

**Call to Order:**

The Planning Board Meeting was called to order at 7:31PM on September 14, 2021 in the Third Floor Conference Room of the Town Offices. Present were Chair Zachary Bergeron, Vice Chair Rocky Leavitt; Members Vincent Chiozzi, Jr., Ann Knowles, and associate Morgan von Prelle Pecelli. Also present were Jacki Byerley, Planner, Chief Patrick Keefe and Officer Glen Ota, Andover Police.

**PUBLIC HEARING:****300 Minuteman Road – Special Permit for Major Non-Residential Project (SP21-06):**

Mr. Bergeron opened the public hearing on the special permit application submitted by 300 Minuteman Road, LLC. Mark Johnson, Johnson & Borenstein, LLC and Michael Giaimo, Robinson & Cole, representatives for the applicant; Michael Rak, Vice President, Spear Street Capital; Scott Doty, Engineer, John G. Crowe Associates; and Jeffrey Dirk, Managing Partner, Vanasse & Associates, Inc., were in attendance to present the project and answer questions. Mr. Rak explained the proposed use for the property, which is a 224,500 gross s.f. cGMP (Current Good Manufacturing Process) facility specializing in the pharmaceutical industry that will include laboratories, warehousing, offices, storage, and shipping. Mr. Johnson shared that the Zoning Board of Appeals (ZBA) had previously approved a variance allowing the applicant to obtain a special permit from the Planning Board to reduce the parking to 1 per 500 s.f. without a reserve parking area. A public hearing for this special permit will be held in October. Mr. Johnson and Mr. Doty provided a history of Minuteman Park and reviewed both the site and utility plans, respectively. Mr. Doty also shared that past construction caused a disturbance which inadvertently resulted in the development of isolated wetlands. Per Mr. Johnson, the applicant plans to file a notice of intent with the Conservation Commission to fill and replace said wetlands as a result. Mr. Johnson concluded his presentation with proposed sewer mitigation measures that the applicant had agreed upon with the Department of Public Works (DPW) during previously held meetings, which will cost approximately \$200,000. The applicant will undertake this work at his cost and agreed to the conveyance of sewer rights to the Town should the Town want to seek ownership in the future.

Mr. Dirk proceeded to present an overview of the transportation analysis. He noted that all numbers that have been provided are pre-COVID and Vanasse & Associates, Inc. had conducted a significant amount of analysis on other projects near the same corridor, which they were able to apply to this assessment summary. He added that the existing infrastructure was built to support a 320,000 s.f. office building which the site was originally approved for. As a result, the proposed laboratory use, with lower employee density, will reduce traffic by approximately 30%. Mr. Dirk stated that he worked with an Andover Traffic Safety Officer to understand traffic flow and review crash trends along the corridor, which were deemed to be low. They also assessed safety for all modes of transportation, as the site has sidewalks, bike lanes and access to the MVRTA bus service. Mr. Dirk provided several recommendations regarding access and circulation, and proposed traffic mitigation measures at the River Road/Minuteman Road/Shattuck Road intersections. Finally, he outlined measures in a transportation demand management program that would encourage building occupants to use public transportation, bicycle, or carpool, offering such measures as potential conditions of approval for this project.

Ms. Byerley provided a summary of discussions held at an Interdepartmental Review meeting on August 31, 2021. She stated that the memorandum of understanding submitted by the applicant needs to be

reviewed by DPW and Town Counsel; the Conservation Commission approved the wetland line, but the wetland replication will need to be reviewed once it is filed; Andover Police expressed interest in a traffic peer review if the Planning Board agrees that it is necessary; and Horsley Witten Group conducted a Stormwater Peer Review, and an initial review would be forthcoming.

Mr. Bergeron opened the meeting to questions from the Planning Board. Ms. Knowles asked where the Town stands with potentially taking over the sewer system. Per Ms. Byerley, there are many parties involved and the mitigation measures that the applicant is offering to undertake is a first step. Ms. Knowles requested that DPW provide feedback in a memorandum to the Board. Mr. Bergeron asked several design-related questions. Per Mr. Rak, the building will be designed to accommodate the market and the applicant would be amenable to consulting with the Design Review Board (DRB). In response to a question regarding concerns with onsite contaminants, Mr. Doty shared that a large investigation has been conducted over the years and there is none known. Mr. Leavitt requested feedback from Officer Glen Ota on the traffic assessment. Ms. Byerley stated that this discussion could be earmarked for the next Planning Board meeting on September 28, 2021. Ms. von Prelle Pecelli posed concern with the stormwater drainage system as it related to risk management based on the proposed manufacturing use. Mr. Doty provided a detailed explanation of how the system is designed and stated that quality control would be managed by the FDA. Mr. Bergeron inquired about security measures, and Mr. Rak responded that such measures would be a part of the building permit for the tenant.

