

Call to Order:

The Planning Board Meeting was called to order at 7:35PM on July 13, 2021 in the Third Floor Conference Room of the Town Offices. Present were Chair Zachary Bergeron, Vice Chair Rocky Leavitt; Members Ann Knowles, Vincent Chiozzi, Jr. (joined via phone call), Neil Magenheim, and associate Morgan von Prella Pecelli. Also present were Jacki Byerley, Planner, Lisa Schwarz, Assistant Director of Planning, and Tom Urbelis, Town Counsel.

PUBLIC HEARING:**181-191 Andover Street – Special Permit for a Planned Development (SP21-03):**

Mr. Bergeron informed the Planning Board that the applicant had submitted a letter requesting to withdraw without prejudice the application for a special permit. Ms. Byerley shared that she had a conversation with the applicant's engineer regarding the administrative fee, which could not be refunded because the hearing had already been advertised. She explained that the applicant could request to have a future fee for the same number of units waived when they file a new application, except for the advertising fee; however, the applicant had not yet made a request. The Planning Board decided they would consider a waiver if requested by the applicant when they file next.

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board voted to allow the applicant of 189-181 Andover Street for a Special Permit for a Planned Development to withdraw without prejudice their application. **Vote: (6-0)**

DISCUSSION ITEMS:**Election of Officers:**

The Planning Board discussed the election of the Chair, Vice Chair, and Secretary positions. Mr. Bergeron stated that he would be happy to continue as Chair, but he is open to having another member serve if interested. The Board also discussed whether Ms. von Prella Pecelli could move up from associate member; however, such action would require either one member to step down or a change in charter and Town vote to have 6 officers on the Board. Mr. Bergeron suggested that perhaps the Town Governance Study Committee could consider this change in their ongoing research. Each member proceeded to share their individual feelings on their current roles and readiness to change positions, with the end determination to keep the officer positions as is for one more year.

On a motion by Mr. Magenheim, seconded by Mr. Chiozzi, the Planning Board voted to keep the officer positions as is, with Mr. Bergeron as Chair, Mr. Leavitt as Vice Chair, and Ms. Knowles as Secretary.

Vote: (6-0)

Other Planning Related Topics:

Mr. Leavitt brought forth a concern with the traffic light on Lowell Street in front of Crack'd Kitchen. The Planning Board had previously requested a retiming of the light cycle, but the current issue at hand could be mechanical in nature. Ms. Byerley responded that she would have the Town investigate the matter.

PUBLIC HEARING:**100-400 Brickstone Square – Special Permit for a Major Non-Residential Project (SP21-01) and a Special Permit for a Change in Parking Space Requirements (SP21-02):**

The Planning Board opened the public hearings on the abovementioned special permit applications. Todd Greenfield, representative for KS Partners, LLC, the applicant and owner, and Will Granbery and Steve Martorano, Civil Engineers with Bohler Engineering, were in attendance to present and answer questions.

Mr. Greenfield provided an introduction of the existing Brickstone Square property, which was purchased by KS Partners in 2014. They have since invested more the \$7M in common area repairs, including cafeterias, a fitness center, small café, two conference centers, and a game room, as well as LED light installation and other sustainability related projects. Plans to lease available office space were halted due to COVID and some tenants have expressed they do not want to return or have requested to sublease space instead. Mr. Greenfield shared that currently 300,000 square feet of space is vacant, and following discussions with brokers and assessing the market, KS Partners would like to introduce a new market segment (life science/GMP) to the Brickstone campus.

Mr. Greenbury provided an overview of the proposed project, which is to construct a 100,000 square foot two-story building at the rear of the Brickstone campus. In his presentation, he highlighted traffic patterns and discussed parking, noting that demands are low, and utilization of the existing garage has been minimal. A traffic assessment study was prepared by McMahon Transportation Engineers & Planners and a report was submitted to the Planning Board prior to the hearing. Per Mr. Greenbury, the study found that the Brickstone campus has sufficient parking; however, the requirement for lab uses as stipulated in the bylaw is substantial and presents a challenge. He added that recent crash data was reviewed, and the following mitigation measures have been recommended: remove two parking spaces on Haverhill Street at the intersection of York Street to provide safer sight distances, restrict left turn access off Riverina Road during peak hours, and continued education of employees on the appropriate traffic patterns. Mr. Greenbury proceeded to provide further information and/or updates regarding utilities, fire safety, stormwater drainage, landscaping, and potential parking solutions to meet the zoning bylaw requirement.

