

**MINUTES**  
**Danvers Board of Appeals**

**#17-4738**

**November 27, 2017**

Present: Robert Cignetti, Rebecca Kilborn, John Boughner,  
Jeffrey Sauer, Kenneth Scholes, Kenneth Jarvinen,  
Anthony Podesta

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**SYLVAIN DEMARCO (#17-4738)** Appealing the decision of the building inspector to allow commercial vehicles be stored on the property located at **33 NORTH SHETLAND ROAD**

Board member Sauer read a letter from the Building Inspector instructing Mr. Demarco to remove the tractors on the property. Another letter was read from an abutter asking the Board to vote no on storing commercial vehicles on North Shetland Road.

Mr. Demarco said I purchased three tractors for snow removal and I did not know that I couldn't store them at my house until I received the letter. Once I received the letter I was given 30 days and I have tried to look for storage but 30 days is impossible to find a place that is secure and that I have access 24 hours to it. I am not fighting to be removed from that I am just asking for more time. Mr. Boughner said I think that the zoning language is pretty clear you are in a residential neighborhood we don't allow commercial vehicles in residential zoned areas in Town. These are commercial vehicles there are three of them and they are rather large and if we were to allow this, the reason we have zoning is for this nor would we let someone store 18 wheelers at their house or backhoes. Mr. Demarco said I am looking for a place to store them and I also have a realtor. My immediate neighbors are here and it doesn't bother them to give me more time.

Robert Cignetti said you are asking for a six month extension and this board doesn't have the authority to do that. You are appealing the Building Inspectors decision and when you appeal a decision you have to tell us in order for us to overrule a decision what was wrong with the decision, what did he do wrong to cause us to overrule it and I haven't heard anything in that

case, all you want is a 6 month extension and we don't have the authority to do that. Why didn't you put the tractors in your backyard, I'm just curious I would have put them out of site. Mr. Demarco I am not trying to hide anything that is why I am here.

Rebecca Kilborn said there are a lot of places in town that you can store vehicles. Mr. Demarco said I am looking for someplace where I can have 24 hour access.

Chair Boughner appointed Kenneth Scholes to sit on this application.

Kenneth Scholes said this letter was dated September 19, 2017 and you have had 60 days now.

John Boughner said so you explained to me that you have had the vehicles there for a year and the building Inspector notified you 60 days ago and you say you don't know but the zoning is very clear on that we don't allow commercial vehicles in a residential zone.

#### AUDIENCE COMMENTS

Jim Raefus, 29 North Shetland, said I have no problem with this.

Rita Coleman, 28 North Shetland, said I am across the street and I have no problem with this.

Mary McDermitt, 23 North Shetland, said I have no complaints with this, he does know and he is looking for a space.

Elize Hagan, 25 North Shetland, said the applicant keeps the vehicles very clean and he is not on the sidewalk and he is trying to do his best and I support him.

Robert Cignetti said do you have a large commercial customer? Mr. Sylvain said no basically residential.

John Boughner said some of your neighbors are in favor and I understand but to me you are operating a business here and it is not the intent for Residential II and again it opens a can of worms and as Bob pointed out we don't have authority to grant a 6 month extension. Mr. Maloney said it is appealing my decision

and we don't allow use variances in a residential zone that is essentially what he would be asking for.

Robert Cignetti said this is clearly in violation of the bylaw so I will support the Building Inspectors decision.

Rebecca Kilborn said I also have to support the Building Inspectors decision there is no way that we go against him we would have to create our own zoning and we are not authorized to do that.

Kenneth Scholes said I agree I side with the Building Inspector.

Jeffrey Sauer said I agree with the Building Inspector.

Kenneth Jarvinen said I agree with the Building Inspectors decision.

Anthony Podesta said I have to agree with the building Inspector.

John Boughner said I as well, I understand your plight and I know you are having a hard time trying to find places to store but our hands are tied. If we thought that the Building Inspector had issued this in error then it would have been a different discussion and I feel that you have been given enough time.

Robert Cignetti motioned to deny the appeal and support the decision of the Building Inspector. Kenneth Scholes seconded. All in favor.

