



Town of Danvers  
**Planning Board**

Danvers Town Hall  
One Sylvan Street  
Danvers, MA 01923  
www.danvers.govoffice.com

Planning Board Members:

Aaron Henry, Chairman  
Kristine Cheetham  
Margaret Zilinsky  
William Prentiss  
James Sears

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**Daniel J. Toomey Hearing Room  
September 11, 2012**

**7:00 p.m.**

**MINUTES**

Chairman Aaron Henry called the meeting to order at 7:00 p.m. Planning Board members Aaron Henry, Margaret Zilinsky, Kristine Cheetham, James Sears and William Prentiss were present. Planner Kate Day was also present.

**FORM A**

**273 Locust Street.** Request by Steven Ciambelli for endorsement of Form A plan to divide the property into two lots to build two single family dwellings. (Assessor's Map 15, Lots 39). (*Approval Not Required Action Date: September 12, 2012*).

Steven Ciambelli appeared before the Board. Sears recused himself. Henry informed the Board that town staff approved endorsement of this ANR plan. Cheetham asked if the applicant had heard back from the Preservation Commission. Ciambelli stated that this project was still being discussed and they are going through the demolition process for Parcel 1. Cheetham questioned the right of way shown on the plan, and Ciambelli replied that this was a pre-existing easement for access to the conservation area. Cheetham asked if it continued onto Parcel 2, and Ciambelli responded that the prior owner donated the land to the Town of Danvers as conservation land. He kept the easement for access to the property.

**MOTION:** Zilinsky read the Certificate of Action and moved to find that Planning Board approval is not required for the proposed division of the property located at 273 Locust Street. Cheetham seconded the motion. The motion passed with a vote of 4-0, with Sears abstaining.

**PUBLIC HEARING**

**41 Popes Lane/85 Newbury Street (Diluigi Sausage).** Request for a Major Modification to an Approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by DiLuigi's Foods for property located in the Highway Corridor Zone. The applicant proposes to modify the previously approved Site Plan by removing the existing 4,920 s.f. retail building and constructing a new two story 9,555 s.f. building in its place. (Assessor's Map 048, Lots 028B) (*SPA action date: October 1, 2012*)

Shannon Magee, the Controller for DiLuigi Foods, addressed the Board, gave a history of DiLuigi Foods, and described what they were contemplating with this modification. They have dry and cold storage on the premises and employ 200 local employees over three (3) shifts. They closed the retail store two years ago and need to expand the storage area. They presently have parking for 90 cars, and only 70 spaces are used. Parking is allowed by parking permit only that are strictly enforced. They are not anticipating additional employees with the additional storage area.

Arthur Choo, Architect from Choo & Company, Inc., addressed the Board describing the property as once being the Baert Marine retail store which became the DiLuigi Butcher Shop. By having the cold storage on site, there is going to be a reduction in the amount of truck traffic because they will produce their product and ship it off-site. There will be no need for refrigerated trucks running on the site. Since this is simply a storage facility, they will be no additional employees on site.

They are adding 24 feet in width and 36 feet in depth to the footprint of the existing building. The height is the same as the approved site plan for the use of fork lifts within the building. The finish on the building will match the existing campus.

Kevin Fleming, Engineer from Cyprus Design, Inc., addressed the Board stating they are looking to remove the existing building and enlarge it for storage. They are not increasing the impervious area and incorporated removing some pavement to maintain a green space area. They meet the 30% green space requirement. They are meeting the parking requirement and adding additional parking spaces but they do not anticipate using these spaces. He presented pictures to the Board of the parking lot taken that day. Due to the removal of the pavement and increase in green space, they are actually reducing the impervious area and not introducing additional stormwater runoff. There will be a total of 14 wall pack lights put on the building. The lighting plan was updated to address the 20 foot height concern. Copies of the plan were passed to the Board.

