

Arlington Redevelopment Board
Monday, August 17, 2020, 7:00 PM
Meeting Conducted Remotely via Zoom
Meeting Minutes

This meeting was recorded by ACMi.

PRESENT: Andrew Bunnell (Chair), Kin Lau, Eugene Benson, David Watson, Rachel Zsebery

STAFF: Jennifer Raitt, Director of Planning and Community Development, and Erin Zwirko, Assistant Director

The Chair called the meeting to order and notified all attending that the meeting is being recorded by ACMi.

The Chair explained that this meeting is being held remotely in accordance with the Governor's March 12, 2020 order suspending certain provisions of the Open Meeting Law G.L. c. 30A, Section 20. This order from Governor Baker allows for meetings to be held remotely during this time to avoid public gatherings.

The Chair asked if anyone would like to speak to please use the raise hand function and the Chair will allow time to speak during the Open Forum portion of the meeting. The Chair said that going forward speakers will be unmuted and may be on video if they like. Comments will be limited to 3 minutes per person due to the length of the agenda for this evening.

The Chair introduced the first agenda item, Continued Public Hearing for Docket #3602, 1207-1211 Mass Ave. The Chair introduced Mary Winstanley O'Connor and Jim Doherty to present updates. Ms. Winstanley O'Connor said that all of the updates requested by the board were submitted to Ms. Raitt's office. Ms. Winstanley O'Connor was disconnected from the meeting and the hearing was briefly paused.

The Chair introduced the fourth agenda item, Meeting Minutes for July 6, 2020. Mr. Benson moved to approved the minutes for July 6, 2020 with amendments, Mr. Lau seconded, approved 5-0.

The Chair reopened the continued Public Hearing for Docket #3602, 1207-1211 Mass Ave. Ms. Winstanley O'Connor summarized her letter to the board dated August 10th. Ms. Winstanley O'Connor said that plans for the bonus FAR and the access space plans remain unchanged. If the public access space can only be used from dawn to dusk then Mr. Doherty is not interested in the additional bonus FAR. Ms. Winstanley O'Connor said that changing the bonus area public access space request would result in the loss of real estate and hotel tax for the town. The Clark Street set-back is no longer an issue at 7.5 feet, the same as the adjoining lot. Results of shadow study conducted by the Planning Department confirm the shadow study completed by Lincoln Architects. Rick Salvo, Civil Engineer, and Greg McIntosh, Architect, confirmed that it is possible to tandem park 10 cars. Ms. Winstanley O'Connor addressed traffic and parking concerns: the staggered hotel check in will not be during peak traffic hours, the restaurant will not create undue traffic or unduly impact pedestrian safety, and that handicapped parking is not required in a valet lot. Ms. Winstanley O'Connor said that she believes that this hotel is needed to bring additional business to local retailers and to expand the Arlington commercial tax base.

Ms. Zsebery said that she agrees with Ms. Winstanley O'Connor's response letter to the Traffic Advisory Group about adding a sidewalk on the right side of the pull in circle. Ms. Zsebery said that she agrees with Ms. Winstanley O'Connor's assessment that the nearby intersections are an existing issue and Ms. Zsebery said she would not put onus on this group to address. Ms. Zsebery asked about the specifications of the finishes of the building, she would like to see colors to be used and final specifications to review, can review and approve separately at a later date. Ms. Raitt said that has the materials in her office for review and final specifications are usually included in the General Conditions of the permit.

Ms. Zsebery said that the ADA concerns brought up regarding plans inside of the hotel are not under jurisdiction of the

Board, they are under the jurisdiction of the Building Department. Mr. Lau thanked the proponent for the updated plans with elevations to give a better understanding how the building sits within the neighborhood now. Mr. Lau said he agrees with Ms. Zsembery that the ADA units issue falls under the Building Department's purview.

Mr. Lau asked if the planter at the corner of the building could be chamfered to allow for more clearance. Mr. Lau asked about the possible roof garden and set-back on the top floor. Mr. Doherty said that if the bonus space is not available then the roof garden is not possible. Mr. Benson asked about the parking for the hotel and restaurant staff. Ms. Winstanley O'Connor said that there are 11 contracted parking spaces for this purpose. Mr. Benson asked about the level of LEED certification that the developers intend to meet with the building. Mr. Doherty said that the LEED report is currently falling in the silver category. Mr. Benson asked what times would be acceptable for the public bonus space. Mr. Doherty said that he did not want to schedule specific times or days to be used in a professional way. Mr. Benson asked who would be managing the space and Mr. Doherty said he is looking to manage the space in a creative way where the hotel would work with the Town.

