

Meeting Minutes
January 9, 2018 Planning Board Meeting
7:00 P.M. | City Council Chambers, Woburn City Hall

ROLL CALL OF MEMBERS

Mr. Kevin Donovan, Mr. Bob Doherty, Ms. Claudia Bolgen, Mr. Jim Callahan, Mr. Michael Ventresca, Mr. Dave Edmonds and Chair Carolyn Turner were present. Also present were Planning Director Tina Cassidy and City Planner/Grant Writer Dan Orr.

Turner stated that this public meeting is being recorded by the Woburn Public Media Center.

Turner asked Cassidy if there were any ANR applications before the Board this evening. Cassidy responded that there are none.

PETITION TO AMEND THE 1989 WOBURN ZONING ORDINANCES BY ADDING A NEW SECTION 31 (FEDERAL STREET SMART GROWTH OVERLAY DISTRICT [FS/SGOD]) AND OVERLAYING THE FS/SGOD DISTRICT ON 14 AND 14R FEDERAL STREET (Jamieson Properties)

Turner stated that as Mr. Kevin Donovan and Mr. Jim Callahan were not present at the last meeting. They missed the last segment of the public meeting and therefore are not eligible to participate or vote on this matter.

Attorney Joseph Tarby, Murtha Cullina, 600 Unicorn Park Drive, approached the Board on behalf of the Petitioner. Since the Board last heard this matter, he has met with Planning Director Cassidy, Aldermen Anderson and President Haggerty to incorporate further amendments to the proposed ordinance.

Tarby further stated that other revisions were offered by the Ordinance Committee, which have been incorporated into the current draft.

Tarby further stated that he appreciated the planning process that has taken place surrounding this proposal with input from multiple parties.

Tarby reviewed the latest proposed revisions to the draft ordinance relative to permitted uses (by-right and by City Council Special Permit).

Tarby offered to provide the Board, as requested, the “introductory letter” that current Jamieson tenants receive and which would be given to tenants of the proposed apartment building relative to facility information, building layout, and downtown businesses.

Motion to accept the introductory letter by Doherty;

Seconded by Bolgen;

Motion carried, 5-0-2, with Donovan and Callahan abstaining due to voting ineligibility.

Tarby offered to provide a hard copy of an additional proposed ordinance revision that was not incorporated into the main revised copy provided to the Board. Cassidy responded that Planning staff has already provided this excerpt to the Board.

Tarby proceeded to review the areas of the proposed ordinance where revisions were made. Specifically, the latest changes relate to various provisions and definitions made in collaboration with the Planning Director. Additional revisions were made to parking- and approval-related subsections to better reflect what is necessary for the anticipated building.

Tarby further stated that, based on discussion with the Ordinance Committee, he added a provision that would allow for splitting the required number the affordable units between the Federal Street and 44 Montvale Avenue sites owned by the Petitioner (within the same ward).

Tarby further stated the Ordinance Committee expressed support for the proposed density so long as a second-story of parking is provided. The developer anticipates providing a total of 56 spaces, with four spaces being accounted for in an offsite public lot. Loading and surface parking considerations were also amended.

Tarby stated that they are requesting that the parking requirement remain at 1.25 spaces/unit, with the Council being able to grant a reduction of that number based on certain conditions.

Tarby further stated that language was removed to effectively prohibit most allowable signage onsite. Planning Director Cassidy responded she would like to re-insert the prohibition on portable/movable signage language in the proposed ordinance that had been removed. Tarby responded that he supports that modification.

Tarby reviewed language inserted in the proposed ordinance that was taken from the drafted but never proposed Anderson Woburn Smart Growth Overlay District allowing for variation from design guidelines as needed. It is not intended to create an unexpected increase in density.

Tarby further stated that previously existing non-residential elements language, which is not necessary for this ordinance, was also removed.

Mr. Glenn Morris, architect with Morris Architects, 33 Murray Road, Newton, MA, approached the Board on behalf of the Petitioner. He reviewed a PowerPoint presentation focusing only on the updated information.

Morris stated that the language for parking requirement for uses that are actually off-street parking has been revised to better reflect the intent of the ordinance (i.e., elimination of accessory uses).

Morris further stated that that the number of housing units dedicated as affordable, and the number of on-site versus off-site parking spaces has been revised.

Morris further stated that the numbers for the financial benefits in the form of zoning incentive payments, as well as the developer's payment into the downtown parking fund has been revised.

Morris further reviewed the revised incentive payments from the State that would be offered by this project, as well as the developer's contribution to the Downtown Parking Enhancement Fund.

