

## PLANNING BOARD MINUTES

May 09, 2016

### **Call The Meeting to Order**

Chairman Stephen Johnson called the meeting to order at 7:05 P.M. in the Town Hall Auditorium. Present at the meeting were, Robert Fowler, Nancy Reed, Vincent Fratalia, Keith Anderson, and Director of Community Development Steve Sadwick.

#### **(A) Committee Reports/Administrative Actions**

##### **(A1) Committee Reports**

There were no committee reports.

##### **(A2) Town Center Master Plan Committee Report**

Bruce Panilaitis appeared before the Board to give a presentation on the Town Center Master Plan. Mr. Panilaitis stated that this committee was formed in September 2013. Mr. Panilaitis gave the timeline and history of the committee as well as the study area, public comment and the three-phase approach. Mr. Panilaitis stated that when the final report is completed, they will publish it on the website.

Mr. Fowler questioned that if the portion of East Street near the church is closed up, tractor-trailers will have a tough time getting through the center. Mr. Panilaitis agreed and the Town center should be less hospitable to tractor-trailers.

Mr. Anderson thanked the committee for all the hard work. Mr. Anderson liked the new building in the location of the existing fire station. Mr. Anderson asked if the committee has looked into taking the house on the corner of Main and Pleasant Street. Mr. Panilaitis stated that the committee has just started looking at the process of acquiring land around the center.

Mr. Fratalia commended the committee for their hard work. Mr. Fratalia asked if they looked into parking meters in the center. Mr. Panilaitis replied no. They would have to have a destination area before diving into those issues. Mr. Fratalia asked where the fire station would go. Mr. Panilaitis replied that they are looking at several locations but no decision has been made.

Mrs. Reed thanked Mr. Panilaitis for the presentation and is glad this committee has picked up where the Board left off. It is a long process and she is glad it is moving forward.

#### **(B) 1583 Andover Street, 1593 Andover Street, 1605 Andover Street, The Daly Group, LLC and 30 International Place, North Tewksbury Commons, LLC Special Permit and Site Plan Special Permit Continued**

Matt Hamor, David Daly, James Manuel and Kim Hazarvartian appeared for the continued special permit.

Mr. Hamor stated that the comments from engineering have been incorporated into the updated plan. They have also included the recommendations from TEC for the traffic improvements. The ATM kiosk has been relocated to provide better maneuverability and queuing of cars. They have modified the access way to 30 International Place and adjusted the day care building and landscaping. They have also improved the roofline of the day care to be similar to the office and kiosk building with added cupola and dormers.

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Mr. Manuel stated that the landscaping plan has been submitted. They have added trees along the access way and along Andover Street. These trees include evergreens, junipers and red maples.

Mrs. Reed asked what is the expected height of the trees out front. Mr. Manuel stated that the trees would be about 15' to 20' in height when installed. There are other low-lying bushes along the retaining wall that will be about 3' in height. Below the retaining wall will be ornamental grasses and plantings. Mr. Manuel added the junipers would be about 8' to 10' in height.

Mr. Fratalia asked if there is landscaping around the s curve of the access way. Mr. Manuel stated that near the playground there would be red dogwood shrubs that will turn into the main canopy.

Mr. Hazarvartian stated that there was a question from the IDR regarding turning capabilities of a trash truck around the site. They have done modeling simulation that the trash trucks can move around the site and empty the dumpsters. The traffic report was presented.

Kevin Dandre from TEC – Mr. Dandre stated that he is the traffic consultant for the Town and he has reviewed the previous plan. He agrees that the access road to 30 International Place is very important and an improvement. Mr. Hamor added that they have sidewalks along the front of the site but no internally due to snow storage areas.

Mr. Fratalia asked how much traffic would be using the access way to International Drive. Mr. Dandre stated that there would be mostly right turn in traffic. The activity of the site should balance out. Mr. Hamor added that they would have signs that say the access is for patrons only.

Mr. Anderson stated that the day care parents would come down International Drive and cut through to the day care. They will use the path of least resistance. Mr. Anderson suggested using stamped concrete or raised structures to slow traffic especially around the daycare. Mr. Dandre stated that stamped concrete would be acceptable but with the raised structures, we need to be mindful of catch basins and plowing impediments. Mr. Dandre added they could add the stamped concrete at the cross walks and enhance the vegetation near the ATM kiosk.

