

**Rowley Planning Board Minutes
For Regular Meeting on November 9, 2016**

Approved on July 12, 2017

Members present: Chris Thornton (Chairman), Cliff Pierce (Member), Mark Savory (Member), David Jaquith (Vice Chairman), and Jean Pietrillo (Associate Member) are present. Kirk Baker, Town Planner is also present.

Curtis Bryant (Member) is absent.

Thornton calls the meeting to order approximately 7:30 p.m.

Continued Public Hearing - Special Permit for Sign Lighting at 300 Newburyport Turnpike - Map 13, Lot 14D -Zoned RE (Retail Zoning District).

Petitioners present are Scott Silva and Max Gabriello from the Charles Group regarding the lighting of the signage at 300 Newburyport Turnpike.

Members of the Planning Board observed the lighted sign at 300 Newburyport Turnpike which is in non-compliance with the town ordinance. Board members suggested lighting the sign from the top-down only and disconnecting the bottom lighting which would then be in compliance with the zoning by-law. This is also in line with other businesses in the area.

The petitioners representing 300 Newburyport Turnpike argued that this would diminish the lighting of the sign by half. This is a steel sign and would not be easily rewired to put enough lighting at the top to shine all the way to the bottom. Petitioners are understanding that the light source is a distraction for drivers passing by.

Baker was asked to pull up a photo of the sign from his lap top. The lights at the bottom of the sign are bracketed to the bottom of the sign.

Pierce stated that the light source could be seen from the road when driving as he had just passed the sign. He also states that for a second or two you can actually see the light element. There was some discussion between board members Jaquith and Pierce as Jaquith drove by and did not see any glare.

Thornton stated that the light did not comply with the zoning by-law and that the Planning Board is not at liberty to waive provisions in the zoning by-law.

Baker asked could the board approve what they can approve (the lighting on the top) and possibly address the bottom lighting at Town Meeting. Thornton replied that he did not think that could happen to try to change the zoning by-law at the next Town Meeting.

Thornton then stated that he thought what Baker was discussing was to essentially approve the sign for the top-down lighting. He explained to the Petitioners that they are in a position that they are subject to the same compliance that all other abutters are subject to. If they continue to operate the sign as it is, they will not be in compliance.

Thornton questioned whether they should continue the meeting indefinitely until some compliance can be reached.

Petitioners state they understand the “antiquated by-law” and know that it is hard for the Town to make the changes considering all of the other businesses who have to comply. They also state that this would be a loss of income. The zoning by-law is keeping him from getting a tenant into the new property because of a non-compliant sign. They asked if they could continue this hearing.

Thornton states that the Board is not in a position to approve what the Petitioners have for the current sign. He further states that they would be able to approve amending the sign with some additional alternate lighting.

There was additional discussion among all parties regarding the antiquated by-law and how it might be worth a discussion on changing the by-law. Both sides clearly see each other's point of view.

Thornton asked Baker if they were to approve the sign with the top-down lighting only, would that measure pass. Baker replied yes. The motion was made to approve the top-lighting of the sign. The motion was seconded, the Board voted unanimous in favor (4-0). A motion was then made to close the public hearing. The motion was then seconded and unanimously approved.

The Petitioners stayed to continue discussion. Petitioners were asked by Thornton if the inspector had signed off on the sprinklers and if the Fire Department had signed off for the roast beef restaurant, as well as the Board of Health. The answer was yes.

Baker brought up the concerns with the parking lot regarding striping and the catch basins that were to be replaced. Petitioners said that none of that could be done until the spring time. Petitioner also states that he cannot wait until spring or summer to have a tenant in the space because of the loss of income. He states he needs to get revenue in to be able to get those things done.

Petitioner also states there is a plan in the works to pave the parking lot between their property and Yankee Lumber. They would like to put in underground dry wells coming off of the roof in that area as well, but cannot act on that until spring/summer.

Jaquith also noted that the septic was a big issue because it had been failing.

Jaquith made a motion to allow the new tenants to move in and that additional improvements can be handled in the spring of 2017.

Thornton states that the Board has gotten the conditions out of the way so that the Petitioners can get their tenant into the building.

319 Newburyport Turnpike, the Rowley Business Park

The Planning Board opens a new public hearing for 319 Newburyport Turnpike, the Rowley Business Park at 8:00 pm. This application involves a Site Plan Review modification to the existing layout of 319 Newburyport Turnpike which proposes to install a children's playground associated with operation of a children's daycare use. Baker notes the Zoning Official informed him that the use was permitted by-right, but, that the playground was a state requirement which had to accompany the daycare use which thus modified the existing site plan causing the need for a new public hearing.

