

Maynard Planning Board – Meeting and Public Hearing
April 14, 2020 – 7:00 p.m.
(Held remotely via Zoom due to COVID-19)

Board Members Present: Greg Tuzzolo – Chair, Andrew D’Amour – Vice Chair, Bill Cranshaw, Chris Arsenault, Jim Coleman, Mike Uttley – Alternate Member

Others Present: Bill Nemser – Town Planner; Wayne Amico – Town Engineer; Kaitlin Young – Assistant Town Planner/Conservation Agent

Called to Order at 7:00 p.m. by Greg Tuzzolo

Public Hearing – 129 Acton Street

Bill Nemser and Greg Tuzzolo informed the participants of how to virtually raise their hand to make a comment or ask a question during the public comment section.

Greg Tuzzolo opened the Public Hearing for a Telecommunications Special Permit renewal for the existing tower at 129 Acton Street.

Greg Boucher, an attorney representing the applicant, was present on the Zoom call to explain that the request is for a two-year renewal of the existing special permit as the current two-year renewal period is getting ready to expire. He submitted the renewal application about a month ago and has spoken with Bill Nemser and Kaitlin Young. There have been no abutter objections thus far. He also submitted an affidavit signed by the site manager stating that there have been no material changes to the site since the previous special permit. Greg Boucher also submitted a structural engineer report showing that the tower is still structurally sound as of February 2020. He stated that they believe they have complied with all the requirements for renewal of the special permit.

Bill Nemser stated that Wayne Amico had reviewed the application and supporting documents and has no issues with the special permit renewal request. Wayne Amico had sent an email prior to the meeting stating that he has no concerns.

Greg Tuzzolo asked for any comments or questions from the public. There were no comments or questions from the public.

Greg Tuzzolo made a motion that the criteria for a special permit has been met as described in Section 7.5.12 of the Zoning By-Laws for renewal of a special permit. Andrew D’Amour seconded the motion.

The Board voted 5-0 in favor of the motion.

Greg Tuzzolo made a motion to grant the renewal of the special permit for a period of two-years, which was seconded by Andrew D’Amour.

The Board voted 5-0 in favor of the motion.

Determination – Maynard Crossing (129 Parker Street)

Greg Tuzzolo explained that there is a request to determine whether the proposed changes to the interior rotary signage at 129 Parker Street/Maynard Crossing constitute a major or minor modification to the approved site plan.

Daniel Ruiz from Capital Group Properties was on the Zoom call to discuss the proposed changes. A previously approved rotary sign consisting of eight panels is now proposed to be 12 smaller panels within the same overall size and location of the sign containing the panels. He explained that due to economic changes, the property will have smaller tenant businesses than originally anticipated but that the smaller businesses will still want signage.

Wayne Amico stated that he does not have any issues with the smaller panels as long as the overall rotary sign is the same size as approved in the site plan.

Chris Arsenault asked Daniel Ruiz if he feels that the smaller panels will provide enough visibility. Daniel Ruiz stated that he believes they will as they are not much smaller than the previous panels.

Greg Tuzzolo asked for comments or questions from the public.

A resident questioned whether the smaller panel sizes would cause drivers to slow down as they drive past in order to better see what's on the signs. Daniel Ruiz stated that once the site is fully open, Capital Group Properties does not anticipate any traffic issues as visitors become more familiar with the site. They do believe the signs will be big enough to read. He also pointed out that there will be other way-finding signs on the property. The particular sign in question will be located in the center of the rotary.

Bill Nemser pointed out that there are no issues from a regulatory standpoint since the applicant is not requesting an increase in the size of the sign.

Resident Linda Holtz submitted a question asking if this request means that there will be more businesses at 129 Parker Street. Greg Tuzzolo asked for clarification from Bill Nemser on whether or not there are limits to the number of businesses allowed at the property. Bill Nemser stated that there are limits on the square footage, uses, and types of businesses but not on the number of businesses.

