

April 17, 2007
Special Planning Board Meeting
Medway High School Library

PRESENT: Andy Rodenhiser; Bob Tucker, Chan Rogers

ABSENT WITH NOTICE: John Schroeder, Karyl Spiller-Walsh

ALSO PRESENT: Susan Affleck-Childs, Planning Board Assistant
Gino Carlucci, PGC Associates
Paul Carter, VHB Engineering (arrives at 8:00 p.m.)

The meeting was called to order at 7:20 p.m. by Andy Rodenhiser

PUBLIC HEARING – Proposed Amendments to the Zoning Bylaw

Motion to waive the reading of the public hearing notice – bob, chan – all yes . . .

Handouts Text of Proposed Amendments to Zoning Bylaw
 Notes – Steps to Amend Medway Zoning Bylaw

ARTICLE H - Commercial District V

Vikas dhole, 5 little tree road – I have lived on 3 continents – and I am absolutely amazed by the lack of sensitivity to residents requests – if I look at this proposal to build a gas station in the middle of a residential area and look at your goal to - if you drive 2 minutes in any direction, somebody can get to a gas station or convenience – or if objective is to expand business – look to the existing business areas to redevelop – I see it almost useless for citizens/residents to be here to voice their concerns having gone thru the experience with restaurant 45 – there is no benefit – traffic; hazards of gas station and pollution – I am a chemical engineer – I see nothing positive coming out of this change

Shelley Lynch 15 little tree road – I don't think any of us have a problem with them leasing out and making money – big problem with a gas station – but put something that would be quiet – we all have children – to live that close to a gas station would be detrimental – we are trying to protect our children – we don't want to hurt them (avellinos)

Donna Hainey, 6 little tree road – one of the topics I had wanted to address – is there a lawsuit pending

Andy – there is not

Donna – who initiated this change

Andy – the avellinos

Donna – why do we need another gas station in Medway?? Is that what we want medway to be known as? But I read this over again. Can a site plan be denied? If the plan depicts a use or structure that is so . . . intrusive – the lighting and canopy will be intrusive, - I counted cars that cut thru – over 10 cars tonight – and then the welfare of the public – I think I said . . . I wonder if you are listening to us – it is school vacation and some people are away – we have a voice as much as they have a voice – some of you have already come out in favor – we do have a problem with the gas station – canopy and lights – it all goes back – if you go by what you are saying here, I don't know how you can go forward with this . . .

Andy – to respond . . . when a site plan comes before us and if we were to make those type of determinations, it is subject to appeal – if we make a finding – that a canopy is intrusive, it could be appealed by the applicant and a judge could make the determination whether it was intrusive or not – if frequently found, a judge could say no – in the meantime, the town has to spend money to defend itself . . . so whenever we make decisions, we have to make decisions that we can defend and point to case law for grounds to support our decision – to have a decision that we can't defend would cost us money and the judge would make a ruling and may or may not incorporate some of our findings – when we have faced this before and we have been thru training on defensible decisions – you are a neighborhood within the community – we have to represent the whole community – one resident comes and says they want a change, we are not likely to hear from many people – then at town meeting, the decision is actually made – have I

Donna – I guess so to some extent

Andy – something else I should address specifically

Donna – we are looking at health, safety and welfare – bill and his wife have done some research on leukemia and gas station – suppose down the road, and a child develops leukemia and it was because you allowed a gas station to occur – are you going to accept responsibility for that

Andy – that claim could be made toward any gas station or any scenario like that – what we need to look at – it is a regulated commodity – are there presently restrictions on it – I believe they have addressed vapor recovery systems from a regulatory perspective – up to courts and insurance companies to determine whether they work – we have to make a decision based on fact, not arbitrary or capricious

Donna – if you have to base it on health, safety and welfare

Andy – govt allows us to self serve gas without a respirator – I have never –

Donna – I am saying before it even happens, our safety and welfare is being jeopardized by this action

Andy – this one would be more modern and safer than an existing gas station that is close to you

Shelley Lynch – why take the risk, it is zoned commercial – it is all about money – and they are asking you

