



# 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 September 10, 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, Margaret Zilinsky, Charles Smith and Associate Member Nathaniel Sears were present. Director of Planning and Economic Development, David Fields, was also in attendance.

### **PUBLIC HEARING**

**99 Andover Street.** Request for a Major Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Group 1 Automotive, Inc. for property located in the Route 114 Zone A Zoning District to renovate the Toyota Certified Pre-Owned Dealership. (Assessor's Map 56, Lot 13)

Prentiss read the legal notice.

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Group 1 Automotive, Inc. With her this evening were the project engineer, Neal Sander, from Independence Engineering LLC and Jeff Kleiner from Group 1. They are requesting a major modification to a previously approved site plan relative to the Toyota CPO (Certified Pre-Owned Center) dealership. Last January a site plan was approved to allow the Toyota CPO to be located in the area previously occupied by Lexus. McCann showed the Board the plan that was approved to refresh the Board's memory. The applicant has recently been before the Board for the Subaru dealership. When they came before the Board in January, part of the renovation of the former Lexus dealership area was to reduce and removed what was shown in purple on the plan being displayed. The size of the building was being reduced, and the Toyota CPO would have occupied the part of the dealership that was being shown in green on the plan. Group 1 looked at this again and have decided that they would like to operate the Toyota CPO dealership out of the Toyota new car dealership. The application is to further modify what was approved in January. They want to remove the area being shown in green on the plan. The service area will remain. The area that is being removed will be replaced with parking and some landscaping. They are reducing building coverage and impervious and adding landscaping.

Neal Sander told the Board that he was before the Board in June to discuss the Subaru application. He has been working on this site since 2012. This application was approved in January to reduce the footprint of the Toyota building. Group 1 determined that they had more building than they needed and would cost more money than they wanted to spend. They will be removing 7,500 square feet of building footprint and replacing it with 39 additional parking

spaces. They are not proposing any changes to the circulation around the site. Utilities are presently in place. They also will be gaining a fire lane along the outside of the service building and approximately 3,500 square feet of greenspace. There will be an additional 13 trees and 162 shrubs added. He showed where two additional light poles would be added that would not affect any neighbors. Stormwater is identical to what was presented to the Board in June for the Subaru application. The amount of water going into the wetlands will be reduced. The flow rate is also being reduced. They have applied for a Request of Determination (ROI) from the Conservation Commission.

Sears asked Sander what the percentage was for landscaping. Sander said that impervious was at 68.39% which was being reduced to 67.89%. Sears confirmed that landscaping was being added. Sander confirmed that 3,500 square feet of landscaping was being added.

Zilinsky asked if there had been any comments from the Town Engineer on this application.

Fields said that the Town Engineer had no comments. The only comment was from the Fire Department for the fire lane striping.

Donald Thompson, 107 Village Post Road. Thompson said that Toyota CPO currently operates out of the northeast part of the site. He asked what activities would go on at that site in the future?

Sander said that he was not sure. They need service capacity.

Thompson said that in the Toyota new car dealership will be new car sales and the proposed used-car sales. Are there any plans in the future to expand or move the Toyota new car sales activities?

Sander said that the building was less than 25 years old. They spent a lot of money to construct it. He felt that nothing would happen to that building.

Joanne Walsh, 141 Village Post Road. Walsh asked if developing a site was done in parts? She asked if it should have been done all at once?

Prentiss said that it was up to the applicant how they wanted to address changes to their site or how they want to build. Prentiss said that this was similar to the Liberty Tree Mall that has smaller buildings inside or adjacent. Even though it is one applicant, they have multiple car dealership businesses within that area. Each dealership is doing it on their own. There is no requirement to do it all together and that could be more confusing to the Board.

Walsh felt it was upsetting to be a neighbor to think that one issue was resolved and then to have another application. She just wanted clarification about this.

**MOTION:** Zilinsky moved to close the public hearing for the Major Modification to Site Plan approval for 99 Andover Street. Farmer seconded the motion. The motion passed by unanimous vote.

**MOTION:** Farmer read the Certificate of Action and moved to approve the application for the Major Modification to Site Plan approval for 99 Andover Street.

McCann questioned that six-month return to the Planning Board. She understood that that was a condition for the Subaru dealership. She asked if that condition was needed for this application.

Prentiss felt it was important to keep that condition in for this application as well.

