

Planning Board Minutes July 14, 2009

BOSTON PLANNING BOARD JULY 14, 2009

PRESENT: David Stringfellow, Chairman

Patricia Hacker, Vice Chairman

Keith Clauss

Mark Coppola

Bill McGirr

Rich Skinner

ALSO Cathy Maghran Councilwoman ? Town Board Liaison

PRESENT: Thelma Faulring Secretary to the Boards and Committees

Dana Darling Applicant ? 7074 Boston State Road

Jacob Buckley 8038 Boston State Road

Donald Buckley Applicant ? 8038 Boston State Road

Suzanne Williams Applicant ? 6800 West Tillen Road

William K. Williams Applicant ? 6800 West Tillen Road

Chairman Stringfellow called the meeting to order at 7:30 PM with six members present.

MINUTES

Chairman Stringfellow asked if there were any corrections or additions to the minutes of June 9, 2009.

Being none Mr. McGirr made a motion to accept the minutes, seconded by Mr. Coppola and carried.

Chairman Stringfellow stated that even though the meeting of June 23, 2009 was an informal meeting, due to lack of a quorum, business was discussed on the applications. He asked if there were any corrections or additions to those minutes. Being none Mr. McGirr made a motion to accept the minutes of June 23, 2009, seconded by Mr. Clauss and carried.

GENERAL CORRESPONDENCE

Secretary Faulring reported the following:

- ? Planning Board letter dated June 11, 2009 to the Town Board with the summer schedule of July 21, 2009 and August 25, 2009 with additional meetings to be scheduled if necessary
- ? Letter of resignation, effective June 22, 2009, from David Ruzzine dated June 22, 2009
- ? Code Enforcement Officer Ferguson's June End of Month Report
- ? Deputy Code Enforcement Officers' Lisowski and Juda End of Month reports for June

REZONING REQUEST ? 6800 WEST TILLEN ROAD

Mr. Stringfellow reiterated the purpose for the request is so the Williams' can make maple sugar products; their request is to rezone from R-2 to R-A, which adjoins a lot of 15 acres zoned R-A, also owned by the Williams'. He asked if there were any questions from the Board.

Secretary Faulring noted the correspondence:

- ? Planning Board letter dated July 10, 2009 to the Williams' requesting their presence at this evening's meeting.

Mrs. Hacker: You own the two lots; are you going to combine them or keep them separate?

Mr. Williams: I own three lots. I plan to keep them separate at this point.

Mr. Stringfellow asked if there were any further questions. Being none he asked for a motion.

Mr. McGirr made a motion to recommend approval to the Town Board for the rezoning of 6800 West Tillen Road, seconded by Mr. Coppola. All were in favor of the motion.

Mrs. Maghran suggested that they attend the Town Board meeting on July 15, 2009 to answer any questions that they might have.

SITE PLAN REVIEW ? 8038 BOSTON STATE ROAD

Secretary Faulring noted the correspondence:

- ? Planning Board letter dated July 10, 2009 to Mr. Buckley requesting his presence at this evening?s meeting
- ? Letters were sent to Mr. Hoefler at TVGA and Mr. Brox requesting their written reviews
- o TVGA response was received and distributed to the members and a copy was given to Mr. Buckley

Mr. Stringfellow: This is the former Nana?s Nook property. That?s an existing property; it was a restaurant before it?s going to be a restaurant; that?s an allowed use in that zone, so it?s not a non-conforming use. I went over that with Mr. Downey. There are some things on that property that are not conforming, but the use of the property is a restaurant and that is a conforming use. As I understand it we have been asked to either recommend or not recommend approval of the splitting of

BOSTON PLANNING BOARD JULY 14, 2009

the lot into two lots, because he is buying the restaurant part and not the other part; and the construction, actually the demolition of an existing storage addition. His intent is to tear down the old building that is there and build one that is nicer and a little bigger.

Mr. Buckley: What?s there now is a cinderblock wall, long windows, so basically I?m going to take the bottom two foot out of it and make a door. It has four windows in it. The footprint will increase slightly from 11?1? by 11?9? to 12? by 30?.

