

TOWN OF MAYNARD PLANNING BOARD

195 Main Street, Maynard, Room 201
Tuesday September 23, 2014 - 7:00 p.m.

Members present: Bernard Cahill, Max Lamson, Gregory Tuzzolo, Linda Connolly, Andrew D'Amour

Also present: Town Planner Bill Nemser

7:00 p.m. Vice -Chair Cahill opened the meeting. Vice-chair Cahill will serve as Chair for tonight's meeting and appointed Andrew D'Amour as the fifth voting member in Kevin Calzia's absence.

7:01 p.m. Additions, deletions, reordering of the agenda – there were no requests.

7:02 p.m. Approval of minutes

Town Planner Bill Nemser stated that the minutes had been reviewed by all members and all corrections/revisions have all been made. Vice-chair Cahill made a motion to approve the minutes of April 30, May 13, June 24, July 8 and July 29 as amended, seconded by Max Lamson. The Board voted 5 to 0 in favor of this motion.

7:03 p.m. Chair Cahill addressed a comment by resident Vic Tomyl that the agenda and the legal notices are incorrect. Mr. Tomyl stated the agenda was not available, and questioned how the Board can hold two hearings that both are listed to start at 7 p.m., there is no mention in the advertisement of what time the hearing will be held. Chair Cahill responded that there are copies of the agenda on the table, and that he had a discussion with Town Planner Bill Nemser and was advised that that agenda does not have to list specific times the hearings can be listed by order, if a time is listed on the legal notice the Board cannot open the hearing earlier than the posted time. There was a typographical error on the legal notice and the Board requested a legal opinion on whether that hearing can be held. Chair Cahill read the legal opinion from Jason R. Talerman, Esq. (of Town Counsel) Blatman, Bobrowski & Mead, LLC stating that he believes the error is more clerical than substantive; the purpose of the notice is to give affected parties and the public adequate notice of the subject of the hearing. Mr. Tomyl requested and was given a copy of the legal opinion.

7:10 p.m. Petition filed by Distinctive Acton Homes, Inc. to change the zoning map designation of the property located at 129 Acton Street, Map 5 Parcel 72, 73 and 95 from Industrial and S1 Single Residence District to General Residence Zoning District.

Scott Hayes of Foresite Engineering appeared before the Board, with a request to rezone the three parcels 72, 73 and 95 which are currently zoned Industrial and S1 and proposal is to rezone to General Residential, the total area is approximately 4.4 acres. Chair Cahill opened the hearing to Board questions.

Greg Tuzzolo asked how the rail trail parcel is affected, Scott Hayes stated that a piece of the railroad that got deeded out, the intention is to grant the Town an easement for the track part for purposes of rail trail. Max Lamson asked if there is more history of this site, Bill Nemser stated this proposal if endorsed by the Planning Board will go before the Board of Selectmen and placed on warrant for Town Meeting. Chair Cahill asked how many houses can fit by changing to General Residence, Scott Hayes responded that the site is not designed yet but based on square footage and multifamily dwellings, possibly 30 units presuming that the whole site is developable; there are wetlands on the site.

Max asked if the communications tower would be part of the proposal, as they are not allowed in a residential district. Scott replied that there is a parcel that surrounds the tower that is not part of the 4.4 acres. Max Lamson would like to see an accurate plan of what is proposed to be residential. Bill Nemser stated that the communication tower boundaries, easement and/or ownership status and need to be independently identified on the proposed plan.

Chair Cahill opened the meeting to public comment.

Resident Vic Tomyl asked if these three lots consist of 5 acres or more, it would be spot zoning Bill Nemser replied that the site is 4.4 acres, one of the acres adjacent is already zoned residential, it would not be spot zoning there is existing

residential. Resident Bill Cranshaw asked if this goes to Town Meeting would it be sponsored by the Planning Board and asked why not rezone the whole area, instead of leaving little zones. Ron Calabria commented that this is not ready to go to vote at Town Meeting, what would they be voting on, there are no boundaries, the voters could approve something residential that included a cell tower. Bill Nemser clarified that wireless design requirements are about siting a tower in residential areas, However in this case the tower is already there.

A motion was made by Bernie Cahill to close the hearing, seconded by Max Lamson. The Board voted 5 to 0 in favor of this motion.

