental studies to date relative to noise, odor and overall air quality (associated with Planning Board review of the project) focused on the proposed Facility itself, and did not account for the effects (noise associated with acceleration/deceleration of large trucks, odors and air pollutants associated with the cargo and/or exhaust from large trucks, etc.) as perceived by neighboring properties containing dwellings. Neighbors also described existing dangerous truck movements into and out of the project site, and expressed concern that this would be exacerbated by more than doubling the number of heavy truck trips accessing the site. Therefore, two members of the Board found that the proposed Facility will be substantially more detrimental to the neighborhood.

5. As compared to any claimed base nonconforming use (retail sales to industrial or commercial buyers) or any other uses at the site, the proposal calls for the introduction and long-term use of significant amounts of materials or product (such as a 10,000-gallon storage tank for No. 2 Fuel Oil, two (2) 30,000-gallon asphalt cement vertical tanks, bituminous products, etc.) that far exceeds the type and nature of materials currently stored at the site. Therefore, two members of the Board found that the proposed Facility will be substantially more detrimental to the neighborhood.

Voted to **3-2-0** to **APPROVE**, thereby **DENYING** the petition:

Robert Herrmann, Chair	Grant
Scott MacKay, Vice Chair	Grant
Jay Enis	Deny
Paul MacMillan	Deny
Scott Fitzgerald	Grant

Any appeals of this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and a copy of the appeal shall be filed with the Town Clerk's office within twenty (20) days after the date of filing this decision in the office of the Town Clerk. Per Massachusetts General Laws, Chapter 40A, Section 11, this decision to deny the petition is effective upon filing with the Town Clerk.

Zoning Board of Appeals of the Town of Westford

_____

Robert Herrmann, Chair **Date**

cc: Town Clerk
Building Commissioner
Applicant
Abutters within 300 feet
Planning Boards of Acton, Carlisle, Chelmsford, Groton, Littleton, Tyngsborough

DRAFT

FOR BOARD REVIEW

DRAFT

Zoning Board of Appeals
Town of Westford
55 Main Street
Westford, MA 01886

Record of Proceedings and Notice of Decision
Petition BOA 1501 "A" VAR

Applicant:	Douglas C. Deschenes, Attorney
Property Owner:	Richard DeFelice/540 Groton Road, LLC & Newport Materials, LLC
Property Location:	540 Groton Road, Westford, MA 01886
Zoning District:	Industrial A (IA)
Assessors Map and Parcel:	Map 048 Parcel 0011, Lots 0234, 0248 & 0249
Application Submitted:	January 5, 2015
Public Hearings:	February 25, 2015 and March 18, 2015
Board of Appeals Vote:	Denied (3-2-0 to approve, therefore a denial)

Filed with Assistant Town Clerk: _____

Appeal Period Ends: _____
(20 days after filed with Town Clerk)

DECISION
At its regular meeting held on Wednesday March 18, 2015, the Zoning Board of Appeals (Board) voted **3-2-0** to APPROVE the Variance application, thereby **DENYING** the petition for lack of attaining a supermajority (4 out of 5) vote. The petition was filed by Attorney Douglas C. Deschenes to allow for another principal use at 540 Groton Road whereas Section 3.1.1 of the Zoning Bylaw states that only one principal use is allowed <u>and also</u> as directed by Land Court in the December 8, 2014 decision (*Refer to 10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants*).

PROJECT SUMMARY

The applicant seeks permission to construct an Asphalt Manufacturing Facility (Facility) which is to be integrated with an existing materials processing yard with crusher machine. The proposed Facility is to be located in the middle of an approximate 115-acre lot; about 92 acres are located in Westford, with the remainder located in Chelmsford. The subject property consists of three tax parcels, all owned by the petitioners. An estimated twenty–two (22) acres of the subject property are currently developed with a solar array.

According to information provided by the applicant, the Facility would consist of the following major components:

- A 12' x 36' Operator Control Center on skids;
- Six (6) 10' x 14' Cold Feed Bins with a loading ramp from the materials yard;
- Conveyor belts between the bins, vibrating screener and the processing unit (Gencor 400);
- A 5' x 14' Vibrating screen between the bins and the Gencor 400;
- One (1) proposed and "Future" 10' x 15' Recycled Asphalt Product (RAP) bin adjacent to RAP stockpile and ramp in materials processing yard;

- Gencor 400, a machine that receives the ingredients from conveyor belts, which is controlled remotely and mixes the products together;
- An 86' conveyor belt that takes the mixed product from the Gencor 400 to the silos;
- Four (4) 200-ton silos (68' in height) that allow for hot asphalt to be loaded into trucks;
- Tank Farm with two (2) 30,000-gallon indirect fired Asphalt Cement (AC) vertical tanks with unloading pumps (36 feet in height);
- HYCGO Gencor 100 hot oil heater with expansion tank stand;
- Lawn area, landscaping;
- Parking spaces and sidewalk with curbing;
- Security fence with four entrance/exit gates;
- Two truck scales near the silos;
- One water well with a water line into the control booth;
- Proposed utilities – natural gas line to provide fuel for the burners in the Gencor 400;
- Site lighting with 20' fixtures around the asphalt manufacturing facility;
- Dumpster;
- Two (2) 31,000-gallon fire cisterns;
- Ground mounted signs including visitor, truck and directional signs;
- Stormwater management facilities such as water quality swales; and
- A 10,000-gallon above-ground storage tank for Number 2 fuel oil.

