

Planning Board Minutes August 26, 2008

PRESENT: David Stringfellow, Vice Chairman

David Bernas

Jonathan King

Bill McGirr

David Ruzzine

Rich Skinner

EXCUSED: Mark Coppola

Patricia Hacker

ALSO Brian Downey Town Attorney

PRESENT: Cathy Maghran Councilwoman ? Town Board Liaison

Thelma Faulring Secretary to the Boards and Committees

Charles Dunham Boston Self Storage

Sean Hopkins Boston Valley Commons ? 7074 Boston State Road

Dana Darling Applicant ? Boston Valley Commons ? 7074 Boston State Road

Dan Sundell Henneberg Auto ? 8964 Boston State Road

Nicole Henneberg Henneberg Auto ? 8964 Boston State Road

Mark Henneberg Applicant ? 8964 Boston State Road

MINUTES

Mr. McGirr made a motion to accept the minutes of July 22, 2008, seconded by Mr. King and carried.

CORRESPONDENCE

Secretary Faulring listed the following correspondence:

- ? Mary Francis Kraft letter dated July 23, 2008 withdrawing her request for appointment to the Planning Board
- ? Planning Board letter dated July 23, 2008 to the Town Board with Mr. McGirr's proposal for a stipend for Planning Board members
- ? Code Enforcement Officer Ferguson's July end of month report
- ? Deputy Code Enforcement Officer Lisowski's July end of month report
- ? Deputy Code Enforcement Officer Juda's July end of month report
- ? TVGA announcement of Planning and Zoning Board Training
- ? Erie County proposal of an Erie County Planning Board

SITE PLAN REVIEW FOR EXPANSION AT 7849 BOSTON STATE ROAD

Mr. Stringfellow asked Mr. Dunham for any further explanation of the project.

Mr. Dunham:

- ? Boston Self Storage is already there, a mini storage
- ? Want to add another building
- ? The building would be 150 by 40
- ? 30 units 10 by 20

Mr. Stringfellow: Both your letter of intent and the Environmental Impact Statement listed the individual units as 20 by 40 and that's four times too big.

Mr. Dunham No, there they're 10 by 20. That must be a misprint.

Mr. Stringfellow: I reviewed this submission as Conceptual Site Plan as it does not meet the requirements of Final Site Plan.

Mr. Stringfellow started with the TVGA Review, item by item.

Item #1: Site is Zoned C-1. A storage facility comes under warehousing which is permitted in C-2 Zone, not in C-1. Your property is a non-conforming piece of property

Mr. Dunham: I was told that it meets all the Zoning requirements, by the Building Inspectors. They actually said that it meets all the requirements and they designated that site as a C-1 for that specific purpose. It's already been approved once, there's already a building there.

A very lengthy discussion followed regarding the zoning situation.

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Mr. Downey will do research on the zoning question and will speak with the Code Enforcement Office to determine what Mr. Dunham was told and why. Mr. Downey added that if the Town is at fault, the Planning Board will work to move it along, but the Site Plan review process still needs to be followed.

Mr. Dunham: I don't own the property yet, I've got a purchase offer on it and I can't proceed with anything, the bank or anyone, until it's zoned right and approved. I'm really under major time constraints. When I met with the Building Inspectors, originally they told me I didn't have to go to site plan because it was the same use and didn't need a re-zoning variance because it was the same exact use and that was three months ago. Then I came back in and met with them, showed them the plans and then they said "maybe you should go to site plan." Then they told me I had to do this and now I'm another month delayed, two months because I missed the July meeting.

Mr. Downey asked Mr. Dunham to get a copy of the deed, they will need to request the re-zoning.

Further discussion on the zoning.

Mr. Stringfellow asked for the correspondence to be listed.