**MINUTES**  
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**#17-4739**

**November 27, 2017**

Present: Robert Cignetti, Rebecca Kilborn, John Boughner,  
Jeffrey Sauer, Kenneth Scholes, Kenneth Jarvinen,  
Anthony Podesta

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**STEVEN J. DEMPSEY (#17-4739)** Requesting a finding to renovate and restore dwelling to create five townhouse style units in accordance with Sections 3.10.3 and 3.11 of the Danvers Zoning Bylaws at **11 NICHOLS STREET**

John Boughner said there is a question of the location of this building in terms of it being on town land and Town Counsel has advised us that it is and a possible title flaw that needs to be cleared up so I am putting that out there for you. Attorney McCann said it is an issue that I raised with the town and Town Counsel when we got the plans and it is a very small corner of the building about a foot and a half that is over the line and has been since 1860, it is the area that we are not planning to touch. When I saw the encroachment I contacted the Director of Planning and Human Services and the Town Clerk to see how best to move forward. There are different ways to remedy this and again anything that this board approves we are not proposing any work on the building that has been encroaching for well over a hundred years, is it something that needs to be squared away yes, but I would like to proceed with this presentation.

Attorney McCann said the property is in the R2 district, it was built in 1860 and has been a four family since prior to the beginning of zoning, it currently is a four family residence it has twelve bedrooms, there have been no particular upgrades it is in very poor condition and this is an opportunity to correct that situation. We are requesting a finding to allow the development to renovate the core structure and take down a small structure and work within the original footprint and put an addition to the side and we are proposing a fifth unit at the end. The new addition is fully conforming and unit five is fully conforming, we are proposing five units, three units will be 2

bedrooms, two units will be 3 bedrooms so the total count will be the same. The applicant met with Preservation and the Affordable Housing Commission, the original presentation was to demolish the existing building. I am going to show you photos of the interior, the property is in very difficult dilapidated condition. There is a letter from the Preservation Commission that states that we reconsider retention of the core main structure which the applicant was willing to do. In addition to meeting with the Preservation Commission he also met with the Affordable Housing Committee, there is currently 4 units and we are proposing one additional new unit so there is no requirement to make any donation to the Affordable Housing Trust when only one unit is being added. However the applicant did take it upon himself and has agreed to make a donation of \$7500 to the trust. The applicant has had extensive neighborhood meetings and he has 12 signatures of support and lastly should you approve this application we will need to go through site plan approval and one thing that we will present to the planning board is putting in a sidewalk and extending it a little. We have a preexisting nonconforming situation we have four units here now we are proposing renovation of the four units and the addition of one additional unit that is conforming to setback requirements. We have 12 bedrooms on the site now and we will end up with 12 bedrooms when we are finished with this development. We feel the design that is being proposed will be an improvement to the area and we are adding a sidewalk which is a safety improvement and we are making a donation to the Affordable Housing Trust.

John Boughner said who is the current owner and it just changed hands. Attorney McCann said Michael McGrath and John Colantoni are partners in the new entity which just changed hands CM2 Development LLC.

Anthony Podesta said I went out there and why is the fifth unit separate. Mr. McGrath said it offsets from the property line.

Kenneth Jarvinen said what is the total square footage of all of these units added up versus the square footage of the original four family? It seems like this is substantially larger and you are saying the same amount of bedrooms but the bedrooms seem a lot bigger. Attorney McCann said the existing building right now comes to 4000 square feet. The engineer said it will be about 5000 square feet of living space. They discussed the elevations, the history of the building, the grading on the property.

Jeffrey Sauer said you've got the 12 bedrooms and now you are adding the fifth unit and you are still ending up with 12 bedrooms so did some of them get merged together? Attorney McCann discussed the bedrooms in each unit. Mr. Sauer said so they are going to gut the inside but keep the shell.

Rebecca Kilborn said so conservation I am having a little trouble looking at the new plans and looking at the site plan it looks like there is a 200 foot buffer and then the wetlands come in? Mr. McGrath discussed the buffer zone and the wetlands in further detail. Ms. Kilborn said typically we don't deal with conservation but I am just wondering if that fifth unit you can't just build it there you are going to have to get some kind of relief. Mr. McGrath said we are outside of the no-build zone, we will have to get conservation approval and storm water design. Ms. Kilborn said there are three bedrooms in each of the existing four units? Attorney McCann said there were twelve units in there. Ms. Kilborn said I quickly added up the square footage on this plan and I come up with 8800 and I assume that is living space and then we have the garages and so we are probably double of what exists there.

