

Call to Order:

The meeting was called to order at 7:34 p.m. Present were Chair Zachary Bergeron, members, Vincent Chiozzi, Jay Doherty, Ann Knowles, and Associate Member Steven Pouliot; also present was Paul Materazzo, Director of Planning.

254 Lowell Street Deliberations:

Mr. Bergeron opened the deliberations for 254 Lowell Street, a Special Permit for Elderly Housing. Mr. Bergeron noted that it is a deliberative session for the Board and closed to public comment.

Mr. Materazzo reviewed the application for the two phase condominium project of 133 units of elderly housing on 9.2 acres of land. The Bridges (Phase I) is proposed to be a 63 unit memory care building, and the Andover Senior Residences (Phase II) is a 70 unit congregate care building developed by B'Nai B'Rith for those 55 and older. The Phase II building will be 100% affordable, and the project as a whole 57% affordable. The site would be serviced by municipal water and sewer. Mr. Materazzo noted that there are 2-3 pages of public comment in his memo, as well as community correspondence to the Board attached. A lot of the comments and concerns have been addressed throughout the public hearing process or will be otherwise decided by the Board. The application satisfies the criteria of the Zoning Bylaw of minimum lot size, density, height, building coverage, setbacks, Town services, transportation services, common open space, parking, emergency access, public safety and landscaping.

Mr. Bergeron stated that Officer Edgerly has informed the Board that this project does not raise any concern with regards to traffic and public safety. He asked what encompasses public safety. Mr. Materazzo stated that to satisfy public safety the application has to not raise concern or warrant additional review, scrutiny or expertise in regards to general safety and the well being of the public. When examining traffic conditions, the Police Safety Officer is looking at turning movements to and from the site, current volumes of traffic and proposed volumes. Ms. Knowles asked if he would have recommended a crosswalk if it was necessary. Mr. Materazzo stated that she was correct, as well as sidewalk extensions or, bus stop pads.

Mr. Bergeron asked if the Interdepartmental Review (IDR) includes items that are formulaic as well as what departments would like to see at the site. Mr. Materazzo stated if a staff member sees something that is a necessity to improve public safety; it will be addressed at the IDR as well as recommended to the Board to incorporate as mitigation in the conditions. He added that no Town staff has raised a red flag in regards to traffic. Mr. Bergeron asked if Town staff has ever raised concerns over traffic on a project. Mr. Materazzo stated that they have, and noted that the DPW and the Police are on Town roads every single day, know the roads and know that the IDR is the time to make requests.

Mr. Pouliot asked who would pay for the transportation services for the development. Mr. Materazzo stated that any approval can require the developer to join the Merrimack Valley Transportation Management Association and to work with the Merrimack Valley Regional Transportation Association (MVRTA) to extend bus service along Lowell Street. He noted that a number of developments in the area may soon warrant a scheduled service. He added that the senior center also has a shuttle service and there may be opportunities for collaboration. Mr.

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Pouliot asked what the cost will be to the Town and Mr. Materazzo stated that there would be no cost to the Town; the owner would incur the cost. Mr. Bergeron asked who pays for the busses and bus stop if the MVRTA says that a new stop is needed. Mr. Materazzo stated that the MVRTA won't run a bus for one development, but this area is already being looked at because of the other developments like the apartments at Rolling Green. Mr. Pouliot stated that he felt memory care warranted a shuttle, because those residents shouldn't be waiting for a bus anywhere. Mr. Materazzo stated that the applicant's Westford facility has a shuttle, and a condition could be placed on any approval that requires a shuttle.

