

PLANNING & DEVELOPMENT BOARD MEETING MINUTES

March 7, 2022



Ruthanne Fuller
Mayor

Barney Heath
Director
Planning & Development

Cat Kemmett, Planning
Associate

Members

Peter Doeringer, Chair
Kelley Brown, Member
Sudha Maheshwari, Member
Jennifer Molinsky, Member
Chris Steele, Member
Kevin McCormick, Member
Barney Heath, Planning
Director *ex officio*
Lee Breckenridge, Alternate

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Members Present:

Peter Doeringer, Chair
Kelley Brown, Vice-Chair
Jennifer Molinsky, Member
Chris Steele, Member
Kevin McCormick, Member
Barney Heath, *ex officio*
Lee Breckenridge, Alternate

Staff Present:

Zachery LeMel - Chief of Long Range Planning
Cat Kemmett, Planning Associate

Meeting held virtually by Zoom Meeting

1. Presentation/Vote—303 Walnut Street Lighting Waiver

Chair Doeringer opened the meeting at 8:02 p.m. Ms. Molinsky recused herself from the first item before the Board due to a personal connection to one of the properties impacted by the proposed project.

Ms. Gensler, the architect for the project, gave a presentation on behalf of the Bank of America, located at 303 Walnut Street. She showed photometric plans and elevations for the proposed lighting changes at the site and explained that the lighting levels shown were what the state suggested the bank use to keep their patrons safe at night.

She explained that according to the plans, on much of the site the petitioner does comply with the Light Trespass Ordinance. However, on the facades facing the back portion of the site at the alleyway, the proposed lighting plan would violate that light trespass ordinance because the light would fall on abutting property.

Chair Doeringer asked if the referenced state recommendations regarding lighting standards are mandatory, and whether they were new. Ms. Gensler said that the standards are not new, these suggestions have been around for a while. They are not mandated by the state. These suggested lighting levels are sometimes brighter than local governments allow.

Chair Doeringer asked if the petitioner had prepared simulations or rendering showing what the proposed light levels would look like at night if implemented. Ms. Gensler said that they did not have those available to share at this time.

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Ms. Breckenridge said that the state level guidance the petitioner referred to exempts many electronic banking locations, including this one in all likelihood, so she wasn't sure why that guidance would need to apply to this site. She also said that as someone familiar with the site, she didn't see a great need for additional light in excess of 50 feet here, and that 50 feet is a pretty wide umbrella to cover. Mr. Sharkey, project manager for the Bank of America lighting changes, said that banks are required by the state to provide certain safety measures at their facilities, including adequate lighting. However, the state does not give concrete rules regarding foot candles for the bank locations to use. Some states do dictate specific lighting levels very clearly, but Massachusetts does not. The Bank of America prefers to use the same general lighting scheme nationally when possible at all of their locations to maintain a consistent standard.

Ms. Breckenridge noted that none of the plans provided give a clear sense of what kind of impact the proposed lighting scheme would have on the abutting buildings. There were no visuals provided to give a sense of scale for the lighting levels. This makes it difficult to assess how impactful the changes might be.

Chair Doeringer asked if the project team had consulted with the abutters to the site. Bill Sharkey from the Bank of America said that they had not consulted with the abutters.

Mr. McCormick said that if the abutters do not mind the lighting levels proposed, he did not see the issue in allowing a waiver. According to the ordinance, as long as a petitioner has permission from the abutters, lighting in excess of what is allowed in the light trespass ordinance may be permitted. Ms. Breckenridge said that the lighting does also have an impact on pedestrians and visitors to the site, not just the abutters.

Mr. Brown asked for clarification about the scope of the violation of the ordinance as proposed in the plan. It's clear that the amount of light depicted in the plan is more than what the ordinance allows for, but is it just a little more light than allowed by-right, or is it order of magnitude more than what is allowed by-right? The materials submitted do not make that clear, and that information seems important to have if the Board is to grant a waiver. He would like to see some material to show why additional lighting is needed here, and what the proposed site plan would look like if illuminated at night.

