

## Planning Board Minutes February 10, 2004

BOSTON PLANNING BOARD FEBRUARY 10, 2004

PRESENT: Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

Michael Pohl, Secretary

Margaret Andrzejewski

J. David Early

Jeff Mendola

ALSO Dennis Kramer Code Enforcement Officer

PRESENT: Kelly A. Vacco Town Attorney

Dennis Mead Councilman

Frank Lisowski Deputy Code Enforcement Officer

Richard Brox Planning Consultant

Paul Speich CAC Liaison

Martin Barrett Property Owner ? 8032 Boston State Road

Patrick Barrett 8032 Boston State Road

Steven Kohler 7170 Boston State Road ? CVS Pharmacy

Mariann Hooper 7170 Boston State Road ? CVS Pharmacy

Chairman Hacker called the meeting to order at 7:30 P.M.

## MINUTES

Chairman Hacker asked if there were any additions or corrections to the minutes of January 13, 2004. Being none, Mr. Stringfellow made a motion to accept the minutes, seconded by Mr. Early. All in favor.

## CORRESPONDENCE

Mr. Pohl reported the correspondence:

- Request dated February 4, 2004 from NYS Planning and Development requesting input on future training data
- Letter dated January 14, 2004 from Planning Board to Town Board recommending approval of site plan submitted for Amy's Place at 5699 Herman Hill Road
- Letter dated January 22, 2004 from Town Clerk Shenk advising of the appointment of Patricia Hacker to the Planning Board, term to expire February 1, 2011
- Letters dated January 16, 2004 to David Bernas and Richard Hody advising of the referral from the Town Board and requesting their presence at the meeting of January 27, 2004 for interview
- Other correspondence to be read at point in agenda

## LIAISON ? COUNCILMAN HOPKINS

Councilman Mead reported from the Town Board meeting of February 4, 2004:

- o Public Hearing held and Local Law was passed for "Obstructions in Open Spaces". Mr. Mead noted that there was no opposition to the proposal submitted by Code Enforcement Officer Kramer
- o Richard Boyd, owner of Sprague Trailer Park, was given his license conditionally on signing a security agreement of \$1000.00; coming into conformance of violations noted by the Code Enforcement Officer and Deputy Code Enforcement Officer. If that work is not completed, or not completed

satisfactorily by Mr. Boyd, the Town will have the work completed with costs paid from the \$1000.00 retainer.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

BOSTON HILLS LLC ? GARY ECKIS

Mr. Pohl read the correspondence from Boston Hills LLC dated January 27, 2004.

Mrs. Hacker, Mr. Stringfellow, Mr. Pohl and Mr. Eckis discussed the following issues prior to the meeting:

- o Pond needs to remain in the subdivision
- o ?t? turn around
- o access

Mr. Stringfellow: lot #25 had to move the driveway, because the Town does not allow driveways on a ?t? turnaround.

Mr. Stringfellow stated his concerns with lot 23 going from 5 acres to 26 acres, which was not part of the subdivision, also road construction would have to go the full length of the 26 acres in order to become part of the subdivision, according to Code. He also noted the Dinse property only has frontage on the ?t? and a driveway cannot come off the ?t?.

Mrs. Vacco: I understood that when the discussion was on the ?t? turnaround, that the Planning Board made the decision that if there were any other homes to be built off the ?t? turnaround, a cul de sac would have to be installed.

Discussion followed on small ?t? versus capital ?T? turnaround.

Mrs. Vacco said that according to the approved map it is a small ?t?.

Mr. Stringfellow asked about the paving and the guardrail.

Mrs. Vacco said the turnaround is not paved to the guardrail, which is at the very end of the jog of the ?t?.

Mrs. Hacker asked for other comments or questions.

Mrs. Vacco: for a point of information, originally I said it is not a subdivision under NYS law. Certain information was forwarded to County Health officials, and they came back and said ?we are going to include the right of way to the center of the road, it does constitute a subdivision under NYS law?. That was going to get this map cover filed with Erie County which is an important step because that would mean it would comply with Code. It has since been reversed and the Health Department has issued statements that it is not a subdivision under New York State law, there will be no permit which would allow Mr. Eckis to file this map cover with Erie County Clerk?s office. There are 6 parcels that have been afforded the remedy, under public health law that will allow them to file certain documents with the Erie County Clerk?s office, because they are in violation of health law and septic system requirements. But he has gotten those exceptions from the health department and is working with Paul Finster at the Health Department. Mrs. Vacco continued: just so you know, there will be no map cover filed. It is still a subdivision as approved by the Town of Boston Planning Board and he still needs to follow all of the requirements under our subdivision law that can be implemented. The one about filing the map cover within 30 days at the Erie County Clerk?s office cannot apply to this because it is not a subdivision under New York State law.

