

Call to Order:

The meeting was called to order at 7:31 p.m. in the 3rd Floor of the Town Offices. Present were Chairman Zachary Bergeron, Members Vincent Chiozzi (arrived at 7:44 p.m.), Joan Duff and Austin Simko; also present were Paul Materazzo, Director of Planning and Jacki Byerley, Town Planner.

Newport Circle HOA Release:

Ms. Byerley informed the Board that Newport Circle was accepted as a public way at Town Meeting 2016 and the developer has turned over the homeowners' association to the lot owners. The Planning Board is holding \$500.00 in a homeowners' association account which should now be released to the Newport Circle homeowners association.

On a motion by Ms. Duff seconded by Mr. Simko the Board moved to reduce the performance guarantee for the Newport Circle homeowners' association to a zero balance. **Vote:** Unanimous (3-0).

Willoughby Estates Bond Release:

Ms. Byerley informed the Board that Pride Circle and Willoughby Lane are streets in the Willoughby Estates subdivision that were accepted as public ways at Town Meeting. The Town is holding bonds for both the street completion and erosion control that can now be released.

On a motion by Mr. Simko seconded by Ms. Duff the Board moved to reduce the performance guarantee for the Willoughby Estates homeowners' association to a zero balance. **Vote:** Unanimous (3-0).

Meeting Minutes:

On a motion by Ms. Duff seconded by Mr. Simko the Board moved to accept the Planning Board minutes for the June 26, 2016 meeting. **Vote:** Unanimous (3-0).

459 River Road:

Mr. Bergeron opened the continued public meeting for 459 River Road, a Site Plan Review – Dover Use on an application filed by Melmark, Inc. for four educational housing units.

Jesse Johnson of Bohler Engineering, representing the applicant updated the Board on the plan design. He stated that all comments from the IDR and peer review have been addressed. Per the Board's request at the last meeting, additional landscaping and buffering have been added between the units and around the parking lots. A landscaping schedule has also been provided.

Ms. Byerley stated that the Board will have to condition any approval with a deed restriction so that the units cannot be sold for a non-educational use. The DPW noted that there is a water easement on the property that has never been granted to the Town. That easement will need to be granted to the Town before a building permit can be obtained. Ms. Duff asked what the process would be if Melmark wanted to convert the units to classrooms. Ms. Byerley stated that the use could be changed through a formal Planning Board public hearing process.

459 River Road (cont'd):

Mr. Johnson stated that he did not believe that there was a plan or a metes and bounds description for the utility easement. He asked if the Town would put that information together. Ms. Byerley stated that there is a plan and a description recorded at the Registry of Deeds granting the easement from Christian Way to Melmark. She stated that she would forward the information to Mr. Johnson.

On a motion by Mr. Simko seconded by Mr. Chiozzi the Board issued a favorable recommendation with conditions to the Inspector of Buildings for the Site Plan as reviewed to construct four educational group homes on a portion of 459 River Road. **Vote:** Unanimous (3-0).

Fleming Avenue:

Mr. Bergeron opened the public meeting on an application filed by New Brickstone Office, LLC for a Preliminary Subdivision Plan known as Fleming Avenue.

Dennis Griecci of Andover Consultants, Inc. an engineer representing the applicant, reviewed the plan for a subdivision of 13 single family lots and three dedicated stormwater lots and open space. He stated that the 13.8 acre parcel is abutted by MBTA railroad track, undeveloped land owned by the Merrimack River Watershed Council and residences on Fleming Avenue and Sutherland Street. The sewer and water mains will be brought up from Fleming Avenue and the water main will be looped to Sutherland through an easement. A Notice of Intent will be filed with Conservation because of wetlands in the rear of the property. An IDR was held and comments received from the departments will be incorporated into the Definitive Plan.