Ms. Breckenridge said that it's clear from the ordinance that there are a series of findings the Board must make in evaluating these waiver requests, and to her understanding, the Board did not have all of the information needed to make those findings with the material provided by the petitioner.

Chair Doeringer said that the Board has in the past reviewed another lighting waiver request where the petitioner explained that counterintuitively, some lights that point downwards but reflect back up actually created more of an adverse lighting impact than if they had been pointing upwards. Some sites have unique conditions that should factor into these evaluations, which is part of why it is important to show what the lighting plan would actually look like if implemented. He asked if the petitioner had tested potential light reflection on the site, and Mr. Sharkey said that they had not done so.

Mr. Sharkey asked if the project team needed to get permission for the light trespass from the abutters and then return to the Planning Board. Ms. Kemmett said that the Law Department has confirmed that if the applicant has proof that they got permission from all abutting parties who would be affected by the lighting plan, then they would not need a waiver from the Board.

Upon a motion by Mr. Steele and approved 6-0-1, with Director Heath abstaining, the Board voted to hold the item pending discussion with abutters to the property.

2. Zoning Matters Discussion

MBTA Communities

Director Heath explained that there was a briefing session with City Council recently. Because the guidelines from DHCD are still in flux, many questions about the path forward from here remain. Staff are in the process of analyzing what we have on the ground already and comparing that to the draft guidance and thinking about how we might meet these requirements. There is still a lot we need to better understand to get us closer to any sort of zoning recommendation. The city will be submitting feedback to state before the comment period ends at the end of the month.

Village Centers

Mr. Lemel said that at the last ZAP meeting, staff shared an initial analysis of hypothetical scenarios for Village Center zoning with a focus on what is allowed under current zoning and what the economics of development are under current conditions. Staff and the consultants from Utile gathered data from recent projects in Newton and nearby regions to test whether projects allowed by right or by special permit would pencil out financially. The next step is to look at possible options if zoning were to be tweaked with slightly different standards and use those same financial models to see what could be done in terms of development. Staff will be testing that to see if the results get us closer to what people said they wanted to see that we heard in our engagement from last year.

Last Mile Delivery

Mr. LeMel gave a presentation on this item. He described last mile delivery businesses as “dark” storefronts or warehouses, many of which are not open to the public at all or only in a fairly limited capacity, stocked with groceries or home goods that are marked for delivery within short time frames. The rise of last mile delivery business models has been growing over several years, but the pandemic has significantly increased these types of uses throughout the country.

He said in evaluating these uses, we need to weigh the pros and cons. Although we want active storefronts in village centers, our residents use and want this service. This use, properly regulated, could fill vacant storefronts and may reduce traffic congestion. It will be important to craft policy to minimize negative unintended consequences and not make locating anywhere in Newton infeasible.

He explained that historically, we have many deep, difficult to lease retail spaces. This is a use that can fill those spaces, and if they are centrally located, deliveries could happen by scooter or ebike, which we are seeing a lot of in bigger cities. The changes being considered here are not meant to impact stores and restaurants that use delivery to supplement their work.

Mr. Lemel explained that under this recommendation, design standards would apply in Business 1 and 2 and Mixed Use 1 and 2 Districts when the Microfulfillment Center use is located at street-level, and any gross floor area is located less than 16 feet from the street-facing building facade, and any point of the building containing the use is located less than 30 feet from a street. Those design standards include a requirement that a minimum percent of the gross floor area of the use must be devoted to on-site display of goods for sale, and a minimum of 50 percent of the street-facing building facade at ground level must consist of clear windows that allow views of the indoor space used for the on-site personal services and display of goods.

Mr. Lemel said that ISD has already determined that this is an allowed use by-right under current zoning, so there is a sense of urgency from some members of ZAP to move quickly on this item.

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Mr. Steele shared his observations of a microfulfillment center in Boston near Park Street. He said that it felt very much like being near a warehouse with heavy traffic going in and out, and often causing conflict with pedestrians. From an economic development perspective, these stores also can pose significant competition to local retailers without adding vibrance to village centers - they are a net negative for village centers. He was also concerned that allowing this use to proliferate in village centers could cause an increase in market rents, which could compound the problems traditional retailers already face in village centers.

