

Arlington Redevelopment Board
Monday, July 25, 2022, at 7:30 PM
Town Hall Select Board Chambers
730 Massachusetts Ave., Arlington, MA 02476
Meeting Minutes

This meeting was recorded by ACMi.

PRESENT: Rachel Zsembery (Chair), Eugene Benson, Kin Lau, Melisa Tintocalis, Steve Revilak

STAFF: Kelly Lynema, Acting Director, Department of Planning and Community Development

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

The Chair introduced the first agenda item, Environmental Design Review Special Permit Docket #3707, 611 Massachusetts Avenue. Ms. Lynema gave an overview of this application for the Dallin Museum, located on a municipal property, to install a new post sign for the museum. Ms. Lynema said that there is no evidence of a permit for signage at this location in the past. Post signs are normally not allowed in this R1 district but the Board has the authority to allow signage that is not usually allowed in a particular district. Ms. Lynema explained that the sign is similar to the previous sign but is a bit smaller.

Heather Leavell, Director and Curator of the Cyrus Dallin Museum, reviewed the sign application for the Board. A professional sign maker who works with the Museum Trustees has been asked to create the sign that Ms. Leavell described. The sign is planned to be placed on the left side of the museum's front door. Ms. Leavell said that museum visitation has been low with Covid and the lack of sign has not helped.

Mr. Lau suggested cedar posts which are also resistant to wood rot may be a better choice than pressure treated wood and asked if the sign will be lit.

Ms. Lynema said that the sign itself is not illuminated but as part of the Whittemore Park improvements the building will include up lighting and that lighting will catch the sign.

Mr. Benson asked if the sign needs to be approved by the Historical Commission. Ms. Lynema confirmed that the Historical Commission must also approve the plans for the sign.

Ms. Tintocalis asked if the museum considered adding "open to the public" to the sign to attract more visitors.

The Chair opened the floor to public comment.

Sarah Burks, Chair of the museum's Board of Trustees, said that she supports this application and that the museum has not had a sign for a long time. Ms. Burks said that she speaks to people often that are not aware that the museum is in town.

With no other members of the public wishing to speak, the Chair closed the floor to public comment.

Mr. Benson said that there is precedence for signage such as this in a R1 zone adjacent to a business district.

Mr. Lau moved to approve the Special Permit for Docket #3707, 611 Massachusetts Avenue, that the nature of the use of the building and the location of the building is such to approve this sign with the special condition that any additional sign lighting be reviewed administratively by the Department of Planning and Community Development for adherence with the provisions of the sign bylaw, Ms. Tintocalis seconded, approved 5-0.

The Chair took agenda item number four out of order because it was too early to start the continued public hearing for Docket # 3704, which was scheduled for 8:00 p.m. The Chair introduced the Board Review of the 4/7/2022 draft meeting

minutes.

Some amendments were made by Board members. Mr. Lau moved to accept the meeting minutes for 4/7/2022 as amended, Ms. Tintocalis seconded, approved 5-0.

The Chair introduced the second agenda item, continued Public Hearing Environmental Design Review Special Permit Docket #3704, 18-20 Belknap Street. Ms. Lynema reviewed the application and explained that this is a pre-existing, nonconforming use.

Ms. Lynema said that she has not been able to determine the size of the parking buffer, other than that the applicant responded with the dimensions and materials the Board requested at the last hearing.

Chris Manley, the applicant, reviewed the list of updated dimensions and details requested by the Board. Mr. Manley said that he is open to plantings in the usable open space and will defer to his landscape designer. Mr. Manley said that he is considering other fence types, for example a shorter fence with open slats or a wrought iron fence, for the front of the property.

Mr. Lau asked about the height of the building and Mr. Manley said that the height from grade is 33.8 feet. Mr. Lau asked for clarification to confirm the building height. Mr. Manley said that the survey dimensions are the most accurate. Mr. Lau asked if the crushed stone surrounding the open space is included with the open space calculations. The applicant's counsel, Donald Borenstein, said that the Board can elect to waive or eliminate that five foot setback under the standard of this being a nonconforming pre-existing use and the change improves on previous conditions. Mr. Lau asked about the privacy fence, where it starts and ends. Mr. Manley said that fence starts at the neighboring building to the front of the building.