Multiple discussions followed about specific lots, which are build-able; the ?t? turnaround; road frontage; the length of Deer Run not meeting town requirements.

Mr. Brox directed the members to Town Code Section 104-29 Q regarding the road requirements

Mrs. Vacco will send a letter to Mr. Eckis asking him to attend the February 24, 2004 meeting and advising him of what will be addressed with him at the meeting.

Mrs. Vacco said that she would review the meeting minutes and research the agreement regarding the cul de sac, highway regulations and ?t? turnaround between Mr. Eckis and the Planning Board.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

8032 BOSTON STATE ROAD ? MARTIN BARRETT

Mr. Pohl read the correspondence of January 16, 2004 sent to Mr. Barrett.

Mrs. Hacker: How many employees at each place of business currently operating and where do they park?

Mr. Barrett: 2 or 3 at Carter's, 4 at Beckwith's, and they are now all parking down in back.

Mrs. Hacker: what type of deliveries are made at Beckwith's business, how often; what type of business is that?

Mr. Barrett: UPS or Fedex make occasional small deliveries. It's a powder coating business.

Mrs. Hacker asked about handicapped parking spaces.

Mr. Barrett said it was noted on the site plan that handicapped parking will be designated and be most convenient to the entrance.

Mrs. Hacker asked about parking spaces at the restaurant.

Mr. Stringfellow noted that there are 7 ½ parking spaces in 59.8 feet.

Mr. Barrett said that the parking spaces were 9' x 17' like at Wal-Mart and other large businesses.

Mrs. Hacker said that Boston Code requires 10' x 20'.

Mr. Barrett added the parking in front was used from the edge of the overhang, not just the building dimension.

Mrs. Hacker said that 6 spaces would be a maximum in front of the restaurant.

Mr. Brox said that the remaining parking spaces indicated are sufficient for the restaurant.

Mr. Early asked about parking next to the road?

Mr. Brox suggested that there be some green space.

Mrs. Hacker noted there is sufficient parking without having to park next to Boston State Road:

6 spaces in front; 11 on the south lot line; 14 in back, the farther south side

Mr. Pohl said that there is a minimum of 5 feet set back from the road.

Mr. Kramer added that is setback, not green space.

Mr. Early asked that a new site plan be submitted with the re-designation of parking spaces.

Mrs. Hacker said that she did not feel a new site plan would be necessary. He's not asking for any change of use. He came in because we asked him to address the parking issue. This business isn't even rented at this time.

Mr. Kramer: I received a letter today with a proposal for renting of the restaurant, stating intent of business and requesting 30-day use of a portable sign, and request to change lettering on the façade.

Mr. Lisowski: the existing sign on the façade is only a change of wording so I'm asking this Board for a recommendation on that sign that is there now, verbally now, so if they come in I can issue the permit. The Carter's Florist sign has been issued a 90-day temporary permit so I'd like a written recommendation, from this Board, so I can issue a permit.

Mr. Early: I think, then that we should have a site plan for the entire piece of property.

Mr. Kramer: you do have the site plan for the entire parcel. He continued addressing Mr. Barrett, when the florist went in they agreed to striping the parking spaces, in keeping with the rest of businesses in Town. We also talked with them about the possibility of removing the loading dock out front, which would allow for more parking.

Mr. Barrett: we haven't talked about that, I don't see any problem with that. Don't see any problem with the striping, but will have to wait until the weather breaks.

Mr. Mendola: we should have some "zebra stripes" along the road and a notation of no parking or we're going to still have cars parked along the road.

8032 Boston State Road, con?t.

Mrs. Hacker: Mr. Brox has been working on a different configuration for the parking. He?s suggesting that the parking in front of the florist and the restaurant be at an angle.

Mr. Brox: the Code says that you have to have 20 feet of green space along the road right of way. That limits them to a 29 foot aisle, which means that he can put angle parking going one way across the face of these buildings, and have the majority of his parking along the perimeters, a direct driveway coming back by the Beckwith building along the north side, then to access the rear, they would still have the 29 foot driveway between the buildings off that one way drive.

