

Planning Board Minutes May 27, 2008

BOSTON PLANNING BOARD MAY 27, 2008

PRESENT: Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

Mark Coppola

Bill McGirr

ABSENT: David Bernas

Jonathan King

ALSO Cathy Maghran Councilwoman ? Town Board Liaison

PRESENT: Brian Downey Town Attorney

Thelma Faulring Secretary to the Boards and Committees

Chairman Hacker called the meeting to order at 7:42 PM following an interview with prospective member Jeffrey A. Genzel. It was explained to Mr. Genzel that an immediate recommendation would not be made as there are other candidates to be interviewed.

Mrs. Hacker added that if anyone knows of someone who would like to be a member of the Planning Board, please have them get their letter of request to Town Clerk Shenk as soon as possible, so that, hopefully, a recommendation can be made at the June 10, 2008 Planning Board meeting.

MINUTES

Mr. Downey: In the correspondence change end of ?moth? to end of ?month? and punctuation corrections.

Mrs. Hacker: With those changes I will make a motion to accept the minutes.

Mr. McGirr: Second. All were in favor.

GENERAL CORRESPONDENCE

The only correspondence is ?at point? in this evening?s agenda.

SUMMER SCHEDULE

Mr. Stringfellow: When are the Town Board?s meetings scheduled?

Mr. Downey: July 9 and August 13.

Following discussion Mrs. Hacker made a motion to schedule Planning Board meetings for July 22 and August 26, seconded by Mr. Coppola and carried.

Mrs. Hacker asked that a letter be sent to the Town Clerk with these dates.

Secretary Faulring: Do you want anything in the letter that if the need arises..?

Mr. Downey: Add that if the need arises, we may, because you may not be able to get the people here.

Mrs. Hacker: Please add that to the letter.

KIDS COUNTRY CHILD CARE ? 7346 BOSTON STATE ROAD

Mrs. Hacker read the correspondence:

? Planning Board letter dated May 16, 2008 to Theresa Betz

? Attorney Donna Marie Hartnett?s letter dated May 22, 2008 to Brian Downey, which referred to an as-built survey that was received only by Town Attorney Downey.

Mr. Downey: Just for the record, I did receive one original of that survey. I do not know if that has been sent to the engineer. I talked to him but he did not mention it, and it?s not c/c?d on here, so I would strongly believe that he did not.

Mrs. Hacker: Is Freeman different than who did the last survey? Mr. Brox spoke with the people who did the last one, a Chris Wood, and they said that they had not even been approached to do it.

Mr. Stringfellow: Carmine and Wood.

Mr. Downey: The survey I have has notations for the drainage; to be honest it doesn't mean a lot to me. So I think our engineer will need a copy but to be honest I would have thought that we would have received at least one more for the Board. So what I'll do, if the Board wants me to, I will contact them and ask that at least one more copy be sent to our engineer. Do we want any other copies?

Mr. Downey: What else had to be done? I think showing that the building had been extended; this one doesn't show trees or anything on it.

Mrs. Hacker: I believe the tree issue was put to rest.

Secretary Faulring: But if it's an as-built, they have to be on there.

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The members reviewed the current copy received by Mr. Downey.

Mr. Stringfellow: It shows very few dimensions. It's simply giving inverts of the drainage system.

Mr. McGirr: I wonder if that's all they were trying to show on this one? It kind of looks that way.

Mrs. Hacker: I don't believe that constitutes a complete as-built site plan.

Mr. Downey: It's divided between two surveys, it's kind of strange.

Mrs. Hacker: Seeing as the Board did not receive a copy, only Brian did; would you write a letter to them telling them that the Board didn't have a site plan to look at and from our initial viewing that this does not appear to be a complete as-built site plan with everything addressed that should have been?

Mr. Downey: I don't mind writing the letter. There are a lot of things that were on the other plan that they dropped off. They didn't have them do.

Mr. Stringfellow: Yes. I wonder if what was on the other plan, plus what is here together, makes enough that the engineers can make a determination. Their primary concern was the drainage and that they're not having the inverts of the pipes and some of the pipes not showing were things that we mentioned at the meeting. Apparently that's all they did.

Mr. McGirr: I think if you put that in with the other site plan, the last site plan that we had, plus this would that make?

