

Planning Board Minutes December 8, 2009

Chairman Stringfellow called the meeting to order at 7:40 PM.

The prospective candidate for membership did not respond to the letter advising of her interview.

Mr. Stringfellow appointed Mr. Litwin to act as a regular voting member in the absence of Mr. McGirr.

MINUTES

Mrs. Hacker made a motion to accept the minutes of August 25, 2009, seconded by Mr. Coppola and carried.

PRELIMINARY DISCUSSION ? 8692 BOSTON STATE ROAD

Mr. Stringfellow asked Mr. Weiss and Mr. Keen if they had any comments before discussion began.

Neither had any comments.

Mr. Stringfellow: We all have the package that came out. The intent is to significantly enlarge the building and to use it as a site for a landscaping and snowplowing business as I understand it. Does anybody on the Board have any comments?

Mrs. Hacker:

? This site came to the Planning Board some time ago for other purposes; and at that time there was a lot of issues with:

- o The building being used for something different and then being grandfathered in to use for what it just used for
- o At that point we had a lot of unhappy neighbors in regards to changing building and whatever was going on
- o We worked with the Keen people, I think it was, was it Tomasello?s?
- o Quite a bit of concern with the change of that property and the proximity to the adjoining home
- o I don?t have the old records any longer or I would have checked back

- o I? really like this Board to take time to make sure that we address what our concerns were back them
- o The biggest thing that comes to mind that there was no legal bathroom in the property at that time we were dealing with it, I?m sure that?s changed since that point
- o Parking on the road
- o Egress to the drive around

Mr. Stringfellow: Are you really sure, or are you saying that and assuming that is?? There is a bathroom in there.

Mr. Coppola: On the application it says city sewer

Mrs. Hacker:

? I?m positive this was an issue

? I just want all of this in the record so that I just don?t say I don?t know that these were concerns. Because no one on this Board was here when this happened, except for Dick and myself, I believe

? So I just want to be sure that this Board looks at those concerns and address, because I believe those people in relation to the building are still there

? We need to dig out the old file and find out what?s in it

? When it came to our Board it was just a fruit stand and after that it changed, things have changed.

Discussion followed on the various types of businesses that previously occupied this location.

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Mr. Clauss: Is this to run your business out of or are you going to be selling landscape?

Mr. Weiss: Run my business out of there and sell some mulch. Pull the pick-up truck in and out of there.

Mrs. Hacker: Where will that be kept, out back?

Mr. Weiss: Yes.

Mr. Coppola: We have a very vague drawing with the addition of the building.

Mr. Weiss: The storage building, all it is, is a concrete block to store mulch.

Mr. Stringfellow:

? This is a small lot, originally I believe it was a fruit and vegetable stand that has since grown

? The existing building which is on the north side of what use to be the fruit and vegetable stand I guess is essentially garage space, there are four garage doors facing the street

? It has a setback of 19½ where the zoning requires 50 feet, so it is far short of front setback

? In going through the zoning maps I found that property is zoned C-1 not R-C, I think that was an error that was made somewhere along the line

? In a C-1 zone the side yard requirement, if it adjoins an R property, and the adjoining property is R-C on both sides, the side lot line requirement is 20 feet, this has 15.7 from the existing building and if you build the proposed addition you cut it down to 15.2

? Frankly right out there on the State Road I see this property evolving along into essentially a commercial or more industrial use, a C-2 or an M Zone in use in an area that is residential all around it

? In my opinion going another step by increasing this building and putting a landscape and snowplowing in there is a further step in the wrong direction, I would not favor it, but I am only one vote out of seven on the Board

? The proposed addition of building, the sheets that we got, list it as a frame building, in looking at it I can see that it is metal roof and it really looks like a metal building, what are you intending there?

Mr. Weiss: It's a pole barn, the same thing that's out there now, metal sides, metal roof.

Mr. Stringfellow: What are the intentions for the smaller building that was originally the fruit stand, is that going to remain or be torn down? The one on the left.

Mr. Weiss: It's going to stay the same outside, I was going to side it. It'll be used for my offices

Mrs. Hacker: An opening to the new, to the old, just a doorway?

Mr. Weiss: Nothing, two separate buildings.

Mr. Stringfellow: There's also a requirement if you have more than one building on the lot the separation between them must be 30 feet or more than 30 feet if either of the buildings is taller than 30 feet, and these two buildings look like, scaling it on the map that you provided, it looks like 7 or 8 feet between them; so you have several issues here that are not going to meet the building code, that

you're going to have to go for variances for if you want to do this. I think that pretty much covers my comments.

Mr. Brox:

? Obviously you're in the planning stages so you know your submittal does not meet the requirement under the Building Zoning Code for the Town for the layout:

- o Landscaping
- o Parking
- o Greenspace
- o And all that stuff

? In addition to that the Building Permit application, where you indicate where you have 10% lot coverage, with all of your buildings it's actually closer to 14%, that would be a minor correction

? Major correction, it's a language thing, you're going to the ZBA for a Change of Use Variance, there's no such thing, you want an Area Variance or you want a Use Variance

- o A Use Variance is very difficult to come by

Secretary Faulring: They've already been there and got a Use Variance

Mr. Brox: There's no such thing, they got Use Variance, not a change of use variance

? I have to agree with David (Stringfellow), it looks like they're trying to 10 pounds in a five pound bag

? And I have to agree with Pat (Hacker) and I'd like to go back and look in the files and see what was on that, researching on that property when it was originally permitted to develop with the fruit stand, because I think barring unforeseen things that I'm not aware of it would be a very tough site to develop and meet the Code requirements. That's all at this point.