Mr. Fowler stated that now the triangle land piece is not happening, they had to push the road towards the sidewalk. He is concerned with a car jumping the curb where the day care is. Mr. Hamor stated that there is a t-block concrete wall with soil behind it. He doesn't believe there will be a lot of cut through traffic. Mr. Fowler stated that the cross connection easement to the proposed donut shop was huge and he is concerned with it being removed. They could add an easement to the lot line and if the other side gets developed they would have to complete it.

Mr. Daly stated that they put a lot of effort and time into getting the land swap and easement but the other party did not want it. This is a legal issue and he does not know whom they would be dealing with or what type of project will be developed. The site was redesigned without the easement and it works. This is the proposal that is being presented. Mr. Hamor stated that they tried speaking several times to the abutter's attorney but they did not want to accept anything.

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Mr. Johnson agreed, and doesn't believe that the access way will be used as a cut through. Mr. Daly agreed to add the stamped concrete structures to the plan.

Mr. Sadwick stated that the Town Engineer did not have a chance to verify these updated plans so any approval should be subject to his final approval.

Mr. Hamor stated that he would update the plans to include stamped concrete by the crosswalk near the ATM kiosk. Mr. Anderson stated that they should be added near the day care also at the corner where the office area and day care meet. Mr. Dandre stated that raised structures can create a problem with plowing but a stamped concrete accent or cobblestone crosswalk is not an outrageous request.

Mr. Fowler stated that the plans show all buildings with the same address. Mr. Hamor replied that was an error and the numbers will be corrected.

Catherine Brittain of 1534 Andover Street – Ms. Brittain stated that is not comfortable with all existing traffic and is concerned this will add more especially since the peak traffic time for the day care will be the same as the morning rush hour traffic. It can take 25 minutes for her to get from Rt. 495 to her house on some days. Mr. Hamor stated that the traffic study was done and this project will not have an adverse effect on traffic. Mr. Dandre agreed and is comfortable with the traffic counts and stacking lanes.

Mr. Fowler asked what about the cross connect to the other property. This is the only change to address this and we should have Town Counsel look at this. Mr. Anderson agreed that Town Counsel should look at it.

**MOTION** - Mrs. Reed made a motion to close the hearing. The motion was seconded by Mr. Fratalia and voted 3-2 in favor. Mrs. Reed, Mr. Fratalia and Mr. Johnson voted in favor. Mr. Fowler and Mr. Anderson voting opposed.

Mrs. Reed stated that the site is designed for this project. The original proposed easement is where the ATM kiosk is now. The applicant tried to work it out but couldn't and we don't know what would be feasible because we don't know what is going on the other site.

Mr. Fowler stated that there could be a condition added that the easement would be provided if the other property was developed. Mr. Daly stated that our legal counsel tried to talk with the other property representatives and was told stop communication with them. Our CFO was told the same thing. We tried in good faith to make this easement and land swap happen but they were not responsive. Mr. Hamor stated that he was involved when this was one project with all parties in agreement. That is not the case now and is very different. Mr. Daly stated that if something were proposed at a later date on the other site we would look at it but not now because we don't know what the proposed use would be.

Mr. Sadwick stated that when this Board permitted Galloway's, you didn't require an access easement to Smitty's Liquors. You discussed it, but didn't require it. We don't know if the other party is willing. Another case was 1110-1120 Main Street, they had access easements to the abutting property and when the site was sold, the new owner wanted to block them off. The original project was approved with two willing parties, which is not the case now.

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Mr. Fowler asked what the traffic engineers think of the cross access easement. Mr. Hazarvartian stated that cross access easement are good if both properties agree. Mr. Dandre agreed and said they are desirable but there are some elevation issues on this site. He would not offer an opinion because we don't know what the uses will be on the other site. Mr. Hazarvartian added that where we don't know what the use is on the other site, we would not know what the pedestrian or required parking spaces would be.

Mr. Johnson stated that we cannot require an access easement when we don't know who or what is going to be developed on the other site. We can't just plop down an easement especially if it impacts the design of this site.