The Applicant sought multiple forms of relief for the proposal and filed the following four (4) petitions with the Zoning Board:

BOA 1501 A: (*Current petition*)
Variance under Section 3.1.1 of the Zoning Bylaw to allow an additional principal use on the lot.

BOA 1501 B: (*Refer to separate decision*)
Variance under Section 10.2 of the Zoning Bylaw regarding the term "quiet" within the definition of Light Manufacturing.

BOA 1501 C: (*Petition withdrawn without prejudice*)
Special Permit under Section 9.3 pursuant to Section 3.1 of the Zoning Bylaw to allow for multiple principal uses on the lot.

BOA 1501 D: (*Refer to separate decision*)
Special Permit pursuant to Section 3.6.2 of the Zoning Bylaw for the extension of a pre-existing nonconforming use on a single lot.

Several of the petitions were filed as a direct result of a recent Land Court Decision (LC Decision). A copy of said LC Decision was included as part of the application materials. (*Refer to 10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants*) As directed by the LC Decision, the Applicant sought Variance relief to allow for another principal use on a single lot.

Concurrent applications are being reviewed by the Planning Board for Site Plan Review, Special Permit for a Major Commercial Project, Special Permit for above-ground storage of hazardous waste in quantities greater than normal household use (10,000-gallon tank) within a Zone III of a Water Resource Protection Overlay District (WRPOD), and a Stormwater Management Permit.

1. On January 5, 2015, an application was submitted to the Zoning Board of Appeals. Included in the application were a narrative, a copy of the Land Court Decision (*10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants*), an unlabeled aerial map of the site, and a

plan entitled "Zoning Board of Appeals Plan, Asphalt Manufacturing Facility, 540 Groton Road, Westford, MA" dated December 31, 2014 prepared by LandTech Consultants, Inc.

2. Thereupon, an advertisement was published in the Lowell Sun (a newspaper of local circulation) on Wednesday, February 11 and February 18, 2015.

3. Made part of this record is the Notice of Public Hearing. On February 5, 2015, notices were mailed via certified mail to the petitioner, abutters, owners of land within 300 feet of the property and to Planning Boards of every abutting municipality. The list of Westford abutters was certified by the Town of Westford Assessor on December 17, 2014. (*The list of Chelmsford abutters was certified by the Town of Chelmsford Assessor on December 16, 2014.*) The notice was posted at Town Hall on February 4, 2014.

4. On February 25, 2015, a public hearing was held at the Blanchard Middle School Auditorium located at 14 West Street, Westford, MA to consider the petition. The Board continued the public hearing to March 18, 2015 at Westford Town Hall, 55 Main Street, Westford, MA to give the Applicant an opportunity to provide additional information relating to traffic, noise and odor.

5. The following additional information was received from the Applicant on March 13, 2015:

    a. Information regarding Ecosorb, a product designed to mitigate odors associated with the asphalt industry;
    b. Transportation Impact Assessment prepared for Newport Materials by Vanasse & Associates, Inc. dated February 2015;
    c. Transportation Review Services memorandum prepared on behalf of the Town of Westford by Robert Michaud, P.E. of MDM Transportation Consultants, Inc. dated March 11, 2015;
    d. Acoustical Evaluation and Recommendations for Sound Barrier Wall Alternatives to Comply with Land Court Decision Acoustical Requirements prepared for Newport Materials by Cavanaugh Tocci Associates, Inc. dated January 2, 2015, as revised January 19, 2015;
    e. Acoustical Consulting Services – Peer Review of Newport Materials Application – Updated Acoustical Study for Asphalt Plant prepared for the Town of Westford by James Barnes, P.E. of Acentech, Inc. dated February 12, 2015;
    f. Revised Acoustical Evaluation prepared for Newport Materials by Cavanaugh Tocci Associates, Inc. dated March 10, 2015.

6. On March 18, 2015, Scott MacKay moved, seconded by Paul MacMillan, the Board voted 3-2-0 (Fitzgerald, MacMillan in opposition) to APPROVE the following petition, BOA 1501 A VAR, thereby denying the petition for lack of a supermajority as required by MGL Chapter 40a Section 10.06[B][1] for Variance approvals.

<u>Variance Criteria</u>:

Per §9.2.2.2 Variance in the Westford Zoning Bylaw.

"[The Board of Appeal's powers include...] To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10, where owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw."

