

PLANNING BOARD MINUTES

December 07, 2015

Call The Meeting to Order

Chairman Stephen Johnson called the meeting to order at 7:00 P.M. in the Town Hall Auditorium. Present at the meeting were, Nancy Reed, Vincent Fratalia, Keith Anderson, Director of Community Development Steve Sadwick and Recording Secretary Dawn Cathcart. Robert Fowler was not in attendance.

(A) Approval of Minutes – September 14, 2015 and October 5, 2015

MOTION - Mr. Anderson made a motion to approve the Planning Board minutes of September 14, 2015 and October 5, 2015 as submitted. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

(B) Committee Reports/Administrative Actions

(B1) Committee Reports

There were no committee reports.

(B2) 146 Dascomb Road, JMDH Real Estate of Andover, LLC - ANR

Rick Fryeburg and Attorney Steve Rodman appeared for an ANR at 146 Dascomb Road. Mr. Fryeburg stated this property is primarily in Andover. This is the site of the former Brockway and Smith. The building currently houses the Restaurant Depot in the rear of the building and the front portion of the building is vacant. There is 1/3 acre in Tewksbury and there is no proposed development in Tewksbury. Mr. Fratalia asked if the same tenants will remain. Mr. Fryeburg stated that Restaurant Depot will remain and the front building is currently empty.

MOTION - Mrs. Reed made a motion to endorse the ANR for 146 Dascomb Road as presented. The motion was seconded by Mr. Fratalia and unanimously voted 4-0.

(B3) 20 Riverview Avenue – Non-Substantial Determination

Mr. Sadwick stated that this is a repetitive petition application. The Planning Board needs to make a finding of substantial change from the previous application to allow the applicant to go back before the Zoning Board of Appeals (ZBA).

Mr. Johnson stated that for clarity, the Planning Board is not issuing a permit. This is an administrative action only. If we vote in favor, we are only allowing the applicant to go back before the Zoning Board of Appeals. This does not approve the project. This is not a public hearing but he will allow some public comment.

James Hanley and Attorney Richard O'Neill appeared for the repetitive petition application for 20 Riverview Avenue. Attorney O'Neill passed out two handouts. The first is the Zoning Act regarding Repetitive Petitions which states that the Planning Board must hear the petition and determine if there are enough changes that warrant the applicant going back to the ZBA. The second handout is the Rainey vs. ZBA case. Attorney O'Neill stated that there have been significant changes since the original submittal.

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Mr. Hanley stated that four plans were given to the Board. The original plan shows the proposed house as far away from the river as possible. The existing structure is only 2' from Riverview Avenue. This plan was denied by the ZBA. The second plan was approved by the Conservation Commission but DEP appealed the approval 30 days after issuance of the Order of Conditions. Over the summer they worked with DEP and the third plan was created but DEP denied this plan on October 10, 2015. They had no choice but to appeal the DEP decision to the courts. They met with DEP three weeks ago and they suggested the fourth plan. The building is smaller, they will still need relief from the front setbacks but they are lesser, fencing was added to address some abutters concerns. Mr. Hanley stated that they have no other options.

Mr. Fratalia stated that there are a lot of issues with this site. He's still up in the air on this project. Mr. Johnson stated that we are not issuing a permit, the only determination we are making is if there is enough changes to send them back to the ZBA. Mr. Hanley stated that this is a difficult site with the shape, topography and soils. The proposed location is the only place on the lot to build a house. The existing structure is in poor condition, is in the flood plain and it would be an improvement by taking it down.

Attorney O'Neill stated that the ZBA has reviewed this project previously. They will look at this very closely. The existing structure should be removed. The only question before this Board is have there been significant changes made to allow the ZBA to have a second look.

Mr. Anderson visited the area. This is a tough location. He has no problem with having the applicant go back before the ZBA. The new house will improve the area. This Board has the right to give the applicant a chance to go back before the ZBA. The applicant has spent a lot of time and money to try to improve the site.

Mrs. Reed agreed that there are enough changes to go back to the ZBA.

Mr. Johnson stated that he has no problem with the applicant going back to the ZBA and have them make the decision. Mr. Johnson stated that he will allow public comment but he will not allow the back and forth. If this is approved, then discussion will occur at the ZBA meeting.

Mr. Anderson asked if Conservation has approved this new location. Mr. Hanley replied yes, this was approved last Wednesday.

