



TOWN OF
STONEHAM
MASSACHUSETTS

PLANNING BOARD
781-279-2695

STONEHAM PLANNING BOARD MINUTES

(in accordance with provision of M.G.L. c.30A, §§ 18-25)

Wednesday, March 29, 2022

Town Hall

Hearing Room

7:30 PM

Members present: Chairman August Niewenhaus, Vice-Chair Kevin Dolan, Daniel Moynihan, Jr., and Frank Vallarelli

Member absent from the meeting: Terrence Dolan

Also present in the meeting: Attorney Charles Houghton, Scott Weiss of the Gutierrez Company, David Robinson, Stephen Engel, Sandra Pascal and Carol McKinley from Friends of the Fells, Melrose resident Adele Dean

The Chairman brought the meeting to order at 7:44 PM in the Town Hall Hearing Room and made introduction of all members present. He apologized for the delay and mentioned meeting with the Board of Health on some regulations which were germane to these proceedings.

Mr. Niewenhaus confirmed the next meeting for April 13, 2022.

Next, Mr. Dolan mentioned deferring the minutes until the next meeting with a full Board. As the March 9th meeting only had three members present, Mr. Dolan made a motion to approve the minutes dated March 9, 2022 which was seconded by Mr. Vallarelli. Mr. Dolan, Mr. Vallarelli and Mr. Niewenhaus voted in favor with Mr. Moynihan abstaining.

The Chair moved on to the continuation of the public hearing for 5 Woodland Road. The public hearing was opened on December 15, 2021 then continued January 12, 2022, January 26, 2022, February 9, 2022 and March 2, 2022.

The legal notice had previously been read into the record as follows:

“You are hereby notified that the Stoneham Planning Board acting as a Special Permit Granting Authority will hold a Public Hearing WEDNESDAY EVENING, December 15, 2021, in the Hearing Room, Town Hall at 7:00 p.m. to hear all persons interested in the petition of Fellsway Development LLC, 200 Summit Drive, Suite 400, Burlington, MA for a Special Permit pursuant to Stoneham Town Code, Chapter 15 Section 4.15.4.4 to construct a two-story, 150,000 square foot Research and Development, Office, Life Science, Support and Production Facility at 5 Woodland Road, Stoneham, MA 02180. A plan by Allen & Major Associates, Inc. dated November 15, 2021 entitled, “R&D, Office, Life Science, Support and Production Facility 5 Woodland Road, Map 27 Lots 3 and 3E2 Stoneham, MA” may be seen mornings except Friday in the Planning Board office and daily except Friday afternoon in the office of the Town Clerk.”

The Chair explained that the Board was having a late start because a few of the members had attended the Board of Health public hearing for biomedical regulations. The Board of Health is expected to adopt regulations forthwith.

The Chair explains the procedure for the night then invited Mr. Houghton to sum up where we are to date.

Mr. Houghton began with what he believed to be open questions from the last meeting. He had forwarded a copy of the recorded Covenant and Agreement for 3-5 Woodland Road which covered the separation of the doctor's building from the old hospital. Several things were included like screening, buffering and planting but the most important was section " II. SEPARATION OF HOSPITAL FROM MEDICAL ARTS BUILDING" (page 9). Mr. Houghton elaborates that it would be his client's responsibility to separate the buildings and put a new wall or whatever is required.

Mr. Dolan confirms that his client is referred to as Fellsway Development. Mr. Houghton answers yes, Fellsway Development is the original owner of everything from when the hospital went belly up. Mr. Dolan confirms that this agreement, even though it is approximately a 14 ½ year document, is still applicable today. It's a living document? Mr. Houghton agrees. Absolutely. It has been recorded. Mr. Dolan acknowledges that Mr. Houghton's client would be bound by this agreement as successor in interest of Fellsway. Mr. Houghton states that page 9 lays everything out. Mr. Dolan acknowledges that all parties were probably represented by counsel. Mr. Houghton agrees and mentions that this agreement was a result of previous litigation. Mr. Dolan questions the Chairman that any decision tonight would incorporate this agreement into the demo plans subject to any additions or edits of the current town boards with jurisdiction over the demolition, like Board of Health or Building, or something like that that may not be addressed in here. Mr. Houghton does state that the Board of Health was headed toward adopting regulations allowing biomedical levels 1 & 2. Mr. Niewenhaus brings up the communication that was sent from the City of Melrose Health Director at 5:05PM to the Stoneham Health Director regarding notification and involvement in the process. He explains that the Stoneham Board of Health Chair, Mrs. Dean was satisfied with the knowledge that we belong to Metro Fire which provides for mutual aid and information to be shared with the neighboring communities. Mr. Houghton questions if that is the email from the City of Melrose asking that they be informed of the Stoneham Board of Health actions. He believes that we should agree to that when they agree to do the same for us.