Mr. Doherty noted that the traffic study showed 14 trips in and 13 trips out at the peak hour, but Phase II will have the majority of the vehicles. He did not see how those numbers add up. Mr. Bergeron stated that the study was for both buildings. Mr. Doherty felt that there would be more cars than the traffic study found. Mr. Chiozzi noted that the traffic study is for the peak hour. Mr. Materazzo stated that he had been to the site during the a.m. peak of 7:00 a.m. to 9:00 a.m. and he did not observe much traffic at the site. Mr. Pouliot stated that he felt the real a.m. peak is 5:30 a.m. to 7:00 a.m. Ms. Knowles noted that the traffic study reflects a higher number of cars in the p.m. peak. Mr. Bergeron reminded the Board that the numbers are based on standards. Mr. Materazzo agreed that the traffic study was performed using national standards and the Board should also take into account the comments of the Police Safety Officer and other professional staff. Mr. Doherty felt there will be a steady flow of traffic in and out of the site all day long. Mr. Materazzo noted that traffic from a single family development would come all day long as well. Mr. Doherty stated that he is concerned about traffic in general congesting the neighborhood even more. Mr. Bergeron asked if Mr. Doherty is concerned with existing traffic to the corridor regardless of what goes on the lot. Mr. Doherty answered that any development will affect traffic, but the density of this project may lead to more vehicles compared to another use. Ms. Knowles noted that in the demographic this development will serve, less people will be driving. Mr. Materazzo added that a lot of people enter these types of facilities between the ages of 75-80. Mr. Bergeron also stated that there will only be one car allowed per unit of the Phase II building. Mr. Chiozzi added that the national standards are determined by counting cars at these types of facilities, so he didn't feel that the Board should be questioning the standards.

Mr. Pouliot stated that he would like the Board to focus on the topics of the wetland protection overlay district, timing of Phase I and Phase II of the project, the need for memory care and the culture of the neighborhood.

Mr. Bergeron stated that the Town's Peer Reviewer has confirmed that the project complies with the watershed protection overlay district. Mr. Pouliot stated that he believes the water coming from the project is drainage which is prohibited in section 8.4.1. Mr. Materazzo pointed out that the Inspector of Buildings wrote a letter to the Board dated July 31, 2014 stating that the rain garden and associated piping constitute a conservation device which is a permitted use per section 8.1.4. Mr. Pouliot asked if the drainage in the infiltration channels near the road is a rain garden. Mr. Materazzo stated that a residential use is a permitted use in the district. He added that the Inspector of Buildings, Town Engineer and Peer Reviewer all agree it complies with the Bylaw. He added that if the Inspector of Buildings determines at a later date that the applicant needs a Stormwater Special Permit, they will be required to apply for one. The Peer Reviewer

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has confirmed that the application is in compliance the MassDEP Wetland Protection Act, MassDEP Stormwater Handbook, the Town of Andover Stormwater Management and Erosion Control Regulations and the Town's Zoning Bylaw.

Mr. Pouliot stated that the Town's people are interpreting it as conservation as it fits within the Bylaw. Mr. Chiozzi noted that the Town's Peer Reviewer has done many reviews over the years for this Board and the Conservation Commission and always puts the applicants' engineers through the paces. Mr. Bergeron asked if Mr. Pouliot is concerned that someone can manipulate a definition. Mr. Pouliot stated that with his limited engineering experience he sees it as drainage, not conservation. Mr. Chiozzi noted that when the idea of rain gardens first came out, he did not understand it. However, over the years he has seen firsthand how it works with the proper maintenance taking place. He noted that rain gardens are being used more and more over the last ten years and they are eliminating the huge detention basins. Mr. Chiozzi stated that he has confidence in the Town's Peer Reviewer and if she says the project complies, it complies. Mr. Materazzo added that there were at least 3-4 review letters back and forth between the peer consultant and the Town Engineer. Mr. Doherty added that the standard does not require improvement to any runoff, only to not make it worse.

Mr. Pouliot stated that he is concerned about the Phase II project being built as proposed, now that there is not going to be a financial compensation if it is not built. He is concerned that Phase II will become memory care. Mr. Bergeron noted that if there is a change the applicant would have to come back to the Board. Ms. Knowles asked if the Board could force the totality of the project. Mr. Bergeron asked if she was meant as to usage. Ms. Knowles said yes and the fact that the Board would want anything else put there to be affordable. Mr. Materazzo stated that any change would require the applicant to come back to the Board because any decision is tied to specific plans. He added that any approval can be conditioned with the intent of the decision.

Mr. Pouliot stated that the Town needs more housing for seniors, but he does not know how many need memory care. He felt that the Phase II building is what is most beneficial to the Town. Mr. Materazzo stated that there was testimony during the public hearings from the applicant that 79 units of memory care are needed in Andover today, and residents testified that memory care is a growing need. Andover also has a rapidly aging population. The need is there, and the Board has to decide if this is the right location to fulfill the need. Mr. Pouliot stated that he still questions if those that need memory care are Andover residents. Mr. Materazzo reminded the Board that the local preference allows for current residents to bring their aging relatives to Town and also allows former residents to return.

