

**ZONING BOARD OF APPEALS**

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ROBERT W. LEVY, VICE CHAIRMAN
WALTER B. ADAMS
DEREK B. REDGATE

August 13, 2019

7:30 pm

Great Hall

Town Hall

Zoning Board of Appeals Members Present:

J. Randolph Becker

David G. Sheffield

Walter B. Adams

ZBA 2019-54 HYMAN FELDMAN FAMILY TRUST & DANIEL KARP, MD, 170-184 WORCESTER STREET & 7 BURKE LANE

Mr. Becker said that the Board had asked for a revised Construction Management Plan (CMP) at the previous hearing. He said that in drafting the conditions, the Board assumed that what they had was what they were going to get. He said that rather than waiting for plans, the Board drafted conditions that are required for the project. He said that the conditions for construction are longer than usual because the Board typically relies on the CMP. He said that in drafting the conditions, the Board went through the record of public hearings to identify issues that people had raised and balanced that with what the Board has jurisdiction over and what the Board could do that would have a positive impact on the surrounding neighbors. He said that the conditions have been in the public realm for a short time. He said that the Board has had feedback from the Proponent about the condition to establish or use an existing website to post things that happen about construction, plus a telephone number for people to know who to call if things. He said that Mr. Dischino commented that a six to eight week project does not justify a website, and just telephone should be sufficient. Mr. Becker said that the Board will have to make a decision on that.

Mr. Adams tried to make sense of the three set of plans that were submitted. He said that the third set is worse than the others because he could not distinguish the layout of the building and where parking will be because of overlays on the Existing Conditions Parking Plan with the Proposed. He said that the plan still shows parking on the Burke Lane side of the building at 170 Worcester Street and parking at the pass through aisle between 3 Burke Lane and the spaces that were to be removed.

Mr. Adams said that the Board had asked about the width of the sidewalk in front. He said that the Applicant had agreed to provide a reasonable path to the existing buildings. He said that the plans show the sidewalk at 3.5 feet where five feet is needed to make a positive connection. He said that the Applicant has not submitted plans that can be approved.

Mr. Becker said that the latest set of plans that the Board received were dated June 11, 2019.

Mr. Adams said that the landscape plan from July was abandoned because the Fire Department wanted a 20 foot fire lane. He said that would eliminate the landscaping along the driveway. He said that the Board might clarify with the Fire Department whether they really need to be able to drive a fire truck on the upper travel lane as opposed to parking the fire truck on Burke Lane if they had to fight a fire on that side of the building. He said that the Board does not have a set of plans that it can reference.

Mr. Sheffield said that a previous plan showed parking on the east side. He said that the parking count was reduced by two. Mr. Adams said that the plans show a 20 to 22 foot lane between a 3.5 foot wide walkway that goes up to the side entrance and back down again. He said that it has to be at least four feet wide plus a curb.

Mr. Becker said that there is another set of plans beyond the June 11th set that the Board does not have. Mr. Adams said that the Board needs to see those plans. The Board discussed continuing the hearing. Mr. Sheffield said that the Board needs to see what is being proposed.

Brian Germani, 22 Willow Park, said that he had been unable to attend the previous hearings. He said that he watched the videos that are online. He asked if the CMP will be posted on the website for the project. Mr. Adams said that the CMP is currently just a two short paragraphs statement about what will be done, which is to park people on the site and not on Burke Lane, and have all traffic leave from the site onto Route 9 east. He said that the plan is to add a wheel wash.

Mr. Becker said that the Board did not write the conditions based on the documents because the documents were not up to the level of content that the Board usually sees.

Mr. Germani said that he reviewed the June 11, 2019 plans and the Stormwater Report. He said that his understanding of the reports is that the porous pavement will make water absorption and runoff better than what it is today. Mr. Becker said that the porous pavement will reduce both the volume and the flow of runoff from the site from the existing condition. Mr. Germani said that he initially thought that going from unpaved to paved surface would create more runoff, which is a concern because his property is located down slope on the other side of Burke Lane. He said that it seems that the porous pavement will create a better condition if the Applicant complies with all of the technical details. He said that the Operation & Maintenance Plan seems onerous. He asked how it can be enforced. Mr. Becker said that will be a condition of approval. Mr. Adams said that after the fact, if somebody thinks that maintenance was not taking place and they were experiencing runoff, they could file a complaint with the Building Inspector, who would investigate and make a determination as to whether the condition was met.

