

Zoning Board of Appeals Minutes, 10/24/2016

Zoning Board of Appeals Minutes October 24, 2016 Auditorium

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

Staff in Attendance: Gwen Miller, Land Use Director & Town Planner, (GM); Peggy Ammendola, Land Use Clerk, (PA)

Approve minutes: August 3, 2016, August 29, 2016 and September 26, 2016-RF made a motion to approve the minutes as published. AH seconded the motion and the minutes were approved 5-0.
The following were tabled: August 17, 2016 and October 5, 2016.

Continued Public Hearing from

August 3rd, August 29th & September 26, 2016

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) Modify existing Special Permit under Section 9.4 "Special Permits" and Section 6.10 "Estate Preservation Area" of the Lenox Zoning Bylaw, 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.

There were approximately 25 people present for this hearing.

Present were: Attorney Syd Smithers, Ellie Collins, and Justina Jordano of Cain, Hibbard and Myers; Attorney Alex Glover; David Rua, Senior Architect at Hart Howerton; Steve Rudinsky, CEO of Miraval; Chevis Hosea, VP of business development for Miraval; Andrea Parissi, Project Manager of Miraval; Jon Dietrich, Traffic Engineer of Fuss and O'Neill; Steve Mack of Foresight Land Services; Attorney Emil George who represents the co-applicant, 55 Cranwell, LLC; and Attorney John Gobel who represents the unit owner associations for the Fairwynds at Cranwell, Fairwynds at Cranwell II, Coldbrooke South and Coldbrooke East condominium communities.

The following documents were received since the hearing of September 26, 2016 and have been provided to the Board:

1. E2485 Revised Special Permit Documents 1-plans 25 pages; Municipal Impact Report 19 pages; Supplemental Stormwater Report 162 pages
2. Revised Site Engineering Plans & MIR 5 pages; Civil Plans (Reduced Copies 11" X 17") 25 pages plus full size plans
3. Letter of October 24, 2016 from Attorney John Gobel who represents the unit owner associations for the Fairwynds at Cranwell, Fairwynds at Cranwell II, Coldbrooke South and Coldbrooke East condominium communities stating that there has been agreement involving the use of facilities on Cranwell property and that they support Petition. Attorney Gobel also submitted suggested conditions.
4. October 24, 2016 Weston and Sampson Peer Review Comments stating that they have reviewed the Supplemental Stormwater Report, October 2016, 55 Lee Road (Route 20), Lenox-Civil Drawings (25 Drawing Set) and Municipal Impact Report, October 2016 and that the documents appear to adequately address all previous comments.

This hearing was continued from September 26th in order for Foresight Land Services to produce the final engineering plan. This was done in advance of this meeting and submitted to Weston and Sampson for peer review.

Attorney Smithers stated that Miraval and the parties represented by Attorney Gobel have come to agreements on the use of the amenities and both attorneys have exchanged letters regarding the agreement. He also advised that Attorney Gobel had prepared a list of suggested conditions to the special permit that he has reviewed and amended. GM also prepared a list of suggested conditions. They have been amended to read that a screening of evergreens will be placed at 15 Blossom Hill so that the structure would not be visible from Route 20 and that Weston and Sampson will determine the amount of to be placed in escrow by the Petitioner. Attorney Smithers concluded his remarks by complimenting the Board for their attention and patience regarding this petition.

Attorney Gobel acknowledged that agreement has been reached between his clients and Miraval and that they are in support of the project that has been presented.

SLC confirmed that the Town accepts the decision dated October 24, 2016 of Weston and Sampson that the revised plans and final documents appear to adequately address all previous comments.

RF made a motion to close the hearing and AH seconded the motion. The Board voted to agree 5-0.

AH made a motion to grant the modification of the special permit that was granted in 1982, modified in 1986, 1987 and subsequently. CH seconded the motion.

SLC advised those present that the original documentation has been modified over the process of the public hearings, and that the Petitioner will be held to what they have presented in the course of the hearings.

Each of the sitting members concurred that the requirements of the zoning bylaw had been met. They thanked the Miraval team for their diligence in providing all that the Board had requested, their willingness to work with the property owners at Cranwell, and their patience throughout the hearing process. All expressed that the project is beneficial to Lenox.

The Board voted to grant the modification to the special permit by a vote of 5-0.

CONDITIONS APPLICABLE BEFORE CONSTRUCTION

- The petitioner shall cause the existing public sewer mains serving the main Cranwell Campus to be videoed and smoke tested and shall advise the building inspector as to the physical condition of the public mains.
- The petitioner shall have Foresight Land Services conduct test pits in the area of the proposed infiltration areas to confirm the soil conditions and depth of the ground water levels to either confirm the assumptions made by Foresight or, preliminary to a revision of the plans, to account for the conditions found so that Lenox will have a chance to review any changes rather than allowing changes to occur in the field without input.

