



Town of Westminister

MASSACHUSETTS 01473
FROM THE OFFICE OF THE
PLANNING BOARD
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William C. Taylor, II - Chairman, Marie N. Auger - Vice Chair, Brett Pinkerton Michael Fortin Jon Wyman

MINUTES OF REGULAR MEETING

Tuesday, September 24, 2013

Room 205, Town Hall

Attendees: Bud Taylor, Marie Auger, Mike Fortin, Jon Wyman, Brett Pinkerton, Town Planner Stephen Wallace

Additional Attendees: Mr. Pat Haley, Mr. Larry Streeter, Ms. Kimberly Peltalas/Gardner News, Mr. Mike Patsis, Mr. Tom Rutherford, Mr. Phil Lombardo, Ms. Erin Parileo/Traffic Engineer McMahon Associates, Mr. Paul Wilson/CF Project Manager, Mr. Phil Henry/Civil Design Group, LLC/Project Engineer, Mr. Chris Mossman, **Mr. Jeff Curtis**, Mr. Jeff Anderson, Ms. Joanie Anderson.

Attendees who did not sign in: Mr. Greg Liscotti/Liscotti Development, Mr. John Scribner/Liscotti Development, **Mr. Luke DiStefano**/Bohler Eng, Mr. Jeffery Curtis

7:00 p.m.

The Planning Board opened the meeting. Bud informed those present the meeting was being audio recorded.

7:00p.m. *Minutes*

Marie made a motion to approve the September 10, 2013 meeting minutes. Seconded Brett. Voted AIF to accept the minutes. (Jon was not present yet.)

Marie moved to open the Cumberland Farms Public Hearing. Seconded Mike. Voted AIF to move up the hearing.

7:02p.m. *Public Hearing - Continued - Site Plan Review Application to construct a convenience store and gasoline service station at 68 Main Street, owner and applicant: Cumberland Farms Inc.*

Bud stated the EDC Chair had done some research into a sign in Hopkinton referenced at a previous meeting. That sign was 4'-8" high, 11'-6" wide setback 8'-6". Bud stated he wanted to be on record stating that he did not believe it would interrupt the sight line to Main Street and the comments he had previously made were right.

Bud told PB members he had received a memo from the local environmental group with comments in regards to their review of the traffic study. PB members read the memo.

Bud asked Stephen to describe where the PB stood on the Public Hearing. Stephen told the PB he supplied the PB, ZBA and Proponent with the draft order of conditions, 5 pertaining to the ZBA, 7 pertaining to the PB. (Attachment 1)

Bud asked Stephen to read the 12 conditions from the memo:

1. There will be no gasoline deliveries during the morning peak hours (7:00 AM to 9:00 AM), evening peak hours (4:00 PM to 6:00 PM) and after 10:00 PM. As this is an operational issue, this condition of approval is best left to the **Zoning Board**.
2. The hours of operation shall continue to be from 5:00 AM to midnight. As this is an operational issue, this condition of approval is best left to the **Zoning Board**.
3. The Applicant shall prepare and implement annual maintenance program for all landscaping on site, including the replacement of all dead trees and shrubs. As this is a site planning issue, this condition of approval is best left to the **Planning Board**.
4. Snow shall be removed from the property's sight triangles and trucked off-site upon reaching two feet of accumulated snow. As this is an operational issue, this condition of approval is best left to the **Zoning Board**.