Mr. Bergeron requested more information regarding the parking requirements and predicted number of employees. According to Mr. Greenbury, actual parking for lab uses is not at the same rate as the bylaw suggests. Mr. Martorano added that the parking needs for a GMP facility are even lower due to there being fewer employees and more equipment in the space. He predicted a total of approximately 90 employees (15 employees per shift with 3 shifts and 2 tenants).

Mr. Leavitt asked for clarification on why the applicant is requesting more space when the property has a vacancy of 300,000 square feet and whether they could retrofit the space for the requested use. Mr. Greenfield stated that KS Partners had considered this possibility, but the financials did not work out. Mr. Leavitt inquired about the number of hours per shift to which Mr. Martorano answered 24 hours per shift, however he noted that this would not be 7 days a week, 365 days a year.

Ms. Von Prella Pecelli requested more information about the number of trips and parking spaces that were highlighted in the traffic assessment and how that will play out with the number of employees. Mr. Martorano believes that there will be a positive synergy [requiring fewer spaces] between the lab and office uses due to the hours and shifts being different.

Mr. Greenfield shared that combining office and GMP in one building makes this project unique, and therefore attractive to prospective tenants. He added that once a permit is approved, brokers predict that they will secure a full tenant within 60 days due to high demand for GMP labs. Mr. Martorano shared that the location is desirable from an access viewpoint, therefore the potential exists to attract a large format tenant who could use the entire building. However, he noted that the building will be designed to allow for more than one occupant to maintain flexibility and long-term sustainability.

The Planning Board asked Ms. Byerley for a summary on what was discussed at the Interdepartmental Review Meeting which had convened earlier in the day. She shared that the Board of Health had questions regarding the dumpsters and a generator that needed to be addressed. Additionally, the Police Department reviewed the traffic and parking study and agreed with the traffic pattern being proposed, as well as the mitigation measures that were suggested regarding the removal of two parking spaces and restrictions to the left-hand turn onto Riverina Road. Further, the Fire Department requested adjustments with regards to hydrants, the water main, and click to enter gates. Lastly, the Department of Public Works will be providing a report outlining details they would like added to the plans. Ms. Byerley stated that this project is outside the jurisdiction of the Conservation Commission, however the applicant may need to engage with the Commission depending on how they proceed with decisions related to the reserve parking deck and click to enter gates.

Mr. Leavitt expressed his concern with multiple planned projects in the same vicinity (Dascomb Road, Tantallon Road, Route 133 Corridor) whereby construction could commence at the same time in an already congested area.

Mr. Chiozzi asked if the developer had a master plan to accommodate potential growth should this use be successful. Per Mr. Greenfield, the developer has not looked beyond this one facility. Mr. Martorano added that there could be opportunities for this campus in the future and noted the potential for having over/under [decked] parking GMP facilities.

Mr. Bergeron proceeded to open the hearing up for questions, comments and/or concerns from the audience. Dan and Sue Rooney, residents at 3 Kenilworth Street, sought clarification on the location of the facility in relation to their home. Mr. Granbery stated that the zoning bylaw prohibits industrial buildings within 300 feet from adjacent residential structures and the proposed project is outside of that required space limitation. Mr. Rooney also requested that the noise of the bridge be improved, as it has been significant and disruptive for the neighbors in that area. Mrs. Rooney expressed concerns with potential changes to when the bridge would be open, particularly noting that any use at night or on the weekends would be problematic. Mr. Greenfield stated that he does not foresee that as being an issue. Ms. Knowles asked if a noise study could be completed on the bridge. Per Ms. Byerley, the Town does not have a noise meter.

