



OFFICE OF THE
PLANNING BOARD
TOWN HALL, 10 CENTRAL STREET, MANCHESTER-BY-THE-SEA, MA 01944-1399

Meeting of the Planning Board
May 6, 2019 – Town Hall

Present: Chairman Canny, Members Coons, Delisio, Fish, Foley, Mastrogiacomo
Absent: Mrs. Sullivan

Chairman Canny called the meeting to order at 7:00 p.m.

84 Old Essex Road, Continued Public Hearing in accordance with MGL Chapter 40A, Section 11, to consider the application of MJP Properties for a Special Permit under Sections 7.5 and 6.16 of the Zoning By-Law for topographic changes within the “Setback Area” of 84 Old Essex Road, Assessors Map 58, Lot 32, Zoning District B.

Mr. Canny called to order the Continued Public Hearing on the application of MJP Properties for a Special Permit under Sections 7.5 and 6.16 of the Zoning By-Law for topographic changes within the “Setback Area” of 84 Old Essex Road, Assessors Map 58, Lot 32, Zoning District B.

He read into the record a letter from Engineer Robert Griffin requesting that the Public Hearing be continued to May 20, 2019. Upon motion made by Mr. Coons and seconded by Mrs. Foley, it was VOTED to continue the Public Hearing to May 20 at 7:00 p.m.

84 Old Essex Road, MJP Properties, application for Determination under Section 4.9.5.1 of the Zoning By-Law that the proposed groundwater recharge system is satisfactory to the Planning Board.

Inasmuch as the applicant has continued the public hearing on the subject site to May 20, 2019, and was, therefore, not in attendance, Mr. Canny continued the agenda Item to May 20, 2019.:

43 Lincoln Street, Continued Public Hearing in accordance with MGL Chapter 40A, Section 11, to consider the application of Manchester-Essex Regional School District for a Special Permit under Sections 6. 9, 6.15 and 7.5 of the Zoning By-Law to build an elementary school in the location of the existing school, 43 Lincoln Street, Assessors Map 47, Lot 06, Zoning District G.

Mr. Canny called to order the Continued Public Hearing to consider the application of Manchester-Essex Regional School District for a Special Permit under Sections 6. 9, 6.15 and

7.5 of the Zoning By-Law to build an elementary school in the location of the existing school, 43 Lincoln Street, Assessors Map 47, Lot 06, Zoning District G.

In attendance were MERSD School Building Committee Members Remko Breuker, Caroline Weld, and Annie Cameron; MERSD Director of Finance Avi Urbis, MERSD Superintendent Pam Beaudoin, resident Mrs. Donna Furse, Engineer Steve Martel of Samiotes, Ms. Christina Schifman of Dore & Whittier.

Mr. Steve Martel, Samiotes, addressed the Board. He said he had met this morning with Peer Reviewer Bill Jones, Town Planner Sue Brown and Conservation Administrator Chris Bertoni to go over comments. With regard to the bordering land subject to flooding, he said the applicant was able to provide compensatory storage, and with minor impact it will be on the revised plan. He said the applicant has a good handle on the soils. They moved Rain Garden #2 slightly and added sloped areas to provide a level of barrier. The storm water calculations presented have not changed.

Mr. Jones said the applicant will get the demolition permit by mid-June in advance of the building permit. As soon as the children leave the site will be secured and they will tear down one wing of the building. They are looking for a building permit in mid July.

Mr. Urbis said counsel is engaged and ready to write the decision. If the basic documentation is ready to go the conditions can be folded in easily.

Mr. Jones said he does not see any “show stoppers.” He estimates that the remaining work is 20% design tweaks and 80% documentation. At the end of the day the existing school is being replaced with a new school with the same number of children and the same curb cuts.

Regarding ZBL Section 4.9, Mr. Jones said 4.9 has exemptions. He felt a special permit would be needed if they are digging and filling below 4 ft. above seasonal high ground water. He said that removing the basement triggers that. Some areas on the site are being excavated out, some raised and others lowered. Mr. Jones said it is up to the Building Inspector to say whether or not a special permit under 4.9.5 is required.

Ms. Christina Schifman of Dore & Whittier said the project for demo has gone out to bid and been awarded. The second bid is in the process of acceptance. The due date is May 20.

Mr. Urbis said the bidding will be under the construction manager contract. There will be steel foundation bids and concrete and steel bids

Ms. Brown will talk to the Building Inspector about whether or not a special permit is needed and get back to Mr. Martel so that he can file the application by May 13 for a June 6 public hearing if a special permit is necessary.

Mr. Martel said that there are areas less than 4 ft. and when they are done other areas will be within 4 ft. They are cutting and filling to the same elevation. They are replicating for flood storage. Recharge basins are designed to be 2 ft. above the estimated recharge height. They are

getting rid of some flood storage and replacing it with basically the same size. Six test pits have been done. Ground water has the possibility to be variable.

