

Planning Board Minutes August 9, 2011

BOSTON PLANNING BOARD August 9, 2011

PRESENT: David Stringfellow. Chairman

Patricia Hacker, Vice Chairman

Mike Cartechine, Secretary

Robert Chelus

Keith Clauss

Jennifer Lucachik

Rich Skinner

Paul Ziarnowski

ABSENT: Joe Litwin

ALSO Michael Kobiolka Town Attorney

PRESENT: Jeff Genzel Councilman ? Town Board Liaison

Thelma Faulring Secretary to the Boards and Committees

Richard Brox Planning Consultant

Jennifer Previty Applicant ? 8032 Boston State Road

John Previty Applicant ? 8032 Boston State Road

Chairman Stringfellow called the meeting to order at 7:30 PM. and appointed Mrs. Lucachik to serve as regular voting member for this evening's meeting.

MINUTES

Mr. Stringfellow asked if there were any corrections or additions to the minutes of July 12, 2011.

Being none, Mrs. Hacker made a motion to accept the minutes of July 12, 2011, seconded by Mr. Chelus and carried.

CORRESPONDENCE

Secretary Faulring reported the following:

- ? Code Enforcement Officer Ferguson's July end of month report
- ? Notification of training session in Elma, Tuesday, September 20, 2011 from 6:00 ? 8:00 PM
 - o Planning to attend: Mr. Ziarnowski, Mrs. Hacker, Mr. Clauss, Mr. Chelus, Mr. Skinner, Mrs. Lucachik,
- ? Received Town Engineer Final Review for the Dollar General Store and SWPPP acceptance form

Other correspondence at point.

BISON CYCLES AND SALES ? 8032 BOSTON STATE ROAD ? REVISED SITE PLAN

Mr. Stringfellow read from the Town Engineer review:

- ? No SEQR action is required
- ? With regard to the drainage and SWPPP
 - o This is a redevelopment of an existing site involving minimal disturbance, little or no change to existing drainage patterns and a minimal addition of impervious surface
 - o An SWPPP will not be required for this activity
 - o A formal Erosion Control Plan is not required; however silt fence should be required for any new disturbance. This would apply to the proposed new parking and display area noted on the plan at the northeast corner of the existing building
 - o The site plan does not indicate the addition of new drainage facilities. They are likely unnecessary, therefore we have no comment.

Mr. Stringfellow: The last paragraph simply states that we should do what we need to do and there should be nothing more needed from the Engineer.

Mr. Stringfellow read from the Planning Consultant review:

Item #1 ?The plan does not match the survey originally submitted, and the application for the permit is not completely filled in.?

Mr. Stringfellow: It?s the survey of the whole property before it was divided. Buck?s on one side and this property on the other side.

Mr. Brox: But whoever did this, some of his numbers were rounded off; other numbers missed; 285.16 is up to the center line of the road but he never got around to the property line which is 250?

Mr. Stringfellow: I believe the property line is the centerline of the road?

Mr. Brox: That?s where the property was surveyed to but the ownership stops at the right-of-way line, there should be a mark there and a dimension there.

Mr. Stringfellow: Mr. Brox, I believe that property with a right-of-way through it, you own that property, but you own it subject to the right of the people to pass back and forth across it.

Mr. Brox: Not anymore.

Mr. Stringfellow: When did that change?

Mr. Kobiolka: Then there must have been a change in the law, because that is my understanding too. That?s why the survey goes to the center of the road, because that?s where your property line starts, not starting at the edge at the road.

Mr. Brox: Your property line starts at the edge of the right-of-way.

Discussion followed regarding the frontage on a public road, frontage at the edge of the right-of-way versus deeded frontage to the center of the road.

Mr. Stringfellow: Do you have a deed to the property?

Mr. Preivity: We do not have a deed, we?re waiting for one. Actually we?re going to have it resurveyed, but the surveyor is about two months behind.

Mr. Stringfellow: So the property at his time still belongs to Mr. Barrett?