They are requesting landscaping waivers, mainly for streetscape landscaping, which are listed on the cover sheet of the plan. They would like to maintain the existing landscaping that was installed with accordance of the original site plan approval. They are requesting a waiver of the interior island requirement because of trucks maneuvering on the site along with an additional waiver of the three foot strip along the building requested due to the requirement of the USDA that no landscaping trees be allowed along the building to allow inspection of the building.

The waiver for the traffic signage is due to the fact that the present traffic flow has been working well for the past five to eight years with no issues or concerns.

Day pointed out that the staff report stated that the parking calculations were confusing. Now it has been confirmed that they have adequate parking. The narrative stated there was 2,000 square feet of office space associated with the building and Choo responded that there is 2,000 square feet of dry storage. The office is for the manager, which consists of a desk/computer. Day thanked the applicant for the photometric revisions and asked if they had changed the fixtures as well. Fleming responded they did change the fixtures, which raised the foot candle numbers.

Cheetham asked to see the view of the building from Route 1 and inquired about the windows on the building. Choo described the building as being brick on the first level on the front of the building and confirmed that it did not go around the building. Cheetham asked if there was going to be a sign, and it was confirmed there would be no signage.

Cheetham stated she is concerned with the entrance of the site from Route 1 and asked if it was going to be closed. Fleming stated jersey barriers will be placed at the entrance to stop traffic from entering the site. Cheetham stated that she does not have a problem with waivers on parking, and she is impressed with the buildings and the facilities. She does not have a problem with this project.

Zilinsky stated at the last approval there was no access between the retail store and the facility. She does not have a concern regarding signage since people coming on the site are employees. She confirmed there is a berm along Route 1. She would like to see more windows on the building even though it is an industrial building. She inquired about snow storage, and Magee stated they have a service that presently plows and removes snow.

Sears stated that he has no objections to the project. He confirmed that 2,000 square feet was dry storage and the remainder 9,500 square feet was for cold storage. He asked if faux windows be used on the building. He is fine with parking and the waivers requested.

Prentiss indicated that the Board addressed all his issues. Prentiss asked the main site plan be displayed, and he inquired about the traffic flow of trucks making deliveries. Magee answered this question stating that all trucks will be coming in from Popes Lane and all materials will be received in the large building. They have a yard tractor that moves supplies between buildings. Prentiss inquired about timing of delivery and pick-up and was told that deliveries are early morning pick-ups.

Henry stated he had an issue with the jersey barriers off Route 1 and would like to see this improved. He was surprised that the fire department approved this. He was told the barriers were put at the entrance because people were still going onto the site after the store closed. Henry proposed a crash gate. The applicants questioned what this was, and Sears provided the explanation and explained if a fire truck could not get down Popes Lane, the crash gate would give the fire trucks another way to get onto the site.

Cheetham stated that the Fire Department did comment and she pointed out that they would not be coming from Route 1 to access the site in the event of an emergency.

Zilinsky inquired about the possibility of closing the entrance.

Richard Clark, Plant Engineer for DiLuigi's stated that it was confirmed with the fire department that fire trucks would be entering the site from Popes Lane.

Sears explained if a fire truck could not get down Popes Lane, the crash gate would give the fire trucks another way to get onto the site.

Henry read a proposed draft condition regarding the substitution of a crash gate for the existing jersey barriers.

**MOTION:** Prentiss moved to close the public hearing. Sears seconded the motion. The motion passed by unanimous vote.

**MOTION:** Sears moved to find the proposed project represents a Major Modification. Prentiss seconded the motion. The motion passed by unanimous vote.

**MOTION:** Sears read the draft Certificate of Action and moved to approve the Major Modification to Site Plan for 41 Popes Lane. Prentiss seconded the motion. The motion passed by unanimous vote.

## **CONTINUED PUBLIC HEARING**

**77 High Street.** Request for Minor Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Bohler Engineering on behalf of McDonald's USA, LLC for property located in the Industrial I Zone District. The applicant proposes to construct an on-site sidewalk that will provide pedestrian access between the restaurant and the public sidewalk along High Street. (Assessor's Map 51, Lots 307 & 308) (*SPA action date: September 21, 2012*).

