

TOWN COUNCIL MINUTES
Ordinance Committee
Town Hall Council Chambers
July 12, 2012-Thursday

Present: Michael Smart, Chairman
Jane Hackett, Vice Chairman
Arthur Mathews, Councilor
Ed Harrington, Councilor
Kenneth DiFazio, Councilor

Also Present: James Clarke, Director of Planning and Community Development
Walter Flynn, Chair of Planning Board

Recording Secretary: Mary Barker

Chairman Smart called the meeting to order at 6:30 PM.

12 089 –Rezoning request 11 Adams Place-Application submitted on behalf of Applicant-Cumberland Farms, Inc., Map 45, Block 514, Lot 8, from Residential R-1 to Limited Business B-1

Chairman Smart reported that this matter was referred to the committee on May 21, 2012. The committee met on June 11, 2012. A joint public hearing was held with the Planning Board on June 11, 2012 and the public hearing was closed on July 10, 2012. He noted that this was one of the better presentations made and commended the applicant. The matter was referred to the Town Council which met and deliberated on July 16, 2012. 72 of the abutters were notified and many were heard in the public hearing. He reminded the audience that this is a public meeting but no further public testimony will be accepted at this time. He opened the discussion to the committee.

Councilor Harrington read the following citing Ch. 120-22 as the criteria for a Special Permit:

“This proposal is to re-zone an R-1 lot into an B-1 lot and develop the property into a large convenience store and gas station combination. In order to approach the decision making process in a clear and organized fashion I have adopted the criteria as set forth in the Weymouth codes section 120-122. These criteria are used as a basis in decision making for special permits, a closely related, almost identical process.

The criteria are designed to protect the Town of Weymouth and its residents in considering proposals and their effects on the town and the neighborhoods therein. They seek to allow only proposals that promote public health, safety, convenience and welfare and the conservation of property values. These criteria preclude the use of a property that is noxious, offensive or detrimental to a neighborhood.

I refer to Weymouth Zoning (sec. 120-122 D and the five criteria contained therein:

Criteria 1- The specific site is an appropriate location for such a use.

It is not appropriate to build a store on that lot as it is an R-1 zone. A comprehensive review of zoning was accomplished in 1990- it is viable and working today. This proposal runs contrary to that zoning review.

I find that this proposal does not meet this first criteria.

Criteria 2- The use involved will not be detrimental to the established or future character of the neighborhood or town.

The Adams Place neighborhood now has a specific character. It has been described by the neighbors as a 'quiet county lane', a 'secluded dead end street' a 'secure and quiet close knit neighborhood where their children can play and wander about.'

Those who live there have relied on the R-1 designation of 11 Adams Place in choosing this street as their place to live and where they raise their families.

This neighborhood has a distinct established character. To rezone this R-1 parcel to B-1 would be detrimental to the established and future character of this neighborhood.

I find that this proposal does not meet this second criteria.

Criteria 3- There will be no nuisance or serious hazard to vehicles or pedestrians.

Rezoning this R-1 lot to B-1 will provide the applicant with the opportunity to build a large convenience store and will greatly increase the number of gas pumps at the facility. There would be a marked increase in the number of vehicles and pedestrians entering and exiting the facility. Last year, prior to the filing of this proposal, I met with Councilor at Large Patrick O'Connor at this intersection to observe existing dangers already at this intersection, caused by vehicles crossing through lanes of moving and queuing traffic attempting to the Dunkin Donuts on the other corner on the same side of the street.

Sometimes these vehicles queue into the street blocking the flow of traffic. It is the busiest Dunkin Donuts in the world.

Additionally, residents of Adams Place have stated that due to Adams Place's close proximity to the Main Street driveway of the gas station there, some customers exiting the station mistakenly believe that Adams Place residents indicating a turn onto Adams Place are actually trying to enter the Gulf station. This common mistake on their part has resulted in accidents and near accidents. An increase in the number of vehicles exiting the business could result in an increase in accidents and near accidents and would increase the difficulty of making the turn there for the residents.

Our Town of Weymouth Traffic Engineer, Georgy Bezkorovainy, has stated that the town of Weymouth Planning Department has major concerns regarding this project about

levels of service at this intersection and that the operating levels reported by Cumberland Farms traffic engineer are distorted. They did not take traffic queuing into consideration in analyzing the Park Avenue West and Main Street driveways and disregarded the lights at the intersection in analyzing traffic flow through the intersection.

Additionally, the Weymouth Town Traffic Engineer said that their engineer did an inadequate job addressing the existing Dunkin Donuts driveway congestion.

I find that the increase in vehicles entering and exiting this proposed business rezoning application will cause an increase and exacerbation of nuisance and serious hazard conditions at this intersection. There is no way that the applicant can address this nuisance and serious hazard issue.

I find that his application does not meet this third criteria.

Criteria 4- Adequate and proper facilities will be provided for the proper operation of the proposed use.