5. All commodity deliveries will take place in the rear of the building. As this is an operational issue, this condition of approval is best left to the **Zoning Board**.
6. The Applicant shall decommission the gasoline service station at 72 Main Street and place a deed restriction on the property precluding its future use as a gasoline service station. As this issue deals with how an abutting property is used, this condition of approval is best left to the **Zoning Board**. I recommend that the Board have Town Counsel review the deed restriction language prior to issuing the Special Permit.
7. Trucks delivering fuel to this site shall be limited to those having a design vehicle radius of WB50. While this could be considered an operational issue, it has more to do with how the site is designed and should be left to the **Planning Board**.
8. The **Planning Board** will have the regional planning commission (the Montachusett Regional Planning Commission) conduct a new traffic volume count after the new store has been operational for one full year. The Applicant agrees to meet with the Planning Board to review and discuss the new traffic volume counts. The remaining conditions are all standard conditions of approval that the **Planning Board** routinely places on approved site plans.
9. Other approvals or permits required by the Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.
10. The Site Plan Approval applies only to the site which is the subject of this Application. All construction to be conducted on the site shall be conducted in accordance with the terms of this Approval and shall be limited to the improvements shown on the Plan.
11. The Board hereby reserves its powers to modify or amend the terms and conditions of this Approval upon its own motion with consent from the owner, or on the Application of the owner. The Board further reserves its powers to amend this Approval without a new public hearing provided that the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Zoning Bylaw or with the terms of this Approval.
12. This Approval shall lapse on September 24, 2015 if a substantial use thereof has not sooner commenced for good cause. Any request for an extension of the time limitation set forth herein shall be made in writing to the Board at least 30 days prior to September 24, 2015 and the Board reserves its rights and powers to grant or deny such request without a public hearing.

Stephen stated he had received a BOH memo addressed to the ZBA asking to have three points of information considered. (Attachment 2)

7:10p.m. Jon Arrived. Bud reviewed the business that had transpired.

Bud asked PB members for comments/questions. There were none. Bud asked the Proponent if they had any further information. They had none.

Marie moved to accept all the PB conditions as outlined in Stephens draft memo. Seconded Jon. Voted AIF to accept the conditions. Voted AIF to accept the conditions.

Motion to close the public hearing by Marie. Seconded Brett. Voted AIF to close the hearing.

Mike made a motion to approve the site plan application. Seconded Marie. Mike asked that the updated freestanding sign plan and canopy plan be included as part of the site plan drawings. Voted AIF to approve the site plan.

Stephen told PB members he would draft up the Site Plan Approval letter and share it with the PB for final review before the Chairman signs it.

Mike made a motion to allow the Chair to sign after member review. Seconded Marie. Voted AIF to allow the Chair to sign.

7:19p.m. Approval Not Required (ANR) plan for Edward Simoncini, Minott Road, one lot land division.

Bud asked Mr. Edward Simoncini to describe the ANR Plan. Mr. Simoncini stated the Mylar was locked in the BOH office. PB members reviewed the plan. Marie made a motion to endorse the plan, sign paper copies now and the Mylar copy later. Seconded Mike. The PB voted AIF to endorse the plan.

7:24p.m. Approval Not Required (ANR) plan for Ashoryn LLC and Partridge Hill Trust, 36 East Gardner Road, land swap involving two existing lots.

Bud asked Mr. Chris Mossman to describe the ANR Plan. Mr. Mossman stated the plan reflected a land swap between the parties to create straighter lot lines. The parcels would remain

the same area. PB members reviewed the plan. Marie made a motion to endorse the plan.

Seconded Mike. The PB voted AIF to endorse the plan.

7:29p.m. Approval Not Required (ANR) plan for Liscotti Development at the corner of Bathrick Road and State Road East (creation of non-buildable lot for Westminster Business Park signage).

Bud asked Stephen to describe the ANR plan. The ANR will create a small non-buildable lot around the existing Westminster Business Park sign. Mike asked the board members to consider the Zoning sign bylaw section 205-42 Commercial and Industrial Districts- E. In commercial and industrial districts where buildings are set back 40 feet or more, one freestanding sign per lot is permitted. The top edge of any such freestanding sign shall be not higher than 25 feet vertical measured above the average level of the ground between the supports of each sign. For traffic safety, the whole of the signboard or display elements of any freestanding sign shall be either below three feet in height or above 10 feet in height above average ground level. Any such freestanding sign may be located within the front yard space, if any are on such lot, but not nearer than 12 feet to any lot line.

Mike asked whether the PB was allowed to sign off on the ANR since it would be in violation of 205-42 E., the sign appeared on the ANR plan to be closer than 12 feet to the east and north property lines of the lot being created. Marie asked the proponent how far the sign was from the lot lines. Mr. Bohler stated the sign was between 5 and 6 feet from the property lines.