The Planning Board discussed next steps which will include discussions on architecture, traffic, and sewer on September 28, 2021, followed by the parking special permit application and Stormwater Peer Review comments on October 12, 2021.

Mr. Bergeron proceeded to open the meeting to public comment. Olena Tokareva, a resident at 207 High Street, indicated that she was a scientist and asked for the highest chemical safety level for the building. Per Mr. Rak, the building would allow for BSL 1 and 2 levels and not BSL 3 and 4 levels. Ms. Byerley added that the Planning Board would not regulate this, but rather the Board of Health or Building Inspector.

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to continue the public hearing on September 28, 2021 at 7:30PM and October 12, 2021 at 7:30PM. **Vote: (5-0)**

#### **PUBLIC HEARINGS:**

##### **18 William Street/Sherbourne Street – Definitive Subdivision (PL21-3363) and Earth Movement Special Permit (SP21-05):**

Mr. Bergeron opened the public hearing on the abovementioned applications for a definitive subdivision and special permit submitted by Carlos and Diana Arzeno. Stephen Stapinski, Merrimack Engineering Services, Inc., and Mark Johnson, Attorney with Johnson & Borenstein, LLC, were in attendance to introduce the project and answer questions. Mr. Stapinski reviewed the site plan and explained the proposal to build a new house located at the rear of the existing home on 18 William Street, which has received a special permit from the ZBA as a host lot for a historical structure. The applicant is also proposing to make improvements to Sherbourne Street to service the new house, including widening the street to 18' per the minor street bylaw and utilizing an infiltration catch basin and rain garden for

drainage. Mr. Johnson added that, pursuant to the Historic Preservation Special Permit, there will be a preservation restriction on the front lot that has been approved by the State and the ZBA.

Ms. Byerley provided an update on discussions held at the Interdepartmental Review Meeting on August 31, 2021. It is her understanding that the Fire Department is satisfied with the use of the driveway and sprinkler system, but she will verify this and submit to the Planning Board for the next meeting. She added that DPW expressed concern with the maintenance of the right of way and recommended that the Board review a draft of the maintenance agreement.

Mr. Bergeron asked if the historic lot is non-conforming. Mr. Johnson answered affirmatively and explained that the Historic Preservation Special Permit allows for this. He added that the new lot complies with zoning.

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board voted unanimously to continue the public hearings on September 28, 2021 at 7:45PM. **Vote: (5-0)**

#### **CONTINUED PUBLIC HEARINGS:**

##### **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):**

Mr. Bergeron opened the public hearing and asked for a progress update on the abovementioned special permit applications. Ms. Byerley shared that the public hearing was continued from the Planning Board meeting on August 18, 2021 to allow time for the applicant to respond to comments provided by the Department of Public Health (DPH), Fire Department, and DPW. She reported that all departments are satisfied.

Steve Martorano, Civil Engineer with Bohler Engineering, Todd Greenfield, KS Partners, LLC, and Mark Johnson, Attorney with Johnson & Borenstein, LLC were in attendance. Mr. Martorano stated they had received draft conditions from the Planning Staff that they would like to review with the Board, particularly a condition related to occupancy rates and the construction of a new garage. He stated that the language they provided was based on a similar project in Bedford, which would require a traffic study once the property reached 85% occupancy to see if construction of a new garage would be needed. This condition would expire after 10 years, whereas the proposed condition from Planning Staff did not include a set time frame. Ms. Byerley explained that because the Board would be granting a special permit, the reserve parking requirement would remain active with that special permit. Further, she added it is the function of the ZBA to determine if reserve parking is no longer needed and to issue a variance. The Planning Board proceeded to deliberate on this issue, with the end determination to amend the language in the special permit condition. Mr. Johnson stated that he would work with Ms. Byerley to revise the language.