MGL C.40A §10 requires that the grant of a variance be made only when the Board of Appeals finds the following three "Required Findings" have been reached in the affirmative. The Board must reach affirmative conclusions for all three findings summarized below.

a. Required Finding #1: Soil conditions, shape or topography
b. Required Finding #2: Hardship
c. Required Finding #3: Public Good

FINDINGS

The Applicant **failed to convince a supermajority of the Board that the project meets all three criteria established in the Zoning Bylaw for a Variance.** In reaching the decision to deny, the dissenting members based their decision, in whole or in part, on the following:

1. Criteria 1: *"...owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,"*
   a. While the Applicant claimed that the subject lot has been altered by quarrying, is large, split by town boundaries, contains hydric soils and wetlands and a single driveway, the Applicant did not demonstrate how these features relate to the need for an additional principal use on the lot. The presence of wetlands and a single driveway, are features that do affect many other lots in the Industrial A zoning district. Furthermore, although the Applicant testified that the large size of the lot was unusual, size is not a criterion; size is different than shape.

2. Criteria 2: *"a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant,"*
   a. The Board is aware from information provided over the course of the public hearings by Attorney Douglas Deschenes, that there are multiple uses on the site, and that the applicant is able to operate a materials processing plant, operate or lease 22 acres for a private solar farm, operate or lease areas for storage of tractor trailer trucks, and operate or lease sale of loam and granite products.
   b. Having a large lot area does not constitute as a hardship unto itself, particularly when said lot is capable of being further subdivided, potentially obviating the need for relief.
   c. The Applicant did not establish a connection between the lack of additional relief granted by the Board and lack of substantial use of the lot. Given the fact that numerous uses currently exist at the site, the Applicant did not prove that denial of the Variance would involve substantial hardship, financial or otherwise. The mere fact that there are a large number of existing uses at the lot demonstrates that the Applicant has substantial use of the property.
   d. Based on the above, the Applicant did not provide compelling evidence to a supermajority of the Board that denial of the Variance for an additional principal use on the lot would involve substantial hardship, financial or otherwise.

3. Criteria 3: *"and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw."*
   a. The Board received testimony from numerous abutters claiming that the introduction of the additional, consistent heavy truck traffic would result in a substantial detriment to the character of the neighborhood. It was noted that environmental studies to date relative to noise, odor and overall air quality (associated with Planning Board review of the project) focused on the proposed Facility itself, and did not

account for the effects (noise associated with acceleration/deceleration of large trucks, odors and air pollutants associated with the cargo and/or exhaust from large trucks, etc.) as perceived by neighboring properties containing dwellings. Two members of the Board concluded that these elements such as noise, odor and reduction in air quality based on the heavy truck traffic of the proposed facility would be a substantial detriment to the public good and substantially derogated from the intent and purpose of the zoning bylaw.

b. Testimony was received from numerous abutters concerned that the introduction of the additional, consistent heavy truck traffic would result in a substantial detriment to the character of the neighborhood. It was noted that environmental studies to date relative to noise, odor and overall air quality (associated with Planning Board review of the project) focused on the proposed Facility itself, and did not account for the effects (noise associated with acceleration/deceleration of large trucks, odors and air pollutants associated with the cargo and/or exhaust from large trucks, etc.) as perceived by neighboring properties containing dwellings. Neighbors also described dangerous truck movements into and out of the project site and expressed concern that more than doubling the number of heavy trucks accessing the site would be a detriment to the public good. Two members of the Board concluded that more than doubling the number of heavy trucks currently permitted on the site would be a substantial detriment to the public good and substantially derogate from the intent and purpose of the zoning bylaw.

c. The proposed facility will contain long-term use of significant amounts of materials or product (such as a 10,000-gallon storage tank for No. 2 Fuel Oil, two (2) 30,000-gallon asphalt cement vertical tanks, bituminous products, etc.) that far exceeds the type and nature of materials currently stored at the site. Two members of the Board concluded that such large quantities of hazardous materials would be a substantial detriment to the public good and substantially derogated from the intent and purpose of the zoning bylaw.

Voted to **3-2-0** to **APPROVE**, thereby **DENYING** the petition:

Robert Herrmann, Chair	Grant
Scott MacKay, Vice Chair	Grant
Jay Enis	Grant
Paul MacMillan	Deny
Scott Fitzgerald	Deny

Any appeals of this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and a copy of the appeal shall be filed with the Town Clerk's office within twenty (20) days after the date of filing this decision in the office of the Town Clerk. Per Massachusetts General Laws, Chapter 40A, Section 11, this decision to deny the petition is effective immediately upon filing with the Town Clerk.

Zoning Board of Appeals of the Town of Westford

_____

Robert Herrmann, Chair **Date**

cc: Town Clerk
Building Commissioner
Applicant
Abutters within 300 feet
Planning Boards of Acton, Carlisle, Chelmsford, Groton, Littleton, Tyngsborough

DRAFT