

**MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE CITY OF WORCESTER**

December 4, 2019

LEVI LINCOLN CHAMBER

Planning Board Members Present: John Vigliotti, Chair
Albert LaValley, Vice-Chair
Paul DePalo, Clerk
Eleanor Gilmore
Edward Moynihan

Planning Board Members Absent:

Staff Present: Stephen Rolle, Division of Planning & Regulatory Services
Timothy Gilbert, Division of Planning & Regulatory Services
Jennifer Beaton, Law Department
Alexandra Kalkounis, Law Department
Nick Lyford, Department of Public Works

Requests for Continuances, Extensions, Postponements, and Withdrawals

1. 305 Belmont Street (PB-2019-073)

- a. Public Meeting – Definitive Site Plan Approval

Previous Testimony Date(s): 11/13/19

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to postpone the Definitive Site Plan application to the January 8, 2020 Planning Board meeting and to extend the Constructive Grant Deadline to January 30, 2020.

2. Malden Woods (aka 0 Whippoorwill Drive & 0 Danielle's Way, Whippoorwill Drive and Castine Street Right of Ways) (PB-2018-026)

- a. Public Hearing – Definitive Subdivision Plan Amendment
- b. Public Meeting – Definitive Site Plan

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to postpone the Definitive Site Plan Amendment application and the Definitive Site Plan application to the January 8, 2020 Planning Board meeting and to extend the Constructive Grant Deadline to January 30, 2020.

3. 57 Highland Street, 33 & 35 Wachusett Street (PB-2019-043)

- a. Public Hearing – Special Permit for CCOD

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to postpone the Definitive Site Plan application to the January 8, 2020 Planning Board meeting and to extend the Constructive Grant Deadline to January 30, 2020 Planning Board meeting.

4. 0 Orient Street (aka 60 St George Street & 0 Ridge Street) (PB-2019-058)

- a. Public Meeting – Definitive Site Plan Approval

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to postpone the Definitive Site Plan application to the January 8, 2020 Planning Board meeting and to extend the Constructive Grant Deadline to January 30, 2020 Planning Board meeting.

5. 185 Madison Street (PB-2019-079)

- a. Public Meeting – Definitive Site Plan Approval

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to postpone the Definitive Site Plan application to the January 8, 2020 Planning Board meeting and to extend the Constructive Grant Deadline to January 30, 2020.

6. 165 Southbridge Street (PB-2019-044)

- a. Public Meeting – Parking Plan Approval

Previous Testimony Date(s): 8/7/19

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Parking Plan application.

7. 732 West Boylston Street (PB-2019-068)

- a. Public Meeting – Parking Plan Approval *Testimony Date(s): 11/13/19*

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Parking plan application.

Approval of Minutes – Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to approve the minutes of 7/17/19; 8/7/19; 8/28/19; 9/18/19; 10/9/19; 10/23/19.

Old Business

8. 757 Salisbury Street (PB-2019-053)

- a. Public Hearing – Special Permit to allow a Continuing Care Retirement Community (CCRC)
- b. Public Meeting – Definitive Site Plan Approval

Previous Testimony Date(s): 10/2/19 & 11/13/19

The applicant seeks a Special Permit to allow a Continuing Care Retirement Community (CCRC) and Definitive Site Plan approval in order to construct a CCRC consisting of three multi-family, low-rise buildings with a total of +/- 123 dwelling units, an associated driveway network, and related site work on +/- 17 acres.

Attorney Mark Donahue appeared upon behalf of the applicant, HP Acquisitions, LLC.

Mr. Donahue stated that the item had been continued from the previous meeting so that the Board could be provided with clarification as to how the project met the intent and criteria of a CCRC. Mr. Donahue referred to a narrative dated November 21, 2020 and submitted to the Board in response. Mr. Donahue then provided a review of each section of Article X of the ordinance in relation to the proposed CCRC. In particular, Mr. Donahue discussed the proposed services and how they meet the intent and requirements of the ordinance. Mr. Donahue concluded by noting the need for additional housing within Worcester.

Mr. Rolle provided staff comments. Mr. Rolle noted that a number of waivers had been requested by the applicant, and that staff did not oppose the granting of the requested waivers.

Mr. Rolle discussed a prior discussion with Mr. Donahue regarding conditions of approval for the site plan regarding the prohibition of rock grinding, suggesting that the condition should be revised to limit the hours during which rock grinding can occur. Mr. Rolle also noted revised language proposed to ensure that a secondary means of emergency access to the site is provided.

Attorney Mark Borenstein stated his opposition to the proposal, stating that the proposal does not meet the intent and requirements of Article X of the ordinance, and that the proposal was more akin to a luxury apartment complex which would otherwise not be allowed in such a zoning district.

Board members provided comments on the application. Mr. DePalo noted that, while he knows the city needs additional housing, he did not believe the proposal met the intent of Article X.