Andy – the gas station has pulled out of this – they are asking for a gas station to be allowed is because gas stations are the predominant interest –

Shelley – you

Andy – you will make this change or not at town meeting –

Chan – I am not – we are not working for them – but it is their right – there are other people who live on route 126 that will never be able to sell their house for residential purposes – two lane roads . . . there will be more concentration of traffic. The people who own property on route 126 want some changes and they have a right to get zoning changed – that is how the commonwealth and most of new England works – town meeting – we feel we would control the scope of the project by having a special permit – to deal with hours of operation, a gas station was proposed, we examined the whole area within 10 miles – filling station on route 126 and 16 in Holliston – right in the middle of a residential

Donna – we don't live on route 16 or route 126

Shelley – it is already zoned commercial – they can still make money leasing it as a commercial

Saurabh Menon, 4 Little Tree Road – Holliston gas station – how many really exist in residential areas – as the town planning board, you are making an exception to a rule – there are plenty of gas stations around that are not in residential areas

Chan – my only intent is to rebut that children will become ill – there are plenty of gas stations all over the state

Andy – there is one on route 109 at Nelsons – there is another one on Lincoln Street,

Andy – there is an intersection of 2 state highways, zoned commercial – it is appropriate zoning to consider changes in commercial – we aren't changing a residential zone to business zone

Saurabh – if you are going to justify that – if there are x number of gas stations in a residential area, how do you plan to address intrusive

Andy – thru the special permit process, there is mitigation, how a project is presented during the application process – you can institute conditions to address the problems that are identified – for example – litter,

Saurabh – we established at the last meeting, it is not possible to put in no parking signs on little tree road

Andy – those items are conditions of a special permit

Andy – little tree road is not an accepted way, it has no bearing

Saurabh – health and welfare - how

Andy – are you asserting that somebody would park on little tree road – we could impose a condition that no parking would be allowed on little tree road –

Billhoye, 7 little tree road – with regards to the statement donna read re: intrusiveness, I understand that the zoning laws allow for commercial entities – that the new bylaw would allow for gas station – there are numerous studies by epa – increased risk of leukemia for children who live within 1000 feet – the fact that the risk exists, concerns me – I resent that you say it is a scare tactic – 24 children – we are worried – it is on record now – the planning board that there are studies out there by epa – what does then the planning board do with that type of information? Whose issue is this? It is impossible to bring all this info to town meetings? What is the next step for a citizen like us to address this issue? A risk exists – I find it hard that somebody – hard decision to live with – I couldn't live with myself if I made that kind of decision – what do you suggest we do

Andy – I don't know that I can answer that

Gary Jacob, broken tree road – you want to address the public on a broader scale – letters to the editor – or a web site – what about gas stations in general? I would think that and leaflets – you could go to that extent –

Bill hoye – but that is with the end result of a specific vote – does the PB or town – andy mentioned another location –

Andy – nelsons gas station has underground tanks that date back . . . at least 14 years – I suggested you speak to the fire chief – those aren't issues relevant to this public hearing

Bob tucker – I know he has at least one dug up

Bill hoye – who would have known about those issues? Does somebody have the responsibility or accountability to let the public know about

Andy – I am not saying there is a problem down the street –

Bill – who is protecting us? If this gets approved . .

Andy – if you are complianbign about the potential problem here, then what are you doing about the existnce of the exsting underground tanks – this problem may have been lying dormant since you bought your home – you either thought it wasn't problem

Bob – the only thing I would be familiar with

Andy – the town issues an underground storage tank permit – fire chief – it would be good for all of us to take alook at . .

Bob – there was a gas station at the dunkin donuts site – back in the dark ages when I used to be involved in civil dngineeirng, before you could sell a gs station there were certain requirements before land could be sold – those are all attributes that you would want to look into . .

Bill – I have never even thought about it . . there is some type of epa or town oversight

Gary jacob – I odnt have specific knoweldlge of gas stations – I would suggest – get on the dep web site – air quality and water quality departments – I doublt there would be any groundwater monitoring – what triggers inspections . .