Mr. Preivity: Correct. He?s ill and in the hospital. We have paid completely for the property. The property has been taken out of Brian Attea?s hands and the father took control of the whole issue now and this morning I was advised by my attorney that we are all set to go but we are waiting, our attorney wants a new survey done on the property separating the two parcels, it?s listed as one parcel on the survey that you have. The surveyor told Mr. Attea that it would be two months for a survey.

Mrs. Hacker: If the property hasn't been changed to his name, then we should have a letter from the property owner.

Mr. Genzel: May I suggest that we build a list of things that you would?

Mr. Brox: No, absolutely not. What if you forget to put something on the list?it's up to the engineer to do it correctly, it's not up to the Town to do it for them.

Mr. Kobiolka: Let's review what's been submitted so far. You don't have to give approval until those conditions are met. The applicant is here and they have submitted something for you to review and make comments on.

Mrs. Preivity: So item #1 is it to the middle of the road or is it?

Mr. Brox: Both. Because your setback starts at the edge of the road and your survey goes to the middle of the road, that's the way they do it.

Mrs. Preivity: So that's the law or??

Mr. Brox: A real surveyor would have shown it in both places; this was transposed by an engineer. Am I correct?

Mr. Genzel: You could show a frontage dimension or you could show the centerline of the road, depends on how the deed is written. You're following the deed placing the deed nomenclature onto the map. What I would suggest that if you find a list of things that aren't complete on this map then you might advise them per your review?as a guidance?

Mrs. Lucachik: ?but not limited to??

Mr. Stringfellow: Frontage is at the edge of the right-of way, is that correct?

Mr. Genzel: Your Code, I think the Code is ?at the right-of-way.?

Mr. Stringfellow: The centerline distance is 96.something feet, at the edge of the right-of-way it's approximately 110 and the requirement, if you have a septic system rather than a sewer is 100.

Mr. Kobiolka: The building has been there since the 50's?

Mr. Genzel: Several different businesses have gone through it. It's the zoning. It's basically making a map that conforms to our checklist. I can't see a reason for this to get denied.

Mr. Stringfellow: I'd like to remind all the Board members this is an existing property. It's been vacant for at least a couple of years and finally it's going to get fixed up. Look nicer and get used again. We cannot expect conformance to every tiny detail on a building that was built 50 years ago. He can't rebuild the building and he can't move it. So we have to be a little reasonable in?

Mr. Clauss and Mr. Skinner: Grand-fathered in.

Mr. Preivity: We're not changing anything on the building. All we're doing is rehabbing the building. We're fixing the roof that has a hole in it; we're fixing the sidewalk that has a crack in it so nobody trips; we're just showing the new pavement actually it was pavement before but the grass is growing up through it.

Mr. Brox: To clarify for your information the definition in the zoning ordinance is "where a lot abuts upon only one street the street line shall be the front lot line."

Mr. Clauss: The edge of the street not the centerline.

Mr. Brox: That's what I just said.

Mr. Clauss and Mr. Skinner: You said the street line.

Mr. Brox: Street line. That's the right-of-way line

Mr. Skinner: So that's the curb side?

Mr. Stringfellow: You didn't put the word edge in the sentence.

Mr. Brox: I didn't have too I read what the Code said. The street line is the right-of-way line. The centerline is the centerline.

Mr. Stringfellow: The second part of #1 "the permit is not completely filled in."

Mr. Brox: There is no square footage of any of the size of the building; there is no total square footage of the lot; there is no square footage percentage, which would be about 15% coverage by the building and about 90% coverage by paving if they ever got around to it; the sewage disposal is not filled in, does this have sewer now?

Mr. Preivity: Septic.

Mr. Brox: On the survey the septic tank didn't show. And walking the site I couldn't find it. The only nice thing I saw in the back was a 12' cherry tree that better stay.

Mr. Stringfellow: Mr. Brox comment #2 ? ?parking required is 5 spaces for the sales area plus 1 for each 2 employees. The petitioner is suggesting removal of all remaining lawn area to the north of the building. A 10 car sales yard to be crammed into a space indicated for 3 cars with no required green space side yard. Ten feet required. (this comment is based upon petitioner's letter with the application).?

