

CITY OF WALTHAM
ZONING BOARD OF APPEALS

April 8, 2014

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, April 8, 2014 in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando, and members Glenna Gelineau, Mark Hickernell, Gordon LaSane and John Sergi.

The Chair called the meeting to order at 7 P.M.

Mrs. Rando: Tonight we have one new cases before us. Case 2014-05, LJB, LLC, 7-9 Alder Street, 7-9R Alder Street; 11 Alder Street; 550,560 and 570 Moody Street; and 10 Myrtle Street.

The first action this evening is for a motion to accept the minutes of March 25th and April 1, 2014.

On motion of Mr. F, seconded by Mr.LaSane, the board voted to accept the minutes of March 25th and April 1, 2014.

Would the clerk please read the petition in Case No. 2014-05?

The clerk then read the Petition of LJB, LLC. Nature of Appeal: Various requests for Variances and Special Permit. Subject Matter: To allow for the demolition and construction of office, commercial and residential buildings on five (5) newly created lots. Location and Zoning District: 7-9 Alder Street; 7-9R Alder Street; 11 Alder Street; 550, 560 and 570 Moody Street; and 10 Myrtle Street. Business A Zoning District.

Mrs. Rando: May we hear from petitioner or the petitioner's representative, please?

Bret Francis, Esq., Harnish, Jenney, Mitchell & Resh, LLP, 564 Main Street, Waltham, came forward.

Mr. Francis submitted to the board a copy of his brief which he previously submitted electronically to the board. He also submitted his Proposed Findings of Fact and Proposed Decision.

Mrs. Rando: Before you start, Attorney Francis, could you tell me. You submitted plans but they are just renderings. You didn't submit any real plans?

Mr. Francis: We have a site plan of the locus as it exists, an ANR plan and the proposed. We don't have specific building drawings if that's what the chairman is asking.

Mrs. Rando: Well, usually we have plans, the actual conceptual plans.

Mr. Francis: Again, at this stage of the project, that's the best that we have at this time. The interior may or may not change but what the plans call for as in the number of units, etc., we do have. Anything further regarding the individual units, we do have the architect here who can speak to the actual design and/or interior of any of the residential units.

Mrs. Rando: Also, let me tell you before you start that I read over the petition many, many times and I find it extremely confusing and kind of disjointed. I tried doing lot 1, lot 2, lot 3 and tried to break it down into what you needed in front yard, side yard, parking, open space, small cars, whatever, trees and everything. I

tried to break it down and I just couldn't do it. I was getting so confused. Before I can even consider voting on this case, I want to know exactly what I am voting on, per lot, broken down, not something like what you gave in the legal notice.

Mr. Francis: Okay. Would you like a revised memorandum then at that time?

Mrs. Rando: I would.

Mr. Francis: I mean, as we get to the actual variances, I am pretty sure you will see them conceptually on the plan.

Mrs. Rando: Maybe a picture is worth a thousand words. When I was reading it, I started with the the lot 4 size and at the bottom of the paragraph you had lot 2 and I'm thinking why is he putting lot 2 right here and then I tried to move what you put on lot 2 onto my computer but its just disjointed. And I found it very confusing and hard to follow.

Mr. Francis: Well hopefully after tonight's meeting and if you have any other further questions, I will be happy to submit anything else that would answer those questions.

Mrs. Rando: Maybe the rest of the board didn't have that problem.

Mr. LaSane: What you described in the drawings to me, interprets a result of negotiations among tenants for space, access and parking etc. I'm wondering how you can present to the board this list of requirements for a variance without knowing the dimensional requirements for specific tenants that give their egress and access.

In my world it was the cart before the horse. Could you go over that with me?

Mr. Francis: Well, I'm not sure we will have an idea of what the tenants will be when we get there but I will say that what's currently provided on the locus, the seven lots combined, are twenty parking spaces. This plan sets for thirty one so you have an increase in the amount of parking there. I don't know, again I would say, it would be putting the cart before the horse to anticipate what kind of tenant you might have prior to even getting an approval to go forward with the project. So, again, there's an increase of off street parking for the project than what currently exists. And what currently exists are twenty spaces spread out servicing three dilapidated run down old over a hundred years old - - -

Mr. LaSane: That's the problem we all have in the development world. I'm good with that. The part that I am not understanding very well, though, is who, where that will be located; How much egress for loading and unloading; whether its an efficient plan that has been drawn up for city streets. Would you have to convert two way streets to one way streets?

