

**BEDFORD PLANNING BOARD
MINUTES
Town Hall—Upper Level Conference Room
January 22, 2013**

MEMBERS PRESENT: Jonathan Silver, Chair; Jeffrey Cohen, Clerk; Sandra Hackman; Shawn Hanegan; Lisa Mustapich

MEMBERS ABSENT: None

STAFF PRESENT: Glenn Garber, Planning Director; Catherine Perry, Assistant Planner and Cathy Silvestrone, Planning A.A.

STAFF ABSENT: None

OTHERS PRESENT: See Attached

Jonathan Silver, Chair, convened the meeting at 7:30 PM

Emergency Evacuation Announcement read by Jeffrey Cohen.

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

OTHER:

Brief discussion with Kenneth Gordon, State Representative--

Kenneth Gordon, State Representative, introduced himself and informed the Board that he is pleased to serve the district; and that he plans to work hard for Bedford. Mr. Gordon said he was reaching out to various Boards in town to let them know that he is available to assist them and that he welcomes feedback. Mr. Gordon asked Planning Board members if there is anything at state level that he could assist them with now.

Sandra Hackman said the Planning Board has an ongoing request for zoning reform at the state level and that she would like that to continue. Ms. Hackman said; in the past, the Planning Board submitted letters to Susan Fargo, Charles Murphy, Jamie Eldridge, and Stephen Kulik asking for support regarding CLURPA (Community Planning Act & Land Use Partnership Act). Ms. Hackman asked Planning staff to forward copies of those support letters to Mr. Gordon. Ms. Hackman also asked Representative Gordon to actively work to expand transportation funding and options.

DEVELOPMENT SESSION:

1. Abbott Lane Subdivision (Final Bond Release)

Planning Director Garber announced that David Sukoff, Speedwagon Partners, LLC, submitted a written requested dated, January 17, 2012 for the release of remaining funds being held as a performance bond for the Abbott Lane Subdivision. Mr. Garber said; according to Adrienne St. John, Public Works Engineer, all required work items have been completed at the Abbott Lane Subdivision; and that Rick Reed, Town Manager, reported that he was provided with sufficient proof on November 19, 2012 that the final sidewalk easements for Abbott Lane (as accepted by the Selectmen) were recorded at the Middlesex Registry of Deeds; and therefore Mr. Garber recommends that the Board approve of releasing the remaining funds being held as a performance bond.

MOTION: Shawn Hanegan moved that the Board release all final assets associated with the bond for Abbott Lane Subdivision as outlined in Adrienne St. John, Public Works Engineer's memo dated, September 20, 2012 and in an email dated, January 22, 2013. Lisa Mustapich seconded the motion.

VOTE: 5-0-0

2. 11-15 Charles Street/Victoria Road-- Approval Not Required (ANR) Plan

Applicant Attorney Pamela Brown submitted a Form A Application for Determination of Planning Board Jurisdiction dated, January 9, 2013 and a Plan of Land entitled; Charles Street & Victoria Road dated, January 7, 2013 on behalf of Gary and Sandra Pike. Ms. Brown also submitted a letter dated January 8, 2013 explaining in detail the purpose of this ANR plan.

Catherine Perry, Assistant Planner, provided a memo to the Board dated, January 15, 2013 sharing information regarding a previous request dated, December 6, 2012 request from the applicant for an endorsement of a plan of land division dated, June 2, 2011 showing a new building lot formed from the rear portions of properties at 11 and 15 Charles Street. After much review of the application and plan of land, plus acquiring Town Counsel's advice, the Board determined that the application did not meet the tests for ANR endorsement and would require submission of an application for approval under Subdivision Control Law. The applicant later decided to withdraw the June 2, 2011 Plan of Land without prejudice. Ms. Perry also provided information regarding the new Form A application (January 9, 2013) and Plan of Land (January 7, 2013). Ms. Perry stated that the intent of the new ANR Plan is to separate the ownership of the rear portions of the two existing lots on Charles Street (11 & 15) prior to obtaining subdivision approval for creation of a buildable lot on Victoria Road. The ANR Plan is labeled to show that Victoria Road is not constructed and the new parcels are not building lots at this point.

Attorney Brown reviewed her submittals with the Board and Catherine Perry recapped some of the information she provided in her January 15 memo, as well as informing the Board that she recommends endorsement of the January 7, 2013 ANR Plan.

