

BOSTON PLANNING BOARD

April 26, 2016

PRESENT: David Stringfellow Chairman
Dr. Paul Ziarnowski Vice Chairman
Jennifer Lucachik Secretary
David Bowen
James Liegl
Mary Ann Rood

ABSENT: Mitch Martin
Elizabeth Schutt
Jay Boardway Town Board Liaison

ALSO PRESENT: Michael Kobiolka Town Attorney
Sarah desJardins Planning Consultant
Thelma Faulring Secretary to the Boards and committees
Michael Metzger Engineer – Boston State Road Mixed Use Project
Sean Hopkins Boston State Road Mixed Use Project
Bill Solak Boston State Road Mixed Use & Brown Hill Road Duplex projects

Residents in the vicinity of the Boston State Road Mixed use Project
Caren Wesp
Bill Sodja Meadow Drive
Judy Sodja Meadow Drive
Diana Weiss
Arlene Weiss Meadow Drive
Vince Weiss Meadow Drive
Vince Pugh

Chairman Stringfellow called the meeting to order at 7:30 PM.

MINUTES

Mr. Stringfellow asked if there were any additions or corrections to the draft minutes of April 12, 2016. Being none, Dr. Ziarnowski made a motion to approve the minutes, seconded by Mrs. Lucachik and carried

GENERAL CORRESPONDENCE

- There was no general correspondence to report

BOSTON STATE ROAD MIXED USE DEVELOPMENT

Secretary Faulring reported the at point correspondence:

- Planning Board letter dated April 14, 2016 to Code Enforcement Officer Ferguson asking for his interpretation of C-2 Zoning district relative to multi-family dwellings; and ask that he be in attendance at the April 26, 2016 meeting
 - o Mailed to members
- Code Enforcement Ferguson’s response dated April 21, 2016
 - o Mailed to members
- Planning Consultant desJardins e-mail dated April 24, 2016
 - o In members folders this evening

For the remainder of this discussion
Name of Planning Board member or associate

- Planning Board member or associate comments/concerns
 - o Mr. Metzger or Mr. Hopkins comment/response

Mr. Stringfellow

- We do have an answer that is the way the Code Enforcement Officer is interpreting the Code that apartment buildings are allowed in a C-2 District
- As we talked last time we can contest that if we want too
- As far as I can see if this is what they are submitting this is what we should act on and if it turns out that they can’t put apartments in a C-2 then back to square 1

- That being the case I recommend that we essentially notify the Town that they should start a coordinated SEQR action as this looks like it will be a Type I action under SEQR

Mr. Bowen: We asked for Mr. Ferguson to be here and he's not here and we have questions that we want to ask of him

Mr. Stringfellow: Yes, we do. I think Mr. Bowen that you will have to go into Mr. Ferguson's office during office hours; we have invited him before and he doesn't come. We are not a police agency we cannot force him to come.

Mr. Bowen: This is the first time that I'm aware that we asked him to come. He said he had another commitment and that was the reason why he wasn't coming so I think we should arrange a meeting when he can come, when he doesn't have another commitment.

Mr. Stringfellow:

- I think we should go ahead and get the SEQR process started
- We can't take any action until the SEQR is completed
- I think Mr. Ferguson will agree that this is not permitted in a C-1 Zone
 - And the applicant agrees with that as well; that the current zoning wouldn't allow it

Dr. Ziarnowski:

- If an applicant came in and wanted to put a garbage dump in the middle of Town; it's not zoned for it but we're going to work on that part
- We think that it's the most ludicrous project ever that is just horrible for the Town
- Do we still say 'go for it, see what you can do'
- Is that what we're doing here?

Mr. Stringfellow:

- Generally they come in with conceptual and we look at it and say 'we don't think it's good for the Town
- Now this project has come before us and we have said we do not think this is good for the Town and they have said they want to push it anyhow
- So I say hand it to the Town

Dr. Ziarnowski:

- Why do we even rule on that
- I don't want to vote on this to say go forward on it
- So if it comes to a vote for that, were not going to be Lead Agency

Mr. Stringfellow:

- The Town Board is always Lead Agency, other than in a subdivision

Dr. Ziarnowski:

- What are we voting on then?

