

TEWKSBURY PLANNING BOARD MINUTES

January 31, 2022

Call The Meeting to Order

Chairman Stephen Johnson call the meeting to order at 7:00 P.M. at the Town Hall Meeting Room. Present at the start of the meeting were, Vice Chairman Robert Fowler, Clerk Eric Ryder, Jay Delaney and Vincent Fratalia.

Note that Mr. Fratalia has joined the meeting virtually.

(A) Approval of Minutes

No minutes to approve.

(B) Committee Reports/ Administrative Actions

(B1) Committee Reports

There were no Committee Reports

(B2) Town Planner's Reports

Ms. Lowder stated the past minutes should be ready to approve by the 2/14/22 meeting.

Ms. Lowder then stated that on 1/26/22 she, Mr. Fratalia and Mr. Fowler attended a walk through of the new fire station with other town officials. They are nearing substantial completion for their construction which is targeted for 2/4/22 and according to the chief they are aiming to be operating out of the new fire station the first week of March. There will be opportunities for board members to visit before it is operational.

Ms. Lowder stated that the proposed strawberry greenhouse at 60 Highland View Road had been granted the variance for side yard setbacks at the 1/27/22 ZBA meeting.

Ms. Lowder stated she would like to discuss future sidewalk installations for Main Street. Currently from Victor Dive to the Wilmington line there are two segments of sidewalk missing, 125' along the frontage of Balance Spa (1788 Main Street) and approximately 250' in front of the frontage of First Colonial Building Plaza. Completion of these segments would bring Tewksbury closer to the most recent master plan adopted by the Planning Board on 6/20/16. In addition to constructing those sidewalk segments, signal updates would be required at the intersection of Main Street and Livingston Street which would improve access to LRTA stops at that portion of Main Street. Ms. Lowder stated that completing these sidewalk segments and implementing pedestrian signal update would increase accessibility to resources on Main Street for those who do not drive. Filling in the missing links to the pedestrian infrastructure makes the Town eligible for mobility grants when clear connections are in place. Ms. Lowder stated that to date the Planning Board Sidewalk Fund has a balance of \$150,839.57 if the board chooses to link up sidewalk sections.

Mr. Fowler stated that both sides of Balance Spa are having new sidewalks installed, either the board or the town could get together with those two contractors to see what the cost would be to put in the sidewalk in front of Balance Spa as well and that way it could all be done at one time.

Mr. Ryder asked if Ms. Lowder could find out if the town has any sidewalk contracts going out this spring that they could piggyback off because \$158,000 probably won't get much. If the board kicks in the \$158,000 if the town could use some of Complete Streets or Chapter 90 to complete that section.

Mr. Fratalia stated that he believed the board agreed to do some sidewalks off East Street, across from 913 East Street. He asked if that was included in the plans or if Ms. Lowder knows the status of that presently. Ms. Lowder stated she is not aware of any project ongoing on East Street at this time, but she will inquire with the town engineer. Mr. Fratalia stated they should ask 913 East Street their plans for the sidewalk, he believed they were part of their plan to allocate that money for the sidewalk across the street for the project rather than putting it into the general fund. Ms. Lowder stated that the contribution for that sidewalk donation has not been made yet, so the \$158,000 figure cited earlier is aside from what is going to be contributed for 913 East Street.

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Mr. Delaney asked if when they want to try to fill in a space that was done by the town or if they could hire someone privately with the people that are there. Mr. Ryder stated that it would have to go out to bid.

Mr. Johnson asked for a ballpark idea of what it would cost for those two sections.

(C) **30 East Street – Carolina Properties, LLC on behalf of Holden Irrevocable Trust – Site Plan Special Permit, Special Permit for the Town Center Overlay District and Groundwater Protection District**
(continued from 1/10/22)

David Plunkett, Dennis Griecci and Gerard Walsh appeared for the continued Special Permits at 30 East Street. Mr. Plunkett stated that were going into a presentation of the revised plans. He feels that they have addressed all the issues that needed to be addressed, they have drafted condominium documents with language to address the Special Permits. Mr. Griecci stated that they have made some plan changes based on Mr. Hardiman's comments. On was digging of test pits in the rear of the site, to calculate the infiltration rate of that area designed to capture runoff. The other plan change was a shift of the retaining wall slightly to the right to better define a swale that will capture runoff that will go to the area previously mentioned instead of the abutter. They also addressed concerns about the auto turn analysis that was provided and provided Mr. Hardiman with documents regarding snow removal.

