



Town of Concord, Massachusetts
22 Monument Square, Concord, MA 01742

Planning Board Meeting Minutes 06-07-16

Minutes of the Planning Board Meeting of June 7, 2016

Pursuant to a notice filed with the Town Clerk, the Planning Board met at 7:00 p.m. on June 7, 2016 in the First Floor Meeting Room, 141 Keyes Road, Concord, MA.

Present:

John Canally
John Cratsley (until 10:10 p.m.)
Brooke Whiting Cash (arrived 7:05p.m.)
Scott Bates
Gary Kleiman
Rob Easton

Elizabeth Hughes, Town Planner
Nancy Hausherr, Administrative Assistant

Absent:

Matt Johnson

The meeting commenced at 7:01 p.m. and was audio-recorded. Mr. Canally announced to the audience that anyone recording the meeting should inform him.

Meeting Minutes

The minutes of the May 10 and May 24 meetings were reviewed and amended. Ms. Whiting Cash moved that the Board approve the minutes as amended. Mr. Easton seconded. All **VOTED** in favor.

Recommendation to the Board of Appeals

Special Permit and Site Plan Review

Millbrook Tarry Market

91-97 Lowell Road & 105 Keyes Road

Mr. Easton disclosed that, although he has no (financial) interest in the Millbrook Tarry project, he is a principal in an unrelated project in another municipality and a prospective buyer of a home in that project is working with Dewing Schmid Kearns. He reported that after speaking with the State's Ethics Commission, he completed a disclosure of an Appearance of Conflict of Interest form as required by G.L. c. 268A Section 23(b)(3) and that form will be submitted to the Town Clerk and available for review.

Thomas Kearns, of Dewing Schmid Kearns (DSK), appeared before the Board to discuss the application of Milltarry Offices Registered, LLP for a Special Permit and Site Plan Approval for additional relief from the parking requirements for 44 spaces for a total of 80 spaces, to allow joint parking facilities to be located on three parcels, and for work within the Floodplain Conservancy District and Wetlands Conservancy District, for the construction of a 15,062 sq. ft. market, parking deck, and other related site improvements at 91-97 Lowell Road & 105 Keyes Road.

The Board considered the draft recommendation letter dated June 7, 2016, prepared at their request by the Town Planner and a sheet dated 5/25/16, prepared by Director Rasmussen, which shows a compilation of parking relief granted by the Board of Appeals for recent significant projects.

Mr. Kearns gave an overview of three follow-up issues for the Board's consideration.

Regarding the parking count verification study, Mr. Kearns reported that, per the Board's request, the Applicant engaged Bayside Engineering, Inc. to perform a verification of the October 2015 count. Mr. Kearns referred to the two new graphs, which show the new data and which were distributed to the Board. He explained that the counts were conducted on June 2 - 4. He said the counts show that the June patterns are generally similar to the October patterns; the weekday count in June was 98 spaces and the count for October was 109, a reduction of 11 parking spaces. He explained that the weekend count in June was 79 spaces and 73 spaces in October, an increase of 6 spaces. Overall, he said, the recent counts indicate an anticipated surplus of 31 parking spaces on site.

Regarding off-site parking opportunities, Town Planner Hughes clarified that the Town would not be interested in entering into a lease agreement utilizing the parking lots at 133 – 141 Keyes Road due to varying degree of use and unpredictability of those uses over time at this municipal site.

Mr. Cratsley asked about opportunities for off-site parking of customers and employees in adjacent private lots. Mr. Kearns reiterated that one property owner was not interested and the other is open to conversation but no formal agreement has been discussed.

Regarding potential noise impacts to adjacent properties, Mr. Kearns distributed a letter dated 6/2/16 from Tim Duggan of Shawsheen Air Services, Inc. which describes the proposed HVAC equipment for the market and the expected cumulative sound power rating of that equipment in decibels (~ 65), noting that a rating of less than 70db is generally accepted to be "conversational volume at a distance of 3-5 feet". Mr. Kearns added that given the estimated 100 feet to the nearest abutter, this equipment will not be audible at that distance.

Town Planner Hughes explained that a proposed condition in the draft recommendation letter addresses compliance with State's Noise Pollution Regulation. She explained that after installation, if the Health Division or other Town department responsible for the enforcement of that Regulation receives a complaint that sound emissions from the Market's mechanical equipment and/or trash compactors are a nuisance, then testing is done. If it is determined that the equipment is over the limits, the Applicant shall be responsible for the installation of sound dampening provisions. Mr. Canally asked about the noise complaint process. Ms. Hughes explained that an abutter could complain to the Building Commissioner since he is responsible for enforcement of conditions of a Special Permit granted by the Board of Appeals.

