

Approved 3.25.15

TOWN OF WENHAM

Zoning Board of Appeals
Meeting of January 14, 2015
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 held on Wednesday, JANUARY 14, 2015 at 7:30 PM in the Multi Media Room of the Bessie Buker School.

With a quorum present, the meeting was called to order at 7:32 PM.

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

Also present: Emilie Cademartori, Coordinator; Judy Barrett, Coordinator / Financial Analyst (joining at approximately 7:52 PM)

Catherine Tinsley, Minutes Secretary; Attorney Mark Bobrowski, (joining at approximately 8:05 PM)

Town Officials present but not participating: Selectman Harrison; Selectman Whittaker; Fire Chief Blanchard

Public Information:

The meeting was recorded with permission by HWCAM

Agenda

Documentation as provided by RCA

Minutes – December 10, 2014

Continued Public Hearings

****Location:** 76 Topsfield Road (Map 25 Lot 17)

Applicant: Benjamin Tymann on behalf of Lawrence Miller & Allison and Dennis Maguire

Nature of hearing: An Appeal filed, pursuant MGL c 40A, ss. 8 & 15, of the Zoning Enforcement Officer's September 11, 2014 decision granting reasonable accommodation under the federal Fair Housing and Americans with Disabilities Acts, to 110, Inc. allowing the operation of the Cross Keys Retreat at 76 Topsfield Road

Mr. Feeherry acknowledged a request from both parties that the hearing be continued to a date in February but because the ZBA had no meeting scheduled at this time in February, the hearing was continued to January 28, 2015, at which time the ZBA could again continue the hearing to another date certain.

Vote: Mr. Coffey moved, and it was seconded to accept the request of the parties to continue the hearing for 76 Topsfield Road, to January 28, 2015 at 7:30 PM at the Wenham Museum, Burnham Hall. The motion carried unanimously.

****Location: 41 Cherry Street (Map 18 Lot 25)** – To be continued to January 28 Request for Variance Section 5.1

Dimensional Requirements- Frontage

Applicant: Adam Ricci on behalf of owner Jack Pedra

Nature of request: Variance from the minimum frontage requirement of 170 feet on an existing non conforming lot for a proposed new residence to be built at 41 Cherry Street.

Vote: Mr. Coffey moved, and it was seconded to accept the request of the applicant to continue the hearing for 41 Cherry Street, to January 28, 2015 at 7:30 PM at the Wenham Museum, Burnham Hall. The motion carried unanimously.

Location: 62 Maple Street (Map 23 Lot 16)

Request for a Comprehensive Permit pursuant to MGL Ch 40B Applicant: Maple Woods Housing LLC Proposal: Construction of 60 age restricted rental units in a single structure, constructed in two phases on land comprising of approximately 3.5 acres.

Location: 36 Essex Street (Map 40 Lot 3) Request for Special Permit under Section 4.4.2 Change in Non-conforming use and Section 4.2.3 Educational Non exempt use

Present: Andrew DeFranza, Executive Director of Harborlight

Daniel Mills, MDM Transportation Consultants Inc., Marlborough, Ma

Larry Keegan, PE, Weston & Samson

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A traffic study relative to Harborlight Community Partners' proposed development on Maple Street was conducted by MDM Transportation Consultants, and peer reviewed by Weston & Samson, a traffic consultant engaged by the ZBA and paid for by the applicant.

Mr. Keegan was present and reviewed the findings of the MDM study, commenting that in general the report was put together well. He confirmed the traffic impact data on the area as relatively low compared to the number of vehicles that travel Maple Street each day. The growth rate is expected to decrease, but as a conservative number, a 1 percent anticipated growth rate, was used.

A speed study was included in the report. The posted speed is 30 mph; the average speed is 35 to 39 mph. The Wenham Police discussed putting up permanent speed radar assemblies on the road, indicating how fast a driver is traveling to bring awareness to speeding.

Traffic counts were done for peak morning hours (7-9 AM) and peak evening hours (4 to 6 PM) at Maple Street/ Cherry Street/ Route 97; Maple Street at Burnett's Garage and including future build of 1 percent growth plus the new facility, it was determined that there would be no impact, no change, to traffic.

