



TOWN OF WAYLAND
MASSACHUSETTS
01778
BOARD OF APPEALS

TOWN BUILDING
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AMENDED MINUTES

Wayland Zoning Board of Appeals
Wayland High School
September 26, 2017

Attending the meeting held at 7p.m. Wayland High School 264 Old Connecticut Path, Wayland were Jonathan Sachs (Jonathan S), Chair, Thomas White (Thomas W), Jim Grumbach (Jim G), Aida Gennis (Aida G) and David Katz (David K), and Associate Members Jason Drori (Jason D), Shaunt Sarian (Shaunt S) and Linda Segal (Linda S). Also in attendance were Atty. Amy Kwessell (Amy K), K P Law, Town Counsel and Joseph Peznola (Joseph P), Massachusetts Housing Partnership consultant, and David Porter, Executive Assistant to the Town Administrator. Video and audio recorded by WayCAM.

Application of Eden Management, Inc. for a comprehensive permit pursuant to G.L. Chapter 408 filed for sixty (60) units of rental housing, of which fifteen (15) are proposed to be restricted as affordable to households under 80% of the area median income (AMI), to be constructed on the property located at **113, 115, 117 and 119 Boston Post Rd., Wayland, MA** (the site of the Mahoney's Garden Center) containing 6.59 acres +/- of land area. This property is located in the Single Residence (40,000 SF area and 180 feet of frontage) Zoning District as shown on Assessors' Map 30, Parcel Nos. 70 71, Case #17-19 (Cont'd from 8/22/17).

Documents submitted with application: Cascade Wayland Comprehensive Permit Application- August 22, 2017 PowerPoint Presentation. ALL DOCUMENTS REFERENCED HERE CAN BE FOUND ON THE TOWN WEBSITE:
http://www.wayland.ma.us/Pages/WaylandMA_ZBA/Cascade/

The 27 page PowerPoint presentation, dated August 22, 2017, is attached with page numbers noted

The meeting was called to order by Jonathan Sachs, as a continuation of the August 22, 2017 meeting at the Wayland Town Building (Large meeting room), that was continued due to overflow audience attendance that exceeded the lawful room capacity (per Fire Department data).

Town counsel Amy K gave a brief overview of description of the c.40B permit process. A 2017 primer on 40B:
http://www.wayland.ma.us/Pages/WaylandMA_ZBA/40BHandbook.pdf

- Permit arrives there is a 7 day period for comments from the town boards.
- ZBA makes the final decision for the town Boards (Planning, Conservation and Board of Health), among others. Applicant can request waivers from Town Regulations and bylaws, but not State Regulations.
- The ZBA makes the final decision.
- The applicant received a project eligibility letter, and a complete application was filed. The application was opened, and a hearing was scheduled for the ZBA, with 180 days for review and hearings.
- After the closing of the hearings, the ZBA has 40 days to render a decision, extensions can be requested. The process going forward is to separate the application issues by subject matter, hire consultants to review for the

town and report to ZBA. The applicant can rebut, with each subject or associated subjects to be scheduled on different nights.

This 40B project is permitted in the Town of Wayland, as the Town has not reached the state's mandatory 10% affordable housing percentage.

Public Comment:

Mark Hays, 1 Sylvan Way, representing Protect Wayland. Mr. Hays states that Eden Management Inc.'s application is deficient, requests that ZBA send it back to be revised, complete and accurate. JS: ZBA Board has been advised by its consultant, Joe Peznola, that the applicant has met the minimum requirements for the application. All letters are in the file in the Building Department as well as on the ZBA website.

Applicant Presentation -Paul Haverty (Paul H) of Bobrowski, Blatman & Haverty, LLC., Concord, MA., representing the applicant. Mr. Haverty wishes to address comments by Mr. Hays (public comment) regarding the qualifications of Eden Management application; the Project Eligibility Letter was issued by Mass Housing, the ZBA has no jurisdiction over the matter regarding the application filing.

Mr. Haverty noted for the record: the applicant granted a time extension at the August 22, 2017 meeting, and with that continuance, the start of the 180 day review period, begins tonight.

