



CITY OF WALTHAM
BOARD OF SURVEY AND PLANNING

The following are minutes of the June 3, 2015 public hearing held in the Public Meeting Room of the Arthur Clark Government Center located at 119 School Street, Waltham, MA. at 7:00 p.m. In attendance were Chairman Creonte and members Barrett, Callahan, DeVito, Duffy, Moroney and Tarallo.

The Chairman opened the meeting at 7:00 p.m. and informed the public that the meeting was being video taped by the local WCAC channel. He also asked the public to sign in if they would be addressing the Board. He then closed the public hearing and opened the regular meeting to hear those items first.

The Clerk read the first item on the agenda which was for an Approval Not Required plan for 0 Grove Street.

Brian McCarthy of R.J. O'Connell and Associates of 80 Montvale Ave., Stoneham, MA came forward to address the Board. He explained that there was an approval for this locus the previous year and that this is a lot line adjustment on Lots 107J and 107K necessary for the relocation of the driveway. He reviewed this with the Board. Mr. Moroney commented that the Inspector of Buildings pointed out that the incorrect zoning district was shown on the plan. Mr. McCarthy said he would revise that. After brief discussions the Chairman asked if there was a motion.

On the motion of Mr. Duffy, seconded by Mr. Barrett, the Board

VOTED: **to approve the ANR Plan for 0 Grove Street submitted by LeBlanc Property Holdings, LLC as submitted and to allow the Clerk of the Board to endorse the plan.**

The Clerk read the next item on the agenda which was for deliberations and recommendation to the City Council on a proposed Zone change for land known as 939 Trapelo Road.

There being no comments from the Board, the Chairman asked if there was a motion.

On the motion of Mr. Duffy, seconded by Mr. Barrett, the Board

VOTED: to recommend approval the proposed Zone Change for the property at 939 Trapelo Road as written.

The Clerk read the next item on the agenda which was for the approval of the minutes to the May 6, 2015 meeting.

On the motion of Mr. DeVito, seconded by Mr. Barrett, the Board

VOTED: to approve the minutes to the May 6, 2015 meeting as submitted.

The Chairman then closed the regular meeting and opened the public hearing.

The Clerk read the first item on the agenda which was for a Utility & Profile Plan Extension for Lots 290 & 291 Braemore Road.

The Chairman mentioned that they had attended a site visit that was scheduled at the May 6, 2015 meeting and discussed the design of the road and the drainage as well as other items. The applicant had revised the plans to reflect those recommendations from the Board and the Engineer's office.

Ralph Bibbo and Robert Bibbo of 10 Hammer Street, Waltham, MA as well as Attorney Philip McCourt came forward to address the Board and reviewed the revised plan that was submitted for this meeting.

There were discussions on the 6-inch pipe verses the 8-inch water line. It was determined that the petitioner will use the 8-inch pipe in the 50-foot road extension.

The Board reviewed and discussed the following waivers being requested.

1. Section 5.4.2- Clearing (leaving existing trees and shrubs)

The Clerk, Mike Chiasson commented that any trees being removed that may be in the right of way must be reviewed by CPW Dept. first.

Attorney McCourt said that they had no problem with that.

2. Section 5.4.4-Roadways (as shown on plan)
 3. Section 5.4.5-Width of Pavement-Residential Street 30 feet.
- SECTION 5.5 Utilities
4. Section 5.5.1-Storm Drains (existing catch basin as shown on plan)

5. Section 5.5.3- Utilities Extensions
6. Section 5.5.4- Approval from Engineering Dept. (existing drainage as shown on plan)
7. Section 5.5.5 – Adequate Provision
SECTION 5.6 Sidewalks
8. Section 5.6.1 –Widths (no sidewalks)
9. Section 5.6.2 –Preparation (existing conditions to remain.
10. Section 5.6.3- Surfacing Forms
11. Section 5.7- Monuments
12. Section 5.8-Curbing (cape cod berm vs. granite to meet existing conditions
SECTION 5.9 Side Slope
13. Section 5.9.1- Slope
14. Section 5.9.2-Loam
15. Section 5.11- Fire Alarm System
16. Section 5.12-Tree and Vegetation.

There were discussions on drainage and catch basins.

The Board confirmed a requirement that an 8-inch water pipe be used for the 50-foot road extension and that they use extra stones in the trench drains where any tree stump is removed.

There being no further questions the Chairman asked if there was a motion.

On the motion of Mr. Barrett, seconded by Mr. DeVito, the Board

VOTED: **to approve the Utility Plan and Profile and Road Extension for Lots 290 and 291 Braemore Road with the Revision date of May 15, 2015 with the following conditions:**

- 1. The Petitioner must meet at the site with CPW Director to review and receive approval of any public trees and/or shrubs being cleared.**
- 2. Use an 8-inch water pipe for the 50-foot road extension.**
- 3. Use extra stones in the trench drains where any tree stump is removed.**

The Clerk read the next item on the agenda which was for a Special Permit Two Driveways greater than 25-feet at 205 Second Ave, 225 and 231 Second Ave and 211 Second Ave.

