

**MELROSE PLANNING BOARD**

**MEETING MINUTES**

**Regular Meeting**

**Monday, December 15, 2014**

**7:45 PM**

**Mayor's Conference Room, Second Floor, City Hall, 562 Main Street**

**PRESENT:** Carla Morelli, Anne DeSouza-Ward, Paul King, Michael Cassavoy, Sharon Petrillo, and John Sadowski

**ABSENT:** Ed Cassidy, Robert Mercado, and Jack Welch

Denise Gaffey, Director and City Planner, and Erin Zwirko, Assistant Planning Director, were present.

The meeting was called to order at 7:55 PM by Ms. Morelli.

**MINUTES**

Planning Board Regular Meeting and Public Hearing, November 17, 2014

Ms. DeSouza-Ward MADE a MOTION to accept the minutes of November 17, 2014. Mr. King SECONDED the MOTION. All members voted in favor. None were opposed.

Zoning Subcommittee Meeting, November 12, 2014

Ms. DeSouza-Ward MADE a MOTION to accept the minutes of November 12, 2014. Ms. Morelli SECONDED the MOTION. All members voted in favor. None were opposed.

Zoning Subcommittee Meeting, December 3, 2014

Ms. DeSouza-Ward MADE a MOTION to accept the minutes of December 3, 2014. Mr. King SECONDED the MOTION. All members voted in favor. None were opposed.

**BOARD OF APPEALS**

Case 14-018, 21 Lake Avenue, John McAree

Ms. Morelli announced that she had consulted with the petitioners at the start of their project, and as such she will recuse herself from the vote.

Max Kasper, Galaxy Contracting, represented the petitioners, John and Elke McAree, at the meeting. Mr. Kasper indicated that there was a pre-existing deck at the property. The existing footings will be used to reconstruct the deck and an exterior door will be replaced.

Mr. Cassavoy inquired what the deck looked like previously and whether it was subject to any Board of Appeals decisions. Mr. Kasper indicated that the deck was removed some time ago, and one other Board of Appeals decision relates to some other element of the structure.

Mr. Cassavoy suggested that a standard letter with a neutral position was appropriate for the project. Mr. Sadowski agreed.

Ms. Petrillo asked if the height of the deck should be considered and whether it triggers any zoning requirements. Mr. Sadowski did not think that it did. If the deck was substantially at grade, it would not require zoning relief.

Mr. Cassavoy MADE a MOTION to send a standard recommendation to the Board of Appeals. Mr. Sadowski SECONDED the MOTION. All members voted in favor. None were opposed.

Document: ZBA Application Case # 14-018

### **APPROVAL NOT REQUIRED PLAN**

#### **PB 14-01, 17 Forest Street**

Attorney Judy Clark presented the proposed ANR plan to the Planning Board. She represents David Barrett of HB Development Corp. Attorney Clark explained that there is 1 structure at 17 Forest Street and 1 structure at 6 Hunt Terrace.

Ms. Gaffey noted that the Planning Board members received a copy of the Form A, which indicates that the division of land does not qualify as a subdivision because the two buildings were in existence since 1917. Ms. Gaffey explained that she has completed some research into this provision on the Form A, and notes that one building may not predate 1917. Attorney Clark explained that the Assessor's Cards for the two buildings may not be accurate, which state that the structure at 6 Hunt Terrace was constructed about 1914 and the structure at 17 Forest Street was constructed about 1920. Attorney Clark's client believes that the structure at 17 Forest Street is older than the structure at 6 Hunt Terrace, indicating that the Assessor's Card is incorrect related to the date of construction. Ms. Gaffey noted that the Planning Board needs to make a determination if this division of land qualifies as an ANR, otherwise it will require a subdivision.

Ms. Gaffey also noted that the 1917 date on the Form A raises questions as well. It has been suggested that the date should be 1953, which when the Subdivision Control Law went into effect. Ms. Gaffey consulted with Attorney David Lucas who works with the City Solicitor on land use matters. Attorney Lucas told Ms. Gaffey that a Board of Survey did exist in Melrose in 1917, so the date is likely accurate on the form. Based on her own research, Ms. Gaffey explained that the current Form A was created in 1976, which added check boxes for what qualifies as an ANR. It also appears that the Form A was copied from Wakefield, although the Wakefield form refers to a different date for the Board of Survey. Ms. Gaffey explained that the Board needs to consider whether they are comfortable with the information presented.

