

Planning Board Meeting Minutes

June 21, 2021

Board Members:

Present: Casey Campetti (Chairperson), Paul J. Lonergan (Clerk), Chuck Walkovich, Joyce Morrow and Jennifer Gingras. **Not Present:** Al Patenaude

Staff: Lisa Davis, Planning Consultant and Cheryl Lutcza, Planning Assistant

Attendees: Gerald Couper (PCM) Peter Marlowe (President, Degmar Development Corporation), Mary Duke, Greg Downey, Tony Beattie, Wes Ritchie, Jacob Vitali/Lowell Sun, John Duke, Devin Howe (Beals Associates, Inc.), Mark Matthews, Kyle York, Margaret Scarsdale, Bridget Partridge, Mark Walsh, Sandra Hartnett, David Sears, Kathy Batchelder, David Lowe, Ture Turnbull.

Call to Order

7:00P.M. The remote public meeting (recorded for future broadcast by Pepperell Community Media) was called to order by Mx. Campetti.

Acceptance of Minutes

Mx. Campetti asked for a motion to accept the minutes of June 7, 2021 as written, with minor edits for name spelling to be made, so moved by Mr. Walkovich, seconded by Ms. Morrow. All in favor. Mr. Lonergan abstained.

7b. Master Plan Implementation Team Update (updated provided out of order)

- Mr. Walkovich stated that they continue to meet every Monday. A presentation was given at the Town Meeting. Deb Fountain and Mark met with Andrew MacLean, Town Administrator, has requested that they revise the budget that was submitted a long time ago and go back to all the committees that have requested funds, to prioritize and see if those items are still needed. Meetings will be set up with the Planning Board, as well as the Select Board, to go over priorities.

7:05PM – Continued Public Hearing on Special Permit Application for Major Site Plan Review at 50 Main Street (Degmar Development Corporation):

Mx. Campetti opened the public hearing and said that the Planning Board had requested additional materials from the Applicant at their last meeting. There was also a question on the time limit in our bylaws for a rebuild.

Mx. Campetti asked Ms. Davis if she had received any updates from the Town side. Ms. Davis said she had sent an email to Town Counsel but has not received a response. She did review the Governor's State of Emergency information, and she believes that the all the time limits were tolled during the State of Emergency to June 15, 2021, when the State of Emergency was lifted, however she is waiting to get an update from Town Counsel. She further explained that she believes this is a Building Department issue, not a Planning Board issue, that Mr. Marlowe needs to work out with the Building Department how long he has to rebuild. Discussion ensued.

Mx. Campetti stated that Full Board Member, Mr. Patenaude, was not present at the meeting this evening, and whereas Mr. Lonergan was not present at the opening of this hearing (on June 7, 2021), she would like to request Ms. Gingras continue to sit on this hearing. Mr. Lonergan agreed.

Mx. Campetti inquired if the Applicant, Mr. Marlowe, had communicated with the Building Inspection Department. Mr. Marlowe responded and said that he had spoken with Sue Smith and she said that Bob Kelly had determined that the issuance of the demolition permit started the process, and he is not beyond the two-year period, however he wants to get this in writing from the Building Department.

Ms. Davis said that she had circled back to Ken Kalinowski, and that Ken and Mr. Marlowe have connected, and Ken is satisfied that Mr. Marlowe will be satisfactorily addressing his concerns. Mr. Marlowe agreed.

Mr. Marlowe again emphasized that he needs a letter from the Building Inspection Department regarding the two-year limit to reconstruct. He asked Ms. Davis if she had received an email from Bob Kelly. Ms. Davis said that she had not, however she would reach out to Sue Smith tomorrow. Discussion ensued.

Mr. Marlowe explained that he drove through the site recently and met with Mr. Moran (abutter on the right-side of the property, facing the street). Mr. Moran said that he prefers that the chain link fence, which is good shape, remain there as opposed to a new 6-foot fence. He further stated that Bridget Partridge had met with the abutter, Marilyn MacMahon, whose driveway is right on the property line. He explained that if they were to put a fence up on that entire left side, that would create a hardship for Ms. MacMahon, and she prefers not to have the fence and that things are left the way they are. Mr. Marlowe said that he would do a fence on the rear of the property for the abutters who requested fencing there. Discussion ensued.

Mx. Campetti asked about the discussion from the previous hearing regarding 6-foot fencing and 5-foot plantings. Discussion ensued. Mr. Marlowe said that he is in the process of putting together a full Landscaping Plan for the Board, however he was not able have it ready for tonight.

Mr. Marlowe continued and stated that he would like to request relief from the Photometric Design. He explained that he cannot get anyone to return his phone call. They had contacted an architect, from Boston, however he wasn't interested in doing a plan of this size, they only want to do larger, commercial plans. He said that when he met with Mr. Moran (abutter), they had a discussion regarding lighting, and he suggested he put a light pole against the property shining the light in the other direction. Mr. Marlowe said he told Mr. Moran that he could run a conduit

underground to his property and if Mr. Moran is not satisfied with the lighting, they would put up a pole, and he said that Mr. Moran was totally in agreement with that.

