MELROSE PLANNING BOARD
MEETING MINUTES
Regular Meeting
Monday, January 28, 2019
7:45 PM
Cassidy Conference Room, City Hall, 562 Main Street

PRESENT:	Anne DeSouza-Ward, Paul King, Robert Mercado, Carla Morelli, John Sadowski, Greg Sampson & Jack Welch
ABSENT:	Mike Cassavoy & Sharon Petrillo
STAFF PRESENT:	Denise Gaffey, Director, Emma Schnur, Senior Planner and Lori Massa, Planning Coordinator

The meeting was called to order at 7:50 PM by Ms. DeSouza-Ward.

APPROVAL OF MINUTES

Design Review Subcommittee Meeting, January 7, 2019
Ms. Morelli recommended two edits to the minutes. One was to correct the spelling of the name Coleman and the other was to make clear that the construction drawings for 524-530 Main Street need to be corrected and the renderings need to be updated. Ms. Gaffey noted that the revised plans have not yet been submitted for the Subcommittee's review. Mr. Welch MADE a MOTION to approve the Design Review Subcommittee meeting minutes from January 7, 2019, as amended. Ms. Morelli SECONDED the MOTION. All design review subcommittee members voted in favor. None were opposed.

Joint Public Hearing with Board of Aldermen, January 14, 2019
Mr. Welch MADE a MOTION to approve the Planning Board regular meeting minutes from January 14, 2019. Mr. Mercado SECONDED the MOTION. All members voted in favor. None were opposed.

ASSENT CALENDAR

Board of Appeals Public Hearing, February 13, 2019

Case 19-001, 15 Damon Avenue, Cindy Chabot
Mr. Sampson MADE a MOTION to send the Board of Appeals a letter stating that the Planning Board does not object to the application and that the Board should take the input of the abutters at the public hearing into account. Mr. Mercado SECONDED the MOTION. All members voted in favor. None were opposed.

Documents: ZBA Application, Case 19-001

Case 18-026, 78 & 80 Laurel Street, 80 Laurel Street, LLC
Ms. Morelli MADE a MOTION to remove the case from assent calendar in order to discuss the case. Mr. Sampson SECONDED the MOTION. All members voted in favor. None were opposed.

Documents: ZBA Application, Case 18-026

RECOMMENDATIONS TO THE BOARD OF APPEALS
Board of Appeals Public Hearing, February 13, 2019:

Case 18-026, 78 & 80 Laurel Street, 80 Laurel Street, LLC
The members felt that the changes to the structures from the approved plans were deliberate and unfortunate. They were made as cost saving measures. The revisions included removing an inset bay and changing the roofline of 80 Laurel Street, which causes 78 and 80 Laurel Street to appear to be more similar to one another and to lack character. The desire was for the buildings to look different from one another. The removal of windows, decks, symmetry and design details makes the buildings much less desirable aesthetically. If the revised plans were presented to the Planning Board originally, the Board would not have recommended that the case be approved as presented.

The approved plans illustrated two homes that were sufficiently articulated to compliment the surrounding houses and if built to the plans the houses would have added to the character of the neighborhood, making a contribution to it. In creating these plans, the applicant took the neighbors' feedback into consideration and the neighbors did not oppose the building and landscaping that were approved for Case 17-011.

The Board questioned whether the robust landscape plan that was also referenced in the decision will be implemented given the applicant's apparent disregard for important elements of the plans that were approved by the ZBA. The Board did not take a position on the recommended action for this case but suggested that the ZBA reinforce the requirement to comply with the approved landscape plans.

Ms. Morelli MADE a MOTION to send the Board of Appeals a letter detailing the Board's negative opinion on the revisions and recommendation to reinforce the requirement to comply with the landscape plan. Mr. Welch SECONDED the MOTION. All members voted in favor. None were opposed.

Documents: ZBA Application, Case 18-026

Case 19-002, 25 Pebble Road, Charles & Katherine Leung
Jay Bradley, Architect, appeared to present the case. An elderly couple bought the house and they would like for it to be an accessible, energy efficient house. It will be 1 ½ stories and be a craftsman style with modern features.