Ms. Byerley reviewed the comments received at the IDR. She stated that DPW would like the configuration of the water main looping changed. The Fire Department had an issue with turning the truck onto Fleming Avenue from Haverhill Street. When the Definitive Plan is filed, the applicant will need to show how this will be mitigated. The Police Department and Planning Department would like the applicant to explore creating a through street. A through street may not be possible, but she would like that information provided to the Board when the Definitive is filed. Ms. Byerley noted that lots 11, 12 & 13 are large oddly shaped lots. She would like to see the lots be closer to 15,000 s.f. to eliminate dead space the possibility of future lots. The applicant may need to apply for a slope special permit for the disturbance of slopes. Mr. Bergeron asked if there was a possibility for dedicated open space at the back of lots 11, 12 and 13. Ms. Byerley stated that dedicated open space was a possibility for the applicant to explore. Ms. Byerley stated that there is an approved commercial subdivision plan from 1964 that will have to be rescinded through a public hearing. Mr. Simko asked if the commercial subdivision needs to be rescinded before the residential subdivision can be approved. Ms. Byerley stated that it does not. Mr. Griecci stated that the applicant would like the commercial subdivision approval to be rescinded after the appeal period is up for any Definitive Plan approval. Ms. Byerley added that the applicant must apply for a Notice of Intent with the Conservation Commission, and the ownership of the open space will have to be discussed.

Ms. Duff asked for Sutherland Street and Stirling Street to be pointed out on the plan. Mr. Griecci pointed out the streets and Ms. Byerley also pointed out Conservation land and a paper

Fleming Avenue (cont'd):

street that should be explored for access. Mr. Bergeron asked what the thought process is behind making a through street. Ms. Byerley stated that a through street would provide better connectivity for the neighborhood and for the Police and Fire Departments. It will not create a cut through for people who do not live in the neighborhood.

John Nies of 27 Sutherland Street asked if there is a bylaw that states that one cannot blast through a cul-de-sac to create a new neighborhood. Ms. Byerley stated there is a subdivision regulation that states that you cannot punch through a cul-de-sac. There is a waiver process to this regulation. Mr. Nies asked if you would need a major reason to be able to do that in a neighborhood full of kids. Ms. Byerley stated that right now she is just asking for the information to be provided for the Definitive Plan. Mr. Nies asked if it would be the Planning Board's decision to approve any such waiver. Ms. Byerley stated that he was correct, and Mr. Bergeron added that it would be part of the public hearing process for the Definitive Plan.

Paul Therkelsen of 11 Carlisle Street asked where the paper roads are. Ms. Byerley stated that Filter Bed Road as well as Emma Road are the paper roads in that area.

Beth Niemi of 15 Carlisle Street asked what the process is to determine if the intersection of Fleming Ave and Route 133 is safe and can support this many additional houses. Ms. Byerley stated that the Planning Board will review the intersection as part of the public hearing process with information received from Public Safety and the Fire Department. The ladder truck was brought out to the intersection when this plan was filed. When the Definitive Plan is filed the intersection will be run through a series of testing using computer software to see if the fire truck would be able to make the radiuses and the turns. Ms. Niemi noted that the intersection is an existing problem, and you can't expect the developer to fix an existing problem. The increase in traffic will make it even more of a problem. Mr. Bergeron stated that if they come back with a Definitive Plan, a traffic study may be appropriate as well as having the safety officer present to answer questions.

Ms. Niemi stated that the neighborhood has existing drainage problems with many getting water in their basements. She added that she would like to see the strangely shaped lots turned into open space. Mr. Bergeron stated that the applicant will have to provide drainage calculations to prove that this subdivision will not make any existing stormwater issues worse.

Eric Daum of 15 Carlisle Street stated that the subdivision is the high ground and water sheds to the south across the triangular space. The triangular space is steep slope that is unbuildable without serious blasting, so keeping it as open space would be advisable. Ms. Byerley stated that a slope special permit would be necessary if the slope were to be disturbed. The special permit would require a plan to be in place as to how runoff and any other changes that may take place when the slope is disturbed will be handled. Ms. Byerley asked Mr. Griecci to point out all of the 35% slopes on the plan.

Chris Meech of 18 Fleming Avenue asked if a traffic study is done specifically for the finished development or if it will include the construction process. Ms. Byerley stated that a formal traffic study will most likely not take place for this size subdivision. The Public Safety Officer

Fleming Avenue (cont'd):

and Fire Department will review the area and traffic counts. Mr. Meech asked if construction vehicles will factor into the traffic. Mr. Bergeron stated that construction vehicles do not factor into traffic studies. Mr. Meech stated that the construction vehicles will be a factor for the current residents of Fleming Ave. Ms. Byerley stated that construction traffic will be limited to certain hours for earth hauling which cannot conflict with school pickup and drop off times. The applicant will be required to provide information on how many truckloads of earth will be moved offsite with their application. Mr. Meech asked if the Town has an easement to the railroad tracks at the end of Fleming Ave. Tracey Meech, also of 18 Fleming Avenue noted that plows put all of the snow in that area and questioned if there was an easement. Ms. Byerley stated that she is not certain of what easements may exist, but that is the area of the public way, which is larger than what is paved.