Bill – that would address existing gas stations –

Andy – for Nelson to renew his permit, he has to have a vacuum test done and provide a recertificlatoin to the fire chief – you can find out about that information – that would be the same thing that would be required of anybody that would ocme in now – assured that a pipe has containment around it . . which probably doesn't exist at existing locations – the tecdhnology and what we have learned is

Bill – this has all been helpful fo rhte old ones – does the PB acknowledge that there is a health risk?

Andy – if it is not done properly, yes . . but I think there is a credible argument and legal opionoin could be provided that tehcnilogy existis to provide sufficient safety

Bill – so you guys feel, it is OK if it is done right, there

Chan – they have to do it right or they don't get apermit

Bill – so if the town acknowledges there is a potential risk of children living near gas stations, what can we do?

Bob –

Andy – we have to strike a balance between an appeal that could be mounted in court by an applicant seeking a special permit and we were to deny it, that decision could be appealed based on technology, the judge could deny it - you are suggesting there is info that the pb should acknowledge that a potential of risk exists . .

Bill – it has been brought to your attention – what does the PB do with this?

Andy – does the board feel there is a sufficient need to pull this article based on what he has said about his concerns about safety because of potential danger of spills and fumes

Chan – I would not consider it, I raised 8 children in Texas where there was no zoning – within 100 yards of a gas station – I survived and they survived – I don't believe a gas station is going to be in any way unhealthy to your children – that is a personal opinion – there is a decided interest in gasoline dispensing there – we work with the rules to make things happen there – I wouldn't put a gas station there if I had my druthers – it is the developers that decide what goes where – all we can do is influence how it is done right – or facilitate a zoning change to a higher and best use – if we turned it down because of your concern, . .

Bob – I don't think I have heard enough tonight to convince me there is an eminent danger – is it something to consider as we go forward? If you could present hard facts if a project came before us – I have a tendency to leave my options open and be flexible and see how it falls out from there

Andy – do you have any evidence to present tonight –

Bill- I have a 100 articles – if this something that I could present

Andy – at the public hearing, this is where the evidence should be brought to us – give us the information

Bob – my suspicion is the evidence you have pulled together would give estimated rates of leukemia incidence – at the same time we would need to consider what is the potential of that same occurrence happening based on the previous usages of the property in the immediate vicinity – could that contribute to it or add to that ratio or detract from that ratio – we don't have time tonight – to give time to give this due justices . . .

Whole – is there any way you can put together information

Andy – the public hearing is tonight

Bill – I thought I could present this at town meeting – I think there is a risk – small or big, what actions – bob, your thinking is that there might be something to look at – all I can do – synthesize

Andy – personally, if I am asked to make a de cision – I need to look at how I live my life on a day to day basis, if there was a risk that was real, there is a problem when I am filling it, parts per million is higher –

Bill – exposure time is so limited

Andy – is there an OSHA standard that workers

Brian machaney , 38 milford street –I want to voice my dismay about putting in a 24 hour gas station -

Andy – this is a bylaw change – that proposal was pulled – it is a bylaw change that would allow the owners of the land to have an applicaotn come in for a convenience store or 2 other uses without a special permit – if it was a gas station or a drive thru, it would

Andy – the 24 hour, 12 pump proposal was withdrawn – that applikcant has

Brian – my concern – I don't have a concern about bringing in revenue – when we first bought our house 10 years ago, we liked it – seeing the amount of litter mount up in front of my house from dunkin donuts – now with Ishmael coffee estaes -900,000 homes – blasting – I feel it contributed to my losing my job with the railroad because I couldn't study – it is too bad that the florist would be picking up and leaving – I am tired about picking up the garbage . . . it is a farce that anybody would police litter issues

_____ avelinno – the way the industry is going ,. . .

Brian – if I am off the mark with the gas station – I apologize – the idea with the safety issue, blight and trespassing that would occur with riffraff occurring all hours of the night – you can fill up anywhere . .

