



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 June 11, 2019 7:00 p.m. MINUTES

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

OTHER MATTERS

Citizen Planner Training Collaborative. A training session will be conducted by Attorney Jonathan Silverstein from KP Law relative to Subdivision Control and ANR between the hours of 7:00 p.m. and 9:00 p.m.

Jonathan Silverstein from KP Law presented a training session to the Board regarding Subdivision Control Law (Including ANR Plans).

56 Adams Street and 75 Sylvan Street. Request by 56 Adams Street, LLC for endorsement of Form A plan to convey 1,746 ± square feet of land from 75 Sylvan Street to 56 Adams Street. (Assessor's Map 57, Lot 32 and 31) (*Action date: June 19, 2019*).

J. Sears recused himself from the meeting.

Scott Cameron, from The Morin-Cameron Group, Inc., appeared before the Board on behalf of 56 Adams Street LLC. This is an application for endorsement of an Approval Not Required Plan which proposes to take a portion of land from 75 Sylvan Street and combine it with 56 Adams Street to become a 13,370 square foot lot. The property located at 56 Adams Street has frontage on Adams Street.

MOTION: Farmer moved to approve the application for an Approval Not Required plan for 56 Adams Street and 75 Sylvan Street. Smith seconded the motion. The motion passed by unanimous vote.

J. Sears returned to the meeting.

PUBLIC HEARINGS

19 & 21 Bridle Spur Road. Request for a Special Permit to allow the construction of a driveway under Section 30.2.9 of the Zoning Bylaw submitted by Daniel and Debra Lemieux to provide access to their home located at 21 Bridle Spur Road. The proposed driveway crosses 19 Bridle Spur Road for approximately twenty feet and provides a more direct driveway access. (Assessor's Map 01, Lot 001F and 001G) (*Special Permit action date: 90 days from the close of the public hearing*)

Prentiss read the legal notice.

McCann requested the Board continue this hearing to the Planning Board meeting scheduled for July 9, 2019. She would be willing to come to the next Planning Board meeting scheduled for June 25th if that was possible.

MOTION: Farmer moved to continue the application for the Special Permit for 19 & 21 Bridle Spur Road to the Planning Board meeting scheduled for June 25, 2019. Smith seconded the motion. The motion passed by unanimous vote.

CONTINUED PUBLIC HEARING

197 Newbury Street. Request submitted by Nelson Mendoza for property located in the Highway Corridor District for a Special Permit for a pet day care and training facility under Table 1 of the Zoning Bylaw, and a Major Modification to Site Plan approval under Section 4 for construction of a small shed-style building and enclosed fenced area associated with the pet day care use. (Assessor's Map 24, Lots 21B) (*Site Plan/Special Permit action date: 90 days after close of the public hearing*)

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Nelson Mendoza and The Happy K-9, Inc. McCann said that they had previously presented the application for a Special Permit and Site Plan Approval for 197 Newbury Street which is a new commercial building. The Happy K-9 would occupy one of the tenant spaces in that building. This is for a modification to the site plan with the special permit to allow the dog day care.

This tenant space would consist of one space which is 1,680 square feet with an enclosed yard area. This site was previously approved by the Board. This enclosure would have a shed that is 12 feet by 30 feet. The space would be enclosed with an eight-foot high white vinyl fence.

McCann reminded the Board that they had gone through the questions such as the hours of operation and number of employees. The issue at the end of the meeting was the Engineering Department's questions as to how the liquid waste would be handled. The solid waste would be picked up and removed from the site. The Engineering Department requested to install a sewer system or address the liquid waste and what would happen to it. She told the Board that they



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have been addressing that concern. She told the Board that there was a submission of a narrative prepared by Scott Cameron from The Morin-Cameron Group, Inc. along with the plan that also incorporates other notes that the Engineering Department wanted.

McCann said that they needed to make minor changes requested by the Engineering Department. There was also a request for exactly what the shed should look like. She provided the Board with a picture of the shed to store equipment, food, clean-up bags, etc.

Scott Cameron, from The Morin-Cameron Group, Inc., addressed the Board. Cameron said that Mendoza and McCann contacted him after the last meeting to assist with the waste management of the enclosed play area. He said that he had learned a lot with planning the dog park in Danvers. They have helped design other dog parks in the area and have built a niche in the industry.