Ms. DeSouza-Ward asked if the Building Commissioner has expressed an opinion. Attorney Clark indicated that the Building Commissioner did not have an opinion on the age of the houses or the ANR plan.

Ms. Gaffey explained that the Planning Board may want to continue the discussion to January. If the Planning Board rejects the ANR, the petitioner will have to complete a subdivision plan. The petitioner will have to request a waiver of the frontage requirement.

Attorney Clark provided some additional information about the long term plans for the properties. She explained that the structure at 6 Hunt Terrace will be razed. The plan is to build a conforming structure on the lot and sell it. The structure at 17 Forest Street will be renovated. If the ANR is approved, the petitioner will seek relief from the Board of Appeals.

Mr. Cassavoy suggested that the petitioner consult with the Historical Commission as they may have information available regarding the construction of and other maps that show the structures. Ms. Petrillo suggested reviewing voting records or Sanborn maps as she is not comfortable relying on the Assessor's record.

Attorney Clark indicated that she did not complete the title search, and she's not sure that it would provide any information. The deeds do not reference a subdivision plan.

Ms. DeSouza-Ward suggested that if the petitioner files a subdivision plan, it would be a streamlined review. She suggested that she needs more information to find that approval is not required.

Ms. Gaffey explained that the petitioner will need to waive the 21 day review period. She asked Attorney Clark to provide a handwritten note for the file during the meeting.

Mr. King asked if the lots are conforming. Ms. Gaffey noted that the project will need Board of Appeals approval. Attorney Clark noted that the lot sizes proposed are consistent with the neighborhood and the new construction at 6 Hunt Terrace will conform except for frontage and lot size.

Attorney Clark requested that the review of the ANR Plan for 17 Forest Street be continued to the next regularly scheduled Planning Board meeting on January 26, 2015, waiving the 21 day review period.

Document: PB 14-01, 17 Forest Street, Approval Not Required Plan and Form A

### **PRELIMINARY SUBDIVISION PLAN ACCEPTANCE**

#### 53 Dexter Road, Brookstone Development

Angus Bruce, the petitioner, discussed the acceptance with the Planning Board. Ms. Gaffey noted that the meeting is a formality to sign the Form B. Ms. Gaffey noted that the review of the preliminary plan will commence on January 26, 2015 at the next regularly scheduled Planning Board meeting. Ms. DeSouza-Ward noted that accepting the plan starts the 45 day review.

Mr. Cassavoy asked if there was any development on the site already. There is none.

Ms. DeSouza-Ward asked if the Planning Staff will be requesting additional information. Ms. Gaffey explained that a request will be sent to the petitioner in the next few days. Ms. Gaffey indicated that one item will be a list and justification of waiver requests.

Ms. DeSouza-Ward reminded the Planning Board that at this point the plan is only preliminary so the review remains very high level.

Ms. DeSouza-Ward MADE a MOTION to accept the Preliminary Subdivision Plan for 53 Dexter Road and schedule a review meeting at the January 26, 2015 Planning Board meeting. Mr. Cassavoy SECONDED the MOTION. All members voted in favor. None were opposed.

Documents: Sheet 1 and Sheet 2, Preliminary Subdivision Plan, 53 Dexter Road, Prepared by Williams and Sparages, dated November 21, 2014  
Form B, 53 Dexter Road

### **ZONING SUBCOMMITTEE REPORT**

#### Proposed Station Area Zoning Amendments and Map Changes

Ms. Gaffey explained that the proposed zoning amendments and map changes are the third phases of the transit oriented development efforts. The first two phases included converting the BB District along the commuter rail to BB-1 Districts as well as implementing the Rail Corridor Overlay District. The proposed station area zoning amendments focuses on the three commuter rail stations in Melrose. The proposed amendments include the Wyoming station area, which was initially overlooked because the focus was on the BC Districts, which is the current zoning for the Highlands station and the Cedar Park station. The

Zoning Subcommittee found that the BA-1 zoning at Wyoming was a good fit for the station areas. The BA-1 District is also found in downtown Melrose. Ultimately, the Zoning Subcommittee decided to create a new district, the BA-2, rather than trying to shoehorn their preferences into the BA-1. The goal is to create vibrancy and density within the station area through allowing greater height and mixed uses.

Mr. Cassavoy asked if the goal is to encourage residential uses. Ms. Gaffey clarified that the goal is mixed use. In fact, multifamily residential requires a special permit from the Planning Board for residential uses within a nonresidentially zoned area.