Jim Cranston from Bohler Engineering appeared before the Board on behalf of the applicant. He stated that McDonald's was approached by the town to add a crosswalk to the site. He stated that the connection with the sidewalk would be a short pedestrian crosswalk on the side closest to the gas station. He passed out a copy of the plan detailing the crosswalk. He pointed out that this was not a requirement but a request by the Town.

Henry stated they initiated this request, and McDonald's was receptive. Henry stated that people come to the site from the north. Incrementally he felt this is acceptable, but he felt that did not help pedestrians coming from the north to enter the restaurant.

John Boughner, 3 Bay View Avenue. Boughner lives across the street and he thanked the applicant for attempting to correct the existing problem. He stated that the site is not laid out well on many levels. The opening on High Street is a 70 foot opening without a painted crosswalk, which is a safety concern. He stated that in the minutes of a 2006 Planning Board meeting there was an attempt to rectify the problem with 1' x 1' pavers added to the mulch.

Boughner presented details of the number of cars and pedestrians that enter from the north side of the site. He presented the Board with pictures that he had taken. He appreciates the attempt from McDonald's, but he does not feel it is a successful one. He felt the crosswalk is better than pavers, but he felt that there is very little pedestrian traffic entering the site from the south. He pointed out there are no curb cuts for people pushing strollers, riding bikes or the elderly using walkers. Boughner stated that he has spoken with Bohler on the phone regarding the fact that most people walk into traffic and he does not want to lose sight of the fact that if an accident happens, he will feel awful. He felt they are actually lucky that an accident has not happened. Boughner felt something can be done on the north side. He does not feel that McDonald's is being a good neighbor. Pursuant to the minutes of the site plan approval, an asphalt roof was to have been put on the building and that did not happen. He told the

Board that the dumpster pick up happens at 6:15 a.m. He is also unhappy that this site operates twenty-four hours a day, seven days a week and would like to know how the time of operation changed for this restaurant. There is a new fourth location for McDonald's opening on Endicott Street, and his opinion is that site would make a better location for a 24/7 operation. He asked if McDonald's would consider changing the operating times for the High Street location to close at 11:00 p.m. or midnight. Boughner inquired if the sidewalk could be changed and whether a fence might be able to be erected. He appreciates the fact that McDonald's is trying to rectify the situation, but there is a theme of the restaurant not doing what needs to be done. Boughner felt that the intersection is large enough to warrant a traffic light. He pointed out the Fire Department a short distance away has a traffic light because they cannot get onto High Street without it. Boughner pointed out the location on the plan where he thought the sidewalk may work better for the site. He felt there is an opportunity to right the situation and he reiterated the hope that McDonald's would change the times of operation for this location. Henry explained that the decision of the site plan approval was silent to the hours of operation.

Sears pointed out that McDonald's leases the site from the property owner, Kontos, and that a lot of these requests are for off-site improvements which would make it necessary to get Kontos involved. He advised Boughner that the Selectmen control traffic safety. It would be necessary to meet with DTAC through the town with the police department or go through the selectmen for better traffic controls for the site. Sears pointed out that they are limited to what they can do on this site.

Henry advised Boughner that the hours are dictated by the common victualler's license.

Boughner felt that the plan is not a good one. He asked if McDonald's could place more trash barrels on the site. He reiterated that the site is not set up well for pedestrian traffic.

Sears responded that it is hard to control pedestrian traffic and he asked the applicant to speak with Kontos.

Boughner stated that he tried to speak with Kontos directly. He stated that the drive through is a right turn only and felt that pedestrians are not seen by the people exiting onto High Street.

Henry stated that the town is complicit in this situation as well since the town has jurisdiction over crosswalks within the public right-of-way.

Boughner stressed he felt that the sidewalk on the south side of the site does not serve any purpose or is a minimal solution.

