

Maynard Planning Board Meeting and Public Hearing
May 3, 2021 – 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; Jim Coleman; Chris Arsenault; Natalie Robert – *Alternate Member*

Others Present: Jon Witten – *Town Counsel*; Megan Zammuto – *Assistant Town Administrator and Acting Town Planner during Bill Nemser’s absence*; Danny Ruiz – *Capital Group Properties*; Katie Keefe – *Capital Group Properties*; Normand Martin – *Market Basket*; Derrick Maxwell – *31 Main Condominiums Trust, LLC*; Bill Nemser – *Planning Director* (arrived at 9:05 p.m.)

Called to Order at 7:01 p.m. by Greg Tuzzolo

Public Hearing: Maynard Crossing (Continued from 04.27.21)

Greg Tuzzolo asked Danny Ruiz to provide an overview of the proposed revisions to the Operations Manual. Danny Ruiz explained each of the proposed changes to the Operations Manual and provided a revised diagram of the site with more detailed information on the specific use of each building now that there are tenants on site. Andrew D’Amour questioned why the site lighting at Market Basket would need to remain on until 11:30 p.m. if the store closes at 9 p.m. Danny Ruiz agreed that the lighting could switch to security level at a time closer to the store closing. Katie Keefe stated that they will need to confirm that the store closing hours are not temporary due to COVID and that 9 p.m. will be the closing time long term.

After Danny Ruiz completed his overview, Greg Tuzzolo asked Town Counsel Jon Witten to provide guidance to the Board on the parameters of the revision discussion and recommended next steps. Jon Witten advised the Board that they can look holistically at the proposed revisions, including the detailed changes to the site map. Regarding the scope of the proposed revisions, it would be considered a special permit modification since the Operations Manual is part of the special permit that was granted. The Board always has the authority to propose changes to a granted special permit. However, for the current request for modification, the Board should deliberate only on the revisions proposed by the applicant since only those proposed revisions were advertised.

Resident Trish Saunders of 11 Dettling Road pointed out a discrepancy in what she believes was the originally approved Operations Manual and the version that was revised by Capital Group Properties, specifically with regard to approved trash pickup hours. Danny Ruiz presented the version that was stamped and recorded by the Town Clerk, which differs from the version Trish Saunders was referring to. Jon Witten noted that if there are errors, they can be discussed and corrected as needed. Natalie Robert indicated that the version Trish Saunders was referring to is dated November of 2017, whereas the Exhibit shown by Danny Ruiz is from July of 2017.

Jim Coleman made a recommendation to revise the trash pickup hours to 8 a.m. to 11:30 a.m. Monday through Saturday. Greg Tuzzolo stated that Jim Coleman’s recommendation should be noted but that he would like to continue to the broader review before getting into specific line items.

Bill Cranshaw stated that he would like to see a revised diagram indicating the various lighting areas and associated lighting times for each area. The applicant provided an updated usage diagram but it does not indicate site lighting. Danny Ruiz agreed to update the revised site diagram to include lighting details per area. Bill Cranshaw suggested tabling the lighting discussion until those additional revisions are submitted, and the Board agreed.

Trish Saunders asked to make a statement on behalf of her own residence and four other residents abutting the Maynard Crossing site. She asked that the Board note that each resident will have specific questions and requests as discussions of the Operations Manual take place. She and the four other abutters wanted the Board to know that the opening of Maynard Crossing has had a "very real and very negative impact" on their daily lives due to noise levels well above ambient level, site lighting that shines into their homes past closing hours, and other issues. She read aloud that the purpose of the NBOD is to promote mixed use development while preventing detrimental effects and impacts on neighboring land uses. She went on to point out that she and other abutters attempted to provide feedback and make requests during the initial site hearings in order to avoid detrimental impact. Those requests included asking for a 100-foot buffer (actual is 40 feet), a 200-foot setback (actual is 100 feet), a tall soundproof wall (actual is a 12-foot vinyl fence), and a different orientation of the grocery store so that the delivery area would not be facing their homes (request was denied). She thanked the Board for listening to their concerns and to Market Basket for avoiding overnight deliveries.

