



**ZONING BOARD OF APPEALS
TOWN OF CONCORD
Meeting Minutes
March 12, 2020**

Pursuant to notice duly filed with the Town Clerk, a public meeting of the Board of Appeals was held on Thursday, March 12, 2020 at 7:15 p.m. in the Town House Hearing Room, 22 Monument Square, Concord, MA, 01742.

PRESENT:

Members:

James Smith
Elizabeth Akehurst-Moore
Stuart Freeland
Theo Kindermans
Ravi Faiia

Raymond Matte, Building Commissioner
Heather Carey, Administrative Assistant

Chair Akehurst-Moore called the meeting to order at 7:15 p.m.

Voting Members: James Smith, Elizabeth Akehurst-Moore, and Theo Kindermans

Public Hearings:

Mei King Cheng for Asian Gourmet, for the renewal of a Special Permit under Sections 7.7.2.12 and 11.6 of the Zoning Bylaw for relief from parking requirements at 794 Elm Street (Parcel #1899-1).

Chair Akehurst-Moore opened the public hearing and reviewed the Application. Mei King Cheng appeared for the hearing. The Board reviewed that materials submitted by the applicant. The Chair asked whether there had been issues or complaints with the current Special Permit and Building Commission Matte confirmed that there had not been any issues. Chair Akehurst-Moore confirmed that they had a new parking lease in place and didn't see any issues with approving the application.

Chair Akehurst-Moore opened the hearing for public comment and there was none.

Mr. Kindermans moved to approve the application of Mei King Cheng for Asian Gourmet, for the renewal of a Special Permit under Sections 7.7.2.12 and 11.6 of the Zoning Bylaw for relief from parking requirements at 794 Elm Street (Parcel #1899-1) subject to the existing Special Permit conditions and to expire in another 5 years. Mr. Faiia seconded the motion and all **VOTED** in favor.

Documents Used: site plan

Andrew Bonzagni, for a Special Permit and Site Plan Review under Sections 4.2.3, 11.6, and 11.8 of the Zoning Bylaw for relief of required open space for the construction of two residential apartments at 113-115 Commonwealth Avenue (Parcel #2218).

Chair Akehurst-Moore opened the public hearing and reviewed the application. Andrew Bonzagni appeared for the hearing and explained that he is proposing to add two second floor 2-bedroom dwelling units and is looking for relief of greenspace requirements for the two units. He explained that they have the required parking for the units and that there is local public greenspace nearby including Rideout park, the Bruce Freeman Rail Trail, and Warner's Pond. Mr. Bonzagni stated that parking relief was granted in 2013 and the change of use does not require any more parking.

Chair Akehurst-Moore opened the hearing for public comment and there was none.

Mr. Smith commented that this is a demonstrated benefit of the Town and perfect candidate for relief.

Mr. Smith moved to approve the application of Andrew Bonzagni, for a Special Permit and Site Plan Review under Sections 4.2.3, 11.6, and 11.8 of the Zoning Bylaw for relief of required open space for the construction of two residential apartments at 113-115 Commonwealth Avenue (Parcel #2218) subject to standard conditions. Mr. Kindermans seconded the motion and all VOTED in favor.

Documents Used: site plan

John Conley and Elizabeth Awalt, to amend a Special Permit under Sections 7.1.3 and 11.6 of the Zoning Bylaw to demolish a portion of the existing garage and to construct a 1,358 sq. ft. addition on a non-conforming structure at 396 Great Meadows Road (Parcel #1259-2-3).

Ms. Akehurst-Moore opened the public hearing and reviewed the application. Paul Kirchner, engineer with Stamski and McNary appeared for the hearing. He explained that the applicant is requesting to amend their previously approved Special Permit which included a deck within the 50 ft. wetlands buffer. The Natural Resources Commission reviewed the project and asked that the deck be removed from the wetlands so they are proposing to remove the deck and alter the building layout to compensate for the reduction of outdoor space. The chair asked for clarification of where the changes were made and Mr. Kirchner gave an overview of the changes.

