

Call to Order:

The meeting was called to order at 7:42 p.m. Present were Chairman Zach Bergeron, members Vincent Chiozzi, Jay Doherty, Ann Knowles and Associate Member Steve Pouliot; also present were Tom Urbelis, Town Counsel and Paul Materazzo, Director of Planning.

254 Lowell Street:

Mr. Bergeron opened the public hearing for 254 Lowell Street, a Special Permit for Elderly Housing.

Tom Urbelis, Town Counsel explained the remand procedure. He noted that the Planning Board's original vote on this project was three in favor and two opposed. The vote needed a super majority of four members for an approval. The two members who disapproved the project gave specific reasons for their decision. The applicant filed a complaint in Land Court which then took over the jurisdiction of the project. The Board then could not hold any more hearings without the approval of Land Court. In the case of a non-unanimous denial, a remand is often issued by the court if the denying members cited deficiencies by the applicant. The court will order a remand to see if there is additional information that the applicant is willing to provide for the Board to consider. In this case, the two members who voted against the Special Permit acknowledged that a lack of specific information contributed to their vote. The Planning Board agreed to request that the court remand it back for further hearings, and the court allowed it. The court ordered the following information to be submitted by the applicant: 1. A peer review of the traffic study submitted by the applicant at the expense of the plaintiff on the methodology of the analysis, conclusions and recommendations for conformance with applicable industry standards. The lack of a traffic peer review was listed in the two member denial. 2. Renderings of a roof design similar to Goddard House in Brookline, MA designed to minimize the appearance of the building mass. This was cited by those who voted against the project. These rendering will be submitted to the Design Review Board for advisory non-binding guidance on the design and appearance of the building. 3. A marked up lighting plan illustrating the photometrics of the development. This had not been submitted previously. 4. A proposal for the hours of operation for deliveries and trash pickup to minimize noise effects on neighbors' properties. 5. A peer review by a landscape architect chosen by the Board paid at the expense of the plaintiff on the species, size and quantity of the proposed plantings in the landscape plan to provide reasonable screening from abutting properties.

Attorney Urbelis noted that this information was required to be submitted within 30 days of the court's order. The Board is required to enter a decision within 90 days of the close of the remand hearings unless the time is extended with the written consent of the applicant. Land Court will retain jurisdiction over this matter. After a decision is made, and within 30 days of filing the decision, the applicant will notify the court in writing whether they object to the decision. If they reject the decision, the appeal will go forward with Land Court as if there had been no remand. If they accept the decision, this litigation will be dismissed. Mr. Bergeron noted that there have been many items discussed to date and voted on by the Board. Those additional items are not part of the remand and are not to be discussed during these hearings.

Mark Johnson, an attorney representing the applicant reviewed the proposal for the hours of operation for deliveries and trash removal. He stated that delivery hours will be restricted to

Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturday, Sunday and Holidays 9:00 a.m. to 4:00 p.m. He added that any deliveries on Saturday, Sunday or Holidays would be emergency in nature. These hours do not apply to FedEx or other private delivery services which have their own schedules.

Susannah Barnes of Greenman Pederson, Inc., the Town's traffic peer reviewer reviewed her findings. She stated that turning movement counts were performed during the recognized weekday peak periods of 7 a.m. – 9 a.m. and 4 p.m. – 6 p.m. at Lowell Street and Windemere Drive. Forty-eight hour traffic recorders were placed on Lowell Street and showed an a.m. peak of 7:15 a.m. – 8:15 a.m. on the first day and 7:30 a.m. – 8:30 a.m. on the second day, with a p.m. peak of 4:45 p.m. – 5:45 p.m. on both days, confirming that turning movement counts were taken during the peak hours. She noted that traffic is lower on Saturday and Sunday so the analysis represents a "worst case" traffic scenario. Traffic for both the new 40B and the medical buildings on Lowell Street were accounted for in the report. It is calculated that this development will generate 27 vehicle trips in the a.m. peak and 39 trips in the p.m. peak, with about an even split of cars going east and west. She noted that based on the ITE average rates, this use is considered a low traffic generator and the land use for a single family home yields more traffic per unit than an assisted living and senior adult housing land use. Mr. Bergeron asked if that was based on area or units. Ms. Barnes stated that it is based on house versus unit. Ms. Barnes stated that she suggested the developer provide two bicycle racks in the front and the rear of the facility, and they have agreed. She noted that all parking requirements have been met or exceeded. She concluded that the Bayside Traffic Report follows all engineering standards and the development is a low traffic generator. The minimal increase of traffic on Lowell Street of 0.8% – 1.7% is not expected to have an adverse impact on Lowell Street or at the intersection of Lowell Street and Windemere Drive.