The sight distance was calculated. This is done in two measurements 1) drivers on Maple Street 2) exiting the drive for Maple Woods to see vehicles on Maple Street.

The highest speeds of 39 mph were used in the calculations; 300 feet is required and 400 feet is available in both directions.

Mr. Keegan concurred with the recommendation that vegetation be cut back at the driveway exit to improve the visibility. The ZBA noted concern that 85 percent of the cars traveling on Maple Street are exceeding the posted 30 mph speed limit, and although this has nothing to do with the project, it should be considered when placing the radar signs in the optimal locations to be effective. There was some concern from the audience where these radar signs would be located.

Attorney Dan Hill, Cambridge, MA was recognized by the ZBA. Attorney Hill introduced himself saying he represented about 20 households, neighbors, and abutters. He asked about the sight distance and the standards used, confirming they were AASHTO standards and referenced the calculations questioning the distance/speed for this area and asked a few questions. Mr. Keegan confirmed that measurements are done on aerial photograph to these standards. Mr. Hill asked if there were adequate sidewalks/ crosswalks and if the sight triangle was evaluated. Mr. Keegan stated these were not included in the report.

Mr. Keegan referenced the report saying that the radial driveway does not appear adequate for safety vehicles for large delivery trucks. This has been changed by the designer but has not been updated yet.

Mr. Keegan concluded stating that the report of MDM adequately addresses the traffic impact of the project.

The hearing was opened to the public.

Peggy Duffy, Maple Street, questioned how there is no negative impact on the neighborhood with 60 people using this (Proposed) driveway, and disagreed with the findings. She identified herself as an emergency room nurse, opined that older drivers typically have slower responses, and shared her concern of heightened risk of accidents with high speeds, blind corner, and elderly drivers. In closing she told the ZBA "nobody wants this, your shoving it down our throats, we are not happy about it and we want you to know that sir... Maple Street does not want this mess".

Leo Maestranzi, Larch Row, identified that he lives near Enon Village, which has 84 apartments with a minimum age of 65 years. He opined that Maple Street and Larch Row are similar and he does not remember one accident in the past 38 years related directly to the housing.

Lisa Terranova, Maple Street, made the following points:

- Harbor light application states this is for 55 and over and questioned this as senior/elderly housing and that anyone 18 years and older can live with someone
- This is not Enon Village it is a 3-story building near modest homes, and the intersection of route 97/Maple Street is an area of many fatalities; there will be problems.

Donald Duffy, Maple Street, review, responded to Leo Maestranzi comments comparing Enon Village to Maple Woods saying that Enon Village is set on more land than the three acres that Maple Woods is proposed to be built on, and it is not a fair comparison.

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The ZBA requested:

- Exact measurements for sight lines on Maple Street rather than measurements from an aerial map
- That the study includes weather conditions i.e. ice/ snow impact on stopping distance
- Alternative traffic calming (slowing) means
- The police Department attend the next meeting

Mr. DeFranza stated that Harborlight agreed with the commentary of Weston & Samson.

He introduced Dan Mills who reviewed MDM prepared a traffic assessment, received the peer review comments and provided a written response to the comments submitted to the ZBA earlier in the day.

Mr. Mills identified his primary concern was the radius of the driveway; the drive was widened an additional 25 feet on either side of driveway off Maple Street. A schematic drawing illustrating this change was referenced.

Regarding the concern of the speeds traveled on Maple Street, he noted that the speed of vehicles on Maple Street is independent of this project. Mr. Mills explained that the state regulates posting of speed limits, not communities and Wenham was issued a special speed regulation for 30 mps near Burly Street that transitions into 35 mph (not posted) along the straight section of Maple Street.

Although speeding traffic is independent of the project, Mr. Mills pointed out that minimum sight distance for these speeds is met and exceeded by 100 feet, adding there are sidewalks on Maple Street.

These will be discussed again at the January 28, 2015 meeting.

Vote: Mr. Coffey moved, and it was seconded, to continue the hearing for the (Harborlight) 40b project to the January 28, 2015 meeting at 7:30 PM in Burnham Hall, Wenham Museum. The motion carried unanimously.

