

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, January 24, 2018

Members Present: Richard McLeod, Chairman
Kemal Denizkurt
Jonathan Moriarty
Ed Foley
Brandon Diem

Also Present: Joseph Callanan, Town Solicitor
Robert Luongo, Director of Planning
Jeffrey Richards, Inspector of Buildings
Eric Schneider, Principal Planner
Janet Murray, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:00 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

New Business:

1. Case #3347 - Habit Opco, LLC, has filed an Appeal relative to a determination dated November 17, 2017, from the Inspector of Buildings, issued to Acadia Healthcare, with respect to parking requirements at **1650-1654 Main Street**, also shown on the Weymouth Town Atlas Sheet 61, Block 641, Lot 24, located in a B-1 zoning district.

Appeal of the Inspector of Buildings: Appeal of a decision of the Inspector of Buildings that the proposed use is not permitted as the available parking is deficient under Sections 120-69 and 120-74.

Mr. Foley made a motion to open the public hearing and was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Jonathan Silverstein and Carolyn Murray of KP/Law appeared before the board on behalf of the applicant, Habit Opco, LLC. Mr. Silverstein noted that Anthony Riscella, VP of Business Development of Acadia Healthcare and Matthew Davis, Regional Vice President were also present this evening.

Mr. Silverstein stated that this appeal does not dispute the interpretation of the by-law or regulation made by the building inspector. He stated that the applicant is stating that under the Federal Americans with Disabilities Act (ADA) that strict application of the parking requirements would result in a hardship to disabled

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individuals. He added that the board can and should make a reasonable accommodation for this use so as not to deny services to people with disabilities.

The proposed use is for medical office and treatment center for people with addiction who qualify as people with disabilities.

The existing parking plan shows 40 parking spaces but there are only 25 spaces on the site. If this use is allowed, the 40 spaces would be striped. He continued that, historically, there have been no problems with parking at the site.

The proposed use is going to be primarily during the hours of 5am to 9am when the dental office is not open. This primary use by applicant will barely overlap with the dental office, possibly on Thursday.

The striping of the additional 15 spaces will provide more than adequate parking. He requested that the board overturn the building inspector's determination because it is within the board's authority to make the determination to waive the requirement for the additional seven (7) spaces.

Mr. Silverstein stated that many of the clients would come from Weymouth. He noted that the applicant has looked for over a year for an available site.

Ms. Murray referenced the July 2000 site plan. She noted that the structure was built in 1987/1989 for spec purposes for retail. Previous usages have included Chester's Chicken, Pop's lollipops, Iona Dental, and Kindred at Home which was a healthcare-related office use.

The use of this property is transitioning from retail use to medical office. The building has 4700 square feet. The parking ratio is 1 per 100 SF thus 47 spaces are required.

She noted that the dental office and Kindred did not have parking issues when fully occupied.

It was noted that Kindred was an at-home call center, not necessarily seeing patients, with minimal employees.

Ms. Murray noted that there are no expansion plans.

Meridien Dental is not open 3 days per week. Two (2) other mornings they do not open until 9am or 10am. There is one day when they open at 7am.

There are currently 26 marked spaces on the site. The property owner and applicant will stripe for 40 spaces which is a net of 14 spaces. In addition, Acadia has negotiated with 1501 Bedford Street in Abington, .2 miles down the street. A letter

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of intent for the 10 spaces has been signed; however, a permit may be required from the Abington Zoning Department. If board willing to entertain this, the applicant would secure the necessary permits.

Mr. Silverstein spoke regarding operational issues. He stated that after 9am there will only be office staff, scheduled appointments, and individual/group counseling. The office closes at 2pm.

They currently have a location in Quincy and a mobile van for 200 clients who would be transferred to this location. Many of these clients are residents of Weymouth.

Clients come to the location between 5am to 9am for dosing. Each office visit lasts 5-8 minutes. The office is open seven (7) days per week.

Mr. McLeod pointed out that this time is peak traffic time on Route 18 North heading towards Route 3.

Mr. Davis noted that there are approximately 125 people per day over a 4-hour period. He stated that 30-40 people per hour is a not significant impact on traffic. He added that the adequacy of parking is the issue and that they are asking for a reasonable accommodation.

Mr. McLeod expressed concern that if there is not enough parking, there would be parking on the street.

There are seven (7) employees at Acadia. The applicant was not certain how many employees work at Meridian Dental.

Mr. McLeod pointed out that the facility has not been used to this extent and has never experienced this flow of traffic.