Mr. Watson asked about the slopes of the curved driveway and if there are any sight line issues for vehicles exiting the driveway onto Clark Street. Mr. Salvo said that the fact that there is an 11 foot sidewalk and a building with a first floor set-back of almost 24 feet the building does not interfere with the site lines of either end of the driveway. Mr. Benson said that one of the comments the public made was that people exiting the hotel driveway on the Clark Street side would not be able to see pedestrians walking down the street. Mr. Salvo said that there is a 9% grade, which is not enough of a drop to obscure the sidewalk. Mr. Lau asked about a tactile warning strip by the Clark Street driveway, as those warning strips are usually placed before an intersection, Mr. Salvo said that they were included in response to a comment and can be removed if needed. Mr. Watson said that the safety issues at the Appleton intersection is about bicycle and pedestrian traffic. Ms. Winstanley O'Connor said that TAC is working to address the issues at that intersection and the hotel does not have responsibility because it is an existing condition. Mr. Watson asked about overflow parking when the valet parking is full. The Chair stated that the applicant will be asked submit a parking plan that will address overflow parking as part of Special Permit conditions. Mr. Watson said that he likes Mr. Lau's suggestion for a rooftop garden. Mr. Lau said he notice that there is a new study on Appleton Street and Massachusetts Ave. that does not allow a left hand turn onto Appleton Street so the Town is addressing the issue with that intersection. Mr. Benson said he likes the idea of a rooftop garden and with that area it will get the hotel closer to meeting the FAR and the correct gross floor calculation.

The Chair opened the floor to public comment.

Ann LeRoyer 12 Peirce Street said that it looks like the hotel project is on its way to being approved despite many unresolved concerns. Ms. LeRoyer said that she hopes that in the long run the hotel is successful and is a good neighbor for this part of Arlington. Ms. LeRoyer said it increases tourism, economic development, and the kind of tax receipts as envisioned. Ms. LeRoyer said she hopes that The Board can sympathize with the neighborhood's skepticism and concern for short term and longer term impacts in the neighborhood including traffic, parking, and public safety. Ms. LeRoyer said that others have argued knowledgably about the questionable zoning and legal decisions during this review process. Ms. LeRoyer said that the hotel will seriously change the character of the residential neighborhood and many feel neighbor's concerns have not been listened to or taken seriously. Hours have been spent with the developer to tweak sight plans but very little effort has been made to reach out to the neighbors and that the TAC report has been dismissed. Ms. LeRoyer said she is hoping we can all learn from this disturbing experience to be more sensitive to neighbors' concerns, to reach out and engage residents in the beginning of a project to try to accommodate and mitigate problems and concerns as they arise. Ms. LeRoyer said that Julia Mirak invited residents to a Zoom meeting to discuss the planned project at 1165 Massachusetts Ave. and solicit feedback before presenting to the Select Board. Ms. LeRoyer said that the neighbors appreciated the effort

and hope that this can be viewed as a good precedent for other projects going before the ARB.

Darcy Devney 110 Thorndike Street is a member of the Arlington Disability Commission said that the project's mission is lacking or unclear when it comes to accessibility of various kinds, both legally and morally required. Valet parking does allow exemptions from some of the HP space requirements, but some vehicles are modified with hardware that would be unfamiliar to valets. Ms. Devney said that a 50 room hotel must provide a minimum of 3 accessible rooms, one of which must have a roll in shower. Ms. Devney asked why the ADA rooms are not shown in the plans and ramps at the intersection of Clark Street seem to be oriented incorrectly. The Disability Commission offered to meet with the developer to understand why requirements for ramps and elevator size are needed. Ms. Devney said that Human Centered Design found in their audit that 27 Arlington public buildings had ADA deficiencies that include 12 newly renovated public school facilities with numerous failures. Ms. Devney said that the ADC will be sending the information about the Lexington Hotel project to the Building Inspector. Ms. Devney asked the applicant not to delay dealing with disability access issues until building inspection and occupancy permit time because tearing up the entrance and regrading will not be cheap or easy. Ms. Devney asked the applicant to please be mindful not to scapegoat people with disabilities as the reason for a delay in the permitting process. Ms. Devney said that the project's contractors are supposed to be responsible for legally mandated access to the building. Ms. Devney said that the fact that ADA standards have not been followed to date does not fill one with confidence that you can and will do the right thing. Ms. Devney said that the earlier we work on those issues the better.

The Chair said that this is an important issue and it will be added as part of the conditions for the Special Permit that the ADA requirements will be addressed.

