BOXBOROUGH PLANNING BOARD
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Owen Neville, Chair Eduardo Pontoriero, Clerk Nancy Fillmore John Markiewicz Hongbing Tang

Meeting Minutes
April 4, 2016
7:30 PM
Morse-Hilberg Room, Town Hall, 29 Middle Road

Members Present:

Owen Neville, Chair
Eduardo Pontoriero, Clerk
Hongbing Tang, Member
Adam Duchesneau, Town Planner

Members Absent:

Nancy Fillmore, Member
John Markiewicz, Member

The Chair called the meeting to order at 7:33 PM.

Meeting Minutes of March 21, 2016
Mr. Pontoriero MADE a MOTION to approve the minutes of March 21, 2016 as amended. Ms. Tang SECONDED the MOTION. All members voted in favor.

700 & 800 Massachusetts Avenue (aka Town Center) – Site Plan Approval Application – Stamski and McNary, Inc. on behalf of property owner Boxborough Town Center, LLC, for a proposed senior housing development with 100 dwelling units in 50 structures, a clubhouse, mixed-use buildings, and associated wells, wastewater treatment facilities, and roadways.
Mr. Neville opened the public hearing at 7:36 PM and read the legal notice into the record. Richard Harrington from Stamski and McNary, Inc., attorney Sherrill Gould, John Lyons, and Mike Jeanson, as well as David Bauer from Toll Brothers, were in attendance to discuss the proposed project with the Planning Board. Mr. Duchesneau reminded everyone in attendance that this was a Preliminary Public Hearing as part of the Site Plan Approval process and no decision would be rendered by the Planning Board as part of this hearing. Only formal comments from the Planning Board would be passed along to the Applicant as a result of the hearing that evening. Mr. Duchesneau also pointed out to the Planning Board the written comments which had been received from some of the abutters, and those from Dennis Reip and Norm Hanover on the Conservation Commission.

Mr. Harrington began by providing an overview of the proposed project noting the development would include 100 units of over 55 housing in 50 buildings, all grouped together as part of a condominium. He called out the three proposed access points for the development and indicated

the property would be re-divided via an ANR Plan to create three lots on the site, Lots 1, 2, and 3. Lots 1 and 3 would contain mixed use buildings, parking, wells, and septic fields. Lot 2 would contain the 100 units of housing with gated access from Priest Lane and Stow Road, two public water supply wells, and the waste water treatment plant for the housing units. Mr. Harrington noted a Notice of Intent (NOI) filing for only the Water Supply Exploration and soil testing had been made with the Conservation Commission and they were currently working through that process. He also pointed out each dwelling unit in the project would have a two-car garage and there would be stormwater basins situated throughout the property for drainage purposes. Mr. Harrington indicated that of the 100 units, 70 would have two bedrooms and 30 would have three bedrooms.

With regard to the proposed gated access, Ms. Tang asked specifically what type of access the Applicant had in mind from Priest Lane and Stow Road. Mr. Harrington indicated full vehicular and pedestrian access would be provided through Hayward Lane, but there would only be pedestrian access and restricted emergency and Department of Public Works (DPW) vehicle access through Priest Lane and Stow Road. Mr. Pontoriero stated he had concerns about the density of the project and felt the development was essentially 100 units of housing accessed from a dead-end roadway. Mr. Harrington noted the project's roadway would actually be wider than a proposed subdivision roadway. Mr. Pontoriero asked if the gated access points would be locked. Mr. Harrington stated they would be locked and would function as other emergency access gates do in town with only Police, Fire, and DPW access via a key.

