



Town of Boylston Planning Board planning@boylston-ma.gov

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MEETING MINUTES Monday, December 5, 2016

CHAIRMAN: Richard Baker
MEMBERS PRESENT: Kim Ames, Laurie Levy, William Manter, Judith White
ASSOCIATE MEMBER: Ralph Viscomi
TOWN COUNSEL: Brian Falk
RECORDER: Nina Gardner

Mr. Baker called the meeting to order at 7:00 p.m.

Ms. Levy motioned to approve the Meeting Minutes of November 7, 2016. Ms. White seconded; all voted in favor.

Ms. Levy motioned to approve the meeting minutes of November 16, 2016 as amended. Mr. Manter seconded; all voted in favor.

ANR-Compass Pointe-Jim Haynes presented an ANR Plan of Lot 2 on Compass Circle. He purchased land today from James Fanale which gives him a buildable lot as shown on the plan. Mr. Viscomi reviewed the history of the lot for the Board. Ms. Levy motioned to approve the "Plan of Land on Compass Circle in Boylston, Massachusetts" and to authorize the Clerk to sign. Mr. Manter seconded; all voted in favor. Ms. Ames abstained.

Mr. Haynes requested that the Board release Lot 9A and 9B on the corner of Cheryl's Way. The current surety does not cover that portion of the road. The completed construction could provide a reduction of \$34,280 from phase 1 surety. Instead of requesting a bond reduction, Mr. Haynes would prefer the release of Lots 9A and B. Mr. Baker suggested reallocating the credit to extend the roadway to reach Lots 61, 50, 59 and 16B. Mr. Haynes would like to build a model duplex on Lot 9A.

The board discussed progress so far and possibilities for reallocating the funds. Mr. Manter suggested placing a lien on the lot. Substitute Town Counsel, Brian Falk was present, and he stated there is a risk not to request any additional funds. Mr. Haynes stated he would not ask for an occupancy permit. The Board discussed the Graves report and recommendations. Surety required for the remaining road is \$400,000. There is \$73,000 in excess for the Phase 2 bond funds. After much discussion, Mr. Manter motioned to release Lot 9A upon receipt of an affidavit stating that Mr. Haynes will not request occupancy on the duplex until a bond is in place or the road is complete. Ms. Levy seconded the motion. Further discussion centered on risk to the Town and the trust placed in Mr. Haynes to keep his word. The Town is holding 93,000. The Board voted all in favor, none opposed, in favor of the motion.

Public Hearing Continued-Scannell Properties-Mr. Baker opened the continued public hearing. He provided a brief summary of the process so far. Attorney Donohue stated that remaining issues were largely technical and that the latest comments by Graves Engineering will be addressed. He introduced Patrick Healy of Thompson Liston to answer questions from the Board. Mr. Healy stated that 60 of 65 comments from Graves had been acknowledged. He then addressed the remaining items:

#28-Concom will approve as a condition of the Stormwater Permit.

#29 – Also falls under Stormwater.

#62 – Provided copies of stormwater calculations to Graves (refer to letter dated 12/1).

#64 – an oversight 1” = 40’, now scaled correctly

C-2 Subdivision Plan Sheet – discrepancy between labels on the Plan and table vs. Mr. Healy’s calculations. Corrections were made. Also referring to comment #65, added a low outlet at bottom with small opening to drain over 50-60 hours. Calculations were completed this afternoon. Mr. Healy stated that this is the only outstanding item at this point. He will resubmit to Graves and the Town. They must still submit to the ConCom for the Stormwater Permit. He requested the Board accept the revised set of plans.

At the last meeting, acoustical barriers were discussed. They are now proposed on the far west side. The barriers are placed 10 to 13 feet high. The nearest residential is on Smallwood Circle. The crosswalk at the entrance was moved further away from the gate. Mr. Baker referred to the Graves report and asked about Comment #15 regarding height of the building. Mr. Healy stated height is measured to the parapet wall and not the roof. He will consult with the Building Inspector to confirm. The Board questioned if approval of the Special Permit and Site Plan should be conditional upon the Stormwater Permit. Mr. Healy said the Board can give conditional approval and any changes made pursuant to the Stormwater permit will be resubmitted to Planning Board.