Mr. Stringfellow: That's what I'm wondering. If there's enough information there?

Mrs. Hacker: I wouldn't want to sign two separate copies and say that you have to combine them?

Mr. Stringfellow: Yes, from two separate engineers.

Mrs. Hacker: I don't want to sign that.

The members referred to the May 16 letter that was sent to Ms. Betz which read in part??awaiting as-built site plan?particularly but not limited to, the drainage, and increase in size of the structure.?

Discussion followed.

Mr. McGirr: So are we back to our engineer calling them again??

Mr. Downey: I think it should come from me because there are other things that should be on there and actually I question whether we can have two of them. It seems like it should be on one with all the applicable information, so that someone doesn't grab one of them versus the other.

Mrs. Hacker: One person can't amend another person's, can they?

Mr. Downey: No.

Mr. Stringfellow: If you go back two meeting ago, we told North Boston Fire Company that they had solved all the technical issues, but we must have one completed site plan that meets the requirements.

Mrs. Hacker: That's right and two weeks later they were back with a complete site plan.

Mr. Stringfellow: With this thing, every time we get as little as possible from this project.

Mr. McGirr: Maybe Brian should call Freeman and Freeman to talk to them.

Mr. Coppola: So you're actually now dealing with a second surveyor?

Mrs. Hacker: Correct.

Mr. Downey: Calling them won't help. It's not like there's a laundry list and they left one out. We don't know what they were hired to do. This is not just one thing. There was a lot of work that was on the original site plan that didn't make it to this one. The idea was they were going to supplement it on the same site plan versus really a completely different document.

Mrs. Hacker: I would like to move that we table this until Brian has had a chance to write a letter to Ms. Betz and explain to her that what was submitted is not sufficient to address by this Board, or to even come close to give permission to issue a permanent Certificate of Occupancy. We do not have a complete as-built site plan.

Mr. Stringfellow: I would suggest that the letter simply say that we need a complete site plan covering all of the things that are required by of a site plan as described in the Town Code.

Mr. McGirr: That brings up another question ? how long do we keep this going? We've asked, haven't gotten it. What's the next step after that? Where do we go from here? Obviously we're not going to get it.

Mrs. Hacker: We have to get it or we can't sign off on it.

Mr. Downey: I would say this: she at least attempted to, and she paid money to do it, to meet our requirements, there was an attempt as faulty as it was. So we go back and say that this is not sufficient and tell her to send it to us. She was pretty

prompt once we prompted her to do it; then let her respond. If we find that it continually drags we have other options; her CO can be revoked, she's up in court on the violations.

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Several discussions continued around the table. Mr. Coppola: Talking blind again, I would suggest that we bring her in here for the next meeting.

Mrs. Hacker: That's another issue ? making her come to meetings that she doesn't want to come to.

Mrs. Maghran: Can we give her a deadline for this?

Mr. Coppola: Send her a letter and request her appearance at the next meeting, and say ?this is what we really need? and show her.

Mrs. Hacker: We've done that like three times. Then she'll bring a different lawyer, or she'll bring a different engineer, or she'll bring a different?

Mrs. Maghran: This has been going on since I started in January, and I think it's been going on a long time before that.

Secretary Faulring: The recommendation to the Town Board to approve her site plan was made April 8, 2003.

Mrs. Hacker: Could your letter to her include that date and this Board is to a point where we are going to recommend a revocation of the Temporary Certificate of Occupancy on the property until these issues are addressed and completed?

Mr. Stringfellow: I don't think there's any chance of revoking it, it was only good for 90 days five years ago.

Mr. Downey: It's up to you. My feeling is that I would prefer going to the attorney and stating that this falls short. If there is a question they should go to the Code. That it cannot be done in two pieces. The extension of the building is shown partially, but doesn't include all the measurements which are required by the Code. And in the transfer of the work from one entity to another, a lot of information fell off that is required to be on that document; and whether they have this surveyor or the other engineer who handled it, is up to them, but they need to address it and I would prefer to tell her that this Board is getting frustrated that she is not meeting the requirement. We understand that she did pay money to have someone go out, but they're frustrated that she is not following through on the things that she was asked to do and we're not getting calls if there is a question. So they're getting to a point where things being done are quite inconvenient to her. Put it that way and then see what she does and then the next round we've made it known that we are getting tired of this. But at least I will say this "yeah she messed it up but she did attempt to comply and she spent money to do it." So I would give her a little more leeway in light of that. If she didn't respond or basically sent the other one without the changes then I would have been more upset. I just don't understand the thinking behind it.

