



Town of Danvers Planning Board

1 Sylvan Street, Danvers, Massachusetts 01923 | p: 978-777-0001

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Planning Board Members:

William Prentiss, Chair
John Farmer
James Sears
Margaret Zilinsky
Charles Smith
Nathaniel Sears, Associate

Daniel J. Toomey Hearing Room

March 26, 2019

7:00 p.m.

MINUTES

William Prentiss called the meeting to order at 7:00 p.m. Planning Board members James Sears, Margaret Zilinsky, John Farmer, Charles Smith and Associate Member Nathaniel Sears were present. Director of Planning and Economic Development, David Fields, was also in attendance.

CONTINUED PUBLIC HEARINGS

Beaver Brook Woods. Request for a Cluster Development by Special Permit in accordance with Section 33 of the Danvers Zoning Bylaw submitted by Beaver Brook Woods, LLC for the properties located at 303 Maple Street (Assessors Map 033, Lot 023 303), 305 Maple Street (Assessors Map 033, Lot 023 305), 307 Maple Street (Assessors Map 033, Lot 023 307), 309 Maple Street Assessors Map 033, Lot 023 309), 305R Maple Street (Assessors Map 033, Lot 024), 313 Maple Street (Assessors Map 033, Lot 021) 315 Maple Street (Assessors Map 033, Lot 020), 317 Maple Street (Assessors Map 033, Lot 019), 325 Maple Street (Assessors Map 033, Lot 017), 325 Maple Street (Assessors Map 033, Lot 017), 327 Maple Street (Assessors Map 033, Lot 016), 333 Maple Street – Lot #1 (Assessors Map 025, Lot 087) and 333 Maple Street – Lot #2 (Assessors Map 025, Lot 087), containing approximately 6.34 acres of land. Said property is located in the R-II Zoning District. The applicant proposes to construct an 8-lot Cluster Development. (*Special Permit action date: 30 days after the close of the public hearing*)

J. Sears recused himself from the meeting.

Prentiss said that they closed the public hearing at the last meeting. Before them tonight is the Certificate of Action that was reviewed by the Board. He polled the Board for any additional comments.

Zilinsky felt it was fine and detailed. She said that she is on the Open Space and Recreation Advisory Committee. When the applicant presented this application, they were supportive not only due to the open space, but because it was going to allow the Rail Trail to be used by people. She is concerned that the Certificate of Action referenced that this would be a deeded easement. It does not discuss that the applicant would need to do more than just provide the deeded easement.

Prentiss said that in the past they have not gone into detail as to what the requirements are.

Zilinsky wanted to emphasize this because she is on the Board and voted to send the letter in support of this project.

Prentiss said that he will be more concerned about this when this comes before them in the future.

This is the only thing Zilinsky was concerned about.

Farmer thought the decision was well written and did not have any further comments.

Smith had no further comments.

N. Sears said that he had no questions or comments.

MOTION: Farmer read the Certificate of Action and moved to approve the Special Permit for Beaver Brook Woods Cluster Development located at 303-333 Maple Street, excluding 311 & 321 Maple Street. Zilinsky seconded the motion.

MOTION: Zilinsky moved to amend Condition #1 of the Special Permit. Farmer seconded the motion. The motion passed by unanimous vote to approve the amended Certificate of Action.

J. Sears returned to the meeting.

25 Popes Lane. Request submitted by Michael Selig for property located in the Highway Corridor District for a Special Permit for a contractor's yard under Table 1 and Sections 6 and 30 of the Zoning Bylaw, and Site Plan approval under Section 4 for review of improvements to the site including a retaining wall, fenced area, new sanitary sewer service, second driveway entrance, landscaped areas and a stormwater drainage system. (Assessor's Map 40, Lots 17A) (*Site Plan/Special Permit action date: March 29, 2019*)

Attorney Nancy McCann appeared before the Board on behalf of the owner of the property and applicant, Michael Selig. Jay Polakiewicz, Katie Cruz and Philip Pattison from Hancock Associates were also present. They are requesting a special permit and site plan approval for a contractor's yard. The property is in the Highway Corridor District. An application was filed in January by Hancock. Supplemental information including the narrative was submitted to the Board. They had a meeting with the Planning, Building and Engineering Departments, and revisions were done to the plan based on comments from this meeting. Engineering issued comments that they are satisfied with the plan at this point.

McCann said that a variance for a finding was received last September from the Zoning Board of Appeals (ZBA) to allow the existing single-family home on the property to be used for any

purpose that is permitted by right or by special permit in the Highway Corridor Zone. They had to go to the ZBA due to the lot being undersized and the non-conforming set-back of the house. They are proposing to renovate the existing single-family home into an office for the contractor's yard. A residential home is a non-conforming use in the Highway Corridor. The office use is a conforming use.

This is a small contractor's yard. The owner and one other employee will be on-site during the day. Employees will come in, park their personal vehicles, take a work truck out to the job site and come back at the end of the day. Hours of operation will be Monday through Friday from 7:00 a.m. to 3:30 p.m.

