



Town of Danvers Planning Board

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

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Planning Board Members:

John Farmer, Chair
James Sears
Margaret Zilinsky
Louis George
Torey Adler
Nathaniel Sears, Associate

Location: Conducted by Remote Participation August 11, 2020 7:00 p.m. MINUTES

John Farmer called the meeting to order at 7:00 p.m.

Board members present by roll call: John Farmer; James Sears; Margaret Zilinsky; Louis George; and Torey Adler.

Staff present: Aaron Henry; David Fields; and Joshua Morris.

John Farmer read an opening statement pertaining to the Executive Order suspending certain provisions of the Open Meeting Law, G.L. c. 30A, sec. 20 by Governor Charles Baker signed on March 12, 2020 on Remote Participation and Remote Conduct for Open Meetings.

13 Essex Street request for site plan approval:

The Planning Board voted unanimously via roll call on a motion from Peg Zilinsky and seconded by James Sears to continue this matter without discussion to the meeting of August 25th, 2020.

26 Hobart Street request for a major modification to a previously approved site plan:

Daryl Parker was represented by Hancock Engineering. James Polackewicz presented the modification to the plan which consisted of the addition of an electrical transformer mounted on a pad. This pad is located where there is also stormwater treatments and the dumpster pad needed to be moved.

Louis George inquired as to the type and location of the proposed grease trap. Rob Kuhn, architect, explained that the proposed traps were located within the structure and have a quarterly maintenance schedule associated with them.

Closing the public hearing was approved unanimously via roll call vote on a motion made by Peg Zilinsky, seconded by Louis George.

The modification was approved as presented via roll call vote on a motion made by James Sears and seconded by Peg Zilinsky. The vote was unanimous.

28 Harbor Street request for special permits with site plan approval:

The Planning Board Chair requested the applicant summarize what public outreach has occurred between meetings as this public hearing was continued from July 14th. Nancy McCann, representing the applicant, explained that the applicant met with abutters on July 31st and agreed to minimize sound from the existing forklift, which was a concern of abutters, and investigate a dedicated trucking route for employees, lessees, and vendors.

Mr. Peter Swift of 27 Harbor Street spoke on section 30.3 of the Zoning Bylaw for the Town of Danvers and the satisfaction of the special permit criteria therein. Mr. Swift noted that he thinks there are two conditions that were not met with regard to special permit criteria. One being devalued property and the other being undue burden on traffic and congestion.

Mr. David Kennison of 23 Harbor Street noted there was an eighteen-wheeler loading in the street in front of 28 Harbor Street. He previously supplied pictures to the board. Mr. Kennison also noted that the forklift is operated all hours, on the weekend, and on Sundays. He stated he was frustrated with the non-compliance of the operations currently on site.

Nancy McCann stated that the application showed that the criteria for each special permit were met. This was discussed earlier in this process. She noted that the property is in Industrial I zoning and the site operates as an industrial property. The existing curb-cut was not constructed by the applicant, however, they are attempting to address this overly large curb-cut through this process. The proposed landscape buffer will attenuate some sound and mitigate visual impact. McCann noted that the height limit in I-1 is 55 feet tall, while the proposal is for a 28 foot tall building.

Ms. Samantha Johanson, of 2 Kent Street, stated that she had previously sent a letter detailing her concerns on noise, lighting, traffic, and property valuation. She stated that the valuation of homes will go down based on the proposed use. She stated that the heavy equipment used and proposed operates all hours and is loud and causes significant vibrations along the street.

Peter Swift stated that property valuation is not totally speculative as Nancy McCann stated and asked for an independent property assessment with a future cast valuation showing approval of this project. There was also a petition sent in by him with 80 signatures stating that the proposed use will have negative impacts on the neighborhood.

Mr. Sears questioned the availability of data available requesting property evaluations. Mr. Sears noted recent developments approved in industrial areas that exist in harmony with abutting residential properties. He noted that there may be remedy for nuisance complaints through the police or building divisions if noise becomes an issue or work occurs outside of normal operating hours. Mr. Sears asked about the opacity of the fence enclosing the proposed contractor's yard. The fence will be a wooden stockade; Mr. Sears asked for a fence higher than six feet.