John Colantoni said the living square footage is going to increase. The assessor's card and information about the house has never been updated so there are twelve bedrooms in the house and some of them are attic bedrooms but when you go through the house you can tell they were used as bedrooms. He discussed the history of the home in further detail. When this project is done the living space will be 7000 because we have to go townhouse style to make it financially viable to re-vamp that 1860 building. He discussed the design and plans in further detail. The reason to have the fifth unit setback is that the lot narrows at the back and we wanted to create enough parking spaces on our property.

Ms. Kilborn said every other project that you have come to us with has been in Residential 1 which allows multifamily properties and this is Residential 2 which it doesn't is there any comment that you could make. Mr. Colantoni said I was shocked to find out that it was a four family in R2, also I fell in love with the lot it is a hidden wonder right next to a piece of town property. This house at this point it is at the brink where it will not be able to be saved, one of the units is not livable.

Robert Cignetti said there is no one living there now. Mr. Colantoni said no, three of the four units were being lived in, and there was a hoarding situation. Mr. Cignetti said so there were four electrical meters and four gas meters and the town has been assessing it as a four family. You are going to take a building and you are going to gut the front side of the building and renovate it, you are going to knock down a section of the back side and add on to it so you are going to replace the back side? Mr. Colantoni and Attorney McCann discussed the plans in further detail. Mr. Cignetti said and for good measure build another building. My problem is that if this were an empty lot you could not put a single family house on this without relief from this board. You already have a four family building existing on here and you are going to improve it my question is what do you need that fifth building for you don't have enough land. Mr. Colantoni said if we could knock the building down we could probably build new townhouses, preservation does not want us to knock that building down so I know that we are in for a heck of a project to save this building ten times harder than Cherry Street which I am two months behind because of the existing building and what we have to do for engineering. This is a risk project so to make it financial viable we need a fifth unit to do that. Mr. Cignetti said will these be condos or rentals. Mr. Colantoni said no rentals owner occupied.

John Boughner said will there be fence between this property and the town property. Attorney McCann said no. Mr. Boughner said what is the distance between the proposed and the fifth building? The engineer said 36 feet. Mr. Boughner said what is to become of the large tree out front. Mr. Colantoni discussed the trees on the property in further detail and stated they are trying to keep as many as possible. Mr. Boughner asked about the location of the sidewalk. Attorney McCann discussed the location of the sidewalk in further detail, it will be about 60 feet around the curb area. Mr. Boughner asked what the width of the driveway is currently and the entrance and exit points on the property. The contractor discussed the curb cuts and site lines. Mr. Boughner asked about the location of the property that is on town property. Attorney McCann discussed an easement, purchase or a license.

Attorney McCann read a letter from the Preservation Commission that stated their approval of this project. A letter from Danvers Affordable Housing Trust was also read stating their approval as well.

AUDIENCE COMMENTS

James Woods, 7 Nichols Street read a two page letter opposing this construction project.

Attorney Nancy McCann said the issues with regard to impervious surface area as well as turning emergency vehicles will be discussed at site plan, also storm water drainage all important issues that will be discussed at the site plan process which is a public hearing. I guess we would take issue that renovating what you have there now and looking at it in its current condition and bringing forth a development like this with one additional unit is that really going to have a detriment effect on property value, you would certainly say no. John Boughner said what are we looking at for a time frame? Attorney McCann said certainly not years. Mr. Colantoni said 12-18 months.

A resident who lives on Long Bow Road said I think it is great that John and Mike are going to make something nice for the community, it is a gate way to the Prep, I am in favor of this.

Steven J. Dempsey, 11 Nichols Street said I inherited this property about 60 years ago, I think the place has always been a four family with 12 bedrooms as you know I have sold it and have been a good neighbor.

Ray Arsenault, 14 Nichols Street said I am across the street from Steve, there is no need except for financial gain to build any further than the footprint. The existing bedrooms cannot be considered bedrooms and putting more houses in the back of this property it is just too close, I am opposed to this.

