

## HINGHAM PLANNING BOARD MINUTES

February 28, 2022 @ 7:00 PM

REMOTE MEETING

**Planning Board Members Present Remotely:** Kevin Ellis, Gary Tondorf-Dick, Judith Sneath, Gordon Carr, Rita DaSilva

**Also Present:** Emily Wentworth, Community Planning Director, Michael Silveira, Senior Planner; Susan Murphy, Esq., Special Real Estate Counsel

**Members Absent:** None

At 7:03 p.m. Chair Ellis called the Planning Board meeting to order and stated the following:

*“This meeting is being held remotely as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily amending certain provisions of the Open Meeting Law. You are hereby advised that this meeting and all communications during this meeting may be recorded by the Town of Hingham in accordance with the Open Meeting Law. If any participant wishes to record this meeting, please notify the chair at the start of the meeting in accordance with M.G.L. c. 30A, § 20(f) so that the chair may inform all other participants of said recording.”*

### **Hearing(s)**

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Chair Ellis stated the first matter was a Site Plan Review waiver request for **211 Lincoln Street**.

Mr. Sal DeMartinis appeared on behalf of the applicant. Mr. DeMartinis stated the project was to repair a cracked slab foundation at Planet Fitness. Mr. DeMartinis stated there were no exterior renovations.

Chair Ellis asked for any additional comments, there were none.

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting Chair Ellis moved to find that the foundational repairs at 211 Lincoln Street located in Residence District A and Business District B constitutes a minor site plan under Section I-I, 5.b (i) of the By-Law; and to GRANT the request of Anchor Plaza Realty Trust to waive Site Plan Review under Section I-I, 5 of the By-Law.

**Second:** Gary Tondorf-Dick

**In Favor:** Rita DaSilva, Judith Sneath, Gordon Carr, Gary Tondorf-Dick Kevin Ellis

**Opposed:** None

Chair Ellis stated the next matter would be the **213 & 215 Cushing Street** Flexible Residential Development and Special Permit A3.

Jeffery Tocchio, Esq. appeared on the applicant’s behalf, gave background on the application and discussions to date and presented plans.

Attorney Tocchio discussed the proximity of one of the houses that had an 80' building envelope, vegetation to remain, landscape mound with plantings, driveway apron, new stone wall to integrate with proposed new wall and proposed plantings. Attorney Tocchio requested a Special Permit A3 to allow the applicant to move forward to the Definitive Plan stage.

Chair Ellis asked about requested waivers. Attorney Tocchio stated they had responded previously but that they could not address 100' from all property lines by one house, but maintain 80' with mounding and natural features.

There was a discussion about an abutting property and buffer zone and notice requirements, setbacks, conventional yield, waivers, density, Flexible Residential Development yield, open space requirements, driveway parking, market and affordable units, size of units, septic and bedroom requirements, crosswalks, treatment of the open space area as part of the future homeowner's association, limit of disturbance, drainage, ledge, blasting, cut and fill, preliminary versus definitive plan requirements, availability of financing vehicle for the middle income house, the Weathervane development, the Beal Street buffer waiver from a 100' setback to a 50' setback and the Ward Street waiver from setbacks to 15' given exceeded open space requirements.

Chair Ellis asked for public comments. There were none.

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting Chair Ellis proposed the following findings:

1. The Conceptual Yield Plan depicts six residential lots that could reasonably be expected to be developed in full conformance with all local regulations.
2. The Flexible Residential Development (FRD) plan alternately proposes a condominium consisting of eight single-family dwellings, inclusive of an existing single-family dwelling at 215 Cushing Street.
3. Open Space, equal to approximately 53% of the overall land area exclusive of wetlands, is provided in excess of the minimum 40% required. An Open Space buffer is shown along the perimeter of the site. The Board finds that the buffer, which is less than 100' in width from abutting properties at 211, 221, and 245R Cushing Street, is sufficient to screen the FRD. The buffer in these locations was augmented to the maximum extent feasible during the hearing process by shifting proposed building locations and adding or preserving natural features on the site. Certain areas of reduced buffer also separate abutting properties from the existing dwelling at 215 Cushing Street, so that impacts will not alter existing conditions.
4. The Board therefore finds that the proposed development complies with the provisions of Section IV-D of the By-Law, as reduced or modified by the Board, such that the permitted density on the site would be eight per Subsection 7. One of the two allowed Additional Dwelling Units would be Moderate Income Housing.