Kaitlyn Oliver identifies herself as petitioner for the pre-school daycare. She has obtained letters from the Fire Chief, the Police Chief, and, the Board of Selectmen. She states that she is taking all of their comments into consideration and that her main priority is the safety of the children of the daycare.

The Planning Board members acknowledge that the main concern, like that of the Board of Selectmen, has to do with the proximity of the proposed playground area to the Route 1 right-of-way. Oliver states that in order to ensure the children's safety, she would like to have a multi-layered concrete barrier. Pierce notes that would not be preferable to have a concrete barrier on display to public view. He suggests that a different location would be preferable. She suggests that instead of a concrete barrier a large boulder and some trees and shrubs could be an option. She notes that the trees will become a barrier from both cars and flying debris, and a 6-foot chain-link fence covered with a privacy screen that surrounds the entire playground area.

Baker notes that, in addition to the location of the play, one of the Fire Chief's big concerns was the children crossing the road from the pre-school to the play area. Oliver states that the children would be holding a chain to keep them together with a teacher in front of them and behind them at all times while walking. Additionally, she would like to create a cross walk from the stairs over to the grass area as well as placing dummies in the cross walk with signs that say "children crossing". These signs would also be placed throughout the lot. Oliver would also like to put signs up at the entrance to the lot – as it would not be normally known that children would be there.

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She would also send notices to all other tenants of the building stating when the children will be outside. There are 3 sessions consisting of a half-hour each.

Oliver hopes she has addressed all concerns and would welcome additional feedback from the Board. Pierce reiterates that he has many concerns about this. He does not think that this is a good use for a multi-purpose warehouse, consumer service, mixed-use office building. Pierce is also concerned about children walking across the access drive. He understands she will take measures to minimize risk; however, does not feel that this is a good place for this kind of thing. The bottom line in his thinking is that it is just not a good spot in this particular development. He has seen cars, trucks and some big trucks pulling into there-some at a high rate of speed with no deceleration coming around that corner.

Pierce does not believe he can support this. Jaquith agrees that he could not support this plan either. The concern being the high rate of speed at which the traffic might enter the facility.

There was discussion about where else the play area could be placed. Also a discussion on the zoning and the fact there might be a 50 foot set-back area. Baker looked up the zoning and confirmed that there has to be a 50 foot setback area.

Oliver questioned that if they could put the play area out back, would that take away a lot of the safety concerns? Baker states that Oliver might have to get an engineer to draw up a new plan for the playground to be put out back of the day care.

The suggestion was to continue this meeting. The Board took a motion for continue the hearing until the December 7th meeting.

Oliver will talk with the Conservation Commission in regards to location of the playground behind the building. After that Oliver can decide at that time whether this is the right property for this endeavor.

Form A/ANR (Approval Not Required) pertaining to Lucia Herrick Realty Trust parcels located at 2 Mill Road (Map/Lot 5-105 – 11 acres), and, 40 Dodge Road (Map/Lot 5-104 – 14.4 acres) to create a total of five additional lots.

Jim Herrick is the Petitioner.

Baker hands out paperwork and map to the Board and states that this is Outlying Zoning District consisting of 60,000 sq. ft. minimum lots and the submitted ANR plan proposes to create 4 lots at Dodge and Mill Roads. Baker notes that Dodge Road is a publicly accepted road whereas, according to the Highway Department, Mill Road is a private road not accepted by the town, but is, nevertheless, publicly maintained.

Baker told Herrick that he (Herrick) would have to talk with the assessor and get information regarding the property's status in the forestry program.

Motion was made and seconded to approve the form A as submitted. Vote was unanimous. It was noted that the board was not approving the common driveway. Pierce explained to Herrick that the approval today was for the frontage of all the lots, but the common driveway was a separate issue. Herrick will have to come back to the Planning Board at a later time to get a special permit for the common driveway.

The Board signed the plans and papers. They told Herrick to file it at the Registry of Deeds.

Other Business:

Regarding the Public Hearing on December 7th, a representative for the 420 NBPT Turnpike LLC is on hand for discussion regarding number of parking spaces for the newly proposed building. The Fire Department is fine with the layout and accessibility. The placement of the septic system has been approved by the conservation commission.

Petitioners brought a drawing of the newly proposed building to share with the board. They also requested that to town send someone to give a price so the petitioner can get going on a payment

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plan. The goal is to start a foundation early in the spring. The Board agrees that the proper fee for the proposed submittal is \$1,000.

Baker also passed out the minutes for June 15, 2016. Thornton asks if there are any comments on the minutes for June 15th. The minutes were approved with minor adjustments.

Adjournment

Pierce makes motion to adjourn the meeting. Savory seconds the motion. All vote in favor (3-0). Meeting adjourns at 9:00 pm.