Cameron said that he met with Stephen King from the Engineering Department to discuss the concern about the pet waste. The question is what happened when there is liquid waste that could flow off the site. A dog park has a lot more of this type of use. This site being a private use, it could be more controlled. To try to identify an area where the dogs can go is not plausible. This area is open to the atmosphere and it cannot connect into the sewer system. They looked at concentration of flow which is referred to as deminimis. This is a very small amount of waste relative to the footprint of the area. The urine will be diluted. They overlaid the play area over the enclosure area. They propose to remove the pavement and level the area to a 3.3% grade. Pea stone will be on top since this is the more preferred substance. There is runoff from Route 1 onto the site, so they designed a trench drain on the high edge of the dog park. They are removing asphalt and making it more permeable. They added a plastic barrier on the lower section which is buried underground which would cause the runoff to go deeper into the soil. There is a 3 to 1 slope off that area with 15 feet of distance between the barrier and the slope. They are driving it down and allowing plenty of depth (4 feet) to treat the runoff. This is similar to what was done at the dog park.

Cameron said that they cleaned up the plan and added notes. What is in red is what is being proposed with this submittal.

J. Sears felt this was fine and reasonable.

Farmer felt it was a good presentation.

Smith said he was satisfied.

N. Sears commented that it was interesting to hear about the barrier.

Prentiss said that he remembered a question concerning the fencing to be sure dogs cannot climb over.



Fields said the Planning staff had 15 different comments from the original filing of this application. There were no test pits or soil information for what is under the 1,000 square foot dog waste reservoir that is going in. There was also a scantness of the filing.

Farmer said that it was good to get a recommendation from staff.

McCann said that she wanted to go through the comments that were received one by one.

Regarding the scantness of the plans, McCann said that this was discussed with the Board at the initial presentation. They submitted two sheets with the original submission. The original set was nine pages. They are not doing any changes to the site until you get to the play area. This was discussed with the Board if that would be adequate. There were no changes to the building on the site. She walked away from that meeting understanding that the presentation with the single sheet was sufficient. She takes issue with having to provide something similar to the Group 1 Subaru filing since this filing of a shed and fenced area is very different than an application for a Subaru dealership. The applications are different.

1. Waste issue has been addressed.
2. The water line installation would be accepted as a condition on the as-built plan. The water line can be inspected for the overall development. That would be an appropriate condition for approval that they would have to meet with an as-built plan.
3. The amended stormwater report cannot be done until they know if what Cameron presented was acceptable. They can update this after the approval. The shed and enclosure are not going to impact the stormwater report prepared and presented for this site. The report can be updated in the form of a letter. They could take that as a condition as well since the waste issue has been resolved.
4. Regarding excess snow removal, they would take a condition on the approval to remove excess snow off-site.
5. They thought that the two sheets filed with the application had been deemed appropriate.
6. Regarding trips per day, there would be two trips in the morning and two trips in the afternoon. This was told at the initial meeting.
7. Circulation pick-up and drop-off was discussed in detail during the first meeting. Eighty percent of the clients will be coming via van service that the client provides. The clients do not bring the dogs to the play area. Dogs go to the play area via van with the employees.



8. Overnight boarding being prohibited would be accepted as a condition to the approval.
9. Elevations of the building were provided tonight.
10. No exterior lighting would be proposed for the fenced area at the back of the site. Should this be needed in the future, the applicant would have to come back to the Board.
11. Discrepancies in the prior plan were addressed by Cameron.
12. The invert listed is an old comment. It can still be addressed.

Fields said that items 11 and 12 were still outstanding. McCann said that these would be addressed.

13. The internal fencing is movable. They felt that since they were movable areas, they did not need to be shown on the plan. These will be moved as appropriate to segregate the dogs.
14. Stormwater has been discussed and can be updated.
15. Stormwater has been discussed and can be updated.
16. Believed these were old comments from the Engineering Department.
 - #1 – has been satisfied as part of this submission
 - #2 – can be shown on the as-built
 - #3 – old condition that is addressed by Cameron’s submission
 - #4 – pavement restoration detail not needed since final paving has not been done. The property is currently under construction.