Mr. Stringfellow: Your drawing shows 3 I doubt if you can get ?

Mr. Previty: It's going to be 3.

Mr. Stringfellow: It's an automotive use area next to a R-Zone property so you must have 10-feet?

Mr. Brox: 10-feet of green space and it has to be paved with asphalt. It's got to, can't have gravel. The front's all paved; you've got to match it all up.

Mr. Previty: We're going to pave it. That's where the grass is growing up through.

Mr. Stringfellow: The 10 feet of green space has to be shown on the site plan.

Mr. Previty: the only place where it's not going to make the 10-feet is coming into corner of the property where the pavement is already there, where the sign is.

Mr. Brox: All you got to do is move it 10-feet, straight back along the property line. Cut out the pavement, get rid of the crap, get rid of that old concrete sign base. You've got a sign base that's non-conforming, that they're going to go for a variance because it's been there for more than 8 years illegally anyway. Just straight along the north property line, 10- feet clean. And relocate the sign and everything else it would clean up that whole corner and get rid of the?

Mr. Previty: The trouble that I have with moving the sign is that the wiring is already there, the light is already there and the concrete is already there for the pole?

Mr. Brox: Chances are that they will get their variance because it's a hardship they did not create. But there is still nothing that would prevent a straight line 10-foot from the property line straight back, 10-foot wide and green. Straighten out the pavement edge and the whole nine yards.

Mrs. Preivity Which we probably will.

Mrs. Hacker: And we're going for three cars in this area versus the ten, in this display area.

Mr. Preivity: Correct.

Mr. Brox: That's all got to be cleaned up and it'll show better.

Mr. Stringfellow: Item #3 ? ?the rear yard is undefined car storage with 9 parking spaces; and dumpster and employee parking. (Here again the petitioner indicates they will park 10 cars awaiting repair.)?

Mr. Stringfellow: Your letter probably said something like up to 10 cars.

Mrs. Preivity spoke but was not able to be heard.

Mr. Brox: The car repair shop will be in the rear of the building and should allow for up to 10 cars.

Mrs. Preivity: I was just reading the original letter. Do we plan to have a dumpster?

Mr. Preivity: No the dumpster is only there to get rid of the garbage?we took two 40-yard boxes out of the building already.

Mr. Brox: The only thing that I was pointing out is the engineer that drew this shows 9 parking spaces in the back of the building and the dumpster; and your letter states that there will be a car repair shop at the rear of the building for up to 10 cars waiting repair and he's calling it employee parking. You can't have both. By my calculations you need 5 parking spaces in the front, which you've got; then employee parking, so if employee parking is going to be in the back clean it up.

Mr. Stringfellow: For auto repair you require so many parking spaces per bay?there's only one door in and only one bay.

Mr. Preivity: Right. There are doors in that building that are completely closed off from the inside.

Mr. Brox: We don't know that.

Mr. Preivity: Come down and look around inside with me.

Mr. Brox: That's not the point. The point is that your application should indicate what?

Mr. Preivity: This isn't my forte'. I'm learning here. I don't do this?

Mr. Brox: The guy you hired to do it, it's his forte'.

Mr. Stringfellow: You show 12 spaces required and 17 provided, so you have some spare room there including the 3 which are going to be display, so actually not parking spaces for customers.

Mrs. Preivity: So realistically we have enough room we just don't have it laid out right.

Mr. Stringfellow: Right.

Mr. Stringfellow: Item 4 ? ?the driveway is required to be 25 feet and the survey indicates 24.2 or 24.74 feet. A variance will be required.?

The engineer showed 24.2. I should add for the benefit of the Planning Board members: I did speak to this engineer when he happened to be there and the story he gave me was early in his career he got fined by New York State for showing dimensions to significant figures and showing angles when he is not a licensed surveyor, he is only a licensed engineer. So then from then on he has never shown the angles and he rounds off the distances enough that he is not responsible for that much detail. Now I assume that's what he has done here.