Regarding lighting during construction, Mr. Jones said they are applying for LEED approval so there will be limits on lighting. The temperature of the lights will be 4000. They will be orange.

Ms. Beaudoin there is a memorandum of agreement with the Board of Selectmen about the lighting.

Regarding minutes of neighborhood meetings, Ms. Beaudoin said the meetings are framed as community meetings. They do not address any technical aspects and no minutes are taken

Mr. Urbis said the meeting is an update, not an official meeting requiring a public hearing.

Regarding whether the people in the neighborhood think they have been heard, Ms. Beaudoin said they sent out a notice to the people in the area regarding a gathering and who to contact with questions and concerns and a gathering. She will provide the Planning Board with a copy of that letter. The contact person will be someone from Manchester.

Mr. Remko Breuker said he has received 5 notices. Everyone in the area has been notified.

Regarding the Landscaping Plan, Mr. Martel said they are working on revising and resubmitting the plan.

Mr. Martel said there are 105 comments in the Peer Reviewer letters which he is addressing..

Mr. Urbis will have the school district's attorney call Mr. Jones regarding the Decision.

Mr. Canny said that if the Decision is to be finalized on June 10, that draft decision needs to be before the Board on May 15. He said conditions can be added later.

The Conservation Commission will write a condition in their decision about the basement.

Upon motion made by Mr. Mastrogiacomo and seconded by s. Fish, it was VOTED to continue the Public Hearing to consider the application of Manchester-Essex Regional School District for a Special Permit under Sections 6. 9, 6.15 and 7.5 of the Zoning By-Law to build an elementary school in the location of the existing school, 43 Lincoln Street, Assessors Map 47, Lot 06, Zoning District G to May 20, 2019 at 7:00 p.m..

43 Lincoln Street, Manchester-Essex Regional School District, Determination under Section 4.9.5.1 of the Zoning By-Law that the proposed groundwater recharge system is satisfactory to the Planning Board. (The application has not been filed and an informal discussion of Section 4.9.5 and whether it would be a Special Permit or a Determination ensued.)

Mr. Jones said that under 4.9 the belief has been that the application simply needed a Determination, no special permit, no public hearing. He said 4.9 has exemptions and the project does not fall into any of those exemptions. He said one of the things that require a special permit is increased impervious area unless adequate recharge is being provided. He said they are providing adequate recharge.

He said a special permit is needed if they are grading the site less than 4 ft. above seasonal high ground water. There are pieces of the site presently that are less than 4 ft. Of necessity they are filling some of those. They are digging from another area of the site to compensate. The areas less than 4 ft. to ground water that are being excavated and left less than 4 ft. require a special permit if the Building Inspector does not make the determination. Because they have to do it at the same elevation, they will be creating areas with less than 4 ft. to ground water. They are doing it to replace areas that presently are less than 4 ft. But they need to raise those because of where they are geographically and to accommodate their program.

Regarding whether a special permit is needed, the Board could vote to say that unless the Building Inspector says no, the answer is yes. If he declines to say no, then it is yes and the Board can move forward and do the advertising.

He said the ConCom is not involved in terms of the special permit. They will be approving the grading plan. He said the way it appears that ConCom is going to go is to make a finding on the demolition phase, that it will not have any negative impact, and issue a Determination under the NOI that the Demolition Phase is going to go that way and the rest of the phases are going to continue and hopefully come to fruition.

Mr. Martel said the construction manager wants to be in the ground doing demolition as soon as possible after the school year ends.

Mr. Jones said Con Com will write a condition into their Order of Conditions about the basement and slabs being removed and that the material will be inspected and test pits will be excavated at that point. If it turns out from their perspective that that requires any changes in design, those changes shall be immediately brought to the Commission. He said that is a Phase 4 item. He said that if the soils are discovered to be different from C, then the system might have to get a little bit bigger.

Steve Martel said there might be some over-excavation required as a result of whatever material is underneath the building. He said the Parent soils are C soils. He said he very conservatively made assumptions on the ground quality based on some of the test pits that they did. He is confident that that is not going to be changing substantially, but it is always safe to do a

confirmatory test pit. He said there is a layer of fill that is high in silt content that runs across the site at various depths. It was filled at one point but not uniformly. There are different thicknesses at different areas. If there is going to be any excavation required to over-excavate to remove any of that fill, it is not going to be much. It is about 8 ft. down when you get to the parent soil.

Mr. Jones said there will be notes on the plan to speak to all of that.

Regarding Section 6.15, Mr. Jones said that because they are also in front of Conservation Commission, they might remove the request for a Special Permit under 6.15. They are not going to have all of our Storm Water questions answered by May 20. They can simply withdraw the request for 6.15 because they are in front of ConCom and Section 4.9.5 recognizes the fact that they have to satisfy the ConCom prior to any construction other than demolition on the site. And even demolition must satisfy ConCom. It appears that the process of bringing the Stormwater to completion is going to last longer, and there is a provision that the applicant come to Planning Board unless they are going to Conservation Commission. He suggested withdrawing 6.15.

