

PLANNING BOARD MINUTES
MEETING OF JANUARY 16, 2008

A meeting of the Lexington Planning Board in Cary Auditorium, Cary Hall, was called to order at 7:30 p.m. by Chairman Hornig with members Canale, Galaitsis, Manz, and planning staff McCall-Taylor, Henry and Kaufman present. Mr. Zurlo was absent.

*****ZONING BOARD OF APPEALS*****

Lexington Technology Park Definitive Site Development and Use Plan: Mr. Canale recused himself since he is an abutter to an abutter. Ed Grant, Robert Buckley, Brian Lawler and John Hart made the presentation. Mr. Grant noted that in April 2004, Town Meeting approved the Preliminary Site Development and Use Plan (PSDUP) and CD rezoning. In October 2007, a Special Town Meeting approved a Tax Incentive Financing agreement with Shire, Inc. There was an Approval Not Required proposal that re-lotted the parcels to separate 125 Spring Street, 500 Patriot Way, and the parcel covered by the TIF.

The Definitive Site Development and Use Plan is coming before the Zoning Board of Appeals (ZBA) to apply for a special permit with site plan review confirming that the definitive plans conform to what was approved at Town Meeting. Limited revisions can be made with the approval of the ZBA. The plan does substantially comply with the PSDUP, but the applicant is requesting approval of some revisions because of biotech manufacturing needs. The applicant has given the ZBA alternatives by applying for variances as well as a special permit to address the dimensional changes.

Attorney Bob Buckley, of Riemer & Braunstein, LLP, said the layout is virtually the same and his legal opinion is that the ZBA can grant the special permit. The plan includes a gross floor area increase due to the mechanical needs of the biotech use, but the net floor area remains the same. The requested five-foot increase in height for building 400 is for exhaust and boiler stacks for a safer operation and is due to wind wake analysis. He characterized the change in the impervious surface ratio as a scrivener's error, as the square footage of the entire parcel was inadvertently misstated in the PSDUP.

John Hart, engineer, said the building envelopes were the same, the existing road is maintained, there is no work around the 500 building or within the wetland buffer. The new numbers include the possible expansion of only the 400 building. While some parking spaces (196 spaces) are held in reserve, they are included in the calculations. The project has been before the Conservation Commission, and a further hearing is scheduled.

Mr. Hornig said the issue is focused around one procedural point, §135.42.E(2)(d), which allows the plan to change, provided those changes are consistent with what was presented at Town Meeting and they do not conflict with the text of the PSDUP approved by Town meeting, including the dimensional standards. He said that to keep the contract with Town Meeting, the numbers in the PSDUP must be followed. In M.G.L. c.40A sec. 10 it states that the ZBA can grant a variance for a revision that is specific to a site, but not for one affecting the entire zone.

Mr. Grant said a Special Town Meeting just voted on this in October 2007 and might not want to be called back for these small changes. Town Meeting already looked at the project twice, in 2004 and 2007, and the plan still adheres to the net floor area with no more occupiable area. As a Town Meeting Member he feels these changes are insignificant. Ms. Manz noted that the height change is only for one building, and wondered if there is a way to frame the variances so that each change is lot-specific? Mr. Hornig said the other changes apply to the entire zone. He feels that the contract with Town Meeting gives it a right to reconsider the project. Mr. Galaitis agreed with Mr. Hornig, and noted that the impervious surface ratio is larger than originally presented, even though the net square footage of development is the same. He wondered if Town Meeting members looked at the percentages or numbers but commented that his guess is that Town Meeting would have approved it anyway. Mr. Hornig said the Planning Board needs to decide if they want to state a position to the ZBA prior to its upcoming meeting.

Mr. Grant noted that the project had to get a special permit from the ZBA as a follow-up to the PSDUP, and that variances were an alternative form of relief which the ZBA could grant. Mr. Hornig thought using the special permit only was inappropriate under §135-42e(2)(d). Ms. Manz said the general plan is as seen at Town Meeting and she had no problem with the merits of the changes. She is inclined to have the Planning Board abstain and let the applicant take the route of its choice with the ZBA.

Mr. Buckley said a provision was added to Section D: Miscellaneous in the PSDUP, which allows considerable flexibility in case of any conflict or ambiguity which could be resolved to provide satisfaction of the development intent.

Mr. Galaitis said he would not make a direct recommendation to the ZBA without input from Town Counsel on the legal aspects of the case. He was also uncomfortable with the impervious surface ratio going from 25% to 32%. Mr. Hornig said that as there was no consensus of the Board, he would not recommend a course of action to the ZBA.

Mr. Canale rejoined the meeting.

***** MINUTES *****

Review of Minutes: The Board deferred discussion of the January 2, 2008, minutes until the next meeting. An electronic copy will be sent to Mr. Galaisis to facilitate editing. On a motion duly made and seconded, it was voted, 3-1 (Mr. Hornig opposed), to defer the discussion of the minutes.

*****ADMINISTRATION OF LAND DEVELOPMENT*****

PLANS NOT REQUIRING APPROVAL UNDER THE SUBDIVION CONTROL LAW

FormA/2008-1,73 Middle Street & 378 Lincoln Street: The Board reviewed an Approval Not required Plan for land at 73 Middle Street and 378 Lincoln Street. On a motion duly made and seconded, it was voted, 4-0, to endorse the plan entitled “ANR Subdivision Plan of Land in Lexington, MASS”, dated July 23, 2007 prepared and certified by Metrowest Engineering, Inc., Framingham, MA, submitted by Aaron Demarderosian, applicant, as it does not require approval under the Subdivision Control Law.

*****PLANNING BOARD’S ARTICLES FOR TOWN MEETING*****

Height: There were no changes on what has been discussed and the Article is ready to be posted on the website.

Planning Board Associate Member: The method of appointing the Associate Member needs to be decided before posting the article on the web. On a motion duly made and seconded, it was voted, 3-1 (Mr. Galaisis opposed), that the Associate Planning Board Member will be elected by the Planning Board at the first meeting following Town Elections to serve for one year or until replaced.

***** BOARD REPORTS *****

Mr. Canale said the Route 128 Stakeholders meeting last week had an attendance of approximately 60 people. MAPC estimated that development in the pipeline would add 50% more traffic to Route 128. A sub-group is looking at the Prospect Hill Development as a mixed use with a mall. The EDTF is meeting on Friday with the Cecil Group Consultants.

Ms. Manz reported that April was the first League of Woman Voters’ First Friday program available to present the Board’s Special Permit Residential Development warrant article. .

Mr. Hornig said 990 Waltham Street might be going to the Conservation Commission next week. There is a hearing of the Historic Commission regarding a demolition of 91-93 Hancock Street, Lexington Gardens. This evening the West Lexington Greenway had the roll out of its. Mr. Hornig said that LexMedia might be taping the Public Hearings.

***** TOWN MEETING*****

Article IX Special Permit Residential Development: Mr. Canale recused himself from the discussion of the Article IX amendments. The Board discussed and accepted Ms. Manz's corrections. This Article will go on the website before the public information session next week.

On a motion duly made and seconded, it was voted to adjourn the meeting at 9:45 p.m.

Wendy Manz, Clerk