Andy – board shares your concern that 24 hour would be unnc essary -, we felt it was not an allowed use – they withdrew without prejeducie – we talked with the avellinos to make it a bylaw change to allow by special permit with all kinds of conditions . . . hours of operation, litter, changes to make it have new england architectur as a main design guidelines – visually we are trying to address these things in the bylaw to protect integrityof the neighborhood, even a requirement like that, a planning board has to make a finding that the architecture meets that standard . . .

Brian – safety aspect of the overall health of the are a- people are still overpumping – still a degree of odor – my biggest concern – I liked the character – there doesn't seem to have much to offer in this town anyumore – we chose to have a small house that is what we wanted and we like the area and we see if taking a nose dive – people don't need 900,000 homes – the trees that were torn down , it seems like we are in the nexus of a wind tunnel – all the trees are getting more topped than they were – I have beenout there cutting down more and more trees – whatever buffer the old farm used to be at summer and route 109 the housing complex –

Andy – the amount of development that occurs can be regulated and permitted, but we can't stop somebody from doing something unless we own the land –

Brian – I see a possible nuisance that will become more of an eyesore – I enjoy restaurant 45 there – good plan – it doesn't seem to be infracting on people's lives except for steak smell – key concern is garbage that piles up – 24 hour brings in all sorts of people – kids who play music at dunkin donuts –

Andy – a drive thru would require a special permit – when dunkin donuts was allowed in there it was a use variance, not a special permit – we could impose conditions on buffering for sound, or noise not to exceed x decibels so it wouldn't carry over to abutting

Donna Hainey – I want some clarification – are the gas people the only people that have expressed an interest in the property

Realtor – there are a few people looking – we don't have a contract with anybody – there is no transaction at this point – we are talking with people

Donna – so you are soliciting other types of businesses

Realtor –

Andy – I have spoken with bank contacts

Donna – is more revenue obtained from a gas station or another type of business

Realtor – it is dependent on many things . .

Andy – a biotech firm would generate a lot of personal property taxes

Realtor – there are a lot of uses that could go in there - . . check the DEP site and find out where spills have happened in Medway . . check it out if you are concerned- the uses that could go there – pier one import, drug store, Christmas tree shop – there are a lot of allowable uses that could go in there without a special permit – they would all have traffic issues that would concern you

Donna – we need to know you are soliciting other types of businesses

Realtor – I have been working with them for about a month – we have run a few ads and had some activity – a gas station is another option we would like to examine – the PB is not working for us – we brought a proposal to the PB – they thought it might work with a special permit to protect - they are not offering right now

Andy – another applicant could come in and go thru the exercise that we went through with the previous applicant – and try to make the nexus – that a gas station is a retail use – if we denied it, appeal process

Donna – you tonight will come up with a recommendation, are you going to indicate your recommendation

Andy – we have already been before BOS and FINCOM on these articles – fincom looks at this from a cost and revenues – we can pull this from the town

Susy – PB has to make a recommendation to town meeting – approval, approve with changes, withdraw, deny

Andy – the avellinos could put forth their own proposal to make it a by right – and have town meeting consider that - they originally came forth to allow it by right – we couldn't support that

Whole – I am confused by the discussion here – does this change in the article make it easier or more difficult for a gas station to be there

Andy – both – it makes it allowable by special permit – zoning law is really designed by case law, the courts make determinations – each case is based on its own merits – each case creates precedents – if this was to pass, it becomes more difficult because there would be restrictions we could place on them – require operations and maintenance plan for carbon repalcment stuff be monitoring

Whole – you can impose conditions, but allow for it

Andy – yes

Chan – in the previous discussion, there were a lot of people who made decisions that a gas station was a legal right – we thought it would be better to do it with a special permit – could deal with size, hours and a lot of other conditions that we felt could be imposed vs an unlimited gas operation

Andy – any other comments on this matter?? Or on any other zoning articles

Andy – we are going to keep the public hearing open on the other warrant articles and resume after we are done with the senior center

Andy – thank you folks for coming . .