William Connors of 110 Bridge Street – Mr. Connors stated that he has been to the previous meetings and the ZBA voted against this project. The changes proposed are worse and will not make the project better. When the applicant went before Conservation, they were supposed to install hay bales first and then take down the existing structure. Neither has been done. This summer they started cutting trees and they weren't supposed to. Mr. Johnson stated that they are not approving the project, they are only determining if there are enough changes to send them back to the ZBA. Mr. Connors stated that there are not enough changes.

John Costa of 95 Bridge Street – Mr. Costa stated that there are not enough changes to warrant them going back to the ZBA. The project has gotten worse. The new proposal has the driveway on the blind spot in the road. They only shortened the house by 2' and pushed the house a few feet back. These are not significant.

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Jim Bruce of 2 Riverview Avenue – Mr. Bruce stated that the front setback was originally 6 ½’ from Riverview and now it is 9’. The bylaw requires 25’. If stairs are added, then it will only be 4’-5’ from the road. These are not significant changes. They have fought this project at the ZBA, DEP and Conservation. He is requesting this be denied and give the residents a break for a year. There are no hay bales and they have cut down trees.

Mr. Johnson stated that there are only four members and it would need to be a unanimous vote. Attorney O’Neill stated that they would like to move forward.

MOTION - Mr. Anderson made a motion that the Planning Board approves the Repetitive Petition for 20 Riverview Avenue and makes the finding that the applicant has submitted sufficient information that specific and material changes in the conditions upon which the previous unfavorable action was based. This proposal shows substantial changes including a reduction of square footage in the wetlands buffer, the movement of the location of the driveway, and reduction of the front setback that warranted more discussion to go back to the ZBA. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

(C) **1975 Main Street, Ayoub Engineering, Inc. for Gtyma/nh Leasing, Inc. (Shell Station) – Sign Special Permit**

MOTION - Mr. Anderson made a motion to waive the reading of the public hearing notice. The motion was seconded by Mr. Fratalia and unanimously voted 4-0.

Steve Pedro from Ayoub Engineering appeared for the Sign Special Permit for 1975 Main Street. Mr. Johnson stated that there are only four members and it would need to be a unanimous vote to approve the permit. Mr. Pedro stated that he would like to go forward. Mr. Pedro stated that Shell is changing their signage. They would like to update the canopy colors and replace the “Shell” with the logo. They would also like to install LED price panels with green and red lettering. These prices could be changed by a console inside the store.

Mr. Fratalia asked of the 32 sites in Massachusetts, how many have been approved. Mr. Pedro replied 26 sites have been approved. Mr. Fratalia asked if the signs were larger than the existing. Mr. Pedro replied yes, the panels are larger. Mr. Fratalia stated that he is concerned with the red and green lights but it seems like it is far enough back from the traffic lights.

Mr. Anderson stated that he has no questions.

Mrs. Reed stated that she would approve the LED signs but only if they were amber in color even though they are not directly next to the traffic lights. We have not approved green and red lights. Mr. Sadwick stated that the bylaw requires the Police Chief approval if green/red lights are requested.

Mr. Johnson asked if the Shell letters are currently illuminated. Mr. Pedro replied he believes they are and the red stripe is also lit. Mr. Johnson stated that he agrees with Mrs. Reed and would not approve the red/green price numbers. Mr. Pedro stated that the amber light would be acceptable. Mr. Johnson stated that if the light is too bright with the new white stripe, the Board may require it to be toned down. Mr. Johnson also asked that the address be added to the free standing sign.

There was no one in the audience.

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MOTION - Mrs. Reed made a motion to close the public hearing. The motion was seconded by Mr. Anderson and unanimously voted 4-0.

MOTION - Mrs. Reed made a motion to approve the Sign Special Permit for 1975 Main Street with the following conditions:

1. The LED price numbers will be amber in color.
2. The street address (number) will be added to the free standing sign.
3. If the brightness of the white stripe around the canopy is deemed too bright, the Planning Board retains the right to require that the light be toned down.

The motion was seconded by Mr. Anderson and unanimously voted 4-0.

(D) 2550 Main Street, Verizon Wireless Communications for Ronald White and Thomas Ratacik – Special Permit Continued

MOTION - Mr. Anderson made a motion to continue the Special Permit for 2550 Main Street until December 21, 2015 at 7:00 PM. The motion was seconded by Mr. Fratalia and unanimously voted 4-0.

