

**BEDFORD PLANNING BOARD**  
**Selectmen's Meeting Room**  
**Regular Session Minutes**  
**April 21, 2015**

MEMBERS PRESENT: Jeff Cohen, Shawn Hanegan; Amy Lloyd, Chair; Sandra Hackman, Clerk; Lisa Mustapich.

STAFF PRESENT: Glenn Garber, Planning Director; Catherine Perry, Assistant Planner; Kim Siebert, Acting Recording Secretary

STAFF ABSENT: Cathy Silvestrone, Planning Administrative Assistant

OTHERS PRESENT: Jennifer Howe, Symes Maini & McKee Associates; Yakov Kogan, 30 Chelmsford Rd; Meredith McCulloch, The Bedford Citizen; Jon Russo, for Paul Marcus, 15 Fletcher Road developer; Scott Weiss, The Gutierrez Company.

Ms. Lloyd called the meeting to order at 7:30 PM.

**The Emergency Evacuation notice** read by Ms. Hackman, Clerk.

*Note: All meeting submittals are available for review in the Planning Office.*

**DEVELOPMENT PERMITTING: 15 Fletcher Road (Country Store building)—Minor amendment to Blake Block Special Permit**

Documents in hand:

- Special Permit application dated March 26, 2015 that includes brief verbal description of work planned, site plan, elevation drawings, floor plans, lot drawing with dimensions, and 2 photographs of the building;
- Cover memo from PJM Construction LLC, 218 Dudley Road, Bedford, MA, setting out the proposed new uses for the 2<sup>nd</sup> floor and listing 8 remodeling, construction and landscaping items;
- Memo from Assistant Planner Catherine Perry dated March 27, 2015 regarding the Special Permit minor modifications;
- Email from Fire Captain Charles Stone dated April 14, 2015 stating that a sprinkler system should be installed if the 2<sup>nd</sup> floor is used for residential purposes;
- Email chain between Planning and Police, April 9, 2015, stating the Police have no issue with the plan as submitted;
- Email from Fire Captain Charles Stone dated April 15, 2015 stating that if the 2<sup>nd</sup> floor is used as an office, a sprinkler system is not required;
- Email from Town Engineer Adrienne St. John dated April 15, 2015 stating the DPW's only requirement is a Street Opening Permit with a maximum 16' opening.

Presentation: Jon Russo, landscape professional, standing in for developer Paul Marcus, reported on the scope of work planned for 15 Fletcher:

- 1) Install new rear dormer for secondary access
- 2) Extend left side bumper for primary egress
- 3) Install new windows, siding, trim
- 4) Replace front and rear porches
- 5) Install two new parking spots in front left of lot (total width of driveway= 20 ft.; curb cut=16 ft.)
- 6) Plant new shrubs
- 7) Install new walks
- 8) Build new two bedroom apartment upstairs

Additionally, Mr. Russo stated there would be renovations of the façade and the roof.

Ms. Perry said, as she understands it, the developer is including an office alternative to the original concept of residential use for the second floor. The application covers both possibilities. “The Board has to decide that it’s satisfied with the overall mix of uses in the Blake Block that includes this building,” Ms. Perry clarified.

Ms. Mustapich asked if installation of a sprinkler on the second floor could be a condition of approval for the minor amendment, even though the developer may decide to rent the space for office use. Ms. Perry said a condition can be worded to apply to the residential use option.

The walkway will be bluestone/dry cement and the two parking spaces will be brick. The walkway to the new doorway on the north side of the building will also be bluestone. All the current large shrubs will be removed; new boxwoods and simple, low-maintenance barberry shrubs will go in at the foundation with boxwoods along the walkway and a succession of colorful perennials in front and along the side. Mr. Russo added there would also be a mix of grasses, a small tree hydrangea, some small rhododendrons, and a mix of evergreens. Some of the large rhododendrons currently on the site will be transplanted further away from the building. Mr. Russo assured the Board that none of the planned plantings “spread aggressively” and none are on the invasive species list.

Comments/ Questions: Ms. Lloyd said that exterior changes to the building have been vetted by the Historic District Commission.