**MOTION** - Mrs. Reed made a motion to close the public hearing. The motion was seconded by Mr. Fratalia and voted 3-2 in favor. Mrs. Reed, Mr. Fratalia and Mr. Johnson voting in favor. Mr. Fowler and Mr. Anderson voting opposed.

Mrs. Reed stated that she is concerned with the way the votes have gone that if we vote now then this will fail. Mr. Anderson asked Mr. Sadwick's thoughts. Mr. Sadwick stated that we have two traffic engineers; we have an applicant who has proposed a project. There is one owner who does not want to cooperate and if this Board requires an easement then they are adding value to a property owner who is not cooperating. Mr. Anderson thanked him for his opinion and is willing to reconsider his position.

Mr. Johnson asked if there are any waivers requested. Mr. Hamor replied no.

**MOTION** - Mr. Anderson made a motion to approve the Special Permit and Site Plan Special Permit for 1583 Andover Street, 1593 Andover Street, 1605 Andover Street and 30 International Place as presented with the following conditions:

1. Addition of (3) three cobblestone/stamped concrete treatment as discussed to assist in slowing traffic on site as discussed. The locations include the access way to 30 International Drive, at the proposed crosswalk at the ATM and between the day care and office building.
2. Subject to final approval of the Town Engineer for the remaining items.

The motion was seconded by Mrs. Reed and voted 4-1 in favor. Mrs. Reed, Mr. Fratalia, Mr. Anderson and Mr. Johnson voting in favor. Mr. Fowler voting opposed.

**(C) 1137 Main Street, 85 Main Street, 600 Clark Road, 1978 Main Street, 937 North Street, 1400 Main Street, 1788 Main Street, Cellco Partnership d/b/a Verizon Wireless c/o McLane Middleton, PA – Special Permits**

Joshua Lanzetta, Dan Goulet, Andrew Whalen and Ann McGuinness appeared for the Special Permits for Verizon.

Mr. Lanzetta stated that the special permit application is to install CRAN systems on existing cell sites. This is a new technology that does not require the height of the existing antennas. The coverage group will cover up and down Rt. 38. Mr. Goulet stated that Verizon has unreliable coverage due to capacity issues and this system will alleviate some of the issues. Mr. Lanzetta stated that this would help with the user demands.

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Mr. Fratalia stated that one waiver is requested. Mr. Lanzetta replied yes, it is for the line of sight requirement.

There were no questions from the audience.

**MOTION** - Mr. Fowler made a motion to close the public hearing. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

**MOTION** - Mr. Anderson made a motion to grant the waiver from Section 6450, Item F as requested. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

**MOTION** - Mr. Anderson made a motion to approve the Special Permit for 1137 Main Street, 85 Main Street, 600 Clark Road, 1978 Main Street, 937 North Street, 1400 Main Street, 1788 Main Street as requested with the incorporation of the approved waiver. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

**(D) 1438 Main Street, 1438 Main Street, LLC for Nitish Nahata Sign Special Permit Continued**

Mr. Johnson stated that the applicant is requesting a continuance.

**MOTION** - Mr. Fowler made a motion to continue the Sign Special Permit for 1438 Main Street until May 23, 2016 at 7:05 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

**(E) Administrative Actions Part II**

**(E1) Highland Avenue, Non-Substantial Determination**

Attorney Richard O'Neill, Robert DiStefano and Town Counsel Charles Zaroulis appeared for a non-substantial determination for Highland Avenue.

Attorney O'Neill stated that the Planning Board approved the Use Special Permit for this site on September 12, 2005. One of the conditions was that a sidewalk be constructed. This was not done and a violation was sent out. There are mature trees in the location of the approved sidewalks and there was a condition of the location of the road. This past fall, there was litigation between the owner and Town and we have come to an agreement. After discussion with the DPW Superintendent and Town Engineer, they came up with a plan that is presented as Exhibit A. The end result will prevent parking which is what the Planning Board has requested. Attorney O'Neill stated that the Board has three plans in front of them; B, B1 and B2. The Town Engineer has asked us to amend "Plan B" with criteria, which we have agreed to. They are asking the Board to approve "Plan B" with the Town Engineers amendments. If this is approved they will start construction within sixty days.