Mr. Stringfellow: I believe that when she is called in that all information given to her is not correctly getting back to the engineer or architect, or only a portion of the information.

Mr. Coppola: If she was using the same person that person would be able to combine all the drawings and be done just like Kirst did for North Boston.

Mrs. Hacker: If that person was paid for what he did the first time and was able to work for her again; we don't know that.

Mr. Downey: You might have a dispute. He was questionable, to be honest with you, with the stuff we saw.

Mr. Coppola: I wasn't around for the beginning of any of this.

Discussions of the same nature continued.

Mrs. Hacker: I will make a motion that we table this until after Mr. Downey has had a chance to write the letter and we'll go from there.

Mr. Downey: I do want to bring up one other issue regarding the garbage issue which you asked me to do some research on. I did go through the documents that Councilwoman Maghran had from the health department. As I read those regulations they do not require an outside dumpster. They require certain types of containers. They also require them to be in certain places or locations. I can at the same time send them a letter stating that the Board is open to her continuing her off site placement of the garbage, but there are going to be two requirements: 1. That the Code Enforcement Officer go and make sure that she is meeting health requirements regarding the type of receptacle, as well as the location of those receptacles; and 2. That she makes a request to the Town Board for that right. We don't have the right to allow her to do that; and neither did the former Code Enforcement Officer. I think that protects the public as well as this Board, that we allowed her to do things that were illegal. At the same time our Code does allow her to go off site and requires the Town Board to approve it. The Town Board is probably going to ask if there is any problem with this, and we've resolved the questions. If she doesn't allow an inspection, then we can't forward it to the Town Board and therefore she's going to have a problem with that C.O. And also to point out, it was asked "what can we do?" She has a current case that is on hold with the Town Court based on the fact that she did not finish her site plan, so she doesn't have a permanent C.O. That is also one of the options that case can be continued, if she doesn't abide by what needs to be done and that goes for the site plan as well as the dumpster. If it's okay then I will in my letter to her attorney I will spell out the terms I just went over regarding the garbage.

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LIAISON ? COUNCILWOMAN MAGHRAN

Mrs. Maghran: I have nothing only that I do appreciate this letter going to her, it makes me feel a little bit better having a Code Enforcer in there just to inspect to make sure that she is in compliance with the

Health Department's regulations for the safety of the children as well as the neighbors, in regards to the garbage.

Mrs. Hacker: Was that information specific about garbage containers in an area where food was prepared?

Mrs. Maghran: It did have that in there, and also that it had to be in a covered container.

Mrs. Hacker: It couldn't be in a room with the heating?

Mr. Downey: It couldn't be accessible to children.

Mrs. Maghran: With food allergies, I would morally feel better if the Code Inspector went in there. At the (Boston Valley Elementary) school everything goes directly into the dumpster, outside the building, in garbage bags, double bagged red if there are any types of body fluid. OSHA standards have a specific clean-up. I'm not even allowed to clean-up any type of body waste. There's a special procedure ? the maintenance department is all trained in order to comply.

Mr. Downey: But you're talking about a school, that's also a government entity, so rules don't always apply. I've been to daycares, and they're changing baby diapers all the time, I think their rules are slightly different.

Mr. Coppola: Daycares are State regulated. I work for an institution also and red bags do not go into dumpsters, they are disposed of differently. You have hard sharps containers; you have bio-hazard bags. Daycares are State regulated and they are subject to State inspections and regulations.

Mr. Downey: Right, but you have different types of entities. Even though they may cover certain things, they don't necessarily have the same rules. From what I can see here, unless you saw anything different, I don't see anything that requires her to have a dumpster.

Mrs. Maghran: There really isn't. It was just a covered container in certain locations.

Discussion followed as to how Ms. Betz is disposing of the child care garbage ? her home or off-site facility; and garbage regulations in general.