The Board reviewed the revised operating hours in conjunction with the approved site diagram versus the revised diagram. Jon Witten pointed out that the controlling document is the special permit, including the site plan review. Therefore, the revisions to the labeling of the diagram do not change the substance of the approved special permit.

In the revised Operations Manual, the category previously designated as "Retail Area/Fast Food" was broken into two separate categories: "General Retail" and "Retail/Fast Food". There was a discussion about Building 3, which is designated in the revised diagram as the Retail/Fast Food category, allowing operating hours to begin at 5 a.m. The applicant explained that they wanted to allow for prospective tenants in the fast-food category to be able to operate earlier than 7 a.m. in the event that the tenant would be serving a breakfast menu.

With regard to trash pickup hours, Katie Keefe stated that she maintains control of the process by utilizing one company site-wide (with the exception of The Vue and Camellia Gardens). The Operations Manual indicates trash pickup hours of 6:30 a.m. to 6 p.m. Monday through Saturday. Katie Keefe stated that she will not have trash pickup begin until 7 a.m., though that was not noted in the revisions. Jim Coleman reiterated that it should not begin until 8 a.m.

Bill Cranshaw stated that he is not opposed to the proposed operating hours for the General Retail category as it reduces the hours for some of the properties.

Trish Saunders expressed concern about including a 24-hour health club within the general retail category since it would allow for that type of business to be located in a building directly adjacent to residences. Greg Tuzzolo noted that the site plan approval only allows for a health club to be located in Building R2. The applicant agreed to work on creating a table to indicate hours of operation per building to provide more clarity to the Operations Manual.

In the Restaurant category of the Operations Manual, the proposed delivery hours would add Saturdays from 7 a.m. to 7 p.m. Chris Arsenault asked if it would be possible to have the decision made on a case by case basis per restaurant tenant. Natalie Robert suggested reducing the window of delivery hours on Saturdays rather than having a 12-hour window of time allowed for restaurant deliveries. Trish Saunders pointed out that the proposed revisions also include Saturday deliveries for General Retail from 7 a.m. to 7 p.m. She asked to Board to keep in mind that weekends are when the abutting neighbors would most want to enjoy their outdoor areas which sit 100 feet from the site where the deliveries would be made.

The Board agreed that it is not necessary to include truck size information in the Grocery and Frozen Food delivery section. Normand Martin pointed out that there would be regular perishable deliveries throughout the day during the Grocery and Frozen Food delivery hours of 7 a.m. to 5 p.m. but that there would be one additional delivery between 5 p.m. and 1 a.m. for a private-label bread vendor coming from upstate Maine. That delivery typically arrives daily between 7 and 9 p.m. Danny Ruiz pointed out that the delivery section was broken into different categories due to the needs of the originally anticipated tenant for the grocery building. The Board and the applicant agreed that the delivery section would be much clearer if the verbiage is changed to "General Deliveries" from 7 a.m. to 5 p.m. with one after-hours delivery allowed between 5 p.m. and 1 a.m.

Trish Saunders asked that the Board consider limiting the delivery hours and only allowing deliveries on weekdays that are not federal holidays, thereby protecting weekend and evening hours for the abutters. She referenced the noise levels that are observed by her and other residents, and that were recently recorded as part of the compactor sound study, being well above Mass DEP standards. She also noted that the number of deliveries in one hour exceeds what the Planning Board and the public were told would occur during an entire day based on information provided in the original site plan hearings. She stated that, during the initial hearings, the focus of the discussion related to noise was with regard to the coming and going of delivery vehicles, which she described as a small part of the overall noise pollution from deliveries. She referenced the truck backup beepers, the idling of delivery trucks, the refrigerator truck compressors, the truck bay doors, truck doors, metal ramp, and other noises. She believes that the roof and side walls of the truck bays amplify the sounds. She suggested possibly discussing sound-absorbing panels in a future meeting.