There are many uses on this street that are similar to what is being requested. BitCon and Manter Construction are large roadway construction businesses with a lot of equipment located in this vicinity. McCann said that what they are proposing meets the requirements for a special permit.

Jay Polakiewicz, from Hancock Associates, addressed the Board. He described the existing conditions plan. In the proposed condition plan, he showed the existing home with the landscaped area. The existing driveway will remain, but it will be resurfaced. He showed the area that would be turned into a parking area for the construction vehicles. Another driveway will be added for ease of access and egress for the vehicles. They will try to keep as many of the existing trees that are between the two driveways. They will level the parking area and build a retaining wall that will vary in height. The structural engineer has submitted the plans for this wall to the Engineering Department. Appropriate earth retention systems will be used during construction in order to not to affect the abutters' properties. He showed the storage area near the house. The snow storage will be in the southwest corner and in another area between the house and Pope's Lane.

Polakiewicz described the stormwater system which is comprised of subsurface infiltration chambers. The stormwater system has been reviewed by the Engineering Department. The existing septic system will be removed, and the sewer will connect to the forced-drain stub in Popes Lane. The sewer will pump up Popes Lane to a gravity sewer line.

McCann said that the large hedge of arborvitae that blocks the home from the street will remain.

J. Sears asked about lighting. Polakiewicz said that there was a flood light on the building and wall mounted lights on poles on top of the wall. The lights on the poles will be shielded from the neighbors.

Zilinsky confirmed that the storage area was going to be fenced. Polakiewicz confirmed this. He also stated that the area behind the house would not be touched during construction. Zilinsky confirmed that the property located at 23 Popes Lane was also a contractor's yard.

N. Sears asked about the retaining wall. Polakiewicz showed how the retaining wall would run on the map. N. Sears asked the height of the wall. Polakiewicz said that it varied in height from two (2) feet to ten (10) feet. There is a fence on top of the wall for fall protection.

N. Sears asked who the abutters were. McCann said that one of the abutters was DiLuigi's. The other abutter is a contractor's yard. BitCon and Manter Construction are on the other side of the street.

N. Sears asked if the abutters had concerns about the retaining wall. Polakiewicz said they had not heard from any abutters. McCann said that Engineering had concerns about the details of the wall. These have been provided.

N. Sears asked the size of the construction vehicles. McCann said that there are four F-350 trucks, one F-450 truck, one Chevy 2500 and a boom truck. N. Sears asked if the F-450 and boom truck were diesel. Selig said that the F-450 truck was diesel.

Smith and Farmer questioned the Building Inspector's initial comments.

Fields said the first comment still stood, and the second comment showed that the plans were revised to address the handicap parking spot. The first part of the Building Inspector's comments are for the Board to discuss.

Farmer felt that the Building Inspector was not in favor of this. Prentiss agreed, but he pointed out that they received a unanimous decision in obtaining the variance from the ZBA against his recommendation. Prentiss felt the Building Inspector was concerned with contractor's yards coming in and not keeping up with the cleanliness. Prentiss felt this discussion was getting too broad.

Zilinsky said that the Building Inspector pointed out that the Planning Board had the authority to fine these yards not in compliance of their site plan approval. She thought that he had the authority for this.

Prentiss said that the Planning Board needed to bring these issues to the attention of the Building Inspector. Prentiss felt that if this is a special permit, one of the requirements is that it should not be a nuisance to the surrounding area.

Zilinsky said that one of the Building Inspector's concerns was storage which is why she asked where the storage area was going to be.

Prentiss pointed out that this was going to be a smaller site.

Zilinsky agreed and pointed out that it was not the same use. She had a hard time penalizing this applicant on something that he had no control over. She felt it was more of the Planning Board's



responsibility to keep an eye on the other sites. If the Building Inspector is concerned about these other sites, she would be willing to do what is necessary to take action.

Zilinsky asked what type of fence would be used for the storage area. Selig said chain link since it was behind the building.

Farmer did not have the same interpretation. He interpreted this as an encroachment. He felt the Building Inspector is having a hard time with these types of uses. There are residential homes on that street. Farmer was concerned by the Building Inspector's comment.

Prentiss interpreted the Building Inspector as saying that the other sites were not out of compliance, but the sites were too small for what was being done on them. Prentiss felt that if this business was successful and grew and had more employees, it would have to stay in the confines of what his site would allow. Prentiss was going to bring this up as well, but did not know whether these other sites were something the Board needed to discuss. This may be a procedural question.

Zilinsky said that she did see the comment that the other sites are too small for what the businesses are doing. It may be worth taking a look at the bylaw.

J. Sears said that they take recommendations from the Zoning Enforcement Officer, and it is his job to enforce the zoning bylaw. If he has a problem with it, he should address it.

McCann said that this was discussed at the ZBA meeting. The ZBA agreed with Zilinsky that they should not hold other people accountable against this applicant. The worst site is the one next door. This applicant has owned the business from August 2017, and it is a smaller site. The Board of Appeals had the same conversation.

Bill Bradstreet, 18 Essex Street. Bradstreet asked what material would be stored at this yard. He also asked if there would outdoor audio. Selig said that equipment will be stored at the site. Most of the material gets delivered directly to the site. Prentiss confirmed that there would not be material stored on the site. It was confirmed that there would be no outdoor audio.

