

Planning Board Minutes November 25, 2003

BOSTON PLANNING BOARD NOVEMBER 25, 2003

PRESENT: Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

Margaret Andrzejewski

Jeff Mendola

Michael Pohl

EXCUSED: J. David Early

Paul Jusko

ABSENT: Kevin Maxwell

ALSO Dennis Kramer Code Enforcement Officer

PRESENT: Kelly A. Vacco Town Attorney

Richard Brox Planning Consultant

Karl Simmeth Councilman

Dennis Mead Councilman, Town Board Liaison

Dana Darling Proposed subdivision developer

Glenn Cooley Engineer for Darling project

Ann Gallagher Owner/Operator of Amy's Place

Bryce Bixby Architect ? Amy?s Place

Kim Bingman Amy?s Place

Eric Knauer Amy?s Place

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 November 11, 2003. Being none Mr. Mendola made a motion to approve the minutes, second by Mrs. Andrzejewski. All in favor.

CORRESPONDENCE

Chairman Hacker reported the following correspondence:

- Letter to Deputy Code Enforcement Officer Lisowski advising of approval for sign at 7115 Boston State Road
- Received application of Dana Darling for proposed subdivision ? for discussion under non-agenda items
- Letter of November 12, 2003 from American Farmland Trust Field Consultant of WNY
- Letter dated November 12, 2003 to Town Board with Planning Board?s recommendation not to permit a duplex at 6986 Brown Hill Road
- Received pamphlet from Center on Urban and Metropolitan Policy ?Sprawl Without Growth: The Upstate Paradox?
- Received notification dated November 17, 2003 from Foit-Albert announcing Presentation on mandated Phase 2 SPDES General Permit
- Letter dated November 19, 2003 with second request to Highway Superintendent Kreitzbender for his opinion of the Deer Run turnaround

· Other correspondence to be read at point in agenda

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COUNCILMAN SIMMETH

Councilman Simmeth commented on the meeting of December 8, 2003: "it is our understanding that this is going to cost the Town about \$50,000 just to get this up and running, and it's going to cost about \$100,000 per year to keep it going.

Mrs. Hacker: are there representatives from each Board or is everyone welcome to attend.

Mr. Simmeth: anyone in Town is welcome to attend. It's a general meeting where they're going to explain what we have to do, and we may have to hire someone to oversee it.

Mrs. Hacker: if anyone has time on that evening I think it would be very interesting to all of us, for the different things that we get here.

SITE PLAN REVIEW ? 5699 HERMAN HILL ROAD

Chairman Hacker read the letter dated November 24, 2003 from Planning Consultant Brox.

Mr. Brox: I'm suggesting the main driveway eliminate parking spaces 18 and 19 and turned into a tree planter and add two spaces down here (location not mentioned). However none of the spaces meet the Code requirements, they are going to have to redo the layout of the parking lot; but 32 spaces is the absolute minimum of an 80 seat restaurant based on the 3 seats per parking space.

Mrs. Hacker: does that give enough parking for the employees?

Mr. Brox: the Code is so many spaces per seats.

Mrs. Hacker: how many employees do you plan to have?

Ms. Gallagher: 10

Mrs. Hacker reviewed Mr. Brox's statements.

Mr. Brox explained his landscaping recommendation. He stated that he had a concern with the 12 inch corrugated pipes, are they going to be adequate for the water flow.

Mrs. Hacker: do you have any pictures of the sign

Ms. Gallagher displaying a picture: the sign will be on the order of this

Mrs. Hacker: are you planning on working with the sign that's there? I believe the sign there is too large.

Mr. Bixby: the sign that is there is within Code. The information I got said the maximum height is 18 feet, the actual height of the sign is 12 feet.

Mrs. Hacker: Mr. Brox what is the sign height regulation?

Mr. Brox reading from Town Code book: business frontage and this parcel has frontage of 279 feet, at 270 they're allowed a height of 30 feet.

Councilman Simmeth had pictures of preferred signs that he showed to Ms. Gallagher.

Chairman Hacker asked for other questions and discussion

Mr. Stringfellow: are there any drainage issues? The land slopes slightly.

Mr. Brox: I couldn't tell from those plans if those driveways exist or are to be improved upon. It shows an area of new asphalt in the dotted pattern on the plan, but it wasn't clear if there was going to be any work done in the street right-of-way where the culverts are.