Applicant: RCA Group LP

Location 36 Essex Street (Map 40 Lot 5)

Proposal: To re-purpose existing structures and parking areas for use as a mental health, substance abuse 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

Deni Carise Chief Clinical Officer

Brad Greenstein Executive Director New England Region

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

Mr. O'Neill spoke briefly saying that it was the intention of RCA to address the nine questions raised during the last meeting, noting that some reports were provided through third parties.

He noted Mr. Mullen spent time with the Fire/ Police department's discussion their concerns and these would be addressed.

Regarding the question of the staffing and curriculum, Mr. O'Neill identified that Deni Carise, the Chief Clinical Officer was present to answer any questions, as was Brad Greenstein, Executive Director New England Region.

1. Project Impact on the water supply and if the facility would contaminate the water supply: RCA tasked two groups to look into these effects: a pharmaceutical group from Philadelphia, and their Engineer. Both confirmed that with the use of the drip waste water system, that less than as well as their Engineer who both confirmed that anything that got into the system .464 parts per billion – significantly below levels for drinking water but once through the system 90 percent would be cleaned,

Anything passing through system would be gone in within half a day with an estimate of 2.5 years to migrate to the closest reservoir. The studies would be submitted.

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2. Available water supply / pressure: There is enough water and there are numerous engineering solutions to meet pressure requirements i.e. additional pump, standpipe, etc.

3. Admission Standards: Submitted a detailed admission standards report

4. Financially viable: RCA authorized the Town to have a third party complete a confidential review RCA's financials and Performa; Copy of that letter stating RCA is financially viable

5. Security detail: A preliminary security protocol was submitted to ZBA. This continues to evolve.

6. Question of experience of management team: Resume of management team

Dr Deni Carise PhD D spoke at length about her extensive education and experience over thirty years in the field of studying, treating and doing research in developing treatment for substance abuse both in the United States and in other countries.

Brad Greenstein, who is responsible for running this facility, introduced himself saying he lives locally in Lynnfield. He has 15 years experience in the substance abuse field. He spoke about his strength in community involvement to address concerns. He went on to reference the proposed security plan, noting that this plan will continue to be amended, and changed.

- Patients must be over 18 years of age
- The total max number of patients is 197; this is tallied by a needs assessment of the area, the space of the building to provide services
- Capital improvements to the building will include a new septic system. Inside the building will be altered to accommodate additional bathrooms, and up to 120 bedrooms
- Hard cost budget is \$11 million dollars above the purchase price. ZBA asked to see preliminary floor plans; RCA agreed to send the plans electronically and offered a review of the plans saying each floor, aside from dining is self-sufficient. There is a one to eight ratio of counselors to patients
- In the main historical penguin hall as admin offices and meeting rooms with dining in the lower level and restrict patients to buildings where there is ladder access for the fire department
- Patients are separated by gender, age, etc.
- State of art security systems
- To restore the historic portion of the building to keep the look and feel of the buildings in harmony with no changes to the outside of the building

Dr Carise reviewed the details of the program saying that the patients are professional, upper middleclass/ wealthy patients, e.g., Dr, CEO's, Nurses, and Attorneys, opining that Penguin Hall is the type of building that would appeal to this type of cliental. This is a voluntary group; there would not be court mandated criminal justice population in this facility.

Dr. Carise went on to say patients follow schedules all day with different types of counseling, therapies, support groups, bio feedback, electives, men / women groups, etc.

- All staff hired will be licensed according to the State of Massachusetts Department of Health, Federal substance; RCA reiterated this is a heavily licensed monitored industry
- Administration and have the appropriate education/ experience
- The average stay / treatment is 25 to 30 days;
- Most rooms will accommodate two patients; a few rooms will be single rooms
- Non-qualifying patients include unstable psychiatric patients, arsonist, sex offenders, or patients with violent criminal records.
- Outside supportive groups are also incorporated into the program i.e. AA, NA

Mr. Feeherry observed that Selectman Harrison was in the audience and invited a comment. Ms. Harrison noted this was not deliberated by the BOS and questioned at what point it was appropriate for the BOS to deliberate on a Development Agreement and give input to the ZBA. Mr. Feeherry said the ZBA is interested in input from the BOS and Development Agreement as part of the public process; this would not interfere with the decision of the ZBA.