Secretary Faulring reported:

- ? Planning Board letter dated July 30, 2008 to Richard Brox requesting his review
- ? Planning Board letter dated July 30, 2008 to Don Hoefler at TVGA requesting his review
- ? Planning Board letter dated August 15, 2008 to Charles Dunham requesting his attendance at this evening's meeting
- ? Richard Brox Review dated August 19, 2008 ? mailed to members, updated this evening and in member's folders
- ? TVGA Review dated August 26, 2008
- ? Copies of both reviews were given to Mr. Dunham

Item #2: 30' rear yard setback is required, only 10 feet is shown ? variance is required.

Mr. Dunham: Because the Building Inspectors said that 10-foot would meet the requirements.

Mr. Stringfellow: It's very clear in the Code either C-1 or C-2 zoning requires 30-foot setback. Now this property being where it is and backing up to a Powerline, I would see no reason why the Zoning Board of Appeals would not grant a variance.

Item #3: Building separation - required is 22 feet and not shown of drawing B-1.

Mr. Dunham: They didn't tell me that I required a 22 in between the buildings.

Mr. Brox: The sketch shows 22'

Mr. Downey: What Code people were you talking to?

Mr. Dunham: Bill Ferguson and Butch (Lisowski).

Mr. Stringfellow: I don't see any requirement for separation between buildings, that's assuming it will be rezoned to C-2. The drawing should match the number.

Mr. Dunham: Once I have the actual survey done for setbacks and property lines that will give me a more accurate picture of exactly what the distances will be between the buildings. We want enough so that they can access through there in case of fire or something like that. The way the building is designed, you can drive all the way around the building, both buildings.

Mr. Stringfellow: You won't drive a fire truck all the way around, it won't make the corners.

Mr. Bernas: You wouldn't put a fire truck behind there anyway.

Item #4

Mr. Stringfellow: TVGA had questions on the parking, so did I.

Mr. Dunham: They told me there wasn't parking requirements because of the type of usage. It's not going to have employees there or people. They drive up, unload and leave. So there is parking but they told me there wasn't any requirement.

Item #4 ? satisfied with parking for each unit, but there is not storage of vehicles outside the units.

Item #5 ? drainage

Mr. Stringfellow: NYS has requirements that when you put up a building or pave an area anything that makes the water run off instantly, you must provide for detention of that water so that it does not run off the property any faster than it did before you built. Your areas around the building are gravel which will percolate. I believe those will not be considered instant runoff, but the roofs will.

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Mr. Dunham: The previous owner had a drainage ditch along the backside of the property too. It will hit the gravel before it goes to the drainage ditch.

Mr. Stringfellow: You need to address drainage in your site plan. Do you have an engineer involved?

Mr. Dunham: Not yet, no, other than the engineers that drew the plans for the building.

Mr. Downey: It's a NYS rule, stormwater regulations; you can't have anymore water running off the property after the construction, than before. So even if you have a ditch it can't increase the water flow to the ditch, it's making every property self-contained. The engineer has to put that into your drawing; they'll have to show calculations and so on so that our engineer can look at it and it's a requirement of NYS and it's pretty absolute. We're the enforcer of the State regulations, I would think your engineer would know that. Every new construction has to address that issue. If they have a question they can follow up with our engineer at TVGA.

Mr. Stringfellow: Front elevations views of the proposed building are required. There is a page in there which came from the building company, but it only shows small sections of the building, we need the

elevations on a picture of the entire building. The roof, what the building will totally look like from the front.

Mr. Dunham: Okay, I'll have that for the final.

Mr. Stringfellow: You need to provide elevations and contours on the site that both your engineer and the Town Engineer can see how the drainage is going to be. My guess is that those things were not required when the first building was built. there are lot of spot elevations, but small enough print that we cannot read them on the sheets we got. I believe you showed lighting on the edges of the building much like the present building and that's okay. Conceptual Site Plot Plan requires showing all streets, buildings and driveways within 50 feet of the property; Final Site Plan requires all of those within 200 feet.

Mr. Dunham: That's on the application.

Mr. Brox: It shows the names but no dimensions, distances to the buildings.