Ms. Akehurst-Moore opened the hearing for public comment and there was none.

Mr. Smith moved to approve the application of John Conley and Elizabeth Awalt, to amend a Special Permit under Sections 7.1.3 and 11.6 of the Zoning Bylaw to demolish a portion of the existing garage and to construct a 1,358 sq. ft. addition on a non-conforming structure at 396 Great Meadows Road (Parcel #1259-2-3) noting that the revised plans are less non-conforming than the original. Mr. Kindermans seconded the motion and all VOTED in favor.

Documents Used: site plans

Symes Development & Permitting, LLC for a Variance, Special Permit and Site Plan Review under Sections 7.5, 10, 11.6, and 11.7 of the Zoning Bylaw for a 34-unit Planned Residential Development at 1440, 1450, 146B Main Street (Parcels #2409, 2408, 2407).

Ms. Akehurst-Moore opened the public hearing and reviewed the application. Brad Latham attorney for the applicant commented that there had been a long review process with Planning Board and that the Applicant had made many changes from the original submission and asked if the Board would close the public hearing and take a vote on the

application as presented. Chair Akehurst-Moore commented that she is not opposed to the Planned Residential Development (PRD) but thought there were items that could be reviewed. Mr. Faiia thanked the applicant for the changes they had made and asked for clarification on the installation of propane tanks. Jeff Rhuda, the applicant, stated that the gas would be an option available for stoves and fireplace but that the houses would be built with electric utilities as a standard. Mr. Faiia commented that this was a good compromise with the Planning Boards recommendation for a condition of no fossil fuel, but was still struggling with the lack of housing diversity. Mr. Kindermans stated that he interprets this PRD Special Permit as a way for the applicant to create something that is really special and didn't think this application does that. He continued that the project meets most of the requirements but was not in favor of removing the affordable housing unit. Mr. Freeland felt that there were too many unanswered questions to be able to move forward. Mr. Smith commented on some of the pros and cons of the project and wanted to hear more from the Applicant and public. Mr. Kindermans agreed and commented that project seems to meet the letter of the law but didn't think it was a great choice. Chair Akehurst-Moore stated that they need to determine what would be considered a reasonable alternative and whether a standard subdivision is more reasonable.

Chair Akehurst-Moore opened the hearing for public comment.

Scott Richardson of 260 Elsinore Street stated that he didn't think there should be any more concessions given to the Applicant.

Jack Madigan of 215 Prairie Street asked how this plan was better than a standard subdivision.

Ellen Quackenbush of 266 Prairie Street commented that the Planning Board was very thoughtful with their recommendation and the plan shouldn't be compromised.

Mr. Smith asked the Building Commissioner for clarification of a standard subdivision. Building Commission Matte explained that a standard subdivision only creates the road and lots and that each house is subject the standard setbacks and the floor area ratio.

Nancy Kerr of 25 Upland Rd voiced concern over the project.

Shelly Amster of 34 Prairie Street stated that the Town needs more small housing.

Jeff Rhuda spoke regarding the concessions made for the project and gave an overview of the changes to the original plan. The Board reviewed the standard subdivision plan that had been submitted for review as an alternative. Mr. Smith asked to review the topography of the land and Mr. Kindermans confirmed that the change in elevation is about 24 feet. Chair Akehurst-Moore stated that she was having a hard time reaching a conclusion to support the PRD and reviewed Section 10 of the Zoning Bylaw. Mr. Kindermans argued that the PRD has varied housing sizes that they wouldn't get from a standard subdivision. Mr. Smith reviewed the section of the Bylaw requiring the Board to defend their reasoning for acting contrary to the Planning Board recommendation and questioned how they could do that. Mr. Faiia questioned whether this plan was advantageous to the Town and felt that smaller or affordable housing would be a better fit for the Town's master plan. Mr. Smith asked if the Board was at a place where they could close public hearing and make a vote.

Attorney Latham commented that the applicant is no longer willing to make changes, gave an overview of the items that the Town has control over in a PRD, and asked that the Board move the question to a vote.

