



**Town of Barnstable
Planning Board
Minutes
January 23, 2012**

Matthew Teague – Chairman	Present
Paul Curley – Vice Chairman	Present
Patrick Princi - Clerk	Present
Felicia Penn	Present
Raymond Lang	Present
Cheryl Bartlett	Not Present
David Munsell	Present

Also present were Art Traczyk, Regulatory Review Planner, a quorum being met, Chairman Matthew Teague opened the meeting at 7:00 PM.

7:00 pm Public Hearing

**Special Permit Application No. 2012-02
Parking Facilities 659 Main Street Hyannis**

Public Hearing to consider Special Permit Application No. 2012-02. The petitioner, the 659 Main Street Realty Trust as future purchaser of the property, is seeking a special permit pursuant to Section 240-24.1.3.B (1), Parking Facilities. The petition seeks to demolish the existing structure located at 659 Main Street, Hyannis, MA and develop the lot for a 12 vehicle surface parking lot. The petition includes a request for relief from Section 240-24.1.3.C (8)(b) to allow a 22-foot wide curb-cut for the parking lot's driveway when zoning would limit the curb-cut to a maximum of 17 feet.

The property is addressed 659 Main Street, Hyannis, MA and is shown on Assessor's Map 308 as parcel 136. The property is zoned HVB - Hyannis Village Business Zoning District.

Matt Teague entertained a motion to open the Public Hearing, moved by Raymond Lang, seconded by Paul Curley.

Attorney David Lawler present for applicant and Matt Eddy from Baxter & Nye.

He explained the building history, 100 years old and in deplorable condition. Building deteriorated. Photographs and plans shown of the building and the landscaping. Deemed no entry building by Hyannis Fire Dept. They are proposing to tear down the existing building and the asphalt parking lot where the building is. Full curb cut on South Street, none on Main Street.

They are proposing to put in a parking lot in place. Property in HVB District. By-law provides for a surface parking facility, by special permit only. Specifically in by-law, that parking facilities are allowed by Section 240 24.1-12 permitted in this restricted area. States that he thinks Growth Management is being contradictory in reading the Staff comments/report.

Letters from abutters (David Wood, Amanda Converse, Jennifer Villa and David Colombo, all abutting business owners) handed out to board and staff from Attorney Lawler in support of the demolition of the building.

Baxter and Nye representative Matt Eddy explained the plan on the Map shown. He explained what is there now and the proposed plan and the process of the demolition and what would be replacing the building, a 12 space parking lot. South Street would be going from a 68 foot curb cut down to a 22 foot wide entrance. 17 ft. requirement is based on the zoning ordinance lot frontage. Making it more conforming going to 22 ft. Fire Dept. has requested that the engine and emergency vehicles make it accessible. Also, provisions for handicap curb cut ramps, entire lot paved, and Cape Cod Berm, landscaping, street trees and dense hedges.

Met requirements for site plan review. Main issue would be width of 22 ft. vs. the 17. Proposing to go to width of 19 feet for parking area, so that the sidewalk can be installed. 4 foot sidewalk.

Attorney Lawler states that one of the special permit requirements is that it improve pedestrian access and also improve travel demand management. Proposes that the surface parking lot is consistent with the by law and the abutters are looking forward to improving the property. It also meets the special permit requirement for the GIZ , specifically subsection B and subsection F of 240 24-12E, which was enacted five and half years ago. Property is presently under a purchase and sale agreement.

Felicia Penn asks if the property is adjacent or across the street from the business and is this an employee parking lot or for anybody?

Attorney Lawler states that the Brazillian Grill owns it and will use it for parking, patrons of the Brazillian Grill. They presently rent space from an abutter. Bylaw states that this parking lot cannot be accessory to the Brazillian Grill, under the definitions of 240, which he quotes; a structure or use that is subordinate in building area, building extent or purpose of the principal use, is customary incidental and subordinate to the principal use and contributes to the comfort, convenience or necessity of the principal use and is located on the same lot as the principal use.

Felicia Penn asks if this will be a public parking lot that is privately owned? Anyone could use?