Mr. Canally asked about the process for residents to report parking violations on Lowell Road, Bow Street and/or Lang Street. Town Planner Hughes explained that the Police Department is responsible for parking enforcement; that Bow and Lang Street are public streets and that parking restriction signs are not currently installed on those streets. She explained that if complaints to the Police Department increase or, if the Police Department determines that parking is creating unsafe conditions on those streets, measures such as ticketing and towing of vehicles could occur. She explained that the Police Chief has the authority to issue temporary no parking bans on public streets, but that permanent parking restrictions fall under the authority of the Select Board. She explained the role of the Town's parking management team and the established process for citizens to request "no parking" signs on public streets.

The Board considered the traffic recorder data compiled by the Police Department for Bow and Lang Streets at the end of May. Town Planner Hughes explained that the Police Chief met with the Bow and Lang Streets neighbors and the traffic counts were conducted because of that meeting.

Michael Fox, 13 Estabrook Road, asked to be provided a copy of the draft recommendation letter. Town Planner Hughes explained that the document was part of the public file, posted the Town's webpage, and emailed to abutters.

Next, the Board went through draft recommendation letter page by page, considering each condition and amending some.

Mr. Kleiman was grateful that the Applicant validated the parking data. He commented that the Board when considering applications for relief from parking requirements should be more deliberate in requiring developers to consider and act upon criteria such as documentation or studies showing that parking ration requirements in the Zoning Bylaw are not in line with industry standards or otherwise not needed for the specific proposed uses; beneficial uses that contribute to other businesses in the village center and neighborhood; distance and availability of on-street parking, public parking, and alternative transportation; intensity of use for a given site and number of employees; alternative provisions for off-site parking of employees; and bicycle parking. He opined that the Board should encourage developers seeking parking relief to help put the town on a path that accommodates such relief by providing alternatives to the current "drive and park" model.

Mr. Kleiman suggested several additional conditions. He suggested the inclusion of a second parking contingency that, if parking relief proves problematic or unwarranted based on future use, that the snow management plan be revised to arrange for all snow to be removed from the site enabling use of the fifteen designated snow storage spaces as parking spaces throughout the winter.

He suggested that a new condition should be included that requires the employee parking management plan, with identified enforcement mechanisms, be provided and approved by the Town Planner before issuance of a building permit.

He suggested that “prior to the issuance of a certificate of occupancy, the Applicant shall provide the Building Commissioner and Town Planner a copy of an executed contract for at least eight off-site parking spaces for employees of the market.

Town Planner Hughes explained that the Board of Appeals does not have the jurisdiction to require an Applicant to enter into a private lease of off-site parking.

Mr. Kleiman referred to the \$5000 Cross Town Connect “voluntary gift” condition. Town Planner Hughes explained the process for the Town to receive a gift. Mr. Kleiman suggested that the Board should include a statement that the Applicant should support a shuttle stop at the market when the Town participates in or develops a shuttle bus program. Mr. Kearns replied that the Applicant would welcome a shuttle bus stop on site.

Brooke Whiting Cash suggested that condition#2 increase tree sizes.

After discussion about the proposed service driveway and vendor deliveries, it was suggested to add conditions that all tractor trailer deliveries occur outside of operating hours and that prior to certificate of occupancy that the Applicant provide copies of a letter that will be given to vendor that states the delivery policy.

Mr. Bates asked about the condition regarding the Applicant’s lease of Town owned land. Town Planner Hughes explained the condition.

Chair Canally asked for comments from the audience.

David Wiener, 20 Bow Street, asked about the long-term lease and Section 7.7.2.7 of the Zoning Bylaw. He commented that the Town Manager cannot enter into a long-term lease, that Town Meeting approval is required. Town Planner Hughes explained that Section 7.7.2.7 (a) of the Zoning Bylaw mentions long-term lease but does not define what period constitutes “long-term”, that is up to the Planning Board to determine.

Woodrow Vandever, 320 Lowell Road, referring to the long-term lease as needed to last for more than ten years.

Penny Rodday, 33 Pond View Lane, spoke in opposition to the application citing concerns about the proposed density on the site, and negative impacts to traffic and safety.

Michael Fox, 13 Estabrook Road, questioned the parking/traffic study methods. He suggested that the Town conduct their own parking study and collect data.