Mr. Francis: Well, the plan was approved by the engineering department, the new ANR plan. All the five new lots conform in their own way. It's the structures on them that are not going to. As far as, the fire department has walked the property. We do have a letter from the fire department supporting this plan from what currently exists there now. Providing it provides much more egress. Again, what we have here in the project now, right in the middle, is a landlocked lot with absolutely no access to get to were there a fire or very difficult to say the least. The new plan will provide the egress. There will be no change as to the one way or streets around Alder and Myrtle. Those will remain the same.

(Mr. Francis went over the plan with the board.)

Mr. LaSane: Will this be a project on the commercial side for small tenants or a national chain?

Mr. Francis: Small tenants. A restaurant is proposed for here (referring to the plan) and the ERA Kirsch building will remain with the petitioners who own that and intend to run their office out of that. The other office space will be 4,848 square feet over to the right. Do they have a tenant in mind yet? No, but the size and space, I can't imagine it will be a huge box store or anything like that. It's going to be a small retail or small business.

So, again this plan brings us closer to conformity, but we don't quite make it which is why we are here tonight.

Mrs. Rando: And that's what I would like to see. Lot by lot what you conform; what it is now; what you will have when it is finished; what is there now; how many more parking spaces you will need for lot one, lot two, lot three, lot four; the ones that butt up to residential, everything spelled out for me.

Mr. Francis: If you look at the proposed site plan in the packet, Madam Chair, there is a section on the parking for each lot, one, two, three, four and five, saying what is required and what is being provided as well as the handicap and small size parking. So that's set forth on the plans. C201, I believe is the sheet. There will be a total of thirty one but that number is broken down into what's required for each lot and what's being provided.

Mrs. Rando: You may continue on.

Mr. Francis: Are there any other questions?

Mr. LaSane: So this plan represents a hundred percent of what you need. So what would happen if you got eighty percent of what you requested?

Mr. Francis: We might have to refigure and talk amongst the owners and see if there is something we can meet you half way or if we would have to change the plan entirely.

(Mr. Francis then read his brief into the record.)

Mrs. Rando: Aren't a lot of the lots up there the same, small with nonconforming buildings on it. I mean, what makes some of these lots so unique?

Mr. Francis went over the plan.

Mrs. Rando: And there's no other lots up in that section?

Mr. Francis: I don't believe they are completely landlocked in this day and age. I didn't see one. (Mr. Francis went over the plan to go over the lots with the board.)

He then continued reading his brief.

Mrs. Rando: You believe lack of frontage is a hardship?

Mr. Francis: Well, if you sell the property down the road and you can't sell it with the required frontage, that limits the type of use that a buyer might want to use the project. I mean literally if the buildings weren't in the state that they were in, possibly you

could continue using them as they are but they are not safe and they are not modern and as a result modernization is well overdue.

(Mr. Francis went on to read his brief.)

Mr. Francis: Before I take any questions, I also have letters from various entities from the City of Waltham including the Fire Department, the Waltham Chamber of Commerce, the Downtown Partnership of Waltham, as well as we met for this project with two Councillors, Councillor Logan and Councillor Rourke. Councillor Rourke was kind enough to give a letter supporting this project and Councillor Logan has been kind enough to come as well and will answer any questions you might have. (Mr. Francis submitted copies of these letters to the board.)

Mr. LaSane: Any social services agencies submit anything?

Mr. Francis: No. Well, Downtown Partnership submitted a letter.

Mrs. Rando: Attorney Francis, are you concerned with the Fire Department being across the street and the school where they have all the activities, and any increase in traffic?

Mr. Francis: I don't. Again we are putting more parking on the property as it currently exists today. The way its designed today (Mr. Francis went over the plan to show where parking is today.) What's proposed is an orderly parking that has the twenty three spaces, one egress in and one egress out and again we signed off on engineering which determined that even with the school there, we've met the requirements for the distance from Moody Street. So, again, these four spaces would also come in on Myrtle Street and exit on Alder Street. What's there today is, again. just a strone out of

twenty parking spaces at the property. So I think there's less concern than currently exists today.

