

Planning Board Minutes September 23, 2008

BOSTON PLANNING BOARD SEPTEMBER 23, 2008

PRESENT: David Stringfellow, Vice Chairman

David Bernas

Mark Coppola

Jonathan King

Bill McGirr

David Ruzzine

Rich Skinner

EXCUSED: Patricia Hacker

ALSO Brian Downey Town Attorney

PRESENT: Cathy Maghran Councilwoman ? Town Board Liaison

Thelma Faulring Secretary to the Boards and Committees

Bill Brunner Applicant/Owner ? 7166 Boston State Road

Glenn Christner Architect ? 7166 Boston State Road

Vice Chairman Stringfellow called the meeting to order at 7:30 PM and appointed Alternate member David Ruzzine to serve as regular member for this evening's meeting.

MINUTES

Mr. Bernas made a motion to accept the minutes of August 26, 2008, seconded by Mr. McGirr and carried.

GENERAL CORRESPONDENCE

Secretary Faulring reported the following:

? Memo dated November 14, 2006 regarding the New York State requirement for the four hour training for Planning Board and Zoning Board members (this in response to a question on August 26, 2008. Secretary Faulring referred the members to the Town Board minutes of January 3, 2007 for the Town Board recommendation for training.)

? Planning Board letter dated August 27, 2008 to the Town Board with the recommendation for approval of the Boston Valley Commons modified site plan.

? Planning Board letter dated August 27, 2008 to the Town Board with the recommendation for approval of Mark Henneberg site plan.

KIDS COUNTRY CHILD CARE ? 7346 BOSTON STATE ROAD

Mr. Stringfellow: We'll return to Glad You're Hair when Mr. Brunner and his architect arrive. Mr. Downey do you have anything to report on Kids Country Child Care?

Mr. Downey: I talked with Donna Marie Hartnett, the attorney for Kid's Country, and told her that we were waiting on the final revised site plan. She said that her client has been calling the engineer, Chris Wood, asking that to get that done for her; she has a number of calls into him. I told her that we need to get this done and that we haven't heard anything. I also talked with Code Enforcement, and Bill Ferguson said that he had stopped to look at the trash receptacles and the people there (employees) were not aware that he was coming, and he is waiting for her to call back, but he will stop again tomorrow to check.

Mr. Stringfellow: So we let this go for another two weeks?

Mr. Downey: I think so and if by then we don't get anything then what we should do is send a letter requesting her presence to explain the status; if she's not done, she'll have to tell us why, versus us waiting here in limbo. I will relay that to her attorney that we really do need to get something otherwise we're going to make that request, and there may be some action taken if no one shows up.

Mr. McGirr: Didn't we set a deadline at a previous meeting?

Mr. Downey: I believe that we did discuss the beginning of September; and I did talk with them and that's where, part of it was that we had no communication; and then in between she sent a letter to the Town Board making the request for the off-site garbage disposal. Her engineer contacted our engineer, there were a number of actions dealing with our request. To be honest I think Ms. Betz misunderstood our request because when I talked to the attorney we went through everything and she said it was misunderstood, but now it was clear and they were getting one site plan to take care of the two things, and so they were moving steadily toward that. I will let her know that we really need to have something here by the following meeting to get something done.

Mr. Coppola: I make a motion that Ms. Betz is present at our next meeting with a complete as-built site plan.

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Mr. Downey: I will explain to her attorney that if it is not done, she needs to be here and explain why, because the Board is looking to take some action.

Mr. Stringfellow: Is that clear to everyone?

Mr. Bernas: I'll second.

Mr. Stringfellow: Is there any further discussion? All in favor?

All members were in favor of the motion.

GLAD YOU'RE HERE ? 7166 BOSTON STATE ROAD

Mr. Stringfellow: We have not received anything from our engineer, so we are not going to be in a position where we can approve or disapprove at this point.

Mr. Bernas: We don't have the latest response from TVGA, but we do have a response of July 21, 2008 to give them a chance to reply, so in the absence of a report from TVGA why don't we go back to that review that they submitted with their comments and start there.

Mr. Stringfellow: The questions and comments were made on a Conceptual Site Plan that does not have to meet all the requirements of a Final Site Plan, and TVGA may have more comments on a Final Site Plan.

Mr. Christner: We expect to get comments from the engineer, that's fine.

Mr. Bernas: I'm just suggesting go as far as we can based on the information that TVGA requested. I looked over the drawing that we got and it looks like they complied with everything that was requested previously from TVGA. So up to that point we're golden.