5. In accordance with Section I-J.5, the Board further determined that the proposed use is consistent with the following criteria set forth in Section I-F.2:
  - a. **Use of the property is in harmony with the general purpose and intent of the Zoning By-Law.** The proposed FRD is in harmony with the general purposes of under Section I-A.2 the By-Law, which include provision of housing for persons of all income levels and adequate open space. The proposed plan includes an affordable Moderate Income Housing unit and approximately 53% dedicated Open Space.
  - b. **The proposed use complies with the purposes and standards of the relevant specific sections of the By-Law.** The proposed FRD complies with the stated purposes of the Section IV-D, including: the preservation of open space; the protection of natural resources; efficiency and flexibility in the layout of housing, roads, and utilities, and the minimization of disturbance on the site. The proposed use additionally complies with the standards of Section IV-D as (i) the site meets the eligibility requirements, (ii) the Applicant has demonstrated it has adequate Conventional Yield for the six single-family dwellings, (iii) the site exceeds the minimum Open Space requirements, (iv) except for a portion of the Open Space buffer for which a reduction is granted for the reasons set forth above, the project complies with minimum dimensional requirements, and (v) the project will comply with the other additional requirements of Section IV-D.
  - c. **The specific site is an appropriate location for the proposed use and is compatible with the characteristics of the surrounding area.** The property is located on a residential street within the Residence C Zoning District, which is an appropriate location for the proposed FRD.
  - d. **The use as developed and operated will create positive impacts or the potential adverse impacts will be mitigated.** Setbacks from abutting single-family dwellings as shown on the FRD plan exceed those achievable through a Conventional Yield Plan. The Open Space buffer preserves site features, including trees, mounds, and stone walls, intended to screen the development from adjoining properties enhance views from adjacent public ways.
  - e. **There will be no nuisance or serious hazard to vehicles or pedestrians.** There will be no nuisance or serious hazard to vehicles or pedestrians resulting from the project. The proposed plan shifts access to the development to the south of a 1965 subdivision roadway layout, which improves sight distances. The project also eliminates two existing curb cuts on Cushing Street. Finally, the Applicant agreed to provide a crosswalk with accompanying wheelchair ramps and pedestrian crossing warning signs for crossing Cushing Street at the Project site roadway.

- f. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use.** Adequate wastewater facilities will be required by the Hingham Board of Health and constructed prior to certificates of occupancy for the single-family dwellings.
- g. **The proposal meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.** Test pits and percolation tests for wastewater and drainage purposes were performed onsite. Issuance of a Preliminary Flexible Residential Development Special Permit is subject to conditions related to stormwater and other site construction that requires further review during Definitive Plan Review with Site Plan Review.

And moved to find that the Preliminary Flexible Residential Development constitutes a minor site plan as issuance of the Special Permit does not authorize construction that would materially affect conditions governed by the site plan review standards and therefore waives Site Plan Review in connection with this application; and to grant the request of Bristol Bros. Development Corp. for a Special Permit A3 under Section IV-D of the Zoning By-Law for a Flexible Residential Development consisting of eight single-family dwellings on 7.48+ acres of land in Residence District C, subject to the following conditions:

1. Pursuant to Section IV-D of the By-Law, Applicant's exercise of this Special Permit shall be subject to the Planning Board's approval of a Definitive Flexible Residential Development Plan ("Definitive Plan") along with Site Plan Review under Section I-I of the By-Law. Plans submitted in connection with the Definitive Plan Review with Site Plan Review shall:
  - (i) substantially conform to the Preliminary Flexible Residential Development Plan in terms of number of units, amount of Open Space, and development pattern impacts on natural landscape features or surrounding residential properties; and
  - (ii) comply with the submittal requirements under Section I-I, 4 of this By-Law and such additional content set forth in Section 3, C.2 of the Planning Board Rules and Regulations as are applicable to the project. The Applicant shall include a list of any waivers requested from the submission requirements under Section I-I, 4 of the By-Law or the Planning Board Rules and Regulations.
2. Without limiting the foregoing, the Definitive Plan site plans and application shall include the following:
  - (i) A crosswalk with accompanying wheelchair ramps and pedestrian crossing warning signs for crossing Cushing Street at the site driveway to the site.
  - (ii) A notation to indicate: "Signs, landscaping and other features located within sight triangle areas shall be designed, installed and maintained so as not to exceed 2.5-

feet in height. Snow windrows located within sight triangle areas that exceed 3.5-feet in height or that would otherwise inhibit sight lines shall be promptly removed.”

- (iii) Proposed walkway, paths or sidewalks where appropriate pursuant to Section IV-D, 10.d. to formalize and clearly define pedestrian access between the Open Space and abutting Town Conservation Land at 245R Cushing Street.
  - (iv) A notation pursuant to Section IV-D, 10.e that no portion of the property may be further subdivided.
  - (v) Documentation required pursuant to Section IV-D, 8.b with respect to the Open Space and the proposed form of easement for access to the Open Space.
3. The Moderate Income Housing shall remain affordable in perpetuity.

