Town of Concord, Massachusetts
22 Monument Square, Concord, MA 01742

# Planning Board Meeting Minutes 04-12-16

## Minutes of the Planning Board Meeting of April 12, 2016

Pursuant to a notice filed with the Town Clerk, the Planning Board met at 7:00 p.m. on April 12, 2016 in the First Floor Meeting Room, 141 Keyes Road, Concord, MA.

Present:
John Canally
John Cratsley
Brooke Whiting Cash
Scott Bates
Gary Kleiman
Rob Easton
Matt Johnson

Elizabeth Hughes, Town Planner
Marcia Rasmussen, Director
Nancy Hausherr, Administrative Assistant

The meeting commenced at 7:02 p.m. and was audio-recorded. Mr. Canally announced to the audience that anyone recording the meeting should inform him.

**Recommendation to the Board of Appeals**
**Special Permit and Site Plan Review**
**Millbrook Tarry Market**
**91-97 Lowell Road & 105 Keyes Road**

Joel Kahn, Equity Alliance LLC; Kenneth Cram, Bayside Engineering; and Allen (Chip) Dewing and Thomas Kearns, Dewing Schmid Kearns (DSK), appeared before the Board to discuss the application of Milltarry Offices Registered, LLP for a Special Permit and Site Plan Approval, under Sections 7.2, 7.3, 7.7.2.4, 7.7.2.7, 7.7.2.8, 7.7.2.12, 7.7.3.6, 11.6, and 11.8, for additional relief from the parking requirements for 52 spaces for a total of 88 spaces, to allow joint parking facilities to be located on three parcels, and for work within the Floodplain Conservancy District and Wetlands Conservancy District, for the construction of a 15,062 sq. ft. market, parking deck, and other related site improvements at 91-97 Lowell Road & 105 Keyes Road**.**

The Board considered the Revised Planner's Report dated April 8, 2016 for SP #15-11 and a memorandum from the Town Engineer dated April 12, 2016, which was received by the Town Planner shortly before the meeting started.

Mr. Kahn distributed a memorandum from Equity Alliance LLC to the Board dated April 11, 2016 and a letter in support of the application from Wilson and Jennifer Schunemann.

The Board read the Town Engineer's memorandum containing comments on the Green man-Pedersen, Inc. peer review letter dated March 30, 2016, regarding parking and traffic. Mr. Canally asked the Board for comments. (Hereafter, the Greenman-Pedersen peer review letter will be referred to as the GPI report and the Town Engineer's memorandum will be referred to as the CPW memo.)

Mr. Canally commented that the CPW memo identifies the same concerns about parking and traffic that he has previously identified.

Mr. Johnson commented that the CPW memo is one element and the GPI report is another element, both highlighting issues that have not yet been addressed and that the implications of putting the two together requires more discussion.

Mr. Canally asked if the Board felt that they needed more information (from the traffic study and/or third-party review) that the Board

cannot get tonight. He asked if the Board should continue the meeting. He referred to the CPW memo and said he too wondered about the timing of the Applicant's original traffic study, weather conditions, and the Trail's End Café expansion omission. He asked when Trail's End Café was expanded. Mr. Kahn said that the café's expansion opened in August. Mr. Canally referred again to the CPW memo and the comments regarding parking and traffic.

Mr. Kahn explained the timeline of Applicant's responses to the request for additional information regarding the traffic study. Mr. Kahn expressed frustration with the ongoing process, the additional traffic analysis, and peer review, and what he called troublesome "second-guessing" of the data.

Mr. Canally referred again to the CPW memo and the Town Engineer's recommendations that the existing site's occupancy and weather for both count collection days be provided for review and verification to determine if a supplemental parking utilization study needs to be provided for weekday and weekend during good weather in the springtime to verify the previous traffic study results.

Mr. Kahn took exception to the request. Town Planner Hughes explained that the peer review and staff comment process raised a number of concerns. Mr. Canally opined that the items in the CPW memo should be addressed before the Board makes their recommendation to the Board of Appeals. Mr. Kahn spoke about the process from the Applicant's perspective. He explained that the expansion of the scope of the traffic study was done as requested (for Keyes Road and Lowell Road) and that the way that he understood it, GPI determined that "everything is all set from a parking standpoint and a traffic standpoint."

Town Planner Hughes disagreed with Mr. Kahn's statement and read from the GPI letter dated March 30, 2016, the last paragraph on page 10, which referred to the potential queuing northbound traffic on Lowell Road and the request for additional analysis.