Mr. Pouliot asked if the intersections of Lowell Street with Shawsheen Road, Wild Rose Drive and Greenwood Road were studied. Ms. Barnes stated that they were not. Mr. Pouliot suggested that the scope be expanded to those intersections. Mr. Materazzo asked Ms. Barnes if she felt it was necessary to review those intersections. Ms. Barnes stated that the project is such a low traffic generator, it is not expected to affect those intersections. Mr. Pouliot again suggested that those intersections be studied as well as Lowell Street and Argilla Road. Mr. Pouliot questioned the peak hours stating in his opinion the peak a.m. hour was between 6 a.m. and 7 a.m. Ms. Barnes noted that the trip count recorders are left in the road for 48 hours to measure and verify the peak hours. Mr. Pouliot stated that Lowell Street at Windemere Drive is a Level of Service D and asked if it was correct that it would drop to a LOS E. Ms. Barnes stated that the LOS was expected to remain the same. Mr. Pouliot noted that the LOS information was on Page 5 of her report. Ms. Barnes stated that Lowell Street at Windemere Drive is expected to drop to a LOS E from the combination of three growth factors which are the 40B, the medical building and this project. Mr. Pouliot stated that he did not understand. Mr. Bergeron and Mr. Doherty explained that this project alone will not change the LOS. Mr. Pouliot noted that the Board still does not know how this will affect the other intersections. Mr. Chiozzi asked Ms. Barnes if there is enough information from the report to project how the other intersections would be affected. Ms. Barnes stated that traffic counts would be needed.

Mr. Pouliot asked if there was a reason why annual growth was factored at 0.5% and not 1%. Ken Cram of Bayside Engineering, the applicant's traffic engineer, stated that traffic volumes around Massachusetts have been on the decline. He contacted the local regional planning agency, the Merrimack Valley Planning Commission, about the appropriate background growth rate and they confirmed that 0.5% was appropriate. Mr. Pouliot asked why future traffic volumes were projected out for 5 years and not 7 years. Mr. Cram stated that this project is not part of a MEPA project which is for larger projects and requires the 7 year projection. He added that if you project out to 7 years, the findings will not change.

Mr. Bergeron asked Attorney Urbelis if the Board can expand the scope to other intersections. Attorney Urbelis noted that the remand called for a peer review of the applicant's original traffic report. The applicant would have to agree to an expanded scope. The Board can rely on the opinion of their peer reviewer as to if an expanded scope is necessary. Mr. Chiozzi asked if it would be possible to count the cars during the peak hours, or if 48 hour counts would be necessary. Mr. Barnes stated that it would be appropriate to count cars during the peak hours. Mr. Bergeron noted that they would be counting cars at more than one intersection. Mr. Chiozzi asked Mr. Pouliot what intersections he would want counted and Mr. Pouliot stated at a minimum Greenwood Road and Shawsheen Road. Mr. Chiozzi asked how many cars leave the site during the a.m. peak. Ms. Barnes stated that 13 cars total leave the site over the course of an hour. Mr. Chiozzi stated that it was hard to believe that 6 or 7 cars going in either direction would make an impact. Mr. Cram added that a condition of the 40B approval is a requirement for monitoring of the new signal and the signal at Lovejoy, and for timing changes to be made based on traffic when the 40B is fully occupied. Mr. Materazzo added that the light is under construction and should be fully operational in the fall or winter. Mr. Chiozzi asked if the p.m. was similar and Ms. Barnes stated that it was 18 cars leaving the site with an even split going east and west. Mr. Pouliot asked Ms. Barnes if she stated that one trip to a single family home is equal to one trip to an apartment. Ms. Barnes stated that based on the ITE trip generation average rates the land use for single family detached housing yields more traffic per unit than assisted living or senior adult housing.