Dan Feeney, P.E. (Dan F) from Beals and Thomas, Southboro, MA., representing the Applicant, to present Civil Engineering, Surveying and Landscaping Architectural plans.

Slide presentation- showing existing conditions (photos pages 5-8), showing Mahoney's Garden Center from street and parking lot. Overview of existing conditions at Mahoney's, there are currently no storm water controls.

Page 9- The site is approximately 22,000 sq. ft., containing several buildings including the greenhouses, approximately 3 acres (130,000 sq. ft.) of gravel area throughout the site.

Page 10- Proposed site plan—color rendering with wetlands and Pine Brook identified, with grass, patio and landscaping being proposed.

- 1) Outline of developed areas and the areas of the brook.
- 2) Proposed site building, access off Rt. 20, parking and entry to garage, landscape plantings for screening and privacy entrance opposite Rich Valley Rd., proposed left and right turns out of property.
- 3) Bio- retention rain garden at the front of the lot and storm water and roof runoff directed to infiltration basins
- 4) 39,000 sq. ft. of proposed building footprint vs. current 22,000 sq. ft.
- 5) A proposed reduction in amount of gravel and pavement - currently 130,000 sq. ft. - proposed to be reduced to 30,000 sq. ft. of pavement.
- 6) The smaller building shown in front to the east: greenhouse for residents.
- 7) The septic system will be sited to the south of the building along the eastern border.
- 8) Landscape provides privacy for units; front units with patios will have screening for privacy and break-up visual mass from Rt. 20.

9) Utilities from Rt. 20, water, gas electric, cable and telephone, provided by municipal services as well as private companies.

10) Proposed open patio in the middle of the back of building; improvements to the riverfront area; 100' riverfront improvements to replace the gravel areas with topsoil and grass.

Rebecca L. Berry (Rebecca B) - Finegold Alexander, Boston, MA to present the architectural design, representing the Applicant

Preliminary design presentation:

Page 10- Initial concept design 3 stories, there is a jog in the middle of the building with varying roofline for appearance of multiple units with balconies. The building will contain 60 Units with resident parking fully underground entering the garage on the west side. There will be a small glass free-standing greenhouse at front of building. The building's varying roof design is to break up the scale and mass of the building

Page 11- (A-100) Aerial view of proposed project with other larger buildings in the area: Temple Shir Tikva, The Islamic Center and Post Rd Village, for context of 39,000 sq. ft. footprint comparison.

Linda S: Will the PowerPoint presentation be submitted as a public record to the board? Paul H: Yes

Jim G: Question regarding future changes in the building design? Rebecca B: This is a preliminary design.

Linda S: Has a panel named for this hearing? Jonathan S: No

Linda S: what is the length of the building in relation to other structures in the area? As shown on the slide referencing building sizes (page 11). Rebecca B: I don't have length measurements on other buildings, the presentation is using square footage numbers because that is the only certainty as of now. The footprint of the building currently is 39,000 sq. ft., and being compared to the footprint of Temple Shir Tikva, which is 30,000 sq. ft.

David K: if this is a proposal when will we see the final plans? Paul H – Applicant submits preliminary plans for the hearings, the developer and the architects will be listening to feedback from the various Town Boards and the general public, Changes will be made and the board will approve the "Conceptual Plan". After approval the applicant will present final construction plans for permits.

Public comment:

Joe Schwendt, 14 Pinebrook Rd, direct abutter. The scale of the drawings on page 11 is inaccurate.

Ira Sager, 59 Draper Road - Comments regarding building size and design

Mark Hays, 1 Sylvan Way—Comments regarding building size- nothing comparable on Rt. 20, you would have to go to Rt. 9 in Framingham to find a building of this size

Richard Stanley, P.E. 60 Cochituate Rd., architect- Comment: this is not a scaled map and does not accurately show buildings. RB: This is a Preliminary Site Design, there are some scaled drawings that have been presented. Paul H: This a design presentation and there were no specific design requests for the presentation.

John Schuler, Old Conn Path, BOH member- Question regarding design: please specify the number of bedrooms.