Mr. Kahn said that the GPI consultant requested an additional traffic analysis model. Mr. Kahn then asked Mr. Cram, of Bayside Engineering, to explain the request that was made by the GPI consultant (Mr. Diaz) regarding verification of the analysis for left turning traffic into the main site driveway from Lowell Road northbound. Mr. Cram said that that information was provided to Mr. Diaz over a week ago and that he and Mr. Diaz spoke about it on Monday (April 11). Mr. Cram said that he was not sure why this one particular (traffic) movement was highlighted but that it was the northbound left turn into the site. Mr. Cram stated that neither Mr. Diaz nor he was concerned about that movement. Mr. Cram said that, after looking at the analysis, the projected queue (for entering the site via the main site driveway from a left-hand turn off Lowell Road northbound) is one vehicle or less *during morning peak hour***,** and that the northbound flow is the minor flow in the morning peak hour, and that a one vehicle queue is not going to cause a backup of traffic into Monument Square. Mr. Cram spoke about SimTraffic software modeling and stated that that model however, clearly shows the queue backing up on Lowell Road onto Monument Square. He commented that the modeling is a little off because it shows traffic backing up 900 feet from the intersection of Keyes Road and Lowell Road (the edge of his network).

Ms. Whiting Cash asked for a reference point to learn where 900' is from that intersection. Mr. Cram said that it is 800' from the site driveway to Monument Square and 300' to Keyes Road. Mr. Cram said that he has observed the critical morning traffic and that there is backup in Monument Square because of the design of the road and one lane circulation through the roundabouts. Mr. Kleiman asked for clarification. Mr. Cram clarified that what the model shows is not what he observed in person; the model shows queue backing up to Liberty St.
Town Planner Hughes said that she was not aware that Mr. Diaz had been provided with that information last week.

Mr. Canally asked if it is typical to conduct a parking study over just two days. Mr. Cram replied that it is standard for retail uses to study the weekday p.m. peak hour and the Saturday midday peak hour. Mr. Canally asked if the traffic study took into consideration the fact that the market and the café will likely be busy at the same peak times. Mr. Cram replied that the Trails End Café use was considered in the Applicant's traffic study (because the restaurant had been open for evening hours for a few months).

Mr. Kleiman asked if it is typical do a parking analysis that considers build/no build scenarios
accounting only for the new uses. Mr. Cram replied that the new uses were considered and opined that both GPI's and his calculations determined that the parking was adequate for what is proposed.

Ms. Whiting Cash asked for clarification regarding the additional request that the traffic study to include all of Monument Square and the Applicant's subsequent request to reduce the additional study to just intersection Lowell Road and Monument Square, not all of Monument Square. She wondered if that information would have now been available, if the scope of the traffic study had not been scaled back. Mr. Kahn replied that the Applicant has provided what they feel to be adequate inspection and traffic counts and therefore disagrees with the paragraph concerning traffic in the CPW memo, which "recommends the site's Lowell Road access evaluation be verified per GPI's recommendation." He referred to the GPI letter regarding the recommendation that the proposed raised parking structure be constructed and that employees should park behind the market, instead of in the main lot. He commented that the last minute requests for additional study (per the CPW memo) make him uncomfortable. Mr. Canally replied that the Board might, if they choose, decide to postpone further discussion until the next meeting in order to allow time for those requests to be completed and the information provided to the Board. Mr. Kahn commented that he thought the Board was relying on their outside traffic consultant GPI for guidance.

Town Planner Hughes clarified that this a Board of Appeals application and that Board, under M.G.L. Ch. 44, Section 53G,

authorized the use of an outside consultant to review the Applicant's submitted traffic study. She explained that the Planning Board's role is to make a recommendation to the Board of Appeals and that if the Planning Board chose to do so; they could include any outstanding issues and concerns about traffic and parking and recommend that the traffic consultant attend a Board of Appeals meeting to address to concerns.

Chair Canally stated that several issues and concerns about the parking remain and that those concerns have been raised at each meeting where this application was discussed. He opined that the site is already developed to the extent practical and that what is proposed by the Applicant is too dense for the site. He cited Zoning Bylaw Sections 7.7.2.12 *Relief from Parking Requirements* and 11.8.5 *Site Plan Review* and enumerated the outstanding items of concern listed in the aforementioned Planner's Report, specifically items on pages 7, 8, 11 and 12 relating to those Sections. He commented that in the all the time that he has been on the Board, this is the most parking relief he can recall being requested by an Applicant. In the middle of Mr. Canally's comments, Mr. Kahn asked if he could digress and asked that Mr. Dewing and Mr. Kearns, Architects speak. Mr. Canally declined.