Mrs. Hacker: Mr. Barrett for the next meeting I would request from you:

- o a new parking plan showing us precisely how it will be striped, when there is a break in the weather
- o 6 parking spaces in front, 11 on the south side, followed by 14
- o parking spaces need to be 10? x 20?
- o no free standing sign, the sign that is on the building can be repainted and tastefully done, any lighted signs will need to come before this Board
- o there is to be no parking along Boston State Road ? addition of ?zebra striping? with four foot lettering ?no parking?

Mr. Barrett: how many spaces in front of Carter?s?

Mr. Brox: with the angling you?re probably only to get 5 spaces.

Mr. Barrett: which way do you want it angled?

Mr. Brox: if you go one way from north to south it will let the people come in and out of Barrett?s more easily on that one side.

Mrs. Hacker recapped parking space numbers: 5 in front of Carter?s, 6 in front of the restaurant, 3 in front of Beckwith and additional parking on the north side lot line, where the deck is going to be removed, and then the 11 and 14 on the south side.

7170 BOSTON STATE ROAD ? CVS PHARMACY

Mr. Pohl read the Brox correspondence dated February 4, 2004.

Mrs. Hacker stated her concerns: overkill with the signage, diagonally across the road Evans Bank doesn't have any over bearing signage and is doing fine; and drainage.

Mr. Kohler: The retention pond issue, we will provide something there to cut down the flow, whatever it needs to be. Currently we have it shown as one parcel, these are all proposed lots, when the lot gets split we will throw some sort of drainage easement around that retention pond so the two parcels wouldn't share the same pond. That's not been thought about yet because there's nothing proposed for the other parcel.

Mr. Stringfellow: going back to signs. Mr. Stringfellow read Code Section 95-8 where it specifically states that no more than three signs shall be permitted on any single premises.

Secretary Pohl read the Engineer's review dated January 23, 2004.

Mrs. Hacker directed the Secretary to forward copies of the Engineer's review and Mr. Brox's report to Ms. Hooper and Mr. Kohler.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

CVS Pharmacy, cont?.

Mr. Kohler: the comments are made on an outdated set of drawings; we submitted revised drawings two weeks after the first set. We've tried to pick up some of the items, we got the final survey, so we've got that provided. I think we've covered most of the items in 97-7, Sub-section D is on there; location map, not on there but I think everybody knows what we're talking about.

Mrs. Hacker: but we still will need the location map.

Mr. Kohler: we will put that on for the final submittal. Existing and proposed utilities are all shown now, they weren't on the original; we're missing some of the depths because the manholes are frozen shut right now, but they are scheduled as soon as the weather breaks

Mr. Pohl: Utilities that are involved should be shown on the site plan, and the size

Mr. Kohler: a lot of that information the surveyors couldn't pick up because of the snow cover. Once we take care of Sub-Section H we can give you the rest of the information on the adequacy of the design and then go into retention information under Sub-section J, and verify that the pond has sufficient capacity. We will design that pond to handle flow from both sides, we don't know what's going on the other side right now. Maximum lot coverage is 40%, doesn't that refer to building coverage.

Mr. Brox: parcel A, without the one you want to sell, is 83,000 square feet, 40% of that is 33,000, and your building is only 10,000 square feet, and so it shouldn't be an issue.

Mrs. Hacker: what can we do about the aesthetic look of it. Do we have options? The signage is already way over limit. CVS and drive-thru are probably two necessary signs, but you will need to determine the importance of what the third sign should be.

Mr. Kohler: the two big ones would be the pylon sign on Boston State Road and some sort of ground mounted monument sign on Zimmerman.

Mr. Lisowski: we don't have monument signs in our Code, so am considering that as a ground sign; pylon I considered as a double pedestal sign; I figured a pylon is 1 sign; the monument sign is another and each one on the façade is 3 and 4; the secondary little signs each would be counted as individual signs, so we're talking 10 signs. So a variance would need to be applied for by CVS.

Mr. Lisowski: the monument sign, there is 95-3, the area of the sign. The ground sign meets the criteria, is the base of this monument/ground sign and the supports and the top soffit, is that going to be considered an integral part of the sign? If not, then according to what I can read, just this plastic that says CVS, in red letters, Pharmacy probably meets our Code. Mr. Brox is correct. It has to be set back 20 feet from the side line, not 10 feet, because of the Zoning.

Mrs. Hacker: we do have height issues.

Mr. Lisowski: 24 square feet, without the façade around it, is a legal sign; the pylon sign, there's a formula according to the road frontage, according to set back, and I'm going to request a stamped survey with the placement of signs on it to figure more accurately, would just make the 80 square foot. Now 80 square feet does not include the drive in pharmacy, food shop, one-hour photo, so there would have to be a change there. On directional signs, our Code says the Town Board and you people make the recommendations on that, but drive-thru pharmacy signage, enter drive-thru here, exit drive-thru there, are these signs going to be considered directional?