Chair Doeringer asked whether Mr. Steele felt the same way about microfulfillment centers that are not centrally located at the street level- for instance, those off the beaten path, located in the back of buildings on a main street, etc. Mr. Steele said that if regulated appropriately there is a place for microfulfillment centers in locations that are not central, but he has serious concerns about allowing them in BU1 and BU2.

Ms. Molinsky expressed support for the transparency requirements and in-store retail component. She asked Mr. Lemel if staff have given any thought to whether these design standards could or should be used in the future as a way to improve the streetscape for other common uses that are not very active in village centers, such as banks. Mr. Lemel responded that members of ZAP have also had questions in this vein, which shows that there is a mismatch in our ordinance between what exists on the ground in village centers, and what people wish to see there. He hopes work the department is doing on village center zoning will lead to revisions of the use table to better facilitate an active village center and reduce barriers to including active uses.

Mr. McCormick asked whether other municipalities have allowed a retail component in front and microfulfillment use in the back successfully. Mr. Lemel said that staff has looked at other cities that have similar requirements, but there isn't a lot of data to draw from yet.

Ms. Breckenridge noted the challenges facing many retail spaces that are tucked away and not visible and voiced enthusiasm for finding ways to reduce barriers to more active and varied uses in village centers, like considering lowering parking minimums. Mr. Lemel agreed that parking can be a significant barrier for many desirable uses in village centers, and hopefully through the village center rezoning process we can better enable uses and outcomes we want, and appropriately regulate uses that need a higher level of scrutiny.

Chair Doeringer said that this is an interesting time for this use, and there is a lot of experimentation happening. We do not yet know the full scope of the impact of these experiments, but it's something for the city to keep an eye on going forward. He observed that in different pockets of the city there are retail vacancies that have remained vacant for years, despite many changes in the economic landscape, and it may take some experimentation to find a way to activate those spaces that have been persistently vacant. There are still many unanswered questions: how aware and respectful will the traffic in and out of these facilities be towards pedestrians? How can we ensure that this traffic doesn't pose a danger and nuisance to the neighborhood where the facility is located? It may be difficult to try to create a way to allow these facilities but only away from the street level in village centers, because many of these facilities have the desire to locate centrally in cities, not on the periphery or out of the way, and they have the money to rent prime real estate.

Mr. McCormick suggested having the facilities load and unload in the rear of the building, not on the front of the street.

Sustainability Measures

Mr. Lemel explained that the climate & sustainability team at the city is pursuing a new ordinance targeting a reduction in emissions for large buildings. This will be based on the Building Energy Reporting and Disclosure Ordinance (BERDO) energy reporting ordinance that Boston has already adopted, but crafted to fit Newton. There

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will be a presentation outlining the initial plan and information about this ordinance at a Committee of the Whole meeting on March 21.

Mr. Brown said that as the city considers measures that may put more strain on the electrical grid, it might be worth reaching out to Eversource to better understand their capacity. He also noted that based on his understanding of some of the ambitious sustainability measures in place in other cities, some are very reasonable, and some (like some of the more strict rules in Cambridge) are proving to be difficult for businesses to navigate. Newton can learn from what Boston and Cambridge are doing and what has worked well for them. Mr. Lemel agreed and said that local businesses will be an important partner in figuring out what will be impactful and doable in Newton.

3. Board Updates

Director Heath gave a few brief updates.

- There will be a joint meeting with Community Preservation Committee on funding for the West Newton Armory on April 12.
- CDBG/ESG reviews are ongoing.
- The public hearing for the senior center historic nomination will be on March 24. The building has been nominated as a landmark, and the NHC will determine whether to proceed with more extensive study or not. If they vote to pursue the nomination, the Board will be involved in the process and provide a recommendation on that nomination
- 206-208 Concord Street was approved as a local landmark by the NHC.

4. Minutes

Chair Doeringer noted a minor grammatical error in the February 7, 2022 minutes. Upon a motion by Mr. Steele and approved 6-0-1 the minutes were approved as amended.

5. Adjournment

Upon a motion by Mr. Brown and approved unanimously, the meeting was adjourned at 9:35 PM.