He said he does not think there are show stoppers with the Conservation Commission but there are things that may require adjustment. Con Com is meeting May 14 and the applicant will be asking for approval for the demolition portion of the project.

Mr. Jones said the ConCom hope is that they can separate the demolition from the Notice Of Intent and have a discussion on the balance of the property and bring that discussion to closure at the first meeting in June.

Ms. Brown said the Site Plan Review Special Permit requires a performance guaranty. She asked if the contractor's bond to the school could be a surety or performance guarantee that could be used.

Mr. Jones said his understanding on these sorts of public projects is that they can't just take money, they are getting bonded throughout and so there is a reasonable assurance that because it is a public agency doing the work that the work is going to come to completion and not be left hanging. He said that beyond that it is complicated because it is a public school district and a town and the question is: does the Board feel it needs separate surety or does the Board feel that the contractor being bonded to the district is sufficient? That has to be done.

Mr. Urbis said MERSD signed a contract with the Construction Manager, W. T. Rich. Mr. Urbis said MERSD owns the project. Dorr & Whittier is the third party to oversee the designer and the construction manager. He said the project is \$52 million with approximately \$41 million for construction. He will confirm with Atty. Nysten that W. T. Rich will be providing for the sub-contractors.

Atty. Richard "Chip" Nysten, the District Counsel, will create language to address the performance guaranty requirement. Mr. Jones will work with Mr. Nysten. Mr. Urbis will consult with Mr. Nysten.

Mr. Jones said the contractor who might rip up the road posts a bond with DPW when he goes into a public road. Mr. Urbis said MERSD will insure that town roads are not damaged. Any damage is covered as part of the project. He has been working closely with DPW. Any specific damage will get addressed by the people responsible through the insurance process.

Mr. Jones said in his experience he has never seen a problem with a public entity project like this one. If you want a bond he encouraged the Board to speak with Town Counsel. The Bond would come from MERSD. There are limitations as to what MERSD can do.

Upon motion made by Mrs. Delisio and seconded by Mr. Mastrogiacomo, it was VOTED that Mr. Canny will check with Town Counsel re bonding.

Ms. Brown will contact the Building Inspector about 4.9.5.

Upon motion made by Ms. Fish and seconded by Mrs. Delisio, it was VOTED that if the Building Inspector fails to make a Determination by Thursday, May 8, 2019, then the applicant will apply for a Special Permit under Section 4.9.5.1(o).

Members discussed holding off on withdrawing from 6.15 and putting in a new application for 4.9.5. They will wait to hear what ConCom does.

Mr. Canny said that if they withdraw from 6.15, the application fee will be applied to the application for 4.9.5.1.

The matter of 4.9.5 will be continued to May 20, 2019

Mrs. Donna Furse, Blossom Lane, addressed the Board regarding having lights on the fields during construction. She said the Boosters and Grid Iron have offered to pay for the lights.

Town Planner Report, Brown

Ms. Brown submitted the Town Planner Report. She said there will be a walking audit of the streets around the school on June 3, 2019 at 1:30 p.m.

Surf Village Conservation Restriction Update, Brown

No update.

Update on Mark Bobrowski Agreement for Zoning By-Law Recodification, Brown

No update.

CPC Update, Mastrogiacomo

No update.

Driveway/Curb Cuts, Discussion, Foley

Mrs. Foley requested that there be a process in place.

Water Resource Overlay Protection Districts (4.9), Discussion, Foley

Mrs. Foley requested that there be a process in place.

Stormwater Management Special Permit (6.15), Discussion, Foley

No update.

Minutes

Upon motion made by Mrs. Delisio and seconded by Mr. Coons, it was VOTED to approve the minutes of March 25, 2019 as written.

Upon motion made by Mr. Coons and seconded by Ms. Fish, it was VOTED to approve the minutes of April 22, 2019 as slightly corrected.

Correspondence

Town Planner Brown reported that she had sent a letter to Mr. Scott Johnson, owner of 96 Pleasant Street and he has not yet replied. She will call him. She will discuss the matter with Building Inspector.

There being no further business to come before the Board, and upon motion made by Mr. Coons and seconded by Mrs. Delisio, it was VOTED to adjourn. Adjourned at 9:35 p.m.

Submitted, Approved by the Board on June 10, 2019

Helene Shaw-Kwasie Connie Sullivan
Secretary Clerk

N.B. These minutes are not verbatim. They are the secretary's interpretation of what took place at the meeting.

Materials that were used at the meeting:

Samiotes letter dated April 18, 2019

Samiotes revised Plan

Town Planner Report