Mrs. Hacker: 12 by 30 is a big difference, so is it going to go father across the back width of the building?

Mr. Buckley: Yes. We will be installing a 5? by 7? door. The existing building is going away and we?ll construct a new building.

Discussion followed regarding the emergency egress.

Mr. Stringfellow: You?re showing a door on essentially the end of the new addition?

Mr. Buckley: Yes.

Mr. Stringfellow: Is there a door there now?

Mr. Buckley: On that existing shed, yes. It's like a 36' door; we're going to put in a 5' by 7' door.

Mrs. Hacker: My question is that we're going from two windows and a door down to one door, and I just have a question as to whether that's adequate or not. That's not our call to make. I just wanted that question asked.

Mr. Clauss: The lot line between the two buildings, has that been resolved?

Mr. Buckley: They gave me my five feet from the building and that was agreeable to everybody.

Mr. Clauss: That allows the driveway to stay there?

Mr. Buckley: Yes.

Mr. Stringfellow: The driveway now has 24' 9" where the Code calls for 25 feet. If the 3 inches is significant they will have to get a variance. The Code calls for 25 feet if it is going to be used for ingress/egress; and there's five more feet on Mr. Buckley's side.

Mr. Buckley: There will be no fencing or anything, and we're going to cut the pine tree down that's on the corner, so that will open it up.

Mr. Stringfellow: There are some concerns but as I understand it they are things that he will have to deal with Code Enforcement on. My understanding is that we were asked to do site plan approval on the splitting of the lots and the addition in the back. Other things that will have to be addressed:

? A dumpster and a dumpster enclosure will have to be added

? The fence on the south side of the lot all backs up against residential properties on LuDon Drive, so according to Code, that has to have a barrier between the parking areas and the residential properties; there is a fence along most of it now, starting from about 30 feet back of the building and going back, but there is no fence coming forward from there, as shown on the map

Mr. Buckley: If you want a fence I can put a fence in. Most of that existing fence is on the next door neighbor's property.

Discussion followed regarding the location of the existing fence/buffer.

Mr. Buckley: I was thinking of a hedgerow of?

Mr. Stringfellow: The Code says if it's going to be a hedge, it must be evergreen and it must grow to a height of five feet within three years. You don't have to put it on the property line you could put it up on your side of the trees if that's easier. These are all issues that you will address with the Code Enforcement Officer.

Mr. Buckley: Actually I was thinking of going in and cleaning it all out and making it look nice, instead of all?

Mr. Stringfellow: There's nothing wrong with that, but there has to be some screening of a parking area from a residential area.

Mr. Buckley: Okay, can do.

Discussion followed regarding fence, hedgerow, and landscaping. These items to be addressed with Code Enforcement.

Mrs. Hacker: Is there going to be any change in the paving?

Mr. Buckley: In the back parking lot we're going to bring in one of our bulldozers, leave a 10-foot grass area and basically from the existing back re-stone it and clean it up. No actual paving.

Mr. Stringfellow: Stone is fine because it does not change the way the property drains; but if you pave it sometime in the future or if you want to then you're into DEC requirements, like dig a pond or something.

Mrs. Hacker: Where are the employees going to park?

Mr. Buckley: Hopefully toward the back.

BOSTON PLANNING BOARD JULY 14, 2009

Mr. Coppola: The driveway where there is two-way traffic in between the corner of the building, 37 feet the actual drive with #9 parking spot, there's only 17 feet.

Mr. Buckley: With the double driveway, that kind of alleviates some of the shared driveway; even with the two-way traffic that is a full swing through parking lot. There's egress out the other driveway too.

Discussion followed and it was determine that this would not create a problem.

Mrs. Hacker: Will there be cooking outdoors?

Mr. Buckley: No. It's all electric stoves.

Mr. Coppola: I'll make a motion that the Planning Board recommends that this moves on to the Town Board.

Mr. Skinner: I'll second.