**MOTION:** Zilinsky seconded the motion. The motion passed by unanimous vote.

### **CONTINUED PUBLIC HEARINGS**

**Beaver Brook Woods.** Request for a Definitive Subdivision Plan Approval to construct an 8-lot single-family residential subdivision 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.

Sears said that he was going to recuse himself from the next matter. He already endorsed the plans referenced on the agenda under other matters and also wanted to affirm the minutes.

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Beaver Brook Woods, LLC. With her this evening was John Colantoni. McCann said that she was not present at the last meeting. She has watched the tape to be sure of the conversations that took place. There was a question of the applicant to provide information with regard to the right-of-way that crosses the Town parcel to give evidence of the existence of that right-of-way. McCann said that this has been done. There are a number of attorneys involved in this development. Attorney James Cote was tasked with reviewing the title, and he provided his opinion to you at the end of last week. McCann said that an email was received from Aaron Henry with additional questions. She provided a response to those questions today. She understands that there is a draft decision with conditions regarding some of these issues.



Fields said that that was a good summary by Attorney McCann. He felt they could jump into the questions on the conditions. It appeared from the last meeting that an approval was pending. He tried to write the decision with the conditions that they had. He told the Board that Town Counsel has not gotten back to them regarding the draft decision. The staff is comfortable with what was written in the draft decision. He will leave it up to the Board whether they want to wait for Town Counsel before going forward. He told the Board that they have an action date of this Friday (9/13).

Prentiss asked the Board if they were comfortable with the condition that they were talking about. He said the condition that he was talking about was the right-of-way.

Fields read the conditions set out as No. 9 and No. 10 on the draft decision. These were regarding rights and an easement over Town property.

Prentiss said that he did not have a problem with these conditions. This keeps the Board covered.

McCann said that in No. 10, they did not feel that there was a discrepancy to the bearings. She felt it was a different way of looking at it. She would ask that she be allowed with staff to communicate with Town Counsel regarding this issue. The title issues are clear, but she felt it would be helpful to get together to discuss it.

Zilinsky said she was fine with the conditions and felt it was a good idea to have the two attorneys sitting down together.

Farmer agreed with Zilinsky that it would be good to have everyone in one room and hash it out.

N. Sears agreed with Zilinsky and Farmer.

McCann wanted to go over some of the conditions on the draft decision. They requested a waiver of VI.C.1. regarding construction of the sidewalk before the bounds are set. She did not see this on the draft decision.

Zilinsky asked that that be explained. McCann said that there is a part of the subdivision regulations that states that the bounds be set prior to the construction of the sidewalks. From a construction standpoint that does not make a lot of sense. They should put the binder course on the sidewalks and then put in the bounds.

Prentiss asked Fields if this was one of the changes to the regulations that they were looking at going forward.

Fields confirmed this.

McCann questioned Waiver No. 4 for a deeded utility easement prior to endorsement of the plans. Cameron went over this at the last meeting and said that in this case there is no need for a loop of the water line. It did not seem that the Board wanted a deed utility easement for a water line loop that would serve no purpose.

Fields said that the regulations state clearly what you are to do when you are asking for a waiver from the dead-end road length. He understands that they do not need to loop the main or run the main to another roadway given pressure and supply that is out there currently. The regulations are anticipating future growth. A deeded easement would help should this be required in the future. If the Board was uncomfortable with this, he did not feel that it should hold up the approval.

McCann pointed out that the road could not be extended.

Aaron Henry, Director of Land Use and Community Services, felt the regulations need to be changed since it states that the waiver is granted when you loop the water main. Henry felt that they should take an easement to have the right to loop the water main should they need to.

Zilinsky felt that Cameron was clear at the last meeting why it did not need to be done. That language will probably be changed. She would see what the rest of the Board said.

Farmer was fine granting the waiver without the deed.

Smith agreed with granting the waiver.

N. Sears felt if the Engineering Department did not have an issue with it, he agreed that the deed was not necessary.

McCann said that Waiver No. 7 regarding the structural engineering design for the retaining wall. The requirement is that this be provided prior to endorsement of the plan. The Board agreed that the structural engineering design is done when a contract is entered into. This cannot be done until they have their construction financing in place. The financing cannot be in place until they have their closing which requires the plan to be endorsed and recorded. They have no problem providing the drawings prior to construction instead of prior to endorsement.