Attorney Lawler states he doesn't really know what the business structure will be for this, most likely he thinks it will be used for contract to another business. They may enter into a contract with the Brazillian Grill, most likely. This will be a business contract with whomever enters into the contract with his client. It cannot be an accessory use according to the statute.

Felicia Penn states that this will be a stand alone parking lot, whereby you wouldn't need a special permit etc. to park here, free?

Attorney Lawler states no, it will not be free. It will be controlled sign posted parking facility, most likely for patrons of the Brazillian Grill.

Felicia Penn comments, it sounds as if it will be accessory use for the Brazillian Grill. Confirms that most likely it will be for the business owner across the street, the Brazillian Grill to use. She would like to know how exactly it is going to be used.

Attorney Lawler states that this is a permitted use by his client, who will more than likely contract with a separate business for parking for that business during certain hours, in order to provide parking for that entity. It is not in accessory use.

Felicia Penn asks what percentage of the driveway is the proposed curb cut?

Matt Eddy states 32 percent.

Felicia Penn would like to see some wording re signage, and lighting proposal information for this project. Also she would like to see more greenage here and the landscape plan leaves a lot to be desired. She doesn't want it to be only vehicles that are visible here.

Attorney Lawler states that the lighting plan was presented to Historic and they will most likely be using the fixtures consistent with the neighborhood and the BID. No light intrusion.

Patrick Princi asks what is the current assessed value and are there any historical uses for this bldg.? He realizes there is a need for parking here, only private parking which makes it difficult for public to find parking. Private lots make it difficult. He states that Attorney Lawler is speculating as to what kind of parking will really be here.

Attorney Lawler stated that according to the historic committee/society this bldg. had no significance. His client cannot afford to open up a parking lot to the town for public parking. The parking here will free up other parking in and about the area. Will provide many desirable aspects, i.e., pedestrian walkway, sidewalk etc. Meets all requirements and he thinks the Planning Board should allow this special permit without any reservation.

David Munsell states it should be an improvement as long as the greenery/landscaping done to keep it an attractive site, even though it is a parking lot. He approves of what is being proposed for this site, with some minor changes to the proposal.

Raymond Lang states that the Special Criteria should be reviewed as follows:

- (a) The development provides for or supports mixed use development where appropriate; This doesn't apply here.
- (b) The development maintains or improves pedestrian access and outdoor public spaces; Possibly, but not directly.
- (c) The development contributes to the historic and maritime character of the Hyannis Village area; Doesn't apply.

- (d) The development eliminates or minimizes curb cuts & driveways on Route 28 & Barnstable Road; Doesn't apply.
- (e) The development provides or preserves views from public ways and spaces to the waterfront and provides or preserves public access to the waterfront; Doesn't apply.
- (f) The development provides for or contributes to alternative transportation or travel demand management; and/or Doesn't apply.
- (g) The development provides workforce housing where appropriate and provides an appropriate mix of affordability levels. Doesn't apply.

Raymond Lang continues to state that there is nothing that fits the criteria, none are applicable in this case.

Attorney Lawler disagrees and thinks that two of these Special Permit Criteria Findings do meet the criteria. Specifically (b), whereby we are proposing a public walkway from South Street to Main Street. Also (f) whereby this would meet travel demand management by means of parking. The requirement that one of these criteria be met is sufficient.

Raymond Lang states that he thinks there is position for argument. Plan does not show the walkway as it is going to be done. Building should be torn down either way. Asks what the owner is thinking of doing?

Attorney Lawler says it's an elderly woman, Mrs. Stone. They have a purchase and sale agreement in process. He represents the purchaser, Realty Trust LLC (the Applicant).

Raymond Lang makes comment about public parking lot use as opposed to private parking use and the need for public parking should be reviewed and corrected by the board. There is no indication regarding access to Main Street..is this prohibited?

Attorney Lawler states that curb cuts on Main Street would not be acceptable and against the DIP. They are encouraging pedestrian access with this proposal.

Matt Eddy states that curb cuts are prohibited by the zoning ordinance, it would have to access a secondary street.

Art Tracyk quotes "new curb cuts on Hyannis Main Street shall only be allowed when the curb cut leads to a parking for at least 21 vehicles, no more than one curb cut on Main Street for traffic...."

Raymond Lang would like to see a list of variances that are required, would like to see the list. The fifth parking lot shows 30 feet in adjacent line?