Mr. LaValley stated that he believes the CCRC ordinance as a ‘trade with the city,’ noting that the ordinance allows for greater density and buildings in certain zoning district, in exchange for ‘low impact tax dollars.’ Further, he expressed that the proposed services resembles those at a luxury apartment, though the proposal

provides a greater selection of options for a CCRC. Mr. LaValley noted his support for the proposal for these reasons in addition to the density of the development.

Mr. Moynihan noted that the discussion regarding the intent of Article X when it was first adopted is not clear. Mr. Moynihan stated that he believes that continuing care services should provide services through later stages of life. Mr. Moynihan noted a number of other CCRCs and similar uses in the nearby area, and that the proposed CCRC would provide an additional option for senior housing, concluding that he is inclined to support the proposal.

Attorney Beatman stated that a 1987 zoning report regarding the introduction of the CCRC ordinance as part of the City's master plan clarified the purpose and intent of the ordinance. Attorney Beatman read an excerpt of the report, which stated that the article was written to allow for a special form of flexible development for housing and related services focused on retired and aging persons. She continued to read that the flexibility herein provided by the ordinance anticipates substantial changes in provision of shelter for older population over the foreseeable future, and that it identifies a type of comprehensive shelter and services, flexibility allows for SGA to accommodate changes over decades. She read that the report identified a CCRC as coordinated provision of dwellings, residential services, and associated social and medical services to individuals at least 55 years of age, and that many such services are identified in the possibility of other similar but presently unknown types of services as provided through a generic identification. Attorney Beatman noted that the report acknowledged services and residential services are critical for the type of population.

Mr. Vigliotti stated that, based on the excerpt of the 1987 zoning report read by Attorney Beatman, he believed that the proposal did not meet the intent of the ordinance. Mr. Vigliotti also stated that, due to the number of waivers being requested, the density of the development, and the land disturbance, he is leaning against the application.

Mr. Donahue stated that he believes the intent of Article X is being confused with interpretation, and that medical services are not required, regardless of whether or not they should be. He continued to say that the proposed CCRC met the requirements under which numerous other CCRCs had been approved, and that the Board has never before mandated that such a proposal provide medical services.

Ms. Gilmore stated that the proposal would likely be seen similarly to any other apartment if it were located in a zoning district where such a project were allowed by-right. She noted that the proposal is not in character with the neighborhood, though she is in favor of density. Ms. Gilmore also stated that while Article X does not require medical services, the changing composition of the Board and its position as the special permit granting authority allows it the opportunity to make different decisions. She continued to note that medical services are an important aspect of aging in place.

Mr. LaValley noted that, considering the difficulty in developing the site and the favorability of a number of Board members toward density, the proposal may be the last opportunity for the site with such density. Mr. LaValley concluded that he believes the benefits of the project do outweigh the costs.

Attorney Beatman stated that conditions of approval based on the letter from the applicant dated November 21, 2019 are available should the Board like to vote on the item. Mr. Rolle noted that the suggested conditions address the concerns regarding emergency access to the site and the services to be provided.

Mr. Donahue noted that the purpose of suggested condition 1 is to ensure that the CCRC is operated according to the presentation made at the meeting.

Mr. DePalo stated that he is not concerned with a lack of proposed medical services, but rather that the proposal does not differentiate itself as a CCRC. He continued to say that the decision of the Board regarding this proposal would likely impact future decisions regarding CCRCs.

Mr. Rolle stated that City staff is comfortable with the waivers being requested, and directed the Board to the special permit findings of fact.

Mr. Donahue stated that the disturbance to neighbors as the result of this project is likely to be much less than that of other potential developments. He also stated that abutters to the project, specifically those of Barrows Road and Salisbury Hill, have not been spoken in opposition to the project.

James White, abutter to the project, stated his opposition to the project and that the lack of speaking against the project at the meeting does not indicate support for the project.

Upon a motion by Mr. LaValley and seconded by Mr. DePalo, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. LaValley and seconded by Ms. Moynihan to approve the Special Permit to allow a Continuing Care Retirement Community (CCRC), with conditions outlined in the staff memo, replacing item 1c with item 2 from the suggested conditions presented at the meeting, and removing items 2 and 3 and replacing with items 1 and 3 from suggested conditions presented at the meeting, and the requested waivers below, and accept the petitioners findings of fact as modified by staff:

- Section IX.C.5.b requires a minimum centerline radius of 275 feet. Applicant requests a minimum centerline radius of 175 feet.
- Section IX.C.8.a requires a maximum length of a dead-end street to be 500 feet. Applicant requests a waiver to allow a maximum dead-end length of 1200 feet.
- Section IX.H.1.requires a minimum diameter of drain pipes to be 15 inches and to be constructed of reinforced concrete. Applicant requests a waiver to allow a minimum diameter of drain pipes to be 12 inches and to be constructed of HDPE in lieu of reinforced concrete.
- Section IX.H.3 requires headwalls to be provided at both ends of culverts and at the discharge ends of storm drains. Applicant requests a waiver to allow rip-rap aprons at the ends of discharge pipes.
- Section X.D.5 requires the width of residential streets to be 30 feet. Applicant requests a waiver to allow a width of 22 feet.
- Section IX.E.1 requires a maximum grade of 7% on residential curves. Applicant requests a waiver to allow a maximum of 10% on residential curves.
- Section X.F.1 requires there to be a sidewalk area of 10 feet on each side of all streets. Applicant requests a waiver to not require sidewalks on the entrance drive to Salisbury Street.
- Section IX.E.4 requires a 3 percent maximum grade for 100 feet. Applicant requests a waiver to provide a vertical curve with portions in excess of 3 percent.

the Board, on a roll call vote, voted 2-3 (Mr. LaValley and Mr. Moynihan voting in favor; Ms. Gilmore, Mr. DePalo, and Mr. Vigliotti voting in opposition). The motion failed and the application for the Special Permit to allow a Continuing Care Retirement Community (CCRC) was denied.

The Board offered the petitioner the opportunity to withdraw the site plan application given that the proposed use is not allowed within the RS-10 or RS-7 zoning districts without the issuance of a Special Permit to allow a CCRC. The petitioner declined.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to deny the Definitive Site Plan application.

List of Exhibits

Exhibit A: Special Permit and Definitive Site Plans Applications; received July 24, 2019; prepared by Attorney Mark L. Donahue.

Exhibit B: Existing & Proposed Site Plans; dated July 25, 2019; received July 24, 2019; prepared by Marchionda & Associates, L.P.

Exhibit B: Elevations & Renderings; dated July 15, 2019; received July 24, 2019; prepared by BSB Design.

New Business

9. 1191 Millbury Street (PB-2019-061)

- a. Public Hearing – Special Permit for Adult Use Marijuana Establishment – Storefront Retailer Use

Attorney Jonathan Finkelstein appeared upon behalf of the applicant, Resinate, Inc. The petitioner seeks a Special Permit to allow an Adult Use Marijuana establishment – Storefront Retailer Use.

Mr. Finkelstein provided an overview of the history of the organization and the plan for the premises. Peter DeCaro, of Resintate, Inc., gave a presentation relative to the project.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to approve the following waivers:

1. Labeling lot dimensions on the plan;
2. Demonstration that the plan is the result of a field survey.

Upon a motion by Mr. Lavalley and seconded by Mr. Moynihan, the Board voted 5-0 to approve the Special Permit for Adult Use Marijuana Establishment – Storefront Retailer Use with conditions outlined in the staff memo.

List of Exhibits

Exhibit A: Special Permit Application for Adult Use Marijuana; submitted August 30, 2019 and revised November 5, 2019; prepared by Attorney Jonathan Finkelstein.

Exhibit B: Site Plan; dated October 18, 2018; prepared by Fuss & O’Neill.

10. 102 Randolph Road (PB-2019-078)

- a. Public Meeting –Definitive Site Plan Amendment

Chris Barton from Graves Engineering appeared upon behalf of the applicant, KMRN Investment, LLC. The applicant seeks to modify the existing Definitive Site Plan approval for Phase 2 to reconfigure and decrease the size and layout of the proposed structure and parking area, reducing the overall number of beds to 75.

Mr. Barton provided a review of the plan and stated they have no objections to the conditions of approval outlined in the staff memo.

Mr. Rolle provided staff comments.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to approve the Definitive Site Plan Amendment with conditions outlined in the staff memo, as well as approving the following waiver:

1. Labeling soil types on the plan

List of Exhibits

Exhibit A: Definitive Site Plan Amendment Application; filed October 31, 2019; prepared by Graves Engineering, Inc.

Exhibit B: Definitive Site Plan; dated October 31, 2019; prepared by Graves Engineering, Inc.

Exhibit C: Definitive Site Plan; dated May 14, 2019 and revised July 1, 2013; prepared by Graves Engineering, Inc.

11. 118 Cambridge Street (PB-2019-080)

- a. Public Meeting – Parking Plan Approval
- b. Public Hearing – Special Permit for Adult Use Marijuana Establishment – Storefront Retailer Use

Attorney Joshua Lee Smith and David Sadowski appeared upon behalf of the applicant, New Dia, LLC. The petitioner seeks to allow an Adult Use Marijuana establishment – Storefront Retailer Use on the property and to resurface and re-configure the layout of the existing surface parking lot to provide +/- 36 spaces.

Mr. Smith provided an overview of the parking and the building site.