MOTION: J. Sears moved to close the public hearing for the Special Permit/Site Plan for 25 Popes Lane. Zilinsky seconded the motion. The motion passed by unanimous vote.

Farmer asked what they were going to do about the other properties on Popes Lane. Prentiss pointed out that they received favorable comments from various departments regarding this application.

Farmer did not like that they were granting approval when there were problems with other sites. At what point do they say enough is enough.



Prentiss felt that this applicant met the criteria. He does not have a problem with it.

Farmer read the minutes from the ZBA meeting, and there were inconsistencies of what was told to the ZBA. They said that there were going to be up to eight employees and an office use. Selig explained that it would be he and his mother on site.

Prentiss said that there will not be a lot of materials on site. This will be a staging area where employees are getting equipment and leaving. He understood how Farmer felt because he questioned it as well. He did not have a problem with it at this time. He felt this was more a procedural question.

Farmer said that if this property is sold in the future, would the new owner have the same restrictions? Prentiss confirmed this.

Smith did not want to penalize the applicant for what other people were doing. He asked if there a precedent being set. Can they say no when they have approved other sites?

Prentiss said that he cannot remember another site that they have denied in the past.

J. Sears said that this is a special permit where there are additional criteria for the applicant to follow. When there is a Town Meeting with zoning changes, this is the opportunity for the zoning officer to tell the Planning Board that a bylaw needs to be tweaked. This is how it has worked over the years. J. Sears felt the Zoning Officer had enough ammunition. If someone is using the house as a residence, he can issue a cease and desist. The Zoning Officer has enforcement powers. It seemed that this applicant would be a smaller use. This site is a highly industrial-use area.

Prentiss said that the Building Inspector could point out specifically if the applicant was not meeting the criteria.

Zilinsky is comfortable due to the comment from Engineering. She said that this area had been changing over the years. Zilinsky confirmed that they had restricted contractor yards out of the Danversport area.

Zilinsky said that the Building Inspector always sat down with Planning when they looked at the “housekeeping” items that needed to change in the bylaws. He points out things that they may not be aware of.

N. Sears wanted to echo what others were saying about not punishing this applicant for others who have been issued variances who have left their property in a less desirable state. He did not feel that was right. The role of the Town is to enforce these things and not take it out on the next applicant.

N. Sears confirmed that there was going to be a dumpster on the property. Selig said it would be out of view. N. Sears asked what type of materials would be put in the dumpster. Selig said it would be trash and no hazardous material. He said it would hold a lot of broken wood. He asked what type of work Selig did. Selig said carpentry, masonry and site work.

Prentiss pointed out that the public hearing had been closed and the discussion should be between the Board.

MOTION: Zilinsky read the Certificate of Action and moved to approve the Special Permit for 25 Popes Lane. J. Sears seconded the motion.

MOTION: J. Sears moved to accept the amendment of three years for the Special Permit. Zilinsky seconded the motion. Farmer opposed. The motion passed by a vote of 4-1.

MOTION: J. Sears read the Certificate of Action and moved to approve the Site Plan for 25 Popes Lane. Zilinsky seconded the motion. Farmer opposed. The motion passed by a vote of 4-1.

DISCUSSION

Discussion of future meeting dates and upcoming schedule.

Farmer asked what the Planning Board could do as a Board to encourage the Building Inspector to enforce his concerns regarding contractor's yards. Prentiss felt that it would not be a bad idea that when comments are received such as the ones for this applicant, that the Building Inspector come in and give an explanation or comment specifically about the special permit or discuss some type of zoning change with the Board.

Fields said that he could discuss the matter with the Building Inspector. He asked whether the Building Inspector should point out the specific criteria that is not being addressed rather than a general comment.

Fields felt that the issue the Building Inspector was having is that a lot of the applications coming before them in the Highway Corridor were non-conforming due to size. These were originally house lots. This could be a zoning change where acreage could be set forth in the language. Material storage could be something that they could look at as well. The original intent of the bylaw was a good faith effort to allow these businesses to continue in Town.

Prentiss said that if there were not going to be any materials stored on the site. Maybe with a site like this they should be looking at fewer parking spots, but larger parking spots due to trucks.



Fields said that he would discuss this with the Building Department.

BRIEFING

Planning staff and chair will update the Board of various items of interest. This agenda item may include requests to set public hearing and workshop dates; sign plans, discuss informally future projects and current projects under construction.

Fields went over the next meeting dates. He told the Board that they were looking to schedule a workshop with Brovitz for the Downtown Corridor Rezoning towards the end of April.

Fields said that due to the intense work done with the 40R District, they may only need to send a representative from the Planning Board. Zilinsky felt it would be good to have as many Board members attend as possible.

MINUTES

March 12, 2019

MOTION: J. Sears moved to approve the minutes of March 12, 2019. Smith seconded the motion. The motion passed by a vote of 4-0. Zilinsky abstained.

ADJOURNMENT

MOTION: Farmer moved to adjourn. Smith seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 8:06 p.m.
Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on April 23, 2019.