



TOWN OF TEWKSBURY ZONING BOARD OF APPEALS

999 Whipple Road
Tewksbury, MA 01876

Robert Dugan, Chairman
Marc DiFruscia, Clerk
Leonard Dunn
Associate Members:
Gerald Kutcher
Jaime Doherty

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES June 26, 2014

The meeting was called to order at 6:30 p.m. by Robert Dugan, Chairman, at the Pike House. Present at the meeting were Len Dunn and Gerald Kutcher. Also in attendance was Melissa Johnson, Recording Secretary. Marc DiFruscia and Jamie Doherty were not present.

Approval of Meeting Minutes May 29, 2014

MOTION: Mr. Dunn made the motion to approve the May 29, 2014 meeting minutes as presented; seconded by Mr. Kutcher and the motion carried 3-0.

NEW HEARING

Dinis M. Oliveria as a party aggrieved for a review of a decision made by the Building Inspector in a letter dated April 16, 2014 as filed with this Board. Said property is located at **199 Marston Street**, Assessor's Map 19, Lot 31, zoned Residential.

Mr. Dugan noted that the Board is in receipt of correspondence requesting this matter be continued to July 31, 2014.

MOTION: Mr. Dunn made the motion to continue **Dinis M. Oliveria** as a party aggrieved for a review of a decision made by the Building Inspector in a letter dated April 16, 2014 as filed with this Board. Said property is located at **199 Marston Street**, Assessor's Map 19, Lot 31, zoned Residential to **July 31, 2014 at 6:30 p.m.**; seconded by Mr. Kutcher and the motion carried 3-0.
DUGAN, DUNN, KUTCHER

Wamesit Lanes, LLC for a variance from Appendix B, Section 2316 and Section 3514 of the Tewksbury Zoning Bylaws to demolish all existing buildings and construct an indoor recreation facility with a primary use for bowling as shown on plans filed with this Board. Said property is located at **416 and 434 Main Street**, Assessor's Map 22, Lot 68 and 69, zoned Commercial and Heavy Industrial.

Present was Dick Cuoco of Woodland Design, Donald McClaren, Don McClaren, Edward Sheehan and Steve Bourgeois. It was noted that the McClaren's are the property owners and Mr. Sheehan and Mr. Bourgeois are part of the management team.

Mr. Cuoco explained that the proposal is to demolish the existing structures and construct a state of the art indoor recreation facility. The property is located along Main Street and consists of approximately 4.80 acres. The existing property is the Motel Caswell. The proposed new building will be approximately 49,000 square feet. The property is currently zoned Commercial along Main Street and Heavy Industrial in the rear portion and is encumbered by a high pressure gas transmission line that cuts through a corner of the property. Mr. Cuoco noted that relief would not be required if the property was entirely zone Commercial as the setback requirement is only 30 feet. There are limitations on what can be done with the building due to the proximity of the gas line. The applicants are proposing to construct a building withholding the 50 foot setback on the west side of the property and 30 feet in the rear. Mr. Cuoco noted that the abandoned railroad is the abutter in the rear.

Mr. Cuoco noted that two gaming courts are being proposed on the west side for bocce courts with outdoor setting. This portion of the building will contain the restaurant. The Bylaws state that gaming courts should conform to the same setbacks as structures. Mr. Cuoco noted there will not be a need for a fence around the bocce courts as they are low to the ground.

Mr. Cuoco showed a rendering of the proposed building and noted that another advantage of setting the building as far back on the property as possible is public safety as all of the parking will be in the front of the building.

Mr. Cuoco noted that there is also a sewer easement that runs through the property that will be relocated; this would have to be done regardless of where the building is placed. Mr. Dugan asked if the sewer easement will go before the Board of Health. Mr. Cuoco explained that the DPW will be addressing this issue and noted that he met with Brian Gilbert, DPW Superintendent, and he informed him that it is a town easement. The abutting property is owned by the Caswell family, who owned and operated the Motel Caswell, and this will allow them to connect to the sewer line without disturbing any wetlands.

Mr. Cuoco explained that Tennessee Gas will also have to come out even though they are proposing to move the building further back as the location of the gas line at this point is approximate. Tennessee Gas will determine the exact location of the gas line and a 10 to 15 foot buffer will be provided for safety.

Mr. Dunn asked what is located to the left of the bocce courts and Mr. Cuoco noted that this is the greenhouse for Tewksbury Florist. Mr. Dunn asked about the detention basin and Mr. Cuoco explained that the basin will be approximately 1 foot deep and that the runoff naturally runs in this direction. The plan is to direct the runoff into the detention basin to ensure that the post development conditions are the same as the current conditions.