Mr. Cassavoy asked for some clarification on the boundaries at the Wyoming station. Ms. Zwirko pointed out the boundaries that were in question.

Ms. Gaffey noted that the BA-1 and BA-2 dimensional controls will be the same. In order to do so, the maximum allowable stories in the BA-1 will be reduced to 4 stories from 8 stories. Mr. Cassavoy inquired about the current heights and stories near the stations. Ms. DeSouza-Ward indicated that 4 stories and 50 feet seemed appropriate and consistent with the existing buildings.

Ms. Gaffey explained a boundary change at the Highlands station. The existing BC District does not include a commercial building adjacent to the eastern boundary and the Highlands Congregational Church. The BA-2 will be extended to include this building. There are no boundary changes to Cedar Park.

Ms. DeSouza-Ward noted that there were some uses that the Zoning Subcommittee wanted to discuss further with the full Planning Board. Ms. Gaffey explained that auto uses, including sales and repair, would be prohibited. The Zoning Subcommittee didn't feel that they are appropriate uses for the station areas, and currently there is only one on Franklin Street. Ms. DeSouza-Ward noted that there was discussion between the subcommittee members, but ultimately, prohibiting these uses was determined to be appropriate. Mr. Cassavoy asked if the grandfathered uses would lose their status if ownership changed. Ms. DeSouza-Ward noted that the status goes with the land, not the owner.

Ms. Gaffey explained that restaurants will be allowed by right in the BA-2. Currently, in the BC District, this use requires a special permit. Mr. Cassavoy expressed concern about parking availability and as a result the restaurants will be mostly take out. Ms. Gaffey noted that there is parking available in the station areas at the commuter rail lots. She noted that parking is free from noon through 2am. After 2am, parking is prohibited until 6am, unless the vehicle has an overnight parking permit.

Ms. Gaffey also noted that medical uses were discussed at length by the Subcommittee. Ms. Gaffey explained that medical uses are generally shut off from the street and do not create activity as is the experience near the Highlands station where there are three medical uses. Therefore, the Subcommittee decided to limit these uses to non-ground floor. There are other opportunities in the city for medical uses.

Ms. Petrillo asked about dance studios. Ms. Zwirko indicated that they are considered to be personal and consumer services, and are allowed.

Ms. Gaffey moved onto the dimensional controls for the new BA-2 District. She noted that the BA-1 District would be updated as well to be consistent. The major change is a zero setback for the front yard. Ms. Gaffey noted that in the downtown it appears that most buildings have a zero setback. Ms. Gaffey explained that a 5-foot maximum front yard setback would be added, and carried as a footnote. She asked the Planning Board if they like the maximum setback suggestion. Ms. Petrillo expressed concern that businesses would use that allowance to create a patio. Ms. Morelli did not think that a patio could be

achieved with just 5 feet; 8 to 10 feet is more appropriate for a patio without intruding on the public domain. Ms. Gaffey stated that the 5 feet give a little wiggle room. She pointed out that the Building Commissioner was concerned about the zero side yard setback due to fire codes, but those issues get worked out in permitting and he ultimately felt it was fine as is.

Mr. Cassavoy asked about the 5 percent minimum open space and whether it was worth it. Ms. Morelli did not think it was worth requiring open space.

Ms. Gaffey noted that there are revisions to other sections of the zoning ordinance, some of which are housekeeping provisions. In Section 235-25, the Building Commissioner is allowed to make a determination regarding dimensional controls for residential uses in nonresidentially zoned areas. In all cases the Building Commissioner uses UR-C, so the Building Commissioner recommends revising this section to refer specifically to UR-C for all cases. Ms. Gaffey explained that the parking requirement for multifamily uses in the BA-1 and BA-2 was reduced to one space per unit consistent with the requirement for the Rail Corridor Overlay District. Ms. Gaffey also noted that the language will be cleaned up to remove the reference to elderly housing.

Ms. Gaffey explained that Section 235-40 will be renamed as "Parking Reductions." Some clarification will be added to paragraph A to make it clear that the Board of Appeals issues the special permit. The Zoning Subcommittee suggests adding a new paragraph that uses language from the Rail Corridor Overlay District regarding shared parking and applies it to Site Plan Review. The Subcommittee wanted to discuss this option further with the full Planning Board as there was uncertainty if the paragraph should apply to the whole city or only the BA-1 and BA-2. There are some pros and cons. This paragraph may be perceived as an overreach. But, because the shared parking allowances only apply through site plan review, very few projects will be able to take advantage. Ms. Morelli indicated that it could be a negotiation point. Ms. Zwirko reiterated that only a few projects would be able to take advantage of this provision and those projects would have to be proximate to parking lots that could accommodate shared parking. Ms. DeSouza-Ward stated she is favor of the provision. Ms. Petrillo thought that it was too messy from a legal perspective. She does not believe shared parking agreements are successful. The Planning Board ultimately decided it might be less controversial to restrict this provision to the BA-1 and BA-2 understanding that if it is successful it could be expanded by amendment in the future. Ms. Gaffey indicated that the paragraph would be rewritten to limit it to the BA-1 and BA-2.

