

**Planning Board Meeting
November 26, 2001
7:30 P.M.
D.P.W. Bldg.-120 Winter Street**

Members Present: Paul Hurley (PH)-Vice-Chairman, Scott Curry (SC), Walter Flynn (WF), and Jody Lehrer (JL)

Also Present: James Clarke (JC)-Director of Planning & Community Development
Rod Fuqua (RF)-Principal Planner
Andy Sumanadasa (AS)-Traffic Engineer
James Keefe (JK)-Procurement Officer
Brad Hayes (BH)-Superintendent of Water & Sewer
Robert O'Connor (RO)-Interim Director of D.P.W.
Andrew Chip Fontaine (AF)-Town Engineer

Absent: Paul Dillon

Paul Hurley called the meeting to order at 7:30 p.m.

Item 1. Applicant: Ryder Development Corp.
Present: Kenneth Ryder and Ken Teebagy, P.E.
Locus: Sunset Road
Sheet: 11, Block: 163, Lot: 2
Zone: (R-1)
Request for road conditions.

(PH) referred to (RF).

(RF) stated that there were 2 lots approved through the zoning board for Sunset Road. He stated that one of lots has been built and the second has not yet been constructed, but is located on plan as proposed house. He stated that the applicant, Ken Ryder, was here before the board to request an extension of existing pavement on Sunset Road to go across the front of the two lots. (RF) stated that the board has a submitted plan to show these improvements.

(JC) stated that these 2 lots edge the Great Esker Park and the Board of Zoning Appeals had conditions to stabilize the bank behind these two lots and they are not yet completed and owner, Ken Ryder, is aware that additional stabilization is needed. This case has also gone to Conservation because there were questions and concerns raised by residents about the wetlands. The Conservation Commission did not agree with the Conservation Administrator with the wetland line that was drawn, and there is no final action by the Commission at this time.

(JC) also stated that the slope along the west side of the existing house is now stable and has been grassed and this would be an extension along the existing elevation. There were also concerns raised by residents about access to Julia Road Park and Mr. Ryder has already restored this access and it is now accessible to people to get to the playground.

(PH) asked (JC) if they could recommend it now or does the Board need to wait for some other action.

(RF) stated that request was sent to various departments to review.

Tax Collecting Dept. has no issues.

Police Dept. has no issues.

Conservation Dept. has five conditions:

- a.) Road be constructed in accordance with Planning Board specifications.

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- b.) Existing slope between edge of road and wetland be reviewed by Conservation after roadway is built.
- c.) Per Planning Board to keep the roadway as far to the east, to prevent possible encroachment to the Great Esker.
- d.) Cape Cod berm to be installed between edge of road and wetland.
- e.) Footpath to the Julia Road Playground

The Dept. of Public Works-has no issues for sewer and water. (RF) stated that the plan does not show existing water line, but that the Engineering Dept.-stated that they would like to see the roadway, catch basins and grates line up better. They also mention the water and sewer lines and a hydrant to the side of the house. They would like to see the hydrant line up with manhole cover. They also request the pavement be done according to D.P.W. specifications. They also would like to see the existing cul-de-sac replaced to D.P.W. specs and any survey monuments replaced by a registered surveyor.

(RF) recaps conditions of engineering.

(PH) asked for a motion, (SC) makes the motion, seconded by (WF), and then Mr. Ryder asked if the footpath to the playground had to be paved and (JC) stated that they preferred to see stone dust and then **voted UNANIMOUSLY.**

(PH) asked to take Item 4 on agenda next.

Item 2. Form A on Shawmut Avenue

Locus: 67 to 73 Shawmut Street

Sheet: 23 Block: 307 Lots: 39 & 40

(RF) stated that the plan submitted show new lot line to provide for a side yard. (RF) also stated that Shawmut St. is a public way and approval is not required for Form A if both lots meet the following criteria:

1. Both lots have enough frontage as required by zoning.
2. Road work be done under subdivision control or if not, to be done according to Planning Board standards.

(RF) stated that they meet these requirements.

(PH) asked if the Board had any questions?

None were given so (SC) made the motion to approve, seconded by (WF) and **voted UNANIMOUSLY.**

Item 3. Public Hearing

(P.H.) reads announcement to open hearing at 7:45 p.m.

(JL) reads MGL Zoning Ordinance 120-121, which states that Town Code prohibits repetitive petitions to special permits to the Board of Zoning Appeals within two years.

(SC) motions to open hearing, seconded by (JL) and **voted UNANIMOUSLY.**

Applicant: Tricon Global Restaurants, Inc.

Locus: 39 & 45 Winter Street

Sheet 33, Block 376, Lots 19 & 20

Zoning: (B-1)

Seeking consent of the Planning Board to reapply to the Board of Zoning Appeals within two years of a denial, case#2542, special permit application for a KFC/Pizza Hut restaurant with a drive-thru window service, because they have made significant changes to the plans.

David Kelly. Attorney at Law, Frank Monteiro. P.E., Site Engineer, Jim Santos, Construction Manager for Tricon Global Restaurants and George Bzkorovany, Traffic Engineer from Bruce Campbell & Associates.

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David Kelly explained why application failed at Board of Appeals., 3-members in favor and 2-against. He explained that the applicant, Tricon, has addressed those two issues by making specific material changes and should be allowed to return to the Zoning Board. He discussed this approval being a procedural matter and with only 4-members present he would need an unanimous vote to return to the Zoning Board. He also stated that originally Tricon was looking also for a sign variance and now they are not.

Mr. Monteiro showed a new plan where there was a new by-pass lane next to the proposed drive-thru window and also some new landscaping design to remove shrubs because of sight distance concerns by the Zoning Board.

