



City of Westfield

PLANNING BOARD

Philip McEwan
Peter Fiordalice, Vice Chair
William Carellas
Robert Goyette, Jr.
Jane Magarian
Carl Vincent
Cheryl Crowe
Raymond St. Hilaire, Associate

January 3, 2017

Chairman McEwan called the regular meeting of the Westfield Planning Board to order at 7:00 pm in the City Council Chambers, 59 Court Street, Westfield, MA.

PB MEMBERS PRESENT
 MEMBERS ABSENT

STAFF

Philip McEwan, Chair
 Peter Fiordalice, Vice Chair
 William Carellas
 Jane Magarian
 Carl Vincent
 Raymond St. Hilaire (Associate)
 Cheryl Crowe
 Robert Goyette

Jay Vinskey, Principal Planner
 Christine Fedora, Secretary

A. PUBLIC PARTICIPATION

Chairman McEwan asked if there was anyone in the room who would like to address the Board during the public participation portion of the meeting regarding items not currently before the Board?

Rebecca Fiske updated the Board regarding the Schortmann issue on Union Street, she is still having issues with trucks leaving at 4:30 a.m., one of the lights is still shining on her house, she wanted the Board to know she filed a new complaint with the Building Department. McEwan noted the hours of operation were set by the City Council not the Planning Board.

B. REVIEW AND APPROVAL OF PREVIOUS MINUTES

Fiordalice MOTIONED, seconded by Magarian to approve the 12-6-16 minutes. All in Favor.

C. Review of "Approval Not Required" Plans

No ANR's for the Board's review.

D. Posted Public Hearings (and possible decision)

The Westfield Planning Board will conduct a Public Hearing on October 18, 2016, at 7:00 P.M. in City Council Chambers, Municipal Building, 59 Court Street, Westfield, MA on the application of 410 Southampton Road LLC for a Special Permit & Site Plan Approval per Zoning Ord. Sec. 3-120.3(4) & 6-10 and a Stormwater Management Permit per Sec. 16-109 of the Code of Ordinances to allow for motor vehicle

service at 402 & 410 Southampton Rd., zoned Business B. The application is available for public inspection at the Planning Office and at www.cityofwestfield.org/applications

Member Goyette (as a party in interest) stepped down from the meeting. Representing the petitioner was Attorney Brad Moir, Surveyor Steve Salvini. Vinskey noted the Board received an E Mail from the Engineering Department recommending a condition.

Mr. Salvini reviewed 3 issues the Board had regarding this project. One of the concerns was the low ceiling, the drop ceiling has been removed and resolved the issue. The Stormwater Report has been approved by the Engineering Department.

Mr. Salvini addressed the traffic pattern, he also noted the spots in the front were angled incorrectly on the previous plan, they are not parking spaces but rather a display area for used car sales. It will be a used car facility with a service department that will prep cars for sale. The primary function will be a used car lot. He felt the parking would not be an issue because the people would come in and park, take a car out for a test drive or they would just leave. He also noted they would like to have storage pods which will be fenced, it will be enclosed and it will not be visible.

Phil - storage compartment, height? 8 feet, will have enclosed in front. Trees will hide it as well. Phil ok, with enclosed.

Vincent asked about the number of containers? What would they be used for? Steve originally couldn't come for a car license the permit was focused on repair aspect. He indicated he would like to use the containers to keep the product separated and neat. Vincent asked how many containers? Vincent asked if he would be open to 2 containers? Yes could probably get by with that.

Room Fact?

Barbara Rokosz -272 Lockhouse Road- Asked if there are any used car licenses available? Is this contingent upon the used car license? Attorney Moir replied they want to start this process first, he noted his client is taking a risk in that they need a permit from the council before license as well. Barbara limited amount of cars? There will be a few on display but it is up to the Council.

In favor?

Opposed?

Questions?

Vincent inquired if there would be additional landscaping added? Office used cars? Is there someone living in the house? He replied he currently has a tenant living in the house, but will be tearing the house down at some point.