Mr. Stringfellow: Any discussion on the motion? All in favor? All were in favor of the motion.

Mr. Coppola: I amend my motion pending what Code Enforcement finds the Planning Board does recommend the moving forward of this project; the division of the lot and the addition of the building; in addition, a dumpster and enclosure is installed, and a buffer along the south side of the property.

Mr. Skinner: I'll second the amended motion. All were in favor of the amended motion.

Discussion followed regarding whether or not a buffer is needed along the front of the property as there are residences across from the restaurant.

SITE PLAN REVIEW ? 7074 BOSTON STATE ROAD

Correspondence:

? Secretary Faulring stated that letters were sent to Mr. Hoefler at TVGA and to Mr. Brox requesting their written reviews

? Planning Board letter dated July 14, 2009 to Mr. Darling requesting that he be present at this evening's meeting.

? Mr. Stringfellow read the TVGA report submitted by Don Hoefler

o Copies were given to the members and a copy was given to Mr. Darling

Mr. Stringfellow: The dashed line between the two phases does indicate what you are planning to build or not?

Mr. Darling: Yes.

Mrs. Hacker: Building B, correct? Phase 2?

Mr. Darling: Right.

Mrs. Hacker: Labeled Building B?

Mr. Stringfellow: Yes, Phase 2, Building B.

Mr. McGirr: Are you only building Building B and not C?

Mr. Darling: As of now. This is something I don't understand why we're just going for the motion for approval on just one building, when it's the same as the other one. I'd like to have another week or two or a month depending on who shows interest in the next building as well. So why couldn't we go for approval for both, all of Phase 2.

Mrs. Hacker: TVGA's recommendation was where they decided to split it right? Is that the beginning of the split?

Mr. Stringfellow: Mr. Darling asked to split it last time around.

Mr. Darling: I wanted to split Phase 1 and Phase 2.

Mr. Stringfellow: I thought you wanted to build one building in Phase 2?

Mr. Darling: I do, just one building, but why do we need to just approve one building and not the other when they're identical?

Mr. McGirr: There's a time period. We can't approve something and then go five years, ten years down the road.

Mr. Darling: What's the time period?

Mrs. Hacker: One year.

Mr. Darling: So what happens if it's not built in one year?

Mrs. Hacker: You start from scratch.

Mr. Darling: The problem being right now I have an interested party in this building here, and I've got to go through all this right now. Now if I take too long, and things don't go the way they should, they're going to move down the road somewhere else. So it might be worth it for me to get everything approved and take the chance of not renting it out and coming back rather than lose someone like I might do.

Mrs. Hacker: No, if we approve the whole thing you have to build the whole thing in the one year.

Mr. Darling: In the one year; which isn't too far-fetched because when I build this, I have an interested party in this already. So what I'm getting at is time is of the essence. It's a matter of some of these?

Mr. Stringfellow: So would you prefer then to ask for approval of the original entire Phase 2?

BOSTON PLANNING BOARD JULY 14, 2009

Mr. Darling: I don't see why I shouldn't, besides the one year rule. That's a chance I should take rather than trying to come back and schedule a meeting and get your approval because it goes from here to the Town Board and sometimes that can take a little while.

Mr. McGirr: I don't have a problem with approving both phases as long as you understand you have a year to do it.

Mr. Darling: Right.

Mr. McGirr: I don't want you coming back and saying we never told you that.

Mr. Darling: No.

Mr. Skinner: Are there provisions that he could ask for an extension, say he gets close to the year?

Mrs. Hacker: If he started Building C in his year's time, they're not going to put the gavel down on the day, because he's putting money in and he's starting to build. But if he has shown no change whatsoever from Building B, it's in our notes that we discussed it and then he'll have to put this Building C up or you're going to have to start all over.

Mr. Skinner: And there's no way to ask for an extension?

Mrs. Hacker: The extension would be starting the work before the times up. If he digs and pours a foundation for an entire building, he's not going to do that for just extending two months. You know we're very workable. I couldn't understand why we were splitting this from the application, but you're giving me the impression of that's what you thought he wanted to do?