Mr. Bixby: we were planning on using the existing driveway.

Mr. Stringfellow: what about drainage from the parking lot

Mr. Brox: the drainage on site is not being collected, the smaller parking lot use to drain the water onto the lawn, before it went down hill, now you're going to have all the water from all the asphalt going into the 10-foot side yard and then directly down hill. That water should be contained and brought out to the roadside ditch somehow, either by a receiver or swale.

Mr. Bixby: there is an existing swale that runs all the way around the property.

Mr. Bixby and Mr. Brox discussed the position of the swale.

Site Plan Review ? 5699 Herman Hill Road, con?t

Mr. Brox: the Town Engineer should check for swale size on the east and also have him check the capacity of the 12 inch CMP.

Mr. Kramer: what do they have for lighting?

Mr. Brox: a pole mounted light fixture in the east and west end, and they have existing motion detector lights that are on the building.

Mr. Bixby: there is also a light on the sign.

Mrs. Hacker: what are the hours of operation?

Ms. Gallagher: 5 or 6 A.M. until 8 or 9 P.M.

Mrs. Hacker: alcohol?

Ms. Gallagher: no.

Mr. Simmeth: is the parking lot entirely paved?

Mr. Brox: according to the plan yes.

Mrs. Hacker: will be, there is more to be paved.

Mr. Simmeth: will they be striping the lines for the parking spaces?

Mr. Bixby: yes

Mrs. Hacker recapped: number of parking spaces are okay; the sign is okay but we?ll need a picture of your sign; the engineer will check the swale situation; lighting is okay and striping of the parking lot.

Mrs. Hacker asked: are there any other questions?

Mr. Stringfellow: what?s on the neighboring properties?

Ms. Gallagher: overhead door place on one side and the large garage on the other.

Mr. Stringfellow: do the light fixtures need to be directed so that they shine only into this parking lot and not onto the neighboring property.

Mr. Brox: the Planning Board can recommend verbally that the lights be hooded or shielded to only shine on the parking lot.

Mr. Bixby described the type of lighting recommended by their engineer.

Mr. Brox: what I'm concerned with is how you're going to change 9 foot spaces, this Board cannot waive that, the Zoning Board of Appeals would have to do that, or you'll have to redesign.

Discussion followed regarding where to eliminate/add parking spaces.

Mrs. Hacker concluded: we will need to see a change in the size of the parking spaces; and we need a more detailed picture and description of the sign. She asked that a letter be sent to the Town Engineer for his review.

DISCUSSION ? LEGAL OPINION ON STATUS OF HILLCROFT SUBDIVISION

Mrs. Hacker asked for discussion.

Being no discussion, Chairman Hacker thanked Town Attorney Vacco for this opinion and stated that it did clear up some questions.

REVIEW OF PROPOSED LOCAL LAWS #2 AND #3

Mr. Brox: this sort of clarified ambiguities in the existing Code.

Mrs. Hacker: when does this take effect?

Mrs. Vacco: the Public Hearings are December 3.

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Review Proposed Local Laws #2 and #

Mrs. Hacker: I thought that they were very helpful.

Mrs. Vacco: Foit-Albert was very helpful in this task.

Mrs. Hacker: I think that they were very concise and cleared up a lot of gray areas.

Mrs. Vacco: it particularly cleared up the area of what to do when a subdivision meets Town Code requirements but doesn't meet Erie County Health Department specifications.

Chairman Hacker: are there any other comments or questions?

CODE ENFORCEMENT OFFICER KRAMER

Mr. Kramer: at the last meeting you made a recommendation on the application of Mr. Schunk to build a duplex. Your recommendation was not to allow him to build it. The Town Board can't overrule the ZBA, but we will need your input on parking and landscaping.

Mrs. Hacker: had that come to the Planning Board first we could have made that non-favorable recommendation directly to the Zoning Board, and they could have taken that into consideration, and made their decision with that information.

Mr. Kramer: I don't if that's the way we've been doing things or not. In the past things that were referred here that required a variance, wouldn't have been acted upon until the variance was granted, so I guess the situation being, it needed a variance before it came here. As an example, this restaurant

project ? suppose it needed a variance, the thought was are they going to go to the expense of engineer plans,

Mrs. Hacker: correct, but I doubt that Mr. Schunk isn't spending that kind of money.