Mr. Doherty stated the only way he could approve the application is if Phase I cannot start until Phase II receives financing. He reiterated his opinion that this should have been two applications, and questioned if this has ever been done before. Mr. Materazzo stated that the Board just approved a condo project with the medical building on Lowell Street as well as the Federal Street project. Both had one developer with two owners. He added that the Inspector of Buildings has reviewed the application and approved it as one application. Mr. Doherty asked if the project complies with the density requirements and Mr. Materazzo stated that it does, and the developer is essentially presenting their Master Plan for the land up front. Mr. Chiozzi stated

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that you usually see Towns demanding to know what the total use of the property will be up front. He reiterated that if they want to change the plan they have to come back to the Board.

Ms. Knowles stated that if any changes were made to the plan she felt that the affordability aspect was key. Mr. Bergeron noted that usage was as well. Mr. Materazzo reminded the Board that the standard calls for 15% affordability at a minimum, and the applicant is providing 57% affordability. He added that the Council on Aging is clamoring for the units at Phase II and people are calling asking when Phase I will open so that they can bring their parents to Town.

Mr. Bergeron felt that the Board was spending too much time on “what if” scenarios. He asked what protective conditions can be placed on the project. Mr. Chiozzi noted that the application already states that the project will be 57% affordable. Mr. Materazzo reminded the Board that they cannot condition someone’s land rights. Mr. Bergeron asked if they should consider a condition tied to the financing of Phase II. Mr. Pouliot stated that they could get financing and still never build Phase II. Mr. Bergeron noted that the financing is very specific through a grant. Mr. Chiozzi asked what condition could be put in that would satisfy Mr. Pouliot’s concern. Mr. Doherty suggested that they have Phase II financing in place before Phase I starts. Mr. Pouliot reiterated that he did not see memory care as a need. He added that Phase II is best for Andover.

The Board discussed the term “unreasonably detrimental”. Mr. Pouliot stated that if there was a need to fill two memory care facilities with Andover residents, and it was good for the Town tax-wise, he would not have a problem with two small projects. He sees the need more for senior housing, and Phase II. He added that the Phase I project is a great looking facility, not too big in size and scale, and he does not consider it to be unreasonably detrimental. In his opinion, the Phase II project better serves the need of the Town. Mr. Bergeron noted that if there is not a need for Phase I, that could be considered unreasonably detrimental. Mr. Pouliot agreed and stated that Phase I is not detrimental to the area whatsoever, and is better looking than the churches on either side of the property which ties into the character of Andover. The Phase II building is larger in stature. Mr. Doherty stated that the two buildings will change the character of the neighborhood, especially for the residents on Wild Rose Drive. He noted that something will go on that property, but he wished it wasn’t a three story building. Mr. Bergeron stated that three story houses could go there, and Mr. Doherty stated that houses would be less daunting.

Mr. Chiozzi stated that when the Elderly Housing Bylaw was drafted in 1997 a lot of time was spent on the zoning. It was determined that if you made density more and height less, it wouldn’t work. The height was determined using the actual height allowed in the neighborhoods. The setback of 200 ft from a residence was debated at length. When you say it is massive, it is the same height allowed for single family homes. The massing is what will bring options.

Mr. Pouliot stated that they should ease back on the setbacks from the Churches to make the building two stories but wider. Mr. Materazzo stated to do that would require either a Town Meeting change or for the applicant to petition the ZBA. Ms. Knowles noted that it takes a special type of zoning to break up massing. What you can do is look at roof lines and architectural features to soften the look. Creating a peak on a roof increases the likelihood of a

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slanted roof which is more residential than a flat roof. Mr. Bergeron asked if the Board can deliberate on roof angles. Mr. Materazzo stated that they can and they can also consider having the architectural elements vetted with the Design Review Board, and then come back to the Board for final design approval. A condition can also be placed to incorporate an architectural element that softens the 3rd floor.