Attorney Michael Connors of 6 Lexington Street came forward representing the petitioner, Alexandria Real Estate EQU.

Attorney Connors reviewed the site and locations of the driveways. They are existing driveways that were never approved as no records could be found. He then reviewed the letters received

from the Traffic Commission, Building Inspector and the Fire Dept. stating that there were no objections for the location of the driveways.

After brief discussions, the Chairman asked if there was anyone present that would like to come forward in favor of this petition. There being none he asked if there was anyone present that would like to speak in opposition of this petition. There being none he closed that part of the hearing and asked the Board if there was a motion.

On the motion of Mr. Barrett, seconded by Mr. DeVito, the Board,

VOTED: to approve the Special permit for Two Driveways greater than 25-feet at 205, 225 and 231, and 211 Second Ave. as submitted.

The Clerk read the next item on the agenda which was for the modification of a Definitive Subdivision at 170 Tracer Lane.

Mr. DeVito recused himself from the hearing as he is an abutter.

Attorney Philip B. McCourt came forward representing the petitioner.

The site is located at 170 Tracer lane and 1601 Trapelo Road. The Petitioner proposed to reskin the building and put a new face on it and to modify the roadway to better accommodate the parking area. In order to do this they requested to remove the cul-de-sac.

He explained that the owner of adjacent property in Lexington has a right of way which is listed in the deeds of this locus.

Giuliana DiMambro of Boston Properties came forward to review the plan with the Board. She went over their responses to Wade Putnam's comments of the Engineering Department. She stated that at the end of the cul-de-sac is Tracer Lane a private Road and that the current building was modernized in 1979 to accommodate office tenants. The current cul-de-sac is confusing to visitors so they would like to modify the road and locate it in front of the building.

She then reviewed the right of way into the Lexington/wetland site.

The Chairman then opened the hearing to the Members for questions.

Mr. Duffy commented that this site has had a history of problems for a long time. By "not" creating adequate frontage for the building and requesting numerous waivers that don't make any sense for what the sole intent is. He wouldn't make any judgements until after the Board has a site view.

Mr. Barrett asked if the right of way that goes into Lexington has any kind of a pathway that presently goes through there.

Ms. DiAmbro said, “No there isn’t.”

Mr. Barrett then commented, “then you want to accommodate your neighbor by maybe extending the road for their use?”

Ms. DiMambro said they were looking into to it.

Mr. Barrett asked if Boston Properties has an option on that property.

Ms. DiMambro said she did not believe so.

Mr. Barrett then asked if they had a Purchase and Sale agreement on this property.

Ms. DiMambro said, “No.”

Mr. Barrett commented, “Then you are doing this out of the goodness of your heart?”

Attorney McCourt commented that they are not doing this out of the goodness their hearts, but that the neighbor has rights to that right of way and they are trying to accommodate those rights. The only way around it is if they gave up their rights to the right of way.

Mr. Barrett commented that this didn’t make any sense and that he smelled development for the Lexington site and that this new cut through is necessary for that development. He too wanted a site visit.

Mr. McCourt said there is no plans for development other than what Ms. DiAmbro explained for the current building for a face lift. He said that relocation of the cul-de-sac made it easier for visitors to park and makes more sense.

Mr. Barrett said he will hold off on any more questions until there is a site visit.

Ms. Callahan asked about the work that they intend to do to the current building.

Ms. DiMambro said that they will put a new face on it, new roof, new systems and demolish and remodel the interior to make it more desirable for tenants.

Ms. Callahan commented that if the building itself is not changing then the current road works just fine and always has, so it appeared to her that they are accommodating the Lexington abutter with this road change.

She then stated that she too would like to have a site view.

Ms. Tarallo commented that she does not like some of the waivers requested nor the plan. She would like to have a site visit as well.

Mr. Moroney agreed with his colleagues and felt that these changes were to build a road into Lexington in the future.

He then asked about Mr. Putnam’s comments and that item number seven (7) which reads, “ if the purpose of moving or in this case abandoning the cul-de-sac, is to provide room for the

drainage, then the cul-de-sac should be rebuilt at the new proposed end of the street as approved in the 1980 plan. Your response was, "as stated in the application for Modifications of Definitive Subdivision, removing the existing cul-de-sac will reduce impervious surface within the properties, provide better traffic circulation and access, and allow for the potential expansion of the structure on the 170 Tracer Lane property in the future.

He asked for her to explain how that cul-de-sac as it is inhibits the expansion of the building?