Mr. Silverstein stated that there are 40 spaces on site (required 47, deficiency of 7). It is his position that it is a reasonable accommodation to have the 40 spaces on site with 10 dedicated off-site spaces. He added that during the peak operation period, the other tenant is not operational. There is only a short period of over-lap. It is expected that there would only be 30-40 people per hours.

Matt Davis stated that after 9am, there are staff meetings, paperwork, and intake.

Mr. Foley asked about the Counseling group and/or individual counseling.

Mr. Silverstein stated that this would be held between 5am and 9pm. It is typically about 8 people for one (1) hour.

Mr. Foley asked if the parking studies were for locations no in Massachusetts

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Mr. Riscella stated that they were for locations in the Northeast because there were no locations in Massachusetts.

Mr. Foley asked about the ramp at the rear of the building.

Mr. Riscella stated that the ramp is three (3) foot wide and a 20-foot long with a railing.

Mr. Foley noted that it is a tight turn. Mr. Riscella pointed out that the plan was approved by the town.

Mr. Davis stated that they are adept at managing patient flow. He added that there would be security staff outside for public safety.

Mr. Richards stated that when the parking plan was approved, the usage was half medical and half retail.

Mr. Callanan stated that the applicant's request for a reasonable accommodation is for Seven (7) spaces which amounts to 15% of the total parking required. He stated that reasonable accommodation is typically applied to residential usage.

He added that the applicant is basing the request, in part, on the fact that, historically there have been no parking problems on the site. He continued that this is the first time the site has been used entirely for medical usage.

The 5am-9am model involves an intensity of use that creates more need for parking in a short period of time.

Mr. Callanan pointed out that the off-site parking is speculative. It is not something to rely on.

He noted that this location is in the southern-most part of Weymouth. With 2/3 Weymouth's residents using this facility coming south on Route 18, this site would require 20-25 left-hand turns across Route 18 at rush hour.

Mr. Callanan suggested looking at other areas of town. He added that there are other locations of this type of use in Weymouth. The town is not trying to have a strict application to deny a methadone clinic; there are other clinics in town.

Mr. Moriarty stated that he questioned that the majority of people would come from Weymouth. He noted that the location is on the Abington line and also near Southfield and the connector road to Rockland.

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He questioned the safety of the employees walking from the off-site location along Route 18.

Mr. Moriarty asked about snow removal. It was noted that the facility would not close during a snow storm. Snow would have to be moved off-site.

Mr. Moriarty noted that there is no dumpster on the plan. He also asked about deliveries.

Mr. Silverstein stated that there is not a dumpster on the site. The delivery of Methadone is once per month. Deliveries are between 10am and 2pm.

Mr. Moriarty asked if clients are randomly tested. Mr. Silverstein noted that the dosage is not given if the client is impaired. If someone is impaired, they are expected to not drive away from the clinic if they drove themselves, or the police will be called.

Mr. Denizkurt asked what other sites were considered. Mr. Riscella stated that he had provided a list previously but could not recall specific locations.

Mr. McLeod asked if there was anyone present who would like to speak. There was the following response.

Councilor Smart stated that he supports Mr. Richards denial of this request. He noted that this request has not been vetted by the fire department. He continued that with the up-coming work on Route 18, crossing traffic during rush hour is a safety concern.

Mr. Luongo stated that this is a determination to uphold the decision of the building inspector. It is not a special permit or variance and had not been vetted.

Mr. Silverstein stated that the applicant had clearly spelled out the request that was being requested this evening.

He added that they would agree and commit to a condition that requires off-site parking for employees whether at the Abington site or some other location.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to uphold the decision of the Building Inspector as the request is not an appropriate use of the site as the parking is not adequate such that a reasonable accommodation cannot be provided; 7 spaces is a large amount (15% of the total), there is only one entrance, spill-over parking onto Route 18 if not enough spaces, and left-hand turns across rush-hour traffic. It was noted that the applicant

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may seek a variance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

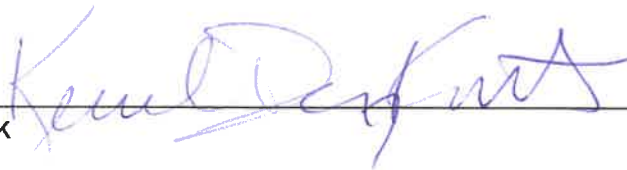
Other Business

1. Conflict of Interest Law Summary - Acknowledgment of Receipt
2. Minutes 1/3/2018
Mr. Foley made a motion to accept the minutes of 1/3/2018 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.
3. Upcoming meetings - February 14, 2018, March 7, 2018, March 21, 2018

Adjournment

Mr. Foley made a motion to adjourn at 8:15pm and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Approved by:
Mr. Denizkurt, Clerk



3/7/18
Date