Attorney Donohue informed the Board that Secured Financial, an abutter to the South, has expressed concern about the project's impact upon their ability to access Shrewsbury Street. There is a conceptual agreement in principal at this time between Scannell and Secured Financial. Scannell has granted access via an easement and also a construction easement to widen the road if needed in the future. Also, they are hoping to obtain an agreement in concept with the seller of the property. Further to the north, there are some environmental issues and they will be addressed by ConCom. Attorney Donohue stated they are working with the neighbor to have a unified access and he wanted the Board to be aware of the situation.

Mr. Baker opened the meeting to questions from attendees. Attorney Bobrowski, representing Bovenzi, Inc. addressed the Board. He stated they came late to the proceedings but were at the first hearing and expressed interest in the project and were not opposed to it. He informed the Board that there have been a number of meetings between Bovenzi, Inc. and Scannell Properties,

all with an idea to get a single access to Shrewsbury Street. He introduced Bill Hannigan, Bovenzi, Inc.'s design engineer to show their concept plan for a single access road.

Heather Monticup of GPI reviewed the traffic study done by VHB dated September 12, 2016 and incorporated that information in her plan for Secured Financial. She stated VHB proposed two lanes and used a 2% truck traffic percentage in and out of facility. She stated it should be 25% to 43% during peak periods. Using their analysis, and allowing for total square footage for office space, restaurants, hotel etc., they have added a longer left turn lane and widened the road. Attorney Bobrowski referred to Town Zoning Bylaws Section 10.04.04 Route 140 Development and Section 10.03.09 quoting access to shared driveways and access and curb cuts. He also referred to the section on Site Plan Approval which addresses vehicular and pedestrian safety. He stated they are only proposing what is consistent with the bylaws.

Attorney Bobrowski acknowledged that Scannell is ready to go, and the Bovenzi team only learned about this a month or two ago, and the timing is awkward. He feels the Fed Ex project will seriously impact the future development of the Bovenzi property. He requested that the Board delay making a decision and allow his client an opportunity to produce a Plan. They have a conceptual plan for the property, which is approximate 200 acres with the potential for a million square feet of development, but they require additional time to submit a Preliminary Plan as required. If the Board would wait until January, they feel they could complete their Plan. Attorney Bobrowski stated that Attorney Donohue represented there is an agreement in principal, but if so, it is only conceptual. There is nothing on paper. They need more time and need the Board's cooperation so they can take part in the development of the Route 140 corridor.

Peter Bovenzi, Secured Financial, addressed the Board and stated he is not opposed to the project and hopes the parties can work out an agreement to have shared access to one set of lights on Route 140. He owns 300 feet of frontage and there can only be one set of lights; therefore, they need the shared driveway. He appreciates the offer from Scannell for an easement being granted, and he hopes the Planning Board can be part of the process. He explained they need more time to develop a plan to submit to the Board. He referred to the preliminary design for his property to have shared access and stated it gives the Dipilato property access for their property at no cost. Due to the size of their property and Dipilato's property, they knew they would both require a traffic signal. He stated they also feel an obligation to look at traffic at both Colonial Drive and at Rt. 70 as well. Initially, they were a distant abutter, but now the plan is touching his property, and he would like Scannell to work with him. Mr. Bovenzi stated, for the record, they feel it should be a joint access, and they are working together with Scannell.

Attorney Bobrowski reiterated they would like more time and requested a one-month delay so they can submit a Preliminary Plan to be followed by a Definitive Plan showing a shared access road which give them certainty in the future. Ms. Levy asked what benefit it would be to Boylston since most of Secured Financial's land is in Shrewsbury. Peter Bovenzi stated development in Boylston could be as much as 100,000 square feet. Mr. Manter expressed that the Scannell plan works now and they are ready to proceed.

Ms. Levy requested comments from Selectman Mike May. Mr. May stated that there had been significant effort to contact all landowners in the last few years, and he would like the project to proceed. The Town has worked very hard to bring the development to route 140. Mr. Bovenzi has been part of the discussions. There has been no development brought forward for Mr. Bovenzi's land. Mr. May asked that the Board act on the Scannell application for the Fed Ex project. Much time and energy has gone into this project, and it is time to act on it. As other developers come forward with projects, the Town will work just as hard to work with them. Traffic studies have been done, and engineers from MassDOT told the Town this is not a MEPA project as is being implied this evening. Colonial Drive is a Shrewsbury problem. The Town of Shrewsbury has been to several meetings, and this project has been public for several months, and everyone was notified. The applicant should not be penalized for last-minute proposals by others.