Mr. Materazzo pointed out a section in the memo that outlines the uses in proximity to the site with the square footages of those uses. Mr. Doherty stated that those uses are outside the neighborhood. Mr. Bergeron and Ms. Knowles disagreed with Mr. Doherty and stated there is mixed usage in what is considered the neighborhood. Mr. Doherty stated the majority of the neighborhood is ranch style homes. Mr. Pouliot felt that the corridor is saturated. Mr. Bergeron stated that the Town has needs and this piece of land would support this project. Ms. Knowles added that this is the project before the Board. Mr. Bergeron agreed that they cannot play the game of "if this didn't go there what could". Ms. Knowles stated that she sees Lowell Street as a regional arterial, a way to access Town. She added that she sees multi-story units as fundamentally residential, and this works with the needs of the Town. Mr. Pouliot asked Ms. Knowles if she believes Wingate is residential. Mr. Chiozzi stated that it is a residential use because people live there. Ms. Knowles stated that Wingate has a rehab/hospital aspect to it and this does not.

Mr. Chiozzi stated that at the end of the day, this is an allowed use in a residential area. He added that once you factor in all of the setbacks, a developer doesn't even have 10 acres to build on. Mr. Pouliot stated that it comes down to if the Board feels that the development is unreasonably detrimental to the area. Mr. Materazzo corrected him that the Bylaw reads unreasonably detrimental to the neighborhood and the Town. Mr. Pouliot stated that providing senior housing isn't unreasonably detrimental to the Town. He added that traffic could be considered unreasonably detrimental to the Town, but the Police Safety Officer has confirmed there isn't a traffic concern. Mr. Bergeron stated that the architecture could be considered detrimental. Ms. Knowles added that the landscaping could as well. She felt that the site could be made more residential in nature through landscaping.

The Board examined the landscaping plan. Ms. Knowles noted that white pines often drop limbs and pick up rust. She would like to place a condition seeking the Town arborist's input on plantings that are fast growing and provide enough coverage. She also likes the idea of an edible garden on the periphery to increase ecological diversity on the site. Mr. Materazzo agreed that it would add to the outside experience of the residents. Mr. Bergeron stated that it would make a more natural feeling with neighborhood character.

Mr. Chiozzi stated that an allowed use meeting all zoning requirements is not unreasonably detrimental. Mr. Doherty asked if everyone agreed that it is a congregate use, and the Board agreed they are satisfied. Mr. Doherty stated that he would like a condition that Phase II has to have financing before Phase I begins. Mr. Materazzo stated that he will consult with Town Counsel to see if the Board can attach a reasonable condition tying the two buildings together. Mr. Bergeron stated that he would like to see conditions on the landscaping and Mr. Doherty stated that he would like a condition that softens the third floor.

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Mr. Pouliot asked if there is any way to scale what is reasonably and unreasonably detrimental. Mr. Materazzo stated that there is not, but if the Board is considering a denial, they would need to cite specific reasons as to why the project is unreasonably detrimental to the neighborhood and to the Town.

Mr. Bergeron stated that he liked the whole project, but added that if Town Counsel comes back saying that certain conditions cannot be placed they would need to decide if Phase I alone is unreasonably detrimental. Mr. Chiozzi stated that if Phase II was not built, the permit would have to be modified if the project could no longer be 57% affordable. Mr. Pouliot stated that he had no concerns about the proposed affordability. Mr. Bergeron stated that it is a concern that the use of the second building would change. Mr. Materazzo reminded the Board that the applicant is making a \$75,000.00 contribution regardless of Phase II being built because they are providing 10% affordable units in Phase I instead of 15%, so Phase I complies with the Bylaw by itself. Mr. Chiozzi noted that any second building on the site would need to provide affordable units to equal 57% affordability as a whole. Mr. Materazzo stated that they are locking themselves into a proposal.

Mr. Pouliot asked the Board if the project is built per the plan, is there anything about the project that is unreasonably detrimental to the neighborhood. Mr. Doherty stated the size of the building which will dwarf the neighbors in the back. Mr. Bergeron noted that in regards to unreasonably detrimental they also have to consider the Town, not just the neighborhood. Mr. Doherty noted that it was amazing this Elderly Housing Bylaw was approved by Town Meeting with a vote of 1010 to 1. He added that this project will change the neighborhood in regards to traffic. Ms. Knowles pointed out that the neighborhood will change regardless of what goes on the property. She added that single family homes would have setbacks even closer to the residential properties. Mr. Pouliot stated that it is the massing to consider. Ms. Knowles stated that the need for the product being offered is important Town wide. Mr. Chiozzi stated that he would like to see a condition regarding the landscaping that includes the Town arborist and for there to be a condition involving the Design Review Board.

Adjournment: The meeting was adjourned at 9:24 p.m.