Rokosz inquired about the oil, where would it be stored disposed of? The oil is stored in a double container that is OSHA approved it will be stored inside and it will be collected.

Fiordalice voiced concerns regarding taking a right to Southampton Road, consider right turn only sign? Coming around bend? Safety issue? Further discussion regarding the safety issues Magarian felt it would be a good idea to have no left hand turn for safety reasons; she also inquired about the parking areas would there be enough spaces?

There being no further discussion, Fiordalice MOTIONED, seconded by Carellas to close the hearing. All in Favor.

McEwan read the possible findings and conditions into the record.

DRAFT Findings

(1) the specific site, on a main thoroughfare, is an appropriate location for a motor vehicle service facility (provided any vehicle sales require a City Council special permit) (2) The use as developed will not adversely affect the neighborhood, as it is well separated from residential areas. (3) Adequate and appropriate facilities will be provided for the continued proper operation of the use, including storage facilities. (4) The plan, as approved, conforms to all other rules and regulations.

In reviewing the site plan, the Board found that (1) The proposed project and site plan is in conformance with the intent of the Business district and does not take precedence over other specific provisions of the Ordinance; (2) All buildings, structures, uses, equipment and materials are readily accessible for police and fire protection, as the plans have been submitted to, and not been objected to, by public safety Departments; (3) Adequate off-street parking and loading spaces will be provided to prevent on-street and off-street traffic congestion; all parking spaces and maneuvering areas are suitably identified and designed to address standards specified within the ordinance; and pedestrian and vehicular circulation is sufficiently segregated to ensure safe pedestrian movement within and adjacent to the property by the use or installation of sidewalks. (4) Pedestrian access ways do not create traffic hazards and are: adequate in width, grade, alignment and visibility; are an adequate distance from street corners, places of public assembly and other access ways; and are adequately designed for safety considerations. (5) General landscaping of the site complies with the purpose and intent of this ordinance; while some tree removal is necessary, existing wooded areas are preserve to the extent possible; parking, storage, refuse containers and service areas are suitably screened or buffered during all seasons from the view of adjacent areas and the street by way of location or fencing. (6) The lighting of the site will be adequate, but not excessive, at ground level for the protection and safety of persons in regard to pedestrian and vehicular circulation, and the glare from the installation of outdoor lights will be properly directed or shielded from the view of adjacent property and public rights-of-way.

(7) Utility system locations, design and installation are in compliance with, and will meet the approval of the appropriate boards, departments and agencies, and will protect the environment from adverse pollution. More specifically, and following review by the City Engineer the Board found: (a) the stormwater management plan and the erosion and sediment control plan are consistent with the purposes and objectives of the Stormwater Management Ordinance (Chapter 16, Article II, Division 4 of the Westfield Code of Ordinances); (b) the stormwater management plan meets the performance standards described therein; (c) the erosion and sediment control plan meets the design requirements (d) and will adequately protect the water resources of the community and is in compliance with the requirements of the Stormwater Management Ordinance.

Additionally, (8) No sensitive environmental land features such as steep slopes, and large rock outcroppings, public scenic views or historically significant features on the property will be impacted by this project. (9) The location, design and size of building as well as the nature and intensity of the uses involved or conducted in connection therewith, are in general harmony with the adjacent business corridor.

