

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

John R. Bethoney, Chair
Michael A. Podolski, Esq., Vice Chair
James E. O'Brien IV, Member
Jessica L. Porter, Member
James McGrail, Esq., Member



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PLANNING BOARD MINUTES
October 11, 2019, 3:30 p.m., Lower Conference Room

Present: John R. Bethoney, Chair
Michael A. Podolski, Vice Chair
James E. O'Brien IV
Jessica L. Porter
Ralph Steeves, Associate

Staff: Jeremy Rosenberger, Planning Director
Jennifer Doherty, Administrative Assistant

The Pledge of Allegiance was recited. Plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office.

26 Bryant Street
Public Safety Building (Continued from 10/10/19)
Major Nonresidential Project/Site Plan Review

Applicant: Town of Dedham
Project Address: 26 Bryant Street, Dedham, MA
Zoning District: Central Business (CB)
Representative: Brad Dore, Nancy Baker, Leon Goodwin, Chief Spillane, Chief D'Entremont
Peer Review: Steven Findlen, Senior Project Manager, McMahon Associates

Chairman Bethoney discussed the Board would consider the revised Certificate of Action (COA) before them regarding a Special Permit for the Public Safety Building at 26 Bryant Street by the Town of Dedham. He mentioned the last time they were together they reviewed and made changes to the COA. He asked Mr. Rosenberger to describe those changes.

Mr. Rosenberger discussed incorporated into the COA before them were updates that made clear Mr. Steeves was at all the hearings, the post occupancy analysis included bicycle and pedestrian counts as part of the traffic analysis, making sure all plans, revisions, meeting minutes as part of the process and part of the decision, included notations for electric vehicle charging infrastructure, updated the documents exhibit to include a parking study by the town and Mrs. Porter and an updated lighting plan with a engineers stamp.

Mr. Bethoney asked Mr. Findlen if all issues identified through his peer review had been addressed. Mr. Findlen responded yes.

Mr. Bethoney asked Mr. Dore of Dore & Whittier if they have reviewed the latest revision and agree to the conditions of approval. Mr. Dore state yes. Mr. Bethoney then asked if any Board members would like to comment.

Mr. Podolski discussed the process for the project had been less than stellar and would like to read a statement for the record:

The Town of Dedham, through the Town Manager's Office and with the professional representation and assistance of Dore & Whittier of Newburyport, MA, propose to build a new Public Safety Building on Bryant Street which will house the offices and members of the Dedham Police Dept. as well as the Dedham FD. In order to construct this building, both the existing Town Hall and the Fire Department Headquarters are to be tom down.

Due to the size of the proposed new building (approx. 49,500 sq. ft.), the project, which is known as a "major non-residential application" under the Dedham Zoning Bylaws, may only be allowed/constructed upon issuance of a Special Permit by the Dedham Planning Board (PB). The Town, as the Special Permit applicant, is bound by the same conditions and requirements of the zoning bylaws as would be any other developer in the Town. The Town as applicant, represented through most of this project by the former Town Manager James Kern (TM) knew full well that the project had to be submitted reviewed and (if found appropriate), approved by the Planning Board before any construction could ever be commenced. The Planning Board, by Town Zoning Bylaws, has exclusive authority over this project and ultimately, the Planning Board alone would decide whether the building could be constructed.

Despite actual knowledge of the Dedham ZBL requirements for Planning Board review of the project, it is the opinion of the members who have signed below, that the former TM purposefully thwarted many requests by the Planning Board that he and his team present the project well in advance of the project reaching the final stages of review. In fact, the former TM refused to come before the Planning Board to discuss the ongoing planning of the building and site. In fact, the TM, as well as Dore and Whittier, presented its concept plan to the taxpayers and Town Meeting Representatives of Dedham well before the plan was ever submitted to the Planning Board for its statutory review. In fact, the TM submitted a site plan to Town Meeting in November, 2017 requesting 45 million dollars to fund the construction of the project, even though the plan, as presented at Town Meeting, had never even been filed with the Planning Office or with any review whatsoever by the PB. In fact, the now "funded" project was only formally presented to the PB for its initial review and consideration in August of 2018, a full 10 months after Town Meeting had already approved funding of a site plan which had not been reviewed by the PB and at the cost to the taxpayers of Dedham of 45 million dollars.