Senior Center –PH continuation –

Wayne Salo, Dixon Salo Architects -

We addressed DRC comments . . . primarily concerned about western end of the building – so we made a modification – added another window to keep the basic design – centered entry and windows made it symmetrical . . . should address the DRC

Handout

Gary Jacob– this definitely addresses the exterior ideas we had suggested – view of this to Oakland Street – this is much improved with the covered entrance – should be very helpful

Andy – Paul, were you able to meet

Paul – I spoke to the engineer on Friday. He said he might have something on Monday – he said he would give something to the architect to present tonight

Wayne – next item I want to get out of the way,

Landscape Plan was distributed – just for the addition . . . but we will complete a full plan for the entire facility – planting list all noted – all the plantings shown on here –

Gary – what is going to be left of the existing vegetation on Oakland street? Will it be removed

Bob – it was pretty open in there – clear gravel area there – they are putting in some new stuff there it will help – it may not help a lot at first –

Gary – rhododendrons on either side of west elevation . . . pears on west side and south side – (6 trees) –

Gary – and you will try to follow this planting theme for the rest of the building - don't put too many of the pears in – some people say they are way overdone – they are not really natural to the area – not a weed tree

Missy – we have no money

Wayne – they are hardy and grow well . . . spring flowering . . .

Third handout – Grading – one done in red to make it easy to see – some discussion

Photos of water taken today after all this rain –

Wayne – we do not have calcs yet – we will do

Bob – my gripe with the pipes in this area . . . I hate seeing an open pipe – you are asking off a child or a pet to get stuck down that pipe and end up with all kinds of trouble

Wayne – that one is not on our property? It is probably on town property – it starts across Oakland street

Bob – but there are some on your property – 3 ends there

Wayne – we still need to get final calcs to paul – but even if we had a thousand year storm, it wouldn't be worse than what is out there now – we just didn't have time to get this all done

Paul – the contours here do not match the spot elevations here –

Wayne – I picked these up at 6:30 PM

BOB – I would like to see the 162 line in the parking lot - . . . get it fixed – come across and go off the pavement – eliminate the sheeting

Paul – this is all supposed to drain . . . that is your original intent

Wayne – there was concern about it being a low spot and icing -

Wayne – I can speak to the engineer about that . . .

Paul – on the previous plan, there were no pipes shown . .

Wayne – photos taken today

Paul – very sandy soil, least amount of runoff . .

Wayne – we are not dealing with something that will create an issue, but something that we need to provide the PB – it is not an issue for future water retention – it just disappears – you need the calcs

Andy – so we could close the public hearing

Susy – just make sure there is a condition in the decision that the calcs will be provided

Wayne – check dams would be used ..

Paul – needs to provide erosion control . . . don't want to lose the edge of pavement –

Bob – what is your square foot cost

\$165/sq. ft

Go through draft decision dated April 13th – distributed

Edits . . .

Wayne – we might be able to extend the beam that would allow for the future opportunity to open up the entire space with folding doors inbetween – dollars may be small enough to make it doable –give the senior center more options – if we can accomplish within the budget and schedule – I don't see that as a really big item – I took as good a look as I could at the DRC recommendation s- even 5 years ago there was not a lot of discussion – it was hurry up to get in the grant . .

Discussion

Motion to close the public hearing – chan, bob – all yes . . .

Signatures on site plan decision . . .

Wayne – thank you for endeavoring to get us all signed, sealed and delivered .

Paul leaves at 9:15 pm

RESUME public hearing on Zoning Articles . . .

Enter into the record the letter of Barbara Saint Andre dated April 2, 2007

May 1, 2007 – continue . . to a date and time specific – Sanford Hall – time to be coordainted - 7 pm – then continue to a specific time -

Also enter into the record the letter from the neighbors . .

Waive reading of the letter – bob, chan – yes . . .

Bills

FSU Forms/Supplies Unlimited - \$152.56 – printing - chan, bob – all yes - General Fund

PGC Associeates – consulting services – various . . . zoning articles - \$1087.50 – bob, chan – all yes

Bobrowski – medway gardesn - \$625 – plan review – chan, bob – all yes

PGC – \$225 – plan review services – motion by chan, bob – all yes

River bend – motion to extend deadline on subdivision plan - all yes – to May 31, 2007 –
approve applicant's request to change deadline

Adjourn – motion at 9:40 pm – bob, chan – all yes