

**TOWN OF BELMONT
PLANNING BOARD**

MEETING MINUTES

November 17, 2015

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Present: Elisabeth Allison, Vice Chair; Joseph DeStefano; Barbara Fiacco; Karl Haglund; Raffi Manjikian (associate member)

Staff: Jeffrey Wheeler, Office of Community Development

8:00 a.m. Meeting called to order

1. Applicant requests 6-month extension of the Special Permit granted for Cushing Village

(Mr. DeStefano recused himself from this agenda item.)

Mark Donahue, attorney representing the Applicant, explained what has been happening since August and why this extension is requested. He stated that the Town accepted the financing packet and everyone moved toward closing. The lenders, however, questioned whether or not the issuance of a foundation permit is a 'substantial use of the Special Permit'. Mr. Donahue explained that there is no accepted practice for this term. As a result, he stated that the Applicant is requesting a 1-year extension in order to bullet proof the 'substantial use'. He mentioned attaching very specific benchmarks with specific deadlines and if the Applicant fails to meet them then the Planning Board can state that the Special Permit has lapsed and can revoke it.

Sami Baghdady spoke on behalf of the Board of Selectmen. He stated that this is a very complex project and that the Applicant has been proceeding with good faith. He added, however, that he was shocked at the 1-year extension request. He mentioned that residents are frustrated by the process and businesses are closing. George Hall, Town Counsel, reviewed the proposed extension. He stated that the law on the lapse of Special Permits is very gray and this extension was an attempt to bring hard lines to the Special Permit. He stated that this was a responsible way to address this issue since there is very little case law on it. He added that the additional 6 months was driven by the lenders lawyers who were slightly paranoid because 'substantial use' is not defined. The conditions occur within 6 months, but the lenders wanted assurance and they were not comfortable with just the minimum being met.

Mark Donahue stated that the Land Disposition Agreement (LDA) requires the completion of the entire project and that it starts the clock when all construction must be done. He added that the LDA allows 2 years and 6 months for the entire project to be done. He further added that the additional 6 months requested allows for some wiggle room. Tony from Nauset Construction, the contractor for the project, stated that the delay in utility work is a function of the weather and expect to it complete by mid-March and to pave by the end of April.

Mr. Manjikian stated that 12 month request flies in the face of a good faith effort and questioned whether this could be a shorter timeframe. Mr. Donahue stated that the lenders are very conservative and don't want to be in a position of requesting more time. Ms. Allison stressed that the Board will not welcome a request for additional time.

The Board discussed granting a 6-month extension and then have the Applicant request additional time. Mr. Donahue stated that this does not work because the Applicant has to come

back and ask that substantial use has been met. Mr. Hall added that the lenders are concerned that some other party might step in and state that 'substantial use' has not been satisfied. He emphasized that the additional 6 months is to assure that the extension cannot be challenged.

Ms. Fiacco stated that she is listening to Town Counsel and the Applicant's agent and that the extension with conditions is more protection than a simple extension. She argued that this represents a good faith effort to meet the deadlines and to move the project forward. She added that she knows that lawyers are conservative and that the extra time is to prevent a challenge. She concluded by reviewing the process for fulfilling the benchmarks.

MOTION made by Ms. Fiacco to grant a 1-year extension with conditions to the Special Permit for Cushing Village. Seconded by Mr. Haglund. Motion passed.

2. Continued Public Hearings

15-08 - 26-28 Dante Avenue, Design and Site Plan Review/Special Permit

MOTION made by Mr. DeStefano to continue the public hearing to December 3, 2015 at 7:00 pm in the Board of Selectman's Meeting Room. Seconded by Mr. Manjikian. Motion passed.

15-13 – 122 Waverley Street, Design and Site Plan Review/Special Permit

The Applicant, Don Cusano, reviewed the changes that were requested at the Board's last meeting. Mr. Haglund raised several concerns about landscaping. Mr. DeStefano suggested conditioning the approval subject to review and approval of the landscape plan. Mr. DeStefano added that the Board is requesting larger street trees than the Tree Warden. Mr. Cusano raised the concern that street trees can damage sidewalks and curbing. Mr. DeStefano suggested planting 3-1/2" caliper trees on Waverley Street and 4" caliper trees on Waverley Terrace. The Board agreed to further review the landscape plan at its next meeting.

MOTION made by Mr. DeStefano to continue the public hearing to December 3, 2015 at 7:00 pm in the Board of Selectman's Meeting Room. Seconded by Mr. Manjikian. Motion passed.

3. Review Public Discussion

Ms. Allison reviewed the purpose of the meeting. Mr. Manjikian stated that the process worked well. Mr. Wheeler reviewed that proposed changes to the amendments. Ms. Fiacco mentioned the concern about fuel storage and to make sure that it is captured in the proposed amendments.

4. Review and Approval Minutes

Motion made by Mr. Haglund to approve the minutes of June 16 and 30 and July 13. Seconded by Ms. Fiacco. Motion passed with 1 abstention.

5. Election of Officers

**Motion made by Ms. Fiacco to nominate Ms. Allison as Chair. Seconded by Mr. Haglund
Motion passed**

**Motion made by Mr. Haglund to nominate Ms. Fiacco as Vice Chair. Seconded by Mr.
Manjikian. Motion passed**

The Board discussed committee appointments with the following changes: Mr. Haglund will be on the Community Preservation Committee and Mr. Manjikian will be on both the Housing Trust and Capital Budget Committee. The Board agreed to revisit the appointments when a new member is appointed.

6. Continued Public Hearings

15-12 – 54 White Street, Design and Site Plan Review/Special Permit

(Mr. DeStefano recused himself from this public hearing.)

Levi Tobias, architect representing the Applicant, reviewed the changes that were requested by the Board at its last meeting. Mr. Haglund raised concerns about the existing trees at the rear of the yard and appropriate screening for the detached garages. He requested that more thought be given to these areas. He added that the landscaping is not sufficient for the size of the structure. Ed Hovsepian, Applicant, responded that the building is too close to the grade and that large shrubs does not look good if windows are closer to the ground.

Mr. Manjikian inquired about the driveway. Mr. Tobias stated that the development is subject to the Stormwater By-law and that an engineered plan will be submitted identifying where catch basins will be installed on the property. Ms. Fiacco stated that the revisions reflect a great effort to address that concerns that were raised at the last meeting. She requested that details be added to the garage so that it appears more like a barn. Ms. Allison agreed that the changes improve the design of the structure but emphasized that it is still large. She asked questions about the detail of the architectural design. She also reviewed the concerns raised by the 318 Trapelo Road project. Mr. Wheeler stated that this will appear smaller since there are no dormers and it is 8' shorter to the ridge. Mr. Haglund requested more detailing on the porch roof.

MOTION made by Mr. Manjikian to continue the public hearing to December 3, 2015 at 7:00 pm in the Board of Selectmen's Meeting Room. Seconded by Ms. Fiacco. Motion passed.

Adjourn: 10:00 a.m.