The proposed facility might function well in another more appropriate location. However, proper operation of the proposed use should include safe entry and exit and should not increase the danger of vehicles accessing adjacent streets or businesses. The proposed use would cause a nuisance and serious hazardous conditions.

I find that this application does not meet this fourth criteria.

Criteria 5- The public convenience and welfare will be substantially served.

There are several other gas stations within 2-3 miles of this location. There is no demonstrated need for another gas facility. Other vendors are conveniently located; therefore there is no substantial increase in convenience.

There are six other convenience stores/grocery stores within a mile of this proposed location. These other, existing businesses are very convenient to all local residents and neighbors. This proposal offers no substantial increase in convenience. The welfare of the public will not be increased.

I find that this application does not meet this fifth criteria.

Conclusion

I find that the adoption of these criteria has been helpful in the development of a clear decision. The primary purpose of the Weymouth Zoning bylaws (Zoning, section 120-2), is to 'promote the health, safety, morals, convenience and general welfare of the inhabitants of the Town of Weymouth.' As you know, these criteria were developed specifically to assist as guidelines in formulating decisions regarding special permits. However, these criteria are apropos in the development of this discussion and decision,

and provide a sound basis for this decision making process regarding the application to rezone.

The application does not meet any of the criteria.

I conclude then, that this application to rezone the property at 11 Adams Place Weymouth should be denied. I am voting against this proposal."

During this discussion, Councilor DiFazio arrived.

Vice Chairman Hackett read the Planning Board's recommendation into the record:

"The Planning Board hereby transmits its report and recommendations on the above referenced request for property rezoning. A joint public hearing with the Town Council was held on June 11, 2012 and the Planning Board continued its hearing to June 19, 2012 when the hearing was closed. The board deliberated at its regularly scheduled meeting on July 10, 2012 and voted to recommend denial of the requested zoning change. The vote was 4-1 in favor of the denial, with Walter Flynn in opposition to the motion.

The property is a single family residence on a lot of 11,190 square feet. It has frontage and access on Adams Place, a residential street containing twenty (20) residences. The property is bordered on the east side by a Gulf service station which fronts on Main Street, Park Avenue West and Adams Place. The other abutting properties are residential uses. The Gulf station property is zoned Limited Business (B-1). The property to the south of 11 Adams place on the corner of Main Street and Adams Place is zoned Medical Services District (MSD).

Cumberland Farms, Inc. is the owner of the Gulf Service Station and has owned the property since 1986. The property has been a gasoline service station, in various configurations since 1930. In April 2012 Cumberland Farms, Inc. (CFI) entered into a Purchase and Sales Agreement with the owners of 11 Adams Place. At the public hearing, CFI presented plans to raze the existing service station and dwelling and build a new convenience store with gasoline dispensing service islands.

The Planning Board based its recommendation on the following concerns which were discussed during the meeting of July 10, 2012:

- *The proposed commercial use should not encroach on the residential uses on Adams Place.*
- *The existing B-1 zoned property is large enough to accommodate the service station use.*
- *There could be increased traffic congestion with the expanded commercial use that would impact residents on Adams Place.*
- *A previous review of zoning had been completed for Route 18 in 1990. Any new proposal should review the zoning in a more comprehensive manner.*
- *The Route 18 widening project might impact the future use of the site.*

- *A previous request to rezone residential property on Middle Street near Main Street was not recommended by the Planning Board and the board should remain consistent in its recommendations.*
- *Rezoning to expand commercial use at this location would impact residences on Adams Place and Park Avenue West.*
- *The 1990 rezoning study tried to protect residences on side streets by reducing the business zoning area to the lots that fronted on Main Street or Washington Street. Therefore the four corners of this intersection (Main Street and Park Avenue West) are not uniform in size or depth and that is by design.*
- *One member did note that if the Medical Services District rear line were extended north to Park Avenue West it would nearly bisect the lot in question.*

For these reasons the Planning Board recommends denial of the proposed zoning request.”

Chairman Smart noted that Councilor Harrington has covered the criteria for allowing the application to move forward. There have been six rezoning requests considered over the last ten years, and each is taken seriously. There are many concerns with the traffic, and the residents concerns are real.

A MOTION was made by Councilor Harrington to deny 12 089 –Rezoning request 11 Adams Place-Application submitted on behalf of Applicant-Cumberland Farms, Inc., Map 45, Block 514, Lot 8, from Residential R-1 to Limited Business B-1, and was seconded by Councilor Harrington. Councilor Mathews reported he supports the motion; there are major concerns with the impact to the quality of life for the residents of Adams Place. Cumberland Farms has other options with regard to the site. UNANIMOUSLY VOTED.