Attorney Urbelis stated that he would like to point out that the scope of the peer review is limited to reviewing the methodology of the plaintiff's analysis and the conclusions and recommendations for conformance with applicable industry standards. Mr. Bergeron asked if they would not be able to have a peer review of additional information. Attorney Urbelis stated that the applicant would have to agree to expand the scope. The peer reviewer would have to agree that an expanded scope was necessary in order for it to affect a decision. Mr. Materazzo noted for the record that the Public Safety Officer found the peer review consistent with his findings.

Mr. Chiozzi asked if the Town is getting \$25,000.00 from the developers of the medical building to study the 133 corridor. Mr. Materazzo noted that he was correct. Mr. Pouliot asked if the studies should be conducted before any projects are approved. Mr. Materazzo stated that the study is a long range planning process working with the Merrimack Valley Planning Commission to study Route 133 from Interstate 93 to the Haverhill Street railroad bridge. He added that the Town so far has close to \$175,000 for the study and the Town Engineering

Department has begun to work with MassDOT. Mr. Pouliot stated that he thinks is short sighted and he disagrees with it.

Charlie Erban of 249 Lowell Street asked Ms. Barnes if she knew that that the traffic counts for the prior Thursday and Friday were 16,000 cars each day. Ms. Barnes stated that she was aware, and that there was a construction detour onto Lowell Street on those days. Mr. Erban stated that he asked Officer Edgerly where those cars go if there was not a detour. He stated that Officer Edgerly noted that traffic was also high because of problems on I-93 and I-495, and asked Ms. Barnes if she was aware of that. Ms. Barnes stated that she was aware, but this project is a low traffic generator. Mr. Erban noted that in the report, Ms. Barnes states that she needs more information. Ms. Barnes stated that she has received all of the information requested. Mr. Erban asked Ms. Barnes if she knew how many employees will be at the facility. Ms. Barnes stated that there would be 24 employees at the largest shift change. Mr. Erban insisted that Ms. Barnes does not have the information necessary to write a report.

Gerry Crowley of 2 Cricket Circle asked when the traffic study was done. Mr. Cram stated April 2014. Heather Lauten of 243 Lowell Street noted that some of the numbers are based on specific counts, but she is interested in anticipated trips. She asked if public transportation availability was taken into account. Ms. Barnes stated that the trip generation is taken from the ITE manual based on other like developments. Ms. Lauten asked if it is anticipated as to how emergency vehicles can maneuver through the streets at peak hours on a road that has no shoulder. Mr. Cram stated that there is no sidewalk on the south side of Lowell Street which is the direction that an emergency vehicle would be coming from, and by law cars have to pull over for emergency vehicles. This type of facility may get an emergency call every other day or every third day. Ms. Lauten noted that in emergency situations, public safety tends to send out four vehicles. She asked how that is considered in the study. Mr. Cram stated that the ITE manual includes visitors, staff, delivery and emergency response vehicles. He noted that most calls come at night when the traffic volumes are lower. He added that it is common in every community for four cars to be sent. Mr. Chiozzi asked about the pavement width of Lowell Street and noted that the issue is if two cars can pull over and an emergency vehicle can get by. Mr. Cram stated that Lowell Street is 33 feet 3 inches wide. Mr. Chiozzi noted that emergency vehicles could make it down the street. Stephen O'Connell of 6 Robinswood Way stated that he runs down Lowell Street and there are spots where the road is a lot narrower. Mr. Materazzo stated that he can confirm with the Fire Lieutenant if access is or is not an issue.