Captain Donald Graham of the Salvation Army spoke in opposition to the application on the grounds that his organization has a rehabilitation program that abuts the proposed location.

Mr. Sadowski reviewed the parking plan for the proposed site.

Mr. Rolle provided staff comments relative to the plans.

Upon a motion by Mr. LaValley and seconded by Mr. Moynihan, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to approve the Special Permit for Adult Use Marijuana Establishment – Storefront Retailer Use with conditions outlined in staff’s memo as well as the following waiver:

1. Distances from adjacent buildings

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to approve the Parking Plan application with conditions outlined in the staff memo.

List of Exhibits

Exhibit A: Special Permit Application for Adult Use Marijuana; submitted November 4, 2019; prepared by Bowditch & Dewey, LLP.

Exhibit B: Site Plan; dated October 11, 2019 and last revised November 20, 2019; prepared by D.J. & Associates.

The Board took a 15 minute recess.

12. Zoning Ordinance Amendment (ZO-2019-001)

- a. Public Hearing – To consider a Zoning Ordinance Amendment to modify and/or establish requirements relative to the location of motor vehicle parking on lots and amount of paving and/or impervious surface allowed in front yard and exterior side yard areas by modifying Article I, Section 2 and Article IV, Section 7(A)(2), Section 8, and Table 4.4 of the City of Worcester Zoning Ordinance.

Mr. Rolle provided an overview of the proposal, noting a correction to be made to the proposed ordinance as written.

Jo Hart made comments relative to the proposal.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to recommend the Zoning Ordinance Amendment to City Council, with the noted correction ordinance.

13. Planning Board Rules & Regulations Amendment(s)

- a. Public Hearing – To amend the Planning Board’s Rules and Regulations for Site Plan, Subdivisions, Parking Plans, and Special Permits to require the use of the most current precipitation data (i.e. NOAA Atlas 14 or Cornell Data, in lieu of TP40 data) when preparing required stormwater (i.e. hydraulic/hydrologic) calculations.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to re-advertise the item for the January 8, 2020 Planning Board meeting.

- a. Public Hearing – To amend the Planning Board’s Rules and Regulations for Site Plan, Subdivisions, Parking Plans, and Special Permits to modify the requirements for sealing plans prepared by licensed professional engineers and/or surveyors and to amend the Rules and Regulations for Parking Plan Approvals to require that parking plans be prepared by licensed professional engineers and/or surveyors.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to approve the amendment to the Planning Board’s Rules and Regulations.

Other Business

14. Central Massachusetts Regional Planning Commission (CMRPC) Parking Study

Hoamy Tran and Mr. Rolle made a presentation to the Board relative to a parking study conducted by the CMRPC.

15. Street Petition(s)

- a. Request to make Whitla Drive a Dead-end (Public) (ST-2019-017)

Mr. Lyford stated that DPW is not in favor of this petition as it would hinder emergency access. Mr. Rolle concurred.

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to recommend that City Council deny the petition to make Whitla Drive a Dead-End.

16. Approval Not Required (ANR) Plan(s)

- f. 525 (aka 529, 535, 537, 539, 541, & 543) Lincoln Street (Public) (AN-2019-073)

The item was taken out of order. Upon a motion by Mr. LaValley and seconded by Mr. DePalo, the Board voted 5-0 to endorse the ANR.

- a. 392 & 394 Lake Ave (Public) (AN-2019-068)

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to endorse the ANR.

- b. 30 Winfield Street (Public) (AN-2019-069)

Upon a motion by Ms. Gilmore and seconded by Mr. LaValley, the Board voted 5-0 to endorse the ANR.

- c. 656 Grove Street (Public) (AN-2019-070)

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to endorse the ANR.

- d. 0 (aka 84 & 86) King Philip Road (Public) (AN-2019-071)

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to endorse the ANR.

- e. 0 & 722 Plantation Street (Public) (AN-2019-072)

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore, the Board voted 5-0 to endorse the ANR.

17. Subdivision(s)

- a. 0 & 34 Holden Street – 81x Certification

Upon a motion by Mr. LaValley and seconded by Ms. Gilmore the Board voted to approve the 81x Certification.

18. Request for Acceptance of (Open Space) Restrictive Covenant(s)

- a. Worcester Country Club Acres (CCRC) (PB-2018-042)
- b. 407 Cambridge Street (Cluster Special Permit) (PB-2018-021)

The items were held to the January 8, 2020 Planning Board meeting.

19. Communication(s)

- a. Notice of Community Outreach Meeting (12/4/2019) for a proposed Adult Use Marijuana Establishment at 76 Millbury Street – No comment.

20. Discussion of Board Policies and Procedures

- b. Public Accessibility of Applications/Information – Held

21. Signing of Decisions

Adjournment

Upon a motion the Commission voted 5-0 to adjourn the meeting at 9:08 p.m.