

Beacon City Planning Board
December 14, 2010

A Planning Board meeting was held on Tuesday, December 14, 2010 in the Municipal Center courtroom. The meeting commenced at 7:05 p.m. with Chairman Jay Sheers, Members John Gunn, Rick Muscat, Randall Williams, and Spring Attaway; Alternate Members Hank Dutch and Naomi Sachs in attendance. Also in attendance were Building Inspector Tim Dexter, City Engineer John Russo (in for Art Tully), City Planner David Stolman, and City Attorney Nancy Tagliaferro. CAC member Sue Infante was present. Member Elizabeth Strianese was excused.

Mr. Sheers requested a correction be made in the minutes from the November 9, 2010 meeting. At the end of the discussion with Ability Beyond Disability, Mr. Sheers asked if they would consider additional screening and the applicant agreed which was not indicated in the minutes. Mr. Gunn made a motion to approve the minutes of the November 9, 2010 meeting as corrected, seconded by Ms. Sachs. All voted in favor. Motion carried.

ITEM NO. 1 PUBLIC HEARING ON APPLICATION FOR SUBDIVISION, 171 UNION STREET, (5 LOTS), SUBMITTED BY LORI JOSEPH BUILDERS

Dan Koehler of Hudson Land Design described his client's proposal to subdivide two adjacent parcels, one vacant and one with an existing house, into five new lots to allow the construction of four new homes. Each lot will be served with municipal water and sewer services, and new private stormwater drainage structures will connect to the existing system. There will be four new driveways – three from Union Street and one from Judson Street.

Mr. Stolman had no outstanding comments. Mr. Russo had concern that houses on Lots 1, 3, and 4 may have difficulty meeting setback requirements if they want to add covered decks in the future because they are close to or on the rear setback line. The size of the new stormwater pipe proposed along Judson Street must be increased to 15-inches to comply with City Code; and a pipe capacity analysis must be completed for the proposed stormwater system that runs through the property to Judson Street and on to Vail Avenue. A maintenance agreement should be prepared for the private drainage system and submitted to the City Attorney for review. Mr. Russo had only minor comments with regard to construction.

Alan Flynn, 160 Union Street, presented a historic photograph of the subject property in an attempt to show a stream and wetlands on the site. Mr. Flynn reported he brought this information to light before the subdivision, and at the time was informed the developer was within his right to perform landscaping. He pointed out City Code does not allow site work to be done prior to filing an application for subdivision, and he feels the claim of "landscaping" is not a valid point. Mr. Sheers explained enforcement of what has been done to the property prior is outside the Planning Board's jurisdiction.

Mr. Flynn reported two cisterns that provided water to a house near the rear of the property are not shown on the plat. Additionally, a water service line was cut for two days and an existing easement on the property is not shown.

Mr. Russo explained the very old in-ground pool was removed because it was no longer used and was not fenced in. It was fed by water collected in springs through a series of piping and valves which were deteriorated and broken. He was unaware of a water service line.

Mr. Flynn asked if the water service line that formerly ran through Lot 3 to the Chuisano property was relocated. Mr. Koehler explained they were not aware of a water line but said they will take a look at it again. If there is a pipe, it must be shown on the plan and if needed an easement may be granted to the city or other property owners.

Mr. Flynn pointed out errors he felt existed in the submitted environmental assessment form. The form indicates that there are no bedrock outcroppings on the project site, yet he could provide photos of rock in proposed driveway areas. A map from 1884 shows a barn that was once part of the Goodrich Estate which is of historical significance, therefore Mr. Flynn felt the form should reflect that feature. Mr. Stolman explained the site is not listed on the state or national historic register, and the barn no longer exists.

Mr. Flynn had concern for rock hammering that will be needed because there is bedrock throughout the site. The form indicates the bedrock is 6.4 ft. deep however outcroppings can be seen all over the property. He had concern for developing the site to maximum limits and believed errors exist in the topography map. Lastly, existing trees were not all shown on the map. Mr. Flynn asked why the drainage easement was not 30 ft. wide as required by City Code. Mr. Russo explained the 30 ft. wide is only required for municipal easements.