Greg Tuzzolo stated that he feels the request constitutes a minor modification. He asked for feedback from the Board members, and they agreed.

Andrew D'Amour made a motion to find that the proposed change constitutes a minor modification to the site plan for 129 Parker Street, which was seconded by Greg Tuzzolo.

The Board voted 5-0 in favor of the motion.

Public Hearing – Planning Board Rules and Regulations

Greg Tuzzolo noted that Bill Cranshaw had provided written comments on the proposed revisions to the Planning Board Rules and Regulations prior to the meeting.

Bill Nemser explained that the essence of the changes was to allow the Board to continue hearings in any instances where the applicant is delinquent in payment of peer review fees. The changes also include clarifications of the peer review process for design and engineering.

The Board agreed to further review the proposed changes over the next two weeks and reconvene.

Greg Tuzzolo made a motion to continue the Public hearing for the Rules and Regulations to April 28, 2020 at 7:00 p.m. The motion was seconded by Andrew D'Amour.

The Board voted 5-0 in favor of the motion.

Authorization to Send Notice to Complete Improvements to Developer of Keene Ave Subdivision

Wayne Amico summarized that the items on the final punch list (from 2017) for the Keen Avenue development were never fully completed to his knowledge despite his and former Maynard DPW Director Aaron Miklosko's efforts to reach out to the developer multiple times. At some point in 2018, the Town received an email correspondence from an attorney representing the developer asking for what needed to be done in order to have the street accepted as a public way. The Town shared the punch list items with the attorney via email and informed him that the items needed to be addressed prior to accepting the street as a public way. The communications between the Town and the attorney went back and forth a few times and then there was no word from the attorney for about six months. There has been no further communication from the attorney.

Bill Nemser contacted Wayne Amico about a month ago to discuss the possibility of pulling the bond to complete the required work as there have been complaints from residents and the Town is plowing the road even though it's not owned by the Town, etc. Bill and Wayne also discussed the issue with DPW Director Justin DeMarco.

The developer contacted Wayne Amico just prior to the meeting (after noticing he was on the agenda for the PB Meeting) and informed him that the work on the punch list will be completed in the next two weeks.

The estimate for the Town to complete the work is approximately \$34,000. There is \$30,000 in bond money for the development.

Bill Nemser explained that the Town is required to notify the developer in writing that the work needs to be completed or the bond will be pulled. The developer then has 45 days to complete the work to the satisfaction of the Town. He would need the Board's approval to send the developer a demand letter. Greg Tuzzolo recommended acknowledging the developer's intent to complete the work within the next two weeks and providing the developer with the Town's expectations of the process for reviewing the work that is completed. Wayne Amico expressed concern that the developer would not pay for peer

review expenses since there are already outstanding peer review invoices from several years back and suggested that the developer should provide a check to the Town. Both Andrew D'Amour and Chris Arsenault agreed that the developer has been given enough leeway thus far and has not been true to his word. They feel that the demand letter is an appropriate course of action. Greg Tuzzolo reiterated the need for the Board and the Town to define what would qualify as satisfactory completion of the work to be done.

Andrew D'Amour suggested that some of the money in the bond be applied towards costs that have already been incurred by the Town for plowing, etc. the road even though it is not a Town-owned road. Wayne Amico recommended leaving enough money in the bond to cover the costs of peer reviews and other expenses that have been incurred and will be incurred by the Town should the developer not follow through on completing the punch list items. Greg Tuzzolo pointed out that even if the developer does complete the required physical work on the punch list, there are costs that will need to come out of the bond regardless. Wayne Amico stated that if the developer completes all the required work and hires an attorney to complete all the legal requirements for making the road a public way, incurring all of the associated expenses himself, then he would be entitled to all of the bond money. The Board agreed that money should only be released as the punch list items are satisfactorily completed.