Mr. Brox: Now you're also showing a driveway that is to be shared with Buck's. When I was there this evening Buck's people are parking where that driveway is going to be. It's got to be clearly signed ?not a driveway.?

Mrs. Preivity: I think that over time? in the past six weeks as we're moving in and people see that we actively moving in and refurbishing, you can see that Buck's customers that used to park by us are now moving over, over, over. But we absolutely will have that marked.

Mr. Brox: The reason I bring that up is that you may want to have a legal agreement drawn up between you and Buck's allowing his people to use your land for a driveway because you've got 24 of the 25 feet needed for the driveway.

Mr. Stringfellow: As a point of clarification: once they decide to share the driveway with Mr. Buckley then it becomes 5 feet wider because Mr. Buckley has 5 feet here that he is not using so that means that the driveway is 29 something.

Mr. Preivity: But some of that is sidewalk. I think I measured from his sidewalk to our building which would be 24.76, I think was the exact measurement from his sidewalk coming from the corner of his building, which would be another 2 feet.

Mrs. Hacker: This is what it is. We can't make it any larger. But we need it to be marked so that no one can park there, not only for the convenience of getting back there but for the safety, the emergency vehicle use.

Mr. Stringfellow: I don't feel the driveway is an issue. The last comment on Mr. Brox's letter #5

?No green space or landscaping has been indicated. The rear yard indicates a snow storage area and a leach field.?

#6 Based on the lack of information I would recommend that the project be tabled until a new plan is submitted.?

That recommendation is not necessarily a requirement but we do take recommendations seriously.

So we've come up with:

- ? A letter from the present owner
 - o Mr. Preivity: We're closing in two weeks
- ? Numbers on the application need to be filled in
 - o Some of those numbers do appear on the site plan, add those number to the application
 - o Square footage numbers ? if you don't know how to figure those, your engineer would
- ? Show paved areas and green space
- ? Planning Board would always like to see as much green space, shrubbery and so on as possible
 - o You don't have a lot of room and you don't have any green space now

Mrs. Hacker: If you put the paving up to 10 foot, then you only have that 10 foot.

Mr. Stringfellow: Has anyone checked the Code to see if 10 feet is correct, it's an automotive use and for some reason I'm thinking it's 10 or 15.

Mr. Kobiolka: Since this is a C-2 where the sales would be and the adjoining property is residentially zoned, doesn't the Code require a buffer; like the Planning Board required between Buck's and the next residential area?

Mr. Brox: Yeah, but there was no landscaping shown on this, if they do this they could show the landscaping?

Mrs. Preivity: You want me to put in landscaping. The gentleman next door has really taken an interest in this project, he's been coming over and talking with us; he mows our lawn?

Mrs. Hacker: If you have a green space 10 feet wide you could place 2 or 3 trees in such a way that it would look green but not?

Mr. Previty: I do have a problem with that in that it would hide the inventory.

Mr. Cartechine: And planting trees, the roots would probably heave the pavement.

Following discussion it was agreed that the 10-feet of green space is sufficient, and any plantings would be optional. Further discussion followed.

Mr. Previty: The trouble is we are limited on our space. If you want us to move the sign and we move the sign, where are people going to park? I mean the space at that lot is very limited with the parking in the front.

Mr. Brox: I'm not saying that. You are required by Code to have a 10-foot wide green space along the property?

Mr. Previty: Correct.

Mrs. Previty: But it doesn't say by Code what we have to put in that green space?

Mr. Brox: It's got to be green space. And if the Planning Board wants trees they will say so and they've got to be there. The sign it's inside that 10-foot space, whether you get the variance or not, actually it's no big deal.

Mr. Ziarnowski: Would there be a problem with putting trees on the back side to cover the parking lot and leave your display area open and put no trees there. Your neighbor may not live there forever, and what if the new neighbor doesn't like it.

Mr. Previty: There are trees back there now. With the trees that are back there you can't access the back door anyway. You can't pull out there or you can't come in where the property lines are. So as you're looking at that property on the north side, which would butt up to the residential, that door is a dummy door, it's finished off inside.