Rebecca B: proposed project a mix of 89 bedrooms, that is - 3 bedroom units = 18, 2 bedroom units = 34, 1 bedroom units = 28, studio units = 9

Tom Rist, 7 Adams Lane-Question: where is the narrative for the PowerPoint presentation? Paul H: There is no written narrative for tonight. There is a lengthy narrative in the original application, on the website and in the Cascade book in the Building Department

Mark Hays 1 Sylvan Way- Please confirm bedroom count again. Paul H: 89 bedrooms are being proposed.

Joe Schwendt, 14 Pinebrook Road- Question regarding the number and size of the parking spaces, entry and exit.
Rebecca B: Single access point on west side of building, the garage will have 90 parking spaces; 9' x 18' with the HP spaces larger with aisle. 22' to 24' drive aisle. No compact spaces, all full size, circulation area in each jog, the 4 HP spaces are by the elevator

Jean Milburn, 281 Concord Rd—Question: when will the architect meet with design review board re architectural style of the proposed building? Amy K: Only ZBA reviews the design of this project. Jonathan S: there is a collaborative effort among Town Boards and their input is solicited and welcome. Linda S: The Design Review Board can contribute to the 40B hearing through its relationship with the Planning Board.

Ira Sager, 59 Draper Road, Question: design and layout of building – can applicant relocate the building and move the septic to front? Rebecca B: The septic perc tests decided the location of the septic system. Building is located to be outside the 100' flood plain.

Dan F: Beals and Thomas did not perform the septic design; Onsite Engineering prepared it, B&T works with OE to set the location of the septic system on the site design. The best perc rate is in the back of the lot, the septic must be sited there.

Ira Sager, 59 Draper Road – Question regarding proposed use of alternative technology and the building location? Dan F- The design will be using alternative technology; it is not required under Title 5, but is proposed for environmental purposes. With the use alternative technology, applicant will not request a reduction in the footprint of the SAA, the proposed Bioclear system will provide enhanced nutrient removal.

Doug Raney, 2 Dairy Farm Ln- Question: please again give the breakdown of bedrooms. Rebecca B: The breakdown is as follows: 6 - 3 bedroom units, 17 - 2 bedroom units, 28 - one bedroom and 9 - studio units. Thomas W: Page 4 of application says 96 bedrooms. Rebecca B- yes, the application says 96, that is no longer correct, as currently designed project will be 60 units with a total of 89 bedrooms

Resident, Lorraine Grieff, Cameron Road, Question- breakdown of handicapped units? Rebecca B: the project will contain 3- group 2 units (fully accessible): 1 -1 BR, 1- 2 BR and 1 – 3 BR, per approval by the State. (second Grieff Question re Handicapped parking. Rebecca B: 4 HP spaces near elevator in garage and additional HP spaces for visitors will be adjacent to drop off area in the front of the building

Mark Hays, 1 Sylvan Way, Question-Regarding the expected number of school age children the project will bring to the Town. Paul H: Applicant does not feel this type of information is needed. The ZBA cannot propose conditions for the Comprehensive permit regarding this issue.

Steven Breit, 54 Rich Valley Rd. Question: If this is a preliminary design plan, when is footprint locked down? Has an L-shaped design been considered to reduce frontal length? Paul H: The design is locked in when Comprehensive Permit is issued. Design is fluid and applicant will be open to requests and suggestions regarding design. Rebecca B: Other designs were considered; the site constraints for the flood plan and septic design have put the building where it is being presented.

Paul H: applicant is proposing a reasonable project and will welcome comment without impact on financial viability

John Zullo, 51 Claypit Hill Rd. - Comment regarding architectural design- size of building, comparing it to what he sees in Framingham.

Malcolm Astley, 147 Boston Post Road- Question- is the building to be placed 100' from the flood plain?

Dan F: The position of building is set, largely due to septic system location and the 100 yr. floodplain. An L-shaped building would not work, as the easternmost part of the lot is the best site for the septic system. A larger system may require a groundwater mounding analysis.