Bill Nemser joined the meeting and indicated that he will review the history of the Operations Manual changes to clear up the confusion about the recorded version versus the other version that was mentioned by Trish Saunders.

Jim Coleman made a motion to continue the Public Hearing until May 25, 2021, which was seconded by Greg Tuzzolo.

The Board voted unanimously in favor of the motion.

Public Hearing: 31 Main Street (Continued from 04.27.21)

Greg Tuzzolo opened the Public Hearing for 31 Main Street, and Bill Nemser provided a brief summary. Bill Nemser stated that during the approval process, the Board included a condition that the applicant must have a four-year lease for three off-site parking spaces. The petition before the Board is to remove

that requirement from the special permit. All of the residential units are now sold and the residents believe they have adequate parking and do not require the off-site parking spaces.

Greg Tuzzolo introduced the petitioner, Derrick Maxwell - President of the Homeowners Association at 31 Main Street, who noted that the parking lease is currently held between 31 Main, LLC and 52 Main, LLC. The parking spaces are owned by 52 Main, LLC whereas 31 Main, LLC is owned by Greg Adams, the developer of the residential property located at 31 Main Street. Derrick Maxwell stated that, since November, there was trust formed by the current owners of the six individual units at 31 Main Street (including himself) called 31 Main Condominiums Trust, which now owns the property at 31 Main Street. When the trust was formed, there was no transfer of ownership of the parking lease. Derrick Maxwell noted that the residents all agree that those spaces are not needed, that there would be no adverse impact to the town if the trust does not maintain a lease on those spaces, and that no abutters would be negatively impacted by removing the lease requirement. He went on to state that if the owners determined that there is a need for additional parking in the future, they would be responsible for addressing that need. He also noted that the owners of 31 Main Condominiums Trust are not able to use the parking spaces since they are not the signers of the lease and that they were told it would be a liability for them to park there.

Greg Tuzzolo noted that the responsibility of the Board is to determine whether those parking spaces are required based on zoning regulations and not to resolve the ownership dispute. Andrew D'Amour pointed out that, although the current owners do not have a need for the off-site parking, there may be a change in owners in the future and therefore the needs might change. Bill Nemser suggested that the Board consider removing the requirement for right now and revisiting the topic at the expiration of the parking lease currently held by 31 Main, LLC.

Chris Arsenault asked if there are any outstanding requirements of the developer of the property. Bill Nemser stated that the Town has been working with the developer on the topic of screening the dumpsters. The developer has indicated that he cannot screen the dumpsters. The Town informed the developer that the dumpsters must be screened. The developer has provided the Town with a surety bond and has committed to completing the screening by June 2021. There were additional requirements of the special permit, such as street lighting and landscaping, that will be discussed in a future meeting to ensure there are no other outstanding issues.

Bill Nemser clarified that if the Board were to decide to remove the requirement for the parking, it would be considered a major modification to the special permit. Greg Tuzzolo noted that the requirements of the special permit are applicable to whoever is the current owner of the property. The Board discussed the fact that the requirement for the off-site parking spaces would sunset at the expiration of the lease.

Chris Arsenault made a motion to remove the requirement for the lease of three additional parking spaces off site, which was seconded by Andrew D'Amour.

The Board voted four in favor and one (Greg Tuzzolo) against the motion.

Jim Coleman made a motion to close the Public Hearing, which was seconded by Greg Tuzzolo.

The Board voted unanimously in favor of the motion.

Town Planner Update

Bill Nemser reminded the Board that there is a Board meeting next week as well as Town Meeting, which will include two items from the Planning Board.

Jim Coleman made a motion to close the meeting, which was seconded by Andrew D'Amour.

The Board voted unanimously in favor of the motion.

Adjourned at 9:45 p.m.