DRAFT Conditions

1. *Work shall be in accordance with the approved site plans, for "Property Located at 402 & 410 Southampton Road, Westfield, Mass." Sheets C-1, C-2, D-1, D-2 revised 12/30/16 as prepared by Salvini Associates, signed and sealed by George L. Costa, P.E, and as may be amended herein. A signed and sealed sheet C-1 shall be provided for the record file.*
2. *No work shall commence until a pre-construction conference has been held between the applicant, the contractor, City Stormwater Coordinator (DPW) and other appropriate city officials and project personnel.*
3. *This Stormwater Management Permit approval grants no relief from any other requirements of the City of Westfield stormwater ordinance, including performance standards, operation, maintenance, inspections and enforcement. The City Stormwater Coordinator is hereby authorized to serve as an agent of the Board in the administration of this component of this permit.*
4. *Maintenance of the stormwater management system shall be in compliance with the submitted "Stormwater Management Long-Term Pollution Prevention and Operations and Maintenance Plan" prepared by Costa Consulting Engineers, Inc., dated 12/30/16 and Section 16-109(8) of the City of Westfield stormwater ordinance. Inspection reports, completed not less than once annually and shall be made available to the City Stormwater Coordinator.*
5. *Upon completion of construction, and prior to applying for or being issued a final Certificate of Occupancy from the Building Inspector, the applicant shall provide the Board with an as-built record plan and a written statement from the project engineer, with his seal/stamp affixed, certifying that all work has been done in accordance with the approved plans and applicable conditions of this approval and that stormwater management system is functioning as designed, including any supporting evidence. The Board reserves the right to require a performance bond to ensure that outstanding issues are suitably addressed.*
6. *New site lighting shall be cut-off type/downward casting. When the facility is not in use, site lighting shall be reduced to that level only necessary for security purposes.*
7. *Outdoor open storage of materials is prohibited, as is outdoor storage of any unregistered or inoperative vehicle in excess of 30 days (excepting any vehicles displayed for sale).*
8. *landscaping?*

The Board agreed the landscaping was sufficient.

St. Hilaire inquired as to the dimensions of the Pods? 20 x 40 by 8 x10. Fence will cover it.

Fiordalice inquired if there was going to be a right turn only sign or arrow? Vinsky suggested a sign would be more permanent. Condition to be added.

Vincent felt the wording in number 4 should be changed to read something on the lines of shall be made to be sent, as opposed to having the City ask. The Board concurred.

Discussion among members as to the amount of containers, after discussion regarding the container issues; the majority of the members agreed that 3 containers would be an acceptable amount noting the containers are enclosed and they felt the applicant wants to keep the property neat and clean.

Bill motion to approve the permit as read and amended. Jane seconded.

Discussion?

Vincent	-	Yes
Magarian	-	Yes
Carellas	-	Yes
Crowe	-	Yes
Fiordalice	-	Yes
McEwan	-	Yes
St. Hilaire	-	Yes

Approved 7 - 0. Member Goyette returned at 7:39.

- Continuation - Special Permit/Site Plan/Stormwater Permit - Storage building - 798 Airport Industrial Road

Mark Reed addressed the Board; the Board was waiting for the letter from BAPAC it has since been received, one of the items discussed was to provide gravel parking areas for further infiltration, he proceeded to identify the area he felt would be helpful in that respect. It's up to the Planning Board as to whether paved or not, the applicant is willing to leave gravel or whatever the Board wishes. He noted that BAPAC is interested in recharging the stormwater on the site by either gravel parking or infiltration basin, he would undergo best management to remove particulates from metal roof, either by grass swales, leaching basins, natural fertilizers.

Room?

In favor?

Opposed?

Members inquired as to the clearing being done on the back? Mostly scrub growth. Reed informed the Board the airport is actively taking the trees down for safety reasons.

Magarian MOTIONED, seconded by Fiordalice to close. All in Favor.

McEwan read finding and conditions into the record.

DRAFT Findings

(1) the specific site is an appropriate location for a the development expansion as proposed (2) The use as developed will not adversely affect the neighborhood, being an industrial park. (3) Adequate and appropriate facilities include storm water management; will be provided for the continued proper operation of the use. (4) The plan, as approved, conforms to all other rules and regulations. (5) The use is in harmony with the intent of this ordinance and water resource district and will not interfere with water resource protection. (6) The use is appropriate to the natural topography, soils, drainage, vegetation and other water-related characteristics of the site, and is designed to minimize

substantial disturbance of these natural site characteristics; and (7) the use will not, during construction or thereafter, adversely affect the existing or potential quality or quantity of groundwater available in this district.