Chairman Canally and Town Planner Hughes explained about the independent third-party consultant review of the Applicant’s traffic study.

Scott Richardson, 260 Elsinore Street, spoke about his concerns that the market will increase traffic.

Paula Vandever, 320 Lowell Road, asked if this application was considered at Town Meeting. Town Planner Hughes explained that the Application was for a Special Permit, which does not require Town Meeting approval.

Mary Fox, 13 Estabrook Road, spoke in opposition to the application citing concerns about increased traffic, lack of adequate parking, and potential light pollution from the proposed new streetlights. She wondered why it was never suggested that the Applicant reduce the size of the proposed building to address the many concerns.

David Wiener, 20 Bow Street, reiterated about his concerns about the long-term lease requiring Town Meeting approval. Mr. Kearns noted that the Applicant has an existing lease in place with the Town for parking spaces on site that has been managed effectively.

Henry Schwan, reporter for the Concord Journal, asked for clarification of item #5 on page 6 of the draft recommendation letter and the proposed raised parking platform. Town Planner Hughes read the conditions that apply to those items.

Ms. Whiting Cash moved that the Board vote on the recommendation. Mr. Easton seconded. All **VOTED** in favor. Then, Ms. Whiting Cash moved that the Planning Board recommend that the Board of Appeals **grant** to the Applicant, Milltarry Offices Registered, LLP, a Special Permit and Site Plan Approval, under Sections 7.2, 7.3, 7.7.2.4, 7.7.2.7, 7.7.2.8, 7.7.2.12, 7.7.3.6, 11.6, and 11.8, for additional relief from the parking requirements for 44 spaces for a total of 80 spaces, to allow joint parking facilities to be located on three parcels, and for work within the Floodplain Conservancy District and Wetlands Conservancy District, for the construction of a 15,062 sq. ft. market, parking deck, and other related site improvements at 91-97 Lowell Road & 105 Keyes Road, subject to the condition contained in the draft recommendation letter dated 6/7/16 as amended by discussion this evening. Mr. Easton seconded. Mr. Easton, Mr. Bates, Mr. Cratsley, and Ms. Whiting Cash voted in favor. Mr. Canally and Mr. Kleiman voted in

opposition. **The motion carried.**

Junction Village Project Eligibility Discussion & Comments to the Select Board

Phil Posner and Barbara Morse of the Concord Housing Development Corporation (CHDC) were present. The Board considered a copy of concept plan sheet (CON-03) dated 4/19/16 prepared by Fuss & O'Neill and the Dept. of Housing & Community Development letter that notified the Town that the Grantham Group applied for "friendly 40B status" (Comprehensive Permit Pursuant to M.G.L. Chapter 40B) for a potential 83-unit affordable assisted living facility in West Concord. Town Planner Hughes explained that the Town has thirty days (from May 24) to comment and the Select Board will vote its position at their June 20 meeting. Town Planner Hughes explained that input from the Planning Board is asked to identify big picture issues, concerns or hurdles for consideration by the Select Board and the developer as they move forward in the process.

Town Planner Hughes summarized the initial comments received from Town staff (Health, Public Works, CMLP) and the Regional Housing Services Office staff who reviewed the concept plan, acknowledging that the Comprehensive Permit trumps some of the usual permit requirements.

The Board acknowledged receipt of an email sent 6/7/16 from Winthrop Street & Commonwealth Avenue (WinCom) neighbors regarding safety concerns and suggestions to reduce potential negative impacts to their neighborhood. Town Planner Hughes read the requests from the neighbors contained in the email. The Board asked that the list of requests be included in the Board's letter to the Select Board and encouraged the Applicant to further discuss with the State the possibility of allowing use of this alternative access during construction only. Town Planner Hughes explained some of the provisions of Town's Construction Noise Bylaw regarding construction activities on private properties and enforcement.

The Board questioned whether inclusion of a group home on the site was still under consideration. After discussion, Mr. Posner clarified that a group home would not be part of the Comprehensive Permit plan and is something that is off the table.

Mr. Kleiman commented on the proposed building's location, massing, and impact to the open space resource area. He suggested that the plan should be re-designed to shift the building's location northwest to allow for more protection and better utilization of open space resource area (create a larger buffer area). He recommended that the developer try to attain gold or platinum LEED certification for the proposed facility and said that he would like to learn how the West Concord Design Guidelines were incorporated into the designs.

Ms. Whiting Cash agreed with Mr. Kleiman's suggestions and commented that parking spaces for the open space resource area could be created if the building's location shifts on the plan. Mr. Canally commented that he would prefer if there were no parking spaces associated with the open space, in order to minimize burden to the existing neighborhood.