Malcolm Astley, 147 Boston Post Rd.: how near the flood plain is the building located? What is the distance from the stream? Dan F: Working on the flood plain FEMA maps; there are some irregularities that will be discussed in the Peer Review Process. Malcolm Astley, 147 Boston Post Rd.: is the building in the flood plain? Paul H: Yes, on the preliminary plan, the building is presently shown in the 100 year flood plain, this will be verified with the GIS elevations.

Steven McLaughlin, 105 Boston Post, house on the right side of project, set back from road up on the hill. What will be designed to provide privacy? Any proposed fencing or screening, mature plantings? Dan F: Significant screening is proposed on eastern property border from the roadway to the back of the building, the design will consider the view from abutting properties. Steve M: My property is up on a hill, can the applicant place the screening on my property? Paul H: I will discuss this with my client. Steve M: concern regarding the proximity of the building to the wetlands. Dan F: The buffer zones in the Wetlands Protection Act for riverfront areas were previously degraded, initial conditions documents reflect the stone areas that have been degraded, there will be work done in the 100' and 200' areas. Existing conditions plans showed the gravel parking areas that were stripped of topsoil. This would be repaired with topsoil and grass.

Steve M: questions regarding vegetation and plantings. Dan F: These items will be more fully discussed when applicant works on the NOI with the Conservation Commission, which will be making these decisions.

Joe Schwendt, 14 Pinebrook Road—Questions regarding underground parking, ventilation and Public Safety access. Paul H: Plans have been distributed to every department with the application, including Police and Fire and applicant has received preliminary comments. Rebecca B: Any structure below grade or over 50% underground is required to provide mechanical ventilation with CO sensors and tied to the fire alarm system, in addition the rear of garage will have openings in the wall providing additional fresh air.

Carol Grumman, 10 Pinebrook Rd, nearest abutter to the patio in the back- questions regarding distance to the wetlands and design of back of building. Paul H- suggestion to public, most answers can be found in the full set of plans that can be viewed online or at the Building Department.

Scott Walters, 100 Draper Rd- Question regarding which elementary school district children in this project would attend. Paul H: Not able to answer. Scott W: who sets elementary school information? Jonathan S: The ZBA welcomes input from all Town Departments including the School Department.

Mark Hays, 1 Sylvan Way- Question: requesting more information in drainage report and drawings, hydrology study . Fire and EMS access questions regarding access to the rear of the building

John Schuler- Old Conn Path- question regarding redesigning the building and septic plans. Would an onsite Wastewater Treatment Plant open more space to move the building footprint? Dan F: the project will have a septic system, as the daily flow will be 9,900 g.p.d. The developer does not wish to incur the expense of a Treatment Plant.

Robert Nagy of Vanasse Hangen Brustlin – Watertown, MA special traffic engineer, representing the Applicant

Scope of standard traffic study:

- 1) identify area intersections and roadways –Page 18
- 2) collect traffic and safety data
- 3) field observations
- 4) analyze current and future conditions- Traffic volume comparison Page 19
- 5) look to optimize site layout and circulation
- 6) Identify opportunities for improvement.-sidewalk in plans

Rt. 20 is a State Highway, under the jurisdiction of Mass DOT, which will has the power to provide final approval of the driveway location and size of the opening.

Morning rush hour for 60 units would generate 33 proposed residents leaving the property. Evening rush hour estimates the arrival of 51 cars per hour (school pickup, sports) coming into the site. Hourly traffic flow bar graph (page 20) showing peak hours for traffic flow. Current estimates for Garden Center: morning- 30 cars per hour and evening traffic rate 85 cars per hour, as evening retail business picks up.

The study shows that there is no recommendation for a traffic light. Driveway consolidation: 3 current driveways will be consolidated to 2 driveways (2 entry and one exit). Will be working closely with MassDOT, which permits curb cuts for Rt20, Town Boards and Peer Review consultants

Joe Peznola, Hancock Associates, 40B consultant

Mr. Peznola will be assisting the Board in its review of the proposed Cascade Comprehensive Permit. He is funded by a grant from the Technical Assistance Program of the Mass Housing Partnership (MHP).