Mrs. Rando: Are there any other questions from board members?

Mr. Sergi: Just for clarification. How much square footage is there now between commercial and residential, square footage wise?

Joe Fournier, JFF Design, Architects, Waltham: Currently for the residential as we propose is 18,600 sq. ft. and the combined commercial space is approximately 16,000 sq. ft. Those numbers actually coincide with what exists today with a slight increase in the commercial space because of the developing of lot three different from what it currently exists.

Mr. Sergi: Is it more than ten percent?

Mr. Fournier: It is not.

Mr. Hickernell: I think, Madam Chair, there were questions about traffic concerns relates back to the last proposal for this series of lots with the drive thru that a number of the neighbors were opposed to, I don't see the same issue presented by this. Although things being equal and as a general statement, I think this would be a good benefit for the South Side. I think its a good project and see what if anything needs to be done to make it work.

Mrs. Rando: Ms. Gelineau?

Ms. Gelineau: Not at this time.

Mrs. Rando: Mr. LaSane?

Mr. LaSane: As you are well aware I like development. But housing. Housing is such an issue for me. Have the owners committed to thinking about a plan or process to guarantee that the housing stock would be diverse?

Mr. Francis: We haven't for purposes of tonight had a chance to discuss that.

Mr. LaSane: For the purposes of the proformer. As you know I am in no position to enforce that stuff.

Ken Brown, 160 Boston Post Road, Wayland: (One of the Petitioners who is Broker/Owner): We are taking into consideration what we have currently. We are not a high end landlord. We've always been a medium based landlord and we are trying to maintain that balance as best we can. If this plan works, we would certainly consider that moving forward but we're not looking at high end units. We are trying to keep it on a low basis. It's not going to be mid income but we are not going to be competing against Cronin's Landing, the Watch Factory in that type of rents.

Mrs. Rando: Is there anyone in the audience that is in favor of this petition?

Councillor Robert Logan, 109 Taylor Street, Waltham, Councillor Ward 9 although the locus actually isn't in Ward 9, the dividing line is Myrtle Street. I do represent the area immediately adjacent to it. As a city councillor I feel who has been in the forefront of the efforts of downtown revitalization, again I would like to say that I think this is exactly what we are talking when we say we want to see downtown revitalization in Waltham. The previous proposal which came before the city council was mentioned and I certainly was one of the harshest critics and I apologize if I was a little too harsh but

downtown means a lot to me as everyone knows and the previous proposal would have been just a bank building in the middle of a sea of asphalt. I had a number of problems with it. It would have eliminated the historic house that's a previous civil war structure that I think may even date back to the time, the South Side of Waltham at one time was part of the City of Newton so that might have actually predated the South Side being annexed by Waltham. It would have not had a continuous street scape which is not a desirable situation in the urban downtown area. It would have had vehicles going through a drive up immediately adjacent to the abutting residential properties and would have completely eliminated all of the existing residential units that exist there now. I absolutely agree that when we are doing downtown revitalization we want to include residential units for a number of reasons. First of all, the more residential units you have in the community the more that you reduce the pressure on the housing stock by virtue of the number of units that you have. It serves a down pressure so that you can have more affordable housing in the community. So that's an important fact.

We talked a lot about smart growth. Smart growth is high density, mixed use development located close to transportation centers. Now I wouldn't really call this high density but it certainly is a mixed use. The reason you want to do that is because the whole concept of smart growth is, if people can work shop and live right in the same area it reduces the need for vehicle trips. People don't have to travel by vehicle, which reduces traffic, it reduces air pollution, smog and it stabilizes the neighborhood. This does that because it's a mixed use development. Also it's very close to all of the bus routes up and down Moody Street and because of that it means that if people do have to take a trip they don't have to do it in a single occupancy vehicle. They can use public transportation. What that does also it reduces the need for parking. Parking was discussed here. Interestingly enough, this is just over the line from the Business C

Zoning District. If it were in the Business C Zoning District and quite frankly the line had to be drawn somewhere and it was somewhat arbitrary, and this just fell short. In the Business C Zoning District the first forty thousand square feet of building space is exempted from the parking requirement and additional building space thereafter, the parking requirement is only two spaces per one thousand feet of building space which is about one fifth of what is everywhere else in the city and the reason for that is in recognition of the fact that there is public transportation downtown and also that there is public parking downtown. There's public parking on Chestnut Street which isn't very far from this location. So the importance of providing parking isn't as important. As the attorney for the petitioner mentioned they are going to go from twenty spaces to thirty one spaces which is more than a ten percent increase in existing parking and they are not really increasing the density of the development.