Mr. Stringfellow: You would really do well to go online or go the Clerk's office and get the sections of Site Plan Review and C-1 and C-2 Zoning.

Mr. Dunham: I have a copy that they gave me in the Code office.

Item #7 ? landscaping

Mr. Stringfellow: I drove around there tonight, there are some pines but there is a lot more of hardwood and brush than pines. It says 13 Austrian Pines, I only counted 5. Be accurate. We would prefer to see more of those pines along the front if you can do that, across the new building.

Mr. Brox: At the edge of your paving, screen it with pines.

Mr. Dunham: That's not a problem. There were only a few pines there so we just put what was there.

Mr. Dunham: So the biggest problem we have is zoning?

Mr. Stringfellow: I think that's not the biggest for you, I believe that's something the Town will handle. It probably is the most serious problem. I'd suggest that you get on with all these other little things and keep things moving so that you can be ready as quickly as the Town is with the zoning.

Mr. Dunham: As far as the Conceptual Site Plan, now are we okay to go to the final one or not? Does everything seem to be in line if we meet the things that we talked about tonight? I just want to know where I stand. I tried to prepare Conceptual Site Plans for tonight which I realize are not accurate and completed, but it gives you an idea of the project that I'm trying to do and I understand that we do have

to address the water drainage and things like that on the Final Site Plan. I don't want to proceed unless we're okay to proceed.

Mr. Brox: When you go to Final Site Plan, do what it says in the Code for the whole list of submittal items. The concept of what you want to do is pretty clear to everyone here on the Board. You could come back with your Final Site Plan at your next appearance before this Board, and working with Mr. Downey to get the zoning issue straightened out; you could go directly to Final Site Plan and then wait until the zoning issue is out of the way, but you've got to make sure your engineer meets the listed criteria in the Code for Final Site Plan submittal.

Mr. Stringfellow: One more piece of advice, Final Site Plan has to be signed and stamped by a licensed engineer; you have to submit 22 copies of everything, it gets expensive.

Mr. Dunham: That's why I don't want to do it unless I know that we're going forward. It doesn't make sense to spend money on property that I don't own.

Mr. Stringfellow: If you can move faster than the Town does in doing the rezoning, you would probably be better off to come back again as conceptual, which is much less formal and you don't have to go to as much expense in what you have to provide to us.

Mr. Dunham: What did I just do, didn't we just do conceptual.

Mr. Stringfellow: Yes, we did and we have comments. You can take our comments and go to final, if you like, what I'm trying to give you a feeling for is final is considerably more expensive and if you have time to spare anyhow, coming back

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still as a second run at conceptual, with your corrections and changes that we suggested, may be a cheaper way to go and then if there are any other comments or you haven't met everything that you need, you're not into doing a Final Site Plan that is expensive.

Mr. Downey: What he's saying is that you may think you understand what we are telling you, but until we see it in writing they can't tell that you understood it until it's in front of them. The problem is that if you do it with final, you've got to have 22 copies, and so on; there's a lot of expense for us to say you misunderstand that, you need to do this, let's make these changes, you've got to go back and do 22 more copies. We've had people come in and thought they understood our comments, and they didn't or they missed something or they made a mistake, they come in and have the 22, then we say you missed this, and you missed that and they have to go back and do another 22.

Mr. Dunham: I totally understand that because I sat with the Building Inspectors and I thought we were zoned properly and didn't need a variance, I needed nothing; and now all of a sudden here and I

wouldn't have even come in tonight if I had known that, I would have waited and done the variance. I was on vacation. I cut my vacation short to come in here. If I had known there was a problem with the zoning, which it never stated in the letter, I got the letter but they didn't tell me that it was that big of a problem, I thought it was just a minor thing. I'm concerned about the zoning, because nobody seems to know what's going on there. That's a big problem to me.

Mr. Downey: Well it is but it isn't. if it's truly a mistake then it's not that big of a deal. This is the first time anyone has said that to me, so I don't have any personal knowledge of that so I can't give you and up or down until I talk to them. But if it is then, it happens, they color the maps and they make a mistake now and then and then we got to correct them and know one touches it until we're in situations like this.