Mr. Hanegan said the created parking spaces should have “Tenants Only” signage. Ms. Perry said the sign[s] may need to comply with the sign bylaw and/or Historic District control, but she could check if further approval would be needed.

Mr. Cohen asked about irrigation so that the new landscaping would thrive. Mr. Russo said he would talk to Mr. Marcus about it and that most installed irrigation is now moisture/ humidity sensitive so as not to over/under irrigate.

Ms. Mustapich said she looks forward to the building and grounds “getting a facelift.”

*MOTION: Ms. Mustapich moved to approve this minor amendment to the Blake Block Special Permit, subject to: including “Tenant Only” parking signage for the two added spaces; obtaining a street opening (curb cut) permit; and the installation of a sprinkler system for the second floor, if the space is to be used as a residence. It was noted that code requires the installation of a sprinkler in this instance but specifying the requirement avoids confusion.*

*Mr. Cohen seconded Ms. Mustapich’s motion.*

Mr. Cohen asked where it would be recorded that the remodeling on the second floor will result in a small addition of useable floor area. Ms. Perry said that new total of 900 sq. ft. will be written as a description in the Special Permit amendment decision.

*The vote to approve the minor amendment passed unanimously, 5-0-0.*

The Board asked Ms. Perry to write up and issue the decision on its behalf.

#### Bedford Woods Office Park, 170-176 Middlesex Turnpike—Site Plan modification

Documents in hand:

- Memo from Planning Director Glenn Garber dated April 16, 2015 with his comments about the proposed site plan modification, a reconfiguration of one tier of approved parking;
- Site plan application and cover letter dated April 13, 2015 describing the modification and extract from site plan with changes shown in red, submitted by Jennifer Howe of Symmes Maini & McKey Associates (SMMA);
- Plan set dated April 10, 2015 for Gutierrez Company - Bedford Woods: Site Plan modification;
- Email correspondence from Code Enforcement Officer Chris Laskey dated April 14, 2015 stating his opinion that the modification does not pose the necessity for full-scale review since the number of parking spaces will not change materially;
- Supplemental memo from Director Garber dated April 17, 2015 regarding DPW Engineering comments, notes on parking.

Scott Weis of property owner Gutierrez Company and Jennifer Howe of architecture/ engineering group SMMA presented the details of the site plan modification.

Bedford Woods is an office complex located at 172 Middlesex Turnpike. The site is about half built-out/occupied with space remaining for additional commercial/industrial construction. “The remainder of the property consists of two buildings yet to be constructed and we’ll continue to market and look for opportunities to build for another office tenant at that location,” Mr. Weiss said. “Our only request before you tonight is a little bit of work we’re looking to construct in advance. It concerns the southwest corner of the property, within the wetland buffer limit. The proposal calls for a 10-15 foot shift of the parking area.”

On the site map, Ms. Howe showed the intended shift of the pavement line. “We’re looking to rotate that slightly, sliding some of the landscaping islands up. It results in a slight decrease in impervious surface and minimal net change in parking. By doing this, we’re further away from the detention basin that was previously constructed so it allows us to protect that more easily than if we were closer to it.”

Comments/Questions:

Ms. Hackman asked whether bike parking is planned for the new construction and whether there are bike accommodations in the existing buildings. Mr. Weiss said that the new buildings have not yet been designed but added that Gutierrez “typically includes bicycle parking with some racks outside but we prefer to identify an area inside the building for all-weather use.” As for the existing buildings, Mr. Weiss was unsure but said the buildings were constructed in 2001-2002, originally permitted in 1999. Gutierrez no longer owns these buildings.

Mr. Garber characterized the proposal before the Board as a de minimis change but added that the Fire Chief wants the Planning Board to continue to articulate the reservation of a driveway extension toward Oak Park Drive.

Ms. Hackman commented on an existing secondary emergency exit to Noreen Drive, a residential neighborhood, that is currently blocked off [gated], “In the case where it goes between two commercial properties, would it also be blocked off?” Mr. Garber said it was “strictly a secondary egress. When this [next] phase is eventually constructed, they’ll be obligated to improve that and put a gate in. To have any function or usefulness, they’d have to get some rights for emergency use from Oak Park.”