Again preserving the historic structure, very important is the street scape. The concept of not having a saw tooth appearance in the downtown. The One Moody Street development is going to be addressing that in what they are doing in a much bigger scale and if you look at Central Square, right now you have a couple of buildings on a huge lot. There's one on the corner and then there's one down by the corner of Felton and then there's another one, the old Waltham Savings Bank building, but you've got all these big gaps and it creates a saw tooth look. In an urban downtown area you want a continuous store front street scape and that will do this. So, there are so many things to like about this proposal. I did have the opportunity as was mentioned to meet with the petitioners and their designer to go over this in detail. I think this is an excellent proposal as it is put together. You know, obviously you are going to have to go over the details and make sure that they cross the t's and dot the i's. But I think this is really, really going to be an addition and when you

couple that with what the developers are doing in Central Square and what the developers at 200 Moody Street are doing, when all three of these come on line, this is going to be a game changer for the downtown. People are going to look at the downtown and are going to say this is really a lot of movement in the right direction in the downtown. And I think that that is going to be a catalyst for even more improvement. I think that this is something that the Waltham Community can embrace and certainly that the Brown and Kirsch family can be absolutely proud of and I know they will be and obviously they are going to continue their presence at this location so I wholeheartedly support this and hope you can be able to see your way to approving the required variances.

Mrs. Rando: Councillor Logan, as a defender of zoning and overcrowding of land and variances and lot coverage and whatever, are you saying some of these things should be overlooked for the benefit of the smart growth or for the benefit to the City of Waltham. Is that what you are saying?

Mr. Logan: Ya. I think especially in the downtown. I think that the nature of the downtown is a lot different. If this was proposed deep in the heart of a residential neighborhood, it would be something different. Or if it was something up in 128, you would say well there's a lot more land up there and there is not much public transportation. But the downtown really is a different situation because it is the urban core. It is the area where you want to do the smart use development. It is very important that it's so close to public transportation that you don't need the level of parking that you would need in another area of the city. So, I think that the downtown is an exception and that is why they put those exceptions into the Business C. Unfortunately for them, the line just happened to get drawn a feet north of their property but I think certainly the same rationale can be applied but because its in the heart of the

downtown it can take a denser use, it can take a mixed use. It certainly doesn't need as much parking as it would if this were - - - even up on Lexington Street there is a bus line up on Lexington Street for example. If this was up on the north side of Lexington Street, I would say you would have a problem with the same development because there's a bus but there's not anywhere near the level of public transportation available up there as there was here. So as a necessity you need to provide the parking spaces because the people up there have no other option but to drive. That's the only option we have. Here you do have options.

Mr. Hickernell: I mean in addition to the bus, the bus lines are a half a mile away from the commuter lines.

Mr. Logan: Exactly. In fact I live off of Taylor. I walk to the commuter rail and I also walk to the bus.

Mrs. Rando: Are there any other questions?

Mr. Sergi: You know there's a lot of work planned in that area, sidewalks, possibly the fire station and all that going on. Is this going to be in coordination. Are we going to coordinate the city's improvements with this new construction?

Mr. Logan: Absolutely, I know the petitioners have been working with the Mayor with on those improvements and I know that the petitioners are aware of it and the Mayor is and I am sure that they will coordinate to make sure that we don't put in a new sidewalk and they will come in and have to rip it up. I don't think we want to see that and I don't think they want to see that. But thank you for mentioning that because that's another piece in whole puzzle when you put those three developments together and I think those improvements are going in the right direction.

Mrs. Rando: Is there anyone else in favor that would like to be stand and be counted or come to the microphone?

Stuart Woodward: I am a resident and business owner and property owner in downtown and in Waltham. I am very excited about this project coming to Waltham and I see so many properties that are in disrepair and I fully support this particularly with the housing and mixed use and I think its a great proposal.