Mr. Benson said that he has questions about the disparities between the first application and the revised application. He asked for clarification regarding the size dimensions for the first floor and what are the changes. Mr. Manley said that plans for enclosed mudrooms on the front and rear of the first floor were discarded in order to meet FAR and setbacks. Mr. Manley said he is not sure why there is a six foot dimension change for the second floor, it may be due to modification of the decks. Mr. Benson said that he would like to see a comparison of the initial application and the revised application. Mr. Benson asked about the changes to the basement: the initial application said that the basement only held mechanicals. Mr. Manley said that he was incorrect and that there is both storage and mechanicals in the basement. Mr. Benson asked for a diagram for the basement so the Board can determine what the gross floor area was in the original. Mr. Benson asked for clarification regarding the attic dimensions and how the attic was expanded and yet ends up with lower gross floor area. Mr. Manley said that with the definition of a half story, those are the calculations that his team came up with and that Mike Ciampa, Director Inspectional Services, measured the building personally. Mr. Benson asked Mr. Manley if any part of the building with a ceiling lower than seven feet is not included with the gross floor area. Mr. Manley confirmed that is how the gross floor area was calculated. Mr. Benson said that he spoke with Christian Klein, the Chair of the Zoning Board of Appeals, and Mr. Klein said that with his experience on the ZBA, nonconforming structures, other than single or two-family dwellings, would not be permitted to further violate the dimensional and density regulations of the district in which it is located. This proposal cannot exceed the Floor Area Ratio (FAR) of the current building, Mr. Klein said that the applicant would have to meet the FAR of the old building or ask for a variance to increase the FAR of the new building. Landscaped or usable opens pace must also must be kept the same or increased so as not to increase the non-conformity. Mr. Benson said that Mr. Don Seltzer submitted an aerial photo with a view of the building in 2020 and Mr. Seltzer said that whole area in back of the garage was green space, and not paved over until the space was paved over between 2020 and 2022. Mr. Manley said he was not aware that the green space at the rear of the

building was recently paved. Mr. Benson asked about the calculations for FAR, gross floor area (GFA), usable open space, and landscaped open space.

Mr. Revilak asked about changes made to the slope of the outer side of the roof, Mr. Revilak asked if that was an error or modification. Mr. Manley said that the new measurements are due to modifications. Mr. Revilak asked about the setback and usable open space. Mr. Revilak said that when on the Zoning Board of Appeals (ZBA), porches were not included when calculating usable open space. Mr. Revilak asked if the property looked like the aerial photo Don Seltzer submitted. Mr. Manley said that the rear of the property was fully paved when it was recently purchased. Mr. Revilak said that the ZBA asked for the space with a ceiling height over seven feet when calculating gross floor area. Mechanical spaces are not included when calculating gross floor area in basements.

Ms. Tintocalis asked to review the size of each unit. Mr. Manley provided the area per unit: unit #1 is 1,866 square feet, unit #2 is 1,866 square feet, unit #3 is 2,033 square feet, and unit #4 is 2,033 square feet. Ms. Tintocalis stated that at these sizes the units are slightly bigger than the average starter home, which is 1,850 square feet. Ms. Tintocalis said she thinks that the applicant's requests are reasonable but does have some concerns about the planned fencing. Mr. Manley said that there is a similar six foot vinyl fence in the neighborhood. Ms. Tintocalis asked if the applicant would consider using fencing similar to the buildings that have already been updated on the block.

The Chair opened the floor to public comment.

Austin Brown asked who is in charge of measuring the final structure in regards to the roof 2 to 12 slope. The Chair said that the Building Department will confirm that the building has been constructed according to the approved plans. Mr. Brown said that neighbors feel that the applicant has been disingenuous regarding the numbers submitted and asked the Board to give that some consideration in their decision.

Begabati Lennihan said it feels like the developers are not acting in good faith in that the dimensions presented in their plans are not in compliance. The third floor does not look like a half-story but looks like a massive third floor. Ms. Lennihan said that the applicant said that they were in full compliance and the neighbors were surprised when the Board had the same concerns about the plans. The building is too big, it encroaches too close to the sidewalk, and the third floor looms over neighbors. Ms. Lennihan said that the large building feels like a bully. Ms. Lennihan suggested instead of having the applicant tear down the third floor and rebuild to code, to set a fine so onerous it will set precedence for the future and have the funds go towards affordable housing. Ms. Lennihan asked the Board how the neighbors can keep informed in a timely manner about this case.

