



Town of Brookline Massachusetts

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PLANNING BOARD

Steve Heikin, Chair
James Carr
Linda K. Hamlin
Blair Hines
Matthew Oudens
Mark J. Zarrillo

BROOKLINE PLANNING BOARD MINUTES By Zoom Event April 22, 2021 – 7:00 p.m.

Board Present: Steve Heikin, Linda Hamlin, James Carr, Mark Zarrillo, Matthew Oudens
Staff Present: Victor Panak

Steve Heikin opened the meeting.

1) PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

The Board had a discussion with Shelly Chipimo, a candidate for the vacancy on the Planning Board.

2) BOARD OF APPEALS CASE (Tentative Zoning Board of Appeals Hearing Date) and relevant Precinct:

14 Green Street (*continued from 3-11-21*) - Demolish existing building and construct a 4-story mixed-use building with 5 residential units requiring zoning relief for setbacks, open space, design review, and parking. (TBD) Pct. 8

Victor Panak briefly summarized the project and the Board's concerns from their March 11 meeting.

Bob Allen (attorney) introduced the project and summarized the Planning Board's comments from the previous meeting. Mr. Allen also introduced the revisions that were made by the applicant. Mr. Allen noted that the applicant would be willing to make the building fossil-fuel-free with the condition that condo buyers would have the option to opt-in to electrification.

Dennis Greenwood (architect) presented the revised project plans to the Board. Mr. Greenwood focused on revisions to the plans that were made to address Board concerns, including an expansion of the seating area adjacent to the sidewalk, expansion of the retail space, reduction in the length of the building, and making the rooftop solar-panel-ready.

Mr. Zarrillo asked the applicant to review the proposed FAR. Mr. Greenwood indicated that the proposed FAR is 2.0. Mr. Zarrillo asked the applicant to clarify how the first-floor is

counted. Mr. Greenwood showed that much of the first-floor was not counted because the area is open. Mr. Zarrillo expressed some opposition to the strategy used by the applicant to exempt the first-floor from the FAR.

Mr. Heikin agreed with Mr. Zarrillo's skepticism. Mr. Heikin felt that the parking area should count. Mr. Allen referenced the design criteria for the Coolidge Corner area to suggest that open parking areas on the first floor are not intended to count towards FAR. Mr. Heikin also pointed out that he disagrees with the Building Commissioner's interpretation of Section 5.07.

Mr. Heikin was concerned with the balconies on the left side of the building. Mr. Heikin also said he would like to see more of a front setback.

Ms. Hamlin felt that the left-side balconies were unusable.

Mr. Zarrillo and Mr. Heikin discussed whether areas of the basement used for ancillary purposes could be counted towards the FAR

Mr. Carr felt that the counterbalancing amenities offered by the applicant are innovative and good. Mr. Carr was also happy with the sidewalk public space. He wanted the applicant to pay more attention to how sunshades work and design them to be more effective and efficient. Mr. Carr did not have a strong opinion on the scale of the building.

Mr. Hines agreed with many of the other Board members' comments. He felt that the space along the sidewalk should be wider. He felt that the building could be larger but recognized that the zoning does not support that. Mr. Hines remained hesitant about supporting the project. Mr. Hines felt that the suggestion of subsidizing the commercial space is an excellent counterbalancing amenity.

The Board discussed how the layout of the first floor could be altered to create additional retail space.

Public Comments

Linda Olson Pehlke (48 Brown Street) stated that she felt that the parking on the first floor should still be counted towards the FAR. She also felt that the commercial space had not increased sufficiently and that the building remained too large. Ms. Pehlke felt that subsidized commercial space did not qualify as a counterbalancing amenity.

Audrey Inkiarto (57 Marshall Street, Winthrop MA) stated that she is the prospective operator of the coffee shop in the commercial space.

Jane Gilman (140 Sewall Avenue) felt that the building had no relationship with the surrounding neighborhood and that she opposed the project. Ms. Gilman was opposed to the luxury condo nature of the housing units and wondered why the Planning Board was allowing such a project.

Mr. Heikin responded to Ms. Gilman by stating that the Board are not the project designers and that the project contributes to the Housing Trust Fund due to the number of units. Mr. Hines also added that the project has so few units because of the Town's parking requirements.

Mr. Carr expressed opposition to the project. He felt that the building was too large and that it would take away light, air, and sky from the general public and give it to wealthy condo owners.

Mr. Zarrillo felt that the proposal does not meet the zoning requirements and therefore expressed opposition.

Mr. Hines felt that there are only a modest number of small changes that need to be made for him to support the project, but felt that the project should come back to the Planning Board again before proceeding to the Zoning Board of Appeals.

