

MEMORANDUM

TO: ZONING BOARD OF APPEALS
FROM: IRENE SCHARF, TMM, Pct. 16, abutter
DATE: DECEMBER 19, 2014
RE: SUGGESTIONS CONCERNING DRAFT DISCUSSION REPORT

As I am unable to attend the December 22, 2014 meeting, I would like to make the following comments and suggestions regarding the Draft Decision in the Chestnut Hill Realty Application, specifically concerning **LIGHTING, TRAFFIC CIRCULATION, INSURANCE, and PARKING LOT SET-BACKS**. Thank you for considering these points, which I have organized in order in which they appear in your Draft Report.

PARAGRAPH 18 - (LIGHTING) - As has already been mentioned in testimony, currently CHR's exterior lighting shines directly and glares into the rear-facing windows of my home. Given this fact, I wonder how the Applicant plans to conform to the requirements of Paragraph 18. I suggest that there be a pre-determined fine that would be paid to both the Town and any homeowner who demonstrates violation with the requirements of this Paragraph.

PARAGRAPH 19 (TRAFFIC AND VEHICULAR AND PEDESTRIAN CIRCULATION)
I propose that entrances/exits to the building that is accessible from Asheville ("mid-rise") be from South to Asheville (or Asheville to South). This would provide smoother and safer access to VFW and Independence, as there are traffic lights at both of those intersections.

"NO TURN" signs should be placed on both sides of Russett and Bonad at their Asheville intersections.

This would help ameliorate the safety issues (both streets are particularly narrow) for pedestrians, especially the many children who live on these streets.

This proposal would be far less important were the project conditioned on the applicant gaining access FOR RESIDENTS directly to VFW Parkway.

APPENDIX ___ - DRILLING AND BLASTING, PARAGRAPH I (d) INSURANCE

The required insurance of 5 million dollars is insufficient to protect nearby homeowners against losses from potential harm due to blasting. There are many homes nearby, with current valuations at about \$700,000. Just a few significant

claims will likely exceed that dollar figure.

PARKING LOT SET-BACKS

Curiously, the distances between the various parking lots, particularly those on the Russett Road side, and the abutting homes, are not available to the public. Not are these measurements included in the Draft Report, to the extent that Waivers from zoning requirements for parking lots are mentioned.

Over the past weeks, I have made several attempts to determine the precise distances these lots will be from abutters' properties. I believe you will be interested and, I assume, concerned to see the difficulty I have had (I STILL do not know the answer) TRYING to get an answer; accordingly, I have copied below SOME of my communications with both the Building and Planning Departments.

Beginning on or about December 1, 2014, I began to attempt to determine these distances. I was told by a Planning Department employee to address my questions to the Building Commissioner, Mr. Dan Bennett.

The following copies of email correspondences indicate the unsuccessful results of my considerable efforts (*correspondence is italicized*):

Dec. 3 – Mr. Bennett's response:

Required Yards (Side, Front, Rear) are determined by lot configuration and not how a building or structure faces a lot line.

Dec. 3, I responded:

Thanks but I'm not sure what that means. Who decided the lot configuration? And I have lots of follow ups. Should I call or do you prefer email?

Dec. 3 Mr. Bennett's response:

The applicant determines the lot configuration. Please email.

Dec, 3, my reply:

1-And the applicant has decided that the "side" yards face the abutters?

2-I don't believe one can tell from CHR plans the distance from the parking lots to the abutters. How can I get that information?

I wrote again later that day:

The questions I'm asking are about distances from parking areas to abutters, not

buildings.

What's the town rule in that?

Does an owner decide where they are located?

How close can they be to others properties!

Dec. 4 Mr. Bennett's response:

Regarding question #1 – yards are determined by lot configuration, frontage and various sections of the by-law.

For #2 setbacks are different for parking than for structures. Since parking was still up for discussion until last Monday a revised plan and list will be submitted and those issues should be identified.

And this from him, later that day:

Article 6 of the by-law regulates parking (widths, # of spaces, location, design etc.)

An applicant can propose a design, it would be up to the Board to determine if it satisfies the by-law. The plans show the limits of the parking setbacks.

Dec. 4 – I replied:

[your response -- For #2 setbacks are different for parking than for structures. Since parking was still up for discussion until last Monday a revised plan and list will be submitted and those issues should be identified.]

Can you tell me how the specific measurements will be determined, how and when the public will be informed of them, and how and when the public will be able to speak publicly about it?

Dec. 4 – Bennett replied:

My responses pertain to the Comprehensive Permit application the ZBA is currently reviewing. The Board will follow the provisions of 760 CMR 56 COMPREHENSIVE PERMIT; LOW OR MODERATE INCOME HOUSING pertaining to waivers.

The regulations state in part "The Applicant may request Waivers, as listed in its application or as may subsequently arise during the hearing, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project. Zoning waivers are required solely from the "as-of-right" requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the

district. If a Project does not request a subdivision approval, waivers from subdivision requirements are not required.

Dec. 5 – Mr. Bennett wrote:

Measurements are taken from edge of paved area to property line.

The ZBA will determine who speaks at the hearing.

Later that day, Mr. Bennett replied:

One last thing, the waiver list will be posted to the Web Site.

At that point, with no greater understanding of the precise measurements, I gave up, but I have been trying again this week. The following is the latest response I received (NOTE: I STILL DO NOT KNOW THE ANSWER TO MY QUESTION):

Dec. 18 – me to Planning Dept.:

Good morning:

2-Second, while I'm aware a waiver had been requested for the parking area distances from abutters, I still do not see any precise distances on the Draft Report.

The responses I received on that did not answer my question. How might you get me (& other abutters) an answer to it?

Dec. 19 – from Planning Department:

As for the parking setbacks from Beverly and Russett road abutters, the Conditions reference the Site Plans. Setbacks for surface lots will be indicated on the Site Plans.

Also Dec. 19, Planning Dept:

The plans have been available since December 8 and are posted online, but you would need to measure the setbacks to know what they are. On the Russett Road side, I measure typical parking setbacks of 20 feet, though there are places where that setback is 15 feet. On the Beverly Road side, the setbacks are greater.

We have asked the Applicant to add actual dimensions labels indicating setbacks on the site plan. When those revised plans are available, we will let you know.

THE BOTTOM LINE IS THAT NEITHER I, NOR OTHER ABUTTERS, AS OF YET KNOW THE PRECISE DISTANCES THESE CARS WILL BE TO THE ABUTTING YARDS OR WHERE AND WHEN THE PUBLIC CAN ACCESS THIS INFORMATION.

Related to this issue: Once the abutters are shown the precise distances, what conditions is this Board imposing on the Applicant to adhere to those distances and how will this Board enforce these conditions on the Applicant?