Meg Rasmussen, 43 Vail Avenue, asked if the applicant is seeking variances for the proposed action. It was noted that no variances are needed because the proposal conforms to zoning requirements. Ms. Rasmussen commented on the beauty of the property and felt it was wrong for a developer to make changes on the premise of landscaping prior to applying for subdivision approval.

Dawn Simmons, 26 Willow Street and a Real Estate agent, was perplexed that residents want Beacon to be prosperous and thrive, however make it difficult for a developer to build houses that will accommodate newcomers wanting newly constructed homes.

Mr. Flynn returned to read a letter authored by Reverend Ben Larson-Wolbrink of the First Presbyterian Church of Beacon who resides at 79 Vail Avenue.

I have requested my neighbor, Alan Flynn, to read this letter on my behalf, as I am unable to attend the Planning Board meeting this evening. I wanted to share my concern regarding the increase in flow and accompanying silt in the stream located in the

backyard of the parsonage where my family resides. This property, located at 79 Vail Avenue, is owned by First Presbyterian church. Our church is especially sensitive to drainage issues, as we were recently forced to totally redo our draining system at our church location on 50 Liberty Street. As you can imagine this was a significant expense and, like all organizations in this difficult economic time, we are struggling to cover our expenses.

The increase in flow and silt in our backyard street has happened since the development work on the property across Judson Street, and I firmly believe is a result of whatever changes they have made to the wetlands on the property. I am concerned that the good people of First Presbyterian Church might unfairly incur more expense to account for the increased flow and silt on our property. I'm also concerned for the safety of my young children who are accustomed to playing in the stream in its natural state, which was originally a gentle trickle.

I urge you to take up this issue with the developers of the project adjacent to our property before more work is done.

Sincerely,
Rev. Ben Larson-Wolbrink
First Presbyterian Church of Beacon

Mr. Flynn believed the setback measurements for the corner lot were not adequate and sight distances were not sufficient due to bedrock outcroppings. He expressed concern for the potential need for variances to build patios or decks in the future because the rear setbacks are so tight. Mr. Flynn felt an easement should be provided for the under drain on Lot #3; a basin should be installed in Lot #2; an easement provided for Lot #4; a number of trees exist that are not shown on the plan; and the side and rear yard designations on Lot #5 are contrary to the similarly shaped Lot #1. He reiterated concern that topography information is inaccurate.

Mr. Flynn talked to lifelong residents who told him the utilities are shallow because the City did not want to pay the added expense of digging through bedrock. He feels the developer has no right to direct water into the adjacent property. Mr. Russo explained the stormwater will be directed to a catch basin on Judson Street; additionally the applicant has been asked to provide more information to be certain flooding will not occur.

Mr. Dutch reported the church asked him to review the situation and at the time the small watercourse that runs through the Vail Avenue property was overflowing. He was told that it is filled more often since work has been done on the subject property. Mr. Russo was unsure why that situation has worsened since drainage was retied back into the existing stormwater system.

Sean Kraft, 30 Wilkes Street, felt the landscaping work done before the subdivision application should not be overlooked because changes may have affected wetlands and other physical traits.

Mr. Stolman explained DEC and Army Corp of Engineers' wetlands are mapped and none exist on this site. Mr. Russo reported the property had a manicured lawn with

cisterns that collected ground water that fed the pool. Mr. Flynn contended the property consists of muck and wetlands.

Developer Gary Joseph was dismayed with concerns about what was or was not done to the property, landscaping, permits not issued, etc. He contacted the Building Department to see if there were any issues of concern. Thereafter many emails and phone calls were made to the Mayor and Councilmembers so the City Engineer's office got involved. They visited the site before work was done and it was deemed that permits were not required. All work was done under the scrutiny of the Building Department and City Engineer's office. Councilmember George Mansfield also visited the site several times. Mr. Joseph reported that swamp lands don't exist on the site. He expressed his frustration with concerns because he has been a developer in Beacon for over 25 years and took pride that he has not had one unsatisfied customer. Mr. Joseph understood that people don't like to see new construction, and asked that review remain on the facts.