Cheetham stated that she does not favor a sidewalk where proposed by the applicant. She would like the sidewalk put where it belongs, and she is willing to forego the parking space. She would like to see the walkway striped through the parking field and asked if a bike rack could be put on the site. She asked if the three inch caliper trees were planted in the lawn area which was a requirement with the site plan approval.

Zilinsky does not like the crosswalk on the south side of the site. She felt there needs to be more directional signs since there are conflicting traffic patterns. She pointed out that the back door of the

restaurant is not accessible from the outside. She felt the sidewalk issue needs to be better addressed since pedestrians are still walking in front of traffic. The circulation does not work on the site and she is amazed there haven't been more accidents.

Cheetham would like to see an appropriately-sited sidewalk, and she is willing to lose landscaping or parking.

Prentiss stated his recollection was the restaurant was primarily going to be a drive-through. Since it was going to be a drive-through-only restaurant, there is not much walking space behind the building. This is the reason the back door is locked from the outside. Prentiss has no problem losing parking since there is plenty of community parking within the facility.

Prentiss asked the Board why they settled on pavers, and Cheetham responded that it may have been to not lose landscaping.

Zilinsky stated the restaurant is not just a drive-through. It is a mixture of drive-through and a sit-down restaurant. The opportunity is present to make it safer for people walking on the site; however, she would hate to lose landscaping. She would like to see the walkway put on the north side of the site.

Henry addressed the Board stating he has never seen an applicant come in voluntarily, and he appreciates this fact. He noted that the deadline for the application is looming, and a lot of the issues have still not been addressed.

Cranston stated that he cannot control the staff suggestions since the site has been built. The south side of the site makes the most sense for the walkway because of concerns regarding liability. He stated that putting a walkway on the north side would be the longest run to the building, and people backing out of parking spots may hit pedestrians. Placing the walkway on the south side is safer and ADA compliant. He also stated that the drivers would have a clear view of pedestrians crossing at this location.

Henry agreed that people will go the shortest distance to enter a building.

Cranston stated that they cannot control or monitor pedestrians.

Cheetham stated that she would like to connect the crosswalk to the street and described where she felt the crosswalk might be placed.

Cranston stated it may not work from an ADA standpoint.

Sears stated the applicant was in violation of the Certificate of Action issued in 2006 because the trees were never planted and Henry reminded him that the applicant voluntarily came in before the Board.

Tessa Bernstein suggested going to the owner of the site for some relief since grading may not work.

Henry addressed the Board stating they can either accept what is being proposed with their issues not being fully addressed, or say no and get nothing from the applicant with this application. Henry stated

he was willing to take the incremental improvement since it was better than nothing. He stated the applicant should follow up with the property owner.

Sears stated since the site is under review, they should condition that the trees be planted.

Cheetham is not in favor of approving a crosswalk in a place that is not useful. She felt it is not safe because it creates a tighter corner which is more dangerous. She does not favor this location, and she would not vote for it. She would like to explore the five (5) foot curb or a larger picture of this site with the property owner to address this properly.

Zilinsky felt this walkway does not do anything. Would like to see McDonald's look at an alternative. She felt the applicant should speak with Kontos, and she agrees with Sears that the applicant is in violation of the original site plan approval.

Prentiss is willing to accept the sidewalk that is given, but they need to look at the rest of the site. There are bigger issues that need to be looked at with Mr. Kontos, the owner.

Sears stated that they do not have the property owner here at the hearing, and the site is compliant other than the trees.

Zilinsky does not agree, but Maloney would be able to confirm this.

Sears asked the Board how they would go about bringing the owner of the property in front of the Board, whether he would do something and who would share in the cost. Sears felt that the sidewalk as currently proposed is better than nothing. He felt there is enough site visibility if you are not leaving at a rapid speed.

Henry stated to the Board that this may be the only bite they may have at the apple, and this has to be an ADA compliant site.