Ms. DiMambro said as she mentioned before, the site is very constrained as to how it can expand due to the wetlands in the back. She reviewed the possibilities of expansion for this property which is about 30,000 square feet.

There were further discussions.

The Chairman then said he had concerns and would like to hold a site view as well. He then closed that part of the hearing and asked if there was any one present that would like to speak in favor of this petitioner. There being none he asked if there was anyone present that would like to speak in opposition to this petition.

City Councillor George Darcy of 93 Hobbs Road, Waltham, MA came forward to speak as a resident and taxpayer of the City Waltham on this matter.

He had several concerns of the application for the modifications of a Subdivision at 1601 Trapelo Road and 170 Tracer Lane.

His first question was if the current subdivision had satisfied the original requirements of the Definitive Subdivision plan from 1980.

Another concern he had was the traffic. Waltham residents west of Route 95 are already overburdened by excessive traffic to such an extent that a Waltham Police detail Officer is hired every week day to manage traffic for the afternoon rush hour. Would the approval of this modification of the definitive subdivision cause more traffic to be generated and if so would this modification un-necessarily burden the neighborhood west of Route 95.

The proposed amendment is for two lots that have not been merged, 170 Tracer Lane and 1601 Trapelo Road. Is it the policy of this Board that these two parcels be required to be combined. Regarding the cul-de-sac, Land, Rules and Regulations of the Waltham Board of Survey and Planning, Section 4.2.2.8 and Section 4.2.2.8.1 as adopted in 1997 requires that dead end streets or streets connected to a through way whether temporary or permanent shall not be longer than 500 feet.

The existing road appears to be something like 1700 feet long. Regarding the proposed removal of the cul-de-sac, one the reasons for a cul-de-sac is for safety, so that fire engines and emergency vehicles can safely and easily navigate from the dead end street.

He had concerns about the waiver for sidewalks and urges the Board not to accept the waiver. His other concerns was that the requested waiver lacks sufficient frontage.

The Town of Lexington at their town meeting in April and May, 2015, rezoned the 30 acre parcel that was mentioned by the petitioners Representative owned by Harold Nahhigian to rezone that from un-zoned to commercial manufacturing last month. Commercial Manufacturing zoning is the least restricted zoning district in the Town of Lexington with the maximum FAR of

3.5 with 30 acres there is a possible build out of 4.5 million square feet of development, which is the equivalent of 4 ½ Waltham Home Depot's. It was his opinion that any cross connection of water and sewer would require a special permit from the City Council. Would this amendment to the Definitive Subdivision have any benefit to the City of Waltham? No, nothing, no tax benefit for Waltham only to the Town of Lexington. He asked that the Board carefully review each waiver requested.

He also asked the Board to determine if this Public hearing is even "in order" as the owners of 1625 Trapelo Road, 18 Melody Lane and property owned by Mr. Nahigian were not listed in the official abutters list provided by the applicant's application, which means that these abutters were not notified of this public hearing. He asked for a new public hearing and also request that no waivers be accepted at that time. He requested that the site visit be postponed until after those three abutters were properly notified. He also pointed out that one of those abutters is a community activist and hoped that this was not a deliberate attempt in not notifying them.

The Chairman asked Mr. Darcy which three abutters were not notified.

Mr. Darcy said, the owner of 1625 Trapelo Road, 18 Melody Lane in Waltham were not notified. Also the owner of the 30 acre parcel in Lexington was not on the list. It was his opinion that this whole meeting was out of order.

City Councillor Kathleen McMenimen of 147 Trapelo Road came forward in opposition. She asked if she could have 10 to 15 minutes to speak. She wasn't aware of this petition until she received her city council packet and saw the notice for the public hearing for 170 Tracer Lane modification to a Subdivision, which originated when she was the Ward Councilor 40 years ago. She asked if any of the members were members of the Board at that time, or any of the members of the development team were there 40 years ago. She was there as were the neighbors who know the history of this property. She was one of these concerned citizens has kept every article and newspaper clipping regarding this property from the 1970's about all of the events that were going on at that time.

She read each title and gave a brief summary of each article.

1. Article dated January 29, 1988-Ward Three Councillor to block city services for the project at 1601 Trapelo Road.
2. Legality of Tracer Lane in question.
Summary: City Engineer gave the developer permission to tie into the city's water and utilities. City Solicitor informed the Engineer he had no right to do that and was threatening to take him to court.
3. State Report of the Commonwealth of Massachusetts puts a Halt on Trapelo Road/Tracer Lane office plans dated February 8, 1988.
Summary: A proposed office park on the Lexington line has been stopped in its tracks after a State Environmental Impact report made public yesterday stated the project could not be approved as proposed.

