

**Call to Order:**

The Planning Board Meeting was called to order at 7:06PM on April 26, 2022 via Cisco Webex online video conferencing platform. Present were Chair Zachary Bergeron, Vice Chair Rocky Leavitt; Members Neil Magenheim, Ann Knowles, and associate Morgan von Prelle Pecelli. Also present were Jacki Byerley, Planner, Lisa Schwarz, Assistant Director of Planning, Tom Urbelis, Town Counsel, and Glen Ota, Police Safety Officer.

**CONTINUED PUBLIC HEARINGS:****3000 Minuteman Road – Special Permit for Major Non-Residential Project (SP22-01) and a Special Permit for a Reduction in Parking Spaces (SP22-02):**

The applicant requested to continue the public hearings without discussion to the Planning Board meeting on May 10, 2022.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board unanimously voted to continue the public hearing without discussion to the May 10, 2022 meeting at 7:15PM. **Vote: (5-0)**

**DISCUSSION ITEMS:****Special Town Meeting Private Warrant Articles (Articles 1-6):**

As communicated in a memorandum from Paul Materazzo, Director of Planning & Land Use, to the Planning Board, dated April 25, 2022, Ms. Byerley stated that the Board provides advisory referrals on Town Meeting Articles requesting funding of more than \$100,000. She advised that the Planning Board vote to take “No Action” on the following Articles: 1 – Covid-19 Stipend for Educational Support Professionals; 2 – Implementing a Performance Management Blueprint for the Town Manager and Superintendent of Schools; 3 – Prohibiting Use of Non-Disclosure Agreements (NDA’s); 4 – Mental Health & Well-Being Special Articles General Fund; 5 – Annual Public Posting of Every No-Bid Contract or Agreement; and 6 – Covid-19 Public Health Emergency Funds.

On a motion by Mr. Magenheim, seconded Ms. Knowles, the Planning Board unanimously voted to take no action on Special Town Meeting Private Warrant Articles 1, 2, 3, 4, 5, and 6. **Vote: (5-0)**

**DISCUSSION ITEMS:****Minutes:**

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to approve the minutes for the February 22, 2022 meeting. **Vote: (5-0)**

**Summer Schedule – July 12<sup>th</sup>, July 26<sup>th</sup>, August 9<sup>th</sup>, August 23<sup>rd</sup>:**

The Planning Board discussed the summer meeting schedule and agreed to cancel the July 26, 2022 meeting due to limited member availability.

**CONTINUED PUBLIC HEARING:****140 Haverhill Street – Special Permit for Major Non-Residential Project (SP21-04):**

Mr. Bergeron opened the continued public hearing on the abovementioned special permit application. The following representatives were present for the discussion: Attorney Mark Bobrowski, Blatman, Bobrowski & Haverty, LLC, representative for the applicant; Kenneth Cram, PE, Director of Traffic

Engineering, Bayside Engineering; and Paul Kneeland, owner of Medico 140, LLC. Mr. Bobrowski provided a comprehensive review of information contained in several documents that were submitted to the Planning Board prior to the present meeting, including a final draft of the project summary, dated April 11, 2022, highlighting policy updates related to security, patient admissions, and departures; a request for a reasonable accommodation, dated April 11, 2022, seeking relief from specific provisions of the Andover Zoning Bylaw related to parking; an email to Town Counsel, dated April 26, 2022, offering a rebuttal to a memorandum from Attorney William Sheehan, representative for South Bay Properties, LLC II, to the Planning Board, dated April 15, 2022, stating that the applicant is not entitled to a reasonable accommodation; and an email to Richard Renzi, resident at 135 Haverhill Street, dated April 12, 2022, responding to his questions to the Planning Board, dated April 6, 2022, with regard to security, overnight lighting, traffic, and noise.

Ms. Knowles requested that Mr. Urbelis provide his interpretation of the reasonable accommodation request. Mr. Urbelis stated that he was not prepared to render a decision at the present time, as the rebuttal to Mr. Sheehan's argument had been submitted earlier that day. However, he noted that the argument provided by Mr. Bobrowski in support of the reasonable accommodation is valid, in his opinion. Mr. Urbelis specified that he would provide his position on the matter at the next Planning Board meeting.

Ms. von Prella Pecelli requested more information on how the applicant intends to provide a landscape buffer along the southwest corner of Haverhill Street and specifically for Robert Grossman, a resident at 116 Haverhill Street, who had expressed concerns on the matter at a previous Planning Board meeting and filed an appeal of the decision issued by the Zoning Board of Appeals (ZBA). Mr. Bobrowski responded that a landscaping bank account could be established to provide funds to Mr. Grossman to be used for plantings along his property line. Ms. Byerley advised Mr. Bobrowski to submit a formal proposal for the Board to consider; however, Mr. Bobrowski suggested that he coordinate directly with Attorney Andrew Caffrey, representative for Mr. Grossman, as he anticipates that any funds provided would be determined as part of a settlement of the present lawsuit.

Mr. Caffrey commented that he would like to correct an error to Mr. Grossman's address as noted incorrectly on his memorandum to the Planning Board, dated April 26, 2022. He also stated that Mr. Grossman is not a direct abutter; however, his concerns regarding the lighting of the building and parking areas, and the buffer between his property and the project, are serious and should be accommodated. Mr. Caffrey also inquired about whether the parking adjacent to Mr. Grossman's property could be reduced or eliminated. Mr. Bobrowski responded that he would like to move forward with the traffic numbers agreed upon by the Traffic Engineer and peer reviewer. He added that the applicant is in litigation with superior court, and he is amenable to settling the lawsuit with Mr. Caffrey.