In reviewing the site plan, the Board found that (1) The proposed project and site plan is in conformance with the intent of the underlying district and does not take precedence over other specific provisions of the Ordinance; (2) All buildings, structures, uses, equipment and materials are readily accessible for police and fire protection, as the plans have been submitted to, and not been objected to, by public safety Departments; (3) Adequate off-street parking and loading spaces will be added to prevent on-street and off-street traffic congestion; all parking spaces and maneuvering areas are suitably identified and designed to address standards specified within this ordinance; and pedestrian and vehicular circulation is sufficiently segregated to ensure safe pedestrian movement within and adjacent to the property. (4) Pedestrian access routes do not create traffic hazards and are: adequate in width, grade, alignment and visibility; are an adequate distance from street corners, places of public assembly and other access ways; and are adequately designed for safety considerations. (5) General landscaping of the site, as it exists, complies with the purpose and intent of this ordinance; no significant tree removal is necessary; parking, storage, refuse containers and service areas are suitably screened during all seasons from the view of adjacent areas and the street by way of location. (6) The lighting of the site will be adequate, but not excessive, at ground level for the protection and safety of persons in regard to pedestrian and vehicular circulation, and the glare from the installation of outdoor lights will be properly directed or shielded from the view of adjacent property and public rights-of-way.

(7) Utility system locations, design and installation are in compliance with, and will meet the approval of the appropriate boards, departments and agencies, and will protect the environment from adverse pollution. More specifically, and following review by the City Engineer the Board found: (a) stormwater management and erosion and sediment control measures are consistent with the purposes and objectives of the Stormwater Management Ordinance (Chapter 16, Article II, Division 4 of the Westfield Code of Ordinances); (b) the stormwater management plan meets the performance standards described therein; (c) the erosion and sediment control plan meets the design requirements (d) and will adequately protect the water resources of the community and is in compliance with the requirements of the Stormwater Management Ordinance.

Additionally, (8) No sensitive environmental land features such as steep slopes, and large rock outcroppings, public scenic views or historically significant features on the property will be impacted by this project. (9) The location, design and size of proposed building as well as the nature and intensity of the uses involved or conducted in connection therewith, are in general harmony with the adjacent industrial park neighborhood.

DRAFT Conditions

1. Work shall be in accordance with the approved site plan, entitled "Stormwater Drainage Plan..." dated 12/19/16 as prepared by Heritage Surveys, Inc., signed and sealed by Richard Weisse, P.E., and Bruce A. Coombs, P.L.S., and as may be amended herein.
2. No work shall commence until a pre-construction conference has been held between the applicant, the contractor, City Stormwater Coordinator (DPW) and other appropriate city officials and project personnel.
3. All work, including site stabilization, shall be completed within 12 months of building permit issuance. Parking shall be paved with asphalt.
4. This Stormwater Management Permit approval grants no relief from any other requirements of the City of Westfield Stormwater ordinance, including performance standards, operation, maintenance, inspections and

enforcement. The City Stormwater Coordinator is hereby authorized to serve as an agent of the Board in the administration of this component of this permit.

5. Maintenance of the Stormwater management system shall be in compliance with the submitted "Operation & Maintenance of the Stormwater System" narrative prepared by Heritage Surveys, Inc., Inc., dated 12/19/16 and Section 16-109(8) of the City of Westfield Stormwater ordinance. Inspection reports, completed not less than once annually and shall be made available to the City Stormwater Coordinator.
6. Upon completion of construction, and prior to applying for or being issued a final Certificate of Occupancy from the Building Inspector, the applicant shall provide the Board with a written statement from the project engineer, with his seal/stamp affixed, certifying that all work has been done in accordance with the approved plans and applicable conditions of this approval and that stormwater management system is functioning as designed, including any supporting evidence. The Board reserves the right to require a performance bond to ensure that outstanding issues are suitably addressed.
7. No hazardous materials, chemicals, paints/coatings, pesticides, engine oils or fuels shall be stored or used on the premises (except in normal household quantities). No synthetic fertilizers, pesticides or herbicides shall be applied to the landscape or stored on the property at any time. Only non-salt deicing materials shall be utilized, which shall be restricted to the minimum amount necessary, with sand and ecologically- and water quality-compatible alternatives utilized.
8. Before being infiltrated (whether or not by drywells), runoff collected from the proposed structure's metal roof shall be pre-treated by being routed through a sand or organic filter or a bioretention area/rain garden or other such best management practice capable of removing metals, as stipulated in the Massachusetts Stormwater Handbook. Plans depicting such changes shall be filed with the Board prior to a building permit being issued.
9. No outside storage of materials is permitted.

