

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 27, 2017

Board Members Present: Jonathan F.X. O'Brien, Chairman; John Riordan; Nancy G. Rubenstein, Jonathan G. Gossels and Jeffrey Klofft.

CONTINUATION - Public Hearing Case 16-21 – B'nai Brith Housing New England, Inc./Covenant Commonwealth Corporation—Post Road Limited Partnership (Owner), Applicants, for a Comprehensive Permit and Substantial Modification of the existing Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B and 760 CMR 56.04 & 56.05, to allow construction at 187 Boston Post Road of a second 56-unit senior age-restricted housing building. This application constitutes Phase II of the project originally approved in 2011, and includes the subdivision of the 6 acre parcel into two 3 acre parcels to accommodate the new structure. The project is known as Coolidge at Sudbury, Phase Two, and is identified as Assessor's map and parcel K10-0012.

Chairman O'Brien suggested finalizing the public hearing. The applicant's representative attorney Joshua Fox indicated the team was prepared to discuss landscaping, finalize the stormwater, waivers, and any other outstanding issues.

Chairman O'Brien indicated the Decision needs to be rendered March 31<sup>st</sup>. He added the vote needs to happen and the draft needs to be written before that date. Attorney Joshua Fox stated the Decision needs to be written and the twenty (20) day appeal period needs to expire before March 31<sup>st</sup>. Therefore, the vote needs to happen this evening. Mr. Fox indicated they will work with the Office of Planning and Community Development to assist in writing the decision.

Mr. O'Brien indicated a major decision from Health Director Bill Murphy, who provided a letter to the Board indicating he talked with Town Counsel and found that the sewage treatment facility should comprise of two facilities; not one.

Civil Engineer Joe Peznola explained the "innovative technologies" prior to disposal, not affluent field. Once going beyond that, they must comply with state. Each system is reviewed by DEP. The DEP requires sampling and monitoring, which is expensive depending on the type and the price tag of monitoring. What they looked at was an alternative that would provide additional treatment not come with that system. They came up with a Presby system, which is an engineered system. What happens between the interface and soil is that a biomat layer occurs. The effluent cannot get through, and is starved of O<sub>2</sub>. What a Presby System does is a septic system with a discharge, but has twelve-inch ribbed pipes with perforations that form skimmers on each side. There is much more surface area in a ribbed pipe with a non-woven fabric looks like fiberglass with filters. He further indicated it is all a multi-layer system. Mr. Peznola stated this proposed system provides more area to have aerobic digestion to happen rather than anaerobic area.

Mr. Gossels what happens when the Presby System fails and how long will it last? Mr. Peznola stated with not understanding the situation, systems do fail, that is why the state requires a reserve area. The State also requires under Title V, that a reserve area be in place. Mr. Gossels referenced the system will be located under the parking lot so where would that reserved area be? Mr. Peznola noted that the primary system will be larger and located in the north of the property, while the reserve system would be located to the west in the parking lot. He added both the primary and reserve systems will be under the parking lot.

Ms. Rubenstein asked what kind of maintenance is required. Mr. Peznola indicated regular maintenance, consisting of standard pumping and a matter of separating the solids and sludge with the skimmers; much like a conventional system.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 27, 2017

Mr. Riordan asked of the best practices to prevent failure. Mr. Peznola explained the system's biological action. He noted that additives can help if there is not enough bio-action happening, but only added when the system is close to failure.

Mr. Peznola indicated the two-tier system called an advanced bio-septic system. He passed out printed materials illustrating an AES System, which comprises of a bio-accelerator allowing for the bio matter to provide additional treatment. Mr. Peznola further explained the system.

Mr. Gossels and Mr. Riordan asked about the reserved system Mr. Riordan asked if a system is required under state law. Mr. Peznola affirmed that the system is required under state law. Mr. Riordan asked for clarification on the reserve area asking if there is also an emergency area. Mr. Peznola indicated it the reserve area was larger in order to accommodate system and located under the parking lot. Mr. Riordan asked if the parking lot would have to be torn up in the event of a catastrophic event. Mr. Peznola said yes, and referred to other situations in town where this happened during an emergency.

