



Town of Danvers
Planning Board

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

James Sears, Chairman
Margaret Zilinsky
Kristine Cheetham
William Prentiss
Aaron Henry
John Farmer, Associate
Member

Daniel J. Toomey Hearing Room
October 14, 2014
7:00 p.m.
MINUTES

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

STAFF BRIEFING

Day told the Board she would like to discuss upcoming meetings. The next Planning Board meeting is scheduled for October 28th. Depending on what happened at tonight's meeting, the only new item is to have the Metropolitan Area Planning Council (MAPC) have an informational discussion with the Planning Board regarding the grant to look at the downtown zoning. November 11th is election day, so there will be no Planning Board meeting that night. Zilinsky and Sears said that they would not be present at the meeting on October 28th. Sears asked if they could have a meeting on November 18th and November 25th. Day said she will check with Sam Cleaves from the MAPC to see his availability. Day said that they have meetings scheduled for December 9th and December 23rd. She asked if the Board had a willingness to meet on the 23rd of December. Zilinsky said that she may be out of town again. Day said that they would keep the 23rd of December as a question mark. She stated that there had been an inquiry from a local attorney about the meetings, and due to Zilinsky's absence, there may be an issue with some filings.

Day reminded the Board that the Danvers Indoor Sports reception was Thursday between 5:00 and 7:00 p.m. She told the Board that she went to the Skyzone opening on Saturday.

Day told the Board that Janell Powers had taken another position, and she thanked her for her service to the Planning Board.

Henry asked about "Save Lindall Hill". Day explained that the Peterson-O'Donnell Funeral Home is considering buying the house directly behind them. The plan is to divide the lot, using one portion for parking and to construct a new building on the other lot.

OTHER MATTERS

Folly Hill/Hilltop Estates. Request for the release of Lots 29, 30 and 31 on Ardmore Drive from the Planning Board Covenant dated June 10, 2003 (Book 21913 Page 374) to allow conveyance of these three lots to MPM, LLC, Michael McNiff, Manager. A new Planning Board Covenant encumbering Lots 29, 30 and 31 is to be executed by MPM LLC, and will be recorded simultaneously with the transfer of the deed.

Albert Ellis, representing Folly Hill Danvers, LLC, appeared before the Board. He stated that he was grateful to the Board to hear the request for the release of the covenant that encumbers Ardmore and allow the conveyance to Michael McNiff. Once the conveyance was done, another covenant would be put in place.

Day informed the Board that they could consider a motion to agree to release the covenant as it now exists with Folly Hill. She stated that they have a covenant release that can be signed and held. A vote would then be made to accept an identical covenant by Michael McNiff, allowing the transfer of the three lots.

Farmer asked if the existing tripartite agreement was being swapped with the new buyer, and what would back the performance to complete the project. Day stated there were two forms of surety for Folly Hill. There is a tripartite agreement currently in effect between the Town, bank and applicant for completion of improvements on Overlook Drive and Hilltop. There are covenants on the undeveloped lots on Ardmore and remaining undeveloped lots at the top of the hill.

Sears asked if the back real estate taxes would be paid for the Ardmore lots, and Ellis responded “yes”. Ellis said they have no other agreement with the Town other than the original one. Sears asked if the Open Space payments were part of the discussion regarding the conveyance of the Ardmore lots, and Day said that she was following the lead of Town Counsel. The Town’s position is that they would like to exclude the discussion of the \$10,000 or \$15,000 payment per lot on the Ardmore transfer.

Henry asked if the conveyance of these three lots would take care of the issue of the payments to the Town. Cheetham said that they would pay back taxes, but not take care of the payment due the Town of Danvers for Open Space on the Ardmore lots.

Cheetham asked Ellis how many homes were built and occupied, and Ellis said 20 lots.

Day said that the concern on the part of the Town and Town Counsel was resolving this in an acceptable way with the Town and the developer. Henry said that this would move the project forward with the hillside being addressed. He has been concerned with what is happening at the end of Ardmore.

Cheetham said that every step we go down we loosen the grip and lose funds that the community has asked for. This has been a divisive issue for many years, and every step of the road we have

excused that responsibility. She said there is engineering difficulty on the hill. She asked Ellis if they had started cleaning the drains. Ellis said that they did about half of the basin cleaning. He stated that this is required as part of the bond release.

Henry asked when the scheduled closing was for this transaction, and Ellis responded the first part of November.

Zilinsky said that it was very irritating that they kick the can down the road on payment for each lot. The Town is due the money, and there needs to be discussion for getting the money. She knows what Ardmore looks like, and the people living there have lived with that for over ten years. She felt they need to look at getting this area completed as an obligation to the people living on Ardmore. However, she does not want the payment to go away.

Henry felt they could condition this vote pending the cleaning out of the two basins. He also said that they have an agreement, and if they held up their end of the bargain and cleaned the basins, there would be no conflict if this is closing in November.

