

BOARD OF SELECTMEN AND SEWER COMMISSIONER'S MEETING

December 7, 2015

Francis Faulkner Room 204

Regular Meeting 7:00 PM

Present: Katie Green, Peter J. Berry, Janet K. Adachi, Franny Osman, Chingsung Chang, Town Manager
Steven Ledoux, Town Counsel Nina Pickering-Cook, and Lisa Tomyl, Recording Secretary

Mr. Berry arrived at 7:07 PM

Chairman Green opened the meeting at 7:00 PM

Citizens' Concerns

None

Chairman's Update and Operational Update:

Ms. Green: Hoped everyone had a Happy Thanksgiving and wished those celebrating tonight a Happy Hannukah. Holiday light contest on December 17th. Santa Ride and Food Drive on December 12th in a vintage fire truck led and sponsored by the Acton Fire Department. Families can request a visit from Mrs. Claus if they are not able to greet Santa during his ride.

Mr. Ledoux: Announced Mathew Selby of Upton had been offered and accepted the Land Use Economic Development Director position. "Selby" begins January 4, 2016. Special Selectmen meeting was held on November 19th to approve application for Associated Environmental Systems for a tax break at the state level. Next Board meeting is December 21, when he will be presenting the FY17 municipal budget.

Public Hearings and Appointments

Acton Boxborough United Way Community Needs Assessment: Presentation by Patty Higgins, ABUW Chairman, of summary of the Community Needs Assessment results. Full report is available at www.ABUW.org. 25% of population earns under 50K. Top issues are stress across population; isolation; lack of information or knowledge of how to find. In elementary schools, more kids qualify for free lunch; at high school, growing mental health and substance abuse issues; insufficient programs/services post-emergency-room. Young adults don't receive much attention; opiates a problem. Stress in families due to the cost of higher education, even in affluent homes; and due to food needs for challenged families. Mr. Berry asked if circumstances were improving: yes, but some issues remain; the study is a good tool for the Town and ABUW to help each other. Ms. Osman asked if there were a way to determine whether any of the 25% with income under 50K overlapped with the 23% of apartment-rentals. Ms. Green, who was involved in the study, said it was a good experience, generated good information.

Site Plan Special Permit #09/11/2015 – 457, Ryan Development: Kevin Erikson, representative from Ryan Development, LLC, Katie Enright, Howard Stein Hudson Architects, and Mark Johnson, attorney; Kristen Guichard, Assistant Town Planner. Hearing continued from 11/2. Ms. Green read the public hearing Board of Selectmen

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notice. Since the last meeting, when the Board received the applicant's updated materials very late just prior to the meeting, the applicant has received, reviewed and addressed departmental comments, including Planning and Engineering Department comments. Mr. Erikson went through the applicant's responses:

1) Planning Department

- Sidewalk: Applicant compliant with zoning bylaw
- Hardscape plaza: Zoning bylaw doesn't say it can't be by the driveway. For the Panera Bread application, the Planning Department said that due to the percentage of structure, there was no need for a pedestrian plaza.
- Landscaping: Applicant added.
- Firepit with 30-foot setback: Doesn't qualify as "structure" under bylaw.
- Bike racks: Placed in front of building in revised plan.
- Parking space: Removed.
- 2 accesses: Project won't touch drives at all.
- Landscape buffer: Applicant created 20-foot-deep buffer.

2) Engineering

- Sewer privilege fee: Applicant will agree to; proposed grease traps okay.
- Drainage: Provided required conversation factor.

3) Design Review Board

- Building not parallel to street: Applicant has explained that that placement is not possible. Proposed canopy will be parallel.
- Hardscape plaza: DRB doesn't like and applicant doesn't, either.

4) Acton Water District: Applicant has no issue with AWD comments.

Ms. Green noted that the Board was likely to request another continuance. Ms. Adachi requested clarification from the Planning Department of the zoning provisions requiring the hardscape, and from the applicant of its lease area, which precluded the applicant's shifting the building position, and alteration/elimination of the current curb cuts; the lease area encompasses only the proposed building, barely extending beyond the south end and excluding the parking and accesses, which are shared. Ms. Adachi asked if the bollards were the only barriers for the outside patio: yes, with chains. Mr. Berry questioned the applicant's claim that traffic would decline relative to the former use as a McDonald's restaurant, and reiterated the request to the Planning Department for clarification of the hardscape requirement. Ms. Osman expressed a wish that the applicant and Planning Department work together in anticipation of the proposed zoning bylaw amendments that would go before 2016 Town Meeting; the applicant confirmed that it already was leasing, was going through due diligence and thereafter would start construction. Mr. Chang asked when the applicant expected to open: as soon as possible;

Mr. Chang said he would have preferred to address the site in its entirety rather than just the one corner that a larger-scale project in the future would not be able to touch.

Ms. Guichard provided some history for the project. The Planning Department typically suggests that developers have a pre-application meeting with Planning, and made that suggestion to the applicant, but the applicant did not pursue the meeting. Planning then discovered that the former Zoning Enforcement Officer had erred in concluding that no hardscape was necessary for the Panera project. The zoning bylaw states that the hardscape must be on the side of the building; the applicant's proposal to extend the colonnade within the 40 feet setback would not have qualified as an extension of the building itself, with walls on all sides. Ms. Guichard noted that the Board did not issue a decision on the Panera project. Mr. Berry clarified that the purpose of the hardscape plaza was to help the applicant meet the 60% frontage requirement that the proposed building would not satisfy. Ms. Adachi asked if there were any alternative for meeting the frontage requirement, other than a pedestrian plaza or an expanded building: no. Mr. Chang criticized the zoning bylaw for burdening lessees.