MOTION: Shawn Hanegan moved to endorse a Plan of Land dated, January 7, 2013 and entitled; Charles Street and Victoria Road as Approval Not Required (ANR) under Subdivision Control Law submitted by applicants, Gary and Sandra Pike and Eleanor Pike Trust. The intent of the ANR plan is to separate the ownership of the rear portions of two existing lots on Charles Street prior to obtaining subdivision approval for creation of a buildable lot on Victoria Road. Lisa Mustapich seconded the motion.

VOTE: 5-0-0

3. 54 Loomis Street –Informal discussion regarding re-design of the proposed mixed use project.

Chair Silver announced that the discussion on 54 Loomis Street is informal; and that it's not a public hearing. The developer is before the Board this evening to share new ideas they have for the project just as they did during the neighborhood meeting on January 14.

David Cerundolo, property owner, introduced the development team. (Richard Tambone, Tambone Investment Group; Eugene Sullivan, ETS, Inc. (Engineering); Matt Blackham, Tambone Investment Group; Mark Vaughan, Reimer and Braunstein, LLP(Attorney), and Dan Broggi, db2 Architects.

Mr. Cerundolo explained that the new plans are a complete re-design of the project; and that the development team worked real hard to include neighborhood input. Mr. Cerundolo further explained that the scope/size is very important in the overall viability of the project.

Eugene Sullivan, Engineer, reviewed the latest plans. Mr. Sullivan pointed out that the project has been broken up into two buildings to reduce mass. The front building will have two stories and the rear building will be stepped up to 2.5 stories. The total number of units was reduced from 30 to 23 (16 units in one building and 7 in

the other) and the number of one bedroom units has increased; therefore the total number of bedrooms decreased from 50 to 35, while the amount of retail has almost tripled from 1,000 sf to approx. 2,800 sf. Mr. Sullivan said the number of parking spaces were reduced by 5 spaces; originally proposed was 51 parking spaces and now 46. Other positive highlights Mr. Sullivan shared in respects to the new project are as follows:

- Improved fire safety access
- Improved connectivity; creation of additional sidewalks
- Significant increase in landscaping to the front of the site
- Stormwater improvements/upgrade based on ground water philosophies
- Creation of two buildings to reduce mass (more aesthetically pleasing)

Dan Broggi, db2 Architects, reviewed the landscape plans to provide a street scape perspective and to show the scale of the project compared to an existing location (1 DeAngelo Drive). Mr. Broggi explained that they situated the proposed buildings in a manner that would reduce the look of the overall mass of the project to meet neighbors' concerns.

Lisa Mustapich suggested including color differential breaks to the façade instead of having one style run across the entire building.

Shawn Hanegan asked the developer if they plan to construct both buildings at the same time.

Mr. Cerundolo replied; yes.

Lisa Mustapich asked what the affordable housing component is.

Mr. Sullivan replied; there will be three affordable housing units @ 80% median income.

Lisa Mustapich asked about the proposed pond/basin; and then stated that she would like to see a “true” rain-garden be incorporated and not a detention pond. Ms. Mustapich suggested that the developer visit Granite Post development in Concord so they would know what *not* to install.

Sandra Hackman asked the developer if they plan to have their own business office on site.

Matt Blackham, Tambone Investment Group, stated they won't have an office at this site because they already have an office nearby in Burlington.

Shawn Hanegan asked where the connection to the Minuteman bike path is.

Mr. Sullivan shared the specific signage to the bike path, but noted that these routes are on existing sidewalks only, because of the liability concerns.

Jeffrey Cohen asked Mr. Sullivan if there would be sidewalk connections to the rear building.

Sandra Hackman commented that the proposed sidewalk connections could be better.

Lisa Mustapich suggested including only non-invasive native plants in the landscape plant list.

Sandra Hackman asked if there would be signage for the shared driveway. Mr. Sullivan replied; yes.

Jeffrey Cohen conveyed that overall the changes to the project are favorable. Mr. Cohen commented that he likes the two building concept and he likes the low roof line on the front building; however, he would prefer more retail is proposed, and the number of apartments is further reduced.

Shawn Hanegan articulated that the new plans are better; however he would like the developer to provide numbers explaining why they need to go with rental units versus condos for the project to be viable. Mr. Hanegan also asked if it were possible to have a mix of rental and condo units.

Matt Blackham, Tambone Investment Group, commented that with the down economy, banks are less likely to provide financing for projects with condominiums versus rental units and banks either finance rental units or condos, but not a mix. Mr. Blackham shared that he trawled 12 months of MLS data for condo sales in Bedford. The result of the “unit by unit” summary over the 12 month period is: 4 Garden style sales and 32 Townhouse style sales. While studying the condominium feasibility for 54 Loomis Street project, the assumption is that the price points would be between \$200k and 400k. Mr. Blackham shared that the “sales by price” result during the 12 month trailing period was 7 garden and townhouse style units were sold in this price range. Mr. Blackham stated that the long-term goal is to transition to condos.

