



APPROVED: FEBRUARY 22, 2011

PLANNING BOARD
TOWN HALL
195 MAIN STREET
MAYNARD, MA 01754

Minutes: January 25, 2011
Attending: Greg Price (GP), Ken Estabrook (KE), Max Lamson (ML), Jason Kreil (JK), Marie Morando (MM), Planner Assistant, Rick Asmann, (RA), Building Commissioner
Absent: Mike Bingley

Motion to approve minutes; we need to clarify the minutes by editing Mark Bobrowski from Mike Bingley MM – please amend the minutes to show the difference.

GP motion to approve minutes dated January 11, 2011,
2nd KE –
Motion approved 4-0 - passed

GP motion to approve minutes dated December 28, 2012 as amended
2nd KE
Motion to approved 4-0 – passed

MM – explained the request of Walter Latta for a new covenant to be signed by the planning board, since he didn't file the original one at the registry in a timely fashion, everyone signed except for Chair he will sign tomorrow at the Clerk's office.

Discussion around what the planning board can require and ask of the Maynard High School site plan review. Everyone member received the following memo from Town Counsel. The board will not send a letter to the architect of the project; there is no traffic study done on the project. The board will be reasonable and the board cannot deny the site plan. The following is a copy of the town counsel letter to the planning board..

B L A TMAN, BOB ROWSKI & MEAD, L L C

Attorneys At Law

30 Green Street Newburyport, Massachusetts 01950

Phone (978) 463 7700

Fax (978) 463 7747

TO: Greg Price

FR: Lisa L. Mead, Town Counsel

RE: Site Plan Review for the High School Project

DA: January 20, 2011

Reference is made to the above captioned matter. In that connection, this memorandum is sent to you for the purpose of providing information concerning the Planning Board's Site Plan Review of the proposed High School Construction project.

The Board's Review will be somewhat different from what the Board is likely accustomed to on account of the review being for an educational facility.

As you are aware under G.L. c. 40A §3, educational facilities are subject only to reasonable regulations with regard to the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. Trustees of Tufts College v. City of Medford, 415 Mass. 753, 757 (1993). See also Trustees of Boston College v. Board of Alderman of Newton, 58 Mass. App. Ct. 794, 798 (2003). Beyond these areas of regulation, educational facilities are otherwise exempt from all other zoning controls. Accordingly, the Board's review must be limited to the criteria set forth in the Zoning Bylaw at Section 14.4.B as it relates to set backs, lighting and parking as they relate to the lot area, bulk and height of the structure.

As you are aware the Board's review is not in the form of a Special Permit under the Site Plan Review Bylaw. It is important that the Board understand that its roll in this matter is more advisory as final authorization to proceed may not be denied. I hope this clarifies the process. Should you have any questions, please let me know.

McDonald's Restaurant
2-4-6 Main Street

Attending: Tessa Bernstein, McDonald's corporate
Paula Wright – owner

The planning board received a revised planting schedule. The plantings will be on the west side of the site and will be planted every three feet when they remove the fence. Is this a substantial change or a non-substantial change to the site.

KE – did you receive an agreement from Jim MacDonald the owner of the abutting property – no.

RA- no setback issues for the plantings.

ML – are you removing the trees that are there now? Yes, when the new plantings are done in the spring. As soon as the weather permits.

RA – three feet on center is much better for the sound and lighting. A vegetation border is much better than a fence.

JK – as long as they maintain a barrier, right now we are determining if this is a substantial or non-substantial change.

KE – if we find that this is substantial we would then set up a public hearing so the public would be notified to attend the public hearing if they want to. I am reading from Page 94 of the Zoning Bylaws.

JK and ML – do not have an issue with the fence but do have issues with the other things that have come up on the site.

KE – we need to determine if the fence is substantial or not to be reviewed in a public hearing

KE – motion to determine that the proposed modification which relates to the fence to be substantial and that the planning board review the proposed modification at a public hearing, in addition, at the meeting, we would also review the modification to the signage, parking requests, play space, landscaping/plantings, and any other modifications that the applicant has made or proposes to make.

2nd by GP

Any discussion

ML – we need to separate the motion.- my opinion is that the fence should be separated and that it is non-substantial and they receive a written agreement from the abutter.

Vote: 2 in favor

2 opposed – motion fails to pass

JK – motion to substitute the plantings for a fence that are necessary to have screening and lighting access, more access with the plantings, fencing allows different kinds of accessing property.

Not substantial

KE - I can't approve this tonight without Jim MacDonald agreement.

ML - Can we entertain a new motion. Granting the modification fence by itself.

How long will it take for you to get something from the abutter? Tessa Bernstein, I can get something this week.

GP – motion to postpone the determination proposed being substantial or non-substantial until we get something in writing from the owner of the abutting property.

KE – 2nd

Discussion: When the applicant appeared before us we didn't ask him for this we asked him for a landscaping plan

JK – applicant addressed what we asked him for – could you obtain a letter from the abutter, yes, by the next meeting.

KE – the public should be allowed to come to the public hearings – we can then determine substantial or non-substantial.

JK – the applicant has submitted what we originally asked for

KE – withdraw motion

GP – motion to the proposed change is substantial as to the removal of the fence

2nd KE

Any further discussion – no

Motion failed – 2-2

New motion

KE – Motion that the following changes are determined to be substantial signage, seating, parking, play space, landscaping plantings, and these changes be heard at a fully noticed public hearing.