Mr. Oudens felt that he could support the project with a few additional changes provided that the ZBA agrees with the Building Commissioner's interpretation of the Zoning By-law.

Mr. Heikin summarized the remaining desired changes, building pulled back at least 5 feet from the front property line, making balconies usable, rearrangement of parking spaces. Mr. Heikin also reiterated the two zoning interpretations that he felt the Zoning Board of Appeals should review: (1) Section 5.07, which says that dwellings in business districts should conform to the minimum usable open space and side and rear yard requirements of the M district with the same maximum FAR, and specifically in the G-1.75 district, using the requirements of the M-2.0. Mr. Heikin noted that Sec. 5.07 makes no reference to using the FAR of the M-2.0 district, but only the open space, side, and rear yard requirements. Therefore, he believes that the appropriate FAR requirement for this site should be 1.75. (2) Section 5.06.4.b 3), which states that in the G-1.75 (CC) district, the gross floor area used to calculate maximum FAR "shall include the floor space at or above grade in an accessory building or in the main building intended and designed for the parking of motor vehicles." Mr. Heikin does not believe that removing the walls from around a portion of the ground floor parking space means that it is no longer in the building. He noted that if the parking were on the second floor, and open on the sides, it would still be "in the building." He argues that the point of this section of the bylaw is intended to avoid having ground floor or above grade space in the Coolidge Corner district taken up by parking as opposed to commercial or residential uses.

Mr. Heikin moved to recommend approval of the site plan by Boston Survey Inc., dated 4/5/21, and architectural plans by Sousa Design Architects, dated 4/6/21, subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Planning Board for review and approval.**

2. In accordance with Section 4.08 of the Zoning By-law and guidelines regarding “Cash Payments in Lieu of Affordable Units”, and with the choice of the applicant to make a cash payment in lieu of providing affordable units, the owner of the property shall make the following payment to the Brookline Housing Trust and provide the following documentation before the Town’s issuance of a Certificate of Occupancy for the project:

- **A sum equal to 3% of the adjusted sales price of the unit (actual sales price, including the cost of all parking) shall be deducted from the net proceeds due the seller for each of the five units at 14 Green Street, and provided to the Town of Brookline in the form of a bank check, certified check or a check drawn on an Attorney Client’s Fund Account, payable to the Brookline Housing Trust. A check shall be mailed, accompanied by a copy of the HUD settlement statement, signed by the seller and buyer, and a copy of the unit deed, by first class mail or hand delivery to:**

**Director of Planning & Community Development
333 Washington Street – 2nd floor
Brookline, MA 02445**

- **If any condominium unit(s) is/are to be rented by the owner instead of sold, the cash payments relative to the units being rented shall be immediately due and payable, unless, upon request by the owner due to a significant change in market conditions, the Director of Planning and Community Development approves a different schedule of payments.**
 - **Prior to the issuance of a building permit, the owner shall execute a mortgage, escrow agreement, letter of credit or other documentation approved by the Director of Planning and Community Development to secure the cash payments required by this condition.**
- 3. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed in accordance with the approved plan.**
- 4. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk’s office by the applicant or their representative and recorded at the Registry of Deeds.**

Ms. Hamlin seconded the motion. The Board voted (4-2) to approve the motion.

15 Regent Circle (*continued from 2-11-21*) - Construct a rooftop deck requiring zoning relief for setbacks. (TBD) Pct. 14

Bob Allen (attorney) summarized the proposed project and summarized the comments and concerns of the Planning Board from the prior meeting on February 11. Mr. Allen provided the Board with a summary of the revisions made to accommodate the neighbors and address the Board's concerns.

Michelle Schwartz (architect and applicant) provided the Board with a presentation of the proposed project and how the revised proposal addresses the Board and abutter's concerns.

Public Comments

Scott Gladstone (attorney for the abutter at 17 Regent Circle, #5) presented the position of the abutter, Christina Lane, who was opposed to the proposal and preferred that the deck be moved further from the property line. The abutter was concerned about privacy as well as the loss of air, light, and sky. Katia Lucic (architect for the abutter at 17 Regent Circle, #5) provided the Board with a presentation of what would be seen from the abutter's window if the proposal was approved.

Mr. Hines suggested that if an abutter feels aggrieved by a proposal that does not meet setbacks, the proposal should be denied.

Travis Pittman (139 Beaconsfield Road, #5) asked about whether the view from his property had been considered. Mr. Heikin said that he did not feel that a visible roofdeck was considered a significant impact on abutters.