Attorney Zaroulis stated that the original approved plan showed a sidewalk that would prevent parking. An elevated landscape area would be more prohibitive. The landscape area will also shield the site from the recently built new homes. Attorney Zaroulis stated that the addendum title Addendum DiStefano, RE Highland Avenue should also be included.

Mrs. Reed stated that she appreciates the concern of the DPW but we wanted a granite curb sidewalk to deter parking on the street. The proposed shrubs or asphalt burm will not stop trucks from parking. Mrs. Reed stated that she drove by the site tonight and there were trucks parking everywhere. We had landscaping proposed on the original plan and nothing was done.

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Mr. Fowler stated that understands the site issues but there were other items still not done during the site visit. Attorney O'Neill stated that the unregistered cars have been removed, and the storage trailers were removed. They are proposing stonewalls to handle the parking issues. They are proposing benches and bike racks in the landscape area. The DPW is who requested that the road be widened.

Attorney Zaroulis stated that the 2005 Planning Board decision did not reference granite curbing. It says curbing with sidewalks. During a meeting with the applicant and property owners, there were two options. Add the curbing and sidewalk or widen the road with a landscape area. In the DPW's view, the widening of the roadway to allow two cars to pass is the better option. The applicant has agreed to that. Attorney O'Neill added that they are going to remove some mature trees and the DPW has picked the landscape.

Mr. Anderson stated that he likes the proposal with the widening of the road and asked Mr. Sadwick's thoughts on the proposal. Mr. Sadwick stated that during the meeting the DPW and Town Engineer were focusing on widening the road. This was not discussed at the time of the original proposal but the Town Engineer believes that the road widening is the best option.

Mr. Fratalia asked when would this be completed. Attorney O'Neill stated that there is time limits set forth in the court documents so they will be starting in June. Mr. Fratalia stated that this site has been in disrepair for a long time and he also agrees that the wider road and landscaping is the best option.

Mr. Johnson stated that the proposal is to start as quickly as possible. Attorney O'Neill replied yes. Mr. Johnson stated that he is ok with the change. We have banged our heads against the wall for a long time so that is the reason we are here now. He does not want to delay this but wants it know that if it is not built and kept up, this Board will be exceedingly angry. Attorney Zaroulis stated that this project has a judgment in court and time lines are established.

Mrs. Reed stated that there is only one "No Parking" sign on the plan. Attorney Zaroulis stated that the original decision did not specify the number of signs. It was left to the discretion of the DPW and Public Safety. Mrs. Reed stated that she understands that but this is a different plan, the original plan had a sidewalk and now there is a landscape area and one "No Parking" sign. She would like to see more. Attorney O'Neill stated that the Police had use purchase three signs. Mr. Johnson asked if the Police have seen this new plan. Attorney Zaroulis replied no, the original permit had left the number and locations of the signs to the DPW and Police. Mr. Johnson stated that they need to see this new plan and comment. Mrs. Reed stated that only one sign is showed. This is a non-substantial change and we can weigh in on it. Mr. Johnson asked if Mrs. Reed had a number of signs in mind. Mrs. Reed stated that she thought that the Police would have seen this plan and commented on it. There should be at least four signs. Attorney Zaroulis stated that the applicant has agreed to three "No Parking" signs and they are not in the original permit so we need to be careful. Mr. Johnson stated that if the applicant did what they were supposed to do in 2005, we wouldn't be here right now. The parking was the biggest issue and there is only one "No Parking" sign so the request for more is not unreasonable. Attorney Zaroulis stated that the applicant has agreed to four "No Parking" signs. Mr. Johnson stated that we are requiring a minimum of four but if public safety wants fifty, then fifty is what it is going to be.

Attorney O'Neill stated that the applicant has agreed for a minimum of four signs and will agree to the final determination of the public safety.

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**MOTION** - Mr. Fratalia made a motion to approve the changes presented tonight as non-substantial and approve them for incorporation into the Special Permit. The changes approved are Plan B as amended by the Town Engineer, Plan B1, Plan B2 and Addendum – DiStefano, Re: Highland Avenue with the following conditions:

1. The applicant agrees to add at least (4) “No Parking” signs with the final number and location of these signs to be determined by the Public Safety Officer.