Mr. Houghton mentions that they had previously gone through the department reviews. He does remind the Board of the condition that they proposed that can be found in the Planning Board minutes. It's the condition regarding the Executive Drive condominiums which was previously submitted to the Board. It deals with the parking easement. Mr. Niewenhaus agrees to all of Mr. Houghton's recollections. Mr. Houghton proceeds to say that as long as this building is permitted and built and exists then that easement would not be used.

[Please note specific language as contained in the minutes dated March 2, 2022: "Upon issuance of a Certificate of Occupancy for a life science laboratory production facility as allowed by this special permit and as shown on the Plans of Record, and provided that such use remains in effect, then Applicant/Owner of Lot F3, and any successor Owner of Lot F3, shall be restricted from exercising Grantor's rights to use the Proposed Parking & Access Easement on Lot K as defined in the quitclaim deed recorded in the Middlesex South Registry of Deeds in Book 69291, page 355."]

Mr. Houghton once again mentions that they had done the department reviews. Mr. Niewenhaus concurs.

Mr. Houghton brought up another issue from the last meeting regarding the question of what his client, Fellsway Development, successors in interest to Gutierrez would do about the Master Deed restriction in the "Doctor's building" that limits the use of the space to solely medical offices. Mr. Houghton confirmed that he did talk to the petitioner, Arthur Gutierrez and Arthur agreed that as far as the doctor's building and the restriction in the Master Deed limiting the use solely to medical use, so long as this proposed new building is permitted and it was important to him that it be permitted, he would go along with any changes the condominium association wanted to do to remove that restriction. He only owns thirty percent of the building, so he alone cannot make the change as he doesn't control the association. Mr. Dolan requested that Mr. Houghton confirm his client would be in support of any change to the Master Deed removing the limitation of the uses in the building to solely medical related uses and Mr. Houghton agreed. Mr. Houghton believes a decision like that would need at least seventy five percent or as set forth in the Master Deed. Mr. Dolan acknowledges that it is understood. Mr. Dolan then brings up that someone from Historical wanted some of the church stones. Mr. Houghton agrees to save some stones. Mr. Dolan states that you will make them available for a certain time and acknowledges the offer can only be for a certain period of time.

Mr. Vallarelli questions that if the Board takes action to approve this this evening, it will incorporate the recommendations we got from the Board of Health? Mr. Niewenhous states that it will be as adopted or amended from time to time by the Board of Health. Mr. Houghton states that they are bound by whatever their regulations are. Mr. Moynihan reiterates what he had previously stated about deferring to the Board of Health. He had spoken to Executive Dr resident Bob Doherty who had concerns about the levels and had submitted a letter. Mr. Moynihan mentions that the Board of Health has adopted level two as their ceiling and everyone should be satisfied. Mr. Dolan acknowledges the Board of Health has accomplished a significant amount in a short amount of time, and certainly kudos to them for that as the material received from them was excellent, in depth and very professional. Mr. Niewenhous adds that it was easily understood and very well put together.

Before closing the public hearing, the Chair acknowledges the letter received from the Friends of the Fells dated March 21, 2022. A lot of the conditions have been talked about already and acknowledged in department comments. Mr. Niewenhous asks the Board members if there are any questions about the letter. Mr. Dolan states that most of the items listed are under the jurisdiction of the Select Board with the Site Plan hearing and some Board of Health issues as well.

At this time Mr. Houghton goes through 7.4.3.1, the bylaw that requires conditions for the Special Permit approval. He mentions that the specific site is an appropriate location for such use, structure, or condition. If the Board remembers in 2011 we put in the bylaw on a special permit to have this specific type of use allowed. You are allowed to have up to 250,000 square feet and we are only proposing 150,000 square feet. It's substantially less than allowed. The use as developed and operated will not adversely affect the neighborhood. They have taken great pains not to affect the neighbors. The existing building is a \$15 million demo project. If it doesn't get down it will adversely affect the town. It's got asbestos in it and all kinds of vermin. It hasn't been occupied in over twenty years. There will be no nuisance or serious hazard to vehicles or pedestrians. It's a two lane highway for access and is very well capable for the number of trips. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. Access to the site over streets is appropriate for the type of vehicles involved. Mr. Houghton states that it's just going to be regular automobiles. There is almost no trucking. Minimal traffic issues than a regular office would be. Perfect use. Good tax dollars, at least a \$50 million building. No real services by the town. Maybe an ambulance once in a while.

Mr. Niewenhous asks if there are any further questions or comments from the public. Steven Engel from the Friends of the Fells mentions that they did submit a letter on March 22nd with a number of points. He wants to make sure that this letter travels with the file and goes to other Boards. He mentions that this property is in the middle of the Fells and he speaks to native plantings and outdoor lighting. He would like excessive lighting mitigated if possible. Mr. Niewenhous asks that it go on the record that the authorities that have actual standing to make recommendations to this Board, the Department of Conservation & Recreation and the Massachusetts Water Resources Authority have not commented at all and they had good notice.

Sandra Pascal, 50 Lynn Fells Parkway, Melrose, member of Friends of the Fells asked about the demolition happening without finding a tenant or will you wait until you find a tenant.