Mr. Cratsley asked about the "shared parking model" referred to in the CPW memo. Town Planner Hughes clarified that what is being referred to is an engineered parking model.

Mr. Canally referred to pages 7 and 8 in the Planner's Report concerning Zoning Bylaw Section 7.7.2.7 and specifically item (d) on page 8 which is one of the criteria of the Site Plan Review that the Board considers. He read the following passage from the Report: "the separated parking area shall not create unreasonable traffic congestion or create a hazard to pedestrians or vehicular traffic" and the comments that "safety concerns have been raised regarding the parking area directly behind the Rite Aid and the vehicles entering, exiting and parking in this location and the movement of delivery vehicles; it is the opinion of Town staff that the separated parking areas behind and to the east of Rite Aid creates a hazard to pedestrians and vehicular traffic; the Town traffic consultant GPI has raised concerns with various driveway conflicts throughout the site." Mr. Canally commented that the Board has raised these concerns and discussed them with the Applicant at each of the previous meetings.

James White, owner of the site, took umbrage at the Chair's comments. Mr. White demanded that his representatives speak and make a presentation at the public hearing.

Town Planner Hughes explained again to the Applicant that this is a public meeting, not a public hearing, that the Board of Appeals is the permit granting authority in this matter and that the Planning Board's role is to make a recommendation to that Board. Further, she explained to Mr. White that although he was not present until this meeting, the Board did discuss these concerns at the past meetings, as well as listening to at least three hours of public comment. She outlined the limits of purview for the Board.

Mr. Canally emphasized that he was simply pointing out the areas of concerns raised by the Board, as reflected in the minutes of the past meetings. He asked for comments from the Board.

Mr. Bates commented that a market is a great idea for Concord, that the design of the market building is beautiful, but that his issues are with the massing and density proposed for the site, the potential traffic and safety issues, and lack of green space. He said that these concerns outweigh the potential benefits of a market. He commented that many of the master planning issues stem from having the Rite Aid building being kept there in that location as it hampers the overall site design.

Mr. Kleiman commented that the request for relief from the parking requirements under Section 7.7.2.12 is the biggest concern of his and that because the site is almost completely maxed out for buildings there will be no opportunity to provide any additional on-site parking should future needs arise. He pointed out that should the parking models prove wrong there are no contingencies provided. He commented that since such a large amount of parking relief is being requested that it is important the Board look at the criteria in the Zoning Bylaw in order to make their recommendation to the Board of Appeals. He acknowledged that the Board received and heard several public testimonials in favor of a market. He commented that he too thinks the architectural design looks great but, in light of competing peer reviews, the Planner's Report, the CPW memo report saying various things, he is wrestling with how to synthesize all that and bring it into balance. He said that another important criterion to consider in granting the parking relief is that there is no alternative transportation to the site. He referred to his comments made at previous meetings suggesting a shuttle service to the site as an opportunity for the Applicant; that some sort of contribution towards an alternative transportation and off-site parking for employees would warrant consideration for the granting of so much relief from parking. Mr. Canally pointed out for the Applicant that Mr. Kleiman also made similar comments at a previous meeting as reflected in the minutes. Regarding site plan review, Mr. Kleiman commented that a site visit would help him to see the proposed locations of loading dock and dumpsters areas. Mr. Canally mentioned that he too suggested a site visit at the last meeting.
Mr. Kleiman noted his concerns include the loss of mature trees on site without the opportunity to replace them and the Engineer's comments about the driveway conflicts throughout the site.

Ms.Whiting Cash agreed with the concerns mentioned by Mr. Kleiman and opined that the amount of requested parking relief is a major sticking point. Considering the Zoning Bylaw criteria, she commented that she could not see setting the precedent of granting this level of parking relief. Other concerns, which she feels has not been adequately addressed, are the entry/exit point and the lack of queuing space internally for that access point, safety concerns about right-hand and left-hand turns from that point onto Lowell Road, and the potential issues if tractor trailer trucks use that access point. She is not adequately satisfied that the internal flow of the site is

workable in its configuration as proposed. She appreciated the presentation made by Mr. Hughes (the Applicant's environmental consultant) at a previous meeting and liked his suggestions for how the raised parking deck could be constructed. However, after reading a recent abutter letter (Mazur 4/11/16) which refers to how poorly the site, under the current ownership, has been maintained over the past number of years, she wonders whether the site will be maintained in an environmentally responsible way. She recalled that it still concerns her that sustainability features, other than mandatory stormwater management, have not been incorporated into the plans.