Adam Keck, 9 Maryann Drive asked if the traffic is going to be 24/7. If so, how much at night. Vinode Kalikiri of VHB responded that all the truck traffic will be to and from Route 290. No left turns will be made onto Rt. 140 from the Fed Ex facility.

Attorney Bill Squires of Hinkley Allen representing Route 140 RW LLC stated he has been in contact with Attorney Donohue regarding on wetlands issues. They have been talking about using the proposed road and would support the plan that Mr. Bobrowski has introduced and do not object to the project.

Mr. McNamara, Town Administrator asked Mr. Bovenzi how long he has owned the property. Bovenzi stated 25 years. Mr. McNamara then asked if he had any idea when he planned on developing the land to which Bovenzi indicated that they would have shovel in ground within 24 months. They would submit a plan for the roadway right away.

Mr. Baker sought clarification from Mr. Bobrowski regarding the applications his client would be filing if there is an agreement. He explained they would submit a Preliminary Plan followed by a Definitive Plan showing the access road. If the Definitive Plan before us tonight is approved, it would have to be amended. That would require agreement between all parties since Secured Financial does not own all land over which the shared road passes.

Mr. May expressed his concern to the Board regarding future developers negatively impacting the applicant currently before the Board

Attorney Donohue informed the Board that Scannell has worked with Mr. Bovenzi and the Dipilatos. The property is under agreement for the Fed Ex project to begin in 2017. Fed Ex needs to start the project, as they have other options, and if they cannot stay on schedule, they will move on. They are willing to meet the Route 140 goals, but not at the expense of the present applicant. He requested the Board close the Public Hearing. They will continue discussions with Mr. Bovenzi when he has a concrete plan.

Mr. Baker discussed application process and posed the question as to the downside to the Town for making a decision this evening. Mr. Bobrowski stated it is a risk for his client.

Jill Marcotte, Scannell Properties, addressed the Board and stated that Scannell is not opposed to the Bovenzi plan in principle, but their time-frame requires construction start in February 2017, with opening by 2018. She stressed that Fed Ex has alternative options. Scannell is not opposed to shared access, and nothing conceptually would change. She feels the risk is minimal to the Town. They are not opposed to an access road. Nothing is changing on their Plan. She would appreciate the Board vote on what is before them this evening.

Attorney Donohue spoke again about the benefits to the Town of the Fed Ex Plan before the Board and asked them not to wait for an application from Secured Financial.

Mark Bodanza representing Secured Financial's environmental interests expressed his agreement with Attorney Bobrowski that they need more time and asked the Board not to make a decision tonight.

Board members all expressed reluctance to jeopardize the project before them. Mr. Bovenzi again asked the Board to delay their decision. Ms. White questioned why the Board was being put in this position at the last minute.

John Dipilato, the landowner, spoke on behalf of himself, his sister and brother. He stated they have met with Attorney Ricker regarding an agreement with Mr. Bovenzi trying to get everyone together, and the Dipilato's and Scannell have tried to negotiate an amenable agreement. They are not dragging their feet as stated by Mr. Bovenzi. Mr. Bovenzi is dragging his feet and objecting to everything.

Ms. Levy motioned to close the public hearing and Mr. Manter seconded. All voted in favor; none opposed.

The hearing was closed.

The Board deliberated on both applications and considered appropriate conditions. Draft decisions, one for Subdivision and the other for the Special Permit were reviewed by Town Counsel and provided to the Board previously. Attorney Brian Falk was present to represent the Town. He confirmed he had no significant changes to recommend. There are a few technical wording changes for the Special Permit decision, but none that would affect the Board's discussions. Mr. Baker mentioned information he received from the Town Administrator regarding maintenance of the road and traffic signal. Mr. Falk reminded the Board that the hearing was closed and warned against introducing additional information that might affect the deliberations. Bill Manter stated, until accepted by the Town, street maintenance is the responsibility of the applicant.

The Board reviewed the findings set forth in the draft decision. Mr. Manter motioned to accept the findings as enumerated in the draft decision. Ms. Levy seconded; all voted in favor. None opposed.

