

**Leicester Planning Board
Meeting Minutes**

MEMBERS PRESENT: Jason Grimshaw, David Wright, Debra Friedman, Sharon Nist, Adam Menard

ASSOCIATE MEMBERS:

MEMBERS ABSENT: Alaa Abusalah

IN ATTENDANCE: Michelle Buck, Town Planner, Barbara Knox, Board Secretary

MEETING DATE: December 1, 2015

MEETING TIME: 7:00 pm

AGENDA:

- 7:00PM Public Application:
Pondview Estates: Request for Release of Surety
- 7:15PM Approval of Minutes:
- 10/21/2015
 - 11/3/2015
 - 11/17/2015
- 7:30PM Public Hearing:
Special Permit, Restaurant (Eastern Pearl)
- 8:00PM Town Planner Report/General Discussion:
- A. Schedule for Zoning public hearing and pending applications
 - B. Budget
 - C. Central Mass Crane
 - D. Miscellaneous Project Updates

Mr. Grimshaw called the meeting to order at 7:00PM

Public Application:

Pondview Estates: Request for Release of Surety

This was put on the agenda to acknowledge receipt of the applicant's request. The applicant has requested Road Acceptance and Release of Surety. Ms. Buck explained the application was incomplete, because the applicant has not met the requirements for approval. The Board modified the Regulations in 2006 requiring a lengthy list of information before the final release.

This applicant was informed of the regulation a number of times, verbally and in writing that the 2006 Regulations will apply and before any approval, they need to be met. A new letter was sent and the applicant has not yet responded. The deadline for the Board to vote on this request is December 20th and will be put back onto the December 15th agenda for a vote.

Approval of Minutes

10/21/2015

MOTION: Ms. Friedman moved to approve the minutes of October 21, 2015

SECONDED: Ms. Nist – Discussion: None – Vote: All in Favor

11/3/2015

Planning Board Minutes
12/1/2015

MOTION: Mr. Wright moved to approve the minutes of November 3, 2013 with one minor correction as noted by Ms. Friedman.

SECONDED: Mr. Wright – Discussion: Ms. Friedman noted she was not present.

VOTE: 4-In Favor / 1-Abstained (Ms. Friedman)

11/17/2015

MOTION: Mr. Menard moved to approve the minutes of November 17, 2015

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Town Planner Report/General Discussion:

A. Schedule for zoning public hearing and pending applications

- Rezoning request for Main Street, Cherry Valley (from Auburn Street to Church Street) will be scheduled for the second January meeting or first February meeting, depending on when the Fire Station application is submitted.
- New Fire Station Site Plan Review; if application is filed on time, it will be scheduled for the second January meeting and if not, it will be scheduled for the February 2nd meeting.

B. Budget

No major changes are anticipated

C. Central Mass Crane

Quinn Engineering did a night-time site visit to check out the site's lighting and he confirmed that the lighting was within acceptable ranges. That information was forwarded to the neighbor who had concerns about the lighting.

D. Miscellaneous Project Updates

- Oakridge Estates
The paving work has been completed, inspected and approved by Kevin Quinn.
- Boutilier Estates
Ms. Buck and Kevin Quinn did a site inspection last month and before Planning can signoff for Occupancy a decommissioning bond & liability insurance was to be submitted. That was just received, so occupancy has been signed off.
- Cumberland Farms
Construction has started and well underway. They currently have an application submitted to the Zoning Board of Appeals for a variance to put a second sign on Pleasant Street and that hearing will be Wednesday, December 9th.
- 1603 & 1605 Main
The demolition permit was applied for and the Demolition Delay Bylaw was applicable for these structures. The Chairman of the Historical Commission confirmed today that they are not implementing the 6-month delay, therefore allowing the demolition.

- Cell Tower application
A new application has been submitted for the placement of a Cell Tower at 30 Huntoon Memorial Highway. This has been scheduled for site plan review at the Planning Board's December 15th meeting and a special permit at the Zoning Board of Appeals' December 9th meeting.
- New Fire/EMS Headquarters Building
Application for site plan review is expected to be submitted by December 10th and will be scheduled for the Planning Board's January 19th meeting. Ms. Buck noted that there would be an informational meeting on the new fire station tomorrow night, in the Selectmen's Conference Room at 6:30PM.
- 104 Huntoon Memorial Highway
Mr. Wright asked if the owner had received approval for the site work being done. Ms. Buck said the owner went before the Conservation Commission with a Request for Determination of Applicability and was told a full Notice of Intent will need to be filed before any more work can be done at that site. The owner was also told that a Site Plan Review application will need to be filed with the Planning Board before any construction can start.
- Economic Development Self-Assessment Tool (EDSAT)
Catherine Tumber from Northeastern University did the presentation on the Economic Development Self-assessment Tool. It's a questionnaire about the Town and the information collected will be used and compared to other communities, then a full report will be created for the Town of Leicester. The November 17th meeting was an overview on that questionnaire.