Mr. Gunn commented that ground water is a concern in most applications before the board. He had no further comments beyond concerns for differences between engineering plans and what nature presents. Mr. Dutch felt site drainage was a problem and supported Lanc & Tully's recommendation to increase the pipe size. Ms. Sachs felt measures to address drainage may be okay on paper yet held concern after visiting the site and listening to neighboring concerns. She also worried that emergency access would be difficult for Lot #3 due to the length of the driveway. Mr. Dexter explained emergency vehicles would be able to drive down and back out of the driveway; single family homes are exempt from access requirements for fire apparatus. He pointed out that many rural areas have longer driveways without areas to turnaround. Ms. Sachs noted most proposals include landscaping and screening between houses. Mr. Stolman explained the board can require the applicant to provide additional landscaping. Ms. Sachs explained her primary concerns are for drainage. Ms. Attaway said these concerns are similar to those seen before and noted drainage conditions are typically better after development than they were before. Mr. Williams believed the developer made efforts to address concerns and trusted guidance provided by the City's professionals. Mr. Muscat reported Mr. Joseph's work as a developer is a tough act to follow because he has a long standing history of quality work. Mr. Sheers had concern with drainage and felt it best to continue the public hearing to allow the applicant time to revisit areas of concern.

Mr. Stolman reviewed the setbacks with Mr. Dexter and the front yard setbacks on Lots #2 and #5 are fine, however the setback for Lot #1 will be looked at more closely. Ms. Sachs made a motion to continue the public hearing at the January 2011 meeting, seconded by Ms. Attaway. All voted in favor. Motion carried.

ITEM NO. 2 PUBLIC HEARING ON APPLICATION TO AMEND A SPECIAL USE PERMIT (ALTER PARKING AND ADD CARPORT), 14 NORTH CHESTNUT STREET, ARTIST LIVE/WORK SPACE, SUBMITTED BY JOHN DIEBOLL

Owner Pamela Dieboll explained no new drawings were submitted and they are no longer planning to install a carport at this time. Her husband John, who was the

architect who drafted the site plan, passed away since the last meeting. Ms. Dieboll explained there were three items proposed with this application: the carport which is no longer planned; a roof over the entryway; and changing the parking area to the front along North Chestnut Street.

Mr. Stolman asked that a plan be submitted with the proposed carport removed or crossed out. He explained that since the Special Use Permit was approved subject to site plan approval and the proposal is only an amendment to the site plan, there is no need to return to the City Council.

Mr. Gunn made a motion to close the public hearing, seconded by Mr. Williams. All voted in favor. Motion carried.

Mr. Gunn made a motion to approve the amended site plan subject to submitting a revised plan showing the removal of the carport to the City Planner for approval, seconded by Mr. Williams. All voted in favor. Motion carried.

ITEM NO. 3 PUBLIC HEARING ON APPLICATION FOR SUBDIVISION (LOT LINE REALIGNMENT), 59 CHURCH STREET AND 14 NORTH CHESTNUT STREET, SUBMITTED BY 59 CHURCH STREET, LLC (IN CONJUNCTION WITH JOHN DIEBOLL)

Steven Miller of Badey & Watson Surveying described the joint application for a lot line realignment of property between 59 Church Street and 14 North Chestnut Street. The owners of 59 Church Street will convey a small 25 ft. x 50 ft. piece of property to the Dieboll property and the property line will become a straight line. The properties are located in the PB and CB zoning districts and meet requirements.

Mr. Russo asked that the existing easement be noted on plan. It should include information on what party it benefits, as well as page and liber numbers if filed with the county. Ms. Dieboll said the easement is for the neighbor to gain access to a utility box.

There were no further comments and Mr. Gunn made a motion to close the public hearing, seconded by Mr. Williams. All voted in favor. Motion carried.

Ms. Attaway made a motion to issue a negative SEQRA declaration for the proposed lot line realignment, seconded by Ms. Sachs. All voted in favor. Motion carried.