Ms. Harrison will convey this to the Board of Selectmen.

Mr. O'Neill noted that this facility would hire 200 employees and RCA's payroll will be \$14 million. This is a tax paying entity and will create a sizable tax rate base for the Town and the traffic impact is minimal as was the traffic impact of

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Mullen Advertising (and noted that the proposed project would have half the number of employees as Mullen advertising had).

Mr. Mullen confirmed that Mullen Advertising had 525 employees and invited anyone to stop by the property including the residents.

The ZBA stated that they needed time to review the new material received, and a fiscal impact to the town is forthcoming.

Mr. Feeherry moved, and it was seconded, to continue the hearing to February 25, 2015 at the Bessie Buker School, at 7:30 PM. The motion carried unanimously.

The ZBA requested the following information from RCA:

1. Security
 - a. Intake of patients
 - b. Keeping patients onsite
 - c. Review plan with Police and BOS
2. Financial Impact on the Town / cost of site development
3. Water – Full Report received – Comprehensive plan to minimize water usage
4. Septic is a state permit
5. Draft Development Agreement
6. Clarify the number of patients necessary for this operation

Mr. O'Neill commented that this will be the finest medical facility for drug/ alcohol rehabilitation in New England and top experts will be hired. He offered to make special accommodations for the school to provide information and address concerns.

Attorney Bobrowski, Counsel for the Town commented on a Development Agreement, saying most of the concerns he is hearing could be addressed in "conditions" and conveyed to the Town Departments/ BOS to list what conditions they would like to impose and to submit a list.

He observed that the town is promised tax revenue and if it ever goes to non-profit status that a PILOT (Payment In Lieu of Taxes) could be required.

Doug Dagata asked the Board what has to change, what is non-conforming?

Mr. Feeherry responded that the Mullen property was previously an advertising company that was non-confirming but permit was issued for this use, and the ZBA must determine if the proposed use is substantially more detrimental to the neighborhood.

Mr. O'Neill noted the history of this site has been commercial for over 40 years. He said the building is spectacular and the layout of the building suits this need, the patients look for ambiguity as these patients would be looking for privacy and the ½ mile long driveway offers this

There is a big need in this area for such a facility, adding the affluent neighborhoods are being greatly affected by drugs/ alcohol at a high rate.

One of the Sisters from Notre Dame School, noted concern regarding the septic, which abuts the school that may encroach on the school's property.

Mr. Mullen explained the septic is currently a Title V that is located on his property that abuts the school. This site would either be abandoned or changed to drip disposal, adding that the school has surface rights for playground on his property over the septic system; this is raw sewage and the new plan would be an improvement.

The Engineer further explained Septic study originally submitted with the application. Included was a new report on the drugs in the system.

The ZBA requested this be a part of the presentation on February 25, 2015.

It was questioned the percentage of beds were dedicated to "detoxification". The detoxification process is part of the rehabilitation program. There will be continued care after patients leave the facility. RCA stated that 25% of the beds would be used for detoxification. A full clinical package will be provided to the Board.

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Administrative Items

1. Middlewood (Burley Street)- Update

There is a meeting with the Attorney tomorrow to discuss the ongoing construction issues at Middlewood e.g. the buildings are larger than permitted, a foundation is wrongly located and encroaches the side yard setback; an amendment may be sought or removed but it was noted that the stormwater plan is affected by these changes.

Ms. Barrett will provide the ZBA with an update on 40b construction projects.

2. Review/approve minutes December 10, 2014

Mr. Feeherry moved, and it was seconded, to accept the minutes as amended, and that the edits reflected are supplemented by ZBA member Coffey. The motion carried unanimously

3. Ethics statement: The Ethics Statement must be turned in to the Town Clerk for the record.

4. Next Meeting: January 28, 2015 @ Burnham Hall, Wenham

Adjournment

The ZBA unanimously adjourned at 9:44 PM

Respectfully submitted by

Catherine Tinsley
3.4.15