Mr. Marlowe discussed the height concern and said that he had submitted an Elevation Plan to the Board today. He said he is just at 35-feet, probably a little bit under, however, they will be over if they decide to go with the elevator. He explained that the elevator needs to have clearance above the shaft for the hoist way and everything that goes in there, so they may need a little relief for that section above.

Regarding trees, Mr. Marlowe said that there is a red maple, with a large canopy on the front of the property, and they are going to have to remove that tree, as the canopy is too big and is already growing into the wires. He said that he will replace the tree with some smaller canopy trees (possibly some smaller canopy cherry trees) and this will be shown on the Plan.

Mx. Campetti said it sounds like Mr. Marlowe worked through some of the stormwater concerns that Ken voiced and the Board had echoed. Mr. Marlowe responded that they did deep holes the Friday after the first hearing and the drainage was great; Pat Flaherty is in the process of re-doing the Site Plan, showing the drainage and all the calculations. They also did some deep holes out back and the drains for the roof will go out the top sections of the land.

Ms. Davis said that she didn't believe that the Planning Board has the right to waive the height regulation, she would need to doublecheck on that, as that may be something that only the Zoning Board of Appeals (ZBA) could do. Mr. Marlowe said that he spoke with Bob Kelly on the phone regarding the height, and Bob said that because the property is on Main Street, and in the URR District, he could legally add another floor to the building if he wanted to. Ms. Davis commented that if Bob makes the determination that you haven't met the height because of how they measure height, he is the Zoning Enforcement Officer, and that's his determination. She further explained that the Planning Board could still say they don't like the height, however they could have the ability to grant it, as long as Bob determines you don't need a Variance because you're exceeding the height requirements. Ms. Davis said she will doublecheck on that as well.

Mx. Campetti asks Mr. Marlowe if he is all set with the new information and requests that he wanted to bring this evening. He said he was.

Mx. Campetti asked if the Board Members had any questions.

Ms. Gingras said that she understands that a lot of companies are busy, and it is hard to get someone. She asked if the Board could make a Condition that the Photometric Plan be submitted prior to the Certificate of Occupancy or issuance of the Building Permit, so that there can be confirmation that there isn't any light spillage and that the Photometric Plan is an important piece that the Board should see. She said that she understands that the type of fence they originally referenced can be intrusive, especially close to the property line, however future occupants and neighbors do need to be taken into consideration. She said that the Board definitely needs to see landscape screening and it is important that it is 5-foot high at time of planting. Mr. Marlowe responded and said that the Photometric Plan is going to be a challenge. If the Board is going to make it a stipulation, occupancy would be much better. It is going to be a very difficult thing to get.

Bridget Partridge addressed the Board, on behalf of the Applicant, and said that she knows the abutter (Marilyn) and had met with her to ask her about the fencing. She said that the abutter has lived there for 30-plus years and she does not want a fence, as it would be a hinderance to her property. A fence would block her view and make it more difficult for her to back out of her property onto Main Street, especially with the congestion due to Dunkin' Donuts. A fence would also cause an obstruction for snow removal for her property. She is okay with landscaping.

Mr. Walkovich said that a Photometric Survey really needs to be done, whether it is before permitting or occupancy. If we waive this, we would be setting a precedent, as we require this for all subdivisions, so I think it is a key thing for us to have.

Ms. Morrow said that she fully agreed with the assessments of both Mr. Walkovich and Ms. Gingras.

Mx. Campetti said that she agreed with Ms. Gingras, Mr. Walkovich and Ms. Morrow. She wouldn't object to allowing more time for the Photometric Plan being put together, however was concerned if it was left until occupancy, as it could cause issues and rework could possibly need to be done. She asked Mr. Marlowe when in the process would he plan to come back to the Board to discuss and make sure the lighting wouldn't be a problem. Mr. Marlowe said he would do his best, as this is the most challenging item he has had to find. No one is taking his calls and he's never had to do one before.

Ms. Davis recommended that the Board tie the Photometric Plan to occupancy because it is hard to find engineers; if you tie it to occupancy, that should give him ample time. If he has to make an adjustment to the lighting, so be it. I would think that would be a reasonable approach. He could even install the lights first, which might make more sense so we could see what it will really be like.

Mx. Campetti said she really hadn't had a chance to review the new elevations which were just submitted today. She told Mr. Marlowe that they will make time for him to come back before the Board. She explained that the Board's next meeting is on July 19, 2021. Mr. Marlowe said that was fine.

Mx. Campetti asked if there were any public comments. None.