John Hebert, 4 Spring Street said I agree with Mr. Wood the parking calls for 10 spots in Section 4 of the Zoning Bylaws it says two spaces for each dwelling unit plus one space over a two dwelling unit, so that makes 12 spots. If they have visitors where are they going to park on the sidewalk or the street that is a very tough corner there. Everyone agrees that the property needs renovations but townhouses in that area it is not the right solution for this property. I looked at the town records and this property lists it as four 1 bedroom units and the Preservation Committee letter said four 2 bedroom units, what was the original intent of the use. If you have 12 bedrooms in that small area that is a lot of people in and out of that area

and it is a very tight area to get in and out of. I agree the property needs to be cleaned up but I oppose this project.

Matthew Duggin said the finding that this applicant is requesting what does it cover? Ms. Kilborn said not substantially more detrimental than what presently exists. Mr. Duggin said for the density in R2 is there a limit to the number of units that you can have for this square footage? Mr. Cignetti said yes but because it is pre-existing nonconforming they are allotted four. Mr. Duggin said in terms of the plan this area it meets the setback requirements? Mr. Boughner said yes. Mr. Duggin said the small part of the existing building that sits out onto the town property onto the right of way how does that play into this application. Mr. Boughner said that is something that they will have clear up before the work can begin. Mr. Duggin said Town Meeting is not in favor of giving away public property to private developers or private homeowners so that could be a problem down the road. Is that something that has to be resolved before the finding can be issued? Attorney McCann said it is not an issue that this board has jurisdiction over. Mr. Duggin said what is the minimum number of parking spaces for this? Mr. Cignetti said 12. Attorney McCann said the parking issue is under the jurisdiction of the planning board during site plan review and under the bylaw the planning board has the right to waive parking requirements. The planning board in the last few years has been agreeable to granting waivers for the parking requirements we think and we will be requesting a waiver to allow 10 parking spaces for this particular development. Mr. Duggin said as a member of the Rail Trail Advisory Committee I want to make a comment about where it says abandon rail bed which makes it seem like a no man's land and it's actually the next phase of the Danvers Rail Trail, I think building a fence should be considered.

Robert Cignetti said you are asking for 10 parking spaces, so I want to visit my cousin who lives there where do I park? Mr. Colantoni said we are making it better and there are more parking spaces for the house, like many houses in Danvers they don't have guest parking and the bylaws don't address that. We could create more parking if we had to and that is something we will address at the planning board. We don't have any plans about putting some type of fence here, we love that trail and we would be all about it if they wanted to turn it into a park or a trail. When it comes to privacy for Mr. Wood if you look from the back of the yard what is there now we are not going any

higher we are going longer and the part where it slants to the right is still going to be looking at woods there is nothing going there. We discussed with him replacing the existing 5 foot fence and put up a 6 foot fence, also he mentioned putting it on the other side of trees and there is no problem with that. He discussed the plans further and the resale value and property values.

Attorney McCann said one of the comments from the audience was that the property just needs to be dressed up a bit and as you can see from the photographs it needs a lot more than just dressing up and that costs money and is there a financial interest in renovating this property of course there is, and there is in every development that we bring to you. But we have to have a project that is financially viable or it can't be financed and it cannot do the renovations that we want to do. We designed this project to work financially, that would be a vast improvement over what is there and add some significant benefits with the sidewalk dealing with the existing parking and we are adding one unit here. Given what is on the site now and what we are proposing this project is in no way going to be substantially more detrimental to the neighborhood than what is there now.

Anthony Podesta said there is a lot of information on this the big one off the bat is the issue with the town property and I feel that it has be resolved before we can make a decision, we have conflicting reports on whether Town Meeting would want to sell it or not. The neighborhood sentiment seems to be against it and as for myself I don't understand the fifth unit it looks out of place, I won't vote for it as it currently is.

Kenneth Jarvinen said I agree with Anthony, the neighbors make great points I just think the scale is too broad and I would like to see more green space and I would take into consideration the view of the neighbors that have woods there. I just think if they revive that general template of the original structure that would be ideal, I think it is substantially more detrimental than it is right now.

Jeffrey Sauer said I have an issue with this being R2, in Residential 2 you need 30,000 square feet and if you have 30,000 s.f. you are only allowed to chop it into two units, it's too dense it's too big I won't vote for it.

