

DRACUT ZONING BOARD OF APPEALS

Meeting Minutes of May 15, 2014 at 7:00 p.m. @ Harmony Hall, 1660 Lakeview Avenue, Dracut.

Continued BOA 2005-13 @ 341 Broadway Road – Comprehensive Permit for 278 rental units with 4 buildings. Petitioner: First Dracut Development, LLC.

Mr. Lania and Mr. Bartels were present. Mr. Doug Prentiss from Fay, Spofford and Thorndike is also present and is prepared to present to the Board and discuss the traffic and sewer review.

Mr. Prentiss reviewed the Sewer Review dated May 12, 2014. Most of the issues are more house cleaning issues with regards to the site plan as listed under Comments on Plans. They will require additional flow information as noted under Comments on Wastewater Flow Rate Calculations prior to completion.

Mr. Prentiss reviewed the Traffic Impact Peer Review dated May 9, 2014. A number of issues were raised regarding the site plan as listed under Site Plan Review on Page 6. The Site Plan that was included with the documents done by Cornerstone did not really match up with what was identified in the traffic study. On the notes listed under Mitigation on Page 6 and 7, they are suggesting the project proponent develop a detailed conceptual plan at the site drive intersection with Broadway Road (Route 113). The notes listed under Conclusion on Page 7 and 8 were reviewed. It appears based on the intersection operation that there is adequate capacity to accommodate this project and there are no outlining safety issues that are seen presently.

Mr. Lania had some concern regarding the Sewer Review Comments On Wastewater Flow Rate Calculations. The pump station was designed by the Town's Engineer CDM and is out of their control. He asked if the Board could request the Sewer Commissioner and CDM to supply the information regarding Items 1 and 2 on the Sewer Review Comments. After further discussion, Mr. Prentiss will call directly to request the information needed. They are in the process of responding with additional information regarding the plans comments.

The Stormwater Report needs more information and review. Mr. Lania is already in the process of getting the additional information needed for the Stormwater report. Mr. Lania noted the original design of the project started in 2004 with the stormwater regulations at that time, but since that time they have been modified in 2008. Chairman Crowley trusts Mr. Prentiss and his firm to review and make a decision as to whether the regulations in 2004 will suffice or if the 2008 regulations need to be met to provide a safe and viable project for the town.

It was agreed that the information needed will be supplied to Mr. Prentiss by June 16, 2014 or sooner for his review prior to the next meeting.

Abutters: Who came forward in favor or in opposition? None.

A motion to continue to the June 19, 2014 meeting was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to continue.

Continued BOA 2014-5 & 6 @ 18 Libby Street – Special Permit pursuant to sections 2.16.25 and 2.16.23 of the Dracut Zoning Bylaw and a Variance to eliminate a boundary encroachment and to construct a single family home. Petitioner: Libby Street, LLC.

Attorney Fadden presented a new plot plan with Elliott Avenue corrected on the Locus Map. Chairman Crowley signed in a set of prints drawn by Richard A. Alleca, Professional Land Surveyor dated January 28, 2014 with revision date of May 9, 2014. Chairman Crowley read a letter (copy attached) from David R. Brouillette, Chief Dracut Fire Department dated May 5, 2014 stating they will not require a hammer head to be installed on Libby Street for the home reconstruction. If any future development of Libby Street extends the road a Cul-de sac or hammer head will be required.

Attorney Fadden stated the applicant met with Michael Buxton, Department of Public Works and Mark Hamel, Engineering Department as well as Dan McLaughlin, Building Department to discuss the roadway of Libby Street whether any improvement would be required. He does not believe a written letter made it to the Zoning Board. If the Board is inclined to grant the application, he would recommend that a written recommendation allowing the development or lack of development of Libby Street be incorporated as a condition on the approval.

Attorney Fadden presented a narrative dated May 7, 2014 plus an outline concerning the title history of both 18 Libby Street and the surrounding parcels. This narrative will be forwarded to Town Counsel to be given an opportunity to review and comment.

Attorney Fadden further reviewed his narrative on how the lots came to be. The property located to the rear is improved by a single family lot where Mr. Morin lives at 2 Elliot Avenue shown as Parcel C in the package. Parcel B is 20 Libby Street. Attorney Fadden stated if the applicant was allowed to proceed with the Board granting the relief sought, his client would agree to a condition be incorporated into the permit that requires Lot B & C be joined back together. Regarding Lot A at 18 Libby Street, Attorney Fadden noted that one of the most important documents in the package is the Assessor's record that shows in 1954 the existing camp was built on the property. In 1954 the zoning by-laws required 7,500 square feet of area with 75 feet frontage.

In closing, Attorney Fadden stated that the existing house partially encroaches on the neighbor's property and the house is run down. They would like to rebuild it squarely within the lot improving the lot and neighborhood.