Mr. Cohen also questioned the Noreen Drive access, visible in the photos provided. “It’s impassable because of the snow banks. I know it was an extraordinary winter but is there something in place that requires the way to be cleared and passable?”

Mr. Garber said there is an existing developer agreement predating the 1999 permit that, to the best of his recollection, does not specifically address maintenance issues. “That is a developer agreement between the Town via the Selectmen. It’s not a regulatory thing. The present application [before the Board tonight], being so small, couldn’t be used to leverage this improvement but if they come back for further construction, it could be required as a condition...It might be easiest to do one small amendment to the existing developer agreement. That might be the quickest way, prior to next winter, to make a stipulation.”

Mr. Weiss said that the existing buildings occupied by RSA (a division of EMC) are no longer owned by Gutierrez. “But we do have the benefit as owners of the remaining undeveloped land of an access easement and [using] that as an emergency access. When it came to our attention that the way was not clear, even though we don’t have a building or have tenants in place, we did communicate to the current owners that the way would need to be maintained and kept passable. It’s already on the radar but I can’t say whether it was cleared before the snow naturally disappeared.”

Mr. Weiss added that Gutierrez “could certainly work within the developer agreement and in terms of coming to the Board for future approval, it makes sense to have this as a condition of approval.”

Ms. Hackman said it would be better to put this in writing, as soon as possible, although she agreed with Ms. Lloyd that the current request should not be complicated by adding the condition.

Ms. Lloyd made mention of a DPW-generated recommendation included in Mr. Garber’s supplemental memo that asks the applicant to provide construction details for the retaining wall shown in the plan adjacent to the detention basin.

With this in mind, Ms. Mustapich made a *MOTION to approve this minor amendment request to adjust the parking area further away from the detention basin and to incorporate Director Garber's recommendations as outlined in the two memos (listed above). Ms. Hackman seconded. The motion passed unanimously, 5-0-0.*

**OLD BUSINESS:**

Committee liaison assignments: The ZBA was formally added to Ms. Lloyd and Mr. Cohen's committee assignments although they are not expected to attend all of the meetings. Ms. Hackman pointed out that formalizing this and other committee assignments helps other boards know who to contact with concerns/questions.

Depot Park Advisory Committee: Mr. Hanegan will act as liaison and will put himself on the list to receive advance copies of the agenda. Ms. Hackman said there is a lot going on in the Depot area; Ms. Mustapich said that Depot Park Advisory has had a somewhat narrow focus on the depot building/property and the Planning Board has a broader view of the area and Overlay.

Land Acquisition: Ms. Lloyd will liaise.

Historic Preservation Commission: Mr. Cohen will liaise.

Mr. Garber and Ms. Perry said they recently met with Donald Cullis, the new chair of the Land Acquisition Committee and Selectman Caroline Fedele who is also a member of the committee. "They're moving away from a focus on open space toward fields and built municipal facilities."

Ms. Lloyd said, "This has everything to do with the Comprehensive Plan. I'd like to know where their heads are at, at any given point in time."

Ms. Lloyd said there are two levels of liaison: one attends meetings and the other keeps an eye on agendas/ minutes and acts as a contact.

Mr. Cohen said he will continue to attend the Chamber of Commerce's Business Development meetings.

**STAFF REPORTS:** Ms. Perry said that everything beyond the May 5 meeting remains tentative and then provided updates since the last meeting:

May 5

Bikeway café/retail, Railroad Ave—Depot Area Mixed-Use Overlay District (DAMUOD) advertised public hearing for a Special Permit. One aspect of the permit is changes planned to the current parking area for outdoor cafe tables and chairs. Ms. Perry said owner Ken Larson also needs to gain Selectmen approval.

57 & 75Hartwell Road conventional three lot subdivision advertised public hearing.

ANR plan for 35 Riverside, reviewing a small parcel (400 sq. ft.) in the flood plain/100 foot wetland buffer. This is a land sale between neighbors for the purpose of building a garage and squaring off a lot. "It presents some interesting legal questions," said Mr. Garber.