Ms. Attaway made a motion to grant preliminary subdivision approval subject to clarification of the existing easement; waive the public hearing required prior to granting final subdivision approval based upon the fact that the preliminary and final plan are substantially the same; and grant final approval of the subdivision plat subject to clarification of the existing easement. Mr. Gunn seconded the motion; all voted in favor. Motion carried.

ITEM NO. 4 REVIEW AMENDED RESOLUTION OF SITE PLAN APPROVAL, 508 FISHKILL AVENUE, RECYCLABLE MATERIAL RECOVERY AND SORTING FACILITY, SUBMITTED BY HUDSON BAYLOR CORP

Ms. Attaway and City Attorney Nancy Tagliafierro were recused due to a conflict of interest.

Mr. Sheers explained they were asked to amend the resolution previously passed so construction of the trail coincides with the creation of access to the trail. The initial resolution required the applicant to construct the trail before the issuance of a Certificate of Occupancy. Consideration has been given to change the schedule of construction to a time when access to the trail is made available. Logically, there is no need to create a trail without access. Mr. Stolman explained the applicant must enter into an agreement with the City affirming that they will create a trail within 6 months of notification that reasonable access to the trail has been secured. When Hudson Baylor takes title to the property and proceeds with construction of its recycling facility, it will give to the City, via offer of dedication, a 100 ft. wide strip of land that fronts on Fishkill Creek.

Mr. Dutch asked to speak on the matter. He reported several people have approached him with concerns and opposition to this project. Diesel exhaust created by this facility is a concern because emissions are known carcinogens that create asthma and cancer. Mr. Dutch said there is no regulation for idling diesel trucks in a location near two elementary schools which will negatively affect our children. He asked that efforts be made to protect the health of our next generation.

After some consideration, Ms. Sachs made a motion to approve the amended resolution as written, seconded by Mr. Williams. On roll call Ms. Sachs, Mr. Williams, Mr. Gunn, Mr. Muscat, and Mr. Sheers voted in favor of the motion; Mr. Dutch voted against the motion. Motion carried; 5-1.

ITEM NO. 6 CONTINUE SITE PLAN REVIEW FOR AMENDMENT TO AN EXISTING SPECIAL USE PERMIT, 310 FISHKILL AVENUE, LIGHT MANUFACTURING USE IN PORTION OF THE MAIN TALLIX BUILDING, AND CHANGE ONE ARTIST LIVE/WORK SPACE INTO MANUFACTURING, SUBMITTED BY IG4, LLC

Ms. Attaway and City Attorney Nancy Tagliafierro returned to the meeting. Mr. Stolman reported the City Council issued a Special Use Permit approving the requested amendment with the condition that they return to the Planning Board for site plan approval. He explained this action is a conversion of space, previously approved for artist live/work, into an assembly space for lighting fixtures. Mr. Gunn made a motion to approve the site plan as presented, seconded by Mr. Dutch. All voted in favor. Motion carried.

Architectural Review

1. Ability Beyond Disability ~ Howland Residence – continue review

Ms. Attaway was recused from the remainder of the meeting. Architect Scott Dutton of Scott Dutton Associates, LLC, Attorney Dominic Cordisco of Drake Loeb,

Jeanine Sisco of Taconic Disabilities Service Office, and Thomas Fanning, President and CEO of Ability Beyond Disability were in attendance for review of this item.

Mr. Dutton referred to his cover letter that accompanied this month's submission. Considerable thought was given to comments and suggestions made by the board at the last three presentations. Efforts were made to reduce the visual impact of the proposed building and reduce its presence. The original Colonial-style building design had a higher roof line with more of a New England character. The new Arts & Crafts or Prairie style design reduced the peak building height by 11 ft. 8 in.; one wing was turned to reduce the overall length of the building by 22%; and one of the internal hallways was narrowed to reduce the overall square footage. Mr. Dutton noted the exterior colors were changed to a natural palette. He presented an illustration depicting the September submission with an overlay of the new design to demonstrate a 37% reduction in the size of the building. He also presented architectural renderings and a photo simulation of the site. Mr. Dutton referred to a letter drafted by the President of Ability Beyond Disability which outlined the need for this new facility.