Prentiss felt they had this condition because of that conversation with Cameron.

Fields said that they had a lengthy conversation with the Engineering Division and the applicant's engineer. The question is when do they get it and what is enforceable. It is a requirement of the regulations given that the wall is holding up the entirety of the right-of-way for close to 400 feet. They also have no idea of whether it is going to work based on where the road is going to be, namely in a wetland. Fields said that he understands what McCann is saying. It seems that the holdup is the supplier of the block, which is the applicant's choice.



McCann said that they would take a condition that they would not start any construction until this is submitted. That would give you the protection that you were looking for.

Prentiss thought this was okay with the applicant when it was discussed with them.

Henry said that the fear of waiting till construction was that if there was a modification to the wall due to soil conditions and location are adverse to approve the plan, what happens then? We want to know that if changes have to happen and changes to the design, we want to see that before they attempt to build it. We were told they needed approval to get a structural stamp from the supplier.

Prentiss asked if they changed the condition to be by staff approval at the time of building, is that sufficient?

Fields said that if the applicant does not want to pay for a structural engineer at this point, it is not a reason to condition a decision for it.

McCann felt they were close. Rather than saying prior to endorsement they can say prior to any construction.

Zilinsky confirmed that by that time the analysis of the soils would be done, and they would know where the roadway was going.

McCann said that this was for the stamped structural design plans. This was not for soil testing.

Fields said that soil testing would be required for this since it is specifically written into the decision. The reason for this is because they need more than just the stamped structural engineering plan which is how the blocks are going to be set up. Given that the wall is in a wetland, they do not know what these blocks are going to be sitting on. This is holding up the entire road.

McCann said that they are not disputing the request for this plan. They are just trying to come to an agreement for when it should be provided. She requests that it be prior to commencement of any construction to include land clearing.

Fields said that they could see prior to the commencement of construction pending Town staff approval. If the wall cannot be designed as planned, the subdivision will need to be modified.

The Board said that they were comfortable with this.

McCann said that she wanted clarification for Item No. 6 of the waivers that states that the Town's parcel (321R Maple Street) be staked and inspected by the Planning Division. She was fine with that. She questioned where it stated that it be fully encompassed with fencing.

Fields said that this had been discussed with Colantoni and Cameron. They were not talking about a chain-link fence. They are looking for orange snow fencing along the Town-owned property.

McCann just wanted confirmation that it was construction fencing. McCann confirmed where the fencing should be on the plan.

McCann said that on Page 5, Prior to Issuance of Building Permits, Item No. 1, she stated that they would like to take out the requirement for telephone and cable television because those are optional. They are not municipal services.

Fields did not have an issue. He pointed out that that was the condition put on the Whipple Hill subdivision.

McCann said that on Page 6, No. 2, Prior to Issuance of Occupancy Permit, she asked if this should be approved by the Engineering Division.

Fields said that they were asking the Engineering to do the approval for the Planning Division.

**MOTION:** Zilinsky moved to close the public hearing for the Definitive Subdivision for Beaver Brook Woods. Farmer seconded the motion. The motion passed by unanimous vote.

**MOTION:** Smith read the Certificate of Action and moved to approve the application for the Definitive Subdivision for Beaver Brook Woods. Zilinsky seconded the motion. The motion passed by unanimous vote.

## **OTHER MATTERS**

Request for Planning Board endorsement of street layout plans for the following: **Ardmore Drive, Arthur Street, Bayview Avenue, Central Avenue and Laurel Street.**

Fields told the Board that this was to allow the Town to get Chapter 90 funds for these roads since the Town maintains them. A lot of these streets have not been accepted by the Town, but we have been treating them like public ways.

**MOTION:** Farmer moved to endorse the street layout plans for Ardmore Drive, Arthur Street, Bayview Avenue, Central Avenue and Laurel Street. Zilinsky seconded the motion. The motion passed by unanimous vote.



## **MINUTES**

June 25, 2019, July 9, 2019, July 23, 2019 and August 27, 2019.

**MOTION:** Zilinsky moved to approve the minutes of June 25, 2019, July 9, 2019, July 23, 2019 and August 27, 2019. Smith seconded the motion. The motion passed by unanimous vote.

## **ADJOURNMENT**

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

The meeting adjourned at 8:13 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on September 24, 2019.