Mr. Germani asked if the draft conditions would be posted on the website. Mr. Becker said that the draft conditions will be put on the website if the petition is continued. Mr. Germani asked if the Board will be soliciting feedback from the public on the draft. Mr. Becker said that is the reason for a public hearing.

Mr. Germani asked if the Applicant is working with MA DOT to exploring the possibility of making the Cedar Street on ramp to Route 9 fully two way to accommodate traffic out of this complex. Mr. Becker said that the Applicant already submitted an application to MA DOT to do that. He said that the Board's earlier comments principally arose out of getting better circulation for traffic and pedestrian circulation in the parking lot. He said that involved moving the exit to the ramp further west uphill. He said that at the time the Board was considering whether it should eliminate the Burke Lane entrance/exit. He said that the Board had feedback from the Fire Department that asked that the access not be closed. He said that the plans are supposed to show and the conditions say that there is no right turn out of that exit to go down Burke Lane, and that you can only turn left to go to Route 9. Mr. Germani confirmed that the no right turn was not restricted to certain times of the day. He said that unless and until MA DOT accepts the change to the ramp, any traffic exiting the site onto Burke Lane will turn left up to the stop sign on Route 9 and turn right. Mr. Becker said that they will always be turning right from that point. He said that two way traffic on the ramp

will not come all of the way down to Burke Lane. He said that currently you cannot make a legal left turn onto the ramp from 170 to 184 Worcester Street but can from the two driveways uphill from it. He said that extending the two way down to Burke Lane was never presented to the Board. He said that the Board was only concerned with the exit from the parking lot for southbound, westbound, and northbound traffic to be able to exit left from that exit. He said that it is the State's issue, not the Board's. He said that he attended the meeting with MA DOT, DPW, the Applicant and its engineer, and his understanding was that MA DOT would not be willing to go down to Burke Lane with the two way. He said that MA DOT was concerned about people turning right from Route 9 to get onto the ramp, which would make the problem worse. He said that the Applicant has not applied for that. Mr. Adams said that MA DOT did seem to be open to considering a revision to the partial two lane leading to one lane configuration being changed to two lanes to the entrance currently shown to 170 to 184 Worcester Street.

Mr. Becker said that in the first application, the Applicant had the driveway further east than where it is proposed now. He said that the driveway location was revised at the urging of the Board and because the Applicant thought that it would be a better sell to renting their property. He said that it would be better for them to have some of the traffic going up the ramp instead of everybody going down the ramp. Mr. Sheffield said that it also works better with the configuration of the parking pattern.

Mr. Germani discussed traffic and safety concerns with respect to the location of his property and the intersection. He said that putting in physical barriers would help mitigate risk that both this project and the project at 3 Burke Lane together will put more traffic up to the entrance to the highway, especially with the no right turn on the Burke Lane side. He said that he try to engage MA DOT since the last meeting but did not have much luck. He said that he reached out to Alice Peisch's office and they suggested that he continue to advocate with the town and the developer to make the extension of the guard rail on the corner a part of the design. He said that he was told that is outside of the town's control.

Mr. Germani discussed concerns about drainage and runoff, given the slope there. He said that the report on porous pavement seems to adequately address those concerns. He said that his other concern is safety and traffic. He said that he did not think that those issues have been adequately addressed.

Mr. Becker discussed 40B projects, town and local requirements. He said that the Board has no power over MA DOT. He said that the Board cannot mandate an answer from MA DOT but can encourage the Applicant to speak with the neighbors and MA DOT and encourage DPW to speak with MA DOT.

Mr. Becker discussed the right of way. He said that the stop sign on Burke Lane is probably in the State right of way. Mr. Adams said that MA DOT might be willing to do something on their side of the property but might not be able to anything on the Burke Lane side. He said that might fall to the town to deal with that side. He said that Mr. Germani should continue his efforts and DPW may be able to meet with him. Mr. Germani said that he did start the effort last year in May, 2018 but it was not resolved to his satisfaction. He said that the two projects with the increased traffic have brought the issues back to the top of his priority list. He said that he will continue his efforts.