Chairman Crowley questioned if 18 Libby Street was abandoned. Attorney Fadden stated it was last occupied by Mr. Morin's son in October or November of 2012. He produced copies of the Comcast bill dated 12/11/12, Eastern Propane dated 12/23/12 and National Grid dated 12/17/12.

There was further discussion about a Deed Restriction on Lots B & C. Attorney Fadden noted that when Mr. Morin's father passed away the property was put into a family trust with the trustees Mr. Morin and his sister Gail Vachon. There is a separation of ownership between these two lots, but believes that Mr. Morin can convince his sister that in order to allow them to rebuild the structure at 18 Libby Street, these lots should merge as they should be. Lot B is a non-buildable lot. Chairman Crowley noted the offer to do this, but in order to do it you have to have control of dominion over the piece of property or have an agreement with the abutter to allow this to become a deed restriction.

Attorney Fadden stated that is why he suggested a condition of the approval and as such Mr. Morin can go to his sister regarding the deed restriction.

Chairman Crowley did read the brief and documentation submitted, but received a call from Attorney Hall noting he has a conflict in this case and felt he would have to decline commenting on the package. He did offer and said he would send the name of another attorney that the Board could utilize to do the review. If the Board was to move forward, Chairman Crowley would like to see some attorney with a non-vested interest in the case comment on the ability and the means to set the deed restriction as a condition to make sure it would stand up to any challenges at a later date.

Chairman Crowley would like an attorney to review the package as it is a little bit unusual as it has a lot of family with the LLC's being tied together. Attorney Fadden asked if he could be notified of the attorney's name to make sure he does not have a professional conflict. Chairman Crowley does not have the name yet, but will notify Attorney Fadden when received.

Attorney Fadden signed an Extension of Time Agreement to June 30, 2014.

Abutters: Who came forward in favor or in opposition? None.

A motion to continue to the June 19, 2014 meeting was made by Mr. Hamilton and seconded by Mr. Pagonos. The Board voted unanimously to continue.

2014-13 @ Dracut High School, 1540 Lakeview Avenue – Variance from Zoning Bylaw for Parking Dimensions (3.10.42) and Landscaping (3.10.49). Petitioner: Ellis Neofotistos, Chairman of Permanent Building Committee.

Chairman Crowley opened the meeting and signed in a set of prints drawn by Benjamin W. Gary Jr., Registered Landscape Architect dated April 28, 2014.

Mr. Ellis Neofotistos, Chairman of Permanent Building Committee introduced himself and gave a brief history of the Dracut High School project to date. The construction was started in the summer of 2012. A few months ago it was brought to their attention that there were some issues with the parking lot. One had to do with the size of the parking spaces and the other issue had to do with landscaping. They thought it was a Planning Board issue, but after a research it was determined it had to go before the Zoning Board of Appeals. The project is about 75% complete and expects the majority of the work to be completed in time for September. Mr. Neofotistos noted that on a project of this size there are many design professionals involved and he knows regulations require that the plan has to be stamped by a Licensed Surveyor. In this particular case the involvement of a licensed surveyor on a project of this size is typically just the property line and topography of the existing conditions for the project. After that you have your civil engineer get involved with the design of the drainage and parking lot layout. The Landscape Architect is involved in the parking lot design so that is why the drawing is stamped by a Landscape Architect instead of a Licensed Surveyor.

Mr. Benjamin Gary, Registered Landscape Architect for Marshall/Gary LLC was introduced and made a presentation of the plans. The existing drawing showed 271 parking spaces. After meeting with the various parties involved, it was decided they needed additional parking and the number suggested was for 100 additional cars. The next drawing showed what was proposed which was included in the contract document. He reviewed the islands in the parking lot and the trees around the perimeter. The contract document showed 366 parking spaces. What was in the existing plan was 9' width of stall and approximately 17-18' deep. They used the parking space size of 9'

wide, the aisle at 24' with the stripping at 9' on center and 18' deep. There are eleven (11) handicap parking spaces and are included in the 366 count. Required under the bylaw was eight (8). The zoning requirement is 10' in width with a tree within 30' of a parking space. He further reviewed the trees and islands on the plan. Mr. Gary stated what they have asked for in the Variance for the North and South Parking areas are as follows:

1. To permit 9' on center for the parking space size on both parking areas.
2. Provide all the perimeter trees on both parking areas, but on the interior of the North and South Parking areas they are requesting that the five (5) islands (A,B,C,D,E) not be required so they can get the total parking spaces to 366.

Chairman Crowley asked which print represents the variance being requested. Mr. Gary stated it is print L-4.2. Print L-4.2 drawn by Benjamin W. Gary Jr., Registered Landscape Architect dated June 21, 2012.