Mr. Dugan asked about the outdoor seating and fire pits being proposed near the bocce courts. Donald McClaren explained that this would be a small patio area that will wrap around the building. The area is sealed off from the public and cannot be accessed from outside the restaurant. The fire pits are table tops with seating around that run on gas.

Mr. Dunn asked if there will be the ability to drive around the entire building and Don McClaren explained that you will not be able to drive behind the building.

Mr. Cuoco noted that they also met with the Fire Chief, Michael Hazel, and he had no issues.

Mr. Dugan noted that he has not ever seen a request made from Section 2316. Mr. Cuoco explained that the Building Commissioner, Edward Johnson, suggested they also request relief from Section 2316 because normally a use could be extended to ensure all areas are covered. Mr. Dugan read Section 2316 aloud “when a district boundary line divides any lot existing at the time such line is adopted, the regulation of any district in which the lot has frontage on, a street may be extended not more than 20 feet into the other district”. In this case the district line runs through the middle of the property. Mr. Cuoco thanked Mr. Johnson for his input on this.

Mr. Dugan asked if the Caswell’s will be remaining in the property next door and Donald McClaren confirmed his. Mr. Cuoco explained that one of the agreements they have with the Caswell’s is rather than have a curb cut on Main Street; they will have the single driveway on the side. The parties have met with Mass Highway regarding the curb cuts. Mr. Cuoco noted that this is subject to the traffic engineer’s final approval.

Mr. Cuoco noted that for safety reasons they will also be installing a fence along the rear of the property.

Mr. Dugan opened the hearing to the public.

Ms. Pat Whalen of 469 Main Street came forward and asked how this will impact her property. Noted that she heard a rumor that they will be installing sidewalks which would cause a disruption to her as she recently just had a Fence installed. Has been in Tewksbury for over 40 years and has seen many businesses come and go. Provided the example of the Pike House when it was recently a coffee shop and the noise disruption to her property. Also concerned with the traffic and noise and the effects of the demolition of the buildings.

Mr. Dugan noted that they would not be able to install a sidewalk across the street where her home is located; however, the State could.

Donald McClaren explained that they plan to take the building down some time in August. The buildings are on slabs and there are no foundations. The demolition process will take approximately 2 weeks. The surveyors that were seen by Ms. Whalen were from the State as they will be installing a crosswalk in front of the Jade East to allow for crossing of Route 38 safely. They do not expect there to be any impact from the demolition. Ms. Whalen noted that it was her understanding that the Caswell’s home was also a part of this project. Donald McClaren explained that at this time the Caswell’s will be remaining in the home and they have granted right of first refusal should they decide to sell the home in the future.

Mr. Cuoco noted that they still have to go before the Planning Board for a Special Site Permit.

Mr. Dunn asked when the facility is expected to open. Donald McClaren noted the plan is open next July. Mr. Dunn asked if the motel is vacant. Donald McClaren explained that everyone will be out by the end of the month.

Mr. Dunn asked how many lanes there will be for bowling. Donald McClaren noted that there will be a total of 36 lanes; 8 private lanes, 20 lanes of ten pin bowling, and 8 lanes of candlepin. There will be four golf simulators to start, a restaurant and lounge, a 5,000 square foot arcade, and birthday party rooms. Donald McClaren noted that the arcade will be at the front of the facility and the restaurant and lounge will be in a closed off area.

Mr. Dugan asked if they have any other locations. Donald McClaren explained that they do not, but he has lived in Tewksbury his entire life and owned Tewksbury Welding for 35 years and has lived in Tewksbury for 56 years. First venture into this type of business and there object is to bring something good to Tewksbury and create some jobs as well.

Frank Colentonio of 402 Main Street came forward. Mr. Colentonio explained that he owns Tewksbury Florist and Greenery and he has concerns with the gaming courts that are being proposed on the side that abuts his business and asked how late they will be open. Donald McClaren explained they do not charge for the bocce courts and they will be installing an 8 foot divider fence to protect their property. The bocce courts do not create a lot of noise and are typically utilized by an older crowd. Usage would only be during day light hours as there will be no lighting in that area. The area will be monitored for safety reasons.

Chris Colentonio of Tewksbury Florist and Greenery came forward. Mr. Colentonio asked why a variance of 7 feet is being requested if the courts are 15 feet from the property line. Donald McClaren explained that this is an estimate and may be shorter in some areas; the intent is to make the area uniform.

Mr. Cuoco noted that they wanted to promote the family atmosphere they are not installing pool tables.

Mr. Dugan asked why the golf simulators are seasonal. Donald McClaren explained that once the weather is nice people would prefer to golf outside. The peak time is the end of October through April. It is a great learning tool. Mr. Dugan noted that the bocce balls can get loud on occasion. Donald McClaren explained that they will be installing a solid fence the length of the property line on this side.