Carlos Vidal, 220 Ash Street, Waltham: I am in favor of this proposal. I think it's great. I drive by that street every day. I actually volunteer at the Waltham Partnership for Youth and I have seen these buildings the way they look now and I think this would be a real improvement for the South Side. I also own property on Myrtle Street as well and I think it is a good thing. I was looking forward, I saw a couple of years ago there was going to be a bank building. I didn't like it. At that point, almost anything just to make sure this place looks a lot better than it does now. So, I am for it.

Mrs. Rando: Anyone else in favor? Is there anyone in opposition?

Steven Hebert, I own 16 Myrtle Street which is an abutter to the property. I can't really comment too much because this is the first I've seen any of this stuff and I haven't been approached by anyone in this family. I don't know what their intentions are or anything else. I wasn't in support of the bank. I did have issues with the bank and again I wasn't approached too much on that issue there.

I think my big issue has always been the fact that, how long have the petitioners owned these properties?

Mr. Francis: Sixty five years.

Mr. Hebert: We keep hearing dilapidated and run down and everything, so I think, my issue is always, if you neglect your property and you've owned it for sixty five years, then you get a clean slate and you can tear it down and approach the board and say our property is dilapidated and we can build whatever we like. I just don't find that fair to say now we can build a new building and that will become dilapidated and we won't take care of it and worry about our neighbors and everything else. So again, I just wanted to be a part of what's going on and again I haven't seen anything about this project or heard anything about this project. I am an abutter and I just found out by hearsay. That's why we are here tonight.

Mrs. Rando: You didn't get a card in the mail about the meeting?

Mr. Hebert: No.

Mrs. Rando: And you are a direct abutter?

Mr. Hebert: 16 Myrtle Street.

Mrs. Rando: I'll have to look into that.

Mr. Hebert: So, again, we haven't got a copy of this and I can't say I am against it or for it.

Mrs. Rando: Did you have any neighborhood meetings?

Mr. Francis: I not sure, you wouldn't get a copy of the plan but you should get a copy of the legal notice.

Mrs. Rando: Is there anyone else in the audience that did not receive a notice about the meeting this evening?

(No one raised their hand.)

Mr. Hebert: So, again I want to see something done with this project. Again, it's a hard enough parking issue over there and I want to see something done. I just don't want it to be at the cost of the residents that are already there. You know, we are talking about businesses, were going to get night lights, loading docks, dumpsters and all that stuff, and again we are in a residential area so now Moody Street is getting pushed back up against our residents. You know I have tenants there. We just remodeled a bunch of units. You know we need to protect our investment and our tenants and hopefully they are going to work with us and we will try and work with them. Again, I don't want to say I'm against it or for it until I've seen what we have. So, hopefully the next time we'll be more informed.

Mr. Francis: I believe he mentioned that there would be businesses and whatnot. The actual businesses are staying exactly where they are today. And again, it's going to be a residential building that will be there with actually some green space compared to what's there now. So the headlights are not at all facing the residential business district. They will be facing the actual residential buildings. Traffic will be improved and as you said, there will be more off street parking. To get a better idea of what those would look like, Mr. Fournier will speak as to what will be there.

Joe Fournier, Architect went over the artist's rendering of the whole development.

Mr. Fournier: We are trying to respect the density of the area of our development in keeping all of the roof heights in compliance

with the zoning restrictions for that very reason. One of the things we endeavor to do is we try not to shun the abutters. You have tenants that live there. We want to respect that. In doing so, in keeping the scale of buildings, they are large buildings. We are in compliance with the number of stories, the building height that is required or that's allowed by zoning. We are trying to keep that down by allowing again, these smaller roof components, these dormered pieces, even though the structure itself is large. In context, it actually keeps the scale down and we are trying to respect the neighborhood in doing just that while also respecting the edge that I speak of in terms reinforcing the corner that currently is on Moody Street. We do not have that. You have a residential unit that is tucked away from the street and one of the things as Councillor Logan eluded to, one of the things that actually makes a street like Moody Street or Main Street or anywhere is that edge. This retail market allows a street like this to thrive and that works to the benefit of your tenants and other tenants and abutters in the area because they can walk to stores that will move into this. They can walk into the "mom and pop" shops and actually get the services that they require and they don't have to drive to box stores to get the items that they require. So that was our original concept going into this. And I think what we have done is we have maximized not only the potential of the lot and I don't mean that as a negative connotation which is sometimes derived. There actually is a positive because we have not only improved the life safety that is severely lacking in this area and I don't know so much that its the allowance of the deterioration of the property by the owners sake. The buildings are tired and its not just a simple matter of replacing the windows and siding and whatnot. The bones of the structure are actually very, very tired. They have been abused over the years, as far as use, not necessarily over abuse but a complex such as this, this will be maintained with sustainable materials that are going to be used on this project. This will not have the same deterioration rate that the other structures are. We are going to use