(E) 105 Lowell Street, Robert M. Gill for Martel Realty, LLC (Martel Welding and Sons) Site Plan Special Permit

MOTION - Mr. Anderson made a motion to continue the Site Plan Special Permit for 105 Lowell Street until December 21, 2015 at 7:10 PM. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

(F) 15 Starbird Avenue, Arnie Martel for Marsha M. Hunt Special Permit and Definitive Subdivision

MOTION - Mr. Anderson made a motion to continue the Special Permit and Definitive Subdivision for 15 Starbird Avenue until December 21, 2015 at 7:20 PM. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

(G) 1201 Main Street, James Wu, New Horizons Realty Group Special Permit, Site Plan Special Permit, Groundwater Protection Special Permit, Town Center Overlay District

MOTION - Mr. Anderson made a motion to continue the Special Permit, Site Plan Special Permit, Groundwater Protection Special Permit and Town Center Overlay District for 1201 Main Street until December 21, 2015 at 7:30 PM. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

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(H) Pine Street OSRD Discussion

Jim Hanley, Dick Cuoco and Marc Ginsburg appeared for OSRD discussion for Pine Street. Mr. Hanley stated that this is a concept discussion. Mr. Cuoco stated that they previously came in with a plan for this area with access off of Pine Street. Since then, they were able to add another parcel off of Aprils' Way. Mr. Hanley stated that there are several steps with an OSRD project. The first is to identify the wetlands. This is an 11 acre parcel with about a 7/10th of an acre with wetlands. The second is to locate the residences. The plan shows the layout of the proposed houses. The third step is to align the road and the fourth is to set the property lines. All four steps have been accomplished and presented for review. This subdivision will have ten lots. Eight will be off of Aprils Way and two will be up front off of Pine Street. There are currently three houses on Pine Street, two will be razed and one new house will be built. There will be two different open space parcels. The requested waivers are listed on the plan. Mr. Cuoco stated that by using the access off of Aprils' Way all of the structures and roads will be outside of the 100' wetlands buffer. The large group of pine trees will remain.

Mr. Anderson asked if the residents on Aprils' Way know of this development. Mr. Ginsburg replied yes, they were all aware of the access way. Mr. Anderson stated that he likes the access off of April's Way.

Mr. Fratalia stated that he also likes the project and asked how far this new road will be from the bridge. Mr. Ginsburg replied about 200' away.

Mrs. Reed stated that this seems like a good layout for the project.

Mr. Johnson stated that he likes the reduction of the number of houses on Pine Street and he likes the access off of Aprils' Way. He also likes the fact that not all the new houses will be behind Maureen Drive.

Mr. Cuoco stated that the list of waivers includes: (2) ROW width, (3) pavement width, (4) cul-de-sac and ROW diameter, (5) sidewalk fee in lieu of for both sides, (6) Storm Water Management and Erosion Control (Land Disturbance) permit and (1) dead end road length. Mr. Cuoco stated that #2, #3, #4 and #5 are similar to the waivers for Settlers Way and Aprils Way. Mr. Anderson asked if the Fire Department has approved #4. Mr. Ginsburg stated that they approved the similar diameter for Settlers and Aprils Way but will get it approved again. Mr. Cuoco stated that on #1, the Town needs to determine where the dead end starts and ends. Mr. Sadwick stated that #6 is a General Bylaw, Chapter 19 so the applicant should look at how that gets approved and it should not be incorporated with other typical waivers. Mr. Ginsburg asked if it is possible to apply for the waiver in the same hearing. Mr. Sadwick replied it may be but the applicant should look at how it gets approved.

Mr. Sadwick asked if the 20' wide drainage easement will allow for access to the Storm Water Management components for the Town. Mr. Ginsburg replied yes and asked if a preliminary IDR would help. Mr. Sadwick replied that may be a good idea.

New Business

James Andella appeared to discuss the Pike House and possible new location at 155 East Street. Mr. Andella stated that he attended the Historic Commission meeting and would like to move the Pike House to his property at 155 East Street.

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Mr. Sadwick stated a similar article was indefinitely postponed at the Town Meeting so the Board would have to hear a repetitive petition for this to move forward.

Mrs. Reed stated that she does not have enough information to say yes or no.

Mr. Johnson stated that one change would be the Pike House would be specific to this site. Mr. Andella stated that he could also add another piece of land.