Ms. Gaffey explained that the sections referring to the special permit for multifamily in nonresidentially zoned areas would be updated to include the BA-2 District. She also noted that the height allowances, which are at the Planning Board's discretion, will be reduced from 80 feet to 62 feet and 5 stories.

Ms. Gaffey noted that there are various other housekeeping items that need to be taken care of due to the addition of a new district.

Ms. Gaffey then referred the Planning Board members to a memo regarding the assisted living facility density established at 45 units per acre. Ms. Gaffey explained that the developer has requested that the Planning Board consider revising the density to 55 units per acre. Ms. Gaffey explained that the developer, who worked with the Subcommittee to develop the 45 units per acre, mistakenly included a portion of the right-of-way in their lot size, and does not have the 2 acres necessary for a 90 unit project. The density requested is 55 units per acre. The proposed project remains the same as originally conceived in terms of footprint, massing, height, etc. Ms. Gaffey noted that the developer has an alternative option to execute a sublease with the adjacent hospital parking lot. Ms. Gaffey is not comfortable with the alternative option. Ms. Gaffey noted that without the density increase, the project may be nonviable.

Mr. Cassavoy indicated that he would like additional information on assisted living facility densities before deciding on this amendment.

Ms. Petrillo asked how the 45 units per acre was established. Ms. DeSouza-Ward indicated that the developer recommended it during meetings of the Zoning Subcommittee when asked for opinions related to assisted living facilities. Ms. Petrillo suggested that maybe it's an industry standard or an internal calculation developed by the developer.

Mr. King indicated that they cannot necessarily compare one project to another as there are often very different site conditions. In this case, the building with 90 units fits on the site. The key point is that they are not changing the project. Ms. Gaffey agreed with Mr. King.

Ms. Petrillo noted that the Planning Board needs to be comfortable with the increased density anywhere in the Rail Corridor Overlay District. It could be any number as long as the Board is comfortable.

Ms. Morelli indicated that the density seemed reasonable during the discussions on the Rail Corridor Overlay District. She suggested researching the industry standard.

Ms. Gaffey stated that from a process standpoint, this amendment is awkward. Ms. Gaffey stated that the developer will be asked to provide a letter and testimony at the joint public hearing.

Ms. Petrillo asked if the Planning Board can make this amendment. Ms. Gaffey indicated that the Planning Board may as it applies to the entire Rail Corridor Overlay District, not just the Deering Lumber site.

Ms. DeSouza-Ward noted that during the Zoning Subcommittee discussions, it was felt that a 90 unit project would be good. Ms. DeSouza-Ward asked Mr. Cassavoy what his main concern is. Mr. Cassavoy indicated that that he is uncomfortable with the project. Ms. DeSouza-Ward explained that it was a sloppy mistake on the developer's part. Ms. Morelli noted that it could be an easy mistake to make if the developer is not familiar with reading plans.

Mr. Cassavoy suggested that the station area zoning is well-crafted as it stands. He suggested separating the two amendments. Ms. Gaffey stated that the Board of Aldermen may separate the two amendments if they feel it's necessary. Ms. Gaffey reiterated that the developer will have to testify at the hearing.

Ms. DeSouza-Ward stated that some more research and review is necessary.

Ms. Gaffey indicated that the discussion could be carried over to a special meeting in January. Ms. Gaffey stated she would invite the developer to that meeting. She also stated that staff will begin to prepare documents in the format that will be provided to the Board of Aldermen. The Planning Board decided to continue consideration of the zoning amendments during a Special Meeting to be held on January 12, 2015 at 7:45pm.

Documents: Melrose Transit Oriented Rezoning Initiative, dated December 11, 2014  
Memorandum to the Planning Board, from Denise Gaffey, Maximum Density for Assisted Living Facility Projects in the Rail Corridor Overlay District, dated December 11, 2014

The meeting adjourned at 10:15 PM.