Mr. Neofotistos reviewed how the South Parking area is being used now in regards to bus travel. Putting in traffic islands in that location would be a little difficult for the buses to maneuver. They are maintaining the parking lot size, but the travel lane is wider at 24 feet with the 9'x18' space which is what they need.

Chairman Crowley explained the issue with the Landscape Architect is that the Board's Rules and Regulations require that the plans be stamped by a Licensed Land Surveyor in the Commonwealth of Massachusetts. The reason this is done because the plan has to be filed with the Registry of Deeds and the Board wants to make sure it is an accurate plan that does not create any conflicts with any other existing plan. He also noted that the plan provided, SP-1, an existing condition plan, is not the plan for the Variance being requested.

There was further discussion about parking space sizes. The handicap spaces will meet the proper requirements. There was discussion about the sidewalks, speed bumps, speed limit, gates and travel lanes. Mr. Gary noted that the trees have been doubled with the proposed plan.

Superintendent Steven Stone supports the requested Variance noting that 271 spaces are insufficient. They have 105 employees and 200 passes for students. There will be a change in use of the schools within the complex creating more people coming into the area.

High School Principal Richard Manley stated they need spaces available for parents and guests visiting the schools. The most important reason is for the supervision and safety of the children.

Another aspect is the health and sustainability of the trees over time. The parking lots do have some academic use for the schools and the islands can create an issue. On the Variance print L-4.2 shows black trees that are included under the contract and the green trees were added. It was confirmed that when the trees go the islands go. The trees being removed from the islands within the interior area will be moved to the perimeter areas. School Committee Chairman Michael McNamara mentioned that the new auditorium will have an increased capacity from 625 to about 750. Also the gymnasium is going from approximately 8,000 sq. ft. to about 15,000 sq. ft. doubling the capacity. The increased spaces will allow them to serve more public events and town meeting.

Final comments by Mr. Neofotistos noted that the Brookside School built in the late 60's had many plantings on the island, but a lot have been damaged or destroyed. Based on the existing construction time table they are looking for a decision this evening. The contract calls for completion before school starts in September. If they do not move forward with an answer at this meeting, the parking lot will not be completed and there will be an increase in cost of the contract. They are asking the Board's consideration in making a decision as soon as possible.

Chairman Crowley noted the print L-4.2 which is what is being requested shows the proposed plan after removal of the existing islands and trees that were originally required in favor of the new layout and also shows and delineates the parking spaces lined out at the revised width and length. Mr. Gary confirmed. Chairman Crowley questioned when the Board could have the copy of that plan certified by as part of this decision. Mr. Gary can provide the plan shortly.

There was discussion about the egress from the South Parking area when the school buses are in use. Mr. Andrew Graham, Supervisor of Buildings and Grounds has worked with Mr. Gary on the present plan with regards to traffic and feels it will meet safety purposes. Superintendent Stone commented that they worked very closely on the traffic pattern with the Dracut Police Department.

Abutters: Who came forward in favor or in opposition? None.

A motion to close was made by Mr. Hamilton and seconded by Ms. Santiago-Hutchings. The Board voted unanimously to close.

A motion was made to waive the Board's requirements relative to a presentation of plans by a Licensed Land Surveyor was made by Mr. Michael Pagonos and seconded by Mr. Scott Mallory. The Board voted unanimously to approve.

A motion to approve the Variances for Parking Dimensions (3.10.42) and Landscaping (3.10.49) was made by Mr. Stephen Hamilton and seconded by Mr. Michael Pagonos. The only issue Chairman Crowley has is that the Board gets a copy of the plan L-4.2 stamped as soon as possible within a week before the petition is typed up and they go on file at the Clerk's Office. Regarding any holding periods that might be there he suggests they speak with the Building Inspector as he has final say as to when you move forward on this. Mr. Mallory noted having the islands in the middle of the parking area can in themselves present a safety issue. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to approve.

Acceptance of Minutes:

A motion to accept the April 17, 2014 minutes was made by Ms. Heather Santiago-Hutchings and seconded by Mr. Michael Pagonos. The Board voted unanimously to accept the minutes.

New Business:

A letter from CHAPA dated May 1, 2014 containing a brief report on the annual income certification of the tenant households at Robbins Nest was reviewed and passed out to the Board Members.

Next Meeting:

Thursday, June 19 2014

Adjournment:

A motion to adjourn was made by Mr. Stephen Hamilton and seconded by Mr. Michael Pagones. The Board voted unanimously to adjourn.

Board of Appeals Members

Chairman, John Crowley

Vice Chairman, Stephen Hamilton

Clerk, R. Scott Mallory

Member, Heather Santiago-
Hutchings

Member, Michael Pagones