A MOTION was made by Vice Chairman Hackett to take Overall Zoning out of order and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Overall Zoning

Vice Chairman Hackett requested this review. Planning Director Jim Clarke spoke several months ago about Route 18 from Independence Square to the Abington line with respect to the build out of the base. Over the summer, data on land uses, use patterns, and an opportunity to make changes will be analyzed and linked. Once information is gathered they hope to meet in September with the Planning Board. Vice Chairman Hackett would like to see the study expanded to include more than just Route 18; envisioning ways to capture redevelopment opportunities along 18 and the potential merger of South Shore Hospital with Partners Healthcare for the continued growth and potential changes in land use along the road. The discussion should also include Columbian Square; not just to protect, but enhance from its development. Host community funds are going to be coming soon for enhancement of the area, and there is a need to review the zoning for uses that might be prohibited under the current zoning. There is limited new growth revenue in the community and this could be an opportunity for new growth. She is also interested in the landscaping and architectural standards

begun in the Master Plan. With the denial of the Cumberland Farms application, there is a need to incorporate appearance into the zoning. With the construction on 18, 53 and 3A and the Fore River Bridge at 25% design phase, there needs to be a meeting with the Economic Development staff to review the administration's comments. The committee should also work with Mass Highway as a group to get what it deserves. She would like to raise the bar on what goes in and what it looks like. Mr. Clarke is already using the landscape and architectural standards.

Councilor Smart responded that the town should not want to miss an opportunity to support new growth. Vice Chairman Hackett noted that she does not have concerns with the administration and board's commitment, she is looking for a manner in which to provide enforcement authority, and cited the example of the AutoZone site. Councilor Mathews suggested the review include a look at what other communities have done. They are asking for information gathering at this time, and the Planning Director can provide an analysis after school starts. Councilor Harrington asked if aesthetic standards will be considered-similar to what was done in the landing. Councilor Smart responded yes; but as a guideline for a fit in Columbian Square. It will be to formalize what the Planning Board is using now as a guideline, and to consider as part of the ordinances. Councilors Harrington and Molisse co-sponsored a blight ordinance a few years ago, but there is a problem with enforcement. A ruling will be requested from the Town Solicitor if this is considered a reorganization.

**12 098 –Rezoning Application from 203 Middle Street Clapp Memorial Building-
Application submitted on behalf of Applicant Davis Clapp, LLC**

Planning Director and Mr. Deady will present the application in power point at the public hearing. A Purchase & Sale Agreement has been signed but the purchase is not completed at this time. Mr. Clarke reviewed the request for the rezoning; it is currently zoned R-1 residential and requires a change to implement the design Mr. Deady has in mind for the property. The simplest solution is to rezone to open space district; then apply to BZA for a special permit. Without rezoning, the project cannot go forward. there was a brief discussion on zoning of Bicknell and Pratt properties. Mr. Clarke noted the zoning in both cases was unchanged, but held back some of the land from the purchase. The applicant would like to maintain the historic nature of the building.

Mr. Deady reviewed the proposed plan for the property. He met with his architect and listened to the neighbors and reduced the density of the original plan. The plan calls for ten units of residential housing in four buildings out in the back of the Clapp; two triplexes and 2 duplexes. Parking for residents will be in the rear of the building. Gate access will be from both Middle and Broad Streets, so it will not be a cut-through. There will be a building slightly larger than a shed for housing of maintenance equipment for the property. The homeowners' association will handle trash, snow, etc. He reviewed the proposed layout for the units. All will be 2-bedroom units of approximately 1200 sq. ft. and will all be single level living. An elevator will serve all floors of the Clapp Building according to the building code. He will preserve as much of the design character as possible.

Mr. Deady reviewed the changes in construction, noting that he saved as much of the historic elements as possible and reviewed the lighting and utility line plans. Some of the design will mirror the historic nature of the neighborhood as well. The buildings will be clapboard, brick and wood with no vinyl.

He will use the traffic study which was completed for the previous proposed development. The traffic engineer confirmed it is applicable. He offered matching grant funding to the Central Square district property owners with the sale of each unit. The impact of the proposal is less to the town and schools than it would have been if the current R-1 zoning remained- four single-family homes could be built. He reviewed the contractor selection process he intends to use and will consider bids from Massachusetts companies, with a preference to Weymouth, and union if low bid.

Mr. Deady met with the water superintendent to confirm the water calculations were correct and that the town services can support the proposal. There will be connection fees charged and he will be required to install a fire line for a hydrant and sprinkler system, both at no charge to the town. He reviewed the plans for the outside of the property including landscaping, dumpsters, social spaces for the residents, and a community room available to nonprofit area groups. Mr. Deady reviewed his proposed building schedule. Building of subsequent units will require initial units to be sold first. There will be deed restrictions/covenants regarding owner occupancy. He has not considered any age restrictions. Mr. Deady submitted a petition to the town that was signed by many area residents in support of his proposal.

ADJOURNMENT

At 7:57 PM, there being no further business, a MOTION was made by Councilor Mathews to to ADJOURN the meeting and was seconded by Vice Chairman Hackett. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Michael Smart as Chairman of the Ordinance Committee