Mr. Ryder asked what the depth of the swale is. Mr. Griecci stated the minimum depth is 6" and it goes down to about 1.5'. Mr. Griecci then pointed to a low area in the back that is about 6" deep that will be loamed, seeded and landscaped with the rest of the area that will infiltrate.

Mr. Fowler asked where water was reserved when they did the two test pits in that same area. Mr. Griecci stated water was observed, he would need to check the test pit logs. He sent the logs to Mr. Hardiman as part of the middle package. Estimated seasonal high was estimated at 110.63. Mr. Fowler stated that it would be hard to make a decision not knowing the distance there is from water observed to the bottom of the swale. Mr. Griecci stated that they have a minimum of two feet separation between the bottom of that low area and estimated seasonal high water. Water was observed in the hole quite a few feet below that.

Mr. Delaney asked if the soil would be landscaped or if there will be grass that will have to be cut through the condo association. Mr. Griecci stated it will be loamed, seeded, and maintained as grassed area so it will be cut as part of the HOA. Mr. Delaney asked if landscaping it will take away some of the depth. Mr. Griecci stated that was calculated into the design of the swale so the actual cross section of the swale has it so a 6" minimum depth and goes up to 1.5', that grass will not take up any of that volume area. Mr. Delaney asked if the designated areas are going to be enough to store snow or if the snow will be removed. Mr. Griecci stated that the do have a note on the plan that accumulated snow shall be removed from the site per the HOA agreement.

Mr. Fratalia stated he does not think they have resolved issues discussed in prior meetings regarding parking and access in and out of the project as far as the fire department. He stated that he still feels that there is not enough visitor parking and snow storage. Mr. Walsh stated spoke with East Coast Irrigation regarding the snow removal issue, they are planning to use a skid steer and a six wheel for removal so snow would be loaded right on the truck. Mr. Plunkett stated that snow removal is part of the overall condominium fee. It is listed in many documents and will be listed as a condition on all the permits, approvals and terms and conditions to the point that he feels they have done everything possible; Mr. Walsh knows specifically the type of contract that needs to be done, they are committing themselves to that type of contract.

Mr. Delaney stated that when landscaped the swale cannot be changed in any way shape or form because if they do they will have a real problem with the water. The swale looks very minimal to him and he wants to make sure that in the association the landscaping doesn't change. Mr. Plunkett stated that in the terms and conditions everything asked has been spelt out and there's a reason for repetitive reference so no one is able to say they did not know about that, its going to be something that is made clear to assure that what is discussed in these meetings is brought into fruition when it is actually built out and people have to follow the rules.

Mr. Fowler asked if the funds to pay the contractor are already established through condo dues. Mr. Plunkett stated that's right, he put it in the budget as a specific line item.

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Mr. Johnson stated he finds himself torn because one of the things they seem a little held up on is the parking. The plans exceed what's required by two, so he is struggling because to look at it and say it's not enough, they are basically saying the boards own rule is not requiring enough because 9 is what is needed and 11 is what has been provided. At the same time he can understand that in looking at where the 11 spaces are that, that is giving some of the members pause. Mr. Johnson suggested they go around the table to see where board members are at instead of just closing the hearing to help them out.

Mr. Plunkett stated that right now they have this parcel of land that is well beyond its useful life, at one point he believes it was a rooming house. Now taking it and incorporating some of the historic aspects of the site, have a brand new development that will be a real upgrade and will be something that is deserving of what they are trying to create in the town in the town center and that's the purpose of TCOD and he would hope that they could get all the of the board members to look at this in the its entirety of what they are trying to do and what it accomplishes to a very significant part of the town in the improvement that would be brought to this parcel of land.

Mr. Johnson asked if they have been given the complete package at this point. He asked Mr. Fratalia if he felt comfortable moving forward on the project at this point, if no, does he have a suggestion that would get him to yes. Mr. Fratalia stated he is all in favor of increasing and beautifying the area that the project sits on now but, there's a limit as to what he thinks is comfortable for him to vote on a number of units that are there and that's his biggest hang-up. He thinks the project is nice and he has not problem voting in the affirmative if they went this far with a reduced number of units. Several people have been discussing the fact that in and out of the garages is a very dangerous situation. Not everyone is as efficient in driving and another person so that's his hang-up. The project looks nice, he just thinks its one unit too big.