Mr. Stringfellow:

- Just a recommendation that the Town Board start the SEQR process
- We cannot issue a recommendation to the Town on the project until the SEQR is completed

Dr. Ziarnowski:

- Can we say we don't even want to tell the Town Board to go for SEQR, is that a possibility?

Mrs. Lucachik:

- Based on our conceptual review does it conform with our Comprehensive Plan
- Does it fit in with what the current Planning Board members should agree that should be put there
- If we say as a general majority vote no we do not believe it would fit
- My suggestion would be to suggest that to the Town Board, however if they decide to continue then they would have to be Lead Agency and proceed with the SEQR
- Just so it's out on the table, they know what we're looking at

Mr. Stringfellow:

- It's my understanding that we should not issue any recommendation positive or negative to the Town Board until the SEQR process has been completed and all that information about what the impacts will be and so on is available to us
- Then we make a recommendation to the Town Board as to whether they should approve or not approve

Mr. Bowen:

- This Board made motion on March 24, 2014: 'I will make a motion that the Planning Board send a recommendation to the Town Board not to approve the rezoning request for the reasons that are stated...'
- The reasons have been changed

Mrs. desJardins:

- Was SEQR done on the last time around?

Mr. Stringfellow:

- No
- That project was different
- Now they have apartments in a different place; a lot of commercial projects and commercial space that was not in there before
- The Town Board never took action on that
- At our last meeting we started again from zero on the project that they are now proposing

Mr. Bowen:

- But there are no changes in the fundamental reasons that we didn't make a recommendation
- There's the access off 391 hasn't changed

Mr. Stringfellow:

- But they are proposing a different project, not much different
- There are more apartments, it's a bigger piece of property than they were rezoning before
- It's different enough that we have to consider it again

Mrs. desJardins:

- And they did withdraw the previous request, so you do have to start over
- It doesn't mean that you like it

Mr. Bowen:

- We still have questions that we would like to ask Mr. Ferguson and we'd like to pose those questions in the setting of the Planning Board

Dr. Ziarnowski:

- Does that add to the fact that C-2 doesn't come into play until after SEQR

Mr. Stringfellow:

- Our question on his interpretation of the Code I think is separate from this project

Dr. Ziarnowski:

- Mr. Hopkins maybe you can answer this why are you coming back and going through the process until you can bring a project that maybe there is some consensus on that maybe good for the community and not just good for the developer

Mr. Hopkins: I guess my answer to that would be

- I wasn't involved in the 2014 project so I can't speak to that
- we're not saying that the concept plan that we have in front of the Planning Board is ultimately what may be the final product
- ultimately that's the entire purpose of SEQR, let's see what all the agencies think and then we'll take that and put it into consideration
- we also recognize the fact that we have residents here, we will meet with those residents during the process and then we'll see ultimately how plan would evolve
- With all that being said you still may not like it, we're asking for a fair review

Mrs. desJardins:

- I don't think that the Planning Board has to recommend that the Town Board start the SEQR process, they could start it themselves
- Typically, almost always you'll recommend
- I think the Town Board could start the SEQR process on their own
- The SEQR review may not send back a favorable review

Discussion followed regarding the SEQR process.

Mrs. Lucachik: I would make a motion that we move forward and recommend to the Town Board and ask for the SEQR process to start.

Mrs. Rood: I'll second that.

Mr. Stringfellow: Any discussion? Being no further discussion I will take a roll call vote:

Mrs. Lucachik	Yes	Mr. Bowen	No
Mrs. Rood	Yes	Dr. Ziarnowski	No
Mr. Liegl	No	Mr. Stringfellow	Yes

Mr. Stringfellow: That's 3 for the motion and 3 against the motion to recommend starting the SEQR process, the motion did not pass

Mr. Stringfellow: I will introduce a motion that we communicate to the Town Board that a motion to recommend to the Town Board to start the SEQR process did not pass, therefore no recommendation is being sent to the Town Board.