Mr. Fratalia asked how long it will be before the Pike House is demolished. Mr. Sadwick stated that the Historic Commission met on December 2, 2015 and implemented the demolition delay for 9 months. They have another meeting scheduled one week from tonight at 6:30 PM. They have requested moving costs, future plans and potential uses of the Pike House on the IRA site. If every option is exhausted they may release the delay.

Mr. Anderson asked what would be the intended use of the Pike House. Mr. Andella replied that it would be used as an office or other allowed use in the CVOD. There would be residential uses out back. He currently has over four acres.

Mr. Johnson advised Mr. Andella to stay involved with the Historic Commission. If they get behind the project, then he could support it.

Mr. Sadwick stated that he was present at the Historic Commission meeting last week. He also met with Mr. Andella and the Town Manager today and the Town Manager is concerned with a zoning change being tied to the Pike House. A zoning change should stand on its own. There was another project tied to a historic building, Preservation Way, and we are still waiting 12 years later for the historic portion.

Mr. Fratalia asked if there is any other space to move the Pike House to. Mr. Sadwick replied that they spoke with three property owners near the current location but they were not interested. The big issue is the cost of moving the house.

Old Business

Mr. Fratalia stated that there will be a ribbon cutting ceremony for the Habitat for Humanity house on December 11th at 3:00. The Board is invited.

Director's Report

Mr. Sadwick stated that we need to schedule a working meeting.

Mr. Anderson asked what the status of the RFP is for the South Station cell tower. Mr. Sadwick stated that the RFP is out and due by December 28th. He and the Town Manager met with Verizon tonight and that is why they continued tonight.

Adjournment

MOTION - Mr. Anderson made a motion to adjourn the meeting at 8:35 PM. The motion was seconded by Mrs. Reed and unanimously voted 4-0.

Approved on: 1/25/16

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List of documents for 12/7/15 Agenda

Documents can be located at the Community Development Office

- A. 7:00** Approval of Minutes
September 14, 2015 and October 5, 2015
- B. 7:00** Committee Reports/Administrative Actions
- 1- Committee Reports
 - 2- 146 Dascomb Road, JMDH Real Estate of Andover, LLC – ANR
 - *Application packet dated 11/25/15.*
 - 3- 20 Riverview Avenue
Non-Substantial Determination
 - *Ranney v BofA of Natucket, 11 Mass. AppCt 112(1981)*
 - *Copy of Repetitive Petitions process*
 - *Variance Plan; prepared by Civil Design; for 20 Riverview Avenue; dated November 28, 2014*
- C. 7:00** 1975 Main Street, Ayoub Engineering, Inc. for Gtyma/nh Leasing, Inc. (Shell Station)
Sign Special Permit
 - *Application packet dated 10/20/15.*
- D. 7:05** 2550 Main Street, Verizon Wireless Communication for Ronald White and Thomas Ratacik
Continued Special Permit
 - *RFP legal notice for 2342 Main Street.*
 - *Letter dated 11/9/15 fr McLane Middleton re: response to Isotrope report.*
 - *Photos of Wilmington 6 MA – (11/23/15) ; created by Caron Assoc Design.*
- E. 7:10** 105 Lowell Street, Robert M. Gill for Martel Realty, LLC (Martel Welding & Sons) - Site Plan Special Permit
(Applicant requesting to be continued to 12/21/15.)
 - *Letter 11/24/15 fr Robert Gill requesting continuance to 12/21/15.*
- F. 7:20** 15 Starbird Avenue, Arnie Martel for Marsha M. Hunt
Special Permit and Definitive Subdivision
(Applicant requesting to be continued to 12/21/15.)
 - *EMail 12/2/15 fr James Hanley requesting continuance to 12/21/15.*
- G. 7:25** 1201 Main Street, James Wu, New Horizons Realty Group
Continued Special Permit, Site Plan Special Permit, Groundwater Protection Special Permit, Town Center Overlay District
(Applicant requesting to be continued to 12/21/15.)
 - *EMail 12/3/15 fr Eric Gerade requesting continuance to 12/21/15.*
- H.** Pine Street OSRD Discussion
 - *OSRD Process Sketch; prepared by Civil Design Consultants; dated December 1, 2015; for 298,308 & 312 Pine Street*
 - *Copy of 298, 308 & 312 Pine Street, Presentation Plan; PP-1; dated December 1, 2015; prepared by Civil Design Consultants, Inc.*