Mr. Easton says he takes into consideration all the comments made by his fellow Board members. He views the current site as under-utilized and therefore feels that the Board should encourage re-development there but he finds that the amount of parking relief being requested troublesome and the tight site design potentially impractical. He said that while he has heard from a number of people that the market is considered a desirable use in a desirable location there are many concerns that the Board has about the construct to get it there.

Mr. Johnson said that he too is excited about the potential use for a market at that location, that the conceptual design of the building itself is wonderful, but that he would love to see the site developed without the Rite Aid building or with some other compensatory reduction of use elsewhere on the site so that it can accommodate the market. He commented that there are a whole lot of extraordinary measures and work-arounds being proposed in order to accommodate this and when you add them up it seems to be at the breaking point. He said that the fact that we have to look at the all the exceptional workarounds to make it fit on the site, in additional to the amount of requested parking relief, and potential traffic issues, it just doesn't add up for him. He commented that he has had these concerns since the first time this application was reviewed (in December). He said that the parking studies were helpful to show that the development might work but he worries about creating a similar situation that occurs now near Starbucks on Thoreau Street.

Mr. Cratsley said that he would like to see a market there too but that he shares the same concerns as the other Board members and so he could not recommend that parking relief be granted since the amount of relief is too significant based on the present plan.

Mr. Canally referred to his comments contained in the March 22 meeting minutes and reiterated those comments. Mr. Canally explained to the Applicant that the intent at the beginning of this meeting was to frame discussion around the concerns raised previously by the Board in the minutes and those contained in the Planner's Report.

Tom Kearns, of DSK, architects and planners for the project, started by saying that they feel the proposed plans are not too dense and that the owners have made sincere efforts to improve the campus. Mr. Kearns said that they are hoping to get Planning Board guidance to respond appropriately.

For clarification, Mr. Canally asked Mr. Kearns, what guidance from the Board have you heard?
Mr. Kearns spoke at length about the Applicant's efforts to "get it right" and create a site that fosters pedestrian movement in the Town. Mr. Kearns said that studies show that the parking counts work.

Mr. Dewing presented L.2.1 landscape plan and an elevation (photo) of Lowell Road to show the context of the proposed design and the profile along Lowell Road. He described some of the proposed sidewalks, walkways, and employee parking areas.

Mr. Cratsley asked if the entrance to Rite Aid would be redesigned. Mr. Dewing explained the proposed grading changes and re-design of that entrance.

Mr. Bates asked if the DSK has done a master plan that projects what would be done with the site if the Rite Aid building were not there. Mr. Dewing replied that there is great future potential for the site. Mr. White said future planning for the site depends on Rite Aid tenancy; there is no yes or no answer at this time.

Mr. Canally pointed out that the Board has heard many concerns about pedestrian safety and pedestrian navigation through the site during the course of the several meetings. Mr. Kearns pointed out the ways the proposed plan encourages pedestrian access and connections.

Town Planner Hughes clarified that the two proposed bumpouts from the market cannot be considered crosswalks because they do not meet American with Disability Act accessibility requirements for crosswalks on the existing bank side. Mr. Dewing acknowledged that the connections on the other side of the bumpouts would have to be made ADA accessible. She asked about tractor-trailer parking and delivery schedule plans, how will that work within the proposed travel lane shown on the plan. Mr. Dewing said that deliveries would have be scheduled before market opening hours and tractor trailers will not be a huge source of provisions for the market. Mr. Kahn said the Applicant submitted the information regarding the delivery schedule. Mr. Dewing opined about the symbiotic benefit from having a market and pharmacy located in close proximity.

Mr. Canally said that the Board is concerned with potential parking along Bow Street and Lang Street and the potential negative impacts to residents from that outweighing any potential benefits from having both a pharmacy and market there.

Mr. Dewing spoke about "11th hour" concerns being raised via the CPW memo. Mr. Canally reiterated that, although memo was just received, the concerns raised are not a surprise since the Board had identified those concerns at previous meetings. Mr. Kleiman also reiterated that at several meetings the Board has discussed the five criteria that they consider when recommending granting relief from parking and pointed out that the Applicant has not yet addressed all of those concerns.