Mr. Sheers explained the board was not challenging their needs and clearly appreciated the purpose of the facility, other than the location is not necessarily near a hospital facility. He explained the board's mission is to review the architectural aspects of the structure.

Attorney Cordisco recalled questions regarding the possibility of reducing the size of the facility to accommodate fewer people. As noted in Mr. Fanning's letter, New York State is in the process of closing all state run Developmental Centers which includes the closure of the Wassaic Developmental Center in Wassaic, New York. There are currently 150 residents waiting for placement in community residences, and they have identified 14 individuals who have spent the majority of their lives in the Wassaic Center that will move to this new facility. A spreadsheet listing information about adjacent properties obtained from the Dutchess County GIS system, including number of levels, bedrooms, total square footage, acreage, and average square footage per bedroom was also submitted.

In response to screening concerns, Mr. Dutton reviewed plans with a landscape professional to obtain recommendations for vigorous growing evergreen species that would be readily available at a reasonable initial planting size (between 6-9 ft.). Those recommendations included Douglas Fir, Arbor Vitae, Blue Spruce, and White Pines. In addition to the 19 White Pines lining the driveway shown on the original site plan, 29 evergreen trees in the range of 6-9 feet at planting were added. Mr. Dutton explained they are staggered around the site to provide full screen to the adjacent Bed & Breakfast and property to the north side. In anticipation of swales and areas to collect stormwater runoff, some Red Twig Dogwood, Yellow Twig Dogwood, River Birches, and other plantings were included. Renderings that showed building elevations both with and without vegetation were reviewed.

Mr. Gunn appreciated the effort put forth in the building design and felt they took a positive direction in terms of scale. Mr. Dutch liked the design and felt it was a big improvement. Mr. Sheers felt it was still a large structure in terms of a single family residence. Mr. Gunn felt the revised design would lend itself to being reverted to an actual single family home in the future. Ms. Sachs pointed out Arbor Vitae is essentially “deer candy” and Mr. Dutton offered to replace them with Blue Spruce. Ms. Sachs had continued concern that the structure was still 36% larger than the largest house in Beacon.

Mr. Dutton explained other properties were investigated and this location is further away from other properties in terms of density. Additionally, this parcel provides more buffer area around the house than others in Beacon. Mr. Sheers referred to a letter submitted from the CAC expressing concern for the view that will be seen from those hiking Mt. Beacon. Considering tourism plays an important role in Beacon’s vitality, he asked that some thought be put into that view source as well. Also, he would like fencing to be used as screening for the parking lot to which the applicant agreed. Attorney Cordisco explained Ability Beyond Disability now owns the property and is no longer a contract vendee.

Ms. Sachs expressed concern about size of the parking lot and the amount of impervious surface that would be created. Mr. Dutton explained they plan to capture run off from the parking area on the west side of house. Ms. Sachs asked if they would consider using some type of impervious pavement. Mr. Dutton had not discussed that yet but pointed out those types of surfaces are three to four times the cost of typical pavement.

Mr. Dutch expressed concern for the amount of water that would run down the driveway onto Howland Avenue. Mr. Dutton said they have dealt with a similar situation and in that case, small kick-outs were created to allow water to infiltrate in smaller areas. In response to the visual impact of hikers above the site, Mr. Dutton reported the adjacent Exeter Circle development has more pavement than in this proposal. Attorney Cordisco felt the concerns raised in Mr. Tseng’s letter were SEQRA related issues. Mr. Sheers felt the parking lot issue falls under the purview architectural review. Attorney Cordisco agreed to the extent of review from a neighborhood perspective, but disagreed in terms of a view shed for hikers. City Attorney Tagliafierro felt the point was relevant under architectural review because it is meant to protect the value of surrounding properties, adding tourism is very important to Beacon’s livelihood. Attorney Cordisco believed this to be the point of conflict the board and applicant face; the board has jurisdiction under architectural review, but state and federal laws must also be considered. He felt decisions could be made based solely on sizing if it were a family looking to build a large structure, however these residents have certain constraints that must be considered under law.