Mr. Brox: I would think so.

Mr. Lisowski: then I have no control over them, and we can't use them as another sign.

Mrs. Hacker: are you talking above the drive-thru, the sign area. My understanding is those are considered extra signage, that's not considered directional.

Mr. Brox: I'm talking about little?.

(Several talking at once unable to determine what Mr. Brox was saying)

Mr. Lisowski: directly above that, after drive-thru pharmacy here

Mr. Brox: those are signs.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

7170 Boston State Road

Mr. Lisowski: what would happen if they didn't have a sign there?

Mr. Brox: then you would have to follow the little one on the edge of the driveway that says go to the drive-thru.

Mr. Lisowski: then the drive-thru pharmacy signage will be considered another sign? So when they apply for the variance they will have to be aware of that.

Mrs. Hacker: correct, and there is a lot of phone calling about the signage, so those will be the people involved in the variances and the hearings, when we get to that stage.

Mr. Lisowski: I've talked to Steve (Kohler) about the lighting of the signs and did request a detail of the electrical work and the placement of the outside lighting. If they are going to apply for a variance on the signage, and every thing else regarding their business is in line, I don't feel the variance for the signage should hold up the project.

Mrs. Hacker: we will send our recommendation as to the signage, so the ZBA knows what our feeling is on the signage, in that we don't need all of these signs. I don't know how far you're willing to tone it back on your own, but this is going to take some time to go through. Do you have a start date in mind?

Ms. Hooper: sometime in April, they want the store completed by the end of September, so we will need the variance by sometime next month.

Mrs. Hacker: is there a chance that the variance would be allowed to put all the signage on the building if we sent them an unfavorable recommendation? This signage is so far beyond what the Code permits.

Mr. Mead: I would doubt it, plus I would think that they would have to take a look at the structure itself. Because obviously the signage on that building fits the façade of that building, if they were to change the signage for that building they would probably also have to change the façade, which would change the whole structure, based on some other recommendations.

Discussion followed with several P.B. members saying they have never seen this much signage on a CVS store.

Discussion followed with suggestions what signs could/should be eliminated.

Mr. Kramer: remember, you don't have any competition on the next block. You're nearest competition to the south is 15 miles, and into Hamburg the other way.

Mr. Stringfellow: wall signs are limited to 10% of the area of the wall to which it is attached. Is this façade, this part that sticks up above the pillars the wall? If not what is the wall?

Mr. Brox: the whole side of the building.

Mr. Brox: referred applicants to pages 9515 & 9516 in the Code book, which describes what the Zoning Board is allowed to do in terms of signage, which isn't a lot, they don't give a lot of latitude to the ZBA on signage.

Mr. Kohler asked for a recap of signs. Pointing to the three signs on the side-wall.

Mrs. Hacker: those three count. You need the CVS Pharmacy, you want/we don't want your road sign, you also want your Zimmerman Road sign. And you probably need drive-thru signs ? exit and enter, and if lit, only during business hours.

Mr. Mendola suggested combining three side signs into one sign ? one sign with three words on it, instead of three individual signs.

Discussion again on eliminating signs.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

7170 Boston State Road ? CVS Pharmacy, con?t.

Mrs. Vacco: the problem is that when you go to the Zoning Board of Appeals, that section is strictly construed and it has the problem that they are not impeding on the authority of the Zoning Board, but the, up to two additional signs, and there are strict requirements about what they can approve of as a special permit, and those are the same wording as that which faces the front of the street. They have to go on the building, and there can only be two of them and the Code says they have to reflect the language that's already on the sign that faces the front. It's definitely an issue, and this is the way CVS should go, but you should go into it knowing that there is still not a whole lot of latitude that the Town Code allows the Zoning Board of Appeals, because signage in rural communities is one of the most important and heavily protected sections of anyone's Code.

Mr. Kohler: and that's what I'm trying to do here, what would be acceptable that everybody would agree too, so that when we do go the ZBA, everybody's happy.

Mrs. Vacco: get the section of Code on signs so that you know what is allowed, percentage of coverage. Contact Town Clerk Shenk and he can get you that section.

Several conversations started around the table.

Mrs. Hacker: Mr. Kohler, your site plan is acceptable, but we do have some drainage issues, and the signage is a big issue.

Mr. Kohler: the drainage will be taken care of, it will be on site drainage, we don't intend to flood the creek.