Mr. Stringfellow: Just to clarify, you can not just come in with the plans, they need to be in a week prior to the meeting so they can be mailed to the members to review before the meeting. For the September 9 meeting they would have to be in on September 2.

Mr. Dunham: I've got the mini storage facility has given me quotes that have already expired, the bank has given me time to get the things done and that's expired so I've got to go back and check all that stuff out. I just need a clarification on the zoning.

Mr. Stringfellow: That will come from Mr. Downey.

Mr. Bernas: I make a motion that we table this until the next meeting, until he provides the answers and put on the agenda for whenever the next meeting will be.

Mr. McGirr: I second.

All were in favor of the motion.

BOSTON VALLEY COMPLEX ? 7074 BOSTON STATE ROAD

Mr. Stringfellow started with the comments from TVGA:

Item #1 ? TVGA did not receive a full set of plans

Item #2 ? Boundary information

Mr. Stringfellow referred to Code Section 123-113 B (2)

The area being referred to is not a parking space, it is a turn-around/ back-up area

Mr. Hopkins: We can cut it off, we will comply.

Item #3 ? Parking requirements

Mr. Hopkins: 1800 square feet will be restaurant, the rest retail.

Mr. Stringfellow: you need to look at that carefully, you're cutting it close.

Item #4 ? discussion on rounding off, rounding up and rounding down (Code Section 123-109 was referred too)

Item #5 ? stacking spaces

Mr. Hopkins explained the stacking area on the plan.

Mr. Darling: I do a lot of the site work for Tim Horton's and this stacking area is bigger than a lot of them that I put in. I haven't done many with that many stacking, so I know that we have enough stacking.

Mr. Hopkins: By way of comparison, most codes define stacking space as 20 feet, so at 280 feet we have 14 very clear stacking spaces, backing up to that safe point. In Amherst, a very busy Tim Horton's the stacking requirement would be 10, so I think 14 will suffice. The Tim Horton's in Orchard Park is 3200 square feet, this one is only 1800 square feet. Tim Horton's is revisiting the area stores and is trying to acquire additional land for stacking space.

Mr. Stringfellow: We'll consider that one taken care of.

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Item #6 ? grading at drive thru and building

Mr. Stringfellow: I would suggest that your engineer take that up with TVGA

Mr. Brox: One set of sheets says Boston Valley Commons and one set Boston Valley Complex, and that confuses with the one across the street.

Mr. Darling: That's Boston Valley Square.

Mr. Downey: It's named differently on different plans, what will you call it? Then be consistent.

Mr. Darling: We will use Boston Valley Commons.

Item #7 ? will retaining wall be necessary?

Mr. Darling: No.

Mr. Stringfellow: Take that up with TVGA.

Item #8 ? slope and inverts

Mr. Stringfellow: That's another matter to take up with TVGA.

Item #9 ? additional grading

Mr. Hopkins: That would be in Phase 2. TVGA was not involved with the original plans they may understand that we only had Phase 1 approved. We will talk to TVGA.

Item #10

Item #11

Mr. Stringfellow: I don't believe that is Phase 1 either.

Mr. Hopkins: No it's not.

Item #12: additional impervious area.

Mr. Stringfellow: You've added some and you've taken some away. I'm not sure; I would guess that you added a little. TVGA felt that once they knew what was added and what wasn't the previous drainage might be adequate or might not. That's another thing to be worked out with the engineers.

Item #13 ? This item only needs to be addressed for Phase 1.

Mr. Stringfellow: I have one question on the boundary lines. (Pointing to the new site plan) This straight line along the edge of the driveway, in the previous drawing this line came up here and curved, is this a property boundary line?

Mr. Hopkins: It will be. We're acquiring the property from the adjacent owner. We submitted, in connection with the previous plan we submitted a letter from the adjacent property owner authorizing us to seek site plan approval for their property. We, of course, won't close on it until we have an approval.