Mr. Williams felt the applicant did a good job trying to balance the needs of their clients with local and state laws, both now and into the future. He asked if the parking area initially needs to be that large. Mr. Fanning said he considered reducing the size of the parking lot but could not go below 11-12 spaces because they must meet the needs of

14 clients and related staff. He was however willing to consider alternate parking lot surfaces if financially feasible. Mr. Williams understood everyone's efforts to reach a tolerable balance.

Mr. Sheers had concern with the parking lot size and the amount of impervious surface it would create; he hoped the number of spaces could be reduced. He asked if any signage was proposed on site. Mr. Dutton explained if it were up to the staff and client family members, the parking lot would be larger because they have a large number of visitors and congestion during staff shift changes. He reported no signage is proposed.

Mr. Sheers opened the floor to the public, requesting comments be restricted to architectural features.

Neil Caplan, 120 Howland Avenue and owner of Swann Inn Bed & Breakfast, thanked the applicant for the reduced building footprint. Although not against group homes, he had concern for the size of the home. As a realtor, Mr. Caplan recently took a course which dealt with fair housing standards and understood that they cannot make an unreasonable request. He noted the latest building footprint is only 319 square feet smaller than the initial presentation. Mr. Caplan understood that 14 people need a home but suggested sharing rooms in order to reduce the building size. He felt existing houses should be utilized, pointing out the home on One Wodenethe Drive accommodates 12 residents in what is listed as a four bedroom house. Mr. Caplan compared the size of bedrooms to show the original and new proposals are similar. He commented that typically these types of homes are not new construction, and believed the structure and parking lot could be reduced. He asked that pervious-type surfaces be used for the parking lot and that a fence be added. Lastly Mr. Caplan said the Mt. Beacon railway incline is coming back and tourism is important to the City.

Doug Donaldson, 101 Union Street, felt the building and parking lot were too large for the neighborhood. He believed the property would look like a strip mall to tourists if the railway incline comes back.

Darlene Swann, 120 Howland Avenue, Swann Inn Bed & Breakfast, does not want to look out her window at a large parking lot. She felt the applicant should have talked to the neighbors first and that accommodations should be made to allow neighbors to continue hiking on the property. Ms. Swann hoped the building would not be too big and that she would see a large parking lot out her window.

Ms. Sachs felt the house was too big for Beacon and was uncertain how much more could be done to reduce the size of the building. She appreciated their efforts and preferred they consider renovating an old mill building. Mr. Sheers agreed and was also torn to make a decision. He felt the size of the building, which is 20% bigger than the largest house in the neighborhood, was too big and held concern for legal ramifications.

Attorney Cordisco felt actual square footages and percentages are not valid comparisons. New York State law requires this facility to be seen and treated as a single

family residence even though it provides bedroom, living, and administrative space for 14 residents. Attorney Cordisco said they have not taken a hard line position of insensitivity to the City's issues of mass and have tried to make accommodations. He explained his clients are willing to undertake additional measures but New York State law must be heeded and square footage cannot be the sole consideration. Attorney Cordisco reiterated his client's commitment to build a facility on this site.

Mr. Dutton agreed to make attempts to reduce the size of common areas. He explained the bedrooms are as tight as possible, roll-in showers are required, and hallways must be wider than the typical 4 ft. requirement due to the needs of residents, i.e. wheel chairs, walkers, etc. The dining room is not that large because they will not all be eating at the same time. Mr. Dutton outlined his experience with such designs and explained that he is charged to make the building as small as possible for economic reasons.

Mr. Fanning understood the dilemma the board is faced with and respected the difficulty that exists in balancing both sides of the issue. He believed in the board's desire to welcome these residents into the community while maintaining the character of the neighborhood. Mr. Fanning explained they have been working with Mr. Dutton toward those efforts as well. He asked if they could return one more time so they can take another look at the issues to see if any changes can be made. They will make efforts to address concerns of the neighborhood and board to make this as accommodating for all as possible. Mr. Fanning explained they are committed to meeting their client's needs. Board members agreed that working together to achieve a balance and compromise would be best for all.

There was no further business to discuss and Mr. Williams made a motion to adjourn the meeting, seconded by Mr. Gunn. All voted in favor. Motion carried. The meeting adjourned at 9:15 p.m.