The Board deliberated. Linda Connolly acknowledged the comments by the citizens, the Town Planner has been clear about particular items that have been outlined, she does not have a problem with this request. Greg Tuzzolo agrees with Bill Cranshaw's comments, but as for now support moving this particular request to Town Meeting. Max Lamson stated in general ok with proposal, but concerned that they don't know what the parcels look like. Andrew D'Amour stated that procedurally it seems off that don't know what parcel has been carved out, listened to the public comments, but not against. Bernie Cahill has given a lot of thought to this proposal, concerned about the outline of the cell tower, pointed out that this is a gateway location to the town and it has been rundown and vacant for many years, the coming rail trail, the heavy industrial that is was zoned for is not coming back, this site is surrounded by residential, it can be made a beautiful gateway into Maynard, thinks it is the right thing to do. Max Lamson asked for the plan to be updated before town meeting, Scott Hayes agreed, he is working on a survey, need to define the extents of the cell tower land, will forward when have it. Bill Nemser responded to the concern of members and the public that this is just a vote to put it on the warrant, recommendation would be obtain clarification on the cell tower. Vote can be contingent on clarification prior to presentation at Town Meeting, the Board can rescind.

A motion was made by Bernard Cahill to recommend placement of an article on Town Meeting in October to rezone the parcels to General Residence contingent on the conditions clarification of the title, clarification of the deed and the cell tower parcel, and clarification on the parcels to be included and be returned to the Board by October 3, seconded by Max Lamson. The Board voted 5 to 0 in favor of this motion.

7:55 p.m. - Request to initiate and support an amendment modifying text of the Zoning Bylaw to change the maximum allowable square footage of a supermarket from 65,000 s.f. to 68,900 s.f. gross floor area and recommending placement of the proposed amendment on the warrant for the Town Meeting of October 27, 2014.

There was extensive discussion about possibility of two supermarkets one in the NBOD district and another in the Industrial district. This request was initiated a few months ago, a resident asked why not just approve the 75,000, not saying have to build that size but can, after approval by the board. The incentive is to go with the NBOD. This request is not site specific, the town wants a grocery store it limits it to any business or industrial district that meets the requirements of the code, if the Town never hears from Parker Street developers, there is still the ability to have a grocery store in the town in another area that fits it. Price Chopper specifically made the request for 68,900 s.f. at the Parker Street site.

Bernie state he doesn't see Parker Street developer coming back with another NBOD plan, the one approved a few years ago is not marketable today, they are taking a piecemeal approach to developing. A NBOD plan will never get passed. The town wants a supermarket, good to start with this and see what works and develop from there. There is a chance for a supermarket Price Chopper is interested in coming and changing reputation everything is on the table under industrial get it done, the Board has to deal with what is in front of us.

A motion was made by Linda Connolly to close the public hearing, seconded by Max Lamson. The Board voted 5 to 0 in favor of this motion.

A motion was made by Linda Connolly to support the amendment modifying text of the Zoning Bylaw to change the maximum allowable square footage of a supermarket from 65,000 s.f. to 68,900 s.f. gross floor area and recommending placement of the proposed amendment on the warrant for the Town Meeting of October 27, 2014, seconded by Max Lamson. The Board voted 5 to 0 in favor of this motion.

8:20 p.m. Petition filed by Skylight LLC for property located at 49-51 Waltham Street, Map 15 Parcel 230 for a Special Permit allowing construction of multi-family dwellings within the Business Zoning District.

Chair Cahill opened the hearing, presenting the petition were Richard Harrington of Stamski and McNary and applicant and owner John Anderson. The proposal is to replace the existing restaurant with units above with 5 residential multi units and a two-family separate building. Mr. Harrington stated there was concern about flooding in the neighborhood, they have talked with Conservation, there is a stream that flows thru the property, this area does have history of flooding, this proposal will be decreasing the amount of pavement and build additional green space. Mr. Harrington showed a plan of drainage on and off the property, and went thru the plans existing conditions and overlay, the engineer described the existing drainage layout of the neighborhood and specifically on the site, he then described the existing and proposed parking layout. The proposal is a significant reduction in paving, roof gutters and drainage for the new units, looking to extend the sidewalk, showed layout of the parking and landscaping, showed rendering of unit plans. The applicant is looking for a waiver for design review, and stated stormwater runoff calculations are being reviewed.

Chair Cahill opened the hearing to Board comments and stated that Linda Connolly has recused herself from this hearing as she is an abutter, but she can comment on the proposal. Bernie read the letters from abutters and thanked the engineer for taking a proactive approach to their concerns. Town Engineer Wayne Amico's comment about fencing, the intent is to shield the abutters from the project as long as it is acceptable to the abutters.

The Board asked about parking, drainage and the gate shown on the plan. Richard stated during the survey the cars just kept going thru, they are trying to make it like a neighborhood and eliminate the car traffic, however the fire department will want to get trucks thru it for access. People with families there want to have a place for kids to play, talked about continuous curbing, stone pavers. There was also discussion on the lighting on the buildings, the back spaces and visitor spaces, existing large halogens are to be taken down, they will be doing a lighting plan, doing regular residential lighting no street lighting, no posts. This is site plan review as well as special permit. Greg Tuzzolo commented that he has a lot of problems with this plan, maybe needs to spend more time on site, but this seems out of character with the neighborhood, the houses are turned in, sidewalk is not shown, gates are closed, efficiently laid out left a lot of green space, confused about the inclusion of the visitor parking and the gate, open it to Waltham close the other down, there is more parking than needed, this is an existing non conforming lot, flooding in the neighborhood. Greg will continue to look at it and listen to comments, if this is the site plan review, will listen then comment later.