**Second:** Judith Sneath

**In Favor:** Gordon Carr, Gary Tondorf-Dick, Judith Sneath, Kevin Ellis

**Opposed:** None

**Abstained:** Rita DaSilva

Chair Ellis stated that the next items on the agenda were **Articles for the 2022 Town Meeting Warrant** and he opened the discussion regarding the **Accessory Uses Article** and invited Ms. Wentworth to commence the discussion.

Ms. Wentworth stated the article had been discussed previously and had been revised in accordance with discussions. Ms. Wentworth and Mr. Silveira presented the tracked changes and discussed the Zoning Board of Appeals’ intent with changes.

There was discussion regarding certain details that had been proposed to be deleted, applicability of edits to various sections of the Zoning By-Law and impacts of accessory uses in different districts.

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting Chair Ellis moved that the Planning Board recommend adoption of Article BBB (Requirements for Accessory Uses) in the form of the following Recommended Motion:

That the Town amend the Zoning By-law of the Town of Hingham, adopted March 10, 1941, as heretofore amended, as follows:

Item 1: By inserting in the first sentence of Section III-J, 1. after “Accessory uses shall be those uses that are customarily incidental” the clause: “and clearly secondary”.

Item 2: By replacing Section III-J, 2. in its entirety as follows:

2. Additional Requirements for all Accessory Uses: Accessory uses shall not alter the character of the premises on which they are located or impair the neighborhood. Factors to be considered potential impairment to the neighborhood may include, but are not limited to the following:
  - (a) Noise
  - (b) Light and visual impacts
  - (c) Odor
  - (d) Sound
  - (e) Traffic congestion and pedestrian safety, frequency of deliveries

**Second:** Gary Tondorf-Dick

**In Favor:** Gordon Carr, Rita DaSilva, Judith Sneath, Gary Tondorf-Dick, Kevin Ellis

**Opposed:** None

There was a brief discussion regarding who will present articles and what will be presented at Town Meeting.

Chair Ellis stated they would discuss the **Special Permits and Site Plan Review Procedures and Tree Protection and Preservation**.

There was discussion regarding the approach to the discussion and next steps.

Ms. Priya Howell stated she had provided edits previously to reflect the Citizen's Petition language in certain provisions and gave examples.

Attorney Murphy discussed edits made based on the Board's discussion and Ms. Howell's input. There was discussion regarding 'significant tree' definition, twelve month look back for trees cut down, tree yards, setbacks, calculation of replacement trees and potential to implement a tree fund next year.

There was discussion about proposed changes to make site plan review a freestanding permit, changes to the Zoning By-Law in 2004/2005, collaboration between various boards, impact of the site plan review process to the Zoning Board of Appeals schedule, reasons for changes to by-law previously, support for current proposed changes, and effectiveness of current processes.

There was discussion regarding site plan review trigger changes, interior renovations, examples of projects that triggered site plan review due to cost, proposed design standards, use considerations, parking triggers, current conservation exemption, land disturbance triggers, handling traditionally waived applications that trigger site plan review due to cost alone via administrative action, applicant perspective and ways to obtain information about site changes outside of site plan review.

Attorney Murphy stated that if there was direction on specific items, a redlined version of the Zoning By-Law showing all changes to date could be delivered to the Board.

Members discussed whether or not they supported certain changes to the By-Law moving forward in the process.

Attorney Murphy explained where the Board could access drafts and feedback to date.

There was discussion regarding the proposed changes to the Special Permit process, triggers, desire to keep current A2 and A3 designations, intent to get at impact of project versus use itself, special permit plan requirements, current Section V-A of the Zoning By-Law, parking requirement triggers, major and minor site plan review components and request for updated version of document to review in advance of the next meeting.

Chair Ellis moved to continue the hearing on the “Special Permits and Site Plan Review Procedures” zoning article to March 7, 2022 at 7pm and to continue the hearing on the “Tree Protection and Preservation” zoning article to March 7, 2022 at 7pm.

**Second:** Judith Sneath

**In Favor:** Gordon Carr, Gary Tondorf-Dick, Rita DaSilva, Judith Sneath, Kevin Ellis

**Opposed:** None

Chair Ellis moved to adjourn the meeting at 10:08pm.