In fact, the Town as PSB applicant never provided a required parking analysis for the PSB, which was a specific condition contained in the PB approval of the "new Town Hall". In fact, the Town as PSB applicant never provided a required traffic analysis for the Bryant Street/Eastern Avenue intersection which again was a specific condition required in the PB approval of the "new Town Hall". In fact, the location of the PSB on the site was already "set in stone" by the time the Town/Applicant got around to submitting its plans for review to the PB.

It is our contention, based upon valid information and logical reasoning, that the Town as applicant purposefully and intentionally delayed and avoided submitting the PSB site plan for the project to the PB until such time as the project had been basically completed by the Town developer, Dore & Whittier. Upon the filing of the project with the PB in August 2018, the PB was basically presented with a "take it or leave it" plan, knowing full well that the PB had been left out of the planning process from inception. The planning process before the PB is and was a farce as PB input was severely limited in that the project, whether buildings, parking lots, landscaping and even exterior design and materials had already been significantly pre-determined for the site. When filed with the PB in August 2018, any planning of the project was basically already concluded, was already been funded for construction and

was ready to go. PB input was not sought, requested or needed, except as to a small green space between the new Town Hall and the PSB. Needless to say, the PB strongly disagrees with the method in which this project was handled by the Town. The PB was put into a very awkward position, because if the PB were not to approve the plan as presented, it would be the PB who would be denying the Police and Fire Depts. their new headquarters. The way this project was handled by the TM, was at best, a now very obvious attempt to circumvent the authority of the PB for site plan approval of this project.

It confounds us as to why the Town Manager's office (as the developer) would circumvent the PB 's site plan authority over the project. We have never been provided with any answers as to "why" it proceeded in this fashion. We have always known and do truly appreciate the fact the noble purpose of this project is to provide new and well-deserved HQs for the Dedham Police and Fire Depts. But the way in which the planning process was handled by the Town has placed the PB into the classic "Hobson's Choice" situation, that if we don't approve the project, then the Police and Fire Headquarters will not be built.

It is our adamant opinions that the proposed building is much too large for the site, which is clearly evidenced by the number of waivers from town bylaws the site will require in order to be built pursuant to the plan finally submitted in August, 2018. The site requires significant waivers for parking spaces, as well site landscaping, aisle width and parking angles in the underground parking structure, along with some non-compliant parking spaces and a radio tower height which will be 120 feet tall (instead of the zoning restriction of 85 feet).

Last, but certainly not least, the project, as represented and presented to the citizens and Town Meeting Representatives showed no utility wires along Bryant Street. In fact, the Town as applicant, represented to the PB (as well as the citizens and Town Meeting reps by

Dore & Whittier "showcase") that all utility wires would be "underground". However, when the PB raised the issue of underground utilities to be part of the Certificate of Action for the development, the town reneged on its agreement to place the wires underground stating that it would be "too expensive". Once again, the PB was faced with a decision to hold up or deny the project vs. letting it proceed with utilities on poles.

It has been stated many times at public meetings of the PB, that the Public Safety Building, as proposed for this site, is too large and is akin to "pushing a square peg into a round hole". It is a very large building on a site which is not large enough. We do hope that this building, once constructed, will be a source of great pride to the citizens of Dedham. We will reserve any further comment until the project is completed. Solely based upon our desire to see that the Police and Fire Depts. receive the modern facilities they so justly deserve, we will be casting our votes to approve the project. We request that these written remarks (as well as the separate written remarks of PB member James O'Brien which are incorporated herein by reference) be placed in the PB public record for this project. We trust and hope that the next public project of this nature will not be handled in the manner in which this project was conducted.

Mr. O'Brien stated this was the hardest vote he has been faced with in the fifteen years he has been on the Board. He added that the person responsible (the prior Town Manager) was not here to represent the project. Mr. O'Brien then read a statement for the record:

After a short period discovery and much deliberation the Planning Board has been asked to make a their finale vote regarding a Special Permit for a Non-Residential Project for the Town of Dedham known as the Public Safety Building. Unfortunately this vote has become a difficult one gain an affirmative "yea" endorsement by this Board to which our First Responders deserve! Various elements throughout the discovery and deliberations for this Special Permit has complicated and conspired against an obvious yes vote by the Planning Board. Who cannot argue that there is a "common good" for Town and their First Responder's to finally have a new, up to date and state of the art Safety Facility in comparison to the ancient buildings that retain them?