Any discussion:

ML – replacement of the fence is non-substantial with the proposed landscaping; this deemed non-substantial may be granted conditional on receiving a letter of approval from the property owner

That the owners will replace damaged or dying plantings on the 3 feet to the center
2nd JK

Motion passed 3-1 (KE)

KE – motion changes that are substantial signage, seating, parking, and play space to be reviewed a duly noticed public hearing on March 8th, 2011.

2nd GP

Any further discussion

No

Motion passed 4-0 – public hearing to be March 8, 2011 at 7:00 pm

GP read the legal notice into the minutes on 170 Main Street

“A public hearing will be held on January 25, 2011 at 7:00 p.m. at the Maynard Town Hall, 195 Main Street, Maynard, Room 201, to hear all persons in a Site Plan Review, Special Permits and Waivers requested by Dimopoulos Realty Trust 170 Main Street (Assessor’s Map 14 Parcel 130). The premises are located in the Business District and the Downtown Overlay District. This is subject to Section 14 (Site Plan Review) and Appendix A (Site Plan Review Regulations) of the Protective Zoning By-laws of the Town of Maynard, Massachusetts. In addition, the applicant is requesting the following Special Permits and Waivers from the following Sections of the Protective Zoning By-Laws of the Town of Maynard in accordance with the Massachusetts General Laws Chapter 40A:

Special Permits Required

Section 5

- A. Sub-section 5.3.A. to allow the alteration and expansion of the existing Gas station and automotive repair

Section 6

- A. Sub-section 6.F. Downtown Mixed – Use overlay District
- B. Sub-section 6.F.6B – Special Permit for reduced building height request a single story building height for a financial institution

Waivers Requested

Section 16. Parking Standards

- A. Sub-section 16.4.D.2 – Minimum setback requirements
reduce the sideline setback to a paved area from 10 feet to 5 feet due to existing site restrictions.
- B. Sub-section 16.4.D.3 – Minimum driveway separation:
reduce the separation requirement between driveways from 200 feet to 65 feet, for improved circulation and as the site is currently paved across 183 feet of the existing frontage on Main Street
- C. Sub-section 16.5.A – Dimensional Requirement
reduce the size of a standard parking space length from eighteen and one half (18.5) feet to seventeen and one half (17.5) feet with an aisle width of twenty (20) feet to maximize parking on site
- D. Sub-section 16.9.A – Landscaping Requirements
reduce the requirement for full landscaping across the front yard setback to the areas shown, due to existing conditions and site restrictions.

Any other special permit approvals and waivers required by the By-laws necessary to construct the above project.

Copies of the Site Plan and the Special Permit/Site Plan application are on file with the Town Clerk and the Planning Board office for inspection during normal business hours.

Steve Poole – I am representing the applicant Dimopoulous Realty Trust, this is an existing station with a two pump island, sitting on approximately one acre of land; in the downtown overlay district, we are looking at expanding the existing station with a second building on the Sudbury Street side of the lot, we have no commitment. We are considering expanding and upgrading the existing station, we are reducing the wide opening at the entrance, with a small amount of landscaping, we are using the existing utilities, and parking for the bank will be in the back of the lot, parking calculations are sufficient. There is a 6 foot fence between the garage and the abutting property, we are proposing plantings near Sudbury, and spot lights are located in the rear of the site. Drainage on the site will run off onto Main Street, we are keeping the same basic layout, the contamination has been cleaned. We are waiting for the latest report from the EPA. Snow Storage – most of the snow will have to be taken off the site.

Mark Beaudry – Meridian – he had submitted a report to the board and the board distributed it; his main concern before we get into the details will be the zoning. It looks like the expansion will go right through the general residence district which is not allowed.

RA – confirms that the gas station cannot be in the residential district; the overhang of the drive up is prohibited in the residential district. Are you using the DOD or the underlying district

Discussion between the board and the applicant regarding the zoning issues.

Steve Poole: We are using the overlay district to promote mixed use. We are requesting a waiver for the 2nd floor use. A residential on top of a bank they would not like that. Application is under the overlay district. Overlay district is for residential and business.

KE – questioned the use in the underlying district.

RA – when we did Walgreen's the two story building was allowed in the downtown overlay district they put storage on the second floor and small office space. Just like a financial institution who does not want residential upstairs a pharmacy would not want a residential upstairs.

Steve Poole – there is a pad already in the back of the building where the addition is intended to go. The drive thru canopy is extended into the residential district; this would come under mixed use 6F; residential and commercial.

Applicant – Nick Dimopoulous we need to go back to the drawing board for a smaller building.

Mark Beaudry – please e-mail me the staff review minutes.

When do you have deliveries – early morning or at night; would they enter and leave the site in a different direction – no. Are you doing any changes on Sudbury Street – no We are not changing the sidewalks. This is not a big traffic problem.

Tim Letton looking at the traffic volume – hours of operation;

High Street is mainly residential; is there a lot of foot traffic;
Stormwater application is under the conservation commission.

Does anyone from the public have comment:
Catherine and John Evans,
253 Main Street

Questioned the planter – it is not on his property
Kids are back and forth on High Street going to school. Will a gas station closer to residential housing will that affect the values of the homes. In the design review stages that where we will get into the building materials.
ML – when will the testing be finished – it is now in the finishing stages now.
Did you apply for a special permit for earth removal. It will be minimal. You should probably apply in case you need one and that you would have to apply half way through the job.

GP – motion to continue public hearing until March 22, 2011 at 7:00 pm,
KE – 2nd
Motion passed – 4-0

GP – motion to adjourn at 8:40 pm
2nd KE
Motion passed – 4-0