

Maynard Planning Board Meeting and Public Hearing
May 11, 2021 – 7:00 p.m.
(Held remotely via Zoom due to COVID-19)

Board Members Present: Greg Tuzzolo – *Chair*; Bill Cranshaw (*joined at 7:30*); Jim Coleman; Chris Arsenault; Natalie Robert – *Acting Member*

Others Present: Bill Nemser – *Planning Director*; Wayne Amico – *Town Engineer*; Tom Morey – *GreenStar Herbals*; Olof Ingare – *Mass WellSpring*; Christine Tree – *Attorney for Owners of 16 Waltham Street*; Joey Fonseca – *Bohler Engineering*; Dana Polonsky – *JPM Chase Bank*; Mark Daneau – *Agent for SVW and Bohler*;

Called to Order at 7:02 p.m. by Greg Tuzzolo

Project Follow-ups: Mass WellSpring (4-6 Nason Street) and Greenstar Herbals (24 Main Street)

Bill Nemser explained that there were a number of conditions as part of the approvals of the special permits for Mass WellSpring and Greenstar Herbals, some of which are at the Police Chief's discretion and some of which are at the Board's discretion. One of the conditions was for the applicants to appear before the Planning Board approximately 90 days after opening. Bill Nemser had sent the Planning Board an internal report, including feedback from the Police Chief, who had no issues to report.

Bill Nemser also stated that both applicants have complied with the DPW requirements for the DOD obligations. He noted that six months after the CO, the applicants are to complete a traffic assessment if there are any persistent traffic impacts. The assessment should be conducted in conjunction with a Town Engineer and the results presented to the Board at a regularly scheduled public meeting. His recommendation would be to check back in three months from now to reevaluate. Wayne Amico indicated that there have been no issues brought to his attention thus far. Bill Nemser noted that the Police Chief can modify a condition at will should any issues arise prior to the next Board follow-up.

Tom Morey of GreenStar Herbals stated that things have been going very well since the opening and that there have been no issues, with plenty of parking and negligible traffic or other impacts to the town. He requested that the restrictions be lifted. He noted that the restrictions were put in place two years ago when there were concerns from the public regarding traffic, customer lines, and other concerns that are not prevalent in the Massachusetts marketplace right now. He would also like to discuss extending the closing hours to 9 or 10 p.m. (from 8 p.m.), which is consistent with liquor-store hours in town. He indicated that the Dracut location of GreenStar Herbals has a 10 p.m. closing time with no issues. He referenced the fact that he cut a check to the town of Dracut in the amount of \$110,000 for sales tax and HCA funds. He believes it financially behooves the town of Maynard to allow the business to have additional hours available for sales.

Olof Ingare of Mass WellSpring stated that he has not seen any traffic or other issues since opening the establishment. He, too, would like to remove the appointment-only requirement with the agreement to

re-implement that policy should it become a problem, which he does not foresee. He noted that traffic will continue to become less of a concern for the public as more and more dispensaries open throughout the state.

Greg Tuzzolo asked for public comment. There were no comments from the public.

Jim Coleman made a motion to eliminate the appointment-only restriction, extend the allowable closing time of 8 p.m. to a closing time of 10 p.m., and revisit the discussion in three months for both businesses.

Greg Tuzzolo requested that the motion be modified to specify Mass Wellspring.

Jim Coleman modified the motion to be specific to Mass Wellspring. The modified motion was seconded by Greg Tuzzolo.

The Board voted unanimously in favor of the modified motion.

Jim Coleman made a motion to eliminate the appointment-only restriction, extend the allowable closing time of 8 p.m. to a closing time of 10 p.m., and revisit the discussion in three months for GreenStar Herbals.

The motion was seconded by Greg Tuzzolo.

The Board voted unanimously in favor of the motion.

Bill Nemser will record the decisions as minor modifications to the special permits. The modifications take effect immediately.

With regard to the follow-up traffic study, Bill Nemser recommended that the Board notify the applicants of whether or not the study is deemed required prior to the applicants incurring the costs of such studies. Wayne Amico suggested that the applicants move forward with a brief traffic study to present to the Board in order to document the fact that there are no traffic issues for future record.

16 Waltham Street - Request for Planning Board Input

Bill Nemser explained that the ZBA has been involved in discussions regarding the multi-family, mixed use subject property. There is an issue of a site plan that was approved in the 1980s. The current configuration is not consistent with the original approval. There are some issues before the ZBA that are yet to be worked out, including a determination from the Building Commissioner. Town Staff is trying to help the applicant to resolve the issues of the permitting so that the applicant can move forward. Bill Nemser pointed out that none of the current discussion is related to building code. He also stated that the current meeting is not a hearing but merely a request for guidance.

Attorney Christine Tree stated that she had sent a letter to the Board providing some background on the project. It was a 1987/88 build under an approved site plan. The current owners are the children of the

owner who built the home and who passed away in 2019. The current owners were looking to sell the property to settle the estate when the current issue came up, which is why the appeal is before the ZBA. Attorney Tree referred to the DOD zoning by-laws and stated that mixed use is allowed with six or fewer dwelling units; however, the ground floor must be at least 50% retail. The family is looking to keep the existing use and sell the property. The property is slightly under the minimum lot-size requirements for four residential units at 5125 square feet versus 6000.