McCann said that they can update the stormwater management report now that they have the plan in place for liquid waste that was developed with the Engineering Department.

Fields said that all stormwater comments should be addressed now. How do we approve this after the approval?

McCann said that they could require that they submit an updated stormwater report, or they could approve this as a condition of approval to update the stormwater report prior to the Certificate of Occupancy.

Fields asked if they were getting test pit soil samples.

Cameron said that they can be on site when they do the excavation. It would be similar to the installation of a septic system. They clear the surface and make sure it is ready to receive the fill



on top. They will clear the surface. They are filling, not cutting. The soil below does not matter. This has been altered in the construction of the highway years ago. He would be happy to observe that excavation and preparation.

Fields explained to the Board that when a septic system goes in it has to pass Title V.

Cameron said that they drew from the principles of installing a septic system. This is light use. A house is designed for a flow.

Fields said that Engineering's concern as well as that of Planning Staff was that this site is close to Beaver Brook.

Stephanie Angiulo-Costa. Costa owns the business next door known as The K-9 Edge. At the last presentation it was stated that the fencing would not be on the property line between 199 Newbury Street and 197 Newbury Street. It was also stated that there would be parking between the property line and the enclosed dog area. Is that true? She is concerned with the fencing of the area.

McCann said that the fence is about eight feet from the property line. There is no parking between the property line and the fence area.

Costa felt that dogs would be able to get over the fence. She suggested coyote fencing.

McCann said that there was no parking by the fenced area. There is parking for 199 Newbury Street. There is no buffer. There is an eight-foot buffer to the vinyl stockade fence. The dogs are never alone. They are with staff.

Fields said that the Health Department did not feel a coyote roller would be necessary if the fence was eight feet high. They did not think it would be an issue.

Costa said her concerns were the fencing and clients coming to 197 Newbury Street. There is going to be reactivity. On her site, dogs are never off leash. People are trying to get their dogs from their cars to her space.

Sears asked what affect that had on her business.

Costa said if dogs coming to her site hear dogs barking, they react.

Sears asked what happened when someone else was dropping off a dog to her site at the same time. What affect does that have on your clients.

Costa felt she would lose clients. Some clients are there for day care.

Sears asked what is the difference between the reaction of two dogs coming into your business or the reaction of a dog with the dogs in the play area.

Costa said the dogs in the play area are running loose and they are higher elevated. They would cause her dogs on leashes to react.

J. Sears questioned whether there would be a loss of business. The applicant should have the ability to have a competing business. He asked if there was any quantification of how it would affect her business.

Costa said that people would go to other places where dogs are running loose.

Prentiss was confused with the drop-off and pick-up being inside.

McCann said that the dogs are dropped off by the van inside the building. The dogs in the play area will be behind an eight-foot high solid enclosed fenced area monitored by employees. Costa's parking spaces are 80 feet from the building. There are two 24-aisle lanes of parking and then Costa's building. There is an 80-foot distance or better from the lot line to the building. She understands the concern of business competition; however, it is not a reason to deny the application.

Prentiss asked how many dogs there would be. Mendoza said there would be 6 dogs to 1 person. If there were 12 dogs, they would have 2 people. The rotation from inside to outside is weather dependent.

Fields asked if this was an appropriate use for this site.

Costa said that one or two of the bays are rented out to race car maintenance. When they are revving the cars, it elevates the dogs. If the dogs are outside when they are revving the cars, how are they going to control the dogs?

Prentiss said that there are limitations on noise. It can be brought up to the Building Inspector.

Costa said that the applicant will have loose dogs in an area with the noise.

Prentiss said that there was only so much this Board could do. Mendonza will need to keep the dogs under control.

Mendoza said they are structured and keep noise low. Taking care of the dogs will not become an issue. The dogs are not barkers. He is not concerned with the cars.

Costa said that his space is only 1,680 square feet to drop dogs off inside. The van would reduce the day care area. What is his maximum limit of dogs that will be inside?

Mendonza said that they drive the van in, unload and then drive the van back out.

Costa asked what the limit was for dogs inside the bay.