Dr. Ziarnowski: Second.

Mr. Stringfellow: Is there any discussion on the motion? Being none, all in favor?

All were in favor of the motion.

BROWN HILL ROAD DUPLEX

Mr. Stringfellow: This has been to us before and it essentially boiled down to ‘has it been subdivided enough times that it must have subdivision approval. I would like to thank Sarah for doing the research on that and has answered the question. Since her answer clearly indicates that it does not require to go through the subdivision process we are at a point where can continue with the site plan that has been submitted, along with the submittal of elevations .

Dr. Ziarnowski: Just so that he understands that if we vote on this any other subdivision has to go through subdivision process. That should be recorded in the minutes

Mr. Stringfellow: I think that this is complete enough for a duplex to go ahead and make a recommendation to the Town Board.

Dr. Ziarnowski: I make a motion based on Sarah’s information that we consider this as the last piece of property with this plot before subdivision application is required and send a favorable recommendation to the Town Board that they approve the site submitted for the duplex on Brown Hill Road.

Mrs. Rood: I second

All were in favor of the motion.

PLANNING CONSULTANT

Mrs. desJardins: I have nothing else for a report other than what research was done on the subdivision of land question.

TOWN ATTORNEY KOBIOŁKA

Mr. Kobiolka was not in attendance this evening.

Dr. Ziarnowski: Can we discuss the dates that we want to use. As Sarah wrote the Towns of Hamburg and Orchard Park have selected dates for going back on a subdivision of land application, but isn’t part of the written Code it’s a policy used by them. It would be much easier for us to make our policy, based on when that Code was in effect rather than to petition the Town Board to make a change in the zoning code. Can we do that and just make it a matter of our policy that that is where we go?

Mrs. desJardins: I don’t know the legal ramifications, how you make something a policy.

Mr. Hopkins: It should be in the subdivision regulations; you should amend the subdivision regulations to reference that date.

Mr. Stringfellow: I talked with Mr. Kobiolka tonight and he said that his feeling was that it should be in the Code, so I would sort of recommend that you modify your motion to the extent to say this is what we will do unless the Town Board does something to the Code.

Mrs. Lucachik: I make a motion that we advise the Town Board that the Planning Board will be using the date of October 5, 1988 as their policy in future discussions for the subdivision of land process, until such time that the Town Board amends the Code.

Dr. Ziarnowski: I second.

Mr. Stringfellow: Any discussion. Being none, all in favor say aye.

All were in favor of the motion

LIAISON – COUNCILMAN BOARDWAY

Mr. Boardway was not in attendance this evening.

NON-AGENDA ITEMS

Welcome to the Town Boston letter

Mrs. desJardins: Is this something that you were going to incorporate into the Town Code?

Mr. Stringfellow: No not at all. The intent when it was first done...when the three guys who are the majority of the Town Board today first were elected and became the majority they wanted something that would make it quicker and easier for people to understand what they needed to do to get through site plan review process; and that’s where the idea of the came from ; it was to be something brief, quick, to just go through and do it. But it can’t be to brief and quick or something that

should be in there does not get in there. For that reason I was not really in favor of it but I was the person from the Planning Board who was on the committee that worked on this several years ago. Changes that we have put in recently was to advise applicants that Sarah is now with us and how the process will flow.

Discussion followed and included:

- regarding the 'chain of command' when a new application requiring site plan approval is submitted to the Code Enforcement Officer for commercial development or construction of multi-dwelling units; or submitted to the Town Board for a rezoning request
- This reference is to be used as a guideline, not to replace Code
- Town of Hamburg C-2 provisions
- Town Code is difficult to understand and outdated

Mrs. desJardins said that she would compare what has already been written, over the years, to what is actually in the Code Board

ADJOURNMENT BY MOTION

Mr. Stringfellow: Is there any further discussion for this evening? Being none is there a motion to adjourn?

Mrs. Lucachik: I make a motion to adjourn.

Mr. Bowen: I second.

All were in favor of the motion.

Respectfully submitted,

Thelma Faulring
Secretary to the Boards and Committees