Mx. Campetti asked for a motion to continue the public hearing to July 19, 2021 at 7:05p.m., so moved by Mr. Walkovich, seconded by Ms. Morrow. All in favor.

5. Plan Endorsement – ANR – 84-112 Jewett Street and 67-85 Jewett Street (Duke Family Limited Partnership; Winslow H. Duke Revocable Trust Agreement)

Ms. Davis said that she reviewed the ANR and it meets all requirements.

Devin Howe (Beals Associates, Inc.), addressed the Board and gave a summary of the proposed ANR subdivision for 84-112 Jewett Street and 67-85 Jewett Street. He said that the two properties are separated on the northerly and southerly side of Jewett Street, consisting of about

222 acres of land. They are proposing to subdivide each lot, both on the North and South side of Jewett Street into two separate lots, going from two lots to four lots. The North side of Jewett Street will be subdivided into two lots, one is about 54 acres with about 1200 feet of frontage; and the second lot is about 45 acres with about 430 feet of frontage. On the South side of Jewett Street, the larger piece of property will be subdivided into two lots, one is about 25 acres with 813 feet of frontage; and the second lot is about 97.5 acres with 760 feet of frontage. Mr. Howe said that he would be happy to answer any questions the Board had.

Mx. Campetti asked if the Board Members had any questions. None.

Mx. Campetti asked for a motion to endorse the ANR for 84-112 Jewett Street and 67-85 Jewett Street, so moved by Mr. Walkovich, seconded by Mr. Lonergan. All in favor. None opposed.

6. Action Items

a. Planning Board Deliberation on New England Craft Cultivators (NECC) Special Permit Application for an Adult Use Marijuana Retail Establishment – 112-114 Main Street.

Ms. Davis addressed the Board and said that whereas Mr. Patenaude is not present at tonight's meeting, that there are only three voting members, and it is general courtesy if you don't have four members to vote, to extend to the next meeting and that the Board should grant a continuance to the next meeting date

Mx. Campetti stated that she will not participate in this part of the meeting, even though the Board will not go into any discussion on this Agenda item. She said that she was going to recuse herself, by turning off her camera and microphone, and that Mr. Walkovich will act as Chair in her place.

Mr. Walkovich took over as Chair, and inquired if the Applicant had anything else he would like to provide and said that he assumed that the Applicant will want to extend based on the lack of membership we have on the Board.

Applicant, Wes Ritchie, addressed the Board and stated he would like to extend and would like to ask to extend to longer than the next meeting, maybe another month.

Mr. Walkovich asked Ms. Davis what the common practice the Board has.

Ms. Davis said that her recommendation, in this case, would be that the Board continue to the next meeting. She said that her personal feeling was that the Board should not continue this application anymore, and the Board should render a Decision. She doesn't see any point in the continuance, however tonight is a special circumstance because the Board only has three voting members and she thinks that it would be inappropriate for the Board to act when it only has three members. She said that if the Board had four members, her recommendation would be that the Board should be deliberating, because there is no new information that has surfaced and the hearing has been long closed, and it is time for the Board to deliberate and make a Decision, but due to the lack of the fourth member she doesn't think it would be fair to the Applicant for the Board to move forward and she

would recommend that the Board continue to the next meeting, which is almost a month away, as the Board is not meeting the first week of July.

Mr. Ritchie addressed the Board and said that he believes there is a little more information. Ms. Davis responded and told him that it was not appropriate for him to be speaking at this point. Mr. Ritchie asked to be recognized by the Chair, however said that he is happy to defer to whatever the process is. Mr. Walkovich said that he would like to follow Ms. Davis' recommendation.

Mr. Walkovich asked for a motion to continue to the Planning Board's next meeting on July 19, 2021, so moved by Mr. Lonergan and seconded by Ms. Morrow. All in favor. None opposed.

Mx. Campetti rejoined the meeting and resumed as Chair. She announced that the Board would move on to the Reports/Correspondence/Discussion portion of the meeting.

7. Reports/Correspondence/Discussion: *(matters that may arise that the Chair didn't reasonably anticipate)*

a. Local Resource Recovery Planning Grant:

Ms. Davis said they are nearing the end of this grant, which is the big piece, identifying the next steps and what projects are coming out of this grant. Presumably the State would then turnaround and open funding. We have a call tomorrow with the Team to come up with a list of projects.

b. Master Plan Implementation Team Update: (taken out of order at beginning of meeting)

c. NMCOG Update/DLTA Funding Request

d. Grant Program Updates

8. Future Meetings:

A. July 19, 2021

B. August 2, 2021

Adjournment:

Mx. Campetti asked for a motion to adjourn the meeting at 7:45p.m., so moved by Mr. Walkovich, seconded by Mr. Lonergan. All in favor

Respectfully submitted by Cheryl Lutcza, Planning Assistant