Linda Connolly stated she lives on Hayes Street, thinks closing off the thru way is a great idea, likes not putting lighting and taking large light out, but asked what would be the benefit of waiving design review. Mr. Harrington stating that they want to work with the board, want the board to be happy, but remember building two homes, there is a cost associated with all, don't want to go on forever, it would benefit the neighborhood to get the project done quicker, make the neighborhood look better, if they are asking to redesign it doesn't make sense.

Bernie Cahill stated the site plan review is the big pictures, don't see the Board being overly onerous, doesn't think anyone is asking to start over. Max Lamson asked should the Board vote sooner rather than later on the waiver of design review or keep discussing. Bernie stated Wayne Amico has reviewed the plan for compliance with zoning, storm water, conservation issues, design waiver, one for parking setback and one for landscape, he provided a letter to the Board on Friday, don't think the applicant has responded. Most of the comments were technical, dimensional, landscaping it appears that some was incomplete re: storm water hasn't seen it. One option would be have applicant respond to comments and continue to the next meeting.

Chair Cahill opened the hearing to public comment.

Abutter David Ellis stated that this is a pretty good plan, a great deal of effort to comply with setbacks, this is a relatively older neighborhood, what was there was an eyesore, the only issue is that it is tall, closing of Waltham side excellent, parking lot was used as a thru way, one caution is that the parking lot has been the neighborhood playground. Abutter Jim Fulton had sent a letter, a number of concerns, entrance egress concern about traffic going thru the property, good concept to try to eliminate it, redirecting it, have five units and five parking spaces, should look at closing gate on Arthur street and keep open Waltham Street, primary egress should be off Waltham street wouldn't impact any of the neighbors.

Abutter John Mortucci is concerned about the water, now there is water problem all over, stated we were better off when the road was open because the water drained better.

Chair Cahill asked the engineer if they have considered this option, Richard stated they are trying to get neighborhood feeling not getting it on Waltham Street, thinks it better coming off other street. Asking for waiver for parking spaces, five spaces per unit leaves no green area. There was more discussion about entrance location, parking spaces, visitor parking and drainage. Drainage and water issues are on the forefront of this issue, between Planning Board and Conservation they will come up with a solution to the water issue. Reduction of runoff and impervious area, maybe compromise on the visitor parking spaces.

Mr. Mortucci stated that Conservation didn't sound like they want any more infiltration want to get it all in the culvert system as soon as can, the 6 ft culvert is thru whole property, the pipes come in from the old roof drainage, opening additional pipes lower, the theory can also go in reverse and go out and flood basement, could potential back up into Arthur Street, normally try to do more recharge but not in this case. Abutter Angelo Tidda stated the brook goes right thru my property, never had any water, been there 60 years on 31 Douglas Ave, now need sump pumps and now going to build more, can't even walk in yards it is all water. Chris (last name indecipherable) lives on the corner of Grant and Hayes asked what is the total (number of) occupants, if there are basements, what is the total height. Mr. Harrington responded there are three bedroom five units, can't control the number of people, no basements peak is 34 ft. Marshall Hall of 50 Waltham Street agreed with other abutter comments, the problem is a groundwater problem it started when the brook was put into the pipe, it denied the area natural drainage, the trouble has been in 97, 98 2006 and 2010 was when backfilling was done this raised the water table, he stated his yard is destroyed, showed a picture, there is only one water table, the brook changed its direction the table keeps coming up every time backfilling is done, by the time you factor in what is done on the parking lot side it will come up again, DEP says the parking lot is inside wetland restriction zone and water table is affecting everybody, it seems that everyone's sump pumps are holding the water table down, a lot of the residents on Hayes Ave report water went up.

Chair Cahill thanked the abutters for their comments, he has all the information that has been sent in, the Board should narrow focus to this lot, they need input from DPW, Conservation.

A motion was made by Andrew D'Amour to continue the Public Hearing on the 49-51 Waltham Street to October 14, 2014 at 7:05, seconded by Max Lamson, the Board voted 4 to 0 in favor of this motion.

A motion was made by Bernie Cahill to not accept the design review waiver, seconded by Max Lamson, the Board voted 4 to 0 in favor of this motion.

A motion was made by Bernie Cahill to adjourn.

Meeting adjourned at 10:05 p.m.