Ms. Knowles asked if a condition should be added for the Planning Board to review the left-hand turn restriction, which has not been recommended at this time due to residents not wanting this limitation. In response, Ms. Byerley stated that the Andover Police can enact a restriction in response to complaints

at any time if they deem necessary. She added that she would consult with police safety to see if they would want to add a condition.

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board unanimously voted to continue the public hearings on September 28, 2021 at 8:00PM. **Vote: (5-0)**

**CONTINUED PUBLIC HEARING:**

**140 Haverhill Street – Special Permit for Major Non-Residential Project (SP21-04):**

Mr. Bergeron opened discussion on the special permit submitted by Medico 140, LLC. Mark Bobrowski, Attorney for Medico 140, LLC, Caroline Buckley, Certified Addictions Recovery Coach, Benjamin Osgood, Engineer with Ranger Engineering Group, Inc., and Paul Kneeland, owner of Medico 140, LLC, were in attendance. Mr. Bobrowski and Ms. Buckley engaged in a lengthy Q&A discussion to provide more detail regarding the programming and operations of the day and overnight clinics. Discussion topics included the different types of care provided; personnel; admission and check out processes; prescribed medication protocol; ambulance protocol; initial treatment plan; length of stay; visitor policy; alarm systems; staff training; and security.

Ms. Knowles asked for clarification on the two clinics and the difference in services provided. Per Ms. Buckley, the smaller building is an out-patient clinic servicing patients that have completed the detox process and in-patient residential program, which will be housed in the larger building.

Ms. Byerley asked for clarification on the ambulance protocol. She shared that the Fire Chief had requested that 911 emergency calls be directed to Andover Fire Rescue and not a private company. Mr. Bobrowski stated that they would be willing to work with the Fire Department on this.

Officer Ota was present at the meeting to provide suggestions from the Andover Police Department. First, he stated that any change in ownership or management would trigger the requirement for the new owner or manager to submit a security plan for police approval. Second, security personnel must be present on site 24/7 (1 day; 1 evening; 2 midnight) and trained with strong de-escalation techniques, verbal skills, and first aid/CPR. He also requested that the police be notified if a patient leaves the facility without proper discharging. Mr. Bergeron requested that the applicant submit an action plan outlining the proposed safety protocol, including information on the qualifications and training of safety personnel. Per Mr. Bobrowski, the Wilmington clinic has 1 security professional on site 24/7; however, he would be willing to have a conversation on adding more personnel.

Mr. Bergeron proceeded to open the public hearing to questions from the audience. Richard Renzi, a resident at 135 Haverhill Street, stated that the information presented in the application package conflicts with Ms. Buckley's earlier testimony. He proceeded to read a prepared statement outlining action items that he would like the Board to consider, primarily regarding safety and security. Mr. Bergeron requested that Mr. Renzi submit his written comments and questions to the Planning Board. Mr. Chiozzi echoed a concern brought forth by Mr. Renzi regarding patients being discharged against medical advice who may be a threat to themselves or others. Officer Ota responded that the police would make an assessment on how to proceed if this were to occur.

Attorney Dana Cohen, representative for Doctor's Park II, commented that he had questions regarding access, lighting, signage, and traffic. Ms. Byerley stated that the site plan is currently under review by the Town departments, and it is likely that some of these topics will be discussed at the next Planning Board meeting on September 28, 2021, but not all. She encouraged Mr. Cohen to submit questions and/or concerns to the Planning Division in advance of said meeting.

Ronald Finlayson, a resident at 174 Haverhill Street, expressed concern with controlled substances being distributed outside of the facility as he had witnessed at his previous place of employment in Lowell, which abutted a similar detox facility. Officer Ota shared that this topic had not been discussed in conversations with other police chiefs that he had reached out to during his research. Per Mr. Kneeland, police chiefs in towns with similar facilities were consulted for the Wilmington clinic and it was determined that the presence of said facilities did not result in additional crime. He encouraged Andover Police to conduct similar research. Mr. Bergeron requested that the applicant submit a list of these facilities to the Planning Board.

Ms. Tokareva, a resident at 207 High Street, expressed concern with ensuring the safety of students using school bus transportation, particularly when it is dark outside. Mr. Bergeron reiterated that traffic is earmarked for the next meeting. Officer Ota added that he would have to review the crash data to confirm, but he believes that it is low.