Mr. Stringfellow: Yes, that's what he?

Mr. Darling: I didn't understand that either?

Mr. Stringfellow: I don't know what the Building Inspectors will do about approving occupancy of one building when the approval was for two buildings and only one is built.

Mrs. Maghran: Is the other side of Tim Horton's occupied now?

Mr. Coppola: That's one building; these will be two separate buildings.

Mrs. Hacker: If we approve just this phase and you just build this one building?

Mr. Darling: I'm only going to pull a Building Permit for just that building.

Mrs. Hacker: My question is the parking situation. What that building is used for is going to determine the parking requirements, correct?

Mr. Stringfellow: If it's a restaurant, yes, most of the other potential uses are strictly by square feet.

Mrs. Hacker: Did we approach our engineer and ask him about dividing it? Did we give him that impression of how we wanted to do this?

Mr. Stringfellow: Yes, that was done at the last informal meeting. So the engineer has not looked at the whole thing; the possibility of doing all of Phase 2.

Mrs. Maghran: Is it possible to give approval of Building B and then just wait for the engineer's approval of Building C, or can't we do that?

Mr. McGirr: I think the engineer will treat the whole thing together. So what's he's doing is okay. It was splitting it that caused the problem, but that's not what he's doing. He's back to the original plan where he would build the whole thing; which basically I don't have a problem with.

Mr. Coppola: You just don't want to put up your second building until you know that you have somebody to rent it.

Mr. Darling: Exactly, yes.

Mrs. Hacker: But will you do all the paving?

Mr. Darling: Probably right to the line. I only need to pave for the parking for this building.

Mrs. Hacker: So if you only build Building B, this would all be included, we wouldn't be working with the dumpster situation or the delivery situation by splitting it, they would be built in this phase?

Mr. Darling: They would be built in this phase.

Mrs. Hacker: So my understanding is right now this Board is comfortable with Phase 2 ? Part 1, but because of our recommendation from the Board, have issues with?, I have issues with approving the whole thing because I don't feel the engineer has examined this yet.

Mr. McGirr: Originally he did, didn't he? The whole second phase was approved.

Mr. Stringfellow: But the engineer did not recommend approval of Phase 2A, in the letter, he wants to see a lot more information.

Mr. Coppola: Dana, if you do come up to this line with your pavement and everything else, what are we doing with the D.I's that run through?all your drainage is going to go in no matter what?

Mr. Darling: Right, because now that the pond is moved, so it goes down the middle regardless, and that'll be in right away now that we've got everything set with the detention area. They said go ahead and do it and put it in, the drainage to the pond.

BOSTON PLANNING BOARD JULY 14, 2009

Mrs. Hacker: That's a one piece extension, not a partial?

Mr. Darling: Yes. (Pointing to the map ?Right here, right down.?)

Mr. Darling: The storm [drain] will actually be in, so before I go to do B the storm will be in because it's actually part of the first phase, so it'll be done for B and C, of Phase 2.

Mr. Stringfellow: On June 23rd, Mr. Darling we talked about several things in Phase 1 that you still have not done; and I believe you said they would be done by this meeting.

Mr. Darling: Well I was anticipating this meeting being at the end of the month, I didn't think we were going to make this meeting. I'm doing a lot of the work myself and right now I've got two pretty good sized jobs that I'm doing so I can make money to pay for the things that I'm doing down here. The landscaping is going in.

Mr. Stringfellow: There's the landscaping, the flag pole, the gates on the dumpster, the five-foot pipe that runs down there is supposed to have 20 feet of rip rap at the bottom, none of that is in there. I am really hesitant to recommend approval of starting on your second phase when you don't have time to finish the first phase.

Mr. Darling: Can't you recommend that on contingency that everything is met like the landscaping and the flag pole, and the rip rap and the gate, upon approval, before issuing a Building Permit? I won't have a problem getting that done in that amount of time, before I start the actual building of Phase 2.