Ms. Mustapich asked if there would be a better notification. Mr. Garber said official notice is not required for an ANR. Mr. Garber said he would contact the applicant, who's in California at the moment, to suggest he informally alert the abutters as a courtesy.

#### May 19

201 Burlington Road minor change to site plan. This is not a firm date. The owner of the refurbished office property has a tenant - Keurig, the coffee company, and the minor changes include an additional loading dock. The company is headquartered in Burlington.

120 Great Road restaurant—site plan review. This is tentative, at best. Nothing new has been heard.

1-3 DeAngelo Drive—potential informal discussion of DAMUOD project

#### June 9

30 Chelmsford Road—unknown if the project will come in as cluster/PRD.

162/150A/158 South Rd. Special Permit public hearing tentative but “pretty definite.” The applicant has offered to come in again and discuss the project informally with the Board.

Crosby Corporate Center—IMU Special Permit advertised public hearing. Timing depends on applicant's readiness.

Ms. Lloyd asked if any other inquiries had come along. Mr. Garber said that someone had been scouting for another mixed use project at 140 South Road.

The unexpected softening of the schedule might allow for staff to take time off, something the Board has been advocating.

**OTHER ITEMS NOTE:** Ms. Perry said the Pedestrian/Bicycle Master Plan is now posted on the Town website for public comment. There will be a public meeting on May 17 at 7pm at the Town Hall.

Staff is looking at the Town of Concord's efforts to manage “mansionization.” The height of a new house is now measured prior to any mounding, so that house lots can't artificially be raised to make a house stand taller. Additionally, the height of a house will be measured to its peak, rather than “half-way up a pitched roof” as was practiced in the past.

There was also a proposal at Concord's Town Meeting postponed for further study, to look at three different floor area ratios (FARs) for different residential districts. “They have concerns whether it would stand up, legally,” Ms. Perry explained. Concord proposes to hire a summer intern to study the subject.

Mr. Garber added, “We get asked all the time: ‘What do we do about the big houses?’ We understand people's frustration. This would be a lot easier to deal with if the Massachusetts statutes didn't have the rather specific prohibition against regulating the interior floor area of a single family home. The ways in which communities try to cope with it are really minimal and not hugely effective. A couple of communities—back in the late 90s—established site plan reviews that allow you to shift the house a little bit or save a tree but it doesn't do anything about the fact that the house is 5000 sq. ft. Other

communities have lowered their height, but that tends to push structures out toward the building envelope [creating a larger footprint] because, economically, they need to get in a certain amount of floor area. Catherine and I were actually disappointed because, initially, we thought finally someone was going to test this and establish a floor area ratio. That would be very effective—not just plucking a number out of the air but basing it on a reasonable median or threshold that relates to the actual size of houses in Bedford in relation to their lots. But, until that loophole in the statute is fixed, the present measures are just not hugely effective.”

However, Mr. Garber suggested that making a change in height definition—as Concord has done—could make a difference in Bedford and is easy enough to write up that a bylaw amendment might be ready for a vote by the next Annual Town Meeting.

Ms. Lloyd said she’d had a conversation on height limits with Code Enforcement Director Laskey. “He seemed interested in potentially having a bylaw that says ‘If there’s any elevation change that’s more than [a certain number of] feet, then it has to come for a Special Permit [from the ZBA].’”

Mr. Garber said the Concord initiative changes just the height definition and seems to be a sensible approach. Ms. Perry said that Lincoln also changed height measurement to the roof peak, rather than midway up the roofline. “I think it’s something to look at because it’s very separable from all the other dimensions... Height and setback are fairly simple to control and they’ll stand up, legally.”

Mr. Garber said that Mr. Laskey might be the most logical choice to spearhead this initiative. Ms. Perry added that Planning would work with him.

Mr. Garber said, in theory, you can control house size by controlling height and setbacks, except if you change front setbacks or correlate them with how high the house is or if you change side yards. “If you can get that passed at all, you’d be creating massive non-conformities. Homeowners are not going to be pleased with that. Hypothetically, it’s possible to squeeze in this dimension or that dimension but it’s not going to be easy. What I would really like to do—and I mean this only half facetiously—is get a legal opinion and see if we can challenge the ban on residential FARs. We would need a strong legal opinion to find our way through the thicket.”