Elie Litvin (133 Beaconsfield Road) expressed concern with noise related to construction. Mr. Heikin stated that projects of this side do not usually require construction management plans. Mr. Allen added that the majority of the hard work was completed. Mr. Litvin asked that any additional construction parking be avoided on Beaconsfield Road.

Mr. Heikin felt that the concerns of the abutters had been sufficiently addressed by the applicant.

Christina Lane (17 Regent Circle, #5) wanted to emphasize that the impacts of the proposed deck would affect her year-round while the benefits of the roof deck would only benefit the applicant on a seasonal basis.

Mr. Oudens said he understands both sides of the argument but that he would support either of the applicant's proposals in that he does not feel that they would have an overlay negative impact on the abutters.

Ms. Hamlin felt that the proposal was adequate and that the applicant had made acceptable efforts to address the abutter's concerns.

Mr. Zarrillo said he felt that the applicant should build by right by meeting the setbacks, but that the applicant is entitled to request relief and that adequate counterbalancing amenities had been provided to have the requested relief granted.

Mr. Hines said he agrees with Ms. Hamlin's comments and conclusions. Mr. Carr agreed.

The Board and abutter discussed which of the two plan options would be preferable.

Mr. Heikin moved to recommend approval of the site plan by Peter Nolan & Associates, dated 4/22/2021, subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape and railing plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed in accordance with the approved plan.**
- 3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.**

Mr. Zarrillo seconded the motion. The Board voted (6-0) to approve the motion.

99 Fairmount Street – Construct additions requiring zoning relief for setbacks and floor area ratio. (5/6) Pct. 14

Victor Panak described the proposal and the requested relief and noted that the Planning Department is opposed.

Bob Allen (attorney) summarized the proposal and the requested zoning relief. Mr. Allen explained that the lot is significantly smaller than surrounding lots which inflates the FAR. Mr. Allen also noted that the Preservation Commission was supportive of the proposal.

John Pan (applicant) presented the reason for the requested additions.

Steven Sousa (architect) provided the Board with a presentation of the plans.

Ms. Hamlin wondered whether the significant zoning relief is justified. Mr. Heikin felt that the request was not so significant given that the existing structure is already significantly nonconforming.

Mr. Oudens felt that the request is reasonable provided that the neighbors are comfortable with the proposal.

Public Comments

Christopher Reuning (112 Dudley Street) expressed support for the proposal, feeling that the proposal would improve the appearance of the structure.

Mr. Heikin expressed his support for the project. He felt that the requested relief was reasonable given the size and shape of the lot.

Mr. Heikin moved to recommend approval of the site plan by Peter Nolan & Associates, dated 1/7/21, and architectural plans by Sousa Design Architects, dated 4/7/21, the Planning Department recommends the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed in accordance with the approved plan.**
- 3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.**

Mr. Zarrillo seconded the motion. The Board voted (6-0) to approve the motion.

3) PUBLIC HEARING

Discuss and make possible recommendation on Warrant Article 18: Request to Extend the Boundary of the Lawrence Local Historic District to include 282, 287-289, 288, 294, 295 and 300 Kent Street, and 116 Colchester Street

Elton Elperin (Chair of the Preservation Commission) provided the Board with a presentation on the proposed warrant article.

Claire Bean and Carol Hillman (members of the neighborhood group) spoke in favor of the expansion of the local historic district.

Mr. Heikin expressed support for the proposal but noted that 40B projects can override local historic districts.

Other members of the Board were also supportive of the proposal.

Mr. Heikin moved that the Board recommend favorable action on Warrant Article 18. Mr. Zarrillo seconded the motion. The Board voted 6-0 to approve the motion.

WARRANT ARTICLE 26 – AMEND THE ZONING BY-LAW TO INCENTIVIZE FOSSIL FUEL FREE INFRASTRUCTURE IN NEW CONSTRUCTION AND SIGNIFICANT REHABILITATION OF BUILDINGS BY SPECIAL PERMIT

Jesse Gray (petitioner) summarized the changes that had been made to the warrant article since the last time it was before the Planning Board.

Mr. Zarrillo asked for clarification on the Deadrick exemption. The Board discussed the merits of the amendment.

Ms. Hamlin expressed her opposition to the Article on the grounds that the 5-year expiration timeline would cause undue bureaucratic problems. Mr. Heikin suggested that the expiration timeline is necessary as a stick.

Mr. Heikin moved that the Board recommend favorable action on Warrant Article 26. Mr. Carr seconded the motion. The Board voted 4-1-1 to approve the motion.

WARRANT ARTICLE 15 – POSSIBLE CONTINUED DISCUSSION OF ANY PROPOSED AMENDMENTS

This item was continued.

4) APPROVAL OF MINUTES

This item was not discussed.

The meeting was adjourned.