Henry asked Cranston about the significance of the second ordering box shown at the drive-through window area. Cranston told Henry to disregard this detail.

Boughner asked the applicant to comment on their other concerns as a good neighbor.

Henry stated that the Board of Health needs to get involved and he asked the applicant if they would be willing to add more trash receptacles.

Bernstein responded that there are presently many trash receptacles on site, and they can't control what happens off site.

Henry stated he heard enough positives and is willing to take the incremental change. He stated that the applicant has also heard from the Board, and there are serious issues with this site. If they come back before them regarding this site, these issues would need to be addressed.

Cheetham asked why this project wasn't being continued and calling the property owner to do what is right for this site? Henry reminded her that the applicant was here voluntarily.

Cheetham stated that the applicant needs to extend.

Henry asked the applicant if they would formally extend the action date so they could talk to the property owner. Many of these issues are his responsibility.

Cheetham stated the applicant is in violation, and Henry stated they are not zoning enforcement.

Henry asked the applicant if they would extend the action date. Bernstein stated she would extend, but was not sure if they could coordinate with the owner. Henry asked if they would continue to October 9<sup>th</sup>, and the applicant agreed.

**MOTION:** Prentiss moved to continue the request for Minor Modification to Site Plan for 77 High Street at the applicant's request to October 9, 2012. Zilinsky seconded the motion. The motion passed by unanimous vote.

## **OTHER BUSINESS**

**Bridle Spur Extension.** Request by Bridal Spur Extension, LLC for extension of completion date for incomplete site improvements for the Definitive Subdivision known as Bridle Spur Extension. (Assessors Map 24, Lot 1). **(TO BE CONTINUED WITHOUT DISCUSSION AT THE APPLICANT'S REQUEST TO SEPTEMBER 25, 2012).**

**MOTION:** Sears moved to continue the request for extension for completion date for incomplete site improvements for Bridle Spur Extension without discussion at the applicant's request to September 25, 2012. Prentiss seconded the motion. The motion passed by unanimous vote.

**Discussion :** Potential Millipore expansion, Cherry Hill Industrial Park.

Sears addressed the Board stating this was not a public meeting, and he was not sure if what was being proposed for discussion was appropriate since they are not an applicant. Normally an applicant would go through Technical Review Committee. Cheetham stated that they had done this back with Affordable Housing and Lebel's Grove. Henry stated that they do this in other communities.

Henry stated that the representatives from Millipore were here to discuss the possibility of putting an operation in Danvers, and this would enable the parties to get a sense of the property to identify any red flags.

Sears was concerned that the applicant should be going through the Technical Review Committee. Henry replied it is not improper to have this discussion, and that in his experience such preliminary conversations are helpful to both the Board and the applicant.

Sears stated that he had been on the Board since 1996, and this has never been done for an upcoming site plan approval. He felt uncomfortable with this discussion.

Cheetham stated that the Board had done this at least twice recently. Sears stated it was not a good precedent, to which Zilinsky replied it was not a precedent.

Henry stated he was comfortable with having the discussion.

**MOTION:** Cheetham moved to allow a general discussion for the Millipore project. Prentiss seconded the motion. The motion passed with a vote of 4-1, with Sears opposed.

Gerry Blanchette, from The H.L. Turner Group, Inc. addressed the Board. With him this evening was Jim Spaulding, Chief Engineer for the H. L. Turner Group, Inc., as well as Paul Lukitsh, Energy Manager for Millipore.

Blanchette stated that Millipore was looking at various sites for a home in the United States. In comparing their various options across the U.S., their goal is to move quickly to see how many boards and committees the project needs to go through for approval and what other constraints they might encounter in various communities on their short list. Time is of the essence; their job is to recommend to the parent company in Germany the best location for the new U.S. site.

Lukitsh described to the Board what Millipore does. They are a worldwide global life science company headquartered in Billerica. Millipore helps customers in the life science industry discover new live saving drug therapies. They make 40,000 different products which enable drug and filter therapies such as insulin. It sells research capabilities which help discover drug therapies. Millipore is a manufacturer and research facility.