Don Seltzer 104 Irving Street said that The Board has Mr. Seltzer's detailed comments of several serious deficiencies which he summarized: the building is too big for this lot it exceeds the zoning code by several thousand square feet, it does not qualify for the 10% bonus exception that the applicant seeks, the building is too tall, the portion in the B2 district should be limited to 3 stories and 40 feet and the height difference matters to the neighbors on Pierce and Clark Street, the circular front driveway is a design disaster because the architects did not realize early on that the site was not actually flat, the driveway is impassable to ordinary passenger sedans which will bottom out at the peak, the plans ignore state law on accessible drop-off and loading zones, contrary to what was stated earlier it is required for valet parking to have an accessible passenger drop-off and loading zone, room tax revenue estimates are highly inflated, and zoning bylaw does not allow a hotel in the B2 section of the property which was the clear promise of this board when the mixed-use bylaw was proposed to Town Meeting in 2016. Mr. Seltzer said that the words of the Chair at that time were "You will not see any major development going into a B2 district. Any development coming into a B2 district has to comply with what is already permitted in that district and has to comply with the character of that district."

Michael Sandler 18 Peirce Street said that the neighbors have been ignored here and will be the most directly affected by this monolith looming over our neighborhood and changing the look and feel of this neighborhood. The project will make the neighborhood unsafe, congested, and unattractive. This is not a boutique hotel, these are small rooms, it is not clear who the intended hotel guests for these small spaces will be. Mr. Sandler said that he has seen a lot of the laws moved around and there are so many exceptions to them, there are bylaws for a reason. Mr. Sandler asked if any members of The Board have envisioned what this development will actually look like. Mr. Sandler said that this development is brazenly disrespectful to those of us who live here and have invested in our homes and our families.

James Fleming 1226 Mass. Ave. said he thinks that the project will look pretty good. Mr. Fleming said that currently the sight is an eyesore with just a bunch of parked cars; this project will be a big improvement. Mr. Fleming said as long as this

can be done legally, he does not have any concerns about design as far as aesthetics go.

Ivana (last name unclear on recording) Peirce Street said as a mother and an abutter she is concerned. The current proposal will create parking and traffic congestion. She said that this is a young neighborhood with 10 plus children, where families meet and children ride bikes and play on Peirce street. Families will have to up their games in terms of vigilance with the traffic on the streets. Purely profit maximizing design decisions that do not make it seem that this is a boutique hotel that will fit with the character of the neighborhood.

Carl Wagner 30 Edgehill Road said he echoes most of the critical comments. The applicant does not yet own the property to complete this project. Furthermore the ARB has a moral and legal requirement to follow the bylaws and can offer some slight variances or relief, but this property goes beyond what the ARB can provide to the property owner. The developer owns other properties with trash and cars. The original plans were for a boutique hotel or B&B type hotel, these plans are far too large, the traffic and parking are serious issues, and there is a handicap issue. Mr. Wagner said that the current development plan is a mockery of our laws and is illegal and immoral. Mr. Wagner said the Select Board should stand up and say that the ARB should not be voting yes for properties that go against the basic things the neighbors bought into. Mr. Wagner asked The Board to say no tonight because of its many deficiencies in standing up for the people, the residents, and the tax payers.

Aram Hollman 12 Whittemore Street said he urges the ARB to reject the project for the many reasons the opponents have already given. This is the wrong use, in the wrong place, at the wrong time, in the wrong zoning district. The land is too sloped, not enough parking, too many rooms and too much in general on too little land. It is a non-conforming use. The ARB is abusing the process and setting a series of terribly unwise precedents in allowing excess after excess beyond what zoning allows and you are seeing the results. In the pursuit of redevelopment the ARB has given the proponent a pass on issue after issue with this project, concentrating on the details while ignoring the big picture that it is too big. All the people except one oppose this proposal. Mr. Hollman said developers should study the zoning and propose projects that generally comport with zoning, exceptions should be rare and site specific. Mr. Hollman urged the ARB to reject this project.

Gordon Jamieson 163 Scituate Street said that the members of The Board asked insightful questions especially Mr. Lau's idea about the roof garden. Mr. Jamieson said that the way he looks at Mass. Ave. and Broadway is that in the long term a lot of our zoning allows for a more massive development along that corridor, like what is seen in Brookline. When you walk past that corridor when you walk past it into a neighborhood suddenly it is much quieter, the building actually acts as a buffer to the noise along the main thoroughfare. Mr. Jamieson said that Arlington needs development because if you don't want development then you have got to love overrides. Mr. Jameson said he hasn't heard any of the opponents say that they love overrides tonight. Mr. Jamieson said that he is generally in favor of development like this in town.