The Board had no objection to the proposal. They discussed how the design is modern which is a consideration in a neighborhood of traditional houses; however, they felt that the design of the house in its detailing, quality of materials, and warm and organic colors will allow for it to be an improvement as opposed to an outlier in the neighborhood. They noted that the proposal does not encroach farther into the side yard and the house will not be as impactful as it will be shorter than the existing structure. Gutters will be installed along the roof so that rainwater runoff can be directed away from the neighbor's property.

The Board considers extensions of projections in front yards with added scrutiny because of the impact that they can have to the streetscape. In this case the Board is not troubled by the width extension of the front yard encroachment to allow for a front porch. The porch will be open and will not be a detriment to the neighborhood.

Mr. Sadowski made a MADE a MOTION to send the Board of Appeals a letter explaining the Board's opinion on the design and proposed setbacks. Mr. Welch SECONDED the MOTION. All members voted in favor. None were opposed.

Documents: ZBA Application, Case 19-002

ZONING AMENDMENT REPORTS TO THE BOARD OF ALDERMEN

Affordable Housing Incentive Program Ordinance

The Board discussed the issues raised by the Board of Aldermen (BOA) and the public at the hearing on January 14, 2019 in order to write a recommendation letter to the BOA regarding the amendment. The BOA must wait at least 21 days to receive this recommendation letter prior to taking a vote on a zoning amendment.

Members discussed their rational for setting the affordable requirement at 15 percent of the number of dwelling units. Fifteen percent is a significant change from the current ten percent requirement. It may seem that with the current residential real estate market that a higher percentage is feasible; however, the market will change and the regulations need to account for this. Also, many other municipalities have a 15 percent requirement and raising the percentage higher may mean that Melrose loses out on opportunity for developers to come here to build much needed housing. The Board did not recommend increasing the percentage at this time

The Planning Board discussed the payment in lieu amount and how this requirement only applies to smaller projects that find it financially difficult to absorb the cost of providing affordable housing. Each payment is not going to supply a huge benefit to the fund but collectively the smaller projects will contribute towards affordable housing efforts. Members did not recommend increasing the percentage above three percent of total sale or market value at this time.

A member of the public suggested having a different valuation for the payment in lieu calculation if a development is apartments versus condominiums. The current ordinance states that the calculation is based on the total sale or market value of all the units in the development. In practice, to determine the market value of apartments, developers have submitted letters from local realtors who determined the fair market value of the units in the development. This has been a straightforward process that has worked well and without complaint.

The calculation for the payment for a fraction of a unit less than 0.5 is written in the amendment as using the fair market value of a comparable unit recently sold in the City, and for rentals, the value of the unit is considered the same as if it was sold. This is the same method that is currently used for the payment in lieu calculation. Both the value of the market-rate and the affordable unit will be determined as if they are sold. The Board did not propose changing the language related to this comment.

The Planning Board discussed a comment made at the public hearing about the removal of incentives for smaller projects and the idea that the regulations could be considered a regulatory taking of private property. Members did not have a concern that the regulations would be challenged as a taking. If a property owner does not want to pursue a project that would be required to include affordable units or a payment in lieu of providing affordable units there are other uses that are allowed by-right that would provide value to the property. Melrose's ordinance is generous in the density bonus and parking incentives and many communities do not provide for any incentives. For smaller projects the payment in lieu option will provide developers with certainty in what the requirement will be and the payment has been shown to be preferred in all past cases over providing a unit.

The effective date of the ordinance was another item raised by a member of the public. This date is not mentioned in the amendment and there was no desire to make the effective date any different than how it is regulated in the state law, MGL, Chapter 40A, Section 5, as enforced by the Building Commissioner.

The Planning Board heard concerns about the amended parking incentive language and proposed adding that the parking requirement may be reduced by 0.5 spaces per unit only. The regulation would still state that the requirement could not be reduced to less than one space per unit through this incentive. The language regarding the exception can be removed since it appears to cause confusion and is not directly related to the incentive. This incentive does not apply to residential units with no parking requirement or a requirement of one space per unit.

As a result of a comment from an Alderman, the Board also recommended adding proximity to public transit as a consideration in the report that an applicant would submit for the Planning Board's consideration of a parking requirement reduction. Proximity to public transit is a central part of reduced parking demand and should be expressly stated as a factor in the approval.