There was further discussion about the sign location, zoning bylaw, previous variance given for the sign, and options the proponent could take to alleviate the situation (shift the lot lines or move the sign). The PB reviewed a copy of the existing variance supplied by Mr. Liscotti.

Jon asked who would own the non-conforming lot. Mr. Liscotti stated WBP would own the lot with the sign on it.

Mr. Liscotti stated he would withdraw the plan without prejudice and return in two weeks. The PB agreed to apply the fee to either a new ANR plan or return the fee.

Mr. Liscotti then asked to table the ANR plan with a waiver of the 21 day approval requirement without prejudice. Marie moved to table the ANR plan with a waiver of the 21 day approval requirement without prejudice. Seconded Jon. The PB voted AIF.

8:00p.m. Planning Board review of Zoning Board Variance request for Liscotti Development, to have less than the amount of parking required by Zoning for the Dollar General retail store to be located at the corner of Bathrick Road and State Road East (C-II District).

Marie asked the board to support the variance. Bud read from the variance request paperwork regarding the number of parking spaces and the area required for them. Mr. Bohler described the parking requirements and slopes on the lot. Marie motioned to support the variance request. Jon seconded. After further discussion the PB voted 3-2 to provide a letter in support of the variance.

Bud requested Stephen to send a letter to the ZBA that the PB is in support of the variance.

Public Hearing

8:08p.m. Site Plan Review Application to construct a 9,100 square foot Dollar General retail store at the corner of Bathrick Road and State Road East (C-II District), Applicant: Liscotti Development.

Bud asked Stephen to describe the Site plan proposal. 9100sq. ft. retail store with 31 parking spaces, access to the site off State Road 2A, there is enough frontage. PB has received comments from Con Com and DPW. The proponent has asked for four waivers. The variance request is now at the ZBA.

Mr. Luke DiStefano/Bohler Engineering added more details for the PB to consider. Customer access to the store would be from the front of the building facing State Road East. Deliveries and trash enclosure in the north east corner of the building. Perimeter landscaping on all four sides. A small retaining wall on the east with 10 foot evergreens screening the neighboring lot. Con Com has asked about an existing 24" culvert that runs through the site. The drainage will collect and treat the stormwater before it enters the culvert. Con Com is concerned about a

negative impact to the 24" culvert. DPW has asked for a number of what Mr. DiStefano termed "housekeeping items".

The PB discussed the waiver requests and asked questions. Marie spoke to the parking issue. Mike asked about plantings. Mr. Liscotti agreed to prepare a landscape maintenance plan for the site. Jon asked about the freestanding sign setbacks and parking setbacks, and sewer permitting. Bud stated that at the technical review meeting, the DPW had stated the sewer inflow would meet the capacity already allowed for the site. Brett asked about the large size of the signage. Bud asked about the waiver request on the evaluation of the water resources. Stephen stated he had spoken with ConCom agent Bob Maki who had expressed a desire to have the applicant determine the condition of the 24" culvert, where it emanates from, where it discharges to, and how much flow it contains during high rainfall events. Mr. DiStefano stated that after discussions with town employees, he did not believe there were any issues with the culvert. Stephen stated the WBP engineer might have knowledge about the culvert. After further discussion about possible conditions that might be placed on the existing culvert and catch basins, Bud asked Mr. Tom Rutherford to speak about his knowledge of the culvert. Mr. Rutherford stated he believed the drainage pipe ran from Rebecca Hamel's house, across/under Batherick Road and emptied out onto the site where a former house on the site was.

Stephen suggested that a condition "Maintenance of the culvert currently existing on the site will be the sole responsibility of the owner." Mr. Liscotti stated he would like to determine who put the pipe in, whether it was a condition of approval of WBP and who was responsible for its maintenance. Abutter Mr. Jeff Anderson stated the culvert also crosses his property. It was put in privately, then the town allowed the WBP to tie in the catch basin drainage.

After further discussion it was determined to research the culvert further to determine what the best way forward would be. Stephen stated he would follow up with DPW and Bob Maki.