The Board voted to approve the two conditions by a vote of 5-0.

CONDITIONS APPLICABLE DURING CONSTRUCTION

- No construction work shall be performed on Sundays, or on State or Federal holidays.
- No exterior construction work shall take place prior to 7:00 AM or after 6:00 PM from May 15th to October 15th and from 6:00 AM or after 6:00 PM from October 16th to May 14th.
- The applicant shall share the construction schedule with the Town of Lenox Zoning Code Enforcement Officer prior to commencement of work. Any deviation from this schedule shall be shared with the Town of Lenox.
- The applicant shall share their dust control plans for the construction period with the Lenox Zoning Code Enforcement Officer. They shall notify the Building Commissioner of any deviation from these plans.

The Board voted to approve the two conditions by a vote of 5-0.

CONDITIONS APPLICABLE AFTER OCCUPANCY

- The Resort will use best faith efforts to keep any guest generated noise under control so as not to disturb the neighboring residences of Fairwynds and Fairwynds II.
- No use or activity on the Property shall produce an average sound level between 6:00 AM to 10:00 PM greater than 70 decibels, as measured over a one hour period or average sound level from 10:00 PM to 6:00 AM greater than 60 decibels, as measured over a one hour period when measured at the southwest corner of Fairwynds Unit 23. This condition shall not apply to activities required for the maintenance of the property and grounds or the operation of ordinary motor vehicles.

The Board voted to approve the two conditions by a vote of 5-0.

CONDITIONS PROPOSED BY THE TOWN

Before reading the conditions, SLC suggested adding another special condition, #10, whereby Miraval would return in 3 years for a review. Attorney Smithers objected. SLC explained that with large projects such as this, e.g. Canyon Ranch and Elm Court, it was not uncommon for the Board to add as a condition to the issuance of a permit that there will be a review after a certain amount of time. SLC acknowledged that having such a condition would require the approval of the Petitioner. Attorney Smithers responded that it is the Building Inspector's purview to make sure that an applicant had complied with the permit granted and the special conditions to the permit. After consulting with his clients, Attorney Smithers stated for the record that Miraval would be happy to give a voluntary presentation three years from today. As this is a compromise and not a condition, the Board did not take a vote. SLC said that she felt that this accomplishes what the Board wanted. The consensus of the Board was that they agreed to Attorney Smithers offer.

The conditions were read as follows:

- The petitioner shall provide an appropriate number and type of stand pipe hose connections to each building on the Miraval campus as specified and approved by the Lenox Fire Department.
- The petitioner shall provide to the Town of Lenox and Weston and Sampson all final construction documents for conformance with the proposed drawings modifications and additional analyses listed in the response letter from Foresight Land Services dated August 2, 2016 and September 26, 2016.

- The petitioner shall be responsible for the trimming of brush/branches at the following locations to improve safety and sight distances at the following intersections:
 - Walker Street at East Street/Blantyre Road (see BETA Memo dated August 12, 2016, comment #8)
- The petitioner shall be responsible for the installation of speed check signs in consultation with the Town of Lenox Police Chief and DPW Superintendent and at the following locations:
 - Along Route 20 and Walker Street in the area of site driveways
- The petitioner shall provide a full pavement marking and signage plan to the Fire Department for ease of wayfinding on site in the case of an emergency.
- The petitioner shall provide the Tree Warden with a site plan indicating where trees are being removed, and where they are being planted for screening. The petitioner shall be responsible for replacing the net difference on site in locations convenient to their site plan and the safety of guests and visitors.
- The petitioner shall provide vegetative screening for any structure east of the mansion including Fairwynds condominiums visible from Route 20. This screening shall 36" or 48" evergreen tree boxes plantings to protect the view of the mansion and golf course year round from Route 20.
- The petitioner shall provide results of on-site stormwater and waste water collection evaluation which could include smoke testing and CCTV inspection. These results shall be shared and approved by the Lenox Department of Public Works and prior to the issuance of a Certificate of Occupancy.
- The Petitioner shall provide an escrow account in an amount to be determined by Weston and Sampson so that the Town may have additional peer review of follow up items such as the on-site stormwater and waste water collection evaluation; the final construction drawings.

AH made a motion to adopt conditions 1-9 as read. CH seconded and the Board voted to approve 5-0.

JH made a motion to close the public hearing. AH seconded the motion and the Board voted to agree 5-0.

Respectfully submitted,
Peggy Ammendola