

MELROSE PLANNING BOARD
Regular Meeting & Public Hearing
Monday, April 28, 2008
7:50 p.m.
Mayor's Conference Room

PRESENT: Mike Cassavoy, Ed Cassidy, Richard Connolly, Bob Mercado, John Sadowski, Gerry Marcus, Anne DeSouza-Ward, Tom Pawlina and Carla Francazio

Denise Gaffey, Director & City Planner and Matt Hennigan, Assistant Planner, were present.

The meeting was called to order at 7:50 p.m. by Mr. Cassavoy.

MINUTES

a) Annual Meeting & Public Hearing, March 24, 2008

Mr. Connolly MADE a MOTION to make a minor edit to the March 24, 2008 minutes and then to accept the minutes. Mr. Mercado SECONDED the MOTION. All voted in favor. None opposed.

ASSENT CALENDAR

a) Case 08-014, 78 Harold Street, Conboy/Blais

b) Case 08-017, 230 North Forest Street, Huntley

Mr. Pawlina MADE a MOTION to send standard letter to Board of Appeals for Cases 08-014 and 08-017. Ms. Desouza-Ward SECONDED the MOTION. All voted in favor. None opposed.

BOARD OF APPEALS

Case 08-011, 33 Bow Street, Avola

The Applicant, Mr. Avola, was present and informed the Planning Board that he is requesting a variance to build a farmer's porch on the front of his house. He said the proposed structure will extend to the street 16.5' on the west side and 17.3' on the east side. Mr. Pawlina questioned the Applicant concerning the depth of the existing landing. The Applicant described the proposed porch as extending a half foot from the existing landing. Ms. Francazio asked if the Applicant applied for a variance for the family room and was told that the Building Inspector is only requiring a variance for the farmer's porch. Ms. Francazio clarified that a farmer's porch is attached to the house and has a roof over it. The Applicant explained that the steps are not covered by the porch. Mr. Cassidy complimented the Applicant on the design of the proposed project. He added that he felt the plans are properly drawn and carefully thought out with only a modest intrusion into the front yard. Mr. Cassidy stated that while he does not feel that the Planning Board should endorse the project, he takes no exception to it. Mr. Connolly expressed that the project appears to be an improvement to the dwelling. Mr. Connolly MADE a MOTION to send standard letter to Board of Appeals that notes that the Planning Board generally does not support an encroachment into the front yard setback, but that the plans are well drawn and well presented and the porch appears to be an improvement to the dwelling. Ms. Desouza-Ward added that the Applicant's proposal is a *de minimis* increase in encroachment related to a pre-existing condition. Mr. Pawlina SECONDED the MOTION. All voted in favor. None opposed.

Case 08-012, 3 Cranmore Lane, Leahy

The Applicant, Mr. Leahy, was present and described to the Planning Board the proposed project. He would like to construct an enclosed entryway on the front of his house which is located on a corner lot. The Applicant explained that his family would prefer to use the front door for their primary access and would like to enclose the front entryway for protection from the elements.

The entryway will measure five feet deep and require one step. Mr. Pawlina expressed that this proposal is more *de minimis* than the previous case and suggested a similar letter be sent to the Board of Appeals. Mr. Cassidy stated that while this will be a distinct departure from the other homes on the street, he feels the proposal is attractive and well designed. Mr. Connolly pointed out that there is a house across the street with a similar entryway. Mr. Mercado asked about the steps to the foyer. The Applicant stated that there are currently two steps and that the proposed entryway would have one step. Mr. Sadowski MADE a MOTION to send a letter to the Board of Appeals noting that while the Planning Board is reluctant to endorse front setback encroachments, it finds the Applicant's proposed entryway to cause only a minor increase in the setback. Mr. Cassidy SECONDED the MOTION. All voted in favor. None opposed.