Mrs. Hacker: we don't want to make this process difficult, but we do want to see something attractive.

Mr. Kohler: it won't be any less attractive than the signs next door.

Mrs. Hacker made a motion to table discussion, seconded by Mrs. Andrzejewski. All in favor.

#### CODE ENFORCEMENT OFFICER KRAMER

Mr. Kramer reported that he has no contact from Anne Gallagher, or anyone else from Amy's Place.

#### MEMBERSHIP REFERRALS

Mrs. Hacker reported that she, Mr. Stringfellow and Mr. Pohl had met with Mr. Bernas and Mr. Hody following the cancellation of the January 27th meeting and prior to tonight's meeting.

Mrs. Hacker:

- o Mr. Bernas runs Battery Express in North Boston, and so, is a local businessman.
- o Mr. Hody has many years in transportation highway construction. His resume did indicate not long at any one job, but that is how that type of job is, complete the project and move on
- o Both are Town residents
- o No conflicts
- o Would recommend Mr. Hody as regular member, Mr. Bernas as alternate

Mr. Pohl:

- o Richard Hody has a lot of engineering particularly in the transportation field. With that background I think he would be an asset as the regular member.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

Membership Referrals, con't

Mr. Pohl:

- o David Bernas in my opinion being a local successful businessman would give us another view on some of the issues, from a businessman's point of view. I also feel that he would be an asset as the alternate.

Mr. Stringfellow: I would say that Pat and Mike have covered it very well.

Chairman Hacker asked that a letter be sent to the Town Board recommending Richard Hody be appointed as a regular member and David Bernas be appointed as an alternate member to the Planning Board.

Mrs. Vacco: Did you ask Mr. Bernas in the event he was not named the regular member that he would take the alternate position?

Mrs. Hacker: yes, we made that clear and he was acceptable to that.

#### NON-AGENDA ITEMS

Hickory Meadows ? Maurice Emerling

Mrs. Hacker: Mr. Emerling has called me several times and wants to know where we stand and how we're going to change that lot line. I want to run it by everyone to see that we're all on board: we have to address the drainage issues, and until that was done we were not going to discuss the change; but is this Board's opinion that we are not going to allow a 75 foot right of way. Is everyone in that mindset? Everyone was in agreement.

Mrs. Hacker: has the drainage issue been completely addressed?

Mr. Pohl: when the weather slows down they are going to complete the temporary items in the spring, I'm not sure how the permanent items are going to be addressed.

Mr. Early: the drainage issue and the right of way are two separate issues. Taking care of the drainage does not mean that he will be given the right of way.

Mrs. Vacco: I do believe that is what he may be thinking; if the Board is going to deny him this 75 foot, based on policy that you just don't feel it's a good idea, just do it. But we are working with them to address the drainage, and he is clearly under that impression.

Mrs. Hacker: this is not an agenda item so we can't decide anything tonight. We'll make it an agenda item for the next meeting, ask him to be in attendance, let him know that we will discuss the lot line and make a decision on the change of lot line.

Mrs. Vacco: I'm hard pressed to think that he is then going to retract any and all cooperation that he had with the Town. He's been forthcoming with working with Foit-Albert and they've instituted at least theoretically a lot of plans that could fix the drainage in there. I think if you tie that to that 75 feet, and in good conscience know that's something that the Board really doesn't agree with, that you are well within your right as a Board to go ahead and vote on that.

Mr. Pohl: I would be a little hesitant because I think that the right of way that he wants in there, of course not 75 feet wide, should be retained for permanent drainage problems.

Mrs. Hacker: that's how we came to this. We might have to change it to 45 feet to allow for whatever calculations are made for the drainage.

BOSTON PLANNING BOARD FEBRUARY 10, 2004

Hickory Meadows ? Maurice Emerling, con't

Mr. Pohl: everybody at the Town level, at his level is staying away from any permanent solutions, and it's kind of something that we should address in the spring.

Mrs. Hacker: Then I will tell Mr. Emerling the situation with the drainage, being that it cannot be corrected until the spring, and better weather, will then help this Board make a decision as to the amount of right of way we are willing to allow and at this point there is no one on the Board that feels the 75 feet is necessary, but upon the recommendation from our Engineers as to what is needed for this drainage, we will then act on it.

Mrs. Vacco: I think that is something that is appropriate.

Chairman Hacker: anything else to bring before this Board?

Being no further business, Mr. Stringfellow made a motion to adjourn at 9:20 P.M., seconded by Mr. Early. All in favor.

Respectfully submitted,

Michael J. Pohl

Secretary

MJP:tjf