Kenneth Scholes said to say that this had 12 bedrooms I don't buy that I think it was chopped up rooms and they called it a bedroom and I really do have an issue with the 5<sup>th</sup> unit so I wouldn't approve of this as it is right here.

Rebecca Kilborn said I think the 5<sup>th</sup> unit is too much we are trying to squeeze in some parking here on the driveway that is only 8 feet wide, I like the front part and I think it would come out nice and I think you could renovate that and make it work. I love the townhouse style it would look great coming around that corner, I know that renovating an existing old structure is really tough but to maintain that for the Preservation Commission is great and I think that you could use additional parking where that 5<sup>th</sup> unit is. I would approve it but not with the 5<sup>th</sup> unit.

Robert Cignetti said because there is already a four family unit there I would go along with replacing with a four family unit, however I don't like the townhouse design I would rather see it a little more compact with 2 levels in light of what the house looks like kind of colonial, fifth unit I am not buying and the parking good luck, I cannot vote for this as presented.

John Boughner said I share Becky's sentiment I understand the neighbors' concerns however some of them I believe are not warranted the property is an eyesore and I think that anything that is done will be a benefit to all particularly the sidewalk. I am not a big fan of the fifth unit I feel that we are trying to cram too much in this little lot but I am not totally opposed to it. I would like to see the land issue squared away however that has to get done, but I am leaning towards I am in favor of it but I think that it needs to be tweaked.

Attorney McCann said five units were not made up simply because of the 12 bedroom the reason we talked about them is so that you would know that we were not increasing the bedroom count. However if we were to take this layout and eliminate the 5<sup>th</sup> unit that would allow us more parking, also a project that would not impact the buffer zone, we would be able to meet the desires of the Preservation Commission that we keep that structure. So we would like to propose eliminating the 5<sup>th</sup> unit tonight. The land issue we will work with town counsel and it is going to involve the Selectmen and Town Counsel and nothing that you do or the planning board is going to impact that process. If we were proposing to do any work on that little sliver I would agree but

we are not proposing to do any work there it will remain as part of the historic core.

Richard Maloney said it is Town Counsel's recommendation that this has to go to Town Meeting. Attorney McCann said it would be going to the May Town Meeting. Mr. Boughner said so you are saying that you will take the 5<sup>th</sup> unit off and you will update the plans.

Anthony Podesta said the fifth unit was a big issue but I am still not a fan of the townhouse look, I like the original style of the house, so it will go down to 10 bedrooms I know it is a four family but it is a small four family we are looking at doubling the square feet and I still don't think that I can vote for it still.

Kenneth Jarvinen said I don't think with the 5<sup>th</sup> unit gone that it still doesn't fix all the issues, I would still have to say nay.

Jeffrey Sauer said I still think it is too big, they have not quite 20,000 square feet and they have four units if they were building fresh they wouldn't even be able to put in two.

Kenneth Scholes said I agree with Jeff I wouldn't vote for the four units.

Rebecca Kilborn said I would vote for 4 units to 4 units, I think it would be an incredible improvement and it will increase the property value to clean up that property. I think it would be a plus, I think the zoning thing and I am reading what we have heard from Town Counsel and he says we can go ahead and approve this.

Robert Cignetti said there are four units there and you have a right to put four units in I just don't like this design I think it is too spread out make it like a house that belongs in the neighborhood, I won't vote for this motel.

John Boughner said I am not a huge fan of the design but I am much happier with 4 units for 4 units, I would vote for this as presented or changed.

Attorney McCann said we will go back at our original application and see what we can do with taking into consideration all of the comments we have heard.

Rebecca Kilborn motioned to allow the applicant to continue to December 11, 2017. Kenneth Scholes seconded. All in favor.