Ellis felt it was a discussion of apples and oranges. He is comfortable that the basins will be cleaned by October 30th. Henry said that they had authorized the performance guarantee that included the cleaning of the basins. Ellis said that he did not care about the additional leverage requested. Henry asked if he was willing to condition this, and Ellis said it was perfectly acceptable.

Day pointed out that the tripartite agreement states that it is not released until the work is done.

Paul Galanes, from People's United Bank, stated that the Ardmore issue is separate.

Farmer pointed out that the new buyer is not assuming the obligation for Open Space payments. Sears asked how much has been paid to the Town, and Galanas responded \$52,500.

Prentiss stated that he agreed with Henry that this is a step forward to help the people that live in that area. He is just as frustrated as the other Board members. How are we going to make sure that this isn't going to happen in the future. If we don't sign the tripartite and release it, it will make matters worse on both ends.

Michael McNiff addressed the Board. He lives in Beverly and has been doing development for years. He has been involved with some projects done by Ellis. He is well acquainted with what needs to be done, and he knows it is important to keep neighbors happy. He told the Board that he intends to pay cash, and will eventually get into a bond situation. He will do tailings of the wall underneath the grass for more support. He thought Bradley came out great, and the people who live there are happy.

Zilinsky pointed out that they had signed documentation that there was a payment due for \$15,000 per lot upon sale. She confirmed that payment would not be expected on these three lots. Day pointed out that they are releasing only these three lots.

Cheetham said that she felt better that McNiff said he was going to stabilize the wall. The Ardmore neighbors were the most vocal about runoff. She said it was welcome news to hear that from him, and she said that they will be checking to be sure that it is done.

MOTION: Henry moved to vote to release the three lots at the end of Ardmore Drive from the larger covenant and enter into a new covenant encumbering those lots with MPM LLC and authorize the staff to take care of the details with the conveyance. Zilinsky seconded the motion. The motion passed by unanimous vote.

PUBLIC HEARING

198 Endicott Street. Request for a Major Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by PYA Realty, LLC for property located in the Commercial-III Zone. The applicant proposes to raze the existing retail building and reconstruct a new fast-food restaurant within the original footprint of the building. The new structure will accommodate up to 30 seats, some of which will be located in a new outside seating area. (Assessor's Map 62, Lot 3) (*SPA action date: November 21, 2014*)

Sears read the legal ad and opened the public hearing.

Scott Cameron, from The Morin-Cameron Group, Inc., appeared before the Board. With him were Peter, John and Adam Pantazelos from PYA Realty, LLC. They are looking for a modification to the Site Plan that was approved in 2008. They plan to raze the building and construct a 1,600 square foot pad. The second floor of the building would be used for employees and storage; the first floor would be the kitchen facility. Cameron described the plans. There would still be parking on each end. A dumpster has been added, along with more stormwater buffering. Gravel is going to be added. They tried to focus on the frontage, and they have offered to reconstruct the sidewalk. There will be new landscaping in front. There will be outside seating. The circulation will run around the building, and back out onto Endicott Street. Cameron told the Board that they have provided parking in excess of what the minimum requirement is based on employees and seating. Cameron said that additional information was forwarded to the Engineer last week to answer his questions. They have added details for utilities and connections.

Adam Pantezalos addressed the Board, and said they saw the opportunity to establish a premium salad bar to allow people to get a nice healthy meal and be quickly on their way. They can sit and eat, or take the food with them.

Cameron told the Board that Engineering had signed off on the technical aspects. The floor plan will have a bar concept. All the ingredients will be out, and you will choose what you want. It will then be made for you. He stated that there will be buffering around the outdoor seating area to protect patrons.

Cheetham asked Cameron to show her where the doors were located.

Cheetham asked about the one parking space up front near Endicott Street. She said that this could be more green space.

Cameron responded that they had initially thought it would be a handicapped spot which they moved. They wanted as much parking as possible. The landscaping will still look good.

Cheetham is concerned about that car backing out of the space when others are trying to enter the site. She is not a fan of that space. She asked about lighting.

Cameron responded that there will be building illumination. The sign in front is illuminated. There is not the necessity of free standing lights.

Cheetham asked about the sign, and Cameron said the existing sign will be redone.

Henry questioned the parking space in front as well. He thought this was a good reuse of the site. He does not have huge concerns regarding the proposed layout. He would like to ask for pedestrian striping for a visual queue to the drivers.

Cheetham asked if the entrance had a canopy, and asked if people know that it is the main entrance.

Henry asked if there was a grade change, and Cameron responded that it was about a one-foot change.

Henry asked if there could be something done to alert drivers of the pedestrians.

Zilinsky said that she was concerned with the one parking space as well. She felt it would cause difficulty if the car backed out. She asked if the wall was the property line. Cameron confirmed that the wall went right down the center of the property line, and the plantings were on the neighboring property. She agreed that it was a great improvement to the site. She asked about the percentage of landscaping, and Cameron responded that there was three times as much landscaping as previously approved. The parking spot would add an additional 250 square feet.