The type of development, whether it be by new construction, redevelopment of a structure or substantial rehabilitation of existing units, to which the regulations apply was expanded upon for clarity. This is not a change from the enforcement of the regulation as it is today but would provide transparency in the ordinance.

The Department of Housing and Community Development (DHCD) provided feedback on the details of the amendment and suggested a few changes. The changes will ensure that our local ordinance is in line with and contains the relevant information related to DHCD's requirement for the affordable unit to be eligible as a Local Action Unit and count on the City's Subsidized Housing Inventory. The changes relate to the wording of the asset limit consideration, the calculation of the housing costs for ownership units, and the need to gain approval to allow for 70 percent local preference for affordable units. DHCD approves the ability to have a local preference for the affordable units in a development on a case by case basis to ensure that the preference will not have a discriminatory effect. The Planning Department provides data to this effect to DHCD with each application and the local preference has been allowed in every case thus far.

The Board also discussed the desire raised at the public hearing to provide a preference for affordable units to veterans. Planning staff has inquired with DHCD in the past about the ability to allow veterans to be in the pool of people that are initially offered affordable units. At that time there was no ability to do this within the state and federal laws. The Board did discuss that if a veteran is a Melrose resident they would have local preference. Even if veteran status was considered, a Melrose veteran would not have a higher preference than anyone else that is eligible as only a resident or veteran. The Planning Department informs the Veterans' Services Department when there is an upcoming lottery for affordable units.

During the public hearing a resident spoke about her concern about increasing condominium fees in her building as she looks towards retirement. In response, Aldermen asked about how condominium fees are calculated for affordable units. Staff informed the Board on the two ways that condominium fees are factored into the cost of affordable units. Typically the fee for the affordable unit is the same as it is for the market-rate units. The purchase price for the condominium is reduced to account for the cost of the fee and adjustments over time. Condominium fee increases in the future affect all of the units equally.

Another method is to reduce the condominium fee for the affordable unit and therefore the purchase price is not reduced as much as if the full fee was paid. With this method, condominium fees for the affordable unit would increase if the market-rate condominium fee increased but only by a proportional amount. DHCD's regulations for Local Action Units, which the affordable units are required to become to count on Melrose's Subsidized Housing Inventory, control the way in which condominium fees and purchase prices are calculated.

The Board discussed how the school department's enrollment data shows that the number of school children that live in multi-family apartment buildings is low. A member asked staff to include information about this data in in the letter to the Board of Aldermen.

Mr. Sadowski MADE a MOTION to send the BOA a letter recommending approval of the amendment with the minor revisions noted and an explanation of the Board's responses to public comments. Ms. Morelli SECONDED the MOTION. All members voted in favor. None were opposed.

Marijuana Establishments

The Board discussed the issues raised by the Board of Aldermen (BOA) and the public at the hearing on January 14, 2019 in order to write a recommendation letter to the BOA regarding the Marijuana establishment amendment. The BOA must allow 21 days to receive this recommendation letter prior to taking a vote on a zoning amendment. The Board received and discussed eight additional written comments on the amendment that they received after the public hearing. Some of the people that wrote these letters were at the public hearing. All of the comments were related to locating a marijuana retail shop on lower Washington Street and the concerns regarding traffic, parking and proximity to the daycare. One person was opposed to the use in the city. The use cannot be banned. There were no comments on the Route 99 location.

The Planning Board was sympathetic to the fact that the neighborhood in and around the Smart Growth District has experienced a disproportionate amount of growth and associated traffic in recent years compared to other areas of the city. Members supported removing the I-A District from consideration for retail sales.

During the public hearing conversations around siting, a handful of other options were mentioned for locating marijuana retailers. Some individuals felt like a retailer should be allowed in any business district and treated like any other retail use. A number of attendees suggested downtown Main Street as an alternative to the Smart Growth District due to the availability of parking and the bus and commuter rail access. The Board discussed these and other locations such as the BA-2 district in the Highlands and the business districts along Tremont Street as possible locations for marijuana retailers. In the end they did not recommend the Highlands location because of the size of the properties and proximity to the UR-A and UR–B districts. They did not recommend the districts along Tremont Street because the 500 foot buffer limits the available properties.