Mr. O'Brien asked if the water is cleaner with the Presby system. Mr. Peznola stated the water is cleaner because the surface area and the contact between waste and the affluent is larger. Mr. O'Brien asked how large is a traditional septic system? Mr. Peznola answered the Presby system is 70 x 79 and the conventional reserve area is 113 x 78. He noted the reduction in the size of the system, however, it would be 5 times more effective.

The Presby System was submitted to the Board on February 2, 2017, but they are committing to this evening an advanced enviro septic system from AES

Mr. Gossels asked when the fabric has to be replaced. Mr. Peznola indicated it does not get replaced. He further explained the system maintenance and repair.

Mr. O'Brien asked if the plan had advanced system on it. Mr. Peznola indicated it does not and asked if it could be conditioned with an approved septic plan, installed in accordance with Board of Health, Title V, and Mass DEP approved

Mr. Riordan asked how the wetlands were designed, referring to plans for buddy Dog in 2007 provided by the Conservation Coordinator. He noted it looks unbelievably close, citing the edge of the bordering vegetative wetlands as much bigger than what is shown on their plans. He added if you overlay those plans with the proposed plans, the wetlands go up to the edge or even into the building. Is there a much larger area of wetlands than indicating or has it changed overtime. Schofield Brothers did the delineation of the Buddy Dog plan. Has same plot and lot-lines, but the wetlands are much bigger.

Attorney Fox indicated that the 2007 plan is a sketch draft and he did not know if there were any soil texting at the time either. What the Board has from the team is a stamped survey from 2015 that was done in concert with the Conservation Commission. He further added they are in the middle of their ANRAD process. He noted the plans were drawn in accordance with state through the ANRAD process.

Attorney Fox introduced landscape architect James Emanuel.

Mr. Emanuel discussed two separate plans, citing significant landscaping for Phase 1, while outlining the plan for Phase II. For Phase I, he noted along Boston Post Rd, the plantings would consist 29 new trees consisting of junipers and arbor vitae. Other trees will include native white pines and hemlock. He added there will be no overcrowding and the plantings will provide screening overtime. Mr. Emanuel added that

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 27, 2017

red cedar will be planted in the parking area in a staggered pattern to fill in gaps. At the corner on Landham Road, Mr. Emanuel proposed adding hemlocks and white pines.

Mr. Gossels indicated he believes that the chosen trees may not look stately enough. He added the proposed plantings will be the wrong thing to do overtime and proposed sugar maples. Mr. O'Brien thinks a sugar maple may not grow along Rt. 20, and the plantings need to be strong enough for the amount of salt used on that road. Mr. Gossels opined there are salt-resistant street trees that would accomplish having a stately look along Route 20. Mr. O'Brien disagreed, indicating Route 20 is a very busy road, the salt is extreme, and choice of plantings because of this should be taken into consideration. Mr. Klofft agrees that the landscape planning needs to last over time, but the greatest need is for screening. Mr. Emanuel indicated there is always a balance between screening the parking lot and large trees. He also asked to keep in mind deer resistance, and added that juniper is salt and traffic tolerant. Further discussion on the tree selection occurred.

Mr. Klofft noted that landscaping evolves. He asked if there a way to come back in 15 years to review the landscaping? Mr. O'Brien said the Board could condition it to come back in 10 years to see that the visual impact is being dealt with appropriately.

For Phase II, Mr. Emanuel proposed adding a line of cedar trees between 7 feet-to 20 feet tall, creating a canopy. He added these trees will be less prone to ice and salt damage and designed to serve as a windbreaker. He also said red maples, dogwood, sumac and native will also be used throughout the front as well, and low growing juniper will be used in the entry area.

Mr. Klofft asked if there could be a cut-through/pathway placed near the front area between the plantings. Mr. O'Brien suggested putting the bushes along the 6 parking spaces located at the front of the proposed building.

Mr. Riordan asked about the plant schedule on the upper left-hand corner, specifically about the diameter of the trees. Mr. Emanuel clarified by explaining it is a measurement by caliper.