Mr. Downey: Not necessarily, you're only golden up to the comments based on a preliminary site plan, but not on a Final Site Plan.

Mr. Bernas: But we can address the point that they've addressed the previous requested information from TVGA. Let's get it on record that they've complied with that and we're waiting for further comments from TVGA for final.

Mr. Stringfellow: I agree, I just wanted to warn them that we can't go as far as approving Final Site Plan tonight. We have Mr. Brox's report. Do we have any other correspondence to report?

Secretary Faulring:

? September 12, 2008 received submittal of Final Site Plan and Stormwater Management Report which was mailed to members, Town Attorney Downey, Town Engineer Hoefler at TVGA and to Mr. Brox.

? Planning Board letter dated September 15, 2008 to Mr. Brox requesting his review and written comments.

? Planning Board letter dated September 15, 2008 to Mr. Hoefler requesting his review and written comments.

? Planning Board letter dated September 15, 2008 to Glenn Christner asking that he be in attendance at this evening's meeting, copy to Bill Brunner.

? Richard Brox review dated September 17, 2008, read by Mr. Stringfellow.

? Lighting Schedule received September 22, 2008 and is in member's folders this evening.

Mr. Stringfellow asked for comments.

Mr. Christner: From the last meeting, we had not complied with the 20-foot setback which is required. At that meeting you gave conditional approval of conceptual based on removing those parking spaces and we rearranged and reconfigured the parking to accommodate the 20-foot requirement.

Mr. Stringfellow addressed each item of the TVGA letter dated July 21, 2008:

Item #1 ? ?Current submission is difficult to review with regard to existing conditions. Future submittals should have an Existing Condition/Demolition Plan which clearly show the existing features prior to development with proposed notes outlining how these features are to be modified to construct the proposed development.?

Mr. Christner: I've added sheet 1.5 which shows the site sections, I think that shows where the current buildings are to be relocated. If there is further confusion I've added a phasing diagram to sheet 1.

Mr. Stringfellow: Any further comments on item 1? There were none.

Item #2 ? ?Stormwater calculation should be provided with proposed development.?

Mr. Stringfellow: That is provided with the Final Site Plan.

Item #3 ? ?Provided parking is greater than parking requirements. Proposal maintains 14? preexisting condition. Board may want to consider eliminating front parking to maintain 50? required setback or showing the parking as future parking and allowing time to justify their need.?

Item #4 ? ?Unable to find 50 foot required front parking setback as stated on plans. 20? minimum is listed without ZBA action. Is the preexisting 14 foot acceptable or does the proposed plan require ZBA review and approval.?

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Mr. Stringfellow: Items 3 and 4 are both regarding that 14? setback, and they have addressed that by going back to where they meet the 20? requirement.

Item #5 ? ?Can the driveway width at the right-of-way be reduced to 24 feet instead of the 35 foot existing width??

Mr. Bernas: But didn't we discuss leaving it at the 35? width because of the situation at the CVA Pharmacy, with the congestion and the difficulty or turning around, wider is better.

Mr. Stringfellow: I believe we agreed we would prefer to see it stay at 35?. Is that consistent with what you expected Mr. Christner?

Mr. Christner: Yes.

Item #6 ? ?Please provide documentation that the utility companies will allow extension of the service from the proposed building to the relocated brick building.

Mr. Bernas: What kind of documentation were we expecting to get?

Mr. Stringfellow: I would assume something?

Mr. Christner: I would like to share the utilities so that we have only one backflow preventer. I have spoken with the Water Authority and they said that is acceptable on one parcel, if you subdivide we would be required to put a new service to the rear building. If the Planning Board please they may wish to attach a condition to site plan approval stating that the property may not be subdivided.

Mr. Stringfellow: Okay. You have no intention to subdivide it at this time?

Mr. Christner: It really can be subdivided, but if you wanted to add that extra? The Water Authority was confused by what form of documentation was needed too.

Mr. Stringfellow: What about the electric and gas? It looks as though the lines go into the new building and then go on through and then into the old building?

Mr. Christner: Well they're not as particular about the review, as long as they get their fee. It would be up to Mr. Brunner whether he wanted to put a private meter to the building or its own service, it would be underground if that took place. I'm just trying to share the trenches.

Mr. Stringfellow: We'll consider 6 and 7 satisfied.

Item #8 ? ?Where are the 3 relocated Maples along the north line coming from??

Mr. Christner: We had some ambiguity there. We are relocating the one tree; that is a Locust tree. Its present location and its proposed location are shown.

Mr. Downey: Is it a Locust or a Linden? It shows Linden.