Binwen Weng, a resident at 12 Elysian Drive, expressed concern with patients leaving the facility, particularly those with psychiatric disorders, and stated that the applicant cannot guarantee public safety. Mr. Bergeron responded that safety can never be guaranteed 100%, but he believes that there is a need for this type of facility and the intent of the applicant is just. Mr. Kneeland stated he is willing to work with Andover Police to address these concerns and devise an action plan.

Tom Flanagan, Attorney with MacLean, Holloway, Doherty & Sheehan, P.C. and representative for Southbay Properties LLC, expressed concern with a variance that had been previously granted by the ZBA to change the definition of a medical clinic to allow for 24/7 care. He stated that constructing an overnight clinic would change the character of the neighborhood and such action puts into question whether the project would be unreasonably detrimental to the Town or neighborhood. He further pointed to inconsistencies with the number of parking spaces needed for an overnight clinic based on square footage and what is being proposed by the applicant. Mr. Flanagan also suggested that the proposals to the ZBA and the Planning Board were in conflict and disingenuous in presentation. He noted that his client has contracted with an engineer to review the traffic study and that the ZBA decisions will be appealed.

Mr. Weng requested published data demonstrating the need for this type of facility in Andover. Per Mr. Kneeland, the state of Massachusetts has granted the necessary licensing and that serves as proof of need. Mr. Leavitt added that the Planning Board will consider community needs in their review. Mr. Renzi also questioned need and referenced statistics in support of his argument from the 2020 Town Financial Report.

Robbie Grossman, a resident at 116 Haverhill Street, asked why this type of facility would be constructed on a residential street. Ms. Byerley responded that the property is zoned for an office park and a medical clinic is allowed. Mr. Bergeron added that the applicant did not seek a variance for the site, but rather to change the definition of a medical clinic. Ms. Byerley proceeded to read the definition as written in the bylaw. Mr. Bobrowski added that the parking estimates provided in the application were based on a medical clinic, whereas a hospital was used for the detox facility erroneously. As a result, the applicant will need to go before the ZBA to obtain a 4<sup>th</sup> variance regarding parking.

Mr. Chiozzi requested that the applicant submit a procedural plan to the Planning Board that outlines action steps for when a patient wants to leave the facility against medical advice.

On a motion by Ms. Knowles, seconded by Mr. Chiozzi, the Planning Board unanimously voted to continue the public hearing on September 28, 2021 at 8:15PM. **Vote: (5-0)**

#### **DISCUSSION ITEMS:**

##### **Other Planning Related Topics:**

The Planning Board discussed the Town's reinstated mandate that would require the public to wear masks in all municipal buildings starting on Monday, September 20, 2021 and if they should consider moving meetings to a virtual or virtual/in-person hybrid format. They agreed to decide by September 23, 2021 when the agenda is posted for the next meeting.

Ms. Byerley reviewed the November and December Planning Board meeting schedule with the members and asked if there were any conflicts due to the holidays. The Board decided to move the November 23, 2021 meeting to November 30, 2021 and to cancel the December 28, 2021 meeting.

##### **Murray Hill Estates – Bond Renewal:**

Ms. Byerley shared that the developer submitted an updated bond letter of credit requesting a two-year extension on the performance guarantee.

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to extend the performance guarantee for the Murray Hill Estates subdivision to September 10, 2023. **Vote: (5-0)**

##### **Meeting Minutes:**

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board unanimously voted to approve the minutes for the July 13, 2021 and July 27, 2021 Planning Board meetings. **Vote: (5-0)**

Mr. Leavitt asked if the Planning Board would be provided with an update from Town Counsel regarding an executive session for the 60 Canterbury Street appeal. Ms. Byerley stated that more information would be forthcoming.