Ms. Byerley stated that the Board of Health suggested a sound barrier or some type of fencing for the lots that abut the railroad tracks. Beth Niemi of 15 Carlisle Street noted that sound will be an issue for existing residents because this is a wooded area that currently buffers noise from both the railroad and Route 495. Mr. Bergeron asked for the applicant to take that into consideration and to keep as much of the existing landscaping in place as possible.

John Nies of 27 Sutherland Street asked for clarification on who suggested a through street in addition to the Police Department. Ms. Byerley stated that she suggested a through street.

On a motion by Mr. Chiozzi seconded by Ms. Duff the Board moved to disapprove the Preliminary Subdivision Plan entitled Fleming Ave for failure to meet the standards of the Subdivision Rules and Regulations and for having received a disapproval from the Board of Health as noted from the comments and memos received from the interdepartmental review.

Vote: Unanimous (4-0).

Merrimack College:

Mr. Bergeron opened the public meeting for Merrimack College, a modification of Site Plan Review - Dover Use.

Jeff Doggett Executive Vice President of Merrimack College stated that two years ago the College came before the Board for a 350 bed north campus development with two residential halls in North Andover and two residential halls and a commons building in Andover. The two North Andover residences have been built and have been operational one academic year. The College has been able to house more students with an arrangement with Royal Crest Apartments. The priority now is for classroom and faculty office space. This site is a good opportunity based on the speed in which the College would like to have these facilities available. The neighbors had previously asked to explore academic buildings for this area. The proposed commons building would be enlarged slightly to 49,000 s.f. with three floors. The College will remain within the original conditions, including the construction truck traffic restrictions and the placement of a fence.

Mr. Chiozzi asked if the construction access will be from the campus side of the property. Mr. Doggett showed how the trucks would enter from the campus side. Mr. Chiozzi asked about the

Merrimack College (cont'd):

function of the proposed gate. Mr. Doggett pointed out the location of the future emergency access gate and stated that there has been a reduction in the amount of delivery trucks using Rock Ridge Road. He noted that the College cannot control non-vendors such as the Postal Service or FedEx/UPS using Rock Ridge Road because it is a public street.

Mr. Bergeron asked what the square footages are of the residences and academic buildings. Felipe Schwarz of Merrimack College stated that there is approximately 44,000 square feet of residential space in North Andover and this change calls for 72,000 square feet of academic space. Mr. Bergeron asked what was proposed originally and Mr. Schwarz stated 40,000 square feet of residential and 20,000 s.f. in the student commons building in Andover.

Mr. Materazzo stated that an interdepartmental review was held and there were minor staff comments. The applicant has submitted a detailed letter as to how the project complies with all Dover items. Some of the building setbacks have changed. The Engineering department has asked for some minor changes to the plan. Public Safety had no issues with what is being proposed due to all of the original conditions staying in place.

Mr. Chiozzi noted that the larger building will be constructed first. He asked what the timing is for the construction of the other buildings and what the condition of the site will be in the interim. Mr. Doggett stated that once construction starts on the first building, the planning for the other buildings will begin to take place. If the construction takes place over a short period of time the construction fence will stay up. If it takes longer, the fence will be taken down and the site will be grassed over.

Mr. Bergeron asked if the College may revisit the layout and massing on the two smaller buildings before they are built. Mr. Doggett stated that the College has spent a considerable amount of resources on the stormwater system that they do not want to have to move. They do not want one large wall of a building. Mr. Bergeron asked about the elevations of the building and Mr. Doggett showed renderings from the campus side and Rock Ridge Road. Mr. Doggett pointed out that the existing trees will stay on Rock Ridge Road. Mr. Bergeron stated that he would like to see the buildings look more residential due to their proximity to a residential neighborhood. Mr. Simko asked if height was something that the Board could dictate. Mr. Materazzo noted that in this district, the building can be as high as 45 ft. Mr. Chiozzi asked what the buildings will be used for. Mr. Doggett stated that there will be two floors of classrooms and one floor of tutoring and advisor offices. Mr. Chiozzi asked if there would be night use and Mr. Doggett stated that any night classes or advising would wrap up by 9 p.m. or 10 p.m.