Ms. Zilinsky noted she liked the proposed landscaping, particularly compared to existing conditions. Zilinsky also noted that the I-1 use could be more detrimental than proposed. She



was not happy with loading of 18 wheelers, particularly in Harbor Street. She questioned how an 18 wheeler would make the turn in to the parking area. Ms. Zilinsky is concerned with future compliance given the past violations by the same operator.

Nancy McCann stated there are no current violations or fines outstanding. The applicant's engineer showed the board an AutoTURN schematic for a S40 box truck entering the site. McCann stated the applicant would take a condition that unloading in the street is not permitted.

Mr. Adler stated that there are photographs of 18 wheelers unloading in the street. He noted he has read all of the correspondence transmitted to the board and noted the concern about noise, materials storage, and congestion impact. He noted that the noise attenuation shown on plan was not robust enough to protect against nuisance noise. Adler noted he doesn't think the proposed use is appropriate for the location and looked for more attenuation for noise and vibrations from trucking.

Louis George noted the interplay between the industrial zone and the existing residential zone, but had particular concerns with a contractor's yard operating on the site. Mr. George noted the multiple complaints and violations on site in the past and asked about the previous violation letters sent to the applicant from the building inspector. George stated that he was concerned with the proposal adversely affecting the neighborhood with respect to noise, complaints, and other issues brought up previously.

McCann noted that the building inspector will enforce the conditions placed on a property by the Planning Board when there is a violation. Neighbors may think there is a violation when there is not given that I-1 uses are broad and not time limited. Proposed conditions will have an impact on the project and the site going forward.

George asked about the 24/7 nature of the I-1 zone and is the noise and disruption unfettered? Staff responded that the zoning bylaw does not limit hours of operation, however, nuisances cannot be created, e.g., heavy construction out of doors all hours of the night.

George inquired about proposed lot coverage and buildability of the site and how close to the riverfront the proposal is.

McCann responded that the zoning bylaw limit for the I-1 zone is 50%. There is riverfront land onsite subject to review by the Conservation Commission.

A motion to close the public hearing was made by James Sears, seconded by Peg Zilinsky. The motion carried unanimously via roll call vote.

A discussion on special permit criteria within the zoning bylaw occurred with respect to the applicant meeting the criteria as shown on their application.



The Chair asked that each member discuss their thoughts on the criteria and its application to the proposal.

Member Zilinsky went through the individual criteria and noted the subjectivity of the criteria and the impact of noise from an industrial zone. The area is zoned industrial and the proposal seems to meet the criteria for the zone in which is resides.

Member Adler stated that the by-right uses in the I-1 zone typically occurs indoors (e.g., a machine shop), while the trucking, trade shop, and contractor's yard operate out of doors. Adler noted that there are other industrial uses that may be more in harmony with the neighborhood and that the special permit criteria have not been met.

Member George stated he had concerns with the status quo on site as the operation of a contractor's yard without a special permit. The criteria of the valuation and depreciation of the neighborhood and the adverse effect on the neighborhood have not been met. However, another use occurring by-right may be more objectionable, however, there are uses that would be less objectionable; we need to look at the proposal before us.

The Chair noted he felt the same way as member George. Criteria four and five have not been met by the applicant.

McCann requested that the special permits for trade shop and contractor's yard be withdrawn. The Board granted that courtesy to the applicant.

Member Sears did not have further comment on the site plan. The plan is not asking for waivers and the site can accommodate the building.

Member Adler questioned how the plan would go forward without the special permit for a contractor's yard.

McCann stated that the building could be used for industrial warehousing or other indoor uses.

Member George had a similar question to member Adler and asked if the plan or proposal needed to be refreshed is the special permits were no longer being applied for.

McCann stated that the applicant can still use the building as proposed for an industrial use on site.

The Chair supports the site plan and that the applicant has the right to use the property for uses allowed by the bylaw.

Member Sears asked if the conditions on hours of operation were being voted on for the site plan. The applicant responded to Sears stating that the existing operational hours would most likely continue.

Mr. Morris asked about the other changes to the plan that occurred through discussion by the Board, such as arbor vitae being in place as opposed to ornamental grasses. The applicant responded that they were willing to do that.