Public Hearing Cont.

Special Permit, Restaurant (Eastern Pearl)

Mark Erlich, Attorney for the applicant, Ren Gua Zhu, made the presentation. Mr. Zhu is the potential buyer of 1060 Main Street, Leicester and wants to open an Asian Restaurant. Mr. Zhu currently owns and operates an Eastern Pearl Restaurant located in the Town of Webster and they are looking to run a similar business at 1060 Main Street.

The plans submitted is a rough copy of the lot showing what can be done without going through the expense of hiring an engineer. They have been made aware of the parking concerns and if they receive approval for this, they will hire a proper contractor and engineer to do the job of lining and marking out all the parking spaces and provide the Board with a full set of engineering plans.

Ms. Buck said sometimes the Board does approve waivers on parking, but as of right now, the plan is not clear on what the Board would be waiving. She didn't know what the regulations would require or how many spaces could be put on site.

Mr. Erlich said they provided that information based on size and square footage of the requirements for parking spaces and they feel there could be up to 40 spaces. His client's restaurant in Webster is larger and currently has 23 parking spots that are more than adequate. His business will be dealing with mostly takeout orders. There were some questions about

possible easements allowing the abutting home to park in that lot and there are no easements recorded to this property.

Mr. Grimshaw asked if Fire Department comments were received. Ms. Buck said the Fire Chief did not submit written comments, but did give verbal comments with concern on allowing parking in the center lane, which would block access to the site. Mr. Erlich said they will address the parking in the full set of plans, but felt even without the center lane parking, there would still be enough of parking spaces for a restaurant of this size.

Ms. Friedman asked if the Fire Chief commented on access around the building because of the employee parking being at the right hand side in the rear. Usually the Fire Department wants to make sure a fire truck can get around a building. She asked if the employee parking area would hinder a fire truck's ability to get around the building. Ms. Buck said the Fire Chief indicated that if they were trying to access that building, they wouldn't try to go in on the right hand side, they would go the other way.

Mr. Erlich said this would not be the final process, building permits would still need to be issued, occupancy permits would still need to be issued and the parking plans would need to be submitted to the Building Inspector. There is plenty of time to address parking afterwards. Looking at the size of the parking spaces, there are several restaurants that have far less space than what they are showing. With what has been submitted, they were not asking to approve this without lines in the parking lot. The lot will be properly lined, allowing proper flow and the parking area will be marked out. What they are showing is that there is enough space for proper parking. This is a property that is properly zoned for this use. The Bylaws allow the use, they then apply for a building permit and go forward through the process and spend the money on full plans. He can't justify having his client spend the money on full plans when they aren't sure if they will be allowed to do this.

Ms. Friedman said the Board needs to get through this process and raise their concerns, so Mr. Zhu will know whether or not he wants to go forward. Even though it maybe something the applicant does not want to address at this point, it's probably in his best interest, if discussion is allowed to take place.

Mr. Erlich felt he wasn't stopping discussion. Ms. Friedman noted comment being made earlier that there would be plenty of time to address parking afterwards. If the Board has concerns and they raise those concerns now, Mr. Zhu will know what he is getting into.

Ms. Nist said the plan did not show any handicapped parking and asked where the handicapped parking was being proposed. Mr. Erlich said that would be addressed in the final plans.

Mr. Wright said based on the submitted layout plan and comments provided by Ms. Buck, there will be 82 seats and that would require the applicant to provide 27 parking spaces just for patrons and Crossroads would need 23 spaces.

The law requires 1 space per 3 seats and that doesn't include employees. Right now, that would indicate a total of 50 spaces needed and at a minimum, 2 have to be handicapped accessible parking spaces. The law states 1 handicapped space be provided for every 25 spaces and handicapped spaces are wider than a regular space, so they will lose parking spaces.

Looking at the corner where Uncle Sam's Pizza is located and then moving to the back of the lot, you have Crossroad's Market. He felt, putting parking that close together, there will be problems trying to get a fire truck past all that.

Mr. Erlich estimated the seating to be around 60 seats. Mr. Wright noted all seating had to be counted and the count had to include the bench seating shown on the plans. Mr. Erlich said he did include the bench. Upon the Board's calculations, all agreed the seating count shown on the plans came out to 82-84, including the bench seating.

Mr. Grimshaw asked if they knew how many employees there would be at a time. Mr. Zhu felt probably around 4. Mr. Grimshaw asked if that included a chef and the service staff. Mr. Zhu said that the employees would travel in together. Mr. Grimshaw noted they still needed to be included as part of the count.

