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From: David Doneski <DDoneski@k-plaw.com>

To: ROGER LIPTON <rliptonesq@comcast.net>

Cc: Brian Domina <townadmin@whately.org>

Date: 10/05/2022 6:52 PM EDT

Subject: FW: Whately question

Roger,

This will confirm our telephone conversation of September 9, 2022 regarding the application of Julie Sibley for a "flag lot" special permit for property located off of North Street. The proposed flag lot is shown on the attached plan excerpt. Based on information you have provided me and the requirements of the Zoning Bylaw, it is my opinion that the lot proposed for establishment as a flag lot does not qualify for a flag lot special permit for at least two reasons. The first is the requirement that a flag lot may only be created by subdividing a lot that was in existence at the time of adoption of the flag lot provision, April 27, 1987 (subsection 171-24.1.A). You have informed me that the applicant has confirmed that the lot from which the flag lot is proposed to be separated did not exist as of April 27, 1987. The second is that the bylaw requires that the lot from which the flag lot is to be created, the so-called "front lot," will, after separation from the flag lot, "meet all of the zoning dimensional requirements normally required in the district." (subsection 171-24.1.E) The application plan does not show compliance with that requirement. There is no remaining front lot, only parcels designated as 'not a building lot' and proposed to be combined with other lots shown on the plan.

In addition, the proposed flag lot is already the site of a constructed dwelling and the flag lot provisions of the Zoning Bylaw contemplate the creation of a flag lot as a vacant lot for new construction, not the conversion of developed land into a flag lot. The bylaw speaks to "flag lot development," use "for single-family purposes only," and "width of the lot where the principal building is to be constructed." (subsections 171-24.1.C, D and H). (emphasis supplied)

If you have any further questions, please contact me.

David J. Doneski, Esq.

KP | LAW

101 Arch Street, 12th Floor

Boston, MA 02110

O: (617) 556 0007

F: (617) 654 1735

ddoneski@k-plaw.com

www.k-plaw.com