Beate Mannstadt said that she remembers in 2020 that the owner at the time paved over all of the open space. Ms. Mannstadt noticed that the building is closer to the street now. Ms. Mannstadt said that she never felt threatened walking by the building before it was renovated but it did feel desolate when unoccupied.

Deborah Bermudes said that this applicant has been developing for a while so it was a shock when there were so many inconsistencies. She stated that asking if this project is of benefit to the neighborhood severely over simplifies the issue. In terms of property value Ms. Bermudes said that her property value has increased in recent years in the absence of large scale development. The addition of luxury condominiums is in no way "essential to public convenience or welfare." Ms. Bermudes said that the Master Plan talks about tear downs and "mansionizations," and replacement housing out of scale with neighborhood.

Chris Loreti said he would like to address the memo from Town Counsel, received before the last hearing. Mr. Loreti said that this is not a Special Permit case that should be before the Board but this case instead should be before the Zoning

Board of Appeals. The ZBA needs to make the finding that this development is not significantly more detrimental to the neighborhood than the existing nonconformity. The Balata Decision was misused by the applicant; this decision only applies to one or two family units, not a four unit apartment building. Mr. Loreti said that the memo from counsel states that the Board can grant relief to dimensions, which is actually not allowed through Environmental Design Review.

With no other members of the public wishing to speak the Chair closed the floor to public comment.

The Chair said her biggest concerns are the change in FAR from the original building to the renovated building, the half-story space, and uses in that space. The Chair asked the Board for items they would like the applicant to present at a new hearing or approve what can be approved tonight and the applicant will then go before the ZBA for a FAR variance.

Mr. Lau said that he likes the fact that the applicant reduced the density by reducing the number of apartments from six to four. Mr. Lau said he is going to rely on the Inspectional Services to ensure that the applicant complies with the bylaw. Mr. Lau said he does not like the parking in the back of the building. He is willing to give relief with the number of parking spots so the rear parking is not so crowded.

Mr. Benson said he would not approve this application if the FAR is greater than the FAR of the current building. Mr. Benson said that the Board's authority is limited in this residential case. There are just a few feet in the backyard that abut the Bikeway so this case is in front of the Board instead of the ZBA. Mr. Benson said that this building should not stick out from the neighboring buildings because of a small bit of backyard that abuts onto the Bikeway. Mr. Benson said that the Board should not handle anything differently than the ZBA. Mr. Benson said he would also give relief regarding the buffers for parking space reduction. The Building Inspector should determine that if the third floor meets building code.

Mr. Lau said he does not agree that only four feet of the property is touching the bikeway so it should not have come in front of the Board. Mr. Lau said if the property abuts, it abuts, and should be considered.

Mr. Benson asked what part of Environmental Design Review (EDR) says that the applicant should increase FAR. Mr. Benson said if it did review through the EDR he would come to the same conclusion that FAR should not be increased.

Mr. Lau said he appreciates that the applicant has decreased the number of units, improved the building, and planned a nice looking building that matches the character of the neighborhood.

Ms. Tintocalis said that she would like to see final revised dimensions to be approved by the Building Inspector. Ms. Tintocalis said that she agrees with Mr. Lau's suggested parking reduction. Ms. Tintocalis said that there should be some room for understanding with this project.

Mr. Revilak said he agrees with Ms. Tintocalis regarding parking. In terms of open space Mr. Revilak said that the applicant meets the requirements for landscaped open space and has reduced the nonconformity for usable open space. Mr. Revilak would like to see a condition on the permit that the Building Inspector confirms that the third floor meets the building code. Mr. Revilak said he is concerned with the FAR increase; it is not clear if the regulations were meant to apply to only new construction or all construction. He would like to see if the applicant can revise the plan for a conforming amount of open space.

The Chair said that she would like to approve relief for the number of parking spaces to allow the parking buffer, add the condition that the Building Inspector confirms the height of the building and the usability of the area of the half-story with a height less than seven feet, add a condition regarding the fencing in the front, and require that the applicant go before

the ZBA for a variance for any increase to the FAR.

Mr. Lau suggested that the basement space intended to be used as a family room/flex space for each unit be reclassified as storage space/unoccupied space so to meet the previous FAR and then go before the ZBA for a variance. The Chair said that storage space would still count towards the FAR calculation. Mr. Lau said that the original roofline is gone so he is not sure how the original FAR can be calculated. The Chair suggested using the property card in that case.

Mr. Revilak stated that variances are a very high standard to meet and Mr. Revilak said he feels that the applicant would be hard pressed to get a variance from the ZBA.