Ms. Buck confirmed the Board's concern that some parking spaces will have to be eliminated in order to allow a fire truck to get around the building and the cars parked up to the building, would not be able to back out from the building, because there won't be enough room. Ms. Friedman agreed.

Ms. Buck noted in this Zoning District (CB), showing the number of parking spaces was a Bylaw requirement. These numbers can be waived or reduced, but she felt the applicant didn't provide enough information showing why they needed a reduction in parking spaces. For example; they need to show how many parking spaces can be provided, and then state the reasons why they can't provide enough, and then reasons for allowing a waiver, i.e., the employees car pool, parking allowed elsewhere, etc.

Ms. Friedman noted trash removal was not shown on the plan, which may also cause a loss of parking spaces. Mr. Zhu said they dumpster would probably be put to the side towards the back.

Ms. Nist noted parking would still need to be reduced in the front in order to get around the back. Mr. Erlich felt it would be closer to where the employee parking area would be.

Ms. Nist asked about snow removal, because it can't be plowed, it will have to be removed from the site. Mr. Erlich made note.

Mr. Grimshaw opened discussion to the public.

Ms. Janet Dolbel, Real Estate Agent for the property owner, said part of the process for Mr. Zhu to buy the property was receiving approval from the Planning Board. He will then get a professional engineer/architect to design a plan where the restaurant may end up with less seating and in turn, less parking. She was asking the Board to approve contingent upon a full professional plan being submitted before receiving any permits. Ms. Dolbel continued. She observed that Crossroad's, at the most, have 5 cars parked and they don't stay long, so it's not as if Crossroad's would need many spots.

Mr. Grimshaw said he would like to see something happen here, but the Board has to make sure things are done correctly and it's difficult to make a determination based on what's submitted. Mr. Erlich said upon approval from this Board, the design process would receive final approval from the Building Inspection. Mr. Grimshaw said to some extent.

Ms. Buck clarified that because this was a project that requires a special permit, authority for any waiver from Parking Regulation requirements would still rest with the Planning Board and not with the Building Inspector. She felt the biggest concern was making sure there will be safe access to and from the building. It basically comes down to, how many people can actually be seated in the building.

Mr. Erlich said they felt a large part of business would be take-out orders. He understood the Board's concerns, but for a restaurant of this size, felt 50 spaces would be adequate. [Note: there isn't room on site for 50 parking spaces.]

Ms. Buck asked how many seats there were at the Webster Restaurant. Mr. Erlich said around 80 and there are approximately 27 spaces.

Mr. Wright said looking at the aerial view of the property, has there's been consideration given to going for an access easement on the property of Uncle Sam's and the driveway to get to the rear of this building? Mr. Erlich felt it could make things more complicated and complex for all involved. It is a good suggestion and if someone were to agree to it. If Uncle Sam's wants to give them an easement that would be wonderful, but they can't guarantee that. Mr. Wright said he only wondered if that had been approached, because he felt it would solve one of the problems with parking.

Mr. Erlich said they would be more interested in getting a waiver from the parking and have it as part of the building permit application packet. Ms. Buck said normally this is done during the Planning Board process, and felt the Board did not have sufficient information to do that; unless the Board was opened to do try writing the decision in such a way that the waivers aren't granted now, but still approve the use.

Ms. Friedman suggested drafting the decision in such a way making it flexible based upon the submittal of a parking plan. She agreed there can be waivers approved without knowing exactly what is being done and how it's being done, but again, the Board has to take into account, accessible parking, where the dumpster will be placed, and how many employees there will be, because all of that will affect the parking spaces. If this is going to be an 80 seat restaurant, there isn't going to be only 3 employees. Mr. Zhu said the employees would carpool.

Ms. Buck noted that could be used as part of the justification for a waiver, but the Board would still need to know the number of employees and carpooling arrangements.

Ms. Friedman understood that was how it worked, but if this business gets approved based upon an 80 seat restaurant and two years from now, Mr. Zhu decides to move away, there's an 80 seat restaurant approved there and the next person coming in won't necessarily have their employees carpool. If there was going to be an 80 seat restaurant, there will be a bartender, a

cook, a dishwasher, a hostess and the waiter/hostess staff will bring the employee number to around 10.

Mr. Zhu said his other restaurant has 15 staff and there would only be one vehicle, not 15 vehicles.

Mr. Erlich said looking at this site, there would be more than sufficient room on that lot to accommodate parking.

Mr. Grimshaw agreed trying to draft a decision in a way that would be conducive to everyone. Mr. Erlich asked to also acknowledge it can't be reduced to a 20 seat restaurant. Ms. Friedman felt it didn't have to be reduced to 20 seats, there just needs to be some sense of reality.

