

TOWN OF WENHAM

Zoning Board of Appeals
Meeting of September 24, 2014
Bessie Buker School, School Street

Pursuant to the Open Meeting Law, M.G.L. Chapter 30 A, §18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Zoning Board of Appeals (ZBA) was on SEPTEMBER 24, 2014 at 7:30 PM in the Multi Media Room.

With a quorum present, the meeting was called to order at 7:30 PM.

ZBA Members Present: Jeremy Coffey, Anthony Feeherry, Timothy Mansfield, and Associate Shaun Hutchinson

Also present: Emilie Cademartori, Coordinator; Attorney Mark Bobrowski, Special Counsel for the Town;

Catherine Tinsley, Minutes Secretary

Town Officials present not participating: Selectman Harrison; Selectman Whittaker

Public Information:

The meeting was recorded with permission by HWCAM

Agenda

Continued Public Hearing

Location: 36 Essex Street (Map 40 Lot 3)

Request: Special Permit under Section 4.4.2 – Change in Non conforming use and Section 4.2.3 – Educational Non exempt Use

Applicant: RCA Group LP (Recovery Centers of America)

Proposal: To repurpose existing structures and parking areas for use as a mental health, substance, and rehabilitation counseling center, which would provide educational, counseling, and treatment services to persons afflicted with addiction and mental health issues.

Present for the petitioner:

Jim Mullen, current property owner

Brian O’Neill, Applicant, and founder of RCA

James Ward, Attorney Nutter, McClennen, & Fish Attorneys at Law, Boston MA

Jay Youtz- Co founder of RCA, licensed, professional counselor

Darcey Brazzle –Licensing, accreditation, and compliance issue expert

Larry Kagan – Traffic Engineer, Weston & Sampson

Peter Ogren, P.E. P.L.S Hays Engineering Inc. Wakefield MA

Present for Wenham:

Douglas Prentiss, P.E, PTOE Fay, Spofford, & Thorndike Inc, Burlington MA

Judy Barrett, Financial Analyst

Mr. Feeherry gave a brief overview saying the property was previously permitted as an advertising agency pursuant through a series of special permits issued by the ZBA over multiple years. These existing special permits however, do not allow for use of the property as a rehabilitation center as proposed by the petitioner.

The petitioner was asked at a previous meeting to engage consultants and experts for this hearing.

Attorney Ward summarized the request for a Special Permit for change in Non Conforming use that may not be more detrimental to the neighborhood than the current use, and must meet zoning bylaws standards and criteria for a special permit. He went on to say the applicant would address:

Community needs

Traffic and safety

Approved 11.5.14
Adequate utilities
Neighborhood character
Impact of environment
Fiscal impact

He added that the applicant is not seeking any exemptions and would be a taxpayer to the Town of Wenham.

Mr. Mullen gave a short account of the history of the Essex Street property known as Penguin Hall, which he purchased in 1987 for the location of his company, Mullen Advertising. He called the property a “treasure of the North Shore” dating back to the 1920’s. Since Mr. Mullen’s acquisition of the property, the building has been completely renovated to code while maintaining its historic character. In closing, Mr. Mullen observed that over the past five years, only four suitors had expressed interest in the property, a hospital, multi tenant housing, a 40b project, and the current applicant. He strongly supports the current applicant who not only appreciates the historic building, but also will continue the same sense of stewardship and responsibility to the Town of Wenham and will carry on the finest tradition of the previous owners of the property.

Brian O’Neill introduced himself, his company, and talked about the proposed project in Wenham including addressing questions raised by the residents at the last meeting. He referenced a PowerPoint presentation.

Mr. O’Neill described the mission of RCA as being to inspire and empower individuals suffering from the disease of addiction across America to enter into recovery one person, one step, and one community at a time. The Goal is to get one million American’s sober.

Over the past two years, Mr. O’Neill has assembled the leading experts in the world of drug addition and alcoholism. He went on to talk about the disease of addiction and the need to create an environment to treat patients with dignity, where people will want to go for treatment and further elaborated on the proposed facility at Penguin Hall.

