

Planning Board Minutes October 25, 2005

BOSTON PLANNING BOARD OCTOBER 25, 2005

PRESENT: Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

David Bernas

Robert Chelus

Tim Kirst

EXCUSED: J. David Early

Jeff Mendola

Michael Pohl

ALSO Brien Hopkins Councilman ? Town Board Liaison

PRESENT: Dennis Kramer Code Enforcement Officer

Paul Przybylski 8381 Boston State Road ? Owner/Applicant

Dr. Mark Horn 8381 Boston State Road ? tenant

Chairman Hacker called the meeting to order at 7:30 PM. , and appointed Mr. Kirst as a regular and voting member this evening.

MINUTES

Being no corrections or additions Mr. Stringfellow made a motion to accept the minutes of October 11, 2005, seconded by Mr. Chelus and carried.

CORRESPONDENCE

Mrs. Hacker reported the following:

- Planning Board letter dated October 12, 2005 to the Town Board recommending acceptance of the change at 7336 Boston State Road
- Received Town Board minutes of October 5, 2005

LIAISON ? COUNCILMAN HOPKINS

Mr. Hopkins reported:

- Highway Superintendent Telaak is dealing with drainage problems at Hickory Meadows subdivision
 - o Town Board would like the Planning Board to address the situation with the Emerling?s and Mr. Telaak
 - o Discussion followed ? it was decided to invite Mr. Telaak and Foit-Albert Engineer Scott Kinsman to the November 8, 2005 meeting to determine the problems and obtain their solutions before addressing the situation with the Emerlings.
- Following the Town Board meeting on October 19, 2005, he asked reporters to publish that the Planning Board is looking for Alternate members

CHANGE OF USE REQUEST ? 8381 BOSTON STATE ROAD

Mrs. Hacker said that she has received several calls regarding the site plan review for this project, including Town Clerk Shenk, at which time he stated that he talked to the future tenant and Mr. Shenk told him that he wasn?t sure how the Planning Board would handle this matter, whether they would make him hold right to the letter of the law or whether they would go easy on him. Mrs. Hacker said that she advised the Town Clerk that the Planning Board was adhering to Town Code as they have in the past.

She also said that Mrs. Vacco has spoken with the tenant?s attorney and he stated that a chiropractor is not a doctor and referred to Town Code Section 123-103 H. which then makes the proposed parking sufficient; and that, as there is no parking in the rear of the building that no variance would be needed.

Mr. Kramer: With regard to that Section, this 1200 square foot building, 6 parking spaces would be sufficient. Mr. Przybylski has improved the looks of the property; he has torn down the old lean-to; installed a new fence; and being an existing structure we should allow parking to continue to be in front of the building.

Mr. Stringfellow: In regards to what was said about treating people fairly, a year or so ago Councilman Hawkins purposely attended some of our meetings, and the primary message that I got from what he said was we don't want anymore of this good old boy stuff, we want the same set of rules for everybody; and that is what we have been doing, and now we're getting complaints ? this is a good old boy, don't be hard on him. Maybe not is those words ? but the message is don't be harder on some people than on others. I think we have been told follow the rules to the letter, we have been doing that and we should continue to do that.

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Mrs. Hacker: The State of New York Board does not recognize a chiropractor as a doctor. The parking, as it is laid out is sufficient. There is no need for a variance for the ingress/egress. Other items we asked for were lighting and signage.

Mr. Przybylski: There are several down lights, an extended soffit across the front, lights by the side door.

Mr. Kirst: Outside the scheme of the whole zoning, doctor or not, because it's an improvement, we sure don't want to turn a tenant off from coming out here. There are so many other vacant building around, we want to bring business in; we want to bring patients and people in to support the businesses. That's just my opinion.

Mr. Bernas: What troubles me is when people outside this room have conversations in the Town Clerk's office or wherever; when there's the opportunity for the public to come here, or any developer, or owner or advocate for your project or anybody else's. These meetings are open, this should be the place it's done, and I have a problem with that it doesn't give the public an opportunity to hear what occurs at our meeting; and how we are treating them. It's a little unfair to guess that we're not treating everybody the same.

Mr. Stringfellow: But every other business property that did not meet the set back requirement had to go for a variance on a change of use.

Mr. Przybylski: The consultant's letter noted that the lot size and the setback could be waived because it's already existing.

Mr. Kramer: What you have here is a legal non-conforming building, in the front yard setback because it is existing. However, if you go to the Zoning Board the applicant has to prove a hardship that is not self-created. In this case the Town Code created this hardship; and I do believe that this variance request would be approved.

Discussion followed on this topic.

Mrs. Hacker: As we left this at the last meeting the parking needed to be addressed, lighting and signage. These have been submitted on the site plan; Mrs. Vacco assured me that "we are good." And I'm told by our Town Attorney that we do not need a variance.

Mrs. Hacker asked the hours of operation.

Dr. Mark Horn replied:

- I have been in Boston since 1980
- I am currently part owner of the Boston Professional Building with Dr. Charles Matlach, and I am selling my share to Dr. Matlach
- I've been a President of the Boston Chamber of Commerce
- I'm not just somebody who dropped into the Town of Boston, Mr. Przybylski has a tenant that he knows is going to be stable
- Mr. Przybylski was going to tear down the building until I decided to rent the building
- Monday hours ? 10:00 AM ? 6:30 PM
- Tuesday hours ? 10:00 AM ? 5:00 PM
- No hours on Wednesday
- Thursday hours ? 10:00 AM ? 6:30 PM
- Friday hours ? 9:00 AM to 12 or maybe 1:00
- I book four people an hour ? 2 every half hour

Mrs. Hacker: What about signage?

Mr. Przybylski: Dr. Horn is planning to move his sign from its current location to the new location.

Discussion followed regarding sign size.

Mrs. Hacker asked if there were any further questions or comments.

Mr. Chelus made a motion to accept the site plan submitted, dated received October 18, 2005, contingent on any proposed sign being in conformance with Town Code and properly approved, seconded by Mr. Kirst. The roll call vote was as follows:

Mr. Bernas: abstain, I did not receive the mailing and was unable to review the site plan prior to this evening.

Mr. Chelus: yes

Mr. Kirst: yes

Mr. Stringfellow: abstain

Mrs. Hacker: abstained due to personal conflict.

Mrs. Hacker asked that a letter be sent to the Town Board with the results of the vote and that the application is being returned to the Town Board for their review and recommendation.

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RICHARD BROX CONTRACT RENEWAL DISCUSSION

Mrs. Hacker read Mr. Brox's letter requesting contract renewal.

Discussion followed.

Mr. Stringfellow made a motion to recommend the contract be renewed, seconded by Mrs. Hacker. All in favor.

OLD BUSINESS

Kids Country Child Care ? 7346 Boston State Road

No response to our inquiries.

Mrs. Hacker will ask Town Attorney Vacco to send a letter to Theresa Betz.

Subdivision Check-off List

Tabled until the meeting of November 8, 2005.

Mrs. Hacker asked if there were any further business for this Board?

Mr. Kramer: I mentioned this some time ago, and I still think that Chapter 97 "Site Plan Review" is not practical, when there's a change of use at an existing building. I think the Planning Board should address compiling a more appropriate list for these circumstances.

Discussion followed.

Mrs. Hacker asked if there were any further business?

Being none, Mr. Stringfellow made a motion to adjourn at 8:51 PM., seconded by Mr. Bernas. All in favor.

Respectfully submitted,

Patricia J. Hacker

Chairman

PJH:tjf