Mr. Weiss from the Gutierrez Company responds that their intention is to proceed with the project after solidifying a tenant and that would include the demolition at that time. He continues to say there are some scenarios that would cause them to proceed proactively with demolition before acquiring a tenant. He can't envision would they would be at this point but it's possible. Ms. Pascal just wanted to reiterate about the rat poisoning. It may seem like a small thing but it is a very sensitive habitat there. As for the landscaping they would appreciate some input. Janet Pirrello, 11 Executive Drive, Chair of the board of Sterling Hill condominiums, would like a clarification of the parking easement. What happens if Gutierrez sells the building? Mr. Niewenhous responds that the easement goes with the land. Mr. Weiss also states that under the condition of the special permit the easement also runs with the land because it gets recorded. Mr. Dolan adds that what Mr. Weiss made clear is that the 150,000 square feet of new building does not require additional parking. They don't need it, they are not going to exercise the parking easement. If twenty five years down the road they were to demolish this building and put up a 250,000 square foot building they would probably need that site for parking and execute the easement. For now it'll stay as green space and not used for parking. Mr. Houghton then rereads the portion of the conditional language agreed upon, "...then Applicant/Owner of Lot F3, and any successor Owner of Lot F3, shall be restricted from exercising Grantor's rights to use the Proposed Parking & Access Easement on Lot K as defined in the quitclaim deed recorded in the Middlesex South Registry of Deeds." Mr. Dolan acknowledges that that this proposed restriction that will be made part of the decision.

At this point Mr. Dolan made a motion to close the public hearing which was seconded by Mr. Moynihan. A roll call vote was taken. All members present voted in favor.

Mr. Dolan made a motion to approve the special permit application with the following conditions:

- The demolition will be done consistent with a document recorded at the Middlesex South Registry of Deeds 12/21/2007 recorded at Book 50503 Page 141 and may be modified by some town departments that have jurisdiction over any such demolition as they see fit.
- We would incorporate any Board of Health decisions or regulations on what is allowed as far as levels of a life science.
- We will incorporate the condition that the petitioner contact the Historical representative to allow them a reasonable period of time to come and collect any stones or something of other historical nature from the Scientology Seventh Day Adventist building.
- The condition that upon issuance of a building permit for the proposed use, the petitioner agreed to support any change in removing the restriction in the Master Deed limiting the use of offices to solely medical offices, such that the Master Deed be amended to allow uses more consistent with our current zoning there, which could include, but would not be limited to, medical offices.

- On the condition that the easement parking not be exercised by the petitioner and that we incorporate the language proposed by the petitioner’s counsel several meetings back into our written decision.

[Please note language referred to by Mr. Dolan as contained in the minutes dated March 2, 2022: “Upon issuance of a Certificate of Occupancy for a life science laboratory production facility as allowed by this special permit and as shown on the Plans of Record, and provided that such use remains in effect, then Applicant/Owner of Lot F3, and any successor Owner of Lot F3, shall be restricted from exercising Grantor’s rights to use the Proposed Parking & Access Easement on Lot K as defined in the quitclaim deed recorded in the Middlesex South Registry of Deeds in Book 69291, page 355.”]

- Also incorporate any other town department recommendations that have already been read into the record previously.

The motion was seconded by Mr. Vallarelli. A roll call vote was taken. All four members present voted in favor with one member absent.

Mr. Niewenhous points out to the Board members that they have been given the subdivision regulations as promulgated by the Director of Public Works with slight changes as shown highlighted in yellow to provide comment on at a future meeting.

Motion to adjourn was made by Mr. Dolan and seconded by Mr. Moynihan and Mr. Vallarelli simultaneously.

Meeting adjourned at 8:10 PM.

Documents and other exhibits used by the Planning Board during this meeting to be made part of the official record but not attached to these minutes:

Planning Board minutes dated March 9, 2022

Legal Notice for 5 Woodland Road

A plan by Allen & Major Associates, Inc. dated November 15, 2021 entitled, “R&D, Office, Life Science, Support and Production Facility 5 Woodland Road, Map 27 Lots 3 and 3E2 Stoneham, MA”

Comments previously submitted by the Police, Fire, Community Development as submitted to the Select Board, Public Works Department including the Stormwater Board and the Building Commissioner.

Covenant and Agreement to Make Improvements to Real Property 3-5 Woodland Road
Recorded at the Middlesex South Registry of Deeds Book 50503 Page 141

Draft biomedical regulations from the Stoneham Board of Health

Letter from Chris Redfern, Executive Director of Friends of the Fells dated March 21, 2022.

Letter from Robert P. Doherty, 11 Executive Drive, Unit 132 dated March 18, 2022.

An email from the City of Melrose Health Director Anthony Chui received by the Stoneham Health Director at 5:05PM on March 29, 2022.

All other documents as provided during the previously adjourned sessions of the public hearing for 5 Woodland Road which opened on December 15, 2021.

Respectfully submitted:

Maria Sagarino
Town Clerk