Discussion followed regarding the recommendation for approval with contingencies.

Mrs. Hacker: I do have issues with the recommendation of the engineers only doing half of it and having contingencies, that does bother me much more so than the other incomplete issues in Phase 1, those are issues that I want to see addressed but I have concerns with Phase 2 being divided. I don't understand why that was done that way.

Mr. Darling: I think that was a misunderstanding, because after the last meeting someone brought it up about labeling it Phase 2 A, C but I didn't say anything, so I asked my engineer and my attorney why that was done. And they both said "I don't know."

Mrs. Hacker: Does anyone remember when, at what stage they did approve Phase 2?

Mr. Stringfellow: I don't think we ever got that, he was only asking for approval of Phase 1 at the time.

Discussion followed for the wording of the motion.

Mrs. Hacker: I make a motion to recommend approval of Phase 2, Buildings A and B as shown on the Site Plan with the revision date of June 18, 2009, with attached Drainage Plan; that no Building Permit be issued for Phase 2 until the following issues are completed by Mr. Darling in Phase 1: fencing, landscaping, flag pole, rip rap to be completed on the five foot pipe, and the dumpster gate; and approval is given by the Town Engineer for the entire Phase 2 plan.

Mr. McGirr: I'll second the motion.

Mr. Stringfellow: We have a motion and a second, is there any discussion?

Mr. Clauss: I came into this project kind of late. Dana, I like you and I know you. This is more of a personal thing that I want to say. I'm against all sprawl. I'm against development when we have buildings sitting up and down the highway, sitting empty; and it really bothers me as a guy who's lived in Boston all my life to have an Amherst looking situation. I just wanted that to be known, that's how my thoughts are on this and so everybody knows that I'll probably always be against something like this. If Roy Emerling was sitting there I'd be saying the same thing.

Mr. Stringfellow: We have a motion on the floor, is there anymore discussion? Being none, we will take the vote.

Secretary Faulring: Those in favor please say aye:

Mr. Clauss no

Mr. Coppola aye

Mrs. Hacker aye

Mr. McGirr aye

Mr. Skinner aye

Mrs. Stringfellow aye

BOSTON PLANNING BOARD JULY 14, 2009

NEW MEMBER DISCUSSION

Mr. Stringfellow: We're short one member and we have no alternates; the last meeting ended up a "no meeting" because we didn't have a quorum. I don't know if anything else is going to come before us before August 25th or not. I have been told that there is one letter requesting to be on the Board and there are other letters expected by not in yet. My guess is the Town Board will refer the one to us at tomorrow night's meeting. We have a scheduled meeting for August 25th and we're probably not going to have a new member before that because the Town only meets once a month. Are there any Tuesday nights that we had two candidates previously that we had interviewed and the Board had felt that they were acceptable, their recommendations were sent to the Town Board and somebody else was appointed instead. I sent a letter to the Town Board asking them to reconsider those two simply because we were in a place where we didn't have enough members. Whether that happens or not, I don't know, my guess is it may not.

Mrs. Maghran: Since then we've gotten one letter.

Discussion followed regarding meeting dates, scheduling a second meeting and canceling if there is nothing to discuss.

Mr. Stringfellow: I make a motion that we meet as a regular month on the second and fourth Tuesdays which would be August 11 and August 25, and if there's a reason to not meet we will cancel.

Mr. Coppola: I'll second it. All were in favor of the motion.

LIAISON ? COUNCILWOMAN MAGHRAN

Mrs. Maghran: Only that a letter requesting applicants for membership has been in the paper twice now, and it's been three weeks now. We do have one letter in.

Mr. Stringfellow: As Mr. Downey is not here tonight, I'll ask if there is any further business for this evening, if not I'll ask for a motion to adjourn.

Mr. Coppola: I make a motion to adjourn.

Mrs. Hacker: I'll second it.

Meeting adjourned at 8:35 PM.

Respectfully submitted,

Thelma Faulring

Secretary to the Boards and Committees