Sandra Hackman offered the following comments: 1) this a better proposal; 2) add more retail; 3) provide better connections between sites; 4) reduce the size of the second building; 5) reduce the amount of parking and 6) add more pedestrian access.

Jonathan Silver’s comments: 1) amount of retail is better; 2) front building proposed is more in scale with the neighboring buildings, while the rear building needs improvement; 3) suggested that the developer take further advantage of the site being located near the bike path and provide a more pedestrian/bicycle friendly area.

Lisa Mustapich expressed that the proposed changes are an improvement however, more work is needed.

Ms. Mustapich asked the following questions:

- 1) Do any of the units have a den or office space that could possibly be converted to an additional bedroom? *Matt Blackman replied; no.*
- 2) Do either of the buildings have an elevator? *Matt Blackman replied; no.*
- 3) How many units have handicap access? *Glenn Garber replied; 6 units.*

Ms. Mustapich suggested the following:

- 1) add more retail (could use a restaurant with patio and seats)
- 2) reduce the number of housing units
- 3) reduce impervious areas
- 4) revisit the design and size of the rear building (Ms. Mustapich noted that the rear building is undistinguished, lacks creativity, and still appears too big).

John Peterson, Lido Lane, suggested that the adjacent sites be taken into consideration when reviewing the development of 54 Loomis Street.

Jeffrey Cohen said; acknowledging that this is the first development proposing to utilize the Depot Area Mixed-Use Overlay District Zoning by Special Permit, asked Mr. Peterson how will future developers incorporate the other types of uses allowed in the Depot Area Mixed-Use Overlay instead of simply giving us a carbon copy of this development; mostly residential with a token amount of other uses.

Mr. Peterson replied; the first thing to do is just get started and go through a process like you are doing now; obtaining public input.

Sandra Hackman asked the developer if there is any chance of buying some of the upcoming vacant buildings, or approaching the other building owners to come to a consensus of how to revitalize the area.

Mr. Cerundolo conveyed that at this point he needs to just get started; and then, if finances allow, he would eventually try to expand and purchase more buildings.

John Peterson said it would be great if the developer was in the position to expand development in this area as a whole; however, there are limitations because of mixed zoning in the area.

Deb Cerundolo pointed out that one problem is that the buildings located behind DeAngelo drive are zoned commercial.

Ms. Hackman expressed the importance to retain a commercial base.

David Cerundolo asked the Board to share specific in regards to improving the rear building.

Chair Silver reiterated that the building appears to have a blocky appearance and some creative work is needed to change that look. Mr. Silver suggested changing the roof lines for a start.

Lisa Mustapich advised the developer visit the Village at Taylor Pond on Middlesex Turnpike to get some design ideas that would be favorable.

BUSINESS SESSION

1. **Blake Block issues discussion**—Chair Silver announced that the discussion this evening will be about improving process moving forward and not necessarily trying to resolve all issues that have transpired at the Blake Block.

a. Location of benches issue: (how did this evolve?)

Planning Director Garber explained that Mr. Blake's Civil Engineer made surveying errors in respects to the first floor elevation of the building which in turn caused problems with the grades of the sidewalk. Mr. Garber further explained that the situation with the grades created a physical and regulatory issue because the sidewalk exceeded MA regulation (not supposed to exceed a 2% gradient); and therefore the sidewalk violated the State of MA Handicap access law. *Mr. Garber noted that the developer submitted a request for a variance from the Department of Public Safety Architectural Access Board to resolve accessibility compliance issues with the sidewalk.* A proposal to resolve the design issue was to add a continuous grass strip along most of the length of the Great Road sidewalk (along the curb line) to gradually taper down the grade from the easterly end of the site toward the corner of Great Road and Fletcher. However, it was later suggested to install the grass strip several feet away from the curb and more toward the building to avoid potential safety problems with people (who park in the parallel spaces) opening their car doors when entering/exiting their vehicles. As a result of changing the location of the grass strip, some sidewalk space was lost; and therefore there was not enough space to install the opposing pair of benches (benches turned sideways) as originally proposed, or face the benches toward the street because of the drop-off situation that was created, which in turn, could trigger safety issues. Mr. Garber mentioned that Chris Laskey, Code Enforcement Director, expressed in an email that accessing the benches, if the benches were facing the common, could create a liability issue for the Town given that the benches are located on Town property. Mr. Laskey further commented that changing the orientation of the benches to face the Town Common would pose a tripping hazard, present an awkward layout for a person in a wheelchair, and trigger the need for the developer

to redesign the recently poured sidewalk and brick paving areas, which would come at a significant cost monetarily and possibly aesthetically.