Matt Eddy states this is a grading contour, it is an elevation.

Raymond Lang addressed 19 ft. parking spaces, should be 20. Allows for sufficient back out space, 26 ft.?

Matt Eddy stated that there is now 26 ft. on the plan, 24 ft. is a typical space, 19 ft. with a 24 ft. travel aisle would be adequate for parking.

Raymond Lang asked if the 6 foot sidewalk would be made to 4?

Attorney Lawler responded that staff proposed a 6 foot sidewalk, but the 4 ft. would be acceptable and sufficient.

Raymond Lang asked if the parking spaces go up to a curb?

Matt Eddy stated yes. This would be changing from a berm to a vehicle curb.

Raymond Lang asked who are the adjacent abutters, from the East? Are there any existing lease arrangements that would require access from any abutters?

Attorney Lawler stated not that he knows of. David Colombo, Roadhouse Café, is the abutter from the East.

Raymond Lang thinks that the board should know more about the building later on. Lease information, if a parking lot is done here and the business using it went out of business, what would happen to the special permit if it was still active?

Attorney Lawler responded stating this is a good question, if the property transfers hands, they would have to come before the Planning Board again, under that criteria. This is a valuable piece of land to his client. They have a lucrative business here and are investing on Main Street.

Paul Curley asked how many spaces are being invested here, 6?

Matt Eddy stated 12 all together. Easterly side there are 10, Westerly side 2.

Paul Curley asks how many seats in the Brazillian Grill? He thinks this is not a lot of parking that is being addressed here. He doesn't think it would be in the best interest of the town or the business district to allow this. He thinks a business district wide study/recommendation should be implemented. He cannot support this.

Attorney Lawler addresses, he does not know how many seats. The BID board is in support of this. The members are the owners of the real estate who represent the tenants/businesses. He respectfully disagrees.

Felicia Penn interjects that they are funded by real estate taxes, not membership dues.

Attorney Lawler states that there is a criteria here whereby his client wants to sell her private property. They are proposing a commercial use for the property so it can be used to make the area workable/useable in some way instead of leaving a dilapidated bldg. in it's place. BID in favor of this, abutters and many others in favor to move forward with this project as a profitable need.

Matt Teague asks if there is any public comment

Public Comment

Elizabeth Wurfbain, Executive Director for Hyannis BID speaks. BID as a Board made a consensus/decision to support this issue. Parking is the biggest issue/complaint from the business owners in this very West End of Main Street. This would free up at least 12 parking spaces that patrons of the

Brazilian Grill are using now and taking away spaces from the other businesses. All on her board would like an attractive surrounding to keep the businesses viable. It's depressing now. She agrees that the plantings could be improved for the walkway/surrounding parking lot. Main Street BID does approve and support this project.

Attorney Lawler states that he is also on the BID board and recuses himself from the meeting Elizabeth Wurfbain is referring to. He was not in attendance.

Felicia Penn requests/suggests that she would like some legal advice regarding the grant relief that's been requested for the width of the curb cut. Not mentioned if a special permit can be issued for that. Suggested Condition, No. 2, as prepared by staff is quoted; "None of the parking spaces are to be dedicated for use as accessory parking to businesses in the zoning district. No spaces shall be reserved (or signed) for the exclusive use for a business." Would like some legal advice for this as well, maybe from legal dept. Would like to suggest bike rack to be installed here, trash receptacles. Suggested Condition No. 7 is quoted; "A 'Stop' sign and 'no left turn' sign shall be incorporated at the exit of the lot onto South Street." She thinks it should be stated as "left turn only".

Matt Teague agreed that these issues are critical and should be presented to the town legal dept.

Attorney Lawler stated with respect to the staff comments, he is opposed to having the restriction being open to the public, and the length of coming back. The other provisions, bike rack, trash receptacles are acceptable. Landscaping suggestions acceptable as well.

Matt Teague states the issue here is the board's inability to grant what they are proposing to do in a legal aspect.

Raymond Lang would like to see a list of relief waivers from the people submitting the plan. Asks if the walkway will be going through the parking spaces?

Matt Eddy answers no, they would be reducing aisle widths taking 1 foot off of the 20 ft.