Mr. Kindermans stated that he is not adverse to the density and felt that this plan is better than the alternative. Mr. Smith stated that there are the same number of larger houses as a standard subdivision along with a few smaller houses and that fact may argue against approval of the PRD. Chair Akehurst-Moore stated that she is not in favor of the PRD.

Mr. Smith moved to deny the application of Symes Development & Permitting, LLC for a Special Permit under sections 10 and 11.6 of the Zoning Bylaw for a 34-unit Planned Residential Development at 1440, 1450, 146B Main Street (Parcels #2409, 2408, 2407), noting in particular that the PRD as proposed did not satisfy the conditions that underpinned the Planning Board's recommendation and reiterating the concern that the PRD did not provide the kinds of benefits to the Town contemplated by Section 10 of the Zoning Bylaw. Mr. Kindermans seconded the motion and all VOTED in favor.

Mr. Latham asked to withdraw without prejudice the Special Permit application under Sections 7.5 and 11.7 of the Zoning Bylaw for earth removal and variance from height requirements.

Mr. Smith moved to accept the withdrawal without prejudice the application of Symes Development & Permitting, LLC for a Special Permit and Variance under Sections 7.5 and 11.7 of the Zoning Bylaw. Mr. Kindermans seconded and all VOTED in favor.

Documents Used: PRD site plan, standard subdivision plan

Concord Country Club, for a Special Permit under Sections 7.5, 7.6, and 11.6 of the Zoning Bylaw for the construction of an irrigation pond requiring the removal of 51,258 cubic yards of soil within the Groundwater Conservancy District at 246 Old Road to Nine Acre Corner (Parcel #3079).

Chair Akehurst-Moore opened the public hearing and reviewed the application. Paul Kirchner, Engineer with Stamski and McNary appeared for the hearing and explained that due to an oversight, the work on the project had already been started. He explained that the Applicant is looking to create irrigation wells to sustain watering throughout the season which will require substantial amounts of earth removal. The storage area will cover approximately 3 acres of land and will hold about 3.4 million gallons of water. The project includes trucking approximately 50,000 cu yards of earth from the site with an estimate of 1,200 cu yards already having been removed. The project is within the groundwater protection area so they can't excavate within 4 feet of the high water table. NRC has requested more soil testing which they have done but have not provided results yet.

Chair Akehurst-Moore referenced letters they received from Public Works and Natural Resources identifying many questions that need to be addressed. Mr. Kindermans stated that there is a lot of grading going on and would like to see a more visual presentation. He also asked how this would affect the groundwater protection district and how the quality and quantity of drinking water for residents is not affected.

Mr. Kirchner stated that because they are 4 feet above the groundwater table they are not required to get a special permit for the groundwater conservancy district. Mr. Smith asked how the site lines would be changed and wanted to ensure that Mr. Kindermans questions are answered and also asked how the flow of the pond works. He also commented that it was unacceptable that an institution of this Town didn't follow the ordinances of the Town and asked that the issues are resolved at the next meeting.

Ms. Akehurst-Moore opened the hearing for public comment.

Gregor McGregor of 70 Williams Road representing Bernd and Rebecca Comjean of 99 Williams Road presented a letter voicing many questions and concerns related to the project.

Mr. Smith moved to continue the application of Concord Country Club, for a Special Permit under Sections 7.5, 7.6, and 11.6 of the Zoning Bylaw for the construction of an irrigation pond requiring the removal of 51,258 cubic yards of soil within the Groundwater Conservancy District at 246 Old Road to Nine Acre Corner (Parcel #3079) to the April 9, 2020 meeting at 7:55 p.m. Mr. Kindermans seconded the motion and all VOTED in favor.

Documents Used: Site plan

Other Business:

Approval of Minutes for January 9, 2020

Mr. Smith moved to accept the minutes for the January 9, 2020 meeting as submitted. Mr. Kindermans seconded the motion and all VOTED in favor.

There being no further business, the meeting was adjourned at 9:11 p.m.

Respectfully submitted,

Theo Kindermans, Clerk