Bud asked for public input.

Mrs. Joanie Anderson, abutter to the east, asked about parking with a concern that overflow parking would end up on her site potentially blocking fire/safety access to her building. She was also concerned about any water overflow would end up on her site. Ms. Anderson asked about the existing fence, who owns it and whether it would remain and/or be replaced. Ms. Anderson also was concerned about the size of the sign, and location of the proposed driveway being so close to her driveway.

After further discussion, the proponent agreed to provide a 4 foot chain link fence from the Arbor Vitae screening on the east side to the front of the lot.

Bud stated that the hearing would be continued, and Ms. Anderson should confer with Stephen about changes/additions she would like to see along her property line.

There was discussion about the intersection of Batherick/Depot/Rt.2A.

Mr. Jeffery Curtis, the abutter directly across the street to the south, stated he felt the sign was "just too much" for the area. He also asked about a possible buffer on State Road, but was told by Bud that the proponent could not be required to provide screening at the front of their lot.

Mr. Rutherford and Ms. Anderson also had concerns with the size of the sign.

Marie moved to continue the hearing to October 8th 2013. Seconded Mike. Voted AIF to continue to October 8, 2013.

9:04p.m. Liason Reports

Mike notified board members that he stepped down as Chairman from the Master Plan Committee. The MP Committee did not choose a new chair. Bud stated he had attended the MP meeting. He had met with the Police Chief, and Josh Hall/DPW had told him the DPW Commission was handling his input through their Commission member on the MP Committee. Bud said that the Fire Chief was still objecting to the town government section of the MP.

Stephen stated that the MP Committee agreed to attend an October Selectman meeting to ask for their continued support of the MP and to ask the BOS to request the Fire Chief to give the MP Committee his comments in writing.

Mike stated his outreach assignment had been with the Advisory Board, who had agreed to submit written comments to the MP committee.

Mike stated he had visited both the Fire Chief and Police Chief. The Fire Chief would not have a conversation about the MP and after just four questions threatened to call the police.

Mike stated he then visited with the Police Chief who was receptive to his visit and was providing feedback in writing on the Town Government chapter and he has agreed to provide his comments in writing on the other chapters of the MP.

Stephen stated he had a productive editing session with Selectmen Fairbanks who would attend the November MP meeting for further discussion on the objectives of the Town Government chapter with the committee.

Stephen asked for questions about the September Town Planner Update. There were none.

9:18p.m. Adjourn.

Brett made a motion to adjourn. Seconded Mike. The PB voted AIF to adjourn.

5 Pages of Minutes
Respectfully submitted,
Michael Fortin

12 Attachments :

- 1 Draft Order of Conditions memo for CF dated September 12, 2013 2 pages.
- 2 BOH CF conditions memo to ZBA dated September 23, 2013. 1 page.
- 3 Approval Not Required (ANR) Plan surveyed for Edward J. Simoncini Jr., Szoc Surveyors, dated August 27, 2013. 1 page.
- 4 Town planner package/Form A application/tax parcel id. card(s) for Edward Simoncini, Minott Road dated Sept 10, 2013. 4 pages.
- 5 Approval Not Required (ANR) Plan of Land Exchange Between *Ashoryn LLC and Partridge Hill Trust* by Edmond J. Boucher PLS, dated September 4, 2013. 1 page.
- 6 Town planner package/Form A application/tax parcel id. card(s) for *Ashoryn LLC and Partridge Hill Trust* dated Sept 5, 2013. 6 pages.
- 7 ZBA package for Liscotti Development dated 9/6/13. 7 pages.
- 8 Town Planner Site Plan review memo for Liscotti Development on behalf of Dollar General dated September 19, 2013 and DPW memo dated September 12, 2013. 3 pages and 2 pages.
- 9 Dollar General signage titled Exhibit K dated 6/05/09. 1 page.
- 10 Dollar General signage titled Exhibit L dated 4-9-09. 1 page.
- 11 ZBA WBP sign variance decision case # 11-01 dated June 21, 2011. 3 pages.
- 12 Town Planner Update to BOS dated September 19, 2013. 2 pages.