Ms. Mustapich said she is sensitive to anything that might impinge upon the ability of an elder maximizing the sale of their home. Ms. Lloyd said the Board would not want to stand in the way of anyone capitalizing on their greatest asset but at the same time, there are the abutters and neighborhoods to consider.

Ms. Perry said it’s interesting to note that the Concord’s FAR proposal would have affected only about a dozen houses in the last several years. Ms. Hackman said this sort of info, as it relates to Bedford, would be important to have going into a bylaw amendment vote at Town Meeting. “There are a lot of people who are upset about mansionization and if you could take one small step, I think it would be good. If it doesn’t pass, it doesn’t pass. But at least it would give people the opportunity [to talk about it].”

Mr. Hanegan asked Mr. Garber if he was aware of any case law challenges to FARs. Mr. Garber said it did pass in a city—Newton—but the laws are different governing home rule in cities. “They don’t have the same burden of review with sending every bylaw to the Attorney General. It only has to pass the Board of Aldermen.”

Ms. Perry said it would be interesting to know what aspects of particular new houses in Bedford offend people. Height? Size? Setback? Mr. Cohen said he believes it's mostly the looming mass of the house. Ms. Mustapich said that vegetation clearance, loss of old trees and cookie-cutter designs can be upsetting as well.

Ms. Lloyd said she'd like the Board to make some forward progress on some front—like the height restriction—but the current workload makes progress difficult. “We're just constantly slipping the wheels because of all the development coming through the door which we, of course, have to address.”

Ms. Hackman brought up the subject of Bieren's Garage on Concord Road. “Cars are parked facing the road, right at the road. It's a repair shop but it might as well be a used car lot. It looks like they're selling something.”

Mr. Garber said the owner also paved right up to the road. The new building was built on the same footprint as the old and Mr. Laskey ruled it was a lawful, non-conforming use, not subject to site plan review.

Ms. Mustapich asked if there are limits on how long a vehicle can sit with a “for sale” sign on it. Mr. Garber and Ms. Perry said the building is not occupied; the owner is looking to lease the property. Mr. Garber said he could ask Mr. Laskey about the codes regulating for sale signs on vehicles: how many vehicles are allowed, how long they can remain there.

Mr. Hanegan said the water level of the detention pond at the Blake Block may create a danger as a drowning hazard. The pond was dredged last year and may need to be done again. Mr. Garber recalled that Mr. Laskey sent Mr. Blake an enforcement letter at that time, Mr. Blake indicated it would be taken care of. “That letter was strong and precise. It's conceivable [Mr. Blake] did do it but it needs to be done again... I will go back to Chris [Laskey] and follow this up.”

**MEETINGS ATTENDED:** Ms. Mustapich said there's still no progress re: the Town's purchase of the Coast Guard property on Pine Hill Road.

Mr. Hanegan learned at the Transportation Advisory Committee meeting that there will be a discussion at the upcoming Selectmen's meeting about the Railroad Avenue sidewalks that will include discussion of the Minuteman Bikeway.

**MINUTES:** Ms. Hackman moved to accept the minutes as amended. Ms. Mustapich seconded. The motion passed, 4-0-1.

**ADJOURNMENT:** Ms. Mustapich moved to adjourn. Mr. Hanegan seconded. The motion carried unanimously, 5-0-0.

Respectfully submitted,  
Kim Siebert, Acting Recording Secretary

**Please Sign In**

The following people attended the Planning Board Meeting and/or Public Hearing On April 21, 2015.

\*Note: if you provide an e-mail address we can inform you of Public Hearing continuations.

**Name**                      **Address/\*email address**                      **Affiliation/Committee/Board**

JON PUSO                      15 FLETCHER RD                      PAUL MARCUS

Yakov Kogan                      30 Chelmsford Rd                      —

Meredith McEllod                                           Bedford Citizen

SCOTT WEISS                      sweiss@gotierrezco.com                      TheGutierrez Co.

JENNIFER HOWE                      jhowe@smma.com                      SMMA

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