Mendonza said that they have not come up with a number yet. They do not plan to have the dogs in the same area.

Costa said that it should be 100 square feet for large dogs and 75 square feet for small dogs.

McCann said that the applicant is aware of industry standards. He wants quality customers.

Costa said that she has restrictions. She has to stay within the ASPCA standards. Those restrictions should be applied to a competing business.

J. Sears said that this is not the same Board that she went through.

Prentiss said that she went for zoning relief. This is not the same.

Farmer felt there should be consistency with the Boards.

Prentiss said that they would take it under advisement.

Bill Bradstreet, 18 Essex Street. Bradstreet questioned the comments made about State standards for running this type of business.

Prentiss said that the Town doesn't have any zoning laws associated with it. He would have to defer to the Health Director, Peter Mirandi.

Fields said that he has spoken with Mirandi, and the closest thing they have are the ASPCA guidelines.

Bradstreet said that the State likes to run everything. There is an article in the paper regarding a daycare. Would this Board require the applicant to have insurance?

Prentiss said that is not required from the Town.

Bradstreet asked what the recourse was if someone's property was damaged.

Prentiss told Bradstreet that the person should start with Peter Mirandi, and he would be able to advise where to go from there.

Fields said that this Board does not make that decision.



Prentiss said that the State should have requirements when the business is registered.

Farmer said that the Town issues licenses that may require people to carry insurance.

Fields said that many businesses need to register a doing business as (d/b/a) with the clerk's office.

Prentiss said that most insurances are done through the licensing boards.

Fields told the Board that they could close the hearing and then have 90 days to make the decision.

J. Sears said that it was unfortunate that no decision had been created. They have approved large commercial buildings in one meeting. They could have crafted a decision subject to the conditions that were listed. He felt the applicant should not have to wait another 90 days. The decision should have been prepared. The original site was approved within the last year.

Prentiss asked the Board if they had any comments. His next action is to close the public hearing and then make a decision.

Farmer said he supported closing the public hearing. He asked if a decision could be drafted for the next meeting.

Smith said that he was not comfortable moving forward. He does not want to push something through in haste.

MOTION: J. Sears moved to close the public hearing for the Major Modification to Site Plan for 197 Newbury Street. Farmer seconded the motion. The motion passed by unanimous vote.

Prentiss felt that if the test pits did not meet the requirements, they would need to come back to the Board. Fields said that he can craft the decision. They can take a vote tonight and staff will work with the chair to finalize the decision.

Prentiss felt this could go forward if all the conditions were met with the approval of staff and the Engineering Department.

MOTION: J. Sears moved to approve the Special Permit for a pet daycare and training facility at 197 Newbury Street located in the Highway Corridor District as shown on the plans presented. Farmer seconded the motion. The motion passed by unanimous vote.



MOTION: J. Sears moved to approve the Major Modification to Site Plan under Section 4 for construction of a small shed style building and enclosed fence area associated with a pet daycare for 197 Newbury Street located in the Highway Corridor District as shown on the plans presented to include conditions presented and addressed by the staff memo.

McCann wanted to specify the conditions such as updating the stormwater management report, no overnight boarding and no exterior lighting. Other items are covered in updating the stormwater report along with clarifying the water service.

MOTION: Farmer seconded the motion. The motion passed by unanimous vote.

Request for Peer Review. Traffic, road geometry, and structural review of Beaver Brook Woods Definitive Subdivision road and structural plan. It is a significant endeavor in terms of the road building. He felt it was better to cross the t's and dot the i's. This is important if the applicant is looking to ask the Town to accept this way, it would be good to present to Town Meeting what was found.

Sears recused himself from the meeting.

Fields said that this is a request for the Board to authorize a peer review for the Beaver Brook Woods Subdivision road and structural plan. In terms of building the road, it is a significant endeavor. They felt it would be better to cross "t's" and dot "i's". If the applicant would want the Town to accept this street, it would be good to let Town Meeting know what they found with the peer review. He said that they were looking for a vote from the Board for the review.

Farmer asked the status. He remembered approving a Cluster Subdivision.

Fields told him that the plan had been submitted as a Definitive Conventional Subdivision. This is a different road and plan.