Morris further reviewed the revisions to the project elevations and project materials. Revisions were made to accommodate entry points to the facility's parking garage, particularly with respect to grading.

Morris further reviewed the modification that has been made to the parking garage reconfigurations with an additional level of parking provided, as well as a second entrance from Abbott Street. The steep grade of the parcel between Abbott and Federal Streets would allow entrances on two levels.

Cassidy inquired as to how many parking spaces would be “lost” in the municipal parking lot as a result of a new Abbott Street entrance. Morris responded that three spaces will be lost. The developer is considering an analysis to incorporate additional street parking on Abbott Street, but at this time there is no plan to replace those spaces.

Edmonds inquired whether the developer has ascertained an answer relative to any effects (e.g., rules or incentive payments) of moving a portion of the affordable housing units offsite. Planning Director Cassidy responded that she did make an attempt to contact a gentleman with DHCD for a definitive answer, but that she was not able to connect with him in time for this meeting.

Cassidy further stated that one of her planned recommendations would be to subject potential adoption of the ordinance to DCHD approval of the 40R district ordinance.

Morris stated that he has been in touch with the assistant director of DHCD, who stated that because the state law of affordable housing does not necessarily speak to the location of that housing, she believes placing deed-restricted affordable housing in another location would be acceptable under 40R.

Dave Edmonds stated that he would like more clarity on the requirement for the applicability of the affordable housing moving offsite under 40R. He does not want to put that designation in jeopardy, even if the law is not clear.

Turner stated her understanding is that the deed restriction should be upheld as being acceptable under 40R, regardless of location, as the deed references a specific address where the affordable unit must be maintained.

Edmonds stated that he would prefer more of a concrete answer than a simple phone call to a state official on this matter; it should be in writing. In addition, he does not prefer off-site affordable housing, although he will remain open to it on this particular project.

Planning Director Cassidy stated that she would be inclined to condition any recommendation to adopt the proposed ordinance on ensuring that DHCD approves, in writing, of the proposed overlay district as a 40R District before it’s formally adopted by the City Council.

Morris stated that his understanding is adoption of the 40R District requires two Council votes, and that once an ordinance is initially passed by the Council, it may go to DHCD for review and approval, at which point the question of off-site affordable housing units may be posed. Cassidy responded that should the proposed ordinance not meet DHCD approval, this may still be a prudent zoning change, although the 40R benefits would not be applicable; but if City expects to receive the 40R benefits payments, it should confirm that before voting.

Ventresca inquired about the result of a DHCD denial of the proposed 40R District. Cassidy responded that DHCD will more likely identify specific provisions/sentences in the draft ordinance that do not conform to state law under 40R, in which case it could be modified by the City before adoption.

Morris stated that his understanding is that once a proposed ordinance is approved, it will go to the Council for a final vote (making for two City Council votes in total).

Turner opened this matter for a public hearing and asked any members of the audience who would like to step forward to address the Board to please do so. There were none.

PUBLIC HEARING

There being no members of the audience wanting to address the Board, Edmonds motioned to close the public hearing;

Seconded by Bolgen;

Motion carried, 5-0-2, with Callahan and Donovan abstaining due to voting ineligibility.

Turner asked Cassidy about a recommendation. Cassidy responded that assuming the revised ordinance as summarized is acceptable to the Board, she would recommend adoption to the City Council, subject to the following amendments and conditions:

- Section 31.3, strike “...and the standards and/or procedures of the Underlying Zoning shall not”;
- Strike Section 31.6.9 entitled “Off-Site Units” to eliminate the potential for the Council to allow required affordable 40R units to be located on a different lot from the proposed 40R project/outside of the 40R District;
- Strike “Unless otherwise approved by the PAA” from Section 31.8.1; elimination will preclude the Council from authorizing a parking requirement of less than 1.25 spaces/unit;
- Replace “thirty percent (30%)” with ten percent (10%) in Section 31.10; this amendment would significantly limit the number of compact car parking spaces that could otherwise be allowed. This would better reflect the intent of the ordinance and the proposed development;
- Strike Section 31.16.4 in its entirety. If this provision is not struck the Council will be authorized to waive or vary any of the provisions of the 40R district ordinance, including parking, height, setbacks, etc. This is to better reflect the current proposal, which is more concrete in its concept, as opposed to other overlay district ordinances that include this language but did not have an active building proposal when they were adopted;
- That DHCD provides written verification that the proposed 40R Overlay District is valid and compliant with state law; and
- That, as a result of three parking spaces being removed from the facility’s parking garage as a result a facility redesign, the developer must pay into the parking enhancement fund for those three spaces, leading to seven total spaces for which the developer must contribute.