Joanna Reck of 15 Rock Ridge Road stated that she would like to see the permanent fence and gate to go up now because the construction could stretch out for years. The gate would stop the vendors that continue to drive in. Mr. Bergeron noted that a construction fence provides a screening to the construction activities. Mr. Chiozzi stated that they could put the permanent fence up outside of the construction fence. He asked if the fence will be inside or outside the existing tree line. Mr. Doggett stated that it hasn't been determined, and added that the plan also called for additional trees and shrubs to be planted. Ms. Reck questioned why the fence and landscaping cannot be put in now. Mr. Bergeron stated that the expectation is for landscaping to

Merrimack College (cont'd):

be put in at the end of construction. He stated that it would be prudent for the College to determine when they will be putting in the fence and landscaping and what they will look like. Mr. Materazzo stated that the Board and staff can work with Merrimack on a phased approach that will coincide with the construction phasing.

Diane LeBlanc of 33 Fox Hill Road asked how tall the building is compared to the residential buildings. Todd Hooper of ProCon, the applicant's architect stated that this building will be 41 ft 6 in with the residences having a height of 36 ft. Ms. LeBlanc asked if the grade of the land will be increased before the building is built. Mr. Hooper explained that the height of the building is measured off of the grade of Rock Ridge Road. The site cannot be adjusted to make the building higher than allowed. Chris Lovett of VHB, the applicant's engineer added that the site itself is at a grade of one foot below Rock Ridge Road. Ms. LeBlanc asked if there is a new plan for where residences will be built on campus. Mr. Doggett stated that there is no plan at this time. The College is investing in a crosswalk across Route 114 to Royal Crest. They have also started talks with groups who specialize in third party housing on campuses. These groups are more interested in sites where they can build higher, such as in the back of the campus.

Mr. Materazzo stated that the College will be working with DPW on the minor comments from the IDR and with the Planning Department on the phasing of the fence and landscaping. Mr. Chiozzi asked for information on which homes the College has purchased on Rock Ridge Road. Mr. Doggett pointed the homes out on the plan and stated that he would provide the Board with additional information.

Joanna Reck of 15 Rock Ridge Road stated that she is the only house on Rock Ridge Road not owned by the College. She asked what questions were left for engineering. Mr. Materazzo stated that there were minor comments regarding the sewer inverts and the separation between utilities. The DPW is going to work with the College's engineer to address those comments. Ms. Reck noted that the neighborhood is concerned about noise from compressors and air conditioning condensers. She noted that the units at the Sakowich Center are very loud. Mr. Bergeron asked if the buildings will have a mechanical penthouse. Todd Hooper of ProCon stated that the mechanical units would be located on the roof. Mr. Bergeron asked if they would be screened. Mr. Hooper stated that they will be screened. Mr. Doggett acknowledged that some of the units at the College's older facilities are loud. Mr. Chiozzi noted that the units would need to meet the state guidelines for noise near property lines.

On a motion by seconded by Mr. Chiozzi the Board moved to continue the public meeting on Merrimack College to August 23, 2016 at 8:15 PM. **Vote:** Unanimous (4-0)

On a motion by Ms. Duff seconded by Mr. Chiozzi the Board moved to go into executive session for consultation with Town Counsel for confidential legal advice; and to discuss litigation strategy in *Bernardin v. Andover Planning Board, et al.* and *Lauten v. Andover Planning Board, et al.*; and the Chair declare that an open meeting would be detrimental to the Town's litigation strategy and not to return to open session. **Vote:** Unanimous (4-0). Roll Call: Mr. Simko yes, Mr. Chiozzi yes, Mr. Bergeron yes and Ms. Duff yes.

The Chairman so declared that an Open Session would be detrimental to the Town's litigation position.

Adjournment: The meeting was adjourned at 8:49 p.m.