4. Court plays hard ball in the Tofias case.

Summary: Tofias brothers were developers. They built this building on Tracer lane, and in the process of doing so, they back filled the side of the land with rocks and boulders to eliminate the height of the building as to what the height restrictions were in that zone and called the boulders the contour or lay of the land so the first floor really began above that.

Two neighbors of Trapelo Road, at their own expense hired a Lawyer and they sued the Developers and they won. The Judge said to the developers you have to tear down the building. Now it's already built and already full, but the Judge said it's coming down. Now the Court is playing hard ball against the Tofias's.

5. Tracer Lane to proceed despite court ruling dated March 28, 1988.

Summary: A Developer of a proposed office park on the Lexington line says he will continue with his plans even though the City Solicitor has ruled the City's Public Works Director should not have issued water connection permits to the building.

6. Officials remain divided over Tracer lane project dated June 6, 1988.

Developers of the Tracer Lane office park has spent more than \$350,000 on plans based on a disputed decision by a City Official to approve sewer and water connections to the proposed building.

7. Lexington schedules a hearing on Tracer Lane Office Park.

Summary: Lexington hold public hearing for Lexington and Waltham residents to learn about the Subdivision at Tracer Lane.

8. Cloud hangs over Tracer Lane for obtaining permit. This article dated June 23, 1988.

Summary: review of the entire land in question.

9. Fears on the Environmental impacts this may cause to the wetlands.

10. Office Project on the Ropes:

Summary: The applicant came before the Board of Survey and Planning and has a history with the Board.

At this point Chairman Creonte asked her to finish up.

Ms. McMenimen came there to express that this plan was not in the best interest to the City, the neighbors or the land. No benefit at all to Waltham. The only one who would benefit is the man that owns the land in Lexington and the owners of the land in Waltham.

Mr. Duffy asked Ms. McMenimen what specifically was her objection.

She commented that if you look at the plan there is a parcel 1 and a parcel 2. Parcel 2 shows the location of the existing road and look and see where they want it to stop and all you see is a parking lot. All that property is owned by Boston Properties. Her objection is that it is private property, they already told us that it private roadway. They can build out a road on a piece of private property anyway they want. They could build out that

road to the Lexington line and now you would have access to the Lexington property and all that traffic coming right through Waltham.

The Chairman asked if there was anyone else to speak in opposition.

Joyce Crane of 32 Crestview Road came forward. Her objection is the heavy traffic that is already there now, and also feels there is more behind this project than being said.

There being no others to come forward, the Chairman said that he was closing that part of the meeting but will reopen it to the public at further meetings if necessary.

The Chairman then commented to Attorney McCourt that if it was true that three abutters were not properly notified then they may want to consider withdrawing the Petition or resubmit.

Mr. McCourt said that they had a certified abutters list from the Accessor's office, but he would check it tomorrow.

The Chairman asked him to check on it first thing in the morning and let the Board's office know the outcome of the abutters list. He wasn't sure if they should even hold a site view until they have an answer. Until they know the outcome of the abutters list it is unsure if this is a proper meeting. If this was a legal meeting they must act on this petition by August 11, 2015.

Mr. McCourt said they could ask for an Extension of Time.

The Chairman suggested for a motion on the floor to continue this meeting if legal, and have a site view if legal.

Mr. Duffy commented that there is a time period that expires in August then what would happen. He asked Mr. McCourt if he would be asking for a continuance.

Mr. McCourt said that if the meeting is legal then they have a letter asking to extend the Time to Act until September.

On the motion of Mr. Barrett, seconded by Ms. Callahan

VOTED: to Extend the Time to Act until September 9, 2105 if it is in fact legal and schedule a site view.

Ms. Tarallo then commented that they shouldn't schedule a site view if it is not a legal meeting.

The Chairman polled the Board.

Ms. Callahan commented that if they found out that this was not a legal meeting then it would negate the site view.

Mr. Barrett agreed, if it is not a legal meeting then this whole thing goes away.

Mr. McCourt commented that it wouldn't just go away it would require a new filing.

The Chairman said that the motion that was on the floor was if this meeting is legal, we would have a site view.

He polled the Board on this motion.

Mr. Duffy	YES
Mr. Barrett	YES
Ms. Callahan	YES
Ms. Tarallo	NO
Mr. Moroney	YES
Chairman Creonte	YES

The vote was 5 to 1.

The Board set up a site view for Monday, June 8, 2015 at 6:00p.m. at the Tracer Lane site.

Mr. McCourt requested a special meeting in June or July for an update meeting.

The Chairman said that it won't work so they will just stick to having the site view if it is determined that it is a legal meeting.

There being no further business on the agenda, the Chairman asked for a motion to adjourn.

On the motion of Mr. Duffy, seconded by Mr. Barrett, the Board

VOTED: to adjourn the meeting at 9:15p.m.

Respectfully submitted,



Michael L.J. Chiasson
Clerk of the Board