Mr. Pontoriero asked the Applicant to reconsider the proposed location of the mailboxes since the main access for the project would be off of Hayward Lane and the proposed location was very deep within the project site. Mr. Harrington stated the project team would consider this request, but they did not feel it made a difference where the mailboxes were located on the site. Mr. Neville pointed out the proposed water supply location and stated it should not be assumed these wells could be located here because they are within the resource area on the site, which includes the 100 foot buffer to the wetlands. He noted the determination of whether or not these wells can be placed in this particular location rests with the Conservation Commission, and the layout of the project, including roadways and structures, may need to be substantially reworked if the wells needed to be relocated. Mr. Harrington stated the project team would be preparing a response for the Conservation Commission.

Mr. Pontoriero asked for clarification regarding the potential issue with the proposed location for the wells. Mr. Harrington stated the wells are proposed to be located within the 100 foot buffer to the wetlands, but wells can only be located there if certain other criteria cannot be met. Mr. Hanover stated a first session regarding the NOI had already been held by the Conservation Commission and at that first meeting no housing units or roadways were shown on the plans. Mr. Hanover cited Section 2.5.3.2. of the Wetland Bylaw Rules & Regulations which states wells and waterlines may only be allowed with appropriate conditions when it can be shown that no other location outside the Adjacent Land Resource Area zone is possible due to other Town regulations. He continued on to note there are locations on the project site where the wells could be placed, other than the proposed location. Mr. Hanover also stated there are certain exceptions, but a well or wells in this location would probably not be allowed by the Conservation Commission. Mr. Neville then opened the hearing to comments from those in attendance.

Brian Davis of 117 Stow Road noted a number of questions about the project were raised in the memorandum from the Sheriff's Meadow Condominium Association. In particular, he wanted to know if the easement across the Sheriff's Meadow property could or would be used for construction access. Mr. Davis indicated the easement has been used as access to the project site up to this point and the developer has even been parking construction vehicles on the easement. Mr. Harrington stated the project team was in possession of a copy of the Sheriff's Meadow Condominium Association letter and they understand the abutter's concerns. He noted they cannot discuss the exact location of construction vehicle access at this time as the project team is not ready to have that particular conversation.

Lita Fitzgibbons of 773 Massachusetts Avenue stated she had concerns about the proposed well for the project and the potential impact it might have on the well for the Carriage House Condominiums. Ms. Fitzgibbons requested that her association's well be monitored before, during, and after the pump test for the proposed development. Mr. Harrington stated the Massachusetts Department of Environmental Protection (MassDEP) has an option for well monitoring for the pump test process. Ms. Fitzgibbons also stated she had concerns about the headlights of vehicles exiting Hayward Lane to turn onto Massachusetts Avenue, and the impact this might have on the Carriage House Condominium. Mr. Harrington indicated the project team could look into this, but he also felt it would most likely not be an issue.

Anne Becklean of 99 Stow Road indicated the Tisbury Meadow Condominium Association wells have been tested four times per year for the last 16 years and she had not heard of a protection zone around their well. Ms. Becklean had concerns about how the 100 units of housing would impact the well for her condominium association. Mr. Harrington stated the Tisbury Meadow Condominium Association has less than 25 people and therefore the well is classified as a private well, which has a smaller radius than a public water supply well. He also indicated this is true of the well for the Sheriff's Meadow Condominium Association, but the Carriage House Condominium Association well is a public water supply well because it supplies more than 25 people.

Carol Driscoll of 127 Stow Road asked the project team to respond to the letter submitted by the Sheriff's Meadow Condominium Association. Mr. Harrington stated the project team would prefer not to respond directly at this time because they wanted to take in all the comments regarding the project, review them, and respond accordingly. Ms. Gould noted the Planning Board had requested mixed use or commercial development in the areas along Route 111/Masschusetts Avenue. She indicated as a result of this request, the project team had to squeeze the wells onto Lot 2. If the Planning Board was willing to pull back on their request for mixed use and/or commercial development along Route 111/Massachusetts Avenue, the project team could rework the proposed location for the project's wells. Mr. Neville noted that mixed use or commercial development could be located anywhere on the project site.