The motion was seconded by Mr. Fowler and unanimously voted 5-0.

### **(E2) 743 Main Street – Discussion**

Dick Cuoco and Joe Laliberte appeared for discussion of 743 Main Street. Mr. Cuoco stated the area between the residential units and the street is small. There is a vinyl fence with stone and a 3’ area of loam and seed. They would like to use artificial turf that is similar to Wamesit Lanes in this small area.

There were no questions from the Board. Mr. Johnson stated that this is not the stuff that you buy at Home Depot. Mr. Sadwick stated that this is not a non-substantial change, this is just a discussion. The Board was agreeable to this field change.

### **(E3) Victor Drive – Discussion**

Dick Cuoco and Mr. Ginsburg appeared for discussion on Victor Drive. Mr. Cuoco stated that they are going through the permits and part of the permits was to subdivide the property into eight separate lots. Lot 3 is where the apartments will be and they will add a note to that effect. Mr. Cuoco stated that Tewksbury Habitat Build may consider using Lot 6 for a project. They are proposing changing the wording that the property be conveyed to the Town of Tewksbury or any non-profit agency to develop for affordable housing. Mr. Sadwick stated that if this goes to the Town, then they would have to get approval at Town Meeting. Mr. Johnson stated that this would just need to have Planning Board approval. Mr. Sadwick stated that they could work on the language and come back as a non-substantial change. Mr. Sadwick stated that we need to address Lot 2 and Lot 3 for recording of the plan.

**MOTION** - Mrs. Reed made a motion that the Lot #3 will be used for the development of the apartments on the ANR plan. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

### **(E4) 300 Ames Pond - Discussion**

Mr. Sadwick stated that there is no discussion on this item.

### **Old Business**

There was no old business.

### **New Business**

Mr. Sadwick stated that carports were approved for Joan’s Farm Way. The developer is asking that these be changed to individual garages. There will be 4’ of separation between the buildings and they will have garage doors. Mr. Sadwick stated that this would be considered a field change.

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**Director's Report**

There was no Director's Report.

**Adjournment**

**MOTION** - Mr. Anderson made a motion to adjourn the meeting at 10:25 PM. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

**Approved on: 6/6/16**

*List of documents for 5/9/16 Agenda  
Documents can be located at the Community Development Office*

- A. 7:00** Committee Reports/Administrative Actions, Part I
- 1- Committee Reports
  - 2- Town Center Master Plan Committee Presentation
    - *Tewksbury Town Center "A Common Vision"; dated 5/9/16*
- B. 7:05** 1583 Andover Street, The Daly Group, LLC  
1593 Andover Street, The Daly Group, LLC  
1605 Andover Street, The Daly Group, LLC  
30 International Place, North Tewksbury Commons, LLC  
Continued Special Permit and Site Plan Special Permit
- *Letter 4/26/16 fr Landplex including Plan Set revised 4/22/16; Stormwater Report revised 4/22/16; Landscape Plan revised 4/12/16; Architectural Drawings dated 4/21/16.*
  - *Letter 5/5/16 fr TEC re: Traffic Engineering Peer Review.*
  - *Letter 5/6/16 fr Town Engineer.*
  - *Garbage Truck Turning Radius Exhibit Plan; dated 5/9/16*
- C. 7:10** 1137 Main Street, 85 Main Street, 600 Clark Road, 1978 Main Street, 937 North Street, 1400 Main Street, 1788 Main Street  
Cellco Partnership d/b/a Verizon Wireless c/o McLane Middleton,  
PA – Continued Special Permits
- *Application packet dated 3/7/16.*
- D. 7:20** 1438 Main Street, 1438 Main Street, LLC for Nitish Nahata  
Continued Sign Special Permit
- E.** Administrative Actions Part II
1. Highland Avenue, Non-Substantial Determination
    - *Application packet dated 5/6/16.*
    - *Addenda; Distefano, re: 25 Highland Avenue received 5/9/16*
  2. 743 Main Street – Discussion
    - *Landscape Plan; prepared by Lorayne Black; dated 10/3/14 revised 12/14.*
  3. Victor Drive – Discussion
    - *Letter dated 4/27/16 including plans.*
  4. 300 Ames Pond - Discussion