



Select Board/Planning Board - Joint Executive Session

Meeting Minutes

Monday Sept. 27, 2021

- Present (in-person): Select Board members: Tina Hein, John Cronin (Ben Sparrell not present)
Planning Board members: Karen Apuzzo-Langton, Barbara Peatie
Also present: Atty. Brian Winner and Jay Talerman of Mead, Talerman & Costa,
and Travis Ahern, Town Administrator
- Present (via Zoom): Planning Board members Jason Santos, David Thorn, Scott Ferkler
Also present Karen Sherman, Town Planner

The Select Board and Planning Board entered Executive Session at 6:33 pm to discuss strategy with respect to pending litigation that could otherwise cause harm to the Town if held in public session.

Brian Winner presented three scenarios to address a December 2020 Planning Board Special Permit and Site Plan Review denial decision for ADESA Auction Boston at 194 Lowland Street that was appealed to the Land Court by the petitioner: (1) Planning Board agrees to re-hear the application with any new information on remand; (2) Planning Board does not agree to re-hear on remand and the applicant comes to Select Board for an MGL c.140 Class 2 used car dealership license to move ahead with a by-right version of the project including showroom construction; or (3) litigation on Planning Board's decision and applicant's appeal. The scenarios were detailed in correspondence and attachments from Atty. Sander Rikleen of Sherin and Lodgen dated July 29, 2021.

Attorney Winner indicated that the Land Court is waiting to hear if the Planning Board is willing to re-hear the petition on remand with the supplemental materials provided and referred to in Atty. Rikleen's correspondence. There was some discussion about the differences between the two Boards' respective authorities under c. 140 versus the zoning bylaws.

Travis Ahern asked Attorney Winner if the Town would be viewed in a more positive light for potential future litigation if the Planning Board agrees to hear the application again with any proposed enhancements to the application. Attorney Winner indicated there is no guarantee, but there is no downside to re-hearing on remand from this perspective.

Karen Apuzzo-Langton asked for Planning Board members' feedback and Scott Ferkler, David Thorn, Jason Santos via Zoom, and Barbara Peattie in the room all indicated they were concerned that a re-hearing on remand would not present sufficient new information that addressed items like turning radius issues of large car-carriers, but would be willing to re-hear if it was in the Town's best interest. **Motion to**

Approved: October 7, 2021

re-hear on remand, the terms of such proceedings to be negotiated by Town Counsel, by Jason Santos, seconded by Barbara Peatie, roll call vote unanimous (5-0).

Planning Board voted to exit Executive Session and adjourn. Unanimous roll call vote.

Select Board voted to exit Executive Session and return to Open Session at 7:10 pm. Roll call vote.

Respectfully submitted,

Karen Sherman, Town Planner

Approved: October 7, 2021