David Munsell wanted to know about the area to the East, where the 4 ft. sidewalk is going, how wide is the area? Does this include an area for a 4 ft. walk of vegetation?

Matt Eddy answered, the area to the Westerly side is 6 ft. It should be.

Felicia Penn stated that the building is listed as a brick and metal building, and it is wood.

Attorney Lawlers states, it has a metal roof, tin.

Matt Teague entertains a motion to continue to Feb. 13th for a second hearing, until next meeting, February 13, 2012, so moved by Raymond Lang, voted unanimously

Executive Minutes: Possible Report of the Chair on review of past Executive Session Minutes

Matt Teague he will continue to review, and there are none at this time.

Discussions:

Impulse, LLC – 333 and 349 Iyannough Road Hyannis – review of development for conformity to approved plans update (as requested at meeting of November 14, 2011) Copy of Special Permit No. 2010-01, development plan, and request memorandum previously distributed.

Matt Teague stated there is no information at this time, not ready for discussion yet.

Concept discussion on Accessory Apartments

Matt Teague stated By-Right Accessory Apartments had been discussed about a year ago, asked staff to look at some ideas. Sandwich is doing this now. It is a two fold concept which allows an apartment be built of so much size, with compliance, no subsidy, allows the owner (if owner occupied) to occupy either unit, the large or the small. Allows for a tenant/renter as long as it's owner occupied. Would like Board to review draft concept information and give their input.

David Munsell asks if it has to be family only? Is it a duplex?

Matt Teague states no, and it is not a duplex, because the size is limited, limit the bedroom count, have to meet Title 5 compliance, cannot build an additional structure. Has to be an accessory. Can be an accessory use to a garage. Received well by housing committee. Not subject to variances, relief. He thinks good alternative for median income families. Creates opportunity for housing without subsidy. Town of Sandwich has issued 11 permits.

David Munsell confirms that the one bedroom would have to tie into the existing septic system.

Raymond Lang wanted to know what was the goal/objective for the long range comprehensive plan for providing apartments in town, was this one of them?

Art Traczyk answered that there was a directive to get more housing/options for.

Raymond Lang directed comment to Matt Teague that these would not turn into condominiums, only one deed for the home.

Matt Teague stated that's correct, cannot be done where there are already multiple units on the property, only with a single family dwelling in its existence.

Raymond Lang stated any grandfathering allowed?

Matt Teague stated he does not know. It may be allowed for by-right, may have a larger tax bill. He likes the two bedroom ability/cap. May be a good tool for elderly monitoring as well. Would like some comments next week.

Paul Princi asks if the language we have is similar to Sandwich?

Matt Teague states no, Sandwich has issued very few of these within the last 8 to 10 years.

Felicia Penn asks if it's known how many permits for accessory affordable units were issued? Wondering what the competition for this would be as opposed to affordable issues.

Art Traczyk stated that PB can get those figures from the Housing Dept.

Bond Court – Possible discussion of Bond Court issues. This discussion originated at the Hearing of December 12, 2011. Staff was requested to investigate creation of the way, rights in the way and parking licensing.

Art Traczyk explains the history of Bond Court. Staff Report read.

Concluded that this is a private way and suggested that we ask the Regulatory Services Dept. to review and determine what action can be taken to keep passage open for safety. This is a private way.

Raymond Lang asks if the Regulatory Services Dept. are aware of the problem/issue here? Wants to make sure it is unrestricted and passable for traffic.

Art Traczyk states that there is material in the licensing file(s), so they will not be surprised. The owners seem to be sharing it in common, together may have a right to close it. Suggests it be investigated first.

Matt Teague thinks that would be appropriate and that we need to be updated regarding this issue.

Felicia Penn moved to adjourn the meeting, seconded, voted unanimously.

The meeting adjourned at 8:57.

Future Meetings: Regularly Scheduled Planning Board Meetings – February 13 & 27, 2012 @ 7:00 p.m.

Respectfully Submitted Karen A. Herrand
Karen A. Herrand, Principal Assistant

Approved by vote of the Board on Feb. 13, 2012

Further detail may be obtained by viewing the video via Channel 18 on demand at
<http://www.town.barnstable.ma.us>