Mr. Canally asked for comments from the audience.

Jill Zimmerman, 383 Old Bedford Road, spoke in favor of the application.

Peter Blau, 135 Partridge Road, spoke in favor of the application.

Sam Gifford, 100 Estabrook Road, spoke in favor of the application.

Erik Jarnryd, 61 Hubbard Street, spoke in favor of the application.

David Wiener, 20 Bow Street, spoke in opposition to the application.

Lydia Lodynsky, 86 Bedford Street, spoke in opposition to the application.

Eric Mazur, 57 Lowell Road, spoke in opposition to the application.

Chris Williamson, spoke in favor of the application on behalf of his daughter, who lives at 86 Grove Street.

Mary Fox, 13 Estabrook Road, spoke in opposition to the application.

David Brownell, 36 Bow Street, spoke in opposition to the application.

Nancy Steinberg, 1560 Monument Street, spoke in opposition to the application.

Mr. Kahn expressed great frustration since, in his opinion, the Applicant has addressed the concerns and has been responsive. He remarked that he finds many of the comments made tonight unfair and inappropriate. He requested that Ms. Whiting Cash apologize to the Applicant for her comments (regarding the maintenance of the site). Mr. Kahn asked the Board to close the public hearing and render a decision.

Ms. Hughes clarified again that this is a public meeting, not a public hearing. She outlined the Board's options for discussion and comment. She explained the public hearing process with the Board of Appeals.

After the Board's discussion, Town Planner Hughes suggested that the Board could continue discussion of this application to the next regular meeting to review a draft recommendation that outlines the outstanding issues and concerns shared by the Planning Board and Town staff. Mr. Cratsley moved that the Board continue this item to the May 10 meeting as suggested. Mr. Johnson seconded. All **VOTED** in favor.

**Approval Not Required Plan # 16-4**
**18 & 68 Cambridge Turnpike**

Town Planner Hughes presented the plan to the Board. She explained that the plan shows properties located on the west side of Cambridge Turnpike, that the property at 18 Cambridge Turnpike is bisected by the Residence A and B Zoning Districts, and that the property at 68 Cambridge Turnpike is located in the Residence A Zoning District. She explained that the plan shows a conveyance of 3,017 s.f. (Parcel A) from Lot 1 to Lot 2 with no alteration to the frontage of either lot and that each lot shown on the plan has more than the required area and frontage.

After discussion, Ms. Whiting Cash moved that the Board authorize the Chair, Vice-Chair, or Town Planner to endorse the plan of land dated March 23, 2016 for 18 & 68 Cambridge Turnpike, prepared by Stamski & McNary, Inc. as Approval Under the Subdivision Control Law not Required because it shows a proposed conveyance which changes the size and/or shape of the lots in such a manner that frontage is not affected. Mr. Kleiman seconded. All **VOTED** in favor.

**Approval Not Required Plan # 16-5**
**55 & 97 Estabrook Road**

Town Planner Hughes explained that the Board will take no action and will not discuss this plan at this time. Review of the plan will

occur at a future meeting.

**Minutes**

The minutes of the March 8 meeting were reviewed and amended. Ms. Whiting Cash moved that the Board approve the minutes as amended. Mr. Kleiman seconded. All **VOTED** in favor.

The minutes of the March 22 meeting were reviewed and amended. Mr. Cratsley moved that the Board approve the minutes as amended. Mr. Johnson seconded. All **VOTED** in favor.

The minutes of the April 5 meeting were reviewed. Ms. Whiting Cash moved that the Board approve the minutes as amended. Mr. Easton seconded. All **VOTED** in favor.

**Town Meeting Follow-up**

The Board had a brief discussion about Town Meeting and talked about what went well and what could be improved upon for next year. The Board agreed that the work done in advance greatly contributed to the passing of all the Zoning articles this year.

*List of documents presented which are on file in the Planning Division Office at 141 Keyes Road, Concord, MA:*

- Agenda memorandum dated April 8, 2016 from the Town Planner
- Revised Planner's Report dated April 8, 2016 for SP #15-11
- Greenman-Pedersen, Inc. peer review letter dated March 30, 2016 for Millbrook Tarry Market application
- Memorandum from Concord Public Works Engineering Division dated April 12, 2016 regarding Millbrook Tarry Market application

The meeting adjourned at 9:10 p.m.

Respectfully submitted,
Brooke Whiting Cash, Clerk

Minutes approved on: 5/11/16