- Penguin Hall is an ideal location to provide privacy to patients
- There will be no changes to the Essex Street entrance
- The landscape will continue to be enhanced
- No exterior changes will be made to Penguin Hall, other than handicapped ramps as required by law and the addition of bathrooms to the interior rooms.
- A strict curriculum will be followed, seven days a week, twenty-four hours a day
- Patients are not allowed to have a vehicle and will be driven to and from the property either by a “Black Car Service” owned and operated by RCA, or family members
- Patients are not allowed to have cell phones
- The average treatment at Penguin Hall is thirty days
- Patients are checked hourly and wear wristbands with GPS tracking
- All windows and doors will be alarmed
- Patients are not allowed off campus

Larry Kagan, Engineer, Weston & Samson addressed the traffic for the proposed project saying that traffic calculated for the proposed project was compared to the prior use. Mullen Advertising generated 167 vehicles in the morning peak hours (7 AM to 9 AM) and 155 vehicles in the evening peak hours (between 4 PM to 6 PM). The RCA facility does not have peak hours due to the three shifts. RCA will not generate half the traffic that Mullen Advertising did. The exit to Grapevine Road would be used strictly as the required emergency road only.

Reports will be submitted to support this data.

Peter Ogren, Hayes Engineering, identified that he previously worked with Jim Mullen, and is therefore familiar with the septic system. A recent Title V inspection was done and approved for 10,000 gallons a day. Alternate septic methods were explored and a sub surface system was approved by DEP for 40,000 gallons per day; this is membrane technology for sewage treatment resulting in high quality effluent combined with the use of drip irrigation technology for dispersing the effluent. Using the proposed facility flow rates, 18,235 gallons a day will be disposed of on site. Additional information is available.

Approved 11.5.14

The ZBA questioned the water source and if the impact will force changes in the Wenham water usage to support such a facility. Mr. Mullen responded that previous studies done for the multi tenant project of 320 condominium units determined there was sufficient water for that project which is significantly more water than what is currently being proposed. The ZBA voiced concern that there be no capital expense to the Town. Additional information regarding the water supply will be provided.

The ZBA also asked what amount of testing is done on the membrane filtration system to keep drugs out of the ground water and was told this membrane type of system is the best available. Ms. Brazzle added that medications are not disposed of on site but through a hazardous waste process. She also noted that after the first seven days, RCA patients are not allowed medication. The ZBA requested additional information on this subject and RCA agreed to provide a detailed report.

Ms. Brazzle went on to talk about the licensing process, stating the facility will be both licensed and accredited. She gave a brief background of her professional expertise in drug and alcohol programs having worked with eight facilities, overseeing similar alcohol/ drug programs.

The programs at Penguin Hall will all be licensed with the state of Massachusetts; this process has been started and permission has been granted to RCA to operate such a program in the State of Massachusetts.

Licensing is through under Bureau of Substance Abuse Service, overseen by Department of Public Health, and governed by the Executive Office of Health and Human Services; the program must meet all standards under Title 105 CMR 164.

This license is for one year; annual inspections are done and additional inspections can be done, unannounced during the year. This license can be revoked at any time.

The proposed facility will also be accredited by CARF (Commission on Accreditation on Rehabilitation Facilities). This is the highest accreditation for rehabilitation facilities in the United States.

RCA is also working under SAMHSA (Substance Abuse and Mental Health Services Administration) guidelines and partnering with Treatment Research institute to insure the best evidence based treatment is being used.

Jay Youtz also talked a bit about his personal work history working as a counselor in all levels of care and gave a general overview of his experiences starting other similar organizations.

The ZBA questioned how many facilities RCA is operating and was told that currently, RCA is not operating any facilities. RCA is a new company, and is opening treatment facilities simultaneously in Maryland, New Jersey, and Massachusetts. This is the single largest investment made for treatment centers to date with hundreds of millions of dollars invested at this time. A list of the extensive management team will be provided to the ZBA.