On a MOTION by Mr. Neville, SECONDED by Ms. Tang, the Planning Board voted unanimously to continue the public hearing to their meeting on Monday, May 2, 2016 at 7:45 PM.

The Planning Board then took a five minute recess and reconvened at 8:20 PM.

1034 & 1102 Massachusetts Avenue (Lawn Barber, Inc.) – Site Plan Approval Application – Applicant Phaneuf RT (Lawn Barber, Inc.) seeks approval to allow the erection of a free standing hoop house structure, relocation of parking spaces, repositioning of landscape and masonry materials and other storage, and other site improvements.
Mr. Neville opened the public hearing at 8:20 PM and read the legal notice into the record. Steve Phaneuf and Neil Phaneuf of Lawn Barber, Inc. were in attendance to discuss the project with the Planning Board. Steve Phaneuf began by noting they are proposing to retain nine pre-existing nonconforming parking spaces along Massachusetts Avenue/Route 111. He stated the area 15 feet back from the edge of pavement between the eastern most parking space and the 1034 Massachusetts Avenue property line would be loamed, seeded, and returned to landscaping. Steve Phaneuf noted they now have material storage along the left side of the driveway and a new hoop house building where they cut stone veneer, which was constructed in 2015.

Steve Phaneuf also indicated Lawn Barber, Inc. rents property on 1102 Massachusetts Avenue from Bob Smith for stone cutting, and product and material storage. He stated his business has 27 employees and the stone cutting portion of their business only represents 10% of the total business operations. Most of Lawn Barber, Inc.'s business activity takes place out in the field on different job sites and there are typically only 8-10 employees on the site during the day. Steve Phaneuf indicated there are three bathrooms on the property and they had purchased the site with a clean Title 5. He then explained how the stone cutting operation is set up to capture the slurry waste and how clean up is performed. Steve Phaneuf stated Lawn Barber, Inc. is a landscape construction, masonry, and excavation business. He also indicated the business has not changed much over the years, but they are making more stone veneer for the employees out in the field.

Mr. Neville noted when the business obtained its original Site Plan Approval back in 2005, there were no real discussions about masonry construction being a part of the business. Steve Phaneuf indicated they still cut grass, but they now sub out most of that work to other businesses. He noted they are primarily growing into another field because stone veneer has become very popular. Mr. Pontoriero asked how the Planning Board can address the concerns which have been raised in the Staff Report. Mr. Neville pointed out to the Applicant that simply because the former Building Inspector issued the Building Permit for the hoop house in error, it does not relieve the Applicant of the requirement to receive appropriate Site Plan Approval from the Planning Board.

Mr. Duchesneau then summarized the zoning issues related to the hoop house which included its location with regard to setbacks and also the use which was occurring within the hoop house. Mr. Neville noted this situation will need to be sorted out by the Planning Board with additional information being provided by the Applicant and further meetings between Town staff and the Applicant. Ms. Tang pointed out the business maintains a substantial amount of parking along Route 111/Massachusetts Avenue and this did not seem to be in keeping with the rural character of the Town of Boxborough. Steve Phaneuf indicated the business has different shifts for different employees. He stated crews leave from the business at different times and they also have an on-site crew which works in the shop. Aside from the on-site crew, the rest of the employees work out in the field. Steve Phaneuf added that the Building Inspector has indicated there are nine grandfathered parking spaces along Route 111/Massachusetts Avenue and that 15 feet off of the edge of pavement is still part of the Route 111 right-of-way.

Mr. Neville asked what the terms of the lease are with Mr. Smith for the property at 1102 Massachusetts Avenue. Steve Phaneuf indicated it is a handshake agreement to lease the property for storage and parking. Mr. Pontoriero asked if the Applicant could return before the Planning Board at a later time when more of these issues have been addressed. He also wanted to clarify exactly what the Applicant was seeking Site Plan Approval regarding. Mr. Duchesneau explained the Applicant is seeking Site Plan Approval for the expansion of the business, the erection of the hoop house structure, and the relocation of parking and storage of materials.