Sean Thomann, a resident at 3 Carisbrooke Street, inquired about the timeframe of the traffic study as the traffic was significantly lower during COVID. The Planning Board responded that the study had referenced 2017, 2019 and 2020 in their assessment. Ms. Byerley added that a traffic engineer will attend a future meeting to discuss the study and answer questions. Mr. Rooney commented that he had noticed a reduction in traffic last year but it has since increased, and the noise of the bridge is disruptive, particularly in the late afternoon when he is working from home. Ms. Byerley offered to email the traffic report to any resident that would like to review it.

Mr. Thomann also inquired about the timeframe for the construction of the project. Mr. Greenfield provided an estimate of 4-5 months, whereas Mr. Bergeron commented that a year is likely more realistic. Mr. Thomann, who has previously worked at Brickstone, expressed concern with an overflow of parking should the development reach maximum capacity. Mr. Bergeron said this concern will have to be considered and discussed at future meetings.

Regarding next steps, the Planning Board and applicant agreed that a continued discussion on parking and traffic would be placed on the agenda for the July 27, 2021 meeting and comments relative to drainage and DPW would be addressed at the August 18, 2021 meeting.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board voted to continue the public hearing to the July 27, 2021 and August 18, 2021 Planning Board Meetings at 7:30PM. **Vote: (6-0)**

CONTINUED PUBLIC HEARING:

60 Canterbury Street – Special Permit for a Multi-Family Attached Cluster (SP20-03) and a Special Permit for Disturbance of Slopes in Excess of 35% (SP20-04):

Mr. Bergeron opened discussion on the abovementioned special permits and asked if there was any new information to be shared. Kathryn Morin, representing Yvon Cormier, applicant and Trustee of CA Investment, responded that no new information was requested at the last Planning Board meeting on June 22, 2021; however, an updated plan set was submitted on June 29, 2021 that contained some updated information including labeling changes, clarifications on open space verifications, and DPW comments. Ms. Byerley stated that unless the Planning Board had further questions or comments, she recommends the Board close the public hearing and begin deliberations.

Ms. Knowles asked Mr. Urbelis, Town Counsel, for a status on the Conservation Restriction. Per Mr. Urbelis, there have not been any developments concerning the restriction, but the Board is not being asked to vote on this. He highlighted the draft decision that Ms. Byerley had proposed which includes conditions set by the Conservation Commission that he noted he is satisfied with, though there continues to be no resolution with the comprehensive conservation restriction.

Ms. Knowles asked for update on the comprehensive conservation restriction to which Ms. Morin responded that they are awaiting environmental information from Norse Environmental to complete the baseline study and they are in the final stages of title certification. She added that the process of obtaining approval will continue with or without the Clubview parcel should the Planning Board deny the special permits at hand.

Mr. Leavitt brought forth his concern that the applicant could appeal the Planning Board's decision should they approve the special permits, specifically referencing condition #15 which would prohibit the issuance of a building permit for any of the dwelling units without approval from the Executive Office of Energy and Environmental Affairs (EOEEA). Mr. Urbelis refrained from giving legal advice to the applicant and Ms. Morin confirmed that the applicant has the right to appeal any decision should he feel any condition is not appropriate. Mr. Bergeron asked for guidance on how the Board should proceed with their vote based on the real possibility that the applicant could appeal. Mr. Urbelis stated that the Planning Board would need to have a specific reason for denial.

Mr. Chiozzi expressed concern with the phrasing of condition #15 and suggested the removal of the phrase, "that may be added," referring to other lands that would be subject to the building permit condition. The Planning Board agreed, and Mr. Urbelis had no concerns with this amendment.

On a motion by Mr. Magenheim, seconded by Ms. Knowles, the Planning Board voted to close the public hearing on 60 Canterbury Street. **Vote: (6-0)**

The Planning Board proceeded to deliberations and Ms. Byerley recommended that the Board approve the project with the proposed 26 conditions, specifically highlighting conditions #15, #16, and #19 which could prompt further involvement of the Board in the future. She noted two amendments that needed to be made to condition #15 as previously discussed and correcting the year 2021 in condition #20.