Case 08-013, 298 Vinton Street, Silveira

The Applicants, Mr. and Mrs. Silveira were present. The Applicant described his proposal before the Planning Board. He owns a single-family home with a large, detached garage. He seeks a variance to demolish the garage and build an addition to the house which would include a single car garage, mudroom/powder room, family room and deck on the first floor. The existing property is a non-conforming corner lot. Mr. Connolly asked about the placement of the proposed deck and was told by the Applicant it will extend off of the family room. Mr. Sadowski asked if the proposed deck would be enclosed and was told by the Applicant it would be completely open. Mr. Sadowski shared his concerns regarding the rear setback encroachment caused by the deck. He suggested that because the proposed deck is so close to the property line, the Applicant might consider lowering the deck and constructing a patio instead. Mr. Pawlina agreed with Mr. Sadowski regarding the deck and added his feeling that the 10 foot set back encroachment caused by the addition is an improvement. Mr. Pawlina confirmed that the addition is only one story high. He stated he feels the deck is an even swap for the garage coming down. He added that he feels the proposal is well designed and modestly scaled. Mr. Sadowski commented on the possibility of the abutting neighbor constructing a similar project in the future. Mr. Cassidy acknowledged that the deck is very close to the property line and he feels that the deck is too much. He noted that the neighbor to the north has a large side yard which is shielded by large trees on the Applicant's property. Mr. Mercado stated the curb cut in the driveway will not line up after the garage is moved and also suggested the deck be made smaller. The Applicant shared that the curb cut would have to be moved approximately seven feet to the east. Mr. Sadowski stated while the proposal was well presented, the Planning Board's rule is to be sensitive to the precedent set. Ms. Desouza-Ward agreed that she does not have any objection to the encroachment caused by the addition to the rear setback and feels it would be an improvement. The Applicant confirmed with the Board that it appears that the Board has no problem with the addition, just the deck on the east side. The members expressed concern with the deck and feel it cannot recommend it the way it is presently shown on the plan. Ms. Desouza-Ward MADE a MOTION to send letter to Board of Appeals noting that the Planning Board has no objection to the rear setback encroachment created by the proposed garage because the Board views the Applicant's proposal to be an improvement to the existing detached garage. Mr. Cassidy added that the Board is unable to endorse the encroachment into the rear setback caused by the proposed deck and encourages the Applicant to explore alternatives that include reducing the deck's width, replacing the deck with a patio at grade or shifting the deck to the south adjacent to the existing dwelling to reduce the encroachment. Mr. Pawlina SECONDED the MOTION. All voted in favor. None opposed.

SITE PLAN REVIEW – AFFORDABLE HOUSING SPECIAL PERMIT

SP 08-002, 42-44 Grove Street, 42-44 Grove Street Realty Trust

Mr. Hennigan updated the Planning Board that the Applicant is revising plans and requested the public hearing be continued. Mr. Connolly MADE a MOTION to extend the public hearing until June 2, 2008 at 7:45 p.m. Ms. Marcus SECONDED the MOTION. All voted in favor. None opposed.

Ms. Gaffey joined the meeting.

AFFORDABLE HOUSING SPECIAL PERMIT MODIFICATION PUBLIC HEARING

406 Main Street, Masic

The Applicant updated the Planning Board on his project at 406 Main Street. He stated he is trying to finish the project, “but ran out of money three months ago.” The Applicant explained that he has been working with his bank who will only give him a second loan if certain conditions are met. The Applicant expressed that he would like to make a cash payment in lieu of the affordable unit that was pledged to the City when this project was first approved. Ms. Gaffey distributed additional information that Mr. Masic had supplied the Planning Office today. Mr. Connolly advised that Mr. Masic should make a presentation then the meeting would be opened up for public comment. Mr. Masic explained to the Planning Board that he underestimated the project and incurred an unexpected increase in construction costs. He added that the real estate market downturn did not help his cause. Mr. Sadowski commented on the importance of this building's gateway location to the downtown and he asked why this request should be treated differently. Mr. Sadowski asked if there are any other modifications to the project beyond the issue with the affordable unit. Mr. Sadowski asked about the professional fees owed by Applicant. Mr. Masic stated that no liens are being put on this property. Mr. Sadowski asked what the soft costs are for this project and was told by Mr. Masic it is \$10,000 a month. Mr. Masic added that other unanticipated costs included \$28,000 for additional water lines and hydrants required by the City. Mr. Pawlina asked for specific information regarding the other modifications. Ms. Gaffey stated a change was made to the front entryway that was not in the approved plan. Mr. Cassavoy stated that the Applicant modified the plans after the Planning Board spent considerable time on them. Mr. Masic explained that the main change was the relocation of the front entryway. Mr. Cassavoy reminded Mr. Masic that the Planning Board approved a design for the windows on the south side of the building that did not appear to be followed as well. Mr. Connolly reiterated that the Planning Board needs to know exactly what the changes are that were made to the approved plans. Discussion took place about the number of approved units: five (5) two bedrooms and one (1) one bedroom when he was reminded by the Planning Staff that the affordable unit must be a two bedroom unit. Mr. Masic explained that he replaced the one bedroom unit with a two bedroom unit. Mr. Connolly asked if there were any other changes and was told by Mr. Masic that the position of the kitchen was changed in two units. Mr. Masic added that there was a change to the railing on the roof deck – he used steel instead of plastic. Mr. Cassavoy asked for the name of the general contractor and was told it is Zingarello Construction. Ms. Desouza-Ward stated she is disappointed that the City is losing the affordable unit, but would rather take the money than nothing. Mr. Cassidy inquired at what price would the affordable unit be sold. Ms. Gaffey replied that the affordable unit would be priced at \$140,000. Mr. Cassidy asked whether there was an incentive unit granted as part of the Special Permit decision. Ms. Gaffey explained no incentive unit was granted because the density relief approved by the Zoning Board of Appeals for six residential units far exceeded the residential units permitted as of right. Mr. Cassavoy expressed concern regarding the possibility

of the Applicant not completing the project and the City losing the cash payment. Mr. Cassavoy emphasized the concern of the Board regarding the precedent that its response to the Applicant's proposal would have moving forward. Mr. Masic stated he owes the bank \$1.5 million. Mr. Pawlina listed the modifications to the final approved plans made by Mr. Masic:

- Relocation of the Main Street entryway.
- Changes to the window detail on the south face of the building.
- Modification to the railings situated on the roof deck.
- Conversion of the one-bedroom unit to a two bedroom unit.