Cassidy stated that she does not necessarily know how to approach the issue of Airbnb rentals for this district. Airbnb rentals are not permitted in a residential district, but the 40R District is within the business district. The City Council would have to consider how to address this before making a final zoning change.

Ventresca inquired about comment that he recalls in the past relative to Airbnb. Cassidy responded that it may have been brought up in the context of the developer agreeing to potentially include language in individual tenant leases prohibiting the practice of subleasing, if need be.

Edmonds inquired about how the City could be assured that it would have the matter of allowability of off-site affordable housing units answered by DHCD. Cassidy responded that her proposed language in a recommendation for City Council adoption would cover this issue (i.e., a favorable recommendation to the City Council would include a “condition” that the proposed Ordinance be submitted to the State’s Department of Housing and Community Development (DHCD) for review and written confirmation that the draft ordinance concurs with the provisions of MGL Chapter 40R regulations prior to any vote of the City Council to adopt the ordinance/map changes).

Bolgen stated, for reference to the Board, the questions posed on this matter:

- Is a density of 200 residential units/acre acceptable?
- Is 6 story building acceptable (garages not included in height of building)?
- Is parking requirement of 1.25 spaces per unit (versus 2 spaces per unit) acceptable?

She then stated that she would answer them all in the affirmative.

Bolgen further stated that she would take the position to adopt the Planning Director’s recommendation, subject to the conditions previously noted.

Motion to accept the Planning Director’s previously stated recommendation, along with conditions, made by Bolgen;

Seconded by Doherty;

Motion carried, 5-0-0, with Callahan and Donovan abstaining due to voting ineligibility.

PETITION TO AMEND SECTION 11.3 OF THE ZONING ORDINANCE (SPECIAL PERMITS AND VARIANCES) BY ADDING MINIMUM MANDATORY CONDITIONS FOR SPECIAL PERMITS AND ATTENDANT COMPLIANCE AND REMEDIES (President Richard Haggerty and Alderman Lindsay Higgins)

Planning Director Cassidy summarized of the proposed zoning change and explained that her concerns with the proposed zoning amendments. Her memorandum, which was distributed to the Board, explains that the proposed amendment is related to the jurisdiction of labor laws and thus outside of the legal authority of the City. As a result, she would recommend the Board recommend to the City Council that the proposed zoning change be adopted.

Ventresca asked members if they recalled a previous proposal similar to this in the past. Cassidy responded that she believes, according to the City Solicitor, a similar matter was before in fact before the Board in the past, although it was before her tenure so she knows no details.

Edmonds inquired about the application of a prevailing wage mandate to private projects. Cassidy responded that it is indeed rare, although not unheard of.

Turner opened this matter for a public hearing and asked any members of the audience who would like to step forward to address the Board to please do so. There were none.

PUBLIC HEARING

There being no members of the audience wanting to address the Board, Edmonds made a motion to close the public hearing;

Seconded by Bolgen;

Motion carried, 7-0-0.

Turner asked to Cassidy for a recommendation. Cassidy responded that she would recommend that proposed minimum mandatory conditions zoning change not be adopted.

Motion to adopt the Planning Director's recommendation, made by Bolgen;

Seconded by Doherty;

Motion carried, 7-0-0.

PETITION TO AMEND THE ZONING ORDINANCE BY AMENDING SECTIONS 2 (DEFINITIONS), 5.1 (TABLE OF USE REGULATIONS) AND SECTION 11.6 (SPECIAL PERMITS AND VARIANCES) RELATIVE TO ROOFTOP DINING USES (President Richard Haggerty and Alderman Michael Anderson)

Cassidy provided an overview of the proposed ordinance, which is designed to allow a unique restaurant-related use downtown that does not currently exist. This was generated interest from a Main Street restaurant owner interested in having dining on the roof. Currently, the City's zoning does not explicitly authorize this use.

Cassidy stated that the zoning amendment is based on a Florida ordinance found during staff research. Other considerations, such as setbacks, were offered by the sponsoring Councilors.

Cassidy further stated that she would recommend adoption of the proposed ordinance. It would introduce a new use and increased interest in downtown Woburn.

Cassidy further stated that the current proposal would only affect the downtown (B-D) business district.

Edmonds stated that he does not support the ordinance. He finds it to be a bad idea on the basis of safety.

Callahan stated that he does not support the ordinance due to the lack of a cohesive planning process in the downtown, as well as safety considerations such as being adjacent to vehicle traffic.