Zilinsky said that as much landscaping as you could get would be appreciated, wanted and needed. Removing that parking space would help. She is concerned with snow storage. She asked if the storage could be that close to the wetland. Cameron responded that it was approved by the Conservation Commission last week. He said that if there is a lot of snow, they would haul it off-site and remove it.

Zilinsky said that she was happy the entranceways were defined. She felt it would be a great type of cafeteria/restaurant. It is a good improvement to the site. She does not like the parking space, and would like to see it green.

Prentiss felt it was a vast improvement to the site. He asked if the outdoor seating area would have picnic style tables. Cameron said there would be tables that would seat two and four people.

Prentiss felt they should give the applicant a waiver, have the parking space removed and add landscaping. Sears felt the safety issues overrides parking. Cameron said the parking space would be removed.

Farmer asked what the hours of operation would be.

Adam Pantazelos was still kicking around the hours. They could open as early as 7:00 a.m. and close as late as 8:00 p.m.; the hours could shrink.

Farmer asked if they were expecting foot traffic trying to cross the street, and Cameron responded that they were doing their part by putting the crosswalk in front of the site.

Sears asked what the intended colors for the building were, and Adam Pantazelos said they were looking to have a rich wood color. They are going for a green-type look.

Sears asked about rodent control, and Cameron pointed out that the applicant owned the restaurant on the other side of the property. They are familiar with managing this.

Sears said that he agreed with Prentiss that there should be a barrel. As much as you try to police it, trash is going to blow around. Sears asked for a trash barrel.

Sears also confirmed that there would be no outdoor audio. Adam Pantazelos said that they did think about it. Sears said that they typically do not allow it.

Sears asked about lighting specs and building lighting. Cameron stated that there would be safety lighting in the back.

Sears confirmed that the parking space would become a landscaped area. It would get them closer to the ten percent.

Sears asked where deliveries would take place, and Cameron showed the location of the service door at the back of the building.

Sears asked what the hatched areas were on the plan. Cameron explained they were a separation of the parallel and parking spaces. He said it would make it easier to plow.

Cheetham asked that the trash barrel at the outside eating area be a covered dome.

Cameron questioned if there were going to be plantings at the rear of the property near the wetland area. Cameron said they were more concerned with that area being more functional than

aesthetic. He said that the ConCom wanted the trench to be graveled. There is no connection to drainage for this property, and they felt this was the maximum feasible compliance.

Cheetham asked about landscaping, and said she has a hard time with it. She felt there had to be something that could be planted in that area. Cameron said they could plant fountain grasses since they are the best filters that can be put in and are durable. They can take a beating and do their job. Cheetham said that she would like to err on more plantings rather than less.

Henry asked if they could get the cut sheets on the lighting being proposed.

Sears asked what the height of the building was going to be, and Cameron responded it would be 25 feet from the floor to the flat roof line. Zoning allows 45 feet. Cameron said the roof would be flat.

MOTION: Prentiss moved to close the public hearing for the application for a Major Modification to an Approved Site Plan for 198 Endicott Street. Zilinsky seconded the motion. The motion passed by unanimous vote.

MOTION: Zilinsky read the Certificate of Action and moved to accept the Major Modification to an Approved Site Plan for 198 Endicott Street. Prentiss seconded the motion. The motion passed by unanimous vote.

MINUTES

September 23, 2014

MOTION: Prentiss moved to approve the minutes of September 23, 2014. Henry seconded the motion. The motion passed by unanimous vote.

Sears wanted to confirm the dates of upcoming meetings. Day said since they would be down two members on the 28th of October, and since they do not have a lot of applications in the pipeline, she felt this meeting could be cancelled. She said that there could be the potential of meeting on the 18th and 25th of November.

Sears said that they can decide whether to have a meeting on December 23rd when they get closer to that date.

Sears asked if they were going to try to get the MAPC to complete the work to present at the Town Meeting in May.

Day stated that they have until June 30th. The previous Town Manager did not like combining zoning items with the annual town meeting. She said that they would proceed with the work as efficiently as they can and see where it leads.

Prentiss asked about the ZBA Legal Notice that was forwarded to the Planning Board, and asked if there was anything in particular they should be looking at. Day said that it was forwarded because she felt it would be a good idea to see what was going before the ZBA. These are decisions that feed into Planning Board matters.

Prentiss asked if the 466 Restaurant was something that was coming before the Planning Board, and the Board pointed out that it was just an awning.

Sears noted that he witnessed a major accident in front of the Dunkin Donuts on Newbury Street.

Farmer felt the biggest issue with this area was taking a left to get into the Dunkin Donuts.

ADJOURNMENT

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

The meeting adjourned at 8:20 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on November 25, 2014.