Mr. Kramer: we may need to handle it differently in the future if it's a project that is going to require actions from both Boards.

Secretary Faulring: would it be helpful to have the same information that the ZBA members receive, and then after you review contact the ZBA Chairman with your opinions.

Mrs. Vacco: they can take your recommendation and weigh it, but in the end it's their decision.

Mrs. Hacker: is parking even going to fit on that property?

Mr. Kramer: they are required to have the additional off street parking and I would think if this Board feels that they ought to do some type of landscaping

Mrs. Hacker: I don't doubt that they wouldn't do that,

Mr. Kramer: with all the other duplexes that have been built since 1990 all have come through this Board, so you should handle this the same as all of those.

Mrs. Hacker: so I think because of the size of the lot we should all get a good visual of that lot so if

Mr. Kramer: the building itself, to my knowledge will fit the lot with setback requirements, so there is no need for another variance. I can't say definitely because I haven't seen the site plan

Mrs. Hacker: does the ?grandfather? situation come into this?

Mrs. Vacco: it doesn't.

Mrs. Hacker: any other questions?

COUNCILMAN MEAD

Mr. Mead had no report.

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NON-AGENDA ITEMS

DANA DARLING ? PROPOSED SUBDIVISION

Mrs. Hacker: your plans were just distributed this evening, so we have not had a chance to look at them. Do you want to have discussion tonight or wait until we put you on the agenda.

Mr. Cooley: we submitted this as we were directed by the Town Board, and of course prior to that we were directed by you to the Town Board for rezoning. The Town Board tabled it I understand and referred us back to you. So if you can give us some direction we'd like to move forward instead of sideways.

Mrs. Hacker: it was my understanding that we wouldn't get it until it was rezoned.

Mrs. Vacco: it needs to be rezoned before you submit to the Planning Board

Mr. Darling: we understand that, but the Town Board has sent it

Mr. Mead: we didn't refer it back to the Planning Board

Mr. Darling: but you said you wouldn't approve rezoning until the Planning Board approved the final plan

Mr. Mead: no that was never, no not at all.

Mr. Darling: I have called an attorney; and, Bill Eagan told me the same thing today, that he will not rezone it until the Planning Board gives a final approval on the subdivision.

Mr. Brox: I think what they're saying is, the Town Board will not make a decision until they get a referral from the Planning Board as to your opinion of the adequacy of the subdivision, not all the final details, but do you feel that the subdivision fits the parcel, the neighborhood all that.

Mr. Darling: no, that's not what they said. They want to make sure that the drainage and everything was correct, they want a plan

Mr. Brox: that's right, everything has to work before they'll rezone it

Mr. Darling: that's pretty much the final stages of what Glenn's doing with the drawings, he's working out all the drainage, sewer, water

Mr. Mead: Dana, it's not so much your subdivision, because there are other possible projects that are in the works for other subdivisions and it was more concern of the Town Board as, far as along with the Planning Board, was Local Law changing our codes as far as the subdivision and the drainage. Not particularly this subdivision but any future subdivision, because the problem that would occur is if we rezone this, and legally, you could just go by the old codes and say this is what we're going to go by and not put in concrete culverts and not put in such and such, and legally you would be right in doing so. The suggestion was, if you wanted too, come to the Planning Board with some ideas, and the reason for that was the outcry from the local residents from that area who wanted to know more information as far as what you were planning in putting there, they had no idea. To base anything on a rezoning, not knowing what type of houses, what size of houses, what size lots the houses will be on, safety issues with Omphalius Road, right-of-way onto Wildwood, there's a lot of those issues they had to deal with. That's for the Planning Board to deal with as far as any subdivision goes. Our concern as a Town Board, if I'm not speaking out of turn Karl, had to do with subdivisions in general and the code that we're looking at for the future for all of them.

Mr. Darling: what I'm looking at is how to keep this thing going? Like Glenn said, we're moving sideways, we're not making any progress. I've been sticking money and time into this for a year, and I want to get it going as fast as I can.

Mr. Mead: to honest with you, at this time, unfortunately, and I think the attorney will attest to this, we're taking care of some issues with the last subdivision and drainage issues that we're dealing with and we don't anyone, including yourself, down the road to run into these same problems and unfortunately the rest of the residents will have to pay the price for.

Mr. Darling: how do we deal with that and keep this moving also?