Mrs. Hacker: Does anyone know the placement of the adjoining is? We don't have anything showing here.

Mr. Brox: No, they have to bring a drawing that shows the properties next door. The application is very incomplete. But they are here for preliminary discussion and when they want to come in for serious consideration they've got to meet all the requirements of the application under the Code or zoning, site plan application and all that.

Mr. Coppola: I think the best bet is to have the proper drawings before we make any kind of discussion. We look at this and know where the building is going to go and where you're going to put it but we don't have the buildings around the outside. Like Mr. Brox said the drawings are much more detailed, we have no elevations; there's a lot of stuff for us, in order to make any kind of decision, that we don't have right now.

Mr. Stringfellow: On the other side of the coin I will say that a vacant lot setting there and vacant buildings, does not look good and if?

Mr. Weiss: If it's not?I'm not going to go any further with this. I own a lot of houses in the Town of Boston. I'll take my business elsewhere. I'll take my tax dollars other places. I mean, I've worked for a developer for twelve years, and we've been going through this since April and it's just way out of control for a little building, a little lot to decide on something. I've never seen nothing like it in my life. Everybody has a different answer.

Mrs. Hacker: How come we're talking since April? I've not seen anything until now.

Mr. Weiss: I don't know, it's been in with Bill (Ferguson), he was trying to get the Town Attorney to do something and took like three months, and that got to the point where I said ?tell me where he lives, I'll go and hand him the stuff, we need to know what's going on.?

Mr. Downey: I don't know any of this.

Mrs. Hacker: Town Code tells you how you have to approach and what board has to be approached and this Board has not seen anything until now, this is the first.

Mr. Weiss: I went to the Building Inspector and he said you've got to go to the Board of Appeals, so we went there and then they said we don't have to come because they're going to go for the building, so then we went back for another meeting and then they said no, we got to come here. So we don't know what the hell is going on. This is taking way too long, I need a building up.

Mr. Downey: Well here's the thing sir; you have a bunch of problems with your property. You had a use problem, and you have a physical problem with your property. Now did you sit down with the Building Inspector? Did he discuss about the distances?

Mr. Weiss: Yes, both of us.

Mr. Downey: Did you go and make an application with ZBA for approval for those changes?

Mrs. Hacker: For the side variances for that lot?

Mr. Weiss: Whatever he has told us, we have done. That's all I can tell you.

Mr. Downey: Well if you're a developer then you should know?

Mr. Weiss: I'm not a developer?

Mr. Downey: Well if work with developers, you make it sound like you know what you're doing and we don't.

Mr. Weiss: No I didn't say that.

Mr. Downey: I'll be honest with you sir?

Mr. Weiss: Since April we've gotten twenty different answers?

Mr. Downey: Sir, sir, I let you speak I'm just saying you made it sound like we don't know what we're doing, that we're blocking your way. What we're saying to you is that there are a bunch of things that you have issues with, when you have a smaller piece you have more problems, you have certain side line requirements that you have to meet, etc. You have two types of variances that you have to get on this property. One is a use with my understanding that you have received, but the other one is that you got lot lines, you have to make sure that you meet the other Code. Now did you look at the Town Code?

Mr. Weiss: Yes, this is how it started up, 10 foot we were supposed to be from the lot line, we were told that, 10 foot.

Discussions continued.

Secretary Faulring explained that Mr. Weiss had gone to the ZBA in November, they had a concern with the setbacks, in December Mr. Weiss returned with a new survey with the proposed building set back at 15 feet from the side lot line and 30 feet from the rear lot line as was requested by the zoning Board of Appeals. He had reduced the size of the original proposed building to meet these setbacks. At the time of the Public Hearing the ZBA members were under the impression that the property was zoned R-C because the Code Enforcement Officer's Zoning Map had not been updated to show the change of zoning to C-1

Discussion, sometimes heated, continued regarding the zoning, setbacks, following Chapter 97 from the Code Book and a complete submission of application. Volunteer Boards do not, are not required to, provide individual page by page service to applicants; check-off list should have been provided by Code Enforcement Officer. Signage, lighting, adjoining property owners.

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Mr. Weiss: I'm running out of time and patience. I've been working with Randy (Keen), he wants to sell his building. I don't plan on building right away, just want to if I can.

Mrs. Hacker indicated that there probably wouldn't be an answer to that until February.

Mr. Weiss indicated that then would probably be another building in Boston.

Mr. Stringfellow: I believe this project is not impossible, but it's not going to be easy.

GENERAL CORRESPONDENCE

Secretary Faulring distributed:

? Code Enforcement Officer Ferguson's November End-of-month Report

? Deputy Code Enforcement Officers' Lisowski's and Juda's November End-of-month Report

LIAISON ? COUNCILWOMAN MAGHRAN

Nothing for this evening other than to wish everyone a Merry Christmas and Happy New Year.

TOWN ATTORNEY DOWNEY

Nothing further for this evening.

Mr. Stringfellow asked if there were any further business for this evening.

Mr. Brox said that he will be submitting his letter of request for reappointment.

Mr. Coppola made a motion to adjourn, seconded by Mr. Clauss and carried. (8:35 PM)

Respectfully submitted,

Thelma Faulring

Secretary to the Boards and Committees