Joseph Zani, 19 Burke Lane, asked for clarification about leaving Burke Lane toward Route 9. Mr. Becker said that from the parking lot to Burke Lane, there will be no right turn allowed. Mr. Zani said that the number of residents and cars on the street could be harmed by the no right turn requirement. Mr. Becker said that traffic will be added at 3 Burke Lane, so they are subtracting traffic at 180 Worcester Street.

Mr. Zani said that he stood at the end of Burke Lane today and saw two cars make a right turn onto Burke Lane from Route 9. He said that you were not able to do that prior to the highway re-paving done last year. He said that they did not put the concrete rumble strip back. He said that he mentioned it to the engineer at MA DOT, who was surprised that it had not been put back. Mr. Zani said that there is potential for a serious accident with cars turning off of Route 9 onto Burke Lane and cars flying down the ramp to get onto Route

9. He asked why a crosswalk will be added at that corner. He said that he can understand adding a handicapped ramp. He said that at the time that he had issues with Dr. Karp and the amount of traffic that was parking on Burke Lane, neither the State or the Town of Wellesley had not made a curb opening on Burke Lane. He said that the property owner denied making the very large opening where the snow removal truck would come out of to push snow across to the fence. He said that snow that would not go past the fence would stay on Route 9 and Mr. Zani would have to call the town to come down to clear it because you could not get out or in. He said that the State forced the opening to be closed because it said that you cannot have a curb opening closer than 50 feet to Route 9. He said that if the sidewalk stays there, there is potential for an accident with people flying down the off ramp and taking a right turn onto Burke Lane. Mr. Adams said that anything in MA DOT right of way will have to be approved by them. He said that it is not clear how that will play out. Mr. Becker said that there is a sign on the ramp to the intersection that says no right turn. He said that vehicles turning there are making an illegal turn. Mr. Zani said that it is illegal but people do it.

Mr. Becker said that if Mr. Dischino's plan is accepted by MA DOT, the rumble strip will probably be put back in. He said that the feedback that they got from the State was that it should not have been paved over. He said that the Board has no control over that.

Mr. Zani said that he has never seen vehicles turn left to go up the ramp. He said that they cross through the property into the parking lot and go around to the back, closer to Mr. Miller's property, take the last turn there, wait for the light and shoot through before any cars come down.

Mr. Zani said that cars coming from the front of the building would come around and try to maneuver through that space at an angle. He said that with all of the work that they are doing, he thought that they would try to bring it down a bit. Mr. Adams said that all they are doing is adding parking and renovating the parking lot. He said that the Board asked the Applicant to add wider sidewalks in front of the buildings for better access. He said that there are not doing anything to the buildings there.

The Board discussed continuing the petition to September 12, 2019. Mr. Sheffield moved, Mr. Adams seconded the motion, and the Board voted unanimously to continue the petition to September 12, 2019. Mr. Adams asked that the Applicant be asked to attend the continued hearing and to provide more detailed plans, including a landscaping plan and a CMP.

Mr. Becker asked the Board about accepting the Applicant's request to eliminate the condition for a website. Mr. Sheffield said that he could accept that as long as construction signs have a telephone number, perhaps in two locations.

Mr. Zani said that since there will be no right turn onto Burke Lane towards Route 9, what measures will be taken to ensure that people who take the opposite direction to McLean Street to get onto Cedar Street so that they can get onto Route 9, that there will be a policeman there during traffic hours or an engineer looking into doing a lighting system. Mr. Becker said that there will be no right turn out of 7 Burke Lane, so there will not be any traffic southbound on Burke Lane. Mr. Zani said that he leaves his property turning right onto Burke Lane to get to Mclean Street to Cedar Street. He said that you cannot get onto Cedar Street when there is heavy traffic. Mr. Becker said that will not change, notwithstanding anything that the Board does. Mr. Adams said that the Town will not direct the Police to put a detail there. Mr. Zani asked if lights could be put there. Mr. Becker said that Mr. Zani would have to ask the BOS about that. Mr. Zani said that five roads come into that point. Mr. Becker said that the ZBL does not contain anything regarding traffic signals or stop signs.

Mr. Zani asked about the traffic lights at the intersection of Walnut and Cedar Street. Mr. Adams said that there was a lot of effort put in by town residents to have those lights put in. He said that there had been a number of accidents there.

As there was no further business to come before the Board, the hearing was adjourned at 8:30 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary

DRAFT