

Zoning Board of Appeals Minutes, 08/03/2016

Town of Lenox Zoning Board of Appeals

Minutes

August 3, 2016

Members in Attendance: Shawn Leary Considine (SLC), Acting Chair; Albert Harper (AH); Jed Hall (JH); Clayton Hambrick (CH) and Robert Fuster, Sr. (RF)

Staff in Attendance: Gwen Miller, Land Use Director & Town Planner

Others in Attendance: See attached sign-in sheet.

96 Walker Street (Map 40, Parcel 38): Special Permit under Section 3.3.3 “Nonconforming Structures” of the Lenox Zoning Bylaw to modify the front entrance of the home with a new porch to extend into the front setback.

Mr. John Kuster, the owner of the property at 96 Walker Street, presented the petition for a Special Permit under Section 3.3.3 “Nonconforming Structures” of the Lenox Zoning Bylaw to modify the front entrance of the home with a new porch to extend into the front setback.

Mr. Kuster explained that the home has no front porch, and he and his wife wished to improve the property. He noted while the new porch would encroach into the setback, it would not encroach to the same degree as the neighboring Trinity Church. He noted the front porch would extend only an extra foot into the setback.

RF asked what made the property nonconforming. GM said she did not have a lot map with her, but she thought it was either insufficient lot size or the home already encroached into one of the side setbacks.

AH moved to grant the Special Permit, RF seconded. The motion passed unanimously. No conditions were incorporated into the Special Permit. JH stated he felt the change to be de minimus; AH felt that it would improve the neighborhood; CH stated it would cause no detriment to the neighborhood; and RF concurred that there would be no harm caused to the neighborhood and an improvement would be made to the neighborhood. SLC stated it would meet all standards of the Special Permit criteria.

CRW Holdings, LLC d/b/a Miraval Lenox, for the property owned by 55 Cranwell LLC, 55 Lee Road (Map 3, Parcel 54 and Map 4, Parcel 71-1), Represented by Attorney Sydney Smithers of Cain-Hibbard-Smith, along with Attorney Elle Collins, Meghan Grace and Co-Counsel Alexandra Glover of Lazan Glover & Puciloski, Steven Rudnitsky of Miraval, Chevis Hosea of Miraval, David Rau of Hart Howerton, Steve Mack of Foresight Land Services, and John Dietrich of Fuss & O’Neill. The Petitioner seeks to modify an existing Special Permit under Section 9.4 “Special Permits” and Section 6.10 “Estate Preservation Area” of the Lenox Zoning Bylaw. The Petitioner seeks to complete previously permitted development through renovating and repurposing existing structures, the addition of five new buildings, reconfiguring the driveway and parking throughout the property, and constructing a pedestrian and golf cart tunnel under Lee Road.

SLC explained to the petitioner and audience the way she planned to run the hearing: read the notice, hear the presentation of the proponents, ask questions, and listen to brief, concise comments from the public. She explained there would be a site visit scheduled, and a continuance of the hearing to another date since there was another agenda item scheduled for 8:00 PM. She explained that somebody had requested to not use the microphones as the reverb interfered with their hearing, so everybody was advised to do their best and speak very loudly.

AH read the notice into the record.

Attorney Smithers introduced the project.

Steven Rudnitsky provided an introduction to the Miraval hospitality brand, and described the style of facility and programming available at the Tuscon, Arizona location of Miraval. He explained that many of their clientele are from the Northeast, and would utilize the opportunity to obtain the Miraval experience closer to home when traveling from Boston, New York or New Jersey. He explained the timeline: should Miraval be granted a Special Permit, they would begin in early 2017, with a scheduled completion in two years, and open in 2019.

Attorney Sydney Smithers explained the permitting history of Cranwell, pointing out that the original special permit under the Estate Preservation Area bylaw was granted in 1986, and the 1997 modification to this Special Permit allowed for the construction of a new hotel building. He went on to explain how the “keys”, or hotel rooms, were being re-allocated from past permitted buildings on the Cranwell property, and explained the location of the five (5) new buildings proposed. He stated that Wickham Hall was then designated as the Category 1 building to avail the petitioner of certain mixed uses. He stated that Wickham Hall is now known as Beecher Cottage, and that it will be entirely renovated in the same manner in which it presently exists. No new buildings may be constructed within 200’ of it.