Planning Director Cassidy stated for clarification that the proposed ordinance does require a 10-foot minimum setback from the front of the building, as well as 4-feet from the sides and rear, where the use is in place. Additionally, there would be a requirement for walls/railings along the rooftop perimeter.

Ventresca stated that he likes the idea of this ordinance and finds that it would be enticing. He inquired as to whether, if this proposed zoning amendment is adopted, this use would be prohibited outright. Planning Director Cassidy responded that she knows that the interested property owner could not have rooftop dining on the basis of technicalities related to the definition of HEIGHT. However, she would have to defer to the Building Commissioner as to allowability at other properties.

Turner opened this matter for a public hearing and asked any members of the audience who would like to step forward to address the Board to please do so. There were none.

PUBLIC HEARING

There being no members of the audience wanting to address the Board, Edmonds made a motion to close the public hearing;
Seconded by Bolgen;
Motion carried, 7-0-0.

Turner asked to Cassidy for her recommendation to the Board. Cassidy responded that she recommends the Board recommend City Council adoption of the proposed rooftop dining ordinance.

Motion to accept the Planning Director's recommendation made by Bolgen;
Seconded by Ventresca;
Motion does not carry, 3-4-0, with Bolgen, Donovan and Ventresca in favor; Callahan, Doherty, Edmonds and Turner opposed.

Motion to deny the zoning Petition, made by Callahan;
Seconded by Edmonds;
Motion carries, 4-3-0, with Callahan, Doherty, Edmonds and Turner in favor; Bolgen, Donovan and Ventresca opposed.

RUSSO ESTATES SUBDIVISION: UPDATE ON PROGRESS TOWARD SUBDIVISION COMPLETION, EXPIRATION OF CONSTRUCTION COMPLETION DATE, SET BOND AMOUNT AND ACCEPT TRI-PARTITE AGREEMENT AS SURETY TO GUARANTEE CONSTRUCTION COMPLETION (William Scire)

Planning Director Cassidy stated the developer and/or his attorney plans to be present at the Board's January 23, 2018 meeting. The current extension of the subdivision completion date runs until January 25, 2018 and the developer will be requesting an extension of the completion date, the setting of a bond amount, and acceptance of a form of surety.

APPROVAL OF PRIOR MEETING MINUTES: November 28, 2017 and December 12, 2017

Motion to approve the November 28, 2017 meeting minutes, as drafted, made by Bolgen;
Second by Doherty;
Motion carried, 7-0-0.

Motion to approve December 12, 2017 meeting minutes, as drafted, made by Bolgen;
Seconded by Doherty;
Motion carried, 5-2-0, with Callahan and Donovan abstaining due to meeting absences.

PLANNING BOARD DIRECTOR UPDATE

Planning Director Cassidy stated that there are a number of topics that she would like to propose for discussion at the next meeting, including zoning/planning issues and adoption of Planning Board-

specific policies and procedures. She is looking to the Board to determine how they would like to prioritize discussion of these matters. In addition, a couple of business matters that will be heard including an update on Russo Estates and the election of Planning Board officers.

ADJOURNMENT

Motion to adjourn at 8:08 pm, made by Bolgen
 Seconded by Doherty;
 Motion carried, 7-0-0.

Table of Documents Used at Meeting

Staff Report
Federal Street/Smart Growth Overlay District Rezoning Application: Revisions to draft ordinance
Federal Street/Smart Growth Overlay District Rezoning Application: Revised PowerPoint presentation
Federal Street/Smart Growth Overlay District Rezoning Application: Introductory Letter to Potential Apartment Tenants (meeting handout)
Amendments to Section 11.3 (Special Permits and Variances) Petition: Copy of Draft Order
Amendments to Section 11.3 (Special Permits and Variances) Petition: Copy of memorandum from City Solicitor Ellen Callahan Doucette, dated January 2, 2018
Amendments to Section 2 (Definitions), 5.1 (Table of Use Regulations) and 11.6 (Special Permits and Variances) Petition (Rooftop Dining): Copy of Draft Order
Russo Estates Subdivision: Copy of Letter from the Planning Director to the Petitioner and Attorney of Record re: Expiration of Subdivision Completion Date, dated December 20, 2017
Russo Estates Subdivision: Copy of Response from Attorney of Record re: Expiration of Subdivision Completion Date, dated December 30, 2017
Russo Estates Subdivision: Copy of Letter from Attorney of Record re: Request to Establish Surety for Subdivision Completion
Draft Meeting Minutes: November 28, 2017
Draft Meeting Minutes: December 12, 2017

Respectfully submitted,

Dan Orr,
 City Planner/Grant Writer