Planning Director Garber spoke about additional ongoing issues involving other Town Boards/Committees that have been brought to Planning's attention. The latest issue being the number, style and location of bicycle racks. Mr. Garber shared that Terry Gleason, Bicycle Advisory Committee, inquired about the racks and was informed by Planning staff that the approved plans shows three separate locations for bicycle racks; two locations with a 5-bicycle rack, and a third location (at the east end of the site) with a 7-bicycle rack covered by an awning. Mr. Gleason said to date, he has seen only one bicycle rack on site (located at the east end of the building and not covered) and it was a 2 wave-style rack that's supposed to hold up to 5 bicycles, but given its location and access, it would be impossible to fit 5 bicycles, never mind 7 that were actually approved. Mr. Gleason further noted that a total of 17 bicycle spaces were approved for this project; and that the Bicycle Advisory Committee prefers that the developer install inverted U (iU) bicycle racks versus the wave-style he observed on site.

Mr. Garber commented that concerns have also been raised regarding the location of the gas meters and electric transformer. Mr. Garber pointed out that the location of the gas meters and electric transformer is under the purview of the Historic District Commission; and not the Planning Board.

OTHER COMMENTS:

Lee Vorderer, 42 Fletcher Road, suggested the following as possible resolutions to the bench issues; 1) accept shorter benches; 2) reposition the benches; and 3) plant small shrubs versus grass in the planting strip.

Ms. Vorderer commented that the handicap parking spaces should be nearer to the main building and then asked, who is overseeing the project, and why were some things not done according to the approved plans.

Kevin Latady, 2 Meyers Lane, discussed development stages of the project, and said that one person/entity should have been in place to coordinate and review the entire job.

Director Garber said there is an overall lack of project management from the developer side.

Kevin Latady said development projects usually have a Clerk of the Works or Local Construction Manager on site that is responsible to ensure that all work is being done according to plans, design, specifications, and engineering drawings.

Bea Brown, 5 Great Road, commented that if there were any changes made to the plans that involved the Historic District Commission (HDC), then the developer should have approached HDC for approval.

Chair Silver spoke about the different jurisdictions/roles that particular town boards/committees played when reviewing this project. Mr. Silver explained that the Planning Board, through the Special Permit process, reviewed the site plans, the Selectmen (as Road Commissioners) shared input regarding the layout of the sidewalk located in the public way, HDC reviewed the façade, and other amenities on site and Department of Public Works got involved with the re-design of the sidewalk.

Planning Director Garber expressed that the lines of jurisdiction should have been negotiated.

Sandra Hackman said the Planning Board and the Historic District Commission met jointly a few times to discuss lines of jurisdiction and came to agreements.

Kevin Latady commented that the town got a project that they didn't approve; and although it would be costly for the developer to rectify the issues, it is still the developers' responsibility.

Shawn Hanegan, referring to the problem of the developer being light on funds and being reluctant to do things right, asked if it is appropriate for town boards to request background information regarding a developer's past performances.

Amy Lloyd, 17 Fayette Road, asked how can the town hold developer accountable and prevent end-runs around town boards, staff and committees.

Lee Vorderer stated that Mr. Blake was in control of what he wanted to build; so as a town, why did we not get what was proposed.

Carol Amick commented about the importance of being equitable with all developers and not having double standards because we are dealing with a local developer. Ms. Amick mentioned that people went out of their way to resolve issues without returning to the Planning Board or the Historic District Commission. Ms. Amick added that this project is located in the Center of Town and therefore she would like to see all these issues get resolved.

Joe Dini, 13 Liberty Road, asked how we can avoid something like this from happening again.

Planning Director Garber suggested including a condition in the Special Permit requiring the developer to have an onsite construction manager. Mr. Garber also shared the following other ideas regarding how to avoid something like this from happening: 1) establish a coordinated permitting compact between boards and administrative entities involved; 2) establish a project review committee at staff level; 3) require some degree of performance security; 4) establish a development agreement between the Developer and Selectmen in regards to required improvements /maintenance within public property areas of the project.