Mr. Christner: It's a Locust.

Mr. Stringfellow: Please correct that.

Discussion followed on the zoning which is properly labeled on the site plan.

Mr. Stringfellow: There is a requirement in the Code to identify the adjacent landowners and I have not seen that identification on what we received. The Code also requires on final Site Plan, to show all buildings within 200 feet of the proposed project.

Mr. Christner: This is taken care, this was part of last time, the plaza was then added and the barn in the rear and the fence is indicated. The fence is actually on the property line.

Mr. Stringfellow: The Kirst Building is labeled and the distance to it is shown.

Mr. Christner: There are also shown on the sections.

Mr. Stringfellow: There's a second Kirst Building behind the plaza which has got to be within 200 feet. Essentially address the Code, Section 97-7 E.

Mr. Stringfellow questioned the sanitary sewer invert sizes.

Mr. Christner: I have added sheet 1.5, north side elevation. The size is 4", they are all 4". There will be a more detailed utility sheet to submit to Erie County?

Mr. Stringfellow: Okay you have satisfied that one. No sign details are shown at this time that is not a problem for us but you will have to come back for sign approval later if you wish to do it that way.

Mr. Christner: Yes we will come back for that.

Mr. Stringfellow: Basically Mr. Christner it looks like a nice job to me. I am amazed at how much information you got on two sheets of paper.

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Mr. Bernas: How do you want him to demonstrate the buildings within 200 feet? How is he going to demonstrate where these other locations are?

Mr. Christner: I'll add another plan.

Mr. Stringfellow: He's going to have to have another drawing at a smaller scale so that he can show more.

Mr. Stringfellow: I believe this is as far as we can go without TVGA comments on it. You've done very well; I think it's going to be a good project and I think it should go through very quickly unless TVGA has something more.

Mr. Christner: I'll get my engineer to talk with your engineer.

Discussion followed regarding the parking lot as a detention area.

Mr. Christner explained this idea:

? It has several, you don't have a pond to maintain

? In this case there's such a little difference in runoff from existing to proposed

Mr. Stringfellow: Basically what he's done is on this rectangular area, it's like an upside down pyramid about a foot deeper in the center than it is on the edges, and when it rains real hard the water runs in there and lays on that part of the parking lot and it can only go out as fast as this eight inch pipe will carry it.

Mr. Christner: It's designed so that the 100-year flood will over flow the edges. It'll fill to a maximum of 14 inches in the center. We had an oversized parking lot back there so people could negotiate U-turns.

Mr. Downey: You're not concerned if it fills up with water that people will drive into it and have a problem?

Mr. Christner: That only happens every 10 to 25 years. And it's also designed not to fill where cars are, it only fills the center. The front parking is where the majority of people will be parking and it is not to take water. The front parking drains to the back.

Mr. Bernas: I make a motion that we table it until the next meeting, hopefully we'll have TVGA's comments by then or at least Glenn and TVGA will have an opportunity to discuss any other issues.

Mr. Coppola: Second.

Mr. Stringfellow: Any discussion? Being none, all in favor? All were in favor of the motion.

LIAISON ? COUNCILWOMAN MAGHRAN

Mrs. Maghran: Just out of curiosity when the gentleman from Albany came regarding the tower on Zimmerman, was that a Verizon tower, do we know?

Secretary Faulring: Media-Flo was on the application.

Mrs. Maghran: And this Board has never been approached by Verizon for any?

Mr. Downey: No.

TOWN ATTORNEY DOWNEY

Mr. Downey: There was some question regarding the Dunham project that was the extension of the storage units. Have we received any correspondence since he was in?

Secretary Faulring: No.

Mr. Downey: I did talk to Bill Ferguson and Butch Lisowski regarding what went on, because there were certain statements made by Mr. Dunham about what he was told. They told me that they never told him that the C-1 was okay for the storage, and they did say that it looked like there was a problem, that there was a mistake on the zoning and that should have been a C-2 which would have worked for the storage. I have not received anything. The last time we were here we talked about getting a deed and taking a look at that, but I haven't received any documentation from him making a request to change the zoning, which is going to have to be done in order to do that project.

Mr. Bernas: Didn't he say that he didn't own it yet?