Mr. Stringfellow: TVGA questioned whether you can pave right up to your property line or not? I think that there is no requirement not to do it now, but we wanted to put that in the new code, the new code is not here and we have to go by the old one.

Mr. Hopkins: 123-74 ? required yards in the C-1 Zoning ? sub-section 2 which deals with other principal buildings it says ?no setback is required except that, where a side yard is used for either vehicular ingress or egress, it shall not be less than 25 feet.? An interpretation could be made that it could apply to that area. My response would be that #1 it was at 5 feet pursuant to the code when it was originally approved, by the Town Board last year; and #2, I think, if anything that would apply to the curb cut.

Mr. Stringfellow: As far as I can see they are allowed to pave up to their boundary line if they wish too.

Mr. Hopkins: And keep in mind that is the individual we are buying the property from, so it doesn't raise the normal concerns that your going to have a neighbor come and say ?why did you let them pave to my property line??

Mr. Downey corrected the printed address, on the TVGA letter, for this project to 7074 Boston State Road.

Mr. Brox: I met with Mr. Darling to discuss this and felt that it was minor modification of a previously approved plan, because it's basically the same footprint but adding stacking spaces. We had discussed adding some landscape screening to the south which appears on these three drawings that we got; and some snow storage area which show on these drawings. He pretty much did what I had suggested in a short meeting at my house. I did not write a letter because I was in the hospital. I'm sorry.

Mr. Hopkins: I would just like to explain the whole premises of why we're here.

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Mr. Hopkins: As the Board will recall last year you made a recommendation after reviewing this project after a great deal of time. Mr. Downy and Mr. Brox also spent a great deal of time. At that point in time we showed Phase 1, similar size building. Who we hoped would be the tenant, and the deal fell through was Subway. As it turns out Subway still has not made a commitment and we don't know what they're going to do. In the meantime, because Dana is a site contractor for Tim Horton's, they approached him and determined that this would be a good site for a smaller sized facility. Tim Horton's looked at the approved plans and said "we can make that work." Based on Tim Horton's and Dana's familiarity with Tim Horton's in general and the need for adequate stacking spaces, we had them update the site plan in a very minor way, as Mr. Brox has indicated. What we're asking you to do is endorse this current plan as proposed to the approved plan. At the end of the day, Dana is really under the gun because of his agreement with Tim Horton's to start this work as soon as possible; so if he has to he'll go back to the old plan and do that, but I think that the proposed plan that we presented tonight makes a lot more sense. Given the timing constrictions, we just did get this letter (TVGA) and see there are some comments. The only thing I could ask the Planning Board is to give consideration is that you make a recommendation subject to us addressing these comments. I know that you probably don't do that, but given the fact that this project has already been approved and as Mr. Brox indicated, it really is just a minor change. I'm sure we can meet with our engineer and follow-up on these comments, many of which pertain to Phases 2 and 3, obviously we going to have to come back for a separate approval before you anyway.

Mr. Stringfellow: Every time we have approved with contingencies we have gotten in trouble doing it. We have agreed several months ago that we simply were not going to do that and while I recognize that you want to get going, I can't in good faith recommend that we make an approval with contingencies.

Mr. Hopkins: What about if we agreed that we would submit a letter to both the Town Board and this Board, responding point by point to each comment. It really is only a timing concern, normally we would say that we know that you meet every two weeks and we would just say we'll come back, I'm just asking for consideration because Dana doesn't want to have to build the approved plan when he knows this plan's better. I think for the Town and everything else.

Mr. Stringfellow: Any suggestions Mr. Downey? If you went and got a Building Permit on the basis of the approved plan, how far could you go before you would not be able to, before you would have to have this one approved before you could go on?