This Town has designated the Planning Board to be its instrument and keeper of the “Common Good “! Our form of government has been inherited from of Founding Fathers where the Town’s people volunteer their time to act in leadership roles to be the deciders and judges of the Town’s Commonwealth. The Town of Dedham’s leadership roles are periodical voted in by fellow citizens who have entrusted these leader’s to be the defenders of their common interests. All those who have chosen to live our Town do so because they have found a comfortable living and sharing common spaces designed by our forebears by laws and present volunteer leadership!

The main priority of the Planning Board is to protect the Town of Dedham and its peoples against the encroachment upon their rights, privileges, privacy, boundaries and space. We as a community have established rules or bylaws to which we all share our commonwealth regarding boundaries, spacing and privacy to each other! Every now and then we (all those living in Dedham) are asked by an applicant who are asking to share or intrude on our common spaces that way not be or not be appropriate to a particular area! This is known as a “Special Permit”.

By being elected to the Planning Board by Town wide vote of its people each elected Planning Board member has been entrusted with power to protect those rights mentioned above and to judge whether an Applicant of a Special Permit as a future and possible addition will be an asset to the “common good of the commonwealth “or a hindrance and drain to that share space. Our only goal as “holders of the Public Trust “our Town’s government is a made of volunteers whose involvement and decision are not guided by future higher office or by pride and fear of defeat! We endeavor to make our shared “commonwealth “comfortable and full of prosperity! For the most part or vote is simple as us against them 98% of the time.

Occasionally the Government of the people need to take property or infringe on the rights of its People and or the Commonwealth through a Special Permit. As an equal entity The Town Dedham must go through the same process as any another applicant for a Special Permit and must go the same exhaustive discovery and deliberations by the Planning Board. We of the Planning Board must maintain the same trust voted to us by the people of Dedham to guard their Commonwealth or prove that this new addition will be an asset to that Commonwealth and not a burden. The Planning Board being government must not turn a blind eye to the obligated procedure that each applicant of a Special Permit must abide even if it’s the Town Of Dedham itself!

Transparency alone by itself as word is enough reason why the Town of the Dedham must follow the same procedure for a Special Permit as any private applicant. The Planning Board has been empowered by the people to be “entrusted” with protecting the people’s “Commonwealth “from encroachment of boundaries, traffic and expenditure of the people’s taxes!

Still there is no conclusion to this project will work or not within its confines of THE PEOPLE’S TAX MONEY and EXPENDITURE!!!! We believe that the Town of Dedham may have broken the trust of its residents by possible spending more expenditure on the building cost of both Phases I and Two that was mandated or voted by Town Meeting Members!

Should not the TAX PAYER of this Town have the final say on wither they wish to pay for this noble project! Yes Town Meeting voted to spend the Town Tax money originally but that project voted has dramatically changed and will keep changing in cost and expenditure these next few years. We have a warrant in our next Town Meeting asking for money to finish Phase One and we have no idea when Phase Two will start!

Unfortunately the applicant Town of Dedham has not fully answered its obligatory questions asked by the Planning Board for Special Permit. At this point many of this Board feel we owe our decision to the people of Dedham who have “entrusted “us to maintaining the “common good “of the Commonwealth. Normally if this were a private application or even if it was Phase I of the New Town Hall known as the Ames School, we as the signers would vote No! Each us now must in the next few minutes decide privately what is in the best interest of the Town its people and The Commonwealth to either vote yea or nay!

Mr. Bethoney asked that the statements be included in the minutes and that Mr. Podolski, Mr. O'Brien and himself would be signing each statement.

Mr. Steeves discussed that no one in the town that believes that the fire department shouldn't have the finest facility. At Town Meeting, he referenced he was one of the many people that got up and applauded when the project was unveiled. However, when it came before the Board, it could not be built without numerous waivers. It is going to cost a fortune. The Town never had any answers through the many meetings before the Board. It was always the consultant team. Mr. Steeves added the project can't be constructed the way they are proposing it. Lastly, he would like an ethics investigation into the process.