**Adjournment:**

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to adjourn the meeting at 10:15PM. **Vote: (5-0)**

**Documents:****300 Minuteman Road:**

- Cover Letter and narrative – 8.11.21
- Stormwater Requirements Waiver Requests – 8.11.21
- Special Permit Application – 8.11.21
- Record Permits Chapter Street – 8.11.21
- Minuteman Man Park Graphic – 8.11.21
- Site Plan Special Permit Decision SP97-17 – 8.29.97
- Earth Removal Special Permit Decision SP97-12 – 8.8.97
- Modification of a Special Permit Decision SP04-09 – 6.23.04
- Stormwater Management Plan and Report – 8.11.21
- NOAA Storm Data – 8.11.21
- NRCS Soil Data – 8.11.21
- 2004 Watershed Proposal – 8.11.21
- Watershed Surface Area Take Offs – 8.11.21
- HydroCAD Runoff Calculation Summaries – 8.11.21
- TSS Calculations – 8.11.21
- Memorandum from Jeffrey Dirk, Vanasse & Associates to Charles Scott Doty, John G. Crowe Associates re: Transportation Impact Assessment
- Project Cover Sheet – 8.11.21
- Existing Conditions Topographic Survey Plan – 8.11.21
- 2015 ALTA/ACSM Land Title Survey – 8.11.21
- Zoning Compliance Plan – 8.11.21
- Early Sitework Construction Grading Plan – 8.11.21
- Early Sitework Compensatory Wetland Construction Plan – 8.11.21
- Site Preparation, Sediment & Erosion Control Plan – 8.11.21
- Grading and Drainage Plan – 8.11.21
- Utilities Site Plan – 8.11.21
- Layout and Materials Plan – 8.11.21
- Planting Plan – 8.11.21
- General Notes – 8.11.21
- Construction Details C-9.2 – 8.11.21
- Construction Details C-9.3 – 8.11.21
- Construction Details C-9.4 – 8.11.21
- Sanitary Sewer Profile and Details – 8.11.21
- Storm Sewer Profiles – 8.11.21
- Fire Access Plan – 8.11.21
- Architecture Plans – 8.11.21

- Site Lighting Photometric Plan – 8.11.21
- Reduced Plan Set Chapter Sheet – 8.11.21
- Reduced Plan Set Parts 1-21 – 8.11.21
- Memorandum from Jacki Byerley to the Planning Board re: Project Summary and Recommendations – 9.8.21
- Memorandum from Tom Carbone, Director of Public Health to Jacki Byerley re: Health Review – 9.1.21
- Fee Waiver Request – 8.19.21
- ZBA Decision Number Z-21-53 – 6.7.21

**18 William Street:**

- Subdivision Lot Layout Plan – 7.21.21
- Subdivision Grading Plan – 7.21.21
- Subdivision Plan and Profile – 7.21.21
- Memorandum from Tom Carbone, Director of Public Health to Jacki Byerley re: Health Review – 9.1.21
- Memorandum from Jacki Byerley to the Planning Board re: Project Summary and Recommendations – 9.2.21
- Application for Approval of Definitive Plan – 8.11.21
- ZBA Decision Number Z-20-10, Z-20-25, and Z-20-83 – 9.4.20
- ZBA Decision Number Z-20-164 – 12.1.20

**100-400 Brickstone Square:**

- Revised Site Plan Set – 9.3.21
- Memorandum from Jacki Byerley to the Planning Board re: Project Update and Recommendations – 9.8.21
- Email from Lt. Robert A. Stabile to Will Granbery, Bohler Engineering re: Fire Review – 9.2.21
- Email from Tom Carbone, Director of Public Health to Jacki Byerley re: Review of Bohler's Response – 8.27.21

**140 Haverhill Street:**

- 116 Haverhill Street Resident Email – 9.9.21
- 138 Haverhill Street Resident Email – 9.14.21
- Memorandum from Jacki Byerley to the Planning Board – 9.8.21
- 140 Haverhill Street Project Summary 8.22.21
- Email re: Coachman's Ridge Condominium Trust /Doctor's Park Redevelopment – 9.10.21
- Redevelopment of Doctor's Park Coachman's Email Attachment – 9.10.21
- 207 High Street Resident Letter – 9.7.21
- Memorandum from Horsley Witten Group to the Planning Board re: First Peer Review – 8.26.21
- Neighbors Email to Police – 9.13.21
- Memorandum from Tom Urbelis, Town Counsel, to Zoning Board of Appeals – 7.9.21
- Wilmington Zoning Board of Appeals Decision – 4.24.20
- Wilmington Planning Board Decision – 3.13.20

- Andover Zoning Board of Appeals Decision – 9.3.21

**Murray Hill Estates:**

- Memorandum from Jacki Byerley to the Planning Board re: Performance Guaranty Extension – 8.26.21

**Minutes:**

- 7.13.21 Planning Board Minutes
- 7.27.21 Planning Board Minutes