Mrs. Hacker: So it's not going to be used as a service entrance?

Mr. Previty: No, with the trees there now you can't turn out of there; you can't do anything with it.

Mr. Brox: There again, if your engineer had looked at the requirements and read the Code and gone by the check-list that was given out probably, you would know that all the existing trees here should be shown and you'd know where the problems are and where they aren't. This isn't a reflection on you it's a reflection on the professional that didn't. Sorry. But I think we can make this thing work.

Mr. Preivity: The dumpster that's noted in there. We're not going to have a dumpster. We're going share with Buck's, and his dumpster is already enclosed. The dumpster that is there now, its role is there to take the garbage out of the facility.

Mr. Brox: Then you better show this Board some kind of agreement.

Mr. Preivity: I'll get one.

Mr. Stringfellow: Polled the Board members for any further questions or comments.

Mr. Chelus: Nothing at this time.

Mrs. Lucachik: I think we fully covered it.

Mr. Ziarnowski: What about the lighting? I see you've got written environmental lighting cast down 90°, is that going to light the back end of your lot if you do that without (taking them and turning them back up) which negates the fact that they are environmental lighting? In other words what's the radius span of 90° downcast environmental lighting which is pretty much cone shaped, which is great, and I'm glad that you are doing that, but just don't do that and then later on and then they go off.

Mr. Preivity: That's what's existing on the building right now, the cone shaped down.

Mr. Ziarnowski: And that's going to do it for the back?

Mr. Preivity: Personally I don't like lighting in the back of my building, it attracts thieves.

Mrs. Hacker: I'm good as long as the paperwork is cleaned up and we have the paperwork that says you can approach us or you own it, I'm good with everything we've added tonight.

Mr. Skinner: Correct the spelling of Michael and I'm good.

Mr. Cartechine: Nothing more.

Mr. Preivity: I can probably get you a letter from them tomorrow. We're waiting on State licenses now and we wanted to see about going ahead with the sidewalk, as soon as the weather clears up they're going to pour the sidewalk.

Mr. Stringfellow: I don't think any of us have a problem with you replacing the sidewalk. The back, it was stoned once and now grass has grown up through, can you do something to make it stone again?

Mr. Preivity: We talked about bringing in a machine, taking the grass out, putting down the black mat and putting the stone back over it. That should be happening in the next week or so.

Mrs. Preivity: It's different when you own the building and not just renting, we plan on being there for the next thirty years.

Mr. Preivity: Fixing that roof in the front, there's not a problem with that either, we're not changing it, just repairing it.

Mr. Preivity: We're putting a copper colored roof on the front of the building. No signs. Metal roof.

Mr. Kobiolka: Did you remove bushes by the sidewalk?

Mr. Preivity: Actually there was no sidewalk. They planted dirt on top of the sidewalk and put the bushes in that.

Mr. Preivity: We will be happy when it's done. We're trying to get a Polaris dealership in.

Mr. Stringfellow: I'll make a motion to table this until we receive a site plan showing the additional information and changes we requested is there a second?

Mr. Clauss: Second. All were in favor of the motion

Mr. Stringfellow: Our next meeting is the second Tuesday in September?so in order to review?when do you need that in?

Secretary Faulring: You usually want a chance to review it, so my normal mailing day is the Thursday before the meeting.

Mrs. Hacker: So if you have the paperwork to Thelma by September 6.

Secretary Faulring: Or sooner.

Mr. Stringfellow: Before we go on to the Liaison. For the members, this week I received the request for the budget for the coming year. It's due the end of August. The only uncertainty is the Town Planner; Thelma has agreed to stay on at the going rate.

Mr. Brox: For your information I will stay at the same rate. So budget \$2250.00.