Member Sears moved to approve the site plan with Member Zilinsky seconding. The motion carried three to two with members Adler and George opposing.

The application for site plan was approved with the condition that the contractor's yard shown on the plan be removed.

13 Essex Street request for special permit with site plan approval:

Larry Graham, engineer, walked the Board through changes to the site plan based on feedback from the Board and town staff. One parking space has been removed from the plan allowing for more greenspace while maintaining the parking requirements of the zoning bylaw. Drainage and grading was upgraded based on feedback from staff.

Bill Nolan, architect, discussed reduction of ridge height to the roof, recent outreach to direct abutters, and architectural details updated to reflect the character of the neighborhood. Other updates to the roof include the look of shed dormers in order to lower the height of the ridge opposed to a traditional "A" frame roof. Nolan reiterated some of the neighborhood benefits from the project that are required under this section of the zoning bylaw.

Staff went through the objectives of the density bonus for the character based zoning districts that are available via special permit as well as eligible improvements available to be made by an applicant.

Nancy Tsoutsouris, of 12 Putnam Street, spoke about the single family nature of the existing neighborhood and how the proposal is out of character for the neighborhood.

Melissa and John Kelleher, of 14 Putnam Street, spoke about the existing green space in the backyards of properties along Putnam Street. They do not believe the proposal is in keeping with the character of the neighborhood.

Steven Walsh, of 10 Putnam Street, spoke about the loss of green space, the lack of appropriate stormwater treatment, adequacy of air and light, and density of the proposal. Mr. Walsh is concerned with the increase in impervious surface. He and his wife do not believe the proposal is in keeping with the character of the neighborhood.



The Planning Board Chair noted that additional correspondence was received from abutters and that all Board members have had a chance to review the material.

Member Adler noted that he liked the plans provided, but after a site visit shares the same concerns with property abutters, specifically related to massing and bulk of the structure. He has additional concerns with flood risk from the proposal due to existing and proposed elevations.

The Chair asked two other senior members of the Board whether the proposal matched the spirit of the newly approved zoning code.

Member Sears noted that he was surprised with the density shown on the plans. While the abutting, pervious, C1 zone does have greater density on certain sites those were granted by variances and were previous commercial uses. Sears does not necessarily agree that the request meets the criteria of the zoning bylaw. Sears noted that stormwater is required to be mitigated and as such does not necessarily have concerns about flooding.

Member Zilinsky noted she agreed with member Sears. While she is a proponent of a more walkable downtown this project is at the edge of the Live/Work zone and perhaps density should be stepped-back based on distance from Maple Street. The project is not in keeping with the character of the neighborhood. Zilinsky shared the same thought regarding stormwater as member Sears. Zilinsky thought there could be more done to benefit the public realm.

Member George noted that he will echo members Zilinsky and Sears. He has concerns over the general massing of the building. While he appreciates the revisions to the plans the building is still too large, dense, and massive for the character of the neighborhood. He also has concerns over the increase in impervious surface being proposed.

The Chairmen shared the same concerns as the other board members. Even with the proposed improvements he did not feel that the criteria have been met for the grant of a special permit related to additional density.

Steven Walsh noted two other projects within the downtown and how they were less dense than the applicant's proposal.

The applicant requested that the project be continue to the August 25th, 2020 meeting of the Planning Board in order to revise the plans based on the Board's feedback.

On a motion made by James Sears and seconded by Peg Zilinsky the motion was unanimously approved via roll call vote.

188 Elliott Street request for a major modification to a previously approved site plan:



The Planning Board voted unanimously via roll call on a motion from Louis George and seconded by Torey Adler to continue this matter without discussion to the meeting of August 25th, 2020.

OTHER BUSINESS

The Board members received an invitation to the Land Use Summit on August 20th, 2020. Staff noted that it would be good to RSVP, if possible, in order to accommodate the setup.

The Chair also noted that the Board received a copy of a letter sent to Matthew Duggan regarding an open meeting law complaint.

ADJOURNMENT

James Sears moved to adjourn. Peg Zilinsky seconded the motion. The motion was unanimously approved via roll call vote.

The meeting adjourned at 10:01 p.m.