Mr. Kutcher asked about the outside lighting. Donald McClaren explained that there will be no outside lighting other than the building lighting but not designed to light an area for use. Mr. Cuoco explained that they also have to conform with the Bylaw regarding lighting which states that no lighting can shine outside of the property line.

Mr. Bourgeois explained that as far as the golf simulators can be changed out in off season to other games such as soccer, football, or movies, etc. The rooms will hold approximately 20 people and are private.

MOTION: Mr. Dunn made the motion to close both parts of the hearing; seconded by Mr. Kutcher and the motion carried 3-0.

MOTION: Mr. Dunn made the motion to grant Wamesit Lanes, LLC a variance from Appendix B, Section 2316 and Section 3514 of the Tewksbury Zoning Bylaws to demolish all existing buildings and construct an indoor recreation facility with a primary use for bowling as shown on plans filed with this Board. Said property is located at 416 and 434 Main Street, Assessor's Map 22, Lot 68 and 69, zoned commercial and Heavy Industrial; seconded by Mr. Kutcher and the motion carried 3-0.

DUGAN, DUNN, KUTCHER

CONTINUED HEARING

GRE Tewksbury Property, LLC and GRE Tewksbury Apartments, LLC, d/b/a Shawsheen Place for (a) a determination and confirmation pursuant to 760 CMR 5 6.05(11) that the affordability "lock in period" set forth in the comprehensive permit issued by the Board on May 26, 1988 regarding the subject property has expired; and (b) modification of the Comprehensive Permit to address the affordability restriction. Said property is located at **11 Old Boston Road**, Assessor's Map 48, Lot 33, zoned Multi family, Commercial and Village Mixed Use Overlay Districts.

Mr. Dugan noted that the Board is in receipt of correspondence requesting to continue this matter to September 25, 2014.

MOTION: Mr. Dunn made the motion to continue to **GRE Tewksbury Property, LLC and GRE Tewksbury Apartments, LLC, d/b/a Shawsheen Place** for (a) a determination and confirmation pursuant to 760 CMR 5 6.05(11) that the affordability "lock in period" set forth in the comprehensive permit issued by the Board on May 26, 1988 regarding the subject property has expired; and (b) modification of the Comprehensive Permit to address the affordability restriction. Said property is located at **11 Old Boston Road**, Assessor's Map 48, Lot 33, zoned Multi family, Commercial and Village Mixed Use Overlay Districts to September 25, 2014; seconded by Mr. Kutcher and the motion carried 3-0.

Old Business

There was no old business.

New Business

Mr. Kutcher noted that he has been appointed a permanent member of the Board.

Adjournment

MOTION: Mr. Dunn made the motion to adjourn; seconded by Mr. Kutcher and the motion carried 3-0.

Approved: July 31, 2014

Approval of Minutes – May 29, 2014

NEW HEARINGS

6:30 P.M. **Dinis M. Oliveira** as a party aggrieved for review of a decision made by the Building Inspector in a letter dated April 16, 2014 as filed with this Board. Said property is located at **199 Marston Street**, Assessor's Map 19, Lot 31, zoned Residential.
(Applicant requesting to be continued to July 31, 2014.)

- Application packet dated 5/14/14.
- Letter 6/20/14 fr Board of Health re: Custom Slaughter House enclosing draft decision.
- Letter 6/25/14 from Attorney Donald Borenstein re: requesting hearing to be continued to 7/31/14.

6:30 P.M. **Wamesit Lanes, LLC** for a variance from Appendix B, Section 2316 and Section 3514 of the Tewksbury Zoning Bylaws to demolish all existing buildings and construct an indoor recreation facility with a primary use for bowling as shown on plans filed with this Board. Said property is located at **416 and 434 Main Street**, Assessor's Map 22, Lot 68 and 69, zoned Commercial and Heavy Industrial.

- Application packet dated 5/27/14.

CONTINUED HEARING

6:30 P.M. **GRE Tewksbury Property, LLC and GRE Tewksbury Apartments, LLC, dba Shawsheen Place** for (a) a determination and confirmation pursuant to 760 CMR 56.05(11) that the affordability "lock in period" set forth in the Comprehensive Permit issued by the Board on May 26, 1988 regarding the subject property has expired; and (b) modification of the Comprehensive Permit to address the affordability restriction. Said property is located at **11 Old Boston Road**, Assessor's Map 48, Lot 33, zoned Multi-Family, Commercial and Village Mixed Use Overlay Districts.

(Applicant requesting to be continued to September 25, 2014.)

- Letter dated 6/23/14 from Attorney Regnante requesting to be continued to 9/25/14.

New Business *MAPD 2014 Annual Conference Case Law Update presented by Attorney Saint Andre and Attorney Quirk*