Mr. Erikson noted that the applicant had removed the one proposed parking space because it opened up the applicant to the perception that it was seeking to modify the access.

Jim Snyder-Grant, Half Moon Hill: suggests changing the name to 111 Grill since it is already located right at Route 111. Kelley's Corner is a bike-parking wasteland. The intent of the bike-parking bylaw is to change the current situation. The plan states one bicycle spot per 20 parking spaces, or 15 bike spaces for the entire parcel of 286 parking spaces. But perhaps the Board's approval of the project will require a variance to allow a smaller number of bike-parking spaces. In the alternative, a calculation based on proposed seating, 63 or 80, yields 4 bike spaces. The plan currently shows 3 spaces. Ms. Green asked why the calculation of bike spaces involved looking at the application rather than the entire lot; Ms. Guichard said that the limits of the project, in this case, the seating, determined the require number of bike spaces.

Mark Johnson, Ryan Development LLC – distributed to the Board copies of the zoning bylaw provision, Section 5.6.3.2, regarding Kelley's Corner pedestrian plazas. Mr. Johnson reviewed the bylaw description of pedestrian plazas, noting that the bylaw did not say that the plaza had to be adjacent to or touching the building, but only at the side of the building, which the applicant's proposed hardscape would be. Mr. Johnson also focused on the bylaw definition of "lot," stating that the former ZEO's interpretation had been correct in determining the 60% frontage requirement based on the lease area rather than entire lot; Mr. Johnson also cited some MA court decisions that supported his conclusion. Ms. Green requested a continuance, Mr. Berry requested that Town Counsel follow up with the cited court decisions. Ms. Adachi move to approve a continuance to January 25, 2016, with staff comments to be available by January 4, 2016, and with no extension of the 90-day decision deadline, Mr. Berry seconded, 4 Ayes, 1 Nay (Mr. Chang)

Board of Assessors Tax Classification Hearing: Brian McMullen, Chief Assessor, presented the recommendation of the Board of Assessors Tax Classification recommendation.

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Ms. Adachi move to adopt a residential factor of 1.0 resulting in a Uniform Tax Rate of \$19.23, Ms. Osman seconded. All Ayes (5-0)

Ms. Adachi moved to not grant an Open Space Discount, Ms. Osman seconded. All Ayes (5-0)

Ms. Adachi moved to not adopt a Residential Exemption, Ms. Osman seconded. All Ayes (5-0)

Ms. Adachi moved to not adopt a Small Commercial Exemption, Ms. Osman seconded. All Ayes (5-0)

Transfer of Stock, Indoor Sports Management: Tom Moore, owner, representing Indoor Sports Management, Inc. Ms. Adachi move to approve the transfer of stock, Mr. Chang second. All ayes (4-0)

Selectmen's Business

Approve Land Stewardship Committee Mission Statement: Ms. Adachi presented a history of the Land Stewardship Committee which long had been operating as essentially a subcommittee of the Conservation Commission without formal authorization by the Board. Board approval required the creation of a mission statement, an endeavor that started in 2009 and after years of debate, editing, Town Counsel review and further debate, has received the approval of the LSC and the Conservation Commission and now is ready for the Board's approval. . Ms. Osman asked if LSC members are considered land stewards; Mr. Snyder-Grant refers to the committee members as land stewards. Ms. Adachi move to approve the Land Stewardship Committee mission statement, Ms. Osman second, All Ayes (5-0)

Discussion of Proposed Acton-Boxborough Regional District Capital Planning Committee: Ms. Green explained that Superintendent Glenn Brand had asked the Selectmen to nominate 2 people for the AB Capital Planning Committee,. Boxborough designated 2 Finance Committee members as their representatives. Mr. Ledoux commented that he has not seen a charge for this committee and that there will be further discussion at the Acton Leadership Group on Thursday.

Update on Minuteman Regional Technical High School: Ms. Adachi gave an update and sought feedback about the latest proposed additions to the MRVTHS amended regional agreement and the possibility of a special town meeting in February to approve the regional agreement. The latest proposed amendments result from the 12/2 meeting of the member-community Selectmen-representatives (for further detail, see Ms. Adachi's Selectman's Report for 12/7). Mr. Ledoux said that the Town Moderator will be out of town until mid-March so a substitute moderator would be necessary, and the Town would need the draft language for the article. The Board was not prepared to call a Special Town Meeting just yet; and Ms. Green did not care for the proposed host-community payment to Lincoln.

Selectmen's Reports:

Selectmen Reports are included in the agenda packet on docushare. There were no questions.

Consent Agenda

Ms. Osman held item 9.

Mr. Chang move to approve consent items 8, 10 – 17, Mr. Berry seconded., seconded. All Ayes (5-0)

Mr. Chang moved to approve item 9, Mr. Berry seconded. All Ayes (5-0)

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Ms. Adachi announced she will be seeking re-election in 2016.

Respectfully Submitted,



Lisa Tomyl, Recording Secretary



Janet K. Adachi, Clerk