He pointed out that the Estate Preservation Area bylaw allows for a mix of uses and a phased mix of ownership, and that Cranwell had long ago decided to incorporate condominium development on site. Due to the Massachusetts Condominium Act, the condominium projects needed to be on independent lots w/ interior lot lines. He also pointed out that this was all allowed w/ the open space restriction, recorded in the 1980s. He pointed out that the property is required to maintain a 200’ buffer between the housing units and the resort activities, and the condominiums are within that

200' buffer. He stated the Zoning Board of Appeals had, over the course of past decisions related to Cranwell, Canyon Ranch and Shakespeare and Company reaffirmed that this mix of uses can take place within the 200' buffer of the Estate Preservation Area property. He explained that this close mix of uses was always the intent of the Cranwell property, since the very first Special Permit application.

Attorney Smithers went on to present the proposed benefits of the project, including the positive fiscal benefits of the project as described in the application material.

AH asked Attorney Smithers to clarify which building was the Category 1 building per the Estate Preservation Area zoning bylaw. He said it was once Wickham Hall, now Beecher's Cottage. Attorney Smithers stated that Beecher's Cottage had once been called Wickham Hall. AH stated he would like that change documented. He also noted that the Zoning Bylaw describes "Category 1 buildings" versus building, and asked for clarification. Attorney Smithers said there is a difference between Category 1 Buildings and the Designated Category 1 Building. AH asked what the names on p. X of the ZBL meant: Wyndhurst and Colbrooke. David Rau stated they were the historic names of the Mansion. Attorney Smithers produce a site plan indicating the historic layout of the property.

SLC stated the ZBA has defined in the past the difference between hotel rooms and condominium units. She pointed out the total of 184 keys, and requested clarification about how this number was developed. Attorney Smithers noted a petition in the past of Cranwell to permit additional condominium units, and have these serve as both condominium units and room keys. The ZBA at the time had denied this special permit; the Land Court required the ZBA to make a positive decision. This means there are 36 keys not effected, and not being used—the condominium association changed their mind about using their units also as hotel rooms. There would be 148 hotel rooms w/ the proposed plan brought forth by Miraval Lenox.

AH asked that the 1997 site plan be made part of the record, along with documentation of the Designated Category 1 Building.

SLC asked for clarification regarding the density bonus required in the Estate Preservation Area Zoning Bylaw. Attorney Smithers stated the density bonus is only for multifamily housing development on the great estate property.

SLC asked why the tunnel was being located in the middle of the property's frontage on Lee Road and not at either of the intersections to the north or south. John Dietrich stated it was a safer option.

RF asked if the golf course remain open to the public. Steven Rudnitsky said it would remain open to the public.

David Rau of Hart Howerton presented the site plan to the Zoning Board of Appeal, explaining how the project team arrived at the siting of buildings, and the design of the new buildings. He explained the restaurant in the mansion would remain open to the public. He explained that existing buildings would be renovated and restored.

AH asked Mr. Rau to explain the elevations on the screen. DR explained the elevation depicted was for the spa building and would not be available from the condominiums. He then showed the elevation of the proposed Guest Cottage, along with a cross section of Blossom Hill depicting distance between the Guest Cottage front porch and the first Fairwynds condominium. He explained the design team had moved the Guest Cottage back further in response to the neighbors' concerns. He also highlighted a pedestrian path between the condominiums and the resort area.

Steve Mack of Foresight Land Services explained the site locus, the location of the different parcels and their acreage. He explained there was sufficient capacity in both the municipal water and sewer system to absorb the proposed flows of the Miraval resort and spa activity, using over 20 years of data available. He pointed out that Cranwell had received a sewer extension permit, meaning they can go higher than typical for use in gallons. He also pointed out that connections would be to the Walker Street line. He went onto to explain that there would be no work in wetland resource areas, and that the team would apply to the Conservation Commission for work in buffer areas. He explained that revisions had been made to the parking plans in response to the neighbors' concerns.

John Dietrich of Fuss and O'Neill introduced himself, stating he has worked for a long time in the area and on similar projects, including Tanglewood. He explained how the traffic impact study was conducted, and said there would be a 1% increase in traffic on Lee Road. He pointed out the Level of Service "C" would be maintained on Lee Road even with the increase, and that the increase in number of trips would be added to the 1,000 vehicle trips/hour already documented on Lee Road in the summer, peak season.

AH asked why they were requesting a waiver for 20' driveways instead of 24'. Mr. Dietrich explained that 20' isn't considered too narrow, and that it would serve to slow drivers down. The driveway is 20' currently. AH asked if there would be speed bumps. Mr. Dietrich explained the difference between speed humps and speed bumps, and noted that Tanglewood had opted to use speed humps. Since the driveways are private property, it would be up to the owners to decide how they would address traffic calming on site.