James Tammaro of 143 Lovejoy Road asked what the dates of the traffic counts and questioned if they were done during school vacation. Mr. Pouliot stated that the dates were April 8th and 9th, 2014. Mr. Tammaro asked why Windemere was chosen as the point of origin. Ms. Barnes stated that it was chosen because it is directly across from the site. Mr. Tammaro asked if the numbers are added into the existing flow of traffic to see if it will tip the scales. Ms. Barnes confirmed that the analysis was performed that way. Mr. Tammaro asked how many units were accounted for in the statement that single family homes create more traffic. Ms. Barnes stated that she is aware that you cannot fit as many single family homes on this parcel as apartment units. For traffic generation, 22-30 single family homes would be equivalent to the traffic generated from this development. Mr. Tammaro asked if that number was based off of a calculation of total square footage divided by the minimum allowed square footage. Mr.

Bergeron noted that Ms. Barnes gave a general rule of thumb, it is not something that will be factored into decision making and it is not a one to one ratio.

Carina Schusterman of 2 Robinswood Way stated that since the traffic study, the school bus stop changed to now be at Lowell Street and Windemere. She noted that the study does not include that information. Mr. Bergeron asked how many busses stop there and Ms. Schusterman stated one.

The Board moved on to discuss the landscaping peer review. Arthur Eddy, principle and owner of Birchwood Design Group stated that he reviewed the species on the proposed landscaping plan and found them all to be appropriate for the region. He noted that in regards to scale, most of the evergreens are proposed to be 8-10 feet which is recommended for faster growth. Other trees will be 3" caliper. He had concerns about trees being placed in the snow dump area in the back and asked for them to be moved out of that area. Along the edge of the property line will be a mix of evergreens and white and red pines which are good buffer plantings. The property is also sloped so the plantings will be higher. Ms. Knowles noted that she is concerned about rust on the white pines if they are massed together. Mr. Eddy stated that rust occurs more on red pines which will be massed in the back of the property and naturalized into the existing landscape. Mr. Eddy noted that there is a fair amount of diversity on site. Ms. Knowles asked if diversifying will minimize winter moth and Mr. Eddy stated that it would. Mr. Bergeron asked Mr. Eddy what he would suggest for long term maintenance. Mr. Eddy stated that he recommended long term care with an O&M Plan that calls for once a year maintenance including fresh mulch and trimming. He added that the south side of the property should be allowed to naturalize and grow. Mr. Doherty asked if there was enough buffer on the south side to shield the houses. Mr. Eddy stated that there is enough buffer because the land slopes up and there would be plantings on top of that. Mr. Bergeron asked about the grade differential. David Chilinski of Prellwitz Chilinski Associates, an architect representing the applicant, stated that the grade change is approximately 7 feet from the first floor to the lot line.

Mr. Pouliot asked where lighting would be on the property. Ted Tye of National Development, the applicant showed the photometric plan of the property. He noted that the lighting is for safety, not to light up the buildings and they will be using cutoff fixtures where light flows down and out. Mr. Tye showed areas of no light spill around the back of the ASR building. He added that the landscape plan provides for extra buffering. For safety, lights need to be kept on all night, however in the evening the lighting is on two circuits and lower from 11pm – dawn.

Mr. Pouliot asked about the height of the light poles. Mr. Tye stated that there are two levels of poles which are about 12-15 feet in height compared to typical parking lot poles that are 20 feet in height. Mr. Doherty noted that it looks like the light on the south side is creeping in on the abutters, and asked if they will see the lights. Mr. Tye stated that they would not see the source of the light. He added that there will also be a landscape buffer. Mr. Materazzo asked if there was a different kind of light that could be used that has an offshoot lower to the ground. Mr. Tye stated that you would end up with more lights if you do that, and you can't use bollards because cars would cut it off. He added that he is open to lowering the height of the poles. Ms. Knowles added that she would like to see the light pulled away from the back of the property.