LIAISON ? COUNCILMAN GENZEL

Mr. Genzel reported from the Town Board meeting of July 13, 2011:

? Adopted the fund bills

? Received a letter from the Boston Youth Baseball President regarding the condition of the Town fields

? Appointed Robert Klein, Carol Gries and Kristi Gallagher as Patchin Fire Police

? Approved the Bond Council for services and fees for Water District #3 Extension 1

o On Cole Road from Wohlhueter south approximately 2400 feet, to about Decker?s

o Servicing 28 parcels

o Public Hearing tomorrow night at 7:40 PM

Mrs. Hacker: When you do that are residents required to tap into it?

Mr. Genzel: No. The residents in that area petitioned the Town to have a Water District and then it has to be approved by over 50% of residents of the assessed value of the properties

? Resolution, accepting and filing of certain map plan report completed by the Town Engineer

o Hired Clear Creek Surveyors from Springville to do all the topography work

? NYSERDA grant, received, to make Town buildings more efficient

o Advertised for bids

o None were received

o Will have to go to a bigger firm

? Scheduled a Public Hearing for a proposed Local Law #2 year 2011 entitled ?Property Maintenance Law for the Town of Boston?

o Giving the Town the right to either force the landowner; or hire a person to mow lawns and charge the taxpayer

o Also some private drainage entities in there

Mr. Ziarnowski: Can that be applied to the Boston Hotel? All that broken glass, garbage, junk. Can you get in there and charge the guy?

Mr. Kobiolka: It?s more designed for foreclosed homes, abandoned buildings; where there is no maintenance is being done. I don?t know how broad it can go, but I?ll check into that

o I think the Code Enforcement Officer has been down there

? Approved application for use of the facilities by Jennifer Cavarello

? Valley View Lane

- o Stream bank erosion
- o Residential garage being eroded by a tributary to the 18-Mile Creek
- o Received design for re-stabilizing the garage
- o Emergency situation
- o Plan on having the highway crew do that work

Mr. Cartechine: What is exactly special about that project?

Mr. Genzel: That is going to cause property damage to her garage; she's going to lose her garage if that side of that bank isn't fixed. We also have another where a trailer in the park, we may lose if the side of the bank isn't fixed.

Mr. Ziarnowski: It's the danger of structural damage.

Mr. Cartechine: I lost my entire barn from erosion on that creek. I had no recourse from my insurance and now I'm looking at \$35,000 to \$40,000 bill to build a new barn. And I find it interesting that we're going to stabilize somebody's private parcel of land to save a garage. A lot of people including me have lost property because of erosion on this creek system.

Mr. Genzel: I'm sorry I wasn't around when your damage happened so I can't speak to that. That administration should have been able to help prevent a building from falling into the creek.

Mr. Cartechine: We took the building down to avoid the DEC fines.

Discussion followed until Chairman Stringfellow called the meeting back to order.

Mrs. Hacker: How did we do on the 18-Mile Creek clean-up?

Mr. Genzel: It's finished. Eastwood finished the project. They did a great job Marty (Supervisor Ballowe) walked it after it was finished and we found five more trees, they came back immediately took them down and chucked them all. Really did a nice job and hopefully we see during the next event, and keep maintaining that section while we do another one and keep heading downstream and keep the areas maintained is what has to be done. We like to be able excavate the gravel out of there, The gravel banks, so the channel stays where it should be and then haul the gravel up here to the Town Hall and sell and use the money to put back into the creek, but it's very difficult to deal with the DEC.

Mr. Genzel: That's about it for me. Are there any questions you want me to bring to the Town Board?

TOWN ATTORNEY ? MR. KOBOLKA

Mr. Kobolka: Nothing further for this evening.

Mr. Cartechine: I make a motion to go into Executive Session.

Mr. Chelus: Second.

Mr. Cartechine: I make a motion to return to Regular Session.

Mr. Chelus: Second

After returning to Regular Session Mr. Brox was advised that the discussion was to reappoint him, but there was no motion made at this time.

Mr. Stringfellow: Is there any further business for this evening?

Being none Mr. Chelus made a motion to adjourn, seconded by Mrs. Hacker and carried.

Respectfully submitted,

Thelma Faulring

Secretary to the Boards and Committees