**Second:** Judith Sneath

**In Favor:** Gary Tondorf-Dick, Gordon Carr, Rita DaSilva, Judith Sneath, Kevin Ellis

**Opposed:** None

Respectfully submitted,

Tracy L. Altrich  
Administrative Assistant, Community Planning

Meeting Materials:

211 Lincoln Street

1. *Application for Site Plan Approval, dated February 22, 2022*

213 & 215 Cushing Street:

1. *Flexible Residential Development Summary from 2001 Town Meeting*
2. *Letter from J. Tocchio to C. Falvey and K. Ellis, dated August 19, 2021*
3. *Application for Zoning Hearing, Form 2, dated August 19, 2021*
4. *Application for Special Permit A-3, dated August 19, 2021*
5. *Application for Site Plan Approval in Association with Application for Building Permit, dated August 19, 2021*
6. *Supplement to Applications, dated August 19, 2021*
7. *Plans, dated August 19, 2021*
8. *Memo from E. Sullivan to Planning Board, dated September 8, 2021*
9. *Letter from S. Sarni to Planning Board, dated September 15, 2021*

10. *Letter from C. DiNapoli to Planning Board, dated September 16, 2021*
11. *Letter from A. and R. Gomez to Planning Board, dated September 21, 2021*
12. *Letter from P. Brennan to Planning Board, dated September 21, 2021*
13. *G. Crocker letter to Planning Board in Response to Peer Review, dated September 23, 2021*
14. *Updated Conceptual Subdivision Plan, dated September 23, 2021*
15. *Letter from L. Schneiderhan to Planning Board, dated September 27, 2021*
16. *Continuation and Extension Request, dated September 29, 2021*
17. *Letter from J. Dirk to E. Wentworth Regarding Traffic Analysis, dated November 1, 2021*
18. *Continuation and Extension Request, dated November 4, 2021*
19. *Fully Executed and Filed Continuation and Extension Request, dated November 10, 2021*
20. *Continuation and Extension Request, dated December 10, 2021*
21. *Fully Executed Continuation and Extension Request, dated December 15, 2021*
22. *Continuation and Extension Request, dated December 21, 2021*
23. *Town Clerk Stamped Fully Executed Continuance and Extension Request, dated January 10, 2022*
24. *J. Tocchio Letter to C. Falvey and K. Ellis Regarding Revised Materials, dated January 12, 2022*
25. *Preliminary Plans, Revised through January 7, 2022*
26. *G. Crocker Letter to Planning Board Regarding Response to Amory Engineers Peer Review, dated January 12, 2022*
27. *G. Crocker Letter to Planning Board Regarding Response to Vanasse & Associates Peer Review, dated January 12, 2022*
28. *J. Dirk Letter to E. Wentworth Regarding Response to Traffic Peer Review, dated January 14, 2022*
29. *G. Crocker Letter to Planning Board Regarding Response to Vanasse & Associates Peer Review, dated January 19, 2022*
30. *Preliminary FRD Sight Distance Exhibit, dated January 18, 2022*
31. *P. Brennan Letter to Planning Board, dated January 20, 2022*
32. *J. Dirk Letter to E. Wentworth Regarding Response to Traffic Peer Review, dated January 21, 2022*
33. *Continuation and Extension Request, dated January 26, 2022*
34. *Revised Plan Set, dated February 24, 2022*

*Zoning Articles:*

1. *2022 Draft Zoning By-Law Mark-Up, updated January 24, 2022*
2. *2022 Draft Zoning By-Law Mark-Up, updated February 26, 2022*
3. *2022 Draft Zoning Bylaw Mark-Up (Redline v. 1.24.22 draft), dated February 26, 2022*

*Residential Accessory Uses Article:*

1. *Residential Accessory Uses Article*
2. *Section III-J Mark-Up, dated January 21, 2022*
3. *Accessory Uses Presentation, dated January 24, 2022*
4. *Section III-J Mark-Up, revised February 14, 2022*

*Special Permit and Site Plan Review Procedures and Tree Protection and Preservation:*

1. *Special Permits and Site Plan Review Procedures Article*
2. *Site Plan Review/Special Permit Presentation, dated November 29, 2021*
3. *Section I Excerpt from Draft Zoning Article - Clean Version, dated January 21, 2022*
4. *Tree Protection Article Annotated with Tree Preservation Measure incorporated into Site Plan Review*
5. *Special Permits and Site Plan Review Presentation, dated January 24, 2022*
6. *Special Permits and Site Plan Review Presentation, dated January 31, 2022*
7. *Special Permits and Site Plan Review Presentation, dated February 7, 2022*

- 8. Special Permits and Site Plan Review Presentation, dated February 14, 2022*
- 9. Public Comment Email from D. Pozdniakov to E. Wentworth, dated January 24, 2022*
- 10. Letter from Building Commissioner to Planning Board, dated February 16, 2022*
- 2022 Draft Zoning By-Law Comments & Mark-Up from G. Tondorf-Dick, dated February 13, 2022*