RF asked Attorney Smithers to clarify the exceptions to the driveway and parking requirements of the ZBL. He understood the driveway request, but was curious about the parking. Steve Mack explained that the parking bylaw requires 15% of the parking lot interior to be landscaped, and the team found they could better site and more compactly configure the parking w/o the interior landscaping.

AH asked if there are weddings at Cranwell now, and if there would be at Miraval. Steven Rudnitsky said yes, there are weddings now and there would be in the future. The general manager of Cranwell stated they have ~30 weddings a year, and the vast majority have always been indoors. They would continue to be mostly indoors.

SLC stated that they would welcome public comments at this time. RF stated that the Board has had a long time to review the application materials.

Alan Milbauer, Trustee of the Fairwynds Condominium Trust, explained he had originally sent an e-mail of support to the Board regarding the Miraval proposal. As he and others learned more about the proposal and what it would mean to their traditional access of the Cranwell campus and

amenities, he felt it best to express support for the general idea of improving the property but expressing concern about the limited access proposed in the future, the siting and scale of the Guest Cottage, the Walker Street access, and the parking issue. He urged the ZBA to postpone any decision until they had conducted a site visit and the neighbors and Miraval had worked out their issues. He explained that the owners had purchased their units because they wanted to be part of and close to the Cranwell experience and beautiful campus.

David Abramson, Trustee of Fairwynds II stated he was in favor of the project, but had concerns, including the limited access proposed with the Miraval resort, and the restricted Route 20 access which now is free but would have a security gate according to the Miraval proposal. He described a permanent easement for Fairwynds II to access via Route 20 and would like to continue using Route 20 unencumbered by a security gate as this would create traffic stacking.

Veronica Perry of Clifden Court asked what type of wellness opportunities provided at Miraval would be open to the Lenox and Berkshire community. Steven Rudnitsky and Jim McCormack explained they didn't have a definitive plan yet, but would work hard to develop recreational and wellness opportunities open to the public, such as a Berkshires Day.

Peter Armand of Bentrup Court asked where residents would go to play golf—would they go to the West side of the property to start? Mr. Rudnitsky stated they might change the configuration and lay out of the golf course, and might have the start be on the west site. There would still be 18 holes. Mr. Armand asked what would happen to all the trees at the mansion. Mr. Rau said they worked in their site plans to preserve as many of the old trees as possible. Mr. Armand concluded by asking what the Guest Cottage would be made of on both sides; Mr. Rau said stone and stucco.

Warren Widman, of 15 Fairwynds Drive expressed concern with the limited notice provided to abutters—they did not receive notice until two weeks prior to the hearing. He wondered how the ZBA could consider, in such a short time, such a large project and recent revisions presented at the hearing. He stated that children under the age of 16 would not be allowed on the property, and that the spa and fitness facilities would be only for Miraval guests. He noted Fairwynds experienced flooding, and he doubted that the engineers had fixed this problem in their plan.

Linda Miller of Birchwood said the access to community members was an important consideration.

SLC provided a list of information she would expect from the petitioners at the next hearing, and encouraged the petitioners and the neighbors to continue working out the access issues.

She stated she had concerns about the view shed from and of the mansion, and wanted to conduct a site visit with the proposed Guest Cottage staked out and balloons at the height of the proposed Guest Cottage to better demonstrate how it will look.

She summarized the list of issues to be addressed for the next hearing:

- The view shed of and around the mansion, and how this has changed over the years and how it will continue to be maintained;
- The type and level of services to be available to the public and condominium owners and condominium owner access in and around the property;
- Follow-up with Town Counsel regarding the 200' buffer contemplated in Section 6.6 of the Zoning Bylaw between housing units and resort uses on Combined Use Estate Preservation Area properties.
- Documentation of previous and current titles of buildings on the Cranwell property and explanation of the designated Category 1 building/category 1 buildings.

The site visit was scheduled for Tuesday, August 11 at 4:00 PM, with the group to convene at the mansion.

The hearing continuance was scheduled for Monday, August 29 at 7:00 PM at Lenox Town Hall.

Steve C. Morrison, 25 Pittsfield Road (Map 17, Parcel 37)

Petition for a Special Permit and/or Variance to place a sign with electronic time and temperature indication 10' feet from Pittsfield Road in the C-3A zoning district.

The petitioner did not attend the hearing. The ZBA continued on with the Miraval presentation.

Respectfully Submitted,

Gwen Miller