Mr. Grimshaw said it was mentioned the seating was reduced down to 60. Mr. Erlich said that didn't include the bench. Ms. Buck noted the Fire Chief included the bench (he has to include all seating shown when reviewing safe occupancy). Mr. Grimshaw said he was not suggesting anything formal, but felt that was a number the applicant was willing to work with. Mr. Erlich agreed. Mr. Grimshaw noted he did want to see something happen here, but the Board has to make sure that the Town's interests were protected as well. Ms. Friedman added also public safety.

The Board reviewed the draft decision and discussion was held on drafting an Order of Conditions, conditioned upon receiving a detailed parking and occupancy plan prior to or concurrent with the building permit application and to also submit a request for any required waivers from the Parking Regulations.

Ms. Buck asked about the hours of operation. Ms. Friedman felt that would depend upon the restaurant receiving a liquor license. Mr. Grimshaw said for the sake of argument; let's assume they received the liquor license. He asked the applicant what he was considering to be the hours of operation. Mr. Zhu said the kitchen will shut down by 11PM and asked the hours be 11AM to 1AM, 7-days a week.

Ms. Buck mentioned the Police Chief's comments regarding the posting of signs. The Police Chief mentioned having signs allowing for a better flow of traffic within the site. Mr. Erlich agreed posting signs as recommended by the Police Chief.

Mr. Grimshaw gave an overall review, noting the parking being addressed, the snow removal being partially addressed. Ms. Buck noted snow removal was a boiler plate condition #8, included within all Planning Board decision.

Mr. Grimshaw continued noting that the dumpster being placed in the back corner behind the building. He asked for any further comments or concerns.

Ms. Nist said one of the Police Chief's comments noted a traffic engineering study should be required in order to be in compliance with the standards set forth in the Manual of Uniform Traffic Control Devices. Ms. Buck said in general, the Police Chief does not like limitations on "left turns only" out of parking lots, because they are not enforceable. She felt it did make sense to clearly layout where cars are to pull in and pull out from the lot.

Ms. Friedman said another issue, as far as, access and egress was the fact there was another business next door with an access and egress spot that would get used. Ms. Buck asked if the applicant knew if they had the right to pass over that lot. Mr. Erlich noted it being a right-of-way. Mr. Wright suggested putting a guard rail up so people won't use the access drive to the adjacent business.

Ms. Nist asked if Crossroads would be using the same dumpster as the Restaurant, or would there be two on the lot for each business. Mr. Erlich felt that was a minor issue; Ms. Nist felt it was something that needed to be considered, because it could affect the parking. Also there was concern on placement of the dumpster and the trash truck having enough room to come through. Ms. Friedman also mentioned that if the dumpster blocks the back from a fire truck, it's an issue. Usually the Fire Department wants to have access on at least three sides of the building, if not all around the building.

Ms. Buck reviewed conditions. Parking shall be stripped by the occupancy in accordance with an approved parking plan. Total occupancy of the building shall not exceed that may be accommodated by parking lot of the site, taking into account the seating within the structure. The applicant will submit a detailed engineered parking plan with the required building permit application. The plan shall specify the flow of traffic on the site and address emergency access to the building.

Hearing no further discussion; Mr. Grimshaw asked for a motion.

MOTION: Ms. Friedman moved to approve the Special Permit the Eastern Pearl Restaurant, located at 1060 Main Street, Leicester, MA based upon the amendments as stated by Ms. Buck.

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

With no further comments or questions; Mr. Grimshaw asked for a motion to adjourn.

MOTION: Ms. Nist moved to adjourn meeting

SECONDED: Mr. Wright – Discussion: None

VOTE: All in Favor

Meeting adjourned at 8:35PM

Respectfully submitted:

Barbara Knox

Barbara Knox

Included in meeting packet:

- Agenda
- Memorandum to the Planning Board from Michelle Buck regarding December 1, 2015 Planning Board Meeting
- Planning Board Minutes of October 21, 2015, November 1, 2015 & November 17, 2015
- Memo to Mark Erlich, Esq. from Michelle Buck regarding Eastern Pearl Special Permit Application
- Eastern Pearl Restaurant site pictures
- Special Permit Application for Eastern Pearl Restaurant
- Letter from Mark Erlich to the Planning Board regarding Eastern Pearl
- Comments received from Police Department, Historical Commission, Fire Department, Building Inspector and Board of Health.
- Comment letters dated 10/8 & 10/27, 2015 from Michelle Buck to Mark Erlich, Esq. regarding Eastern Pearl Special Permit Application

Submitted at meeting:

- Eastern Pearl Special Permit Draft Order of Conditions