Mr. Darling: First of all I've got a lot of site balancing to do, but it doesn't take too awfully long. One of the key things I have to do is get the foundation into the ground. I've got "X" amount of time to get that building built for Tim Horton's to come in here and do their build-out. It's in the lease agreement that they have to have that building ready for them to be in there. So it is kind of crucial for me to get this one approved, if we're going to do this one for the building placement because that's one of the first things they do. When I do these sites, I go in and do site prep, I dig the foundation, then I work side by side with the building contractor, while he's doing the building, I'm doing the rest of the site, we

actually do them together. It is kind of important to get the foundation in as soon as we can. We only have another, time is limited, winter is right around the corner.

Mr. Bernas: I'm going to make a motion that we sent this up for approval, based on the contingencies that are outlined in the letter from TVGA.

Mr. McGirr: I'll second it.

Mr. Downey: Just as a point of information, if you want too, as far as looking at why is this different than other situations; you do have an approved site plan so this is not like you're approving an all new site plan and I'm not saying this to sway one way or the other; I'm just saying this is a little bit different than, I think the last year or so, that the issues that have come up, that every time it's a new final site plan, but this is a modification to a current one. But obviously the Board has to do what they are comfortable with.

Mr. String fellow: Does anyone else want to comment on the motion/ No, then we'll put it to a vote.

A roll call vote was not taken but the results were: Mr. Bernas, Mr. King, Mr. McGirr, Mr. Ruzzine and Mr. Skinner were all in favor of the motion. Mr. Stringfellow was not in favor of the motion.

Mr. Downey: When are looking at to citing a response?

Mr. Hopkins: Right away. We'll get this to our engineer tomorrow, and I'm hoping within a week at the most.

Mrs. Maghran: When do you expect to be opened?

Mr. Darling: From the day that the foundation goes into the ground we do them in about two months, roughly, from start to finish. This one will be quicker, because it's my own, hopefully.

Mr. Downey: I would recommend getting it in as soon as possible for a couple of reasons: 1. I think it would help you in front of the Town Board to say "we have responded?"

Mr. Hopkins: We will right.

Mr. Downey: I think that would make them feel more comfortable, especially if you can get TVGA to respond back as some of these were for the other phases. That will drop off a number of things off these 13 items.

Discussion followed regarding Town Board agenda deadline.

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FINAL SITE PLAN REVIEW ? 8964 BOSTON STATE ROAD

Secretary Faulring reported the following correspondence:

- ? Planning Board letter dated August 19, 2008 to Richard Brox requesting his review
- ? Planning Board letter dated August 19, 2008 to TVGA requesting their review
- ? Planning Board letter to Mark Henneberg requesting that he be in attendance at this evening?s meeting
- ? TVGA Review dated August 26, 2008, which is in each member?s folder

Mr. Brox: There is not one from, again, because I was in the hospital. But I do remember looking and this and thinking I didn?t see a real problem.

Mr. Stringfellow addressed the TVGA comments item by item:

Item #1 ? drainage ? may create your own problem

Mr. Henneberg: We reside there, and the last two years have closely monitored what the water does.

Mr. Sundell: There?s a little area in the back that?s contained, in effect forms a pond there, so this can be?

Mr. Henneberg: We do have a pond that isn?t shown on our survey, but in the future if that continues to be a problem we could potentially drain over toward our existing pond. We understand that concern.

Mr. Stringfellow: You also understand that you can?t just pipe it off onto the neighbors property?

Mr. Henneberg: Absolutely. We got six acres back there.

Item #2 ? 4? PVC pipe ? insufficient grading

Mr. Sundell: I guess it?s saying that we didn?t stress the grade of PVC. We could go to nylon, usually a schedule 40 PVC giving us more than adequate to handle a truck.

Mr. Stringfellow: The engineer states that this is another case that will not impact the neighbors or the right-of-way, but may create a problem for yourself.

Item #3 ? concerned with the applicant running vehicles between the display area and Boston State Road, may cause damage to the sanitary sewer and manhole. The applicant should consider low profile landscaping.

