Whately Planning Board

Minutes of Virtual Meeting

May 3, 2023

Present: Members Judy Markland, Sara Cooper, Tom Litwin, Brant Cheikes

Members Absent: Don Sluter

The meeting was held remotely, via Zoom, and was recorded.

Attendees:

Bill Orloski

Mike Bechta

Jane Grybko

Call to Order: At 5:02 pm Judy opened the meeting

PUBLIC HEARING:

Application by Robert Obear of Obear Construction for renovation of the East School building at 219 Christian Lane, to include nine apartment units.

Robert Obear introduced his plan for the project, explaining lighting, plantings, the twenty-three parking spaces (one handicapped – accessible), and the fencing around the dumpster. Brant screen-shared the document and Mr. Obear explained his plans to remove curbing and to expand and repave the parking lot, and to divert water into a retention area to supply native plantings. He mentioned low-growing perennials, grasses, and small trees. He said his company will be responsible for all maintenance, and will hire help for snow plowing. He said he plans to start construction soon, with population as soon as possible.

Brant observed that he had requested comments from other boards and committees, and that Highway Superintendent Keith Bardwell had sent the only comments, expressing concern about several large maple trees. Mr. Obear said there is an old maple on River Road that has dropped a limb and needs to come down, noting that the others probable just need maintenance. Tom agreed that there is only one tree bad enough to remove. Sara suggested pruning a small maple that is bushy, to provide clear site lines for drivers. Abutter Bill Orloski mentioned a tree that needs its low limbs trimmed up for visibility, and Robert Obear agreed to take care of that.

Jane Grybko, a Christian Lane abutter, stated her concern at the prospect of twenty-three sets of headlights aimed into her bedroom and asked if Mr. Obear could plant something higher; he suggested the possibility of a low fence with privacy screening and the abutter said she would appreciate that, or perhaps some arborvitae. Phil Orloski, also a Christian Lane neighbor, said he is also concerned about vehicle lights, and sirens, which are obvious at his house when activity is going on.

2.

Mr. Obear noted that once a vehicle turns into the parking lot, no more lights will be seen. He noted that nine apartments will not generate a lot of traffic. Sara asked Mr. Orloski about the siren alarm he had mentioned and he explained it is a strobe alarm activated by high water, so that someone notifies the owner. Mr. Obear said that his contact information is on the building.

Abutter Mike Bechta shared his concern about a poor driver site line at the intersection of Christian Lane and River Road, noting that it is hard to see to the left and that there have already been some near-misses. Judy agreed, saying the board would address this with a condition, and that it might be better to say “maintain sight line” rather than specify dimensions.

At 5:42 pm Judy closed the public hearing, and the board proposed the following conditions:

DRAFT CONDITIONS FOR 219 Christian Lane

1. 1) Establish and maintain clear sight lines for traffic safety at the intersection of River Road and
2. Christian Lane per guidance of the Highway Department.
3. 2) Plantings along the western edge of the parking area sufficient to provide year-round privacy
4. screening for the abutter to the west.
5. 3) Plantings along the southern edge of the parking area up to the driveway entrance sufficient to
6. provide year-round privacy screening for the abutter to the south.
7. 4) Remove the damaged maple tree.
8. 5) If any archaeological artifacts or remains are found during excavation, renovation and/or
9. construction, all work should cease immediately to allow review by qualified experts in prehistoric
10. or historic archaeology as appropriate. This process, which would be undertaken at the expense of
11. the applicant, would be guided by the Whately Historical Commission.
    1. 6) The site plan must receive approvals from all the appropriate boards and committees.
12. 7) Special permit must be obtained from the Zoning Board of Appeals for the project.

Brant moved to approve the site plan with the above seven conditions, and Sara seconded. Brant, Sara, Judy, and Tom each voted Yes, and the motion carried unanimously. Brant told Robert Obear that he would receive the approval form physically and electronically once it had been signed by the Planning Board, and that Brant will let him know when it is ready.

Next, Christopher Chamberland, of Berkshire Design and representing Berkshire’s client Debilitating Medical Conditions Treatment Centers (DMCTC), discussed with the board the current text of DMCTC’s proposal to establish a land use for Marijuana Manufacturing (Limited). Mr. Chamberland shared the text onscreen and read through the entire document. Abutter questions prompted discussion points including:

• Safeguarding against contamination of edible products (state regulations regarding this are strict)

• Getting such an operation off the ground involves lots of steps, like licensing and employee

background checks.