Mr. Ryder stated at the end of the day that the contractor is not in it to beautify the parcel, the contractors building this, the end goal is financial. They could sit and say its not a financial gain or it's to beautify this parcel but at the end of the day if its not financially feasible for him he's not going to do this. At the end of the day the board has to look at what is right in that parcel and what is going to fit in that parcel. He agrees with Mr. Fratalia that it is one too many units, they are shoehorning 3 units into this narrow parcel. The building commissioner showed concern about the auto turn, other board members are concerned about various issues. The snow can be worked out, but in his experience the contractor is going to do what they have to do to keep it clear and the snow is probably staying on site until the storm is gone and that will be a significant impact to the residents there. Mr. Ryder stated that he agrees with Mr. Fratalia, they are trying to get three units into a spot that two would work great but it really comes down to financial. They are getting a commercial component and three more units and he thinks three is too much.

Mr. Fowler stated at this juncture he would vote yes for this

Mr., Delaney stated the big concern he had was the snow removal. As long as the swale and landscaping doesn't fill in his answer is yes.

Mr. Johnson stated he would say yes. The reason being that it has been a long time since they started this and it's been the same setup since the beginning, they have been going though this process asking for this which at this point he feels have been provided. He asked Mr. Ryder what it would take to get him to a yes vote. Mr. Ryder stated some of the things from the building commissioner and as stated they are using large vehicles; someone could probably swing a Prius in there. Mr. Walsh stated he was concerned about exactly what he is saying that the last parking spot and the computer simulated turning situation and if someone was a bad driver, they would have a hard time getting in and out of there. So, what he did was he went out to his parking garage and put cones and yellow caution tape up and simulated the exact parking lot proposed. He then took a video of his wife performing the same maneuvers that would be done to get out of that last spot. In a mid-size SUV, the first time she did a three point turn to get out, the second time she just did a one and go, he then had her back into the spot so she would be able to just pull out and she was able to do so. Mr. Griecci stated they had the video and played it for the board. Mr. Ryder stated he's not opposed to the project; he thinks that they are beautifying a parcel within the center of town. As he always stated the board is here representing all the residents, abutters, and everyone else that has questions and concerns of what has transpired with the town center overlay district. He feels its their duty to raise those concerns, there's issues with some things that have gone on and he thinks that why they have brought these things up and had their doubts about it. Mr. Walsh stated that he can see their concerns, they've been here for over a year now trying to address all the concerns. It is a tight site, he agrees, but financially it is borderline to do this. That building needs to be demolished. The commercial part of it is very nerve-racking because a lot of the commercial space in Tewksbury is vacant, so that part can't even be figured into the financials. Mr. Ryder stated that he understands, that a lot of times what is presented to the board in the beginning they may like but there are variables that change what

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they may like whether it be code or turning radius or another departments questions or concerns and what they have shown is hard to dispute, somebody turned a car around, he's not saying it cant be done, he just thinks it's a tight spot. Parking was a concern of his in the beginning, but they are exceeding that, they are exceeding what the town requirement is. It's hard to dispute what they have done here, at the end of the day its going to make the parcel better than it currently is, its going to clean up the blighted property and at the end of the day that is the goal for what they want developers to do. Mr. Johnson asked Mr. Ryder what the requirement is to get him to a yes vote. He stated the applicant has done everything they can to try and make it work and he cant argue with the video, the only concern he still has is managing the snow within the property and its going to be difficult but its going to be in the Special Permit and they'll have that to go after them if there is a concern of snow being pushed onto the road or snow being pushed to the neighbors fence because the abutter's fence is right on the property line and if too much snow is pushed up there its going to have an impact on the property owners next door. Mr. Johnson asked if there is anything additional beyond some of the conditions they already asked of the applicant. Mr. Ryder said no. Mr. Plunkett stated that if it would help, they can insert these terms and conditions into the sales agreement and unit deeds. Mr. Ryder stated that yes it should be stated in the deed do that if the town has to go after the property owner, they have the deed to refer to so its not an issue. Mr. Johnson stated that in addition to number two in the proposed conditions to make reference to including the conditions in the HOA as well as the roll over to the unit deeds. Mr. Johnson stated that they will alter the conditions to include what has been discussed.