Mr. Henneberg: Absolutely. We had already intended for that. We didn't want it to grow to obstruct the view of our automobiles. We eliminated a split rail fence. We could increase our landscape with hostas or whatever. We talked about a small stone retaining wall, at this point we're trying to keep our expenses reasonable.

Item #4 ? the display area may appear to be in the 20-foot sewer easement. Applicant should review the property information and verify the location of the easement line and get appropriate approval for the display area along the fringe of the easement.

Mr. Sundell: We can set it back, it's not going to make that much difference.

Mr. Henneberg: We have paced it off with Brunner's fence; we would like for people to view it as you approach rather than as you get perpendicular to the display.

Mr. Sundell: If we move it back just a couple of feet, it should be out of the easement.

Mr. Stringfellow: I'm not even sure that the easement is 20 feet. You really need to check your deed and make sure.

Mr. Downey: That would be on your search from when you purchased that property.

Mr. Stringfellow: It doesn't show the width of the easement it just shows the sanitary sewers and the manholes and distance to the side of the highway easement.

Mr. Brox: If you plant anything in there, it's at your jeopardy, they can come in and tear it out.

Mr. Henneberg: And what we're doing with the hand laid pavers and the boundary, more or less millings, so be it; a couple days of display space. National Fuel just dug up our front yard for a leak that they say has been there for years.

Mr. Stringfellow: That covers the TVGA comments. Does anyone have anything else?

Mr. Brox: The light standards will not shine on the neighbor's property, they look very nice. The landscaping looks very nice. I didn't add anything across the front for the same reasons they mentioned. Don't plant in the easement. I think they dressed up the site a lot and made a big improvement in how it looks.

Mr. Stringfellow: Do we want to approve what we have before us or ask them to check on the easement and decide exactly where they are going to put it and show a border across the front.

Mr. Skinner: I think he understands it's at his own risk, it's only pavers and asphalt that he's putting in there, millings. If they come through to tear up the sewer, he's going to lose it, or part of it.

Mr. Henneberg: The potential peril would be, I like the idea of it being a car port?again, you're not going to see it as you come, Brunner's sign for the restaurant right out blocking, we really need it to be somewhat?

Mr. Brox: As long as you know what the risk is.

Mr. Skinner: I make a motion we accept it.

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Mr. Bernas: I'll second it.

Mr. Henneberg: Is this Final that we're accepting?

Mr. Stringfellow: Yes.

Mr. Stringfellow: On the motion, technically the Planning Board does not accept, the Planning Board recommends that the Town Board approve it. Are you comfortable with making a favorable recommendation to the Town Board?

Mr. Skinner: Yes.

Mr. Stringfellow: Any further discussion. Being none all in favor?

All were in favor of the motion.

KIDS COUNTRY CHILD CARE ? 7346 BOSTON STATE ROAD

Mr. Stringfellow read the correspondence:

? Town Board letter dated August 18, 2008 to Ms. Betz stating that they have received and approved for off site disposal

Mr. Downey: I'll give you a full update. After this Board had discussed to have me pursue Kid's country to make sure they get their application in for the solid waste as well as for the site plan, I contacted their attorney and told her that they need to get their site plan in?that the Board was getting frustrated and

she needs to get her application into the Town Board as well as to get her site plan done; and so we had a very amicable and pleasant conversation. Apparently her client, somehow just did not understand our request and kept thinking "why are they wanting me to do a survey after they want me to do a site plan?" It just never dawned on her that the two were to be one; that when I talked about the drainage information that we want it on the site plan, and for some reason it just didn't register. So she said we know what you want. I told her we didn't care who you use, but I would think you would want to use the same person that you used the first time. I told her the Town Board dates and the times that she needed to get the application or the request to the Town Board. She appreciated that, she sent a letter to the Town Board, copied it to me; made the request; the Town Board then with this letter on August 18 approved it subject to the Planning Board's request that the Code Enforcement go and inspect the garbage receptacle location and to make sure that it meets the health regulations. So that got approved and I then followed up with a letter to her and she responded back stating: "that they're working on it; that with regard to the as-built survey Ms. Betz has been in contact the engineers, an architect as well as the surveyors and they are working on providing the one print as-built site plan, as per your request. I doubt if this will be ready for September 2, Terry is working very hard to get these companies to provide these documents as soon as possible and upon receipt we will forward it on to you. Thank you for your patience for forbearance in this matter." I will provide a copy of this letter to the secretary. So they have responded, I liked the tone of our conversation as well as the letters have been fairly prompt in following up. Obviously we don't have it and it looks like it's going to be close to whether they meet the deadline to get it on for the beginning of September. This Board will have to decide how much more patience you want to have. I will say that I was very please with how they've done what I've requested, and did follow-up fairly quickly on a lot of this stuff. You may want to discuss how strong you want to hold to that September date?