Discussion?

#5, reports to be submitted. Vincent MOTIONED, seconded by Magarian to approve the Special Permit/Site Plan/Stormwater Permit – Storage building – 798 Airport Industrial Road with Findings and Conditions .

Roll Call.

McEwan	-	Yes
Fiordalice	-	Yes
Vincent	-	Yes
Goyette	-	Yes
Magarian	-	Yes
Crowe	-	Yes
Carellas	-	Not eligible
St. Hilaire	-	Not eligible

- Special Permit/Site Plan/Stormwater - 323 Lockhouse Road

Representing the applicant Gary Shelton, was Rob Lévesque. Levesque informed the Board he has revised plans that he feels addresses the Board concerns. He reviewed some of the revisions

made to the plan. The plan has the Stormwater revisions that were signed off by the Engineering Department, the landscaping requirements have been addressed, the parking space dimensions adjusted. He reached out to his client and there will be 15 additional trucks per day, this is a consolidated distribution network, there will be no MSDS labels within the building, the fertilizers and household chemicals will be within the building they will not be in the trailers.

Vinskey noted that he had not received the revised plans, except the stormwater sheet. Levesque informed him he has a copy with him tonight, the minimum landscaping is in the front of the building 19 spaces are for parking along road side, and there has been some minor storm water changes based on calculations. He further explained he has a fully revised set with minimal revisions. Vincent noted he liked the idea of the additional landscaping, added trees along Lockhouse Road, 11 new ones added. Beech trees along Lockhouse Road.

Crowe inquired if there would be an increase in truck traffic? With the increasing in the size of the facility to 200,000 s.f. based on operation manager 30 trips a day. Is the freight in and out? Levesque added he couldn't speak about the rotation, but it's most in and out, there is some truck and rail.

Magarian asked about the product? It would be the items that are seen in the Westfield Home and Garden.

Vincent mentioned it was discussed to bring more rail in with the new addition, is that still the case? How much more rail traffic? Levesque replied it would be similar to the amount they will be increasing the number of doors from 1 to 4 access points.

McEwan asked if the companies up there specify using Servistar rather than Lockhouse Road in there conditions? Or police recommend a certain traffic pattern? Vinskey noted it could be conditioned, but it would be hard to keep it enforced, adding it's really not a dramatic increase.

Barbara Rokosz - Addressed the Board saying she feels this is the most dangerous street in the city. Would this facility be running 24-7? 2 shifts all trucks coming in out. Rokosz expressed her concerns regarding using Servistar Road, she felt using Servistar would be a more dangerous situation. She felt using Lockhouse to Arch road would be a safer alternative. She also added if a condition is added regarding the traffic patterns there would be no one to enforce the condition.

Levesque asked if she thought it would be safer to exit down Lockhouse? Barbara thinks safer.

McEwan added the city can't prohibit from using public ways, the traffic commission or police chief could make recommendations.

Vincent asked if he had a response to the letter regarding #4? Levesque informed him they do not carry anything that goes on MDS sheets they carry only household chemicals, products that are sold at retail.

Vincent also inquired about number 10 regarding the dumpster recycling area? Levesque informed him there are a lot of items that are recycled and there are bins in the interior of the

building as well as an outdoor shed that can be utilized, 11 lighting? Working with electrical sub-contractor and they will be handling that; downcast lights.