It was noted that this is a "for profit business" and RCA will pay property taxes to the Town of Wenham. Private insurance is accepted. The cost of a thirty day stay is between \$25,000 - \$40,000.

Mr. O'Neill stated that his family controls 85% of the stock. He expects to run at 75% occupancy. This is a \$30 million dollar a year operation with high operating expenses including staff, buildings, insurance, etc. He is not associated with any hospital.

The hearing was open to the public for comments, and questions.

Doug Begotta (sp?) identified that he is not a resident of Wenham, but whose child attends the school located at the emergency driveway on Grapevine Road. He asked general questions of the project including what is planned for security and keeping the neighbors safe.

Mr. O'Neill responded that they are very sensitive to the abutting properties, including that one is a school. He talked about the security plan in more detail, saying he has experience of running foundations, is on various school boards himself, and has a good understanding of the concern and security necessary. He plans on hiring experienced e.g. retired law enforcement people and has a detailed plan including that a minimum of two security officers will be on duty at any one time, there is a ratio of one staff for each five patients, no patient can leave the grounds, and treatment is for people 18 years and older. No patients with a history of arson will be accepted as governed by law.

He promised to meet with the parents of the school children and provide references and further answer questions stating he is very committed to the safety of the neighborhood.

He reiterated that it is expected that most patients will be wealthy, affluent professionals seeking help and the privacy Penguin Hall offers and would not be a threat to the school, neighbors, or the town.

Approved 11.5.14

He went on to expound on similar questions regarding the program.

This is an inpatient program only. Outpatient services will be set up in other locations, to stay connected with their patients for an additional five years, as well as the use of cell phone apps and other technology. The license requires RCA to have \$50 million cash in reserve to provide care for the patients

Ben Tymann, Larch Row, identified that although is legal counsel for an abutter to Cross Keys, Topsfield Road, he was not representing a client and was speaking on his own behalf as a resident and as a parent who's child attends the school. He voiced his concern that RCA could not provide present examples of similar facilities of this size that their team has successfully managed. He went on to question what mental health afflictions and disorders would be treated at this facility.

RCA responded that although they do not have any facilities currently operating, their board/staff has a variety of successful experiences; this information is available in detail. Regarding the type of illnesses, only non-violent patients with depression / anxiety will be treated. There will be Doctors, nurses, licensed counselors, social workers, and clinical aids on the staff. This is a specific license for substance abuse; addiction is a mental health issue the nature of the treatment is not for psychiatric facility.

Mr. O'Neill will further look into the details of allowing registered sex offenders into the program, especially since there is a school in close proximity. He noted that all registered sex offenders must alert the community they are living/working in; RCA will confirm that this applies to a treatment center.

Mark Provost, proprietor of a business located on the Iron Rail Property spoke in support of RCA. After giving a personal testimony, he spoke positively of the facility operating at Penguin Hall. He went on to suggest that a successful business like this, has in some cases increased property values, and that such treatment centers are most successful when located in suburban areas. He opined that addiction is not a moral failure but a disease of the neuron transmitters in the brain. He supported the plan as presented by RCA.

Selectman Whittaker inquired about the admission process. RCA conducts a thorough assessment process of each patient to confirm age, evaluation of treatment, and that the patient meets the criteria of ASAM addiction index through a written intake. This is for substance abuse and related mental health issues but is not a psychiatric facility. This is subject to government approval.

The ZBA requested the applicant offer a peer review for the ZBA to opine on the Financial Records of RCA and if the facility is viable. Peer reviews will be coordinated with the applicant and the Town including a business plan, comprehensive security plan, CORI checks, sex offender registry, arrange to meet the director, answer questions on access, the septic filter system- specifically how it filters medications that passes through patients, and how the school fits into the plan.

Mr. Feeherry moved, and it was seconded, to continue the hearing to a date certain of November 5, 2014. The motion carried unanimously.

Mr. Mansfield moved to adjourn at 9:49 PM and it was unanimous to do so.

Respectfully submitted by

Catherine Tinsley
10.16.14