The current Danvers site had two different divisions. The life science division has 100 employees working in research labs. They also have a manufacturing division that makes a disposable bioreactor, which is used by drug pharmaceutical companies.

Millipore acquired a company in Germany called Haifa. At Haifa they manufacture contact plate, which is used for hygiene monitors and this product is growing significantly in the United States, but it is made in Germany. The site in Germany is reaching its capacity, and it does no longer makes sense to manufacture the product abroad and ship it to the United States. They are working to find a location to manufacture this product at one of their present sites. Over twenty locations were considered, and Norwood, Ohio and Danvers are the now the two finalists. Danvers is near their customer base on the northeast. They need a 35,000 square foot building, and they are analyzing the pros and cons of each location.

Jim Spaulding, Engineer for The H. L. Turner Group, Inc., presented the Board with draft plans for discussion purposes.

He described the site as it exists today. They want to build a single story building on the site that has the parking lot and rearrange the parking along the 35,000 square foot building. They would put parking on

the other side and move the detention basin down to the back. He further described the parking to the Board, and he sought guidance regarding the number of parking spaces required. Based upon the square footage of the building, they would need 342 parking spaces. Millipore does not have a need for 342 spaces based on their present and future employees; they can, however, comfortably fit 275 parking spaces on the site.

They realize they need to go before the Conservation Commission, and he showed the no build and no disturb areas on the plan.

Spaulding stated that according to Kristan Farr, the no build/no structure area does not apply to parking. The pavement they will use will be pervious.

Spaulding stated the required parking was described from the regulations. There are two uses of Research and Development and Assembly. Haifa would be strictly assembly, which is how they came up with the 342 spaces. He stated that all the employees would not be on the site at the same time.

Blanchette stated that Research and Development is not permitted in this zoning district, and Cheetham asked the Board if this might be a pre-existing non-conforming use.

The Engineer would like to use the lesser amount which would be for the number of employees. Henry stated if Code gave the okay, he felt they have enough parking.

Cheetham stated that since this is an industrial business, they know that machinery will take up some of the square footage which means a lesser number of employees.

Henry stated if they can identify this with Maloney, they would not need a waiver. Spaulding asked if planning could waive the parking requirements to which Henry responded that waivers are discretionary.

Cheetham stated that the drainage on the site is somewhat creative. Some of the lots have flooding, and there are drainage retention issues on the larger plan that will need to be addressed.

Cheetham stated she went to the site for a celebration, and the parking lot was quite full.

Henry asked if they thought about involving the North Shore Transportation Management Association (TMA), which runs from the Cummings Center.

Prentiss stated that the retention ponds caught his attention. They went through a lot of hoops to get the retention pond moved. Henry confirmed that they cannot increase this, and he stated that a third party peer review is an option.

Prentiss thought the parking was pretty tight.

Henry felt they should go to Technical Review Committee next.

Sears asked if there is enough room for landscaping and also inquired about snow storage.

Spaulding responded that all snow needs to be removed.

Spaulding asked how much information is needed to meet with TRC. Day stated TRC will meet with them incrementally, if desired, and that perhaps an initial meeting with Code, Planning and Engineering would be constructive. She further described how the TRC review works to facilitate conversations in early stages of project development to move forward in an informed and efficient way.

Spaulding asked if the plans presented this evening would be sufficient, and Day confirmed that they would be.

The Millipore representatives were very appreciative of the time given by the Board.

## **MINUTES**

August 14, 2012

**MOTION:** Sears moved to approve the draft minutes of August 14, 2012. Prentiss seconded the motion. The motion passed by unanimous vote.

## **ADJOURNMENT**

**MOTION:** Prentiss moved to adjourn. Zilinsky seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 9:20 p.m.

Respectfully submitted:

Francine T. Butler

The Planning Board approved these minutes on September 25, 2012.