Mr. Connolly MADE a MOTION that the four listed modifications do not rise to the level of a public hearing. Mr. Pawlina SECONDED the MOTION. A roll call was taken. There were six affirmative votes and three negative votes. Mr. Sadowski – No; Mr. Cassidy – No; Mr. Cassavoy – No; Mr. Mercado – Yes; Mr. Pawlina – Yes; Mr. Connolly – Yes; Ms. Desouza-Ward – Yes; Ms. Marcus – Yes; and Ms. Francazio – Yes. MOTION passed to not require a public hearing to review the modifications to the plans. The Chairman asked if anyone present from the public wished to speak.

Mr. Connolly MADE a MOTION to open the Public Hearing. Mr. Marcus SECONDED the MOTION. All voted in favor. None opposed. Mr. Porcaro, Hugo's Appliance, 412-420 Main Street, was present and wished to express his eagerness to see the project completed. Mr. Connolly MADE a MOTION to close the public hearing. Mr. Mercado SECONDED the MOTION. All voted in favor. None opposed.

Ms. Marcus suggested that the cash payment be specific to the Applicant and revert back to the affordable unit requirement should the Applicant be forced to sell the project to another developer. Mr. Connolly MADE a MOTION to decline the offer to accept the cash payment in lieu of the affordable unit. He stated all developers take a risk and he does not feel it is the City's responsibility to take on the risk for the Applicant. Ms. Desouza-Ward SECONDED the MOTION for discussion purposes. Mr. Sadowski stated he is compelled by the Affordable Housing Committee's strong preference for an affordable unit instead of the cash payment. Ms. Desouza-Ward expressed concern that the Applicant's situation could become a long-term issue and that other developers might face similar issues in the future. Mr. Cassidy stated the Applicant's proposal only involves one unit not an entire building. Mr. Cassidy pointed out that these are unique times and that this is a gateway project with a lot of significance for Melrose. He is leaning towards "taking the deal on the table as he would not want to see the project purchased by a bottom feeder developer". Ms. Francazio asked if there were any other affordable units in the City that have yet to be constructed. Ms. Gaffey mentioned several – the Boardman Building, 560 Lebanon Street and 160 Green Street. A roll call vote was taken for the MOTION made by Mr. Connolly to decline the offer to accept the cash payment in lieu of the affordable unit. There were two affirmative votes and seven negative votes. Mr. Connolly – Yes; Mr. Cassavoy – Yes; Mr. Sadowski – No; Mr. Cassidy – No; Mercado – No; Mr. Pawlina – No; Ms. Desouza-Ward – No; Ms. Francazio – No; and Ms. Marcus – No. Motion denied.

Mr. Connolly MADE a MOTION based on the following unique circumstances to accept cash payment in the amount of \$42,000 in exchange for the affordable unit subject to the conditions below. Mr. Connolly recognized the unique circumstances associated with the Applicant's case

that included its prominent site at the gateway to the downtown business district, the declining condition of the property prior to the acquisition by the Applicant, the unforeseen costs associated with the project and the dramatic reversal of the housing market. Mr. Connolly listed the conditions as follows:

- The cash payment shall be made in seven (7) installments of \$6,000 each at the closing of the sale of each unit. In the case of the commercial unit which has been sold, the payment to the City shall be made by the Applicant upon the filing of this Special Permit Modification.
- The grant of this modified Special Permit is limited to the instant applicant, and should the development be transferred to a subsequent owner/developer, this modified Special Permit shall lapse and be of no further effect, and the original Special Permit granted on November 3, 2006 shall again take effect. The Planning Board agreed that this condition should be reviewed with the City Solicitor.

Ms. Desouza-Ward SECONDED the MOTION. All voted in favor. None opposed.

OTHER

Mr. Connolly brought up the topic of the MBTA's signs at the commuter rail. He advised the Planning Board that the MBTA won the right to install advertisements on MBTA property. He proposes that legislation should be drafted so that cities and towns can impose their own zoning requirements related to the signage. He would like to draft a letter to the Mayor to petition our legislators to amend that law so the MBTA will be forced to comply with the local regulations of the cities and towns. Mr. Connolly MADE a MOTION to draft letter. Ms. Desouza-Ward SECONDED the MOTION. All voted in favor. None opposed.

EXECUTIVE SESSION

Ms. Desouza-Ward MADE a MOTION to go into Executive Session to discuss Dana Street. Ms. Marcus SECONDED the MOTION. The Board will adjourn from Executive Session. A roll call was taken and all voted in favor.

Minutes of Executive Session appear separately.