Mr. Kleiman suggested that the structure should be tiered so that near the open space area the building could be two-story only. Ms. Whiting Cash opined that the site plan needs improvement overall.

The Board discussed the amount of proposed parking. Town Planner Hughes provided information on the number of residents with vehicles at Concord Park Assisted Living (62 units & 16 memory care units; a total of 2 vehicles) and Nashoba Park Assisted Living in Ayer (73 units; a total of 6 vehicles).

Mr. Canally asked for comments from the audience.

Sue Felshin, 19 Sunnyside Lane, a member of the Comprehensive Sustainable Energy Committee (CSEC), spoke about the important opportunities for this project to include sustainable energy principles and components. She referred to a CSEC memorandum dated 1/30/15 sent to the Select Board and CHDC containing recommendations and suggestions to increase sustainability for this development.

Anita Barker, 100 Newbury Court, expressed concerns that the only access to the site is via Winthrop Street. Town Planner Hughes explained that CHDC (the owner of the land) intends to reach out again to the Commonwealth's Division of Capital Assets Management (DCAM) Division regarding alternate access to the site across state owned land. She explained that emergency access from state land has been granted.

Ellen Fulton, 31 Winthrop Street, asked that alternative access to the site, other than Winthrop Street be considered. She asked if the water main extension (referred to earlier) could avoid Winthrop Street. She asked that a written guarantee from DHCD be provided stating that there will be no additional development other than the proposed 40B proposal (no group home). Town Planner Hughes explained the limits of the Comprehensive Permit plan and if there were any other developments proposed in the future, the Applicant would have to return to the Town for approval.

After discussion, Mr. Easton and Ms. Whiting Cash, offered to review the draft letter to the Select Board that the Town Planner will

prepare for that Board's consideration on June 20.

Approval Not Required Plan #16-9

Commerford Road, Parcels 1976-1, 1977, 1978-1, 1978-2, 2000-15, 2000-15-1

Town Planner Hughes presented the plan to the Board. She explained that the plan shows the reconfiguration of the site lot lines in conformance with approved Black Horse Place Planned Residential Development Special Permit off Commerford Road in the Residence AA Zoning District.

After discussion, Ms. Whiting Cash, moved that the Board authorize the Chair, Vice-Chair, or Town Planner to endorse the plan of land of Concord Pastures LLC dated May 26, 2016, prepared by Stamski & McNary, Inc., as Approval Under Subdivision Control Law Not Required because the plan does not show the division of a tract of land into two or more lots and because it shows a proposed conveyance which changes the size and/or shape of the lots in such a manner that frontage is not affected. Mr. Kleiman seconded. All **VOTED** in favor.

Planning Board Appointee to Community Preservation Committee

Ms. Whiting Cash moved that the Planning Board recommend to the Select Board that John Cratsley be re-appointed as the Planning Board's liaison to the Community Preservation Committee. Mr. Kleiman seconded. All **VOTED** in favor.

Election of Officers

Mr. Canally nominated Brooke Whiting Cash to serve as Chair until May 31, 2017. Mr. Kleiman seconded. All **VOTED** in favor.

Mr. Canally nominated Mr. Cratsley to continue to serve as Vice-Chair until May 31, 2017. Mr. Kleiman seconded. All **VOTED** in favor.

Mr. Canally nominated Gary Kleiman to serve as Clerk until May 31, 2017. Mr. Easton seconded. All **VOTED** in favor.

List of documents presented which are on file in the Planning Division Office at 141 Keyes Road, Concord, MA:

- Draft recommendation letter dated June 7, 2016 re: Millbrook Tarry Market application
- Appearance of Conflict of Interest form as required by G.L. c. 268A Section 23(b) (3) submitted by R. Easton re: Millbrook Tarry Market application. Original on file with Town Clerk.
- Parking relief sheet dated 5/25/16 prepared by Director Rasmussen
- Parking count verification sheets submitted 6/7/16 by Applicant re: Millbrook Tarry Market application
- Traffic count data sheets, Concord Police Department re: Millbrook Tarry Market application
- Concept plan sheet (CON-03) dated 4/19/16 prepared by Fuss & O'Neill, for Junction Village project
- DHCD letter dated 5/24/16 re: Junction Village project

The meeting adjourned at 10:32 p.m.

Respectfully submitted,
Gary Kleiman, Clerk

Minutes approved on: 6/21/16