There were no questions from the audience.

Mr. Ryder stated he has spoke with one abutter who was happy something was finally being done with the property, he is concerned about the snow being pushed against his fence but he told him he would address that concern.

Mr. Fratalia stated they did have a letter from an abutter not approving the site.

Mr. Fowler stated Mr. Hardiman doesn't really say yes or no. Ms. Lowder stated that the latest submission by Mr. Griecci dated 1/27/22, the response letter and revised drainage calculations were provided to the Community Development office on 1/28/22 and Mr. Hardiman was not in the office to offer comment on the final drainage calculation updates but she expects to have comments from him in the next couple days.

Mr. Johnson asked the petitioner if they feel that the changes they have made and submitted will satisfy Mr. Hardiman to the point that if they close this the last piece is going to be dealing with Mr. Hardiman.

Mr. Fowler asked Mr. Griecci if he felt comfortable with this. Mr. Griecci stated that he does.

MOTION- Mr. Fowler made a motion to close the hearing. Mr. Ryder seconded the motion. Roll call vote was taken. Mr. Fratalia voted aye. Mr. Ryder voted aye. Mr. Fowler voted aye. Mr. Delaney voted aye. Mr. Johnson voted aye. The motion passed unanimously.

MOTION- Mr. Fowler made a motion to approve the waivers of Section 9434 and both parts of Section 8608 as discussed earlier. Mr. Delaney seconded the motion. Roll call vote was taken. Mr. Fratalia voted no. Mr. Ryder voted yes. Mr. Fowler voted yes. Mr. Delaney voted yes. Mr. Johnson voted aye. The motion passed 4-1 on the waivers.

MOTION- Mr. Ryder made a motion to approve Site Plan Special Permit, Special Permit for the Town Center Overlay District and Groundwater Protection District for 30 East Street as submitted providing all of the proposed conditions listed and amended this evening as well as meeting all of the town engineer's requirements. Mr. Fowler Seconded the motion. Roll call vote was taken. Mr. Fratalia voted no. Mr. Ryder voted yes. Mr. Fowler voted yes. Mr. Delaney voted yes. Mr. Johnson voted aye. The motion passed 4-1.

(D) 1768 & 1788 Main Street – 1768 Main Street Realty Trust – Modification to Site Plan Special Permit/Use Special Permit (continued from 1/10/22)

Dick Cuco and Mira Cousins appeared for the continued Modification to Site Plan Special Permit/Use Special Permit for 1768 & 1788 Main Street. Ms. Cousin's gave a quick recap of the project stating that the goal of the project is to provide much needed additional parking spaces. The are proposing to restripe the existing lot, adding 21 additional parking spaces and there will be no increase in impervious surface. Since the last meeting they have addressed all of the DPW's comments, two changes were made to the plans to show 9.5' wide 88 parking spaces and the applicant has agreed to provide a 5' wide sidewalk along the project frontage which will require a DOT permit. The applicant is requesting 3

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waivers, 5170 and 5421 related to the allowance of the 14 proposed parking spaces within 10' of the southerly lot line for both 1768 & 1788 Main Street. The third waiver is a modification to the existing waiver to section 5122, they are proposing 129 parking spaces. Based on the current use and current zoning a total of 163 parking spaces are required however the Special Permit issued in 2012 stated that the liquor store experiences no more than 10 spaces at any one time. If they recalculate required parking spaces based on that condition the total required parking spaces comes to 137 which is only eight spaces more than what is being proposed. Ms. Cousins noted that the existing 9,000 square feet auto parts store requires 45 spaces to comply with zoning and the 2,400 square feet laundromat requires 12 spaces. The required parking for both these uses appears to be overestimated based on the operations and observed usage. The applicant is confident that the proposed 129 parking spaces will satisfy the demand for the use of the entire building.

Mr. Fowler stated he knows the parcel very well and he is happy that the parking that they were getting from Balance Spa was not in the back but on the side. He is happy with the plan provided.

Mr. Delaney stated he is happy with the plan.

Mr. Fratalia stated the allotment of spaces for those two establishments is probably overstated so he has no problem with the parking being at 137.