Mr. Leavitt expressed his concern that the Planning Board would be rewarding a developer that has repeatedly ignored their requirements should they vote to approve the special permits. He also expressed his general discomfort with this project from the beginning and added that the applicant has not taken any action to dissuade him from feeling otherwise. Ms. Knowles stated that she feels similarly and noted that the developer has benefitted from an agreement that was made a long time ago in the form of reduced taxes, and she does not understand why he has been unable to meet the EOEEA requirement. The Planning Board proceeded to discuss whether they could consider the developer's history with the Town in making this decision, and the subsequent actions that could be taken by the developer if the Board disapproves the special permits or approves them with conditions that the developer is not likely to agree with. Ms. Byerley stated that the Board needs to follow the bylaw; and therefore, a permit can not be denied based on history.

Mr. Magenheim made a motion to approve the special permits with no second. The Planning Board continued to deliberate and decided they needed to consult with Mr. Urbelis, which would require the Board to reopen the hearing.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board voted to reopen the public hearing on 60 Canterbury Street. **Vote: (6-0)**

Mr. Leavitt asked Mr. Urbelis if it was appropriate to consider the developer's history with the Town. Per Mr. Urbelis, this history was brought forth by Ms. Morin and has been considered throughout the public hearings; however, it is not grounds for denial. Mr. Bergeron suggested that the Board review the bylaw to further guide this decision.

Ms. Knowles asked for clarification on how negotiations were progressing. According to Mr. Urbelis, the applicant submitted a proposal to the Conservation Commission on May 26, 2021 to resolve issues related to current and past restrictions, but it did not include a sequence of events which had been requested. The Chair of the Conservation Commission is awaiting this information to be discussed at a special meeting that has not yet been scheduled. Ms. Knowles asked Ms. Morin for a timeframe, and she declined to comment on the topic at a Clubview meeting.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board voted to continue the public hearing for 60 Canterbury Street for a Special Permit for a Multi-Family Attached Cluster and a Special Permit for Disturbance of Slopes in Excess of 35% to the Planning Board Meeting on July 27, 2021 at 7:35PM. **Vote: (6-0)**

Adjournment:

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board voted to adjourn the meeting at 9:48PM. **Vote: (6-0)**

Documents:

189-191 Andover Street:

- Email from Chris Clemente, Building Inspector to Jacki Byerley re: Zoning District Split – 6.30.21
- Email from Joanna Reck to Jacki Byerley re: BVHDC Certificate of Appropriateness – 6.17.21
- Email from David Jordan, GPI to Jacki Byerley re: Withdrawal – 7.1.21
- Site Development Plans from North Avenue Realty Trust – 6.8.21
- Special Permit Application from North Avenue Realty Trust – 6.16.21
- Stormwater Management Report from North Avenue Realty Trust – 6.8.21
- Memorandum from GPI to the Planning Board re: Project Narrative – 6.8.21
- Memorandum from Jacki Byerley to the Planning Board – 6.30.21
- Email from Hannah Hanson, Unit 1 Owner to Planning Staff – 7.2.21
- Letter from North Avenue Realty Trust to the Planning re: Applicant Withdrawal Request – 7.13.21

100-400 Brickstone Square:

- Cover letter from Bohler to the Planning Board – 6.16.21
- Special Permit Application Package – 6.15.21
- Proposed Site Plan Documents from Bohler for KS Partners – 6.15.01
- Drainage Report from Bohler for KS Partners – 6.15.21
- Memorandum from McMahon Associates to the Planning Board re: Traffic Assessment – 6.14.21
- Memorandum from Horsley Witten Group to the Planning Board re: Initial Stormwater Peer Review – 7.12.21
- Memorandum from Jacki Byerley to the Planning Board – 7.29.21

60 Canterbury Street – Clubview Estates:

- 15-639 Comprehensive Conservation Restriction Exhibit B – 6.22.21

- Memorandum from Jacki Byerly to the Planning Board re: Recommendation – 7.1.21
- Open Space Restricted Common Area Draft Plan – 6.29.21
- Site Development Plan – 6.29.21
- Letter to Jacki Byerley from Attorney Morin re: Conservation Restriction – 6.14.21
- Letter to Jacki Byerley from Attorney Morin re: Easements – 6.17.21
- Andover Country Club Conservation Restriction Overview Plan – 7.1.21
- Comprehensive Conservation Restriction EOEEA – 6.14.21
- Email from Chris Clemente, Inspector of Buildings to Jacki Byerley re: Open Space 1.19.21