JoAnne Preston 42 Mystic Lake Drive said in addition to the ADA requirements and the welfare of neighbors, consideration of the Ottoson School has been left out. Ms. Preston said that there was a traffic study and TAC conducted a study have been conducted however the students, faculty, and staff have not been there since mid-March. Ms. Preston wanted to know when the study was completed. Ms. Preston does not believe that people will be coming and going from the hotel at random times. Ms. Preston said that the tourists staying at the hotel will be leaving in the mornings when the students and faculty will be traveling to the Ottoson School. Ms. Preston said that the area is very congested and that should be part of the determination. Ms. Preston said she does not believe that there is suitable visibility for trucks and valet leaving the parking lot. Ms. Preston said that if the design is wrong then we will have to live with it for 50 years so we should take our time in reviewing the project.

Steve Revilak 111 Sunnyside said, as bicycle commuter who rides up Mass. Ave. to Lexington Center and back daily, that he feels fine with the proposed hotel and the anticipated impacts on traffic. Mr. Revilak said he acknowledges that the Appleton Street intersection is a dangerous intersection due to the vehicle traffic taking left hand turns across Mass. Ave. to Appleton Street. Mr. Revilak said traffic to and from the hotel will not be turning onto Appleton Street, which as a cyclist, he feels comfortable with.

Paul Raia 44 Columbia Road said even though valet parking is allowed van spaces are still required in front of the building for van users using hand controls. Dr. Raia said that the rooms themselves are so small as to probably not allow for a standard wheelchair. It is important that those in Arlington who represent those with disabilities of all sorts have a say to make sure it is ADA compliant across the board. Arlington is an age friendly community, Arlington has committed to the WHO to look into how elders will benefit from anything in our town. Dr. Raia asked the Board to please hold off on voting for a building permit until we have had a chance to look at this to make the building better.

The Chair closed to floor to public comment. The Chair said he wanted to address a few issues that have come up during public comment. The idea that the ARB is not being responsive to issues of disability, the Chair said that he wanted to be clear that this will be a condition of any Special Permit that is granted. Just because a Special Permit is granted that does not mean that a Building Permit is granted. The ARB allows the layout of the project. The Building Department grants Building Permits with other points of review regarding room specifications and accessibility. The Chair said that the Special Permit condition should say that at least the minimums are met. The Chair said he would turn over the parking issue/van spot out front over to the applicant to see if that is a possibility. Mr. Doherty said that parking will comply with ADA requirements. Ms. Winstanley O'Connor said that a Building Permit and an Occupancy Permit would not be granted if the hotel was not in compliance.

The Chair said that this project is much better than when it started. We are relying on Mr. Doherty to be a good neighbor as he said the hotel would be. The Chair said that Mr. Doherty must abide by the conditions of the Special Permit. The Chair said that Mr. Jameson had a good point about neighbors enjoying the outdoor environment without having to worry about traffic, parking, and trash. Ms. Zsembery said that the issue that still needs to be discussed is the building height and the use of the 4th story relative to the shared space. Ms. Winstanley O'Connor said that The Board will have to make a determination. Mr. Doherty said that his desire was not to go to the second rendering of the 4th floor but to stick with the proposal that everyone has worked so hard on. Mr. Doherty said he is requesting that the area be increased by 2,100 square feet and then under the 50 unit scenario a rooftop garden of 12x20 feet on the Clark Street side.

Ms. Zsembery said that she would support that proposal. The Chair said that he likes that proposal as well the terms and conditions of the public space do not need to be worked out tonight. The Chair said that there will be a memorandum of understanding with the conditions to be worked out before the final permitting. Mr. Benson said that he does not think he will agree with this. Mr. Benson said he would like to review each condition and vote on each. Mr. Benson said that he does not like idea of the public space and what the applicant is getting in return. Mr. Benson said he prefers the option with the smaller area of the 4th floor and the bigger roof deck without the public space. Mr. Lau said that he likes Ms. Zsembery's idea of having the roof garden on the corner and the project having 48 units instead of 50 units. Mr. Doherty said that he wanted to make it clear that both proposals meet the criteria for gross floor area as long as The Board grants the easement.

Ms. Raitt reviewed the list of General Conditions and Special Conditions for the Special Permit with The Board and the proponents. The Chair closed the public hearing for Docket #3602. Mr. Lau moved to approve the Special Permit with the agreed conditions, Ms. Zsembery seconded, approved 5-0.