Bob Annese stated that the building is already built with approval from the ZBA. The Chair said that the fact that the building is not built to state and local laws, that the fault of the design professional. Mr. Annese said that if the FAR has to be reduced then something drastic needs to be done to the completed building. Mr. Annese said that the Board does have jurisdiction to grant relief if a structure is going from one nonconforming use to another.

The Chair said that the applicant needs to get the project closer to compliance with the existing FAR.

Mr. Borenstein said that he thought that applicant prepared everything that the Board asked for at the last hearing. The Chair confirmed that the applicant still needs to provide the correct FAR for the initial structure and the new structure. Mr. Manley reviewed the architect's process for calculating the gross floor area (GFA) and FAR for existing conditions. Mr. Manley said that the economics will not work if the parking or FAR are reduced because the units will not be as attractive to potential buyers.

Ms. Lynema said that FAR calculations do not include the garage but it may be the difference between the old and new FAR may be the attic space.

Mr. Revilak suggested reviewing with the applicant what the Board would like instead of having the applicant come before the Board again. Mr. Revilak said that if the .35 FAR limit is applicable to this building then the applicant should make the building smaller. If the Board thinks that the FAR limit is not applicable to this pre-existing nonconforming structure then Mr. Revilak would accept the FAR submitted.

Ms. Tintocalis said that she is comfortable with the applicant's FAR and the Board's ability to waive that requirement under these conditions. Mr. Lau stated that he agrees and he agrees with everything but the relief on the buffer zone. Mr. Lau said that if the applicant needs all eight parking spaces Mr. Lau will need the dimensions. Mr. Lau also stated that cars cannot park right along the property line.

Mr. Benson said he would make a motion to reject the Special Permit because the FAR is larger than the FAR of the old structure. Mr. Benson believes that the applicant should not make the nonconformity greater.

The Chair said that she would like to get to a place where the Board can approve the Special Permit, to suggest a modification that would be acceptable to the Board.

Mr. Benson said that the applicant would need to reduce the GFA by 593 square feet to meet the original GFA. Mr. Benson said that the zoning does not allow for nonconforming uses to become greater than the previous FAR.

The Chair said that she would need to see a reduction in the size of the dormers because they are oversized.

Mr. Lau suggested removing the hallway to the roof deck and mechanical area to shorten the dormer by a total of 8 +/- feet in length and relocating the access door to the adjacent wall.

Mr. Benson said if the structure were not subject to the FAR the structure would be applicable to maximum height, maximum stories, etc. The Board will be approving a permit for this nonconforming structure.

Mr. Manley said that his team is working to include a step back the third floor dormer to reduce massing.

Mr. Lau moved to approve the Special Permit for 18-20 Belknap, Docket #3707 with the following conditions, Ms. Tintocalis seconded, approved 4-1 (Mr. Benson opposed):

- Building inspector to confirm the height of the building is below 35 feet
- Building inspector review the use of the area proposed in the half-story of the building below 7 feet.
- Reduce the parking spaces to between 4 and 6 to include a buffer zone, subject to review and approval by the Department of Planning and Community Development (DPCD).
- Reduction in the four corners of the third floor to reduce the overall massing of the dormers, subject to review and approval by the DPCD
- Fencing in the front of the property be no higher than three foot six with open slats.

The Chair introduced the third agenda item, Open Space and Recreation Plan Update. The Chair asked for an overview of the Open Space and Recreation Plan so that the Board may vote to endorse the plan. Ann LeRoyer, Chair of the Open Space Committee, and David Morgan, Environmental Planner and Conservation Agent for the Town of Arlington, discussed the Plan. Ms. LeRoyer said that the Open Space Committee (OSC) has already received conditional approval from the State for this plan. Ms. LeRoyer said that the OSC requested community feedback by way of a survey, from residents, employees, and committee members. The OSC then turned the feedback and needs expressed into the goals for the action plan. Ms. LeRoyer said that there were three themes she noticed throughout the process: sustainability, accessibility, and collaboration. Other constant concerns have to do with the maintenance of parks, playing fields, other open spaces, staffing needs, education, communication, and acquisition of more open space. Ms. LeRoyer said that the committee is thinking about creating open space in Arlington and being creative since Arlington is pretty built out.