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Discussion, Darling Subdivision, con't

Mr. Mead: that's why, on December 3rd, we're having a public hearing regarding two of the local proposed laws, and as only liaison to the Planning Board don't have any problem with discussion continuing with the subdivision.

Mrs. Hacker: I agree, we have no problem taking a look at it, getting our paperwork in order, and starting on page 1. We do intend to work with you, Dana, but we have things we're playing catch up with, and we don't want to do this with your development, we want go forward with it but we want to do it right.

Mr. Darling: what are these two new proposed laws you mentioned.

Mrs. Vacco: the highway law and

Mr. Darling: I read that, that's nothing

Mrs. Vacco: New York State DOT

Mrs. Hacker: road requirements, lighting at intersections

Mr. Darling: that shouldn't be any problem.

Mrs. Hacker: those have probably already been addressed, right? But the Board has not had a chance to look at the paperwork, we just received it tonight, we can take a look at it and put you on the next agenda for December 9th, but I don't want to waste your time

Mr. Brox: realistically I think this should go to the Town Engineer for review and I would say that you're probably looking at January, so that it's not going to be rushed and things are missed.

Mrs. Hacker: the engineer can review and return his findings to us

Mrs. Vacco: originally some of my concern was, we got the statutory date of once the preliminary plat is approved, we have 45 days to have a public hearing and if this doesn't coincide with the adoption of the Local Law, because it goes to Secretary of State after the public hearing, and the (pronocary) to the Department of State, I don't want those two time requirements to conflict, I didn't want us to have to get you in a public hearing under that 45 days and not have the local law be well established. So once you submit that preliminary plat then your time will come into play in that 45 days, and I wanted to be conservative to make sure that the laws that were proposed and that the wheels are in motion.

Mr. Darling: will those laws come into effect right a way?

Mrs. Vacco: yes, first you have the Public Hearing scheduled for December 3, 2003, then you have the statutory period in which then the (cool-off), then you file with the Town Clerk who has to file them with the Department of State. It's the Public Hearing, the statutory time period and then it gets filed.

Mr. Darling: is the rezoning approval contingent on the new law?

Mr. Brox: the zoning doesn't make any difference, when it comes back to the Planning Board, and you start all over again, that's when the highway rights come into play, but you want to make sure that its been filed with the Secretary of State.

Mr. Cooley: so you're saying, until it's rezoned you're not considering this the submittal of the preliminary plat?

Mrs. Vacco: no.

Mr. Brox: its got to be rezoned before it comes in for subdivision review and approval, we don't do them both at the same time.

Mr. Cooley: so what is our next step?

Mrs. Vacco: the pre-application can certainly start, and I think that you have started all that tonight by the mere fact that Foit-Albert has a copy of your plan.

Mrs. Hacker: has the Town Board tabled the rezoning?

Mr. Mead: we're not making any decision until after the Public Hearing.

Mr. Stringfellow: it looks like phase one is the back part of the lot with the road off of Wildwood and is not going to go out to 219.

Mr. Darling: Phase one, that's correct.

Mr. Cooley: the sewer starts in that direction on the lower end, so Phase Two would take advantage of the Phase One construction to extend the sewer toward 391.

Mr. Mendola: none of these pages have the dimensions of the lots:

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Discussion, Darling Subdivision, con't

Mr. Cooley: I don't believe it's required in the preliminary plat.

Mr. Simmeth: the sewer is going to be brought up to Boston State Road, but it won't connect at Boston State Road, right?

Mr. Cooley: that's correct.

Mrs. Hacker: what's existing at Wildwood is enough to accommodate this number of lots?

Mr. Cooley: we have an 18 inch and we have at least a verbal from Erie County that it is satisfactory as far as capacity, we haven't received a letter back yet.

Mr. Kramer: are the lot sizes listed on a schedule?

Mr. Cooley: it's on a table, but not one by one. I don't think it's required to have the dimensions on the preliminary plat.

Mrs. Hacker: if it's going off of Wildwood, there will be no change in the lighting situation other than right at the Wildwood entrance.

Chairman Hacker asked if there were any further business to bring to this Board, being none Mr. Stringfellow made a motion to adjourn at 8:26 P.M., second by Mrs. Andrzejewski. All were in favor.

Respectfully submitted,

Patricia J. Hacker

Chairman

PJH:tjf