He helps coordinate the technical peer review for the project after the Board has chosen its advisors. The Applicant has retained a Traffic Engineer, Design Engineer; the Board should as well.

Applicant will set up a 53G account with the Town to pay for the peer consultants and reviews; requests for supplemental funds can be made. These are reviews of presented information with advice to the Board to assist as it considers the project.

The first segment of the project to be reviewed will be Traffic, He suggests using Kevin Dandrade, of TEC for the Traffic Engineering Peer Review, Mr. Dandrade is currently undertaking the traffic review for the School St. 40B project. He also recommends for TEC to consult in Civil Engineering. The Applicant may comment on the Town's choice of peer consultants, regarding: (1) conflict of interest, or (2) qualifications.

The applicant is requesting a waiver from Board of Health local regulations that require applicants for large Title 5 systems to undertake a hydrogeological analysis. If the ZBA does not grant that waiver, the Applicant will then be required to undertake the Hydrogeological Analysis and then the ZBA would need to hire a consultant to peer review the study.

Architectural Review- the Board may choose to hire an architectural Peer Reviewer to review tonight's presentation and to verify that the design conforms to what was presented.

Jonathan S: TEC is recommended to consult as to traffic, general civil engineering and possibly hydrogeological analysis. The recommendation for architectural peer review is Davis Square Architecture.

Jonathan S: ZBA will make sure that it remains in contact with other interested Town Departments during the peer review process.

Joe P: There have been comments from other Boards, specifically written comments from Board of Health and Conservation Commission. It has been confirmed tonight that application is for septic system designed for 89 bedrooms.

Larger septic systems require a Groundwater Mounding Analysis. A Hydrogeological Analysis is required for an applicant proposing a Wastewater Treatment System; Wayland bylaws require a hydrogeological analysis for larger systems, suggesting that the ZBA hire a peer review for such matters. Consideration of waivers is usually undertaken at the end of the meeting process, but this waiver request should be addressed earlier, and the ZBA should request input on the waiver request from the Board of Health.

Jonathan S: we should discuss engaging TEC for Traffic, civil engineering.

Joe P: I will obtain proposals from TEC and Davis Square for General Civil Engineering, Architectural and possibly hydrogeological consulting. I am in conversation with the Health Director and Conservation Administrator regarding peer review recommendations as to hydrogeological. The Applicant has funded the 53G account with \$15,000.00

Jonathan S: Panel will be Jonathan Sachs, Aida Gennis, Thomas White, David Katz, Jim Grumbach; alternates Shaunt Sarian, Jason Drori and Linda Segal

Jim G: Motion to engage TEC as peer consultant for traffic; second: Aida G; vote, 5-0 in favor.

Jim G: Motion to engage Joe Peznoła to look into Peer review consultants for Hydrogeology, Wastewater, Civil and Architectural; second: Jonathan S; Vote, 5-0 in favor.

Amy K: the hearing will need to be continued to a specific date, time and location; ZBA does do not have to assign a room at this time. **Jonathan S. The meeting is continued to Wednesday October 25, 2017 at the Wayland High School.**

Jim G: how about questions as to number of bedrooms and gallons per day? Joe P: the applicant will resubmit corrected design calculations showing 89 bedrooms, with a Title 5 Septic System. This number is of import to the total daily flow, and would not be unusual for the ZBA to condition the grant of a permit on no more than 89 bedrooms. The Board of Health must still issue Title 5 approval. Paul H: before the next meeting, the applicant will submit corrected design numbers to the Board.

Jim G: as to the question regarding an amendment in the Purchase & Sales Agreement for the property? Joe P: the applicant may enter into an amendment to the P & S on a month to month basis; the Board may ask for confirmation of the extension of the Purchase and Sale Agreement. There are 3 essential parts to a Comprehensive permit: (1) Site eligibility, (2) Site Control, and (3) Limited Dividend Organization. The P&S Agreement proves Site Control. Jim G: What exactly is our number of affordable units already in Town, and what %age of the required 10% do we have? Amy K: The Town did apply to DHCD for "Safe Harbor", and was denied.

Applicant to provide information regarding Site Control; Paul H will inquire with DHCD regarding the current percentage for Wayland.