3.

Judy asked whether there were any other questions from the public, and there were none.

Brant screen-shared Judy’s draft report to the Selectboard which will, based on arguments in the document, recommend Yes – support the proposal; No – do not support the proposal; or No recommendation. The arguments listed were raised during discussion of the project. Brant summarized the arguments, which were:

Arguments in favor

* Other light manufacturing uses are currently allowed in the Commercial District, so this proposal is consistent with current zoning practices.
* No hazardous materials are to be permitted for manufacturing and the town’s permitting process should ensure that this is, in fact, the case.
* The special permit and site plan review process should ensure that the facilities are only allowed where appropriate and in a way that maintains Whately’s character.
* Approval would allow another type of tax-paying employer in Whately and one that, compared to many other potential activities in the Commercial district, would incur less traffic and lower demand on public services.

Arguments against

* The area zoned for Commercial uses in Whately is small, and the town is in need of more businesses with a retail focus rather than an industrial one in the district. The town’s Exit 35 Study Committee is currently exploring ways to generate more businesses that would bring people to Whately. That study area includes the building owned by DMCTC.
* The bylaw does not call for ongoing inspections to ensure compliance, and enforcement after operations begin would be difficult. The state’s Cannabis Control Commission does not regulate marijuana manufacturing for the types of hazardous materials involved. Converting to manufacturing operations involving hazardous materials would require plumbing and electrical permits, but these inspections typically determine compliance with the building code and not with zoning restrictions. This is of concern since some Commercially-zoned parcels are also in the Aquifer Protection District.
* This proposal is basically “accommodation zoning” that will initially benefit only the proponent, although others may utilize it in the future. It is unclear whether the opportunities created by this proposal will offer broad benefits to the town in terms of new jobs and increased tax revenues.
* The proponent’s wording is tailored to the type of operation they envision. The Planning Board is not able at this time to verify how appropriate it might be to other potential limited marijuana manufacturers.

4.

Judy asked whether members of the Planning Board wanted to add any additional arguments, and there were none. Judy suggested one of her own, whose language she has checked with Town Administrator Brian Domina: “The legislature has severely limited the amount of revenue that Whately might expect from future Community Impact Fees, from that anticipated when previous marijuana uses were approved for the zoning bylaws”. Brant added this to the “Arguments against the proposal”. Jared Glanz-Berger asked whether DMCTC can submit language after tonight, and was told that DMCTC can submit a response to the town. Judy asked whether board members had any other comments, and there were none.

Brant moved that the Planning Board recommend to the town the adoption of this bylaw revision. No one seconded, and the motion failed.

Brant moved that the Planning Board recommend against this bylaw revision to the town. Sara seconded. There followed one vote (Sara) in favor of recommending against, and three votes (Brant, Judy, and Tom) against recommending against, and the motion failed.

Brant moved that the Planning Board refer this bylaw revision to the town with no recommendation. Sara seconded. There followed three votes (Sara, Tom, and Judy) to refer with no recommendation, one vote (Brant) against referring with no recommendation, and the motion carried by majority vote.

The next step will be DMCTC’s presentation of their proposal at Annual Town Meeting (ATM) on May 23. Judy thinks that the Planning Board’s only role at the ATM will be to comment individually on their own vote for making no recommendation, because this proposed bylaw is not the Planning Board’s, but is DMCTC’s. Brant will add language to the report to the Selectboard indicating that the Planning Board has determined to make no recommendation on this bylaw to the town.

Adjournment

At 7:04 pm Brant moved to adjourn and Tom seconded the motion. Brant, Sara, Judy, and Tom each voted Yes and the motion carried unanimously.

*Documents Reviewed (kept in the Planning Board files)*

1. A site plan dated May 11, 2004 and headed,

Plan of Land in Whately, Mass

Surveyed for

The Inhabitants of the Town of Whately

2. A draft of the Planning Board’s report to the Selectboard, listing arguments for and against the new

bylaw proposed by DMCTC, emailed to the Planning Board by Judy Markland on May 3, 2023

Mary McCarthy

Secretary, Planning Board

Town of Whately, MA