Mr. Tye showed the earlier elevation of the building and noted that the Board requested that they provide renderings in the style of the Goddard House in Brookline which is a three story building that looks like a 2 story building. Mr. Tye showed a new elevation rendering from Lowell Street and noted that the 3rd floor recedes into the roofline. He stated that the design idea is to break up the massing so that it resembles single family homes with residential materials being used on the building. Mr. Tye showed the view from the rear of the property and noted that the grading slopes up towards the neighborhood. Mr. Chilinski showed the areas of grade change and stated that the even line is 22 feet from the eve. He added that the scale is diminished by the change in slope and the top shingle looks like a 2nd floor clapboard. Mr. Bergeron asked if the interior square footage changes with this design change. Mr. Chilinski stated that it does not, this is a simple change to the roof.

Ms. Knowles stated that she liked that the building looked more residential with the clapboard and shingle style. Mr. Chiozzi asked for confirmation that this look was similar to the Brookline building, and Mr. Tye confirmed that it was similar. Mr. Pouliot stated that the building is very tastefully done and a good product. Mr. Materazzo noted that the Board is still in the process of soliciting comments from the Design Review Board.

Liz Hoar of 6 Wild Rose Drive stated that her bedroom would get shadows from the trees. She asked for a rendering from Wild Rose Drive and Sweetbriar Lane. She questioned if she will have a constant shadow on her house and not get any light. Mr. Bergeron asked Ms. Hoar if she could see the Church from her house. Ms. Hoar stated that she can see the church from her house and when the church leaves their lights on it lights up her entire backyard. Mr. Bergeron noted that lighting has come a long way, and Ms. Hoar may be able to see the light, but the light will not be cast into her yard.

Regina Kelly of 4 Bateson Drive asked why they aren't showing pictures from the same angles. Mr. Bergeron stated that the Board asked for information on the roof angles, but did not specify from which angle. Mr. Tye stated that they can provide renderings from the same angles. Mr. Bergeron noted that he would like renderings from the southwest and also from the east from the church.

Maureen Weisner of 6 Cricket Circle asked for the total number of parking spaces and Mr. Cram stated 137. She questioned why so many parking spaces were needed if the traffic impact was expected to be so benign. Mr. Pouliot noted that having that many parking spaces does not mean that 137 cars will be leaving the parking lot at one time. Ms. Weisner stated that it is a large number of parking spots.

Nuala Boness of 4 Robinswood Way stated that she visited the facility in Westford and there were a lot of utility type buildings that she does not see on the plan. She asked where they would be located. Mr. Tye pointed out the AC units and the transformers. Mr. Bergeron asked if they would be enclosed and Mr. Tye stated that there would be fences around them, and added that transformers do not make noise. Regina Kelly of 4 Bateson Drive asked where the generator would be located. Mr. Chilinski stated that the ASR building does not have a generator.

Janice Sifferlen of 84 High Plain Road asked if the number of employees included both buildings, and Mr. Bergeron stated that it does. Doug Adams of 1 Avery Lane asked if the landscaping plan took into account the water table of the area. Mr. Bergeron stated that the water table does not concern the landscaping plan and stormwater runoff has already been covered in the prior public hearings.

Alan French of 17 Moreland Road stated that he sees nothing that will change any of his previous comments on this project. He asked if there will be time to complain about this process. Mr. Bergeron again explained the limited remand discussion. Attorney Urbelis noted that Mr. French's comments from the prior hearings were part of the record. Mr. French stated that he wanted to update his comments based on what has since transpired and he felt there should be another hearing for comments. Attorney Urbelis stated that the Board is allowing additional comments on specific items.

Brad Weeden of 5 Summer Street asked if the traffic counts were performed 14 months ago. Ms. Barnes stated that they were and they included the medical building. Mr. Weeden asked if they included the sports complex on Blanchard Street in the counts, and Ms. Barnes stated that the traffic study did not include that.

Gerry Crowley of 2 Cricket Circle expressed frustration that only five points are allowed to be discussed because there were many more objections in the denial. He questioned the process that got to these five points. Attorney Urbelis stated that he cannot discuss Executive Sessions. Mr. Crowley stated that he did not know what an Executive Session is and asked if they can just tell him what happened. Mr. Bergeron stated that the Planning Board can meet with Town Counsel to discuss legal issues. Mr. Crowley asked if these items were recommended to the judge for the remand by the Board. Attorney Urbelis stated that these items were submitted jointly by the applicant and the Board.