Mr. Baker reviewed the proposed conditions:

1. Vegetation clearing shall be done by an Asian Longhorned Beetle certified contractor.
2. Proposed landscaping shall be Asian Longhorned Beetle resistant.
3. A building permit from the Building Inspector is required for any signs on the property.
4. A NPDES Construction General Permit shall be applied for and a copy submitted to the Conservation Commission.
5. Light fixtures that are provided shall be down lit.
6. A pre-construction conference with the Building Department shall be held prior to any construction.
7. Retaining walls having a reveal in excess of four feet shall be designated by a structural engineer and the design plans shall be submitted to the Board for approval prior to construction. Immediately following construction, the retaining walls shall be inspected and certified by a structural engineer.
8. Upon completion of installation of the Traffic Improvements, Applicant shall grant or assign all ownership rights of the Applicant in and to said Traffic Improvements (excluding in all events the actual subdivision roadway) to the Town of Boylston.
9. After final plans are approved, an original set of plans on mylar shall be provided to the Building Department. In addition, scanned images of all plan sheets, and a CD-ROM with the AutoCAD files for the project shall be provided. Submittals shall be delivered to the Building Department at least one week prior to the pre-construction conference.
10. Construction operations shall be limited to Monday through Saturday between the hours of 7:00 AM and 7:00 PM. There shall be no work on Sundays or Holidays unless specifically authorized in advance by a Building Official. A sign approved by a Boylston Building Official shall be posted at each construction entrance.
9. Any work in a town road will require a road-opening permit from the Highway Department.
10. This Special Permit will lapse within two (2) years from the grant hereof if substantial use has not commenced, unless for good cause.

Mr. Manter motioned to approve the Special Permit with conditions as listed. Ms. White seconded. A roll call vote was taken:

Ms. White-yes
Ms. Levy-yes
Mr. Baker-yes
Mr. Manter-yes
Ms. Ames-yes

Motion Approved 5-0.

The Board then reviewed the draft Certificate of Approval of a Definitive Plan. Mr. Baker reminded members that the requested waivers had been approved at the previous session of the hearing. He stated that the proposed conditions are customary to the Board's subdivision approvals. He called attention to conditions 17 and 18. After short discussion, no revisions to the draft certificate were suggestions. Ms. Levy motioned to approve the Definitive Subdivision Plan; Mr. Manter seconded. A roll call vote was taken.

Ms. White-yes
Ms. Levy-yes
Mr. Baker-yes
Mr. Manter-yes
Ms. Ames-yes

Motion approved 5-0.

The final documents will be prepared in the next few days and filed with the Town Clerk.

Attorney Donohue thanked the Board for their consideration and holding the earlier special meeting.

Mr. Donahue presented the Board with a Release of Covenant document. A covenant had previously been recorded on the DiPilato land for a lapsed subdivision plan. The Board was asked by the landowners to sign the release. Mr. Baker reported to the Board that Town Counsel recommended that the covenant could be released provided there were no outstanding liens or mortgaged on the property. Mr. Donahue presented a letter representing the landowners confirming that. Ms. Levy motioned that the Board execute the Release of Covenant on the Dipilato property; Mr. Manter seconded. All voted in favor.

ANR Pine Street-Mike May and Jim Ricciardi presented an ANR plan for 3 lots on Pine Street. The Board reviewed the plan and found the lots have necessary access, frontage, and area. Ms. Levy motioned to approve the "Plan for the YMCA" dated December 5, 2016 and to authorize the Clerk to sign. Mr. Manter seconded; all voted in favor.

Mr. Manter motioned to adjourn the meeting at 9:21 p.m.
Ms. Ames seconded; all voted in favor.

Meeting Materials:

ANR Compass Pointe (on file in PB Office)
Draft Decision Special Permit Fed Ex (on file in PB Office)
Draft Decision Certificate of Approval Def. Subd. Plan (on file in PB Office)
Covenant Release Dipilato Property (on file in PB Office)
ANR Pine Street (on file in PB Office)
Thompson Liston letter dated 12/1/16 (on file in PB Office)
Thompson Liston letter date 12/5/16 (on file in PB Office)
Graves letter dated 12/5/16 (on file in PB Office)