Mr. Downey: Right, but I discussed with him that we need a letter from the owner, we need a deed and I have not received these things; just so you know that nothing is being done because I have no documentation. Also, I asked them how long ago they told him that he had to go the Planning Board and they said about three months ago, and his comment was they did not tell him until just recently. They said that they knew it because it was a revised site plan and so a revised site plan has to go to the Planning Board. They did say that it did need the 30-foot setback and we talked about the requirements of the distance between buildings; they said there are no requirements but that they do look at the Fire Code and basically the Fire Code requires that there has to be access to three sides; that's what they look and depending on where they're going through, they look at what the size is to get equipment through there.

Mr. Downey: I think we're going to have to clarify whose plans go through and when. They were saying for example on site plans, they don't go through them (Building Department) necessarily. So far as a check list. I had some conversations with the Town Clerk about putting together a list that gets checked off. So I think we need to formalize the procedure that

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the Code Enforcement can check off so that when the Clerk gets it, it's clear that it's met the requirements and we're not taking someone's word for it, because of the different types of projects. We need to regulate it and make it a uniform procedure for it.

Mr. Bernas: So you're proposing that we'll draft a list of whatever the requirements are going to be?

Mr. Downey: I'm talking with the code Enforcement and with the Town Clerk. The Town clerk has canvassed local Towns to see what they do for their procedures and what forms they use. So we're trying to get it so that when you get someone has gone through it to make it sure it's got the deed, the survey. Not all of them go through that and I believe that there has been some misunderstanding and some people have manipulated that to get some of their projects in.

Mr. Stringfellow: It sounds like there needs to be a form for the applicant to sign and hand that to the Town Clerk before going to the next step.

Mrs. Maghran: Could that be put on line so that people looking to get that done ahead of time??

Mr. Downey: We may or may not, that's an internal form. Let's take a look at it and then decide.

Mr. McGirr: So you're just looking for a check list for the girls in the office?

Mr. Downey: For the Code Enforcement to check off and then sign it. I'm not really clear how?

Mr. McGirr: It's for us not the general public.

Mr. Downey: Right. It's for the Town Clerk when they get an application that they know that person has gone through and made sure that all requisite information on there and then someone from there signs off on it.

Mrs. Maghran: I was thinking that the information should be listed ? don't come unless you have this, this, and this for the application.

Mr. Stringfellow: Is there anything else for this evening?

Mr. Bernas: I would just like some clarification on the training issue. I also went back to read the Town Board minutes and discovered that Dennis Mead made a recommendation that a letter be sent, which Thelma referred to earlier. Wouldn't it have been appropriate for a vote to have been taken?

Mr. Downey: My understanding is that, as I recall, the rule was that you had to do it unless the Town Board opted out. So the Town Board didn't have to do anything, it was a requirement by State. So they, actually, did not have to do anything.

Mr. Bernas: I'm not objecting for the need for training I think it's a good thing. But what I have a problem with is when we cancel Planning Board because of lack of agenda, when we could be meeting for that evening and have training here for that night. There's no requirement who delivers the training.

Mr. Downey: I believe there is. New York State sets the requirements. You have to be a provider.

Mr. Bernas: Don Hoefler said that TVGA has presentations that they would be willing to come in?

Mr. Downey: Right, he's a provider, you have to have a provider to do it.

Mr. Bernas: So I'm saying that before you cancel a meeting, we maybe take that time and devote it to training.

Mr. Downey: I'm not disagreeing with you but that's not something under my purview, I think that's something for the Board to discuss.

Mr. Bernas: I understand, I'm just looking for some clarification and the idea is if TVGA is going to conduct something down in Springville, I'm spending more money in gas going to Springville for training on a volunteer basis, when I should be doing it right here when I've already devoted an evening two times a month to be here and we cancel meetings.

Secretary Faulring: I don't think you can call a week ahead of time to schedule training. We need to find out how long ahead Don would need to set up a training session.

Mr. Stringfellow: To put training together on less than a week's notice is not always going to work; and the rest of the Board members would not have made any plans to attend that training, they would plan to come here for a meeting and there's training instead and they may have already gone for the training somewhere else.

Mr. Downey: Let me talk to Don Hoefler about how much notice he would need to do something like that.

Mr. Bernas: I'm sure that they must have some presentation prepared, and even if they brought an excerpt of the presentation delivered somewhere else and provide it to us. It's something we should look into. I don't like seeing meetings being cancelled for lack of agenda and then I'm expected to drive to Springville to get training to meet my requirement.

Mr. Downey: You can also use that time to go on-line.

Further discussion followed.

Mr. Stringfellow: Is there any else?

Mr. McGirr: I make a motion to adjourn. (8:15 PM)

Mr. Ruzzine: Second. All in favor.

Respectfully submitted,

Thelma Faulring

Secretary to the Boards and Committees