Judy Trerotola of 6 Rogers Brook East stated that the applicant has reduced the scale of the building, reiterated the traffic studies and jumped through hoops.

Regina Kelly of 4 Bateson Drive asked if the Board thought to ask the applicant to reduce the size of the building or cut the units in half. Mr. Bergeron stated that the project qualifies with the dimensional requirements and Mr. Doherty agreed that it fits within the Bylaw.

James Tammaro of 143 Lovejoy Road asked if the prior objections will still be considered now, and Attorney Urbelis stated that they will be considered. Mr. Tammaro asked if the photometric plan included light from bedroom windows. Mr. Tye stated that he has never seen a photometric plan that addressed light coming through a window.

Heather Lauten of 243 Lowell Street stated that when any area work is done commercial trucks line the driveway of the church and idle before 7 a.m. She is concerned that 7 a.m. deliveries will cause idling vehicles every day. The hours are inappropriate and too early. Mr. Bergeron asked Ms. Lauten if she would be satisfied if the time was changed to 8 a.m. Ms. Lauten stated that you would see the same thing and it is a safety issue with school busses and children walking. Mr. Tye stated that there would only be 1 or 2 deliveries a day with food deliveries and

trash pickup occurring most. The buildings will not have loading docks. Mr. Chiozzi asked why the trucks are idling and Ms. Lauten stated that it is because they cannot get to a site early. Mr. Tye clarified that vehicles cannot enter the site before 7 a.m. and vehicles that are left on the site overnight cannot be turned on before 7 a.m. Mr. Bergeron asked if the police can do anything about idling vehicles on the church's private property. Mr. Materazzo stated that he can reach out to the Public Safety Officer.

Nancy Mulvey of 104 High Plain Road stated that she is interested in affordable housing in Andover. She added that the developers have made a huge effort to respond to concerns, and in regards to traffic, traffic is traffic and this is a state route.

Carina Schusterman of 2 Robinswood Way stated that she is not against the project, she just doesn't want it at that site. She clarified her earlier remarks about busses that there are three to four busses on Lowell Street.

Steve O'Connell of 6 Robinswood Way stated that traffic has become a significant problem and it can take him 10 minutes to get home from Interstate 93. He added that it would be nice to see what the impact of the medical center would be now by counting cars. The level of accuracy of traffic report is very significant. Mr. Bergeron stated that the 40B is not yet built, and this application is before the Board now and it is not appropriate to ask the applicant to constantly revisit the traffic.

Charlie Kendrick of 8 Forbes Lane stated that he is on the Board of a much larger retirement community than this and there is no traffic. He added that the traffic will come from everything else that is being developed along Lowell Street.

James Tammaro of 143 Lovejoy Road asked if the Board is looking at the whole picture for all of these projects being traffic generators. Mr. Bergeron stated that the Town will be conducting a corridor study of Route 133 and the Town required the 40B to put a light on Lowell Street and link the timing of it to the light at Lovejoy Road. Mr. Tammaro asked if the 133 study is on the docket. Mr. Materazzo stated that the Town's Engineering Department is currently working on it with MassDOT. He added that it is a large multimillion dollar project and a plan has to be designed to get it in a state funding queue. Mitigation dollars received from various projects have been able to advance it faster.

Mr. Pouliot asked if it makes sense to expand the traffic review. Mr. Chiozzi stated that it does not make sense to expand the scope for 7-9 cars. Mr. Pouliot stated that he would like to go on the record that he feels more studies need to be done. Ms. Barnes stated that in her professional opinion, an expanded scope is not warranted. Mr. Cram stated that from other projects he has worked on, he has studied those intersections and the traffic from this project will not be an issue. You will not notice a change if it is placed there tomorrow.

On a motion by Mr. Chiozzi seconded by Mr. Doherty the Board moved to continue the public hearing on 254 Lowell Street to June 23, 2015 at 9:00 p.m. **Vote:** Unanimous (5-0).

Adjournment: The meeting was adjourned at 10:11 p.m.