Farmer asked if waivers were being requested. Fields said that there were waivers on the geometry and a few things that staff would like reviewed.

Farmer asked what the timeline was.

Fields said that this is a new filing, so the clock starts again. They have 135 days to provide a decision. They would like to undergo this peer review. Staff has 10 days to write up a scope of services and begin the process. He would like to move this along as well.

Prentiss said that the Board approved the Cluster Subdivision. The applicant chose to go with a Conventional Subdivision.

Fields said that they have approval for the Cluster Subdivision. They are opting to go forward with a Conventional Subdivision.

McCann said that since her client will be paying the bill for the peer review, she had some questions. The peer review would be for traffic, geometry and structural review. The Town has an in-house Engineering Department. It is rare that a project goes out for peer review. The last peer review may have been for Danvers Indoor Sports. For this to go out to peer review, it would be unusual. It would be an added significant expense and time for the applicant. If there are specific concerns, she wants to understand the scope.

Fields said that it was more structural. If it is comfortable with the Board, he can work out a scope of services with the chair. If the chair finds it egregious, they will have 10 days to work it out.

McCann pointed out that the retaining wall was not a traffic peer review.

Fields said that it may change the way the road is built. Fields said that there is a retaining wall holding the road up in a wetland. That is the reason for the peer review.

McCann asked if they were looking at two different peer review if they were discussing traffic and the structure of the retaining wall.

John Colantoni. Colantoni said that he has no problem if the Board wants to have a third-party review this. He does not think it fair since the Planning Board asked them to do a traffic study report. Now it is another traffic study report and a structural report. Colantoni said that the subdivision was submitted to the Planning Department over 30 days ago and it has yet to be advertised. The Planning Department indicated that they wanted to get all the feedback from the departments to save time. They found this out later and they agreed with the idea. If they wanted to send this out for a third-party peer review, why weren't they asked this at the same time they were sending out the application to the departments for their feedback.

Colantoni said that they received favorable comments back from Stephen King from the Engineering Department. There were just minor adjustments that were being requested.

Colantoni said that this Board approved a 20-lot subdivision at Whipple Hill. What they are proposing to do for their road is minute compared to what was done at that development. Now they are being asked to do a peer review. He agrees with time efficiency. The reason that they did not go through with the Cluster Subdivision plan was due to having no incentive to do it. The Town made it impossible to go with the Cluster Subdivision. The Cluster was the right thing to do.

Colantoni said that Fields is making it sound that the reason this is being dragged out is due to the fact that they filed a different plan. The plan was filed over 5 weeks ago. If the Board needs

to have their staff behind them and pay for this peer review, they want to ask that the advertisement goes in for the public hearing for a meeting in July. If the peer review does not come back in time, the hearing can be continued. It is not fair that the Town is holding back advertising for the public hearing waiting for all this feedback. They have done whatever the Town has asked for. They keep picking up additional tab.

Farmer felt that this was a reasonable request. He is sensitive to efficiency.

Prentiss said that he was fine with working with staff with the peer review. Prentiss said that he walked the site at a different time than the Board. As he was walking with Aaron Henry, they discussed that whether this was a Cluster or Conventional Subdivision, the roadwork and the weird nature of where it is going, along with the retaining wall is complex.

Farmer said that if the need is for a peer review, he requested a fast track for a public hearing.

MOTION: Farmer motioned that Prentiss and staff determine how the Board should move forward for a peer review for the application for a Definitive Subdivision. Smith seconded the motion. The motion passed by unanimous vote.

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, informal discussion regarding future projects and current projects under construction.

J. Sears returned to the meeting.

Fields told the Board that at the Planning Board meeting scheduled for June 25th, they are looking to have a Land Use Summit between the Planning Board, Board of Selectmen and the Zoning Board of Appeals. Fields asked the Board to email any matters they want to discuss to have it worked out between the divisions to have everyone on the same page.

Farmer asked what the backlog is. He asked when the Board would be having a vacation.

Fields said that if the Board did not want to meet the first meeting in August, they could do that.

Farmer felt if there was a quorum, they could go forward with the meetings.

ADJOURNMENT

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



The meeting adjourned at 10:00 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on June 25, 2019.