Mr. Morgan said that the conditional acceptance letter from the Office of Environmental Affairs described this plan as particularly thorough. The OSC has gone above and beyond to provide a very comprehensive plan. Mr. Morgan said as an Environmental Planner this plan is very valuable and will serve as a checklist that connects with the Planning Department's existing plans, ongoing work, and will also help with working together interdepartmentally. Mr. Morgan said that the plan is very significant to his work and is grateful to Ms. LeRoyer and the Open Space Committee.

Mr. Lau asked if the OSC was including the Arlington street rain garden pilot program. Ms. LeRoyer said that the OSC lays out plans and ideas; the OSC does not own or manage any land. Ms. LeRoyer said that Mystic River Watershed Association, The Department of Public Works, and the Conservation Commission worked on the street rain garden pilot. Ms. LeRoyer said that the street rain gardens are mentioned in the OSC's plan. Mr. Morgan said that one of the goals is to increase the biodiversity in those rain gardens and Mr. Morgan has been discussing the plan with the Engineering Division. Ms. LeRoyer said that this is an example of finding nontraditional open spaces, which are important to assist with stormwater runoff, pollinator plantings, and breaking up large areas of paved space.

Mr. Benson said that he assisted with the Town's plan in the 90's, which the OSC was born from. Mr. Benson asked about the mountain biking path at Hill's Hill and if the plan discusses how that is established. Ms. LeRoyer said that Parks and Recreation has a hearing to discuss those plans scheduled. The OSC is meeting to discuss if this is a good idea. Mr. Benson asked if a balance of recreation and conservation can be included when planning open space uses. Mr. Benson said he

would also like to have the Town's stance against artificial turf fields included with the plan as turf is bad for the environment. Mr. Benson also asked that as the town diversifies if the Town's parks are meeting all of the residents' needs. Mr. Benson asked about the plans for the Mugar property.

Ms. Tintocalis asked about implementation and action items and who would be the point person. Ms. LeRoyer said that the collaborators are not listed in order with the plan. Ms. LeRoyer said that different projects will have staff, committee members, and volunteers involved. Ms. Tintocalis asked Ms. LeRoyer to describe the OSC's maintenance concerns. Ms. LeRoyer said that all types of maintenance are concerns and the maintenance usually falls to DPW. Mr. Morgan said that a Public Land Management Plan will be the operations and maintenance manual for a select number of Town owned properties. Mr. Morgan said that the Public Land Management Plan is about 60% completed at this point. Ms. Tintocalis asked if the Municipal Vulnerability Preparedness Plan (MVP plan), complements the Open Space and Recreation Plan. Ms. LeRoyer said that the MVP plan is mentioned in the Open Space and Recreation Plan.

Mr. Revilak said that he thought it was a very comprehensive plan that includes a lot of goals moving forward. According to the appendix, with survey demographics break down, Mr. Revilak said he noticed that the longer a resident lived in town, or the higher their level of income, the more likely they were to take the survey. The most likely participants earn \$200,000 or more and have been Arlington residents for 20 plus years. Mr. Revilak asked if the consideration of bias was discussed by the OSC and in preparation for this plan. Ms. LeRoyer said that the public participation process is something that the OSC was very concerned about. The OSC worked with Arlington EATS, the Arlington Housing Authority, the Town's Department of Diversity, Equity, and Inclusion, and worked to solicit community input at listening posts stationed at farmers' markets and in public spaces. Mr. Revilak said that that community involvement is a tough issue and appreciates Ms. LeRoyer's perspective.

The Chair said that she appreciates the history included with the plan and was struck by the maintenance piece. It is difficult to invest in more programs if we do not invest in the proper maintenance and care for what we already have. The Chair said that a citizen petition came before the Board that addressed the way that some of the open spaces are used and programmed to form more community building. The Chair also mentioned that the Board submitted warrant articles at the previous Town Meeting to remove some of the permitting requirements to use open space for non-profit and for profit programming. The Board supports a wide range of activity in the parks.

Mr. Lau moved to endorse the Open Space and Recreation Plan update and to support the Chair working with the Department of Planning and Community Development to craft a letter in of support for the plan, Ms. Tintocalis seconded, approved 5-0.

The Chair introduced agenda item number five, Open Forum. With no members of the public present, the Chair closed the open forum portion of the meeting.

Mr. Revilak suggested that in light of the evening's public hearing that the Board continue to work to clarify the zoning bylaw. The Chair said that would be a good discussion for the Board's retreat.

Mr. Lau moved to adjourn, Ms. Tintocalis seconded, approved 5-0.
Meeting adjourned.