Andrew D'Amour made a motion to send a letter to the developer of the Keene Avenue Subdivision for a 45-day notice of bond forfeiture. The motion was seconded by Greg Tuzzolo.

The Board voted 5-0 in favor of the motion.

Resident Kelly Kane asked to make a comment on the topic. She stated that she lives at Lot 5 and was the last resident to move in to the subdivision over two years ago. She expressed her appreciation for the fact that the Town is working to resolve the issues that have been open for the past two years. She also made a recommendation to ensure that the correct and appropriate dollar amounts are listed on the letter that will go to the developer as well as clear specifications of what the Town and Board expect the developer to complete. She asked that the residents be involved in the discussions given that some of the required work includes work to be done on specific lots within the subdivision that are now occupied by residents. She asked that Wayne Amico come out after the developer has indicated that the work has been completed so that he can determine if there are any items left on the punch list. She asked if the tree warden ever did come out to assess the viability of the landscaping. Bill Nemser stated that there was a subdivision requirement to have two shade trees per lot and that the tree warden did go to the subdivision. Kelly Kane feels that most of the trees that were planted are not in good condition. She asked if the residents will be notified prior to work being done on their properties. Bill Nemser stated that any work the Town is aware of, they will notify the residents. He also stated that he will ask the developer to inform the Town and the residents of work he intends to conduct in advance of the work being done.

Town Planner Update

Bill Nemser stated that he has spoken with Town Counsel regarding the State's direction on public hearings during the pandemic of COVID-19. Although public hearings may be held in a virtual setting, Town Counsel recommended continuing all public hearings until the first meeting after the emergency restrictions have been lifted. Bill Nemser asked the Board to discuss the idea of continuing all hearings and pointed out that if hearings are going to be continued, they all need to be continued. The Board

cannot choose to keep some public hearings on the agenda while continuing others. Under the emergency conditions, state law allows the Board Chair to make a determination about continuing all hearings until after the emergency. Advertisement of a hearing to make a decision is not required, nor is a quorum.

The Board discussed the pros and cons of continuing all public hearings. Greg Tuzzolo asked for comments from the public on whether they feel there are any issues with the current method of conducting hearings in a virtual setting. There were no public comments. The Board felt that in general the virtual meetings were working well.

Bill Nemser provided a status update on the Market Basket construction based on a letter from Jim Coleman, who visited the site in person and spoke with the foreman.

Greg Tuzzolo provided an update on the 42 Summer Street design status. He stated that he met Tim Hess and James MacDonald at the site during the previous week to make observations of the progress of construction, to note any discrepancies between the drawings and the work completed so far, and to discuss the review process with James MacDonald.

Greg Tuzzolo stated that there is a shrub located directly in front of the Cultural District sign that's seen when driving into Maynard from Acton. It needs to be moved to one side or the other. Bill Nemser asked Greg Tuzzolo to send him an email that could be forwarded to DPW Director, Justin DeMarco.

Bill Nemser stated that if the Board decides to continue conducting virtual hearings, there will need to be a method of capturing signatures electronically or otherwise for decisions that are made during the meetings.

Bill Nemser stated that some issues have come up with regard to the Coolidge School reuse. He suggested possibly having a joint meeting with some of the other involved Boards so everyone is on the same page.

Bill Nemser asked Kaitlin Young to provide a conservation update on the 115 Main Street property. Kaitlin Young stated that the Notice of Intent was just received the day of the current meeting (April 14, 2020) along with the Planning Board submittal. She stated that the DEP must comment on a project before any related public hearings can be closed. The DEP currently has a backlog and is recommending that hearing dates be pushed out to a later time. Therefore, the Conservation Commission is being held up in their ability to make any decisions on the project. Prior to the current meeting, Bill Nemser sent all the Board members a link to the updated package from the applicant for 115 Main Street.

Greg Tuzzolo made a motion to adjourn, which was seconded by Andrew D'Amour.

The Board voted 5-0 in favor of the motion.

Adjourned at 8:32 p.m.