Neil Phaneuf asked the Planning Board how his business is supposed to know how much they can grow. Mr. Duchesneau explained the business can grow as much as it wants, but when it grows there are certain approvals which need to be obtained. In this case, one of those approvals is Site Plan Approval from the Planning Board. Mr. Neville then opened the hearing to comments from those in attendance.

Police Chief Warren Ryder indicated he had public safety concerns regarding deliveries to the business as many times large trucks which make deliveries obstruct traffic on Route 111/Massachusetts, creating potentially dangerous situations.

Kathy Vorce of 555 Liberty Square Road noted she has seen numerous vehicles at the property along Route 111/Massachusetts Avenue and thought perhaps an auction was occurring at the property. She indicated it was enlightening to hear what was being said at the public hearing. Ms. Vorce stated she was surprised this situation has gone on for as long as it has and agreed with Ms. Tang's comments that the parking at the business did not appear to be in keeping with the rural character of the town. Ms. Vorce also felt the situation was unfair to past Site Plan Approval Applicants and there should be equal application of the law. She encouraged the Planning Board to rigorously go through the process and felt an analysis of the property needed to be done. Ms. Vorce also stated she was not aware of any grandfathered parking at the 1102 Massachusetts Avenue property. She indicated she was surprised the Conservation Commission did not provide any comments for the Staff Report.

Mark White of 93 Sara's Way challenged the assertion there were nine grandfathered parking spaces at 1102 Massachusetts Avenue, as he has never seen nine vehicles parked in that area ever. He felt this item should be investigated thoroughly. In speaking about the handshake lease agreement, Mark White challenged the premise that Site Plan Approval could be awarded to a portion of a business under terms which could be terminated so quickly. He also had pollution concerns with regard to wastewater and noise generated from the property. Mark White noted that until this situation gets resolved, the Zoning Bylaw clearly calls for penalties to be levied against the Applicant and he did not understand why fines have not been issued. He noted the business has multiple violations of the Zoning Bylaw as was laid out in the Staff Report. Mark White noted many business owners have been through the Site Plan Approval process before. He also added he had traffic concerns about vehicles going to and from the property.

Lonnie Weil of 350 Burroughs Road asked for further clarification on the statement that only 10% of their business involves stone cutting, but the majority of their business involved masonry work. Steve Phaneuf explained that 10% of Lawn Barber, Inc.'s business involves stone cutting, but the masonry construction portion of the business, the workers and projects out in the field, make up the majority of the business. Steve Phaneuf added the business has eight employees

working on-site, but approximately 65 employees working out in the field on job sites. He also noted that when Ms. Vorce drove by the property and noticed a large number of vehicles parked by Route 111/Massachusetts Avenue, it was likely the day when they were reorganizing the property as they had to remove product and material from Larry White's adjacent property.

Jim Moinhan of 93 Joseph Road noted the application was a site planning issue. He also stated it did not appear from the Staff Report that only 10% of the business involved stone cutting and it actually seemed to be a much larger portion of the business.

Ms. Vorce stated her understanding was the business primarily involved the storage of landscaping materials originally, but now it is more of a manufacturing use. She added that the noise of stone cutting is very loud. Steve Phaneuf indicated they had conducted a sound study at the property which was found to be in compliance with the requirements of the Zoning Bylaw. Mr. Neville stated that after the preliminary meetings with the Planning Board, he was hoping the Applicant would return with a Site Plan which did not include parking spaces along Route 111/Massachusetts Avenue.