modern technologies to allow that to happen. So I think that this would actually be a positive for the abutters. Because not only does it give a much better appearance of what currently exists and I'll elude to a hodge podge. This allows a single access point in and a single access point out that suggests to the safety of the school. We actually factored that in as well. If you have a single point of access in and out of the site, you're containing your safety component. That was the intent. It also allowed us to provide as much parking as possible on the site. We would have loved to have provided more but we couldn't, but we probably designed this about ten different times. So this actually provides the maximum amount of parking, a nice green edge, again to the residential component. One thing we looked at was doing one large building and then you would have had a sea of asphalt in here (referring to the rendering). And we wouldn't be seeking the relief that we are seeking right now in order to do that. We could have done a lot of that by right but as the Browns will tell you, we worked tirelessly in terms of respecting their needs but also respecting what this will mean to the city. And that type of smart growth, that is so deserving in this end of Moody Street, and certainly we hope this is a stimulus in something that can happen, because we benefited down here, why not extend the benefits to this point. So I hope it helps.

Mrs. Rando: Is there anyone else in opposition. Seeing none, is there anyone seeking information?

Patricia Kepler, Pastor of First Presbyterian Church, seeking information):(We are abutters on the northern end of this property and essentially we are glad to see this happening. We really don't want to minimize however the parking issue. Anybody who lives and works in this area knows that Alder Street is parked up all the time and the parking lot abutting the recreation building is also full most of the time and we are expecting the recreation building to have more

use over time. So we are glad to see this happening and we expect a lot of the parking spaces are going to be for the people who are to be using this commercial building. So its not going to ease the parking situation its going to make it worse. But I just wanted to register that. And I have a question. If this goes through when is this going to happen?

Mr. Francis: As soon as possible. I would say late summer.

In addition. there's approximately five and one handicapped spaces along Moody Street that's currently there. They also will remain there as well in addition to the thirty one off street parking spaces.

Mr. Fournier: To further that point, yes the parking is used adjacent to the commercial space for commercial use but it is also our intent that these parking spaces can be utilized by the residents as well. So obviously in the evening when the stores are closed the residents will be allowed to park there.

Mrs. Rando: Anyone else?

Mrs. Rando: Attorney Francis, I would suggest that you have a meeting with the neighborhood and with this gentleman back here and clarify exactly what you are doing because it seems that a lot of them do have questions and concerns.

Mrs. Rando: I am not myself ready, I need to digest and dissect the petition and see how many variances in - - -

Mr. Francis: Would you like the abutters list and the abutters at tonights hearing also?

Mrs. Rando: Yes, everybody on the list.

Are there any other people that have something to say? (No one came forward.)

Mr. Hickernell: You mentioned that the the new construction is going to be done with sustainable materials. Are you going to be seeking lead certification for anything in construction.

Mr. Fournier: We will look into that and if it is economically feasible for our client, we will certainly suggest that.

Mrs. Rando: What is the feeling of the board? I myself are not ready to continue this evening.

Mr. Sergi?

Mr. Sergi: I think it is a great idea for him to have a discussion with the neighbors and get everybody on the same page. Talk about the dumpster locations and maybe some greenage and proper zones. It sounds like its a nice project for the neighborhood. I think it should be addressed.

The members all agreed to continue the meeting.

Mrs. Rando: Do I have a motion to continue Case 2014-05 to May 20th?

On motion of Mr. Sergi, seconded by Ms. Gelineau, the board voted to continue Case No. 2014-05 to May 20, 2014.

There being no further business, on motion of Mr. Sergi, seconded by Mr. Hickernell, the board voted to adjourned at 8:30 P.M.

Barbara Jands, chair