Mr. Riordan also referenced the plantings at other plazas in towns, noting the trees do not look healthy and never grow. He said hates to see glorious landscaping plans and seeing the actual plantings looking rough and not nourished. Mr. Emanuel noted the size of the tree and the distance will allow them to thrive, and the proposed site has good soil volume.

Mr. Riordan also referenced the planting plan where have red maple is located. He asked to get where get one more red maple in near the junipers. Mr. Emanuel noted with the northern exposure, the shadow is being cast over. The purpose it to screen the parking, so they are taking down 14-15 trees and put in 4-5 trees and shrubs for this purpose.

Ms. Rubenstein noted that between Phase I and II, there completely different trees between the two sites. She asked is there going to have a cohesive look. Mr. Emanuel noted that they won't look completely different, because all of the species are in the same family, but look a little different.

M. O'Brien referenced the old/current plantings on the site, asking if there any red maples. Mr. Emanuel affirmed there are. Mr. Gossels indicated they were left there from the original site. Mr. O'Brien asked if there is continuity between both Phase 1 and 2 with large scale trees. Mr. Emanuel affirmed the group there would be. Mr. Emanuel added that they are getting more value with the evergreens that are proposed on Rt. 20.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 27, 2017

Ms. Rubenstein referenced the wall along Route 20. Mr. Fox noted the wall will be approximately four feet in height with plantings located on top of it.

Mr. O'Brien referenced snow removal, stating the Board received the applicant's plans today. Mr. O'Brien asked if there is plenty of space to accumulate snow from plowing. He then read that the snow will be removed to an off-site location. Mr. Klofft asked how many spaces in underground parking. Ms. Grace indicated there will be 46. Mr. Klofft noted there is not enough spaces for each unit. Mr. O'Brien referenced the sloped driveway into the parking garage and asked of snow removal and salting of the pavement and wants to make sure it does not go into the nearby wetlands.

Mr. O'Brien asked of Construction Phasing. Mr. Fox indicated nothing has been turned into it.

Mr. O'Brien discussed the Fire Department calls and noted they have gone down but wants the insurance that it will continue to go down. He added that he wants a reporting mechanism to building inspector on what the status is on calls and then a counter affirmation from police and fire. Mr. Klofft noted they need to stay within the parameters of the Board and if not, they need come back to the Board and get back into compliance as a condition.

Mr. Fox stated his team agrees to use the continued efforts to mitigate the calls, but cannot agree to a condition. Instead, they will submit annual reports and continue to educate the residents.

Circling back to the construction phasing, Mr. O'Brien's concern is that a lot of dirt will get into the wetlands. He referenced the 2011 Decision, noting hours, but not phasing. Mr. Klofft asked how long from start to finish will it take to build Phase II. Mr. Fox indicated between 12 and 14 months.

Mr. O'Brien asked about the construction schedule once again and reviewed the hours of construction within the Zoning Bylaws. Mr. O'Brien referred to the Phase I Decision, specifically the conditions. Mr. Fox indicated the constructions plans will be provided prior to the issuance of the Building Permit. Mr.

Mr. O'Brien reviewed the waivers. Ms. Grace provided a handout listing the waivers. Mr. O'Brien spoke of the driveway location, and noted he would not make the applicant change the existing location.

Mr. Gossels requested an estimate of the removal earth. Mr. Peznola said the amount will be in the draft decision and will be located the foundation will be. Mr. O'Brien asked for an estimate in the draft Decision.

Mr. O'Brien indicated he was OK with the stormwater as long as they had the peer reviewer from Horsely Witten's approval. Mr. Gossels asked if there was an on-going maintenance plan of the stormwater. Mr. Peznola indicated they are complying with the state. Mr. Klofft indicated this would be a condition.

Mr. Klofft asked about the waiver for the runoff. He asked if they should already be complying. Mr. Peznola explained that it is the volume part under the State's stormwater requirements. He added that it is about the control of the rate of runoff in the case that they increase the volume and the culvert is not working. He indicated that Horsely Whitten is satisfied with this.