**MINUTES**  
**Danvers Board of Appeals**

**#17-4740**

**November 27, 2017**

Present: Robert Cignetti, Rebecca Kilborn, John Boughner,  
Jeffrey Sauer, Kenneth Scholes, Kenneth Jarvinen,  
Anthony Podesta

Also Present: Building Inspector, Richard Maloney  
Secretary, Marybeth Burak-Condon

**VERNCO CENTRE, LLC (#17-4740)** Requesting a variance to allow a second wall sign for tenant occupying the northeasterly commercial space which sign will be visible to southbound travelers in accordance with Section 37.5.4 and 37.5.4.e of the Danvers Zoning Bylaws at **110 NEWBURY STREET**

Attorney Nancy McCann said with me tonight is George Burnett, Manager of the LLC. The property was purchased in 2016 there have been a few renovations and a facelift since then. One particular tenant on this property has some difficulty with visibility which used to be occupied by White Hen Pantry and is located on the North East corner of the site. We have tenant panels on the building but the problem is that when you are coming southbound on Route 1 you do not see the tenant panel until you are passed the site and as you are coming in the entrance you cannot see it. So we are requesting to place a tenant panel sign on this façade of the building, you have a photograph of it in the application package so if you are heading southbound you can actually see it. It is a conforming size we are allowed for attached wall signs under the bylaw the permitted size is 10% of the façade of the tenant space, this is 504 square feet, and we are proposing a sign of 50.1 square feet. This one tenant space because of his orientation of the front façade you simply cannot see the tenant so we are asking for a conforming size tenant sign here.

Robert Cignetti said the freestanding sign didn't we move that from the center to where it is now? What kind of business is going to go in here? Attorney McCann said a business that is allowed in the Highway Corridor. Mr. Cignetti said if it's a business where an appointment is needed you make an appointment and that is a factor about who the tenant is. We had this

problem with White Hen Pantry and we gave them a six month sign so that people would become acclimated to the business. Attorney McCann said White Hen Pantry moved out almost a year ago and Mr. Burnett is having difficulty getting a tenant here because of the lack of visibility and even though it may not be an impulse stop it is important to identify who the business is. Mr. Cignetti said the free-standing sign is right next to the building and you could make that panel larger.

Rebecca Kilborn said what is the size of the sign by square feet? Attorney McCann said just under 16 feet. Ms. Kilborn said about 16 feet by 3 feet, so is this the biggest tenant in the plaza? Attorney McCann said no the bank is probably larger. Ms. Kilborn said do we know the size of the panel on the free standing sign. Attorney McCann said no bigger than 12 inches high.

Kenneth Scholes said this will be LED lit? I just have an issue with a sign next to a sign.

Jeffrey Sauer said how many other tenants are in this building facing with their front doors the same way as the vacant property. Attorney McCann said two. Mr. Sauer said so they probably have the same issue, are we going to be back here with both of these tenants looking for signage. Attorney McCann said no it is just this one that is angled just a little more.

Robert Cignetti said since everybody is traveling fast on Route 1 and can't see the freestanding sign anyway why don't we take that down and put up the wall sign? Attorney McCann said the other tenants have attached wall signs that can be seen as well as the freestanding sign and this one doesn't. They discussed the temporary signage that White Hen Pantry had when they first opened. Attorney McCann said the banner sign.

Mr. Boughner said would you be willing to take a smaller sign and this 50 square feet? Attorney McCann said as long as it's visible.

Rebecca Kilborn asked about the size of the sign on the Beverly Bank building. Attorney McCann said that was a similar situation. Mr. Boughner said what about 38 X 10?

Kenneth Scholes said are all the other wall signs lit? Attorney McCann said yes.

John Boughner said can you do 30 square feet, I think it serves the purpose.

Rebecca Kilborn said 3' X 10' is that what you are saying?  
Attorney McCann said we would go 3 X 12, 36 square feet? Ms. Kilborn said I would go with that.

Robert Cignetti said I would like to know the tenant, well alright.

There were no questions or comments from the audience.

Robert Cignetti said I will go with it.

Rebecca Kilborn said I am ok with it.

Kenneth Scholes said I am ok with it.

Jeffrey Sauer said I am ok with it.

Kenneth Jarvinen said I would vote for it.

Anthony Podesta said I am ok with it.

John Boughner said I too would vote for it.

Robert Cignetti motioned to grant the variance for the additional sign 3 feet by 12 feet the hardship is the location of the building on the lot; this condition does this condition does not affect other [properties or structures] in the same zoning district; a literal enforcement of the zoning bylaws would involve a substantial hardship to the applicant; and granting this variance will not create a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the zoning bylaws. Rebecca Kilborn seconded. All in favor.

\*Robert Cignetti motioned to adjourn. Kenneth Scholes seconded. All in favor.