Lee Vorderer asked; doesn't the town have any control when a developer messes up.

Kevin Latady stated that the developer still owns the mistakes made on this project; and therefore you can hold back the occupancy permits until the issues are resolved.

Amy Llyod inquired if there is a potential for a bottleneck situation around the planter and existing tree that are located at the Springs Road end of the site.

Jeffrey Cohen said a variance from the maximum 2% cross slope was granted by the Architectural Access Board.

Mr. Cohen, moving forward, said that he would like all bicycle racks installed according to the approved plans, the handicap parking space be moved, and the gas meters relocated.

Shawn Hanegan commented that because this project is located in the Center of Town; he would like the Historic District Commission to take action on the issues involving the gas meters and the electrical transformer.

Carol Amick asked why doesn't the Planning Board contact Chris Laskey, Code Enforcement Director, and tell Mr. Laskey what needs to be corrected prior to giving the developer a Certificate of Occupancy?

Kevin Latady reiterated that the issue with the gas meters needs to go before the Historic District Commission; and that HDC will write a letter to Mr. Laskey sharing their discontent regarding the location of the gas meters.

Mary Ellen Carter said she seconds Carol Amick's question regarding why the Planning Board can't contact the Code Enforcement Director and inform him what needs to be resolved before issuing an occupancy permit.

Bea Brown stated that she prefer that the front sidewalk be redone in accordance to the approved plans.

The Board had a brief discussion regarding the necessity to request Town Counsel legal services to assist with providing options to resolve the greater issues at the Blake Block, and also discussed what information should be included in the letter to the Code Enforcement Director regarding the remaining issues. The following motions were made.

MOTION: Lisa Mustapich moved that Planning Staff write a letter to the Code Enforcement Director to explore remedial options within the department in regard to various issues at the Blake Block development such as; location, capacity, and specification of bicycle racks, placement of gas meters on the façade, placement of the electrical transformer and location of handicap parking spaces. Jeffrey Cohen seconded the motion.

VOTE: 5-0-0

MOTION: Shawn Hanegan moved that the Planning Director prepare and submit to the Town Manager a Request for Services of Legal Counsel in regard to larger issues and possible remedial options regarding such items as: construction of sidewalk areas and amenities at the Blake Bock development that deviated from the originally approved plans. Sandra Hackman seconded the motion.

VOTE: 4-1-0 (Jonathan Silver against)

2. FY 14 Planning Board Budget—the Board reviewed a FY 14 budget proposal that Planning Director Garber drafted in preparation of meeting with the Finance Committee to review Planning's FY14 Budget.

Chair Silver explained that the Planning Board is requesting that the Finance Committee consider increasing the Comprehensive Plan consulting contract fee by \$8,900 to cover the cost of stretching the Comprehensive Plan timeline and to assist with a fall town meeting presentation.

MOTION: Sandra Hackman moved to accept the proposed FY14 Budget, including the additional request to increase the Comprehensive Plan consulting contract fee by 8,900, for reasons stated above. Lisa Mustapich seconded the motion.

VOTE: 5-0-0

STAFF REPORT

1. 100 Plank Street—Catherine Perry, Assistant Planner, reported that Vince O'Neill, Manager of Walk the Plank, LLC is requesting that the Board extend the permitting time by **90 days** for 100 Plank Street special permit modification application dated, November 20, 2012 and expires on January 23, 2013 to further explore development options.

*MOTION: Jeffrey Cohen move to accept the applicant, Vince O’Neill, Manager of Walk the Plank, request to extend the permitting time **by 90 days** for 100 Plank Street special permit modification application dated, November 20, 2012 to further explore development options. Lisa Mustapich seconded the motion.*

VOTE: 5-0-0

2. Comprehensive Plan Update: the Board agreed to February 26, 2013 as the date for the next work session with the CP Advisory AD Hoc Committee.

3. MAGIC (Minuteman Advisory Group on Inter-local Coordination) Update: Sandra Hackman reported that at the latest MAGIC meeting a discussion took place regarding the inclusion of a medical marijuana zoning amendment in communities bylaws; and then shared that you can’t prohibit medical marijuana dispensaries in your town. However, you can restrict them to certain areas.

Catherine Perry reported that at the last staff meeting Rick Reed, Town Manager, announced that the town is not going to hurry into a decision regarding a medical marijuana zoning amendment until more information is provided at State level.

ADJOURNMENT

MOTION: Sandra Hackman moved to adjourn the meeting. Lisa Mustapich seconded the motion.

VOTE: 5-0-0

TIME: 10:41PM