Greg Tuzzolo asked Bill Nemser if he had any information to add. Bill Nemser stated that there a few different options for approaching the issue:

1. The applicant can challenge the Building Commissioner's decision to the ZBA.
2. The ZBA could grant a dimensional variance, at which point the project would come before the Planning Board for a special permit for multi-family.
3. The applicant could request a special permit from the Planning Board under the DOD for a multi-family, mixed use property. By right they could have three residential and two commercial units. They would need a waiver for reduced parking and it would require a ZBA finding that there is no detrimental impact to the neighborhood.
4. Using the DOD density bonus, the applicant could designate one unit of the current configuration as affordable housing. This option would also require the same ZBA finding as above.

Jim Coleman asked for clarification on what the issue is if the property was built according to plan at the time. Attorney Tree explained that the Building Commissioner's interpretation of the plan is that it was intended to have only one apartment and four commercial units. The interpretation of the plan by Attorney Tree and the applicant is that it was intended for mixed use and that either use was acceptable under the terms of the building permit and the approved site plan. There are currently two residential units on the first floor, two on the second floor, and a ground-floor commercial unit, which is being used as commercial space by the current property owner.

The Board discussed the options that Bill had presented. The only way for the applicant to keep the existing configuration of four residential units and one commercial unit would be to utilize the density bonus option. The applicant would want to know what amount would be expected as a donation for open space if the Planning Board were to use that option.

Jim Coleman asked Attorney Tree what triggered the request that is currently before the Planning Board. Attorney Tree stated that when the current owners went to sell the estate, they received offers, but several sales fell through as a result of the Building Commissioner informing the buyers that the property should be one residential unit and four commercial units. Once the current configuration of use came to the attention of the Building Commissioner, he deemed it not appropriate and not allowable to be continued. Therefore, even if the current owners chose to keep the property and rent the units, they would be subject to fines of \$300 per day.

Greg Tuzzolo asked for feedback from the Board. Chris Arsenault stated that he would like to see the applicant come back with a specific proposal. Bill Cranshaw stated that if the Building Commissioner's

conclusion is that the property was improperly converted to residential use, he is not inclined to consider any of the options proposed unless the ZBA opposes the Building Commissioner's determination. He believes that the Building Commissioner's determination stands unless or until it is overturned by the ZBA. Attorney Tree suggested the possibility of the Board determining a minor modification to the site plan. Bill Nemser said that would not be an option to consider.

There was no further discussion and the Board wished Attorney Tree good luck.

Public Hearing: Special Permit approval for a Drive-Thru use (Chase Bank ATM) at the Maynard Crossings (129 Parker Street) mixed-use development

Joey Fonseca of Bohler Engineering was present on the call representing his client (the applicant), Security Vault Works (SVW). He presented an overview of the proposed site plan documents. Construction of the drive-thru would require elimination of seven parking spaces and the addition of 240 square feet of pavement to allow for an adequate turning radius at the exit area of the drive-thru.

Greg Tuzzolo questioned why there would need to be the additional pavement. Joey Fonseca stated that they were trying to work within the existing site but that they can take a look at reducing that additional pavement if needed.

Joey Fonseca stated that he did receive a comment letter from VHB just prior to the Public Hearing and can address those comments. Wayne Amico highlighted some of the comments his team provided to the applicant. He asked the applicant to clearly document and discuss the reduction in parking when he responds to the comments. He also indicated that the applicant should document any impact to storm water compliance and standards if there is an increase to the impervious area.

Wayne Amico noted that VHB has concerns about the potential queuing and wonders if alternate configurations should be explored and documented. Dana Polonsky, who is the bank's Vice President and Market Director of Real Estate for the area, stated their drive-thru ATM locations nationwide typically have much fewer than four or five cars in a queue and that it's usually just one or two. They do not design for a queue of four or five cars. Wayne Amico stated that his comments were in response to the diagrams that were submitted with the application, which showed four or five cars in the queue.

Mark Daneau, who is the agent for SVW and Bohler, stated that a study was conducted to determine peak queuing times and peak transaction times. Wayne Amico said that he doesn't believe the traffic report that was submitted to his team included that study but that it should be sent to VHB for review.

Greg Tuzzolo asked for feedback from the Board. Bill Cranshaw pointed out that there is already an ATM drive-thru 300 feet from the proposed drive-thru. He noted that Middlesex Bank has two of the drive-thru locations at the site (with Dunkin Donuts having the third), which would make the proposed drive-thru the fourth one on site. Bill Cranshaw also stated that he hopes there is a better option for the configuration and location of the drive-thru as he sees several issues with the proposal: that it is an awkward configuration; that it would be in a key location on a turn near the driveway closest to the roundabout; and that it would be next to the primary pedestrian path through the site.

Jim Coleman made a motion to continue the Public Hearing to June 8, 2021, which was seconded by Greg Tuzzolo.

Mark Daneau asked if the Board would be more amenable to the proposal if the area of striping on the additional pavement area was removed from the proposal and replace with a proposed curb cut with vegetation added. Greg Tuzzolo indicated that would be his preference. Wayne Amico agreed that there is no benefit to having the striped pavement and that the less impervious area, the better.

The Board voted unanimously in favor of the motion.

Approval of the Minutes - 4.13.21 and 4.27.21

Bill Cranshaw made a motion to approve the Minutes dated 4.13.21 as presented, which was seconded by Jim Coleman.

The Board voted unanimously in favor of the motion.

Greg Tuzzolo made a motion to approve the Minutes dated 4.27.21, which was seconded by Bill Cranshaw.

The Board voted unanimously in favor of the motion.

Town Planner Update

Greg Tuzzolo cannot attend Town Meeting. Bill Nemser stated that it would be best if the Board presents their recommended items. Greg Tuzzolo has asked Andrew D'Amour if he can attend the meeting to represent the Board and is awaiting a response.

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

The Board voted unanimously in favor of the motion.

Adjourned at 8:55 p.m.