Mr. Bethoney discussed Mr. Steeves, has always had a problem with the project due to the many issues discussed through this public process. It's also based on his disappointment with his many questions that were not adequately addressed by the form Town Manager and Dore & Whittier. It is his contention that the answers were not provided adequately, completely, or honestly. Mr. Steeves asked me what can the Board do about this. I've requested that he speak to the acting Town Manager to talk about his concerns. We're really here today to talk about, as Mr. Podolski had stated in his last paragraph, about consideration of a Certificate of Action and the determination of whether or not the public safety building will be built as proposed, as outlined in the certificate of action, as shown on the plans, as represented in the meeting minutes. And all of the notes that the Planning Board has taken over the over the year and a half before us. Mr. Bethoney then asked if Board members had any additional comments.

Mrs. Porter stated she would like to make a comment after the vote.

Mr. Bethoney discussed his name is on Mr. Podolski's statement and he supports Mr. O'Brien's statement. He also agreed with Mr. Steeves disappoint with the Town's lack of answers with regard to the project. He added that the Board does not cast any blame on the fire and police departments, the building, planning and construction committee, the acting Town Manager Nancy Baker, or the current Planning Director. With that, he would entertain a motion from the Board regarding the project.

Motion: Ms. Porter moved to approve the Certificate of Action (COA) for Public Safety Building at 26 Bryant Street, as amended. The motion was seconded by Mr. O'Brien.

Discussion: Mr. Steeves asked about an ethics complaint. Mr. Bethoney stated, in his opinion, such a complaint shouldn't have any bearing on the whether the Board votes for the project.

Roll-Call Vote:

Mr. Bethoney: Yes
Mr. Podolski: Yes
Mr. O'Brien: Yes
Mrs. Porter: Yes
Mr. Steeves: No

The motion was approved 4-1.

Mr. Bethoney asked Mr. Rosenberger to work with Mr. Podolski to finalize the COA. He reiterated Mr. Podolski's statement that they are casting their vote to approve a worthy project, regardless of the displeasure of the process. He could not put our public safety officials at a disservice because they are not happy with the way it went. Mr. Bethoney thanked all the public officials.

Mr. O'Brien discussed his concern that the project will likely require more money and they will be asking taxpayers to foot that bill. We do not know how much it will end up. He knew of a Dedham resident who just within this last month had to sell their house because they can't afford their property taxes anymore, and yet we are going to ask more money to be spent.

Mrs. Porter thanked the Police and Fire Chiefs, Nancy Baker and Jim Sullivan for their stewardship through the very contentious public process. The process has caused her to reflect and think about what we can learn from the process and to work together and all do a better job moving forward. A project such as this municipal project should be a collaboration. She added that the Board has gone on record about their perspectives on the engagement from the former town manager. From her perspective, they have been caught in a vicious cycle and that has kept us from being able to collaborate as effectively as we could have. At times, our board has experienced a lack of communicative respect from the town manager's office and the Select board. At times, our board has acted with a lack of civility and disrespect and she is sorry for that. She hopes that going forward, they will break this cycle. Mrs. Porter said this requires all of us to break the cycle, to find a spirit of collaboration, strive to respect one another and work more closely together and more productively both on this project going forward and on future projects. That is the least that we can do for the people of the Commonwealth, as Mr. O'Brien talked about. It is our contract as officials, as employees, and I am committed to doing that. I just would encourage all of us to think that way. Thank you.

Leon Goodwin, new Town Manager, stated he has heard all of the Board's concerns. He praised their work on behalf of the Town's citizens and hopes they can continue to collaborate.

Mr. Bethoney thanked Mr. Goodwin for joining the Board this evening. He also thanked Steve Findlen from McMahon Associates and his commitment to ensuring project meet the standards Dedham's Planning Board and citizens expect. Mr. Bethoney also thanks each of the Board members and the Planning Department for their support during the project.

Adjourn (4:30pm)

Motion: Mr. Podolski moved to adjourn, seconded by Mr. O'Brien.

Vote: The vote was unanimous at 5-0.