Mr. McGirr: At the last meeting we were looking for some forward movement; do you feel that we are moving forward?

Mr. Downey: I definitely do. To be honest I think the veil has lifted on Ms. Betz as far as understanding what we wanted. I thought we made it fairly clear but it didn't seem that way and her attorney was very professional and apologetic about dealing with it. Sometimes you get in these situations where they're blaming us and she didn't. She just misunderstood it and is wanting to get it done. She got it in very promptly to the Town Board. I'm pleased but I'm not the one who decides and I think they're pushing to do it.

Mr. McGirr: I make a motion that we table this to the September 9th meeting.

Mr. Skinner: Second.

All were in favor the motion

LIAISON ? COUNCILWOMAN MAGHRAN

Nothing for this evening.

TOWN ATTORNEY DOWNEY

Nothing further for this evening.

BOSTON PLANNING BOARD AUGUST 26, 2008

NON-AGENDA ITEMS

Mr. Stringfellow: We have gotten several advertisements for various training sessions. We are required to each do four hours of training every calendar year. I haven't done any yet, has anybody?

Mr. Bernas: I do mine on-line.

Mr. Skinner, Mr. Ruzzine and Mr. McGirr have submitted their application for September 25.

Secretary Faulring: I have to have confirmation that you have attended.

Mr. Stringfellow: They usually give you a certificate when you attend. Be sure to give it to Thelma. What happens when you do it on-line; do you get any proof that you've done it.

Mr. Bernas: No.

Mr. Downey: They should give you something to print out. I would follow up because almost all of them will give you, in the end, something to print or will mail something to you. They're required?they're supposed to so you may want to make sure of that because they will need proof of that.

Mr. Bernas: When you get through all the modules, there may be six or eight modules, in which case that's more than the four hour requirement, so?

Mr. Downey: The problem is that you've got to have proof, and it's got to be a third party proof.

Mr. Bernas: Okay.

Mr. Stringfellow: It may be easier to go to a class, one evening and get it done.

Mr. Downey: No, you may want to contact them or e-mail them saying I took this course and didn't get anything or confirmation. But you will need some kind of proof.

Mr. McGirr: The one in East Aurora is the 25rh, it's four hours so you can get it done in one night.

Mr. Downey: Because what you also have, is the Town Board at some point may get audited and what happens is that they may come in and say we want proof, and you can't have just proof from some?

Mr. Bernas: Who's going to do the auditing?

Mr. Downey: New York State does auditing for various kinds things like that.

Mr. Bernas: I thought they left that to the discretion of the Town Board, whether they wanted that?

Mr. Downey: But sometimes what happens is that once you say yes then they audit you on what you said.

Mr. Bernas: Did the Town Board officially say yes?

Mr. Downey: I believe so, yes.

Mr. Bernas: How did they do that?

Mr. Downey: I think they did it at one of their meetings.

Mr. Bernas: I'm sure I read all the minutes of the meetings, I don't remember seeing that approval that the Town Board accepted that. I'd like to see evidence of that.

Mr. McGirr: Motion to adjourn. (9:13 PM)

Mr. King: Second. All were in favor.

Respectfully submitted,

Thelma Faulring

Secretary to the Boards and Committees