The Chair introduced the second agenda item, Public Hearing for Docket #3631, 473 Mass Ave. Special Permit review for Acitron's signage. Mr. Gotu Hule introduced himself and explained that the awning needs to be replaced and he wanted an updated look for his restaurant sign. Ms. Zsembery said she appreciates that Mr. Hule is updating the sign and improving the look of the restaurant but the proposal is larger than the current bylaw allows. Ms. Zsembery wanted to know about the condition of the sign band on that building behind the current awning. Mr. Hule said that his intention was to cover the old peeling concrete of the sign band with the full awning. Mr. Hule said that curb appeal is so important to a restaurant. Mr. Watson suggested bringing the swirl designs in closer to the restaurant name lettering on the proposed sign. Mr. Hule also said that the goose neck lighting will be replaced with lights behind the awning that backlight the sign. Mr. Lau said he would also like to see what is behind the existing awning before making a decision. Mr. Lau said that there might be some copper patina. Mr. Hule said that new awning is smaller at just 3.5 feet. Mr. Lau offered to go look at the building and Ms. Zsembery asked to have the dimensions of the box. Mr. Lau moved to continue to September 14, 2020, Mr. Benson seconded, approved 5-0.

The Chair introduced the third agenda item Discussion: Comprehensive Permit Application at 1165R Massachusetts Avenue. Ms. Raitt said that the Select Board provides a comment letter to Mass. Housing when an applicant files a comprehensive permit for a project eligibility letter. The Select Board is discussing the Mirak application and wanted to know if other boards or commissions would like to weigh in. If The Board would like to make comments and/or concerns The Board would prepare a letter to the Select Board. Ms. Raitt said that this letter is optional as this would be a ZBA permit. Mr. Watson asked if there is any commercial component to this project. Ms. Raitt said that there is no commercial component. Mr. Watson said he is disappointed to lose more property with commercial development could happen. The Chair said he agreed, the goal of expanding housing affordability is important but too much removal of possible commercial space concerns me. Mr. Lau said he also agrees. Mr. Lau said that there is a lack of balanced development in town right now, we need 40B housing but we are losing the commercial space. Mr. Lau suggested we look at why the town can't attract some commercial business there. Ms. Winstanley O'Connor said that she represents the Mirak project and Mirak will own the eventually the 40B. Ms. Winstanley O'Connor said that Mirak did do a study and Mirak feels that it is sort of a mixed-use because Work Bar will be there. Mr. Lau said that he wants to take a look at the missed opportunity this community had for more commercial space. Mr. Benson said he thinks it is a good project for somewhere else in town, Mr. Benson said that he is disappointed this project is in an industrial zone. Ms. Winstanley O'Connor said Mirak have been very good stewards of their properties in town. Ms. Zsembery suggested that perhaps the proposed amenity space could be considered for a commercial space. Ms. Winstanley O'Connor said she would pass that suggestion on to the Miraks. Ms. Raitt said that the letter to the Select Board is due by September 7, 2020. Mr. Watson suggested saying something about potential transportation impacts for a project this size at this location. Mr. Watson is concerned about exacerbating traffic issues that are already expected to get worse.

The Chair opened the floor to comment from the public for the Open Forum portion of the meeting.

Aram Hollman 12 Whittemore Street wanted to respond to The Board's comments regarding the previous agenda item. Twenty years ago Mirak announced the Legacy project and also said that they were having trouble finding commercial businesses. Mr. Hollman said that Mirak will do what is most profitable. There is nothing stopping another developer from applying for 40B housing to build another housing development on the same site. Mr. Hollman said that the letter from The Board should be an expression of concern.

Don Seltzer 104 Irving Street said that the Chair deferred many questions and concerns to the Building Inspector and Mr.

Seltzer wanted to know who that person is. Mr. Seltzer said that the Building Inspector has recused himself because of his relationship with the developer. Mr. Seltzer said he is concerned if the Building Inspector will be included in the process. The Chair asked Mr. Seltzer to ask the Building Inspector directly.

Steve Revilak 111 Sunnyside Ave said of Arlington's zoned acreage roughly 5.6% is zoned business or industrial. This is a small portion of the town where businesses are allowed. If commercial zoning was eliminated that would be a residential tax increase of about 6%, which is less than the debt exclusion passed for the new High School. Mr. Revilak said he appreciates wanting a larger commercial tax base which can be achieved by more intensive development or take existing sites where commercial development is not allowed and allowing it. Mr. Revilak said that if The Board would like to increase commercial development we need to accommodate the land for that.

Mr. Watson moved to adjourn, Mr. Lau seconded, approved 5-0.

Meeting adjourned.