Barbara addition lighting? Wall packs on the back, can provide information for Board's review.

Comments, in favor /opposed?

Fiordalice MOTIONED. Seconded by Carellas to close the hearing. All in Favor.

McEwan read draft:

DRAFT Findings

(1) the specific site is an appropriate location for the large building expansion as proposed (2) The use as developed will not adversely affect the neighborhood, the majority of which is in an industrial use or zone, and area residential uses will have minimal adverse impact by the changes proposed to the property. (3) Adequate and appropriate facilities will be provided for the continued proper operation of the expanded use, including indoor storage. (4) The plan, as approved, conforms to all other rules and regulations.

In reviewing the site plan, the Board found that (1) The proposed project and site plan is in conformance with the intent of the Industrial district and does not take precedence over other specific provisions of the Ordinance; (2) All buildings, structures, uses, equipment and materials are readily accessible for police and fire protection, as the plans have been submitted to, and not been objected to, by public safety Departments; (3) Adequate off-street parking and loading spaces will be provided to prevent on-street and off-street traffic congestion; all parking spaces and maneuvering areas are suitably identified and designed to address standards specified within the ordinance; and pedestrian and vehicular circulation is sufficiently segregated to ensure safe pedestrian movement within and adjacent to the property by the use or installation of sidewalks. (4) Pedestrian access ways do not create traffic hazards and are: adequate in width, grade, alignment and visibility; are an adequate distance from street corners, places of public assembly and other access ways; and are adequately designed for safety considerations. (5) General landscaping of the site complies with the purpose and intent of this ordinance; no significant tree removal is necessary; parking, storage, refuse containers and service areas are suitably screened or buffered during all seasons from the view of adjacent areas and the street by way of location and plantings. (6) The lighting of the site will be adequate, but not excessive, at ground level for the protection and safety of persons in regard to pedestrian and vehicular circulation, and the glare from the installation of outdoor lights will be properly directed or shielded from the view of adjacent property and public rights-of-way.

(7) Utility system locations, design and installation are in compliance with, and will meet the approval of the appropriate boards, departments and agencies, and will protect the environment from adverse pollution. More specifically, and following review by the City Engineer the Board found: (a) the stormwater management plan and the erosion and sediment control plan are consistent with the purposes and objectives of the Stormwater Management Ordinance (Chapter 16, Article II, Division 4 of the Westfield Code of Ordinances); (b) the stormwater management plan meets the performance standards described therein; (c) the erosion and sediment control plan meets the design requirements (d) and will adequately protect the water resources of the community and is in compliance with the requirements of the Stormwater Management Ordinance.

Additionally, (8) No sensitive environmental land features such as steep slopes, and large rock outcroppings, public scenic views or historically significant features on the property will be impacted by this project. (9) The location, design and size of proposed building as well as the nature and intensity of the uses involved or conducted in connection therewith, are in general harmony with the adjacent industrial corridor and truck route.

DRAFT Conditions

1. *Work shall be in accordance with the approved site plan, entitled "Proposed Building Expansion & Site Improvements" revised _____ as prepared by R Levesque Associates, signed and sealed by _____, and as may be amended herein.*
2. *No work shall commence until a pre-construction conference has been held between the applicant, the contractor, City Stormwater Coordinator (DPW) and other appropriate city officials and project personnel.*
3. *Each phase of work, including site stabilization, shall be completed within 18 months of building permit issuance. Failure to commence the final phase of work within 4 years shall effectuate the lapse of this approval for such work, and shall require reapplication.*
4. *This Stormwater Management Permit approval grants no relief from any other requirements of the City of Westfield stormwater ordinance, including performance standards, operation, maintenance, inspections and enforcement. The City Stormwater Coordinator is hereby authorized to serve as an agent of the Board in the administration of this component of this permit.*
5. *Maintenance of the stormwater management system shall be in compliance with the submitted "Long Term Operation & Maintenance Plan" prepared by R Levesque Associates, Inc., revised 12/30/16 and Section 16-109(8) of the City of Westfield stormwater ordinance. Inspection reports, completed not less than once annually and shall be made available to the City Stormwater Coordinator.*
6. *Upon completion of construction, and prior to applying for or being issued a final Certificate of Occupancy from the Building Inspector, the applicant shall provide the Board with an as-built record plan and a written statement from the project engineer, with his seal/stamp affixed, certifying that all work has been done in accordance with the approved plans and applicable conditions of this approval and that stormwater management system is functioning as designed, including any supporting evidence. The Board reserves the right to require a performance bond to ensure that outstanding issues are suitably addressed.*
7. *When the facility is not in use, site lighting shall be reduced to that level only necessary for security purposes.*
8. *Payment of \$1,637 (the balance of the filing fee owed) shall be made prior to a building permit being issued.*