The Board discussed how downtown Melrose offers a number of advantages that could minimize the impacts of a marijuana retailer locating there. In addition to its access to public transportation, the Main Street corridor is bordered by many municipal parking lots that could support customer parking and also help buffer the use from the surrounding residential neighborhoods. In terms of public safety, this is an area that constantly has "eyes on the street" and it is also in close proximity to the Police and Fire Stations should any emergency occur. Public and social consumption is illegal and therefore people would not be allowed to smoke or consume marijuana inside or outside the establishment. Finally, a marijuana retailer could have the added benefit of bringing more people to shop and dine in downtown Melrose, supporting other local businesses. There was some discussion about traffic and parking but the Board expects the traffic and lines of people accessing marijuana retailers to diminish as more shops open around the Commonwealth and then the establishment would have the same traffic impact as any other business. If the establishments were on the ground floor along Main Street the Planning Board will likely have to work with the design of the storefronts to comply with the CCC regulations requiring limiting visibility of products while making sure that the storefront is pedestrian friendly. The use could also be established on an upper floor of a building and then it would not have a storefront.

Based on the comments in support of permitting the retail marijuana use in other business districts the Board thought that an overlay district with specific parcels located on Main Street could be a good mechanism for allowing a second marijuana retail establishment in the city. The Board reviewed a map of the where a Marijuana Retailer Overlay District (MROD) could be located over parcels that front Main Street and are outside of the buffer zone in the downtown General Business (BA-1) District and the Medical (BD) District. The parcels in the BA-1 District are between Grove Street and Essex Street, and the parcels in the BD District are between Winthrop Street and the Lebanon Street split. Should the Board of Aldermen decide to support allowing for two marijuana retailers and expanding the possible locations beyond the parcels in the Industrial (I) District and the Extensive Business (BB) District along Newburyport Turnpike, the Planning Board recommended this overlay approach.

An Alderman asked if the buffer for marijuana establishments should be changed to be from property to property line instead of to the facility. The Planning Board agrees that it makes sense to amend the buffer to be from the property lines.

The Planning Board continued to recommend that the City of Melrose cap the number of marijuana retailers at two in order to better serve the market for the area, encourage competition, and generate additional revenue for the City. This aims to strike a balance between those who want to see the elimination of caps on retailers and those who do not want this use in Melrose. Any applicant applying for a special permit for a marijuana retailer use would have to satisfy all location, operation, and security requirements of Section 235-73.4, as well as meet eight special permit findings. During the special permit application process, abutters and other residents would have additional opportunities for public comment about the application in question.

The Planning Board discussed equity considerations and one member stated that it would be great to have a preference for one of the establishments in Melrose to be owned by an economic empowerment applicant. This preference could be incorporated into a licensing process established by the Board of Aldermen, if the Board of Aldermen choose to license marijuana establishments and impose equity requirements.

In the zoning amendment as originally proposed there was a provision requiring that marijuana establishments be prohibited from operating between the hours of 8PM and 8AM. One person at the hearing suggested changing the hours of operation to 9AM to 9PM in order to avoid the morning rush-hour traffic. A potential business owner commented that restricting the hours as such for non-retail establishments would not make sense for some businesses where people need to work multiple shifts. The Planning Board agrees with these suggestions, and believes it is most logical to remove the hours from the zoning language and have them approved during the special permit process, on a case-by-case basis.

There was a comment at the public hearing regarding the wording of the review of the emergency and contingency plans with the Fire and Police Departments. The Planning Board did not propose changing this language. It is clear and does not delegate authority to another city department.

Mr. Sadowski MADE a MOTION to send the BOA a letter recommending removal of the I-A District from consideration for retail sales, keeping the cap at two marijuana retailers, removing the hours of operation from the regulations, changing the buffer to be measured from the property lines, and should the Board of Aldermen decide to support allowing for two marijuana retailers and expanding the possible locations beyond the parcels in the Industrial (I) District and the Extensive Business (BB) District along Newburyport Turnpike, recommending the MROD approach. Mr. Sampson SECONDED the MOTION. All members voted in favor. None were opposed.

NEXT MEETINGS

The next Regular Meeting is scheduled for Monday, February 25, 2019 at 7:45pm.

The meeting adjourned at 9:50pm.