Mr. Klofft asked about the waiver for 2310, referring to not to make an accessory use in one of the units. He would like to make sure that there not giving up the bylaw and allowing to make accessory dwelling units within each of the apartments. Attorney Fox indicated the property management is accessory and incidental to the complex. Mr. Klofft asked to constrain that waiver to property management only. Mr.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 27, 2017

Klofft asked if there will be bike racks. Attorney Fox indicated a bike rack will be installed, though not shown on the plan, but it will be consistent with the bike rack on Phase I.

Mr. Gossels inquired about a waiver from Zoning Bylaw 3110, asking how much parking is being used in Phase I. Ms. Grass indicated .84 spaces per unit at the peak; approximately one (1) per person.

Mr. Klofft referred to the waiver on 3410. Attorney Fox indicated approval needs to come from the Building Inspector, but under 40B, the Board is designated the authority.

Mr. Klofft asked of the grade of the road going to the underground garage. Mr. Peznola answered 10%. Mr. O'Brien was concerned about having a problem with the grade and the underground garage. Ms. Vert indicated that DPW had a problem with it as well. Mr. Peznola indicated there is a leveling area before the door or else the cars will bottom out.

Mr. O'Brien asked about the wetlands, and being asked to waive. Mr. Fox stated they are looking for a waiver from local bylaw but will be in compliance with state Wetlands Protection Act.

Mr. Klofft referred to the in ground irrigation language (Article. 27), asking if it is specifically for the setbacks. He asked for clear language. Mr. Klofft also asked if anything is to be demolished. Mr. Fox indicated they do not know what is there, so this is in anticipation for something to be there like a foundation or a greenhouse.

III-subdivision: reiterated—amend the first comp permit and create a new decision for comp permit.

Mr. Gossels asked if the Presby system be noted in the waiver or in the Decision. The Board decided it will be in the Decision and Mr. Peznola agreed because it will be compliant with Title V.

Mr. Klofft asked about sewage pumps. Mr. Peznola indicated sewage pump will be included and there will be an operational plan in case of a power outage.

Mr. O'Brien spoke of the subdivision of the land—Phase I being separate from Phase II. Mr. Fox indicated because of this, they will have to amend the Decision from Phase I. Mr. Klofft noted a vote will have to be taken in regard to there will be two Decisions—one to be amended for Phase I and a new one for Phase II. Later, Mr. Fox noted a cross-easement will have to be granted to allow parking on both lots.

Mr. Gossels asked about the radius. Mr. Peznola stated not changing the curb cut, but rather repeating the inconsistencies from Phase I the local requirements for a curb cut with the radius and what Mass DOT requires. DOT wants the curb cut to be 24', while the local bylaw limits it to 20' for the curb cut, and for the radius, the local bylaw indicates 20' while the state requires 30'. He added that is what is there now and is not proposing to change it.

Mr. Klofft asked if there will be any contributions to anything. Mr. O'Brien stated the Board requests a general contribution of \$10,000 with the Council on Aging. Mr. Klofft reiterated this was discussed and agreed upon and will be a condition within the Decision.

Mr. O'Brien stated the Board should refer to the August 8, 2011 Decision for the conditions to be used for Phase II.

Mr. Fox stated even though they will be using well water for irrigation, they would agree to the water bans imposed by the Sudbury Water District.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 27, 2017

Mr. O'Brien went through each of the general conditions of the Decision.

Gossels suggestion to go over the findings of previous Comprehensive Permits in order to be consistent. He further opined that the location is ideal for high density development, in accordance with the Master Plan. Investigated the stormwater and groundwater issues and have no concerns

Mr. O'Brien motioned to separate three (3) acres parcel from Phase 1 to create Phase II, Mr. Klofft second. Vote: Unanimous

Motion to approve comp permit as discussed tonight as amended and conditions discussed by Board and based on the original conditions of Phase I. with the additional conditions of mitigation funds of \$10,000 for the Council on Aging, septic will comply with Title V with the use of the Advanced Enviro-septic System by Presby, abide by town Water District water ban except for the first year for the plantings, 10 years the Board can review the landscaping, and a maintenance plan for landscape plan that includes the shearing of white pines.

Mr. Gossels motioned, Mr. Klofft second: Vote: Unanimous.

Motion to adjourn at 10:21 p.m.