JS: we would like to schedule a site visit, usually on a weekday morning. LS: is there any way to have markings on the site to show what was discussed tonight? The site visit is open to the public.

Site visit is scheduled for Monday October 16th at 8am. Jim G cannot make site visit scheduled.

9:30 p.m. Public comment

Mark Hays, 1 Sylvan Way- Protect Wayland.org (PW) has hired consultants and PW would like its experts to speak on the subject. Amy K: Caution the Board to stay on topic, information from outside sources can be valuable, outside presentations should be submitted to the Board in advance of the anticipated hearing to be sure the presentation is on topic. Joe P is in conversation with Board of Health and Conservation, these topics will be discussed in the future. Aida G: asks all presenters to please submit materials a week before the meeting, so the ZBA has time to review the presentations, including credentials for persons presenting.

Lana Carlsson Irwin, Resident, 73 Plain Rd: question regarding the procedure for granting or denying requested waivers? Jonathan S: the requests are reviewed with Peer Review consultants, with input from other town Boards, including Board of Health and Town Counsel. Amy K: there is no standard for granting or denying requests for waivers; these are waivers from an application requirement, not a local condition. Question: can the Board make a decision without that information, e.g. an alternatives analysis? Are these discretionary decisions? Amy K: yes.

John Schuler - Old Conn Path, speaking as a resident : the developer has presented plans with no details regarding septic or storm water. The size, soil conditions and proximity to Pine Brook are a great concern. Paul H: plans have not been submitted to the BOH, he will consult with applicant regarding undertaking a Hydrogeological study if it is essential that the Board have such a study to make its decision regarding the Comprehensive Permit.

Linda S: When is applicant planning to present to BOH and Conservation? Paul H: it is not a requirement for the applicant to get Title 5 Approval or the Order of Conditions before the Comprehensive Permit is issued. Applicant does, however, plan to present to both Board of Health and Conservation Commission before the Comprehensive Permit is issued.

Donna Bouchard, 72 Concord Rd.: Comment reading from Mass Rivers Protection Act, including that applicant must demonstrate there is no alternative and no adverse impact. Paul H: Conservation Commission has full jurisdiction over the Wetlands Protection Act, there will be a full process before the Conservation Commission.

Herbert Kimiatek, Resident, 104 Boston Post Rd.: If Wayland complied with mandated 10% affordable housing, could this proposed project be denied? Amy K. responded "yes."

Jack Fucci, West Suburban YMCA (Camp Chickami): has submitted the concerns of the YMCA in a letter, very concerned regarding the site: runoff, the riverfront and a safe place for the camp children. Jonathan S: Yes, the letter was received and will be addressed during the traffic study, for the safety of the campers.

Jonathan S: Motion to continue hearing to 7pm, Wednesday October 25, at Wayland High School; seconded; Vote: all in favor. (room availability not confirmed yet)

7:15 p.m. Application of Gretchen Dresens for an appeal of Permit #B20170104 issued by the Town's Building Department for the demolition of an existing structure commonly known as the former Finnerty's Restaurant. Pursuant to M.G.L. Chapter 40A, Sections 8 and 15, with regard to the property owned by Washington Street Business Center LLC (formerly owned by 150 Main St. LLC), located at 150 Main St. in Wayland and in the Business District A and the R20 Residential Zoning District as shown on Assessors Map 51B, Parcel 073. Case #17-06 (Cont'd from 4/25/17, 5/11/17, 5/23/17, 6/27/17, 8/22/17).

Jonathan S: is Ms. Dresens present for this continuation? Amy K: Ms. Dresens' attorney requested a continuance for two weeks; there is a potential settlement in process.

Jonathan S: Motion to continue matter #17-06 to Wednesday, October 25th; seconded; vote, all in favor.

Jonathan S. Motion to adjourn; seconded; vote, all in favor.

Meeting adjourned at 10:05 p.m.

December 12, 2017

DATE MINUTES APPROVED

A handwritten signature in cursive script that reads "Patti White". The signature is written in black ink and is positioned above a solid horizontal line.

Prepared by Patti White