Mr. Leavitt commented that it is a pattern of the applicant to pay off abutters as concerns are brought forth, and this practice is frustrating as a resident and Planning Board member. Mr. Bergeron agreed with this sentiment. Mr. Bobrowski, in opposition, responded that he views it as "being neighborly".

Mr. Caffrey stated that Mr. Grossman's property will diminish in value greatly due to the overnight use of the clinic which should be accommodated with proper shielding and lighting mitigation. Mr. Bobrowski suggested that any other impacted abutters bring forth their concerns so that landscaping could be addressed and finalized.

Ms. Knowles expressed concerns with noise, due to snow plowing for example, and questioned whether conditions could be added to mitigate noise. Ms. Byerley responded that she would review the matter with Town staff to determine what practices are enforceable and report back to the Planning Board.

Ms. von Prelle Pecelli requested more information on the applicant's submission to the Design Review Board (DRB). Per Mr. Bobrowski, they intend to commence the process soon and plan to attend the next DRB meeting. Ms. Byerley confirmed with the Planning Board that they would like the consultation with the DRB to be concluded before the public hearing is closed.

Attorney Sheehan provided an extensive argument against Planning Board approval of the major non-residential project special permit application, as documented in his memorandum to the Board, dated April 15, 2022. Mr. Urbelis responded to his argument related to public safety and traffic and advised the Board to not rely on anecdotal comments by counsel or individuals that are not experts.

Mr. Bergeron inquired about whether the overnight clinic is an acceptable use for this space and should the Planning Board consider the determination of the ZBA in their decision. Mr. Urbelis advised that the Board consider the evidence before them and the fact that Mr. Sheehan's client has sued the ZBA should not weigh into their decision.

Mr. Renzi reviewed his concerns with conflicting traffic numbers and noise, as communicated in his email response to Mr. Bobrowski, dated April 21, 2022. He also requested that the Planning Board allow him to make a final statement before the public hearing closes.

Officer Ota sought confirmation from the applicant that less trips would be generated from the new facility as compared to Doctors Park I at full capacity. Mr. Bobrowski responded affirmatively and stated that the Traffic Engineer and peer reviewer agreed with the proposed traffic numbers. Mr. Cram proceeded to review traffic in more detail in response to a rebuttal provided by Mr. Renzi.

Ms. Byerley reviewed outstanding information that would be required prior to closing the hearing, including a full set of final plans that incorporates updates to parking and landscaping, as discussed.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board unanimously voted to continue the public hearing to the May 24, 2022 meeting at 7:30PM. **Vote: (5-0)**

Due to another public hearing having been already scheduled at 7:30PM, Ms. Byerley instructed the Planning Board to repeat the motion with the newly suggested time of 7:45PM.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board unanimously voted to continue the public hearing to the May 24, 2022 meeting at 7:45PM. **Vote: (5-0)**

**Other Planning Related Topics:**

Ms. Byerley reminded the Planning Board that Annual Town Meeting is scheduled for Tuesday, May 17, 2022 at the Andover High School Field House. She advised Board members to confirm their attendance as the date approaches.

Mr. Leavitt requested an update on the continuing litigation with Yvon Cormier regarding the Clubview Estates development. Mr. Urbelis suggested that the Planning Board schedule an Executive Session to

discuss the matter. The Planning Board agreed to schedule the Executive Session for May 24, 2022, as suggested by Ms. Byerley, due the large volume of public hearings already scheduled on May 10, 2022.

**Adjournment:**

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board unanimously voted to adjourn the meeting at 8:52PM. **Vote: (5-0)**

**Documents:****Special Town Meeting Private Warrant Articles**

- Memorandum from Paul Materazzo to the Planning Board RE: Articles 1-6 – 4.25.22

**Minutes**

- February 22, 2022 Planning Board Minutes

**140 Haverhill Street**

- Email from Town Engineer to Jacki Byerley RE: DPW Comments – 3.29.22
- Memorandum from Ranger Engineering Group to Jacki Byerley RE: Peer Review Response – 3.29.22
- 135 Haverhill Street Resident Email – 4.6.22
- Planting Plan – 4.8.22
- Email from Attorney Mark Bobrowski to Jacki Byerley RE: Request to Close Public Hearing – 4.11.22
- Final Project Summary – 4.11.22
- Memorandum from Attorney Mark Bobrowski to the Planning Board RE: Reasonable Accommodation Request – 4.11.22
- Email from Attorney Mark Bobrowski to 135 Haverhill Street Resident RE: Response to Questions – 4.12.22
- Memorandum from Attorney Bill Sheehan to the Planning Board RE: Rebuttal to Attorney Mark Bobrowski – 4.15.22
- 135 Haverhill Street Resident Email RE: Response to Attorney Mark Bobrowski – 4.21.22
- Memorandum from Jacki Byerley to the Planning Board RE: Summary & Recommendations – 4.22.22
- Layout Plan Sheet CS1001 – 4.25.22
- 901 Ernston Road Case – 4.26.22
- Letter from Attorney Andrew Caffrey to the Planning Board – 4.26.22
- Email from Attorney Mark Bobrowski to Town Counsel RE: Rebuttal to Attorney Bill Sheehan – 4.26.22
- Revised Site Plan – 4.26.22

**Miscellaneous**

- 2022 Annual Town Meeting Warrant Signed
- 2022 Special Town Meeting Warrant Signed
- Planning Board Agenda