(PH) asked members if they had any questions?

(PH) then asked (RF) why the Zoning Board denied.

(RF) stated that the primary concern of the Board was traffic and the line of sight verbally mentioned. Now it has been formalized. The Planning Board needs to determine of this application if specific and material changes have been made to meet the standard of change to go back to the Zoning Board of Appeals.

(RF) explained that the two members, who were opposed, were because of traffic & pedestrian issues.

(JC) discussed the overall site, traffic, and existing situations. He also stated that he has had discussions with Mass. Highway and they have stated that there will be changes in the next 6-8 months.

(PH) opened the meeting to public comments.

Dr. Schribnick of 57 Winter St., Mill River Office Park, an immediate abutting property, read a letter he prepared and submitted to the board. He complained of odors that would come from the restaurant that would disturb his asthma and allergy patients and of the driving dangers that currently exist at this location that would only become excessively worse with the addition of the by-pass lane.

(PH) explains Chapter 40-A, Section 16.

Jim Baldasini of 59 Winter St., Mill River Office Park of 15 years, spoke also about the driving dangers that he has experienced. He stated that he feels there are not substantial enough changes to Ch. 40-A, Section 16 to warrant the premature return to the Board of Zoning Appeals. He stated that the changes that have been made do not address the BZA's concerns enough to return.

Jim Cummings of 175 Front St. also spoke of the traffic dangers.

Joe Piscello of 55 Winter St., asked if anyone has an estimate of the traffic flow.

(JC) discussed the changes. He stated that the BZA will make the determination of the changes. He also explains that if specific and material changes have been made that it then warrants a new review of the Board of Appeals which would be the appropriate forum. He also stated that Mass. Highway has committed to making changes at this intersection.

(JL) asked what the Planning Board job is on this.

(JC) describes the Board of Zoning Appeals position to determine this. He also stated that the Planning Board's position is to determine if the changes that have been made are adequate enough to consent to return to the Board of Appeals.

(PH) asked for any comments or questions.

Jim Cummings asked if the Mass. Highway changes are better or worse.

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(JC) stated that is the purpose of a new hearing of the Zoning Board of Appeals. The Zoning Board will hear from traffic engineers. He stated that Mass. Highway agreed to make changes at this location.

(PH) asked when the ZBA heard the original case.

(JC) stated June 12, 26 and July 26.

(PH) asked for a motion to close the public hearing for the purpose of a vote.

Motion was made by (SC), seconded by (JL) and **voted UNANIMOUSLY.**

(SC) made the motion to approve to go back to the Zoning Board of Appeals, seconded by (JL) and **voted (SC)-yea, (JL)-yea, (WF)-yea, and (PH)-ney**

David Kelly asked for the reason for the ney vote.

(PH) stated that he did not agree that the changes made were specific and material to warrant the return to the board. He stated that it did not change the original application.

(DK) explained that he felt it did. He discusses the traffic flow and that it is highly material change to the original application.

(JC) explained procedures to the Board and that the applicant can reapply to Planning Board when all five members are present so an unanimous vote is not necessary, but that the reconsideration has to be acted on immediately. Members of the Board discuss amongst themselves for a few minutes.

(PH) concludes the Public Hearing.

Item 4. Capital Budget

Dept. of Public Works

Chip Fontaine, Town Engineer, discussed the Engineering Dept. Capital Budget Items requested:.

1. Engineering Division

- a. Creation of a Pavement Management System, \$85,000 for fiscal year 2003.
- b. Flood Mitigation at Wituwamat & Wessagussett Roads, \$330,000 for fiscal year 2003.
- c. Microfilming & Digitization of Documents, \$30,000 for fiscal year 2003.
- d. Drainage Projects-various locations, \$135,000 divided over the next 5 years.
- e. Seawall Repairs-various locations, \$165,000 divided over the next 3 years.

Bob O'Connor, Interim Director of D.P.W., discussed Highway Dept. Capital Budget Items requested:

2. Highway Division

- a. 29-Items of New Equipment,
 - \$ 868,000 for the current and next fiscal years 2002 & 2003
 - \$125,000 for fiscal year 2004
 - \$200,000 for fiscal year 2005
 - \$ 175,000 for fiscal year 2006.
- b. Misc. Road Improvements, \$ 250,000. for fiscal years 2006 & 2007

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Brad Hayes, Superintendent of Water & Sewer, discussed the Water & Sewer Dept. Capital Budget Items requested:

3. Sewer Division

- a. Annual Infiltration & Inflow \$8,000,000 divided over the next 5 years
- b. Cap. Improvement Projects #1 through #5, \$ 14,600,000 divided over the next 5 years.
- c. Sewer Main Replacement Program, \$ 2,000,000 divided over fiscal years 2003 through 2007
- d. Montcalm Street, \$ 1,000,000 for fiscal year 2005.
- e. 4-Items of New Equipment, \$ 80,000 for FY 2003, \$ 700,000 for FY 2004, \$ 3,250,000 divided over FY 2003 and 2004,

4. Water Division

- a. Water Main Replacement Program, ACO, 5-separate applications combined for \$ 7, 250,000 divided over fiscal years 2003 through 2007.
- b. 3-Items of New Equipment, \$ 90,000 for FY 2003, \$ 35,000 for FY 2006, and \$ 95,000 for FY 2006

Item 5. Other Business

None stated at this time.

Item 6. Adjournment

Having no other business, (SC) motioned to adjourn, seconded by (JL) and voted **UNANIMOUSLY**. Meeting was adjourned at 9:30 p.m.

Respectfully Submitted,
Elonie Bezanson
Recording Secretary

Approved:

Paul M. Dutton

10/8/03
Date