



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

January 11, 2012

Present

Mark Mulligan, Chairman

Alison Manugian, Member

Bruce Easom, Associate Member

Jay Prager, Member

Carol Quinn, Associate Member

Not Present

Cynthia Maxwell, Member

Megan Mahoney, Associate Member

Robert Cadle, Member

A quorum was attained. The meeting was called to order at 7:30 pm.

Meeting Minutes

Luth Karate Special Permit

Chairman Mulligan convened the hearing by reading the Legal Notice.

Rob Oliver, engineer and agent for the applicant, said that 306 Main Street is part of three buildings/businesses. He said the existing doctor's office is currently vacant and there is also a bank (Worker's Credit Union) and Decoteau orthodontics. He said the applicant wants to move his karate business from Pepperell to this location, where the building has a side setback of 13 feet rather than the required 15. He said the building would be altered by adding an addition to the right side and rear. He went over the special permit criteria, noting that it is already a business and the traffic will be okay. He said they have been to the Conservation Commission for environmental review. He said there would be no impact on town services, etc. and said each of the three business has own it's own building/site but all share egress and some parking. He said there are a total of 36 parking spaces, as well as an agreement between buildings that the bank maintains the parking lot. He said the parking lot currently is not very full, noting that Mr. Luth has done a parking count both here and at his Pepperell location and he feels he only

needs ten spaces. He said this lot should be more than adequate, noting that most of the hours of operation between the karate school and bank don't have much overlap, except on Thursday evenings. He said it is mostly parents dropping off kids, suggesting that they will park and go in, and not live park or just drop off. He said they are adding 1800 square feet and remodeling the existing building, noting that there will be a new handicap ramp in front. He said there would be mostly studio space in the addition, and offices and bathrooms in the existing remodel.

Chairman Mulligan asked whether the westerly side setback is the only non-conforming aspect of the building.

Mr. Oliva said yes, noting that the addition will conform to setback and not be an increase.

Chairman Mulligan asked about the parking easement and whether the parcels are separately owned.

Mr. Oliva said they and also noted there are utility easements.

Jeff Demers, abutter 311 Main St., said a lot of traffic is going through the parking lot to Dr. Decoteau's.

Dr. Decoteau said the easement goes through both parking lots and he wants to have his access maintained.

Mr. Easom said the copy of the deed and the plan in the submission packet don't jibe, noting that he wants clarification about the frontage.

Mr. Oliva said the plan on file at the Registry shows frontage.

Mr. Easom asked whether the discrepancy/typo will be fixed.

Mr. Luth said it would be.

Chairman Mulligan said the closing attorney should find this and resolve it.

Mr. Prager asked what happens if the bank won't let them use parking spaces even if it is closed.

Mr. Oliva said they are only entitled to the spaces in front of the building but the center spaces are shared. He said the division/easement was for made to provide for maintenance costs.

Chairman Mulligan asked Dr. Decoteau if any spaces at his office were shared.

Dr. Decoteau said his spaces on his parcel were not shared.

Chairman Mulligan asked whether his main concern is access.

Dr. Decoteau said yes, noting that his operation will have some overlap with the school. He said he is in favor of the project but wants his egress protected.

Mr. Oliva said the building is vacant now so there will be more cars but not a huge change.

Mr. Demers said he feels that traffic will be affected because the westerly egress is the one mostly used.

Mr. Prager said he feels the parking issues are much more PB site plan review.

Mr. Mulligan said he feels most abutters' concerns are related to PB site plan review.

Mr. Demers asked whether the Board is planning on waiving wastewater disposal requirements, etc.

Mr. Oliva said that all falls under PB site plan review.

Mr. Luth said that the count of 15 to 25 cars is for over the whole day, but mostly in the evening and mostly from 4:00 to 6:00 pm. He stressed that this is not a big operation.

My. Oliva said the board needs to review traffic safety, etc. but said the parking lot is more than adequate and is satisfies the special permit criteria.

Lucas Sterling, abutter, said he wants clarification as to why the applicant is here. He noted that there does not seem to be a change in parking, but just an alteration of the building.