Mr. Stringfellow: We don't know what she's doing with it.

Mr. Coppola: She said that she was taking it to an off site facility.

Mrs. Hacker: That's what the attorney said. She told us in person that she was taking it home. She doesn't live in Boston. She told us that. The attorney said different.

TOWN ATTORNEY DOWNEY

Mr. Downey: I have nothing important. I was just thinking as we went through the minutes, if possible, maybe that we want to change what says correspondence to general correspondence and then the secretary wouldn't have to write other correspondence to be read at point in agenda, because that would almost be assumed.

Mrs. Maghran: The Town Board did unanimously pass the North Boston Fire Hall on your recommendation, and were very pleased to have everything go through so smoothly and they want to thank the Board for all their hard work on it.

Mrs. Hacker: Does it look like there is anything interesting coming before the Board?

Mrs. Maghran: No doesn't seem to be.

Mr. Downey: No, and some of the projects that have been before us, we have not received back from them. So the ball is in their court. I was talking to Don Hoefler from TVGA, and he asked me about updates. We talked about documentation from them.

Mrs. Hacker: With that said, last meeting, Mr. Coppola we were going back and forth about that you had stated "I need some more input because I'm a member of this Board now, in order to speak in an intelligent manner." We were talking about the antenna tower, and the?

Mr. Coppola: Projects coming up ? Boston Valley Square?

Mrs. Hacker: I had some question on that, and after the meeting, when the fire happened and everybody left, which is fine. After the meeting I asked Thelma to pull the tape, of one of the prior meetings, I don't remember the date. Anyway I asked you if you wanted us to pull that paperwork and you had clearly said on the tape, "no I will go online to get that information." So at that point I asked Thelma to dig it out for yourself, for Jonathan King, did you make extra's?

Secretary Faulring: You didn't ask me to make copies of Theresa Betz minutes, just to note the dates of discussions and correspondences. I have four packages here. I think what I'll do is send one to Don Hoefler. In the package are all the dates of minutes with discussion or correspondence for Kids Country Child Care; the minutes with any discussion for Boston Valley Square, that's Jeff Kuhn or Boston Holding LLC; and I have minutes for 7074 Boston State Road which is Boston Valley Complex or Dana Darling.

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Mrs. Maghran was also given a copy.

Mrs. Hacker: So if anybody else thinks that they need anymore paperwork let us know.

Discussion went back to the length of time that Kids Country Child Care has been at this Board's table.

Mrs. Hacker asked if there were any further business for this evening.

Secretary Faulring: On the schedule the first column are the Town Board's meeting dates and the second column are the first discussion dates of any Town Board referrals to the Planning Board. What about November 25, being two days before Thanksgiving, we also need to decide what we're going to do on December 23.

Mrs. Hacker: We usually haven't cancelled before Thanksgiving, but December 23 could be an issue. Everybody has the paperwork, take a look at it and we'll decide when we have a full Board.

Mrs. Hacker: Anything else for this Board?

Mrs. Maghran: You've heard nothing from the tower people in Albany?

Mr. Downey: No, they showed up, they were very anxious to get started, they drove in from Albany in a blizzard,

Mr. Coppola: I apologize, that's the story I heard and that was part of what I was bringing up at the last meeting, I apologize for being a little too aggressive.

Mr. Downey: I'll be honest with you it was a little surreal because he came in expecting us to pass it and then he hadn't met the requirements?

Mrs. Hacker: In my history I think I've seen three co-locations do that ? hurry, hurry, hurry ? we've seen it three times. When they find out how much it costs to amend the site, it's no longer a \$200.00 a month to park it up on the site, there's money involved. It's not unusual.

Mr. Downey: He hasn't come back. I don't think there's been any correspondence.

Mr. McGirr: Rick Skinner called me and is interested in joining the Planning Board. So I told him to see Dave (Shenk) and go through the steps to get onto the Planning Board.

Mrs. Hacker: If anyone knows of anyone that would like to be a member have them get a letter to the Town Clerk.

Mr. Stringfellow made a motion to adjourn at 8:27 PM, second by Mr. Coppola and carried.

Respectfully submitted,

Thelma Faulring

Secretary to the Boards and Committees