The Planning Board then went over the proposed draft conditions with the Applicant. Mr. Neville noted that proposed Conditions 4 and 5 needed to be reviewed with the Board of Health. Mr. Pontoriero asked about the donation bins next to the pond and felt these needed to be addressed as part of this Site Plan Approval. There was a discussion regarding the Town Planner's proposed condition recommending removal of the bins in their entirety. Mr. Pontoriero pointed out the main issues with the application appear to be the setbacks of the hoop house structure and the use of that particular building. Steve Phaneuf stated he would likely pursue a Variance application from the Zoning Board of Appeals as opposed to entirely moving the hoop house structure. Building Inspector Gerry Noel indicated that if a Building Permit was issued in error, it is still within his purview to revoke that permit.

Larry White of 71 Sara's Way stated the hoop house was constructed as an accessory structure and is now being used as a factory. Larry White wanted to know if Lawn Barber, Inc. will be allowed to continue their operations while this matter is being sorted out with the Planning Board. He noted, as an abutter, he is forced to look at this property and deal with the noise on a daily basis, and he wanted to know how the Planning Board would address the current issues. Mr. Neville stated he was not aware the Cease & Desist Order had been released. Mr. Noel pointed out the Cease & Desist Order has been issued for stone cutting occurring outdoors and for the pollution of the wetlands on the adjacent property. A site visit had been performed on March 29, 2016, and the operations of the business were deemed to be satisfactory and cutting was allowed to resume later that week.

Steve Phaneuf noted they are now using copper infused blades for the stone cutting saws to help reduce the amount of noise they produce. Mr. Neville stated he hoped the doors to the hoop house will be required to be closed when stone cutting is occurring. Larry White stated it was his understanding that if you violate the law, you need to stop what you are doing. He indicated he was very impacted by the Applicant being allowed to continue his operations while the matter is being resolved. Larry White stated he felt it was within the Planning Board's purview to require the operations of the business to be halted until the matter before them had reached a conclusion. Mr. Neville indicated it was not within the Planning Board's purview to require the business to

cease their operations as this item falls specifically to the Building Inspector. Ms. Vorce asked if it was correct that the action or non-action by the Building Inspector could be appealed to the Zoning Board of Appeals and Mr. Noel indicated that was correct.

On a MOTION by Mr. Neville, SECONDED by Mr. Pontoriero, the Planning Board voted unanimously to continue the public hearing to their meeting on Monday, April 25, 2016 at 7:45 PM.

The Planning Board then took a five minute recess and reconvened at 9:33 PM.

Correspondence
Mr. Duchesneau indicated the only items the Planning Board had received were those comments pertaining to the 700 & 800 Massachusetts Avenue (aka Town Center) project.

205 and 223 Flagg Hill Road (Silas Taylor Farme Road) – Reduced Frontage Lots Special Permit Application Comments
Mr. Pontoriero asked if the proposed reduced frontage lots met the requirements of Section 5003 Reduced Frontage Lots in the Zoning Bylaw. Mr. Neville indicated the lots not only meet the requirements but are actually in excess of the requirements in a number of places. With that information made clear, the Planning Board indicated they had no objections to the application.

Cunningham Road Discontinuance
Mr. Duchesneau informed the Planning Board that the Warrant Article for the Annual Town Meeting in May would only speak to the discontinuance of the western portion of Cunningham Road. The proposed discontinuance would include the portion of Cunningham Road from its intersection with Route 111/Massachusetts Avenue to the eastern most edge of the 10 foot wide trail access easement on the Jefferson at Beaver Brook property where it crosses Cunningham Road. After discussions with the Board of Selectmen and the Town Administrator, it was determined that the eastern portion of Cunningham Road needed to be examined more closely to determine what interests the Town should retain in that portion of the roadway.

Discussion Regarding Warrant Article Presentations for the May 2016 Town Meeting
Due to the late hour, the Planning Board asked Mr. Duchesneau to place this item on the Planning Board's next meeting agenda for further discussion.

With no further business, the meeting was adjourned at 9:55 PM on a MOTION by Mr. Neville, SECONDED by Mr. Pontoriero, with all members voting in favor.

On Behalf of the Boxborough Planning Board

Eduardo Pontoriero, Clerk