Mr. Ryder stated that when the initial exemption was given it was based on the liquor store. He asked what the intended use is. Mr. Cuco stated that O'Reilly's would go to the liquor store and allotted 10 spaces for them because of the delivery vehicles then they gave what was the liquor store full amount for retail and then they did a restaurant because the original plan had a restaurant and drive through so the numbers were back and forth. They did take into account the burden from what was allocated for O'Reilly's over to what was going to go into the liquor store and vice versa so at the end of the day it comes out to about the same for what they are asking for the waiver for. Mr. Ryder stated that adding those is going to be a help and is going to be putting in a sidewalk that will tie in with Starbucks which will help. Mr. Cuco stated he believes they have already started the application for MassDOT.

Mr. Johnson stated that he has no issue, he believes it will work. He requested a Do Not Enter on both sides to make it clearer no to take the left to enter. Mr. Cuco stated they are looking into placing an arrow similar to McDonald's to show where to enter and exit.

Mr. Ryder asked if there should be an additional tip down because the whole parcel is being shifted as part of the lease. Mr. Cuco stated that the lease does not include the front section, the owner will take care of that section of sidewalk.

There were no questions from the audience.

MOTION- Mr. Fratalia made a motion to close the hearing. The motion was seconded by Mr. Fowler. Roll call vote was taken. Mr. Fratalia voted aye. Mr. Ryder voted aye. Mr. Fowler voted aye. Mr. Delaney voted aye. Mr. Johnson voted aye. Motion unanimously voted 5-0.

MOTION- Mr. Fowler made a motion to approve waivers for Section 5170, Section 5421, and Section 5122 (note that that's to 129 spaces rather than the 163 that would have been required otherwise). The motion was seconded by Mr. Ryder. Mr. Fratalia voted aye. Mr. Ryder voted aye. Mr. Fowler voted aye. Mr. Delaney voted aye. Mr. Johnson voted aye. Motion unanimously voted 5-0.

MOTION- Mr. Fowler made a motion to approve the Modification to Site Plan Special Permit/Use Special Permit for 1768 & 1788 Main Street under two conditions. First the performance bond of \$10,000 and second that the parking access easement shall be recorded at the Registry of Deeds as the two properties are owned by two different entities. The motion was seconded by Mr. Delaney. Mr. Fratalia voted aye. Mr. Ryder voted aye. Mr. Fowler voted aye. Mr. Delaney voted aye. Mr. Johnson voted aye. Motion unanimously voted 5-0.

Old Business

There was no old business.

New Business

There was no new business.

Correspondence

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There was no correspondence.

Adjournment

MOTION- Mr. Fowler made a motion to adjourn the meeting at 8:35 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

Approved on: February 14, 2022

List of documents for the 1.31.2022 meeting

Documents can be found in the Community Development Office

- 7:00 p.m.** Call meeting to order
- A. 7:00** Approval of Minutes: None.
- B. 7:00** Committee Reports/Administrative Actions
- 1- Committee Reports
 - 2- Town Planner's Report
 - **Memo from Alexandra Lowder dated 1/28/2022**
- C. 7:00** 30 East Street – Carolina Properties, LLC on behalf of Holden Irrevocable Trust: Site Plan Special Permit, Special Permit for the Town Center Overlay District and Groundwater Protection District (*continued from 1/10*)
- **Building Commissioner response from Andover Consultants Inc dated 1/12/22**
 - **DPW response letter from Andover Consultants Inc dated 1/12/2022**
 - **Revised site plans dated 1/12/2022**
 - **Letter from Kevin Hardiman dated 1/26/2022**
 - **Email from Lt. Sawicki dated 1/24/2022**
 - **Memo from Alexandra Lowder including draft conditions and waivers dated 1/27/2022**
 - **DPW response letter from Andover Consultants Inc dated 1/27/2022**
- D. 7:05** 1768 & 1788 Main Street – 1768 Main Street Realty Trust: Modification to Site Plan Special Permit/Use Special Permit (*continued from 1/10*)
- **Letter from Civil Design Consultants dated 1/18/22**
 - **Waiver request letter from Civil Design Consultants dated 1/18/22**
 - **Revised site plans dated 1/18/22**
 - **Email from Alexandra Lowder to Meera Cousens of Civil Design Consultants dated 1/24/22**
 - **Revised waiver request letter dated 1/24/22**
 - **Memo from Alexandra Lowder including draft conditions and waivers dated 1/27/2022**
 - **Letter from Kevin Hardiman dated 1/27/2022**

Old Business

New Business

Correspondence

Adjournment