Mr. Oliva said they are here because the building is non-conforming and under the bylaw they need to apply for a special permit.

Dave Rogers, senior VP at WCU, introduced John Gallant, attorney. He said that WCU approves of the business and he knows Mr. Luth is well respected. He said he feels the cart is before the horse, and the project, when done with the PB, will look different than what is before the board tonight. He said they are looking to expand three times the use and will need 17 to 18 spaces minimum. He noted that they only have the right to use ten spaces and it is a small site. He said he feels the drop offs will be a nightmare and a safety issue, and that parking and stacking won't work. He said there would be a lot of overlap with banking hours and the ATM is 24 hour, noting that he feels the building will have to change. He suggested that maybe the size of the addition will be reduced and some parking put on the side. He said he feels the applicant should go to the PB first and then the ZBA because the board can't vote on an uncertain plan. He said the parking issues need to be resolved, noting that a 1000 square foot building becoming a 3000 sq foot building won't work. He said he is opposed to this plan.

Mr. Prager said he feels this is an odd argument because if ATM causes problems, would it not be the fault of the bank/owner of said ATM.

Mr. Gallant said the Board should look at the nonconforming use here.

Chairman Mulligan said it is not use but the alteration of a nonconforming structure.

Mr. Prager said the ZBA is only being asked whether the applicant can put the addition on and not the nitty-gritty of the parking lot.

Mr. Gallant said it is not ZBA purview, noting that the real issue is what project/plan he is asking for a permit on.

Mr. Prager said he does know because the grant would be for the plan as presented.

Mr. Gallant said feels the ZBA hearing should be done after PB site plan review.

Mr. Easom said he is a fairly new board member and maybe he has misinterpreted the by-law, but noted that he feels there are sufficient parking spots and if there is a disagreement internally between the owners, it is not ZBA jurisdiction.

Michelle Collette apologized for being late, noting that the PB has authority to determine whether there is adequate parking. She said it is the Board's policy to encourage shared parking and limit the amount of asphalt. She said this proposal will be discussed tomorrow night at 8:30 pm with the PB, noting that issues will be worked out before the closing. She said the PB also has the authority to waive parking requirements.

Mr. Oliva said that if the building changes, it will only get smaller, noting that this is what Mr. Luth wants. He said, in addressing traffic patterns, that the ATM is on other side of the site and won't really impact this operation. He said parents generally come in with their kids and return early to watch the end of class.

Mr. Luth said he needs space for the students to move because there is a lot of physical activity involved.

Chairman Mulligan read letters from Workers Credit Union and Dr. Decoteau into the record.

Mr. Prager said he feels there is no reason to deny a special permit, noting that most issues are within the PB's purview and if the proposal/building changes, the applicant will have to come back to the ZBA. He stressed that he is not taking sides.

Members Manugian and Quinn said they agree with Mr. Prager.

Mr. Easom suggested reading 218-6.E.1, and did so, noting that he doesn't think the intensity regulations apply to non-residential structures. He said the Board needs to determine if this is substantially more detrimental to the neighborhood.

Mr. Lucas, abutter, asked whether landscaping, drainage, etc., is involved.

Mr. Prager said this refers to the fact that the existing building is non-conforming.

Mr. Lucas asked how landscaping, etc., will be addressed and asked how a permit can be granted with confused lot lines.

Chairman Mulligan said it is a typo type of mistake.

Mr. Oliva said the drainage would be taken care of.

Mrs. Collette said site plan review takes care of all issues such as landscaping, drainage, etc. and that that is the proper forum in which to address these issues.

Mrs. Manugian made a motion to approve the permit to allow the alteration of a non-conforming structure as requested on the plan submitted, with the conditions that the deed/plan be corrected, all site plan review conditions be incorporated and the building not be larger than shown on the plan. Mr. Prager seconded and the motion passed unanimously.

Other business

Minutes and Bills

One Groton Herald and two Nitch 593 account bills were signed.

Mr. Prager made a motion to adjourn at 8:25 pm. Mrs. Manugian seconded and the motion passed unanimously.

Minutes approved 3/7/12.