Vinskey noted he could reference tonight's submitted plans, though he hasn't seen or reviewed all the changes. McEwan asked if the Board would like any conditions added? Vincent would like 5 to be amended regarding sending the report to the city storm water coordinator, as the Board has done on others.

Fiordalice MOTIONED to approve findings and conditions as amended. Vinskey asked the Board if there are lighting concerns, as discussed. The Board further discussed the possibility of approving a lighting plan based on a condition. Vinskey informed the Board they can't condition approval on something to be approved later, but can require a plan be submitted showing certain parameters.

After a lengthy discussion, McEwan noted the hearing has already been closed there could be a condition that no light cast beyond the property lines. The Board further discussed the possible condition regarding the lights and what would happen if they don't comply with the lighting issue? Vinskey noted it would still be a zoning violation enforceable against the permit; the Board can still make them put up the lights that conform.

McEwan asked if the Board has the photo plan? Levesque replied he would have it tomorrow and added they would be dark sky lights, don't know height, he then proceeded to show the lines on the plan where they would be located, there would be one over every dock. There would be 1 every 25-30 feet, minimum of 50 or so lights, 47 bays. Lights on interior as well. Jane downcast shielded? Yes, how far light casts? Rob everyone different. Row along outside. Crowe informed the Board she is familiar with those lights, lights on bays about 20 feet out, don't have illumination casting out, don't penetrate far out, more locally down, enough light for trucker. After a brief discussion regarding the lighting issue Vinskey suggested the condition should be worded the lights be downward casting, set lighting, not producing glare, no light trespass beyond property line, he also noted he didn't think they need a plan as long as the Board agrees. Carellas seconded the motion.

Crowe	-	yes
Magarian	-	yes
Goyette	-	yes
Vincent	-	yes
Carellas	-	Not eligible
St. Hilaire	-	Not eligible
Fiordalice	-	yes
McEwan	-	yes

Vinskey commented on the applicant's response about bike parking, and that bicycling shouldn't be encouraged on Lockhouse Road. He noted there is a Complete Street ordinance being considered by City Council, which is based on the principle that all users have an equal claim to our roadways, regardless of mode.

E. Other business.

Roots Athletic partial use: McEwan informed Board members they received an E Mail stating no one would be able to attend the meeting tonight. Vinskey noted this is an internal matter it's up to the Board to decide. The Board discussed the confusion regarding the previous meeting in regards to reconsidering a vote giving reference to the Condition # 13 as to whether it needed a super majority or majority to pass.

Magarian voiced her concern regarding the rush to do this, she voiced concerns that they weren't sure when the work was going to be completed and they couldn't give her an answer. She felt there is a lot of work that needs to be completed the roof, bathrooms, ventilation system. She felt they should come back when they're closer to the completion for a partial use. She further voiced concerns that she's reluctant to have children running around the building while there is construction in the site, as well as the astro turf, no ventilation, surface with carcinogens, she felt it was her responsibility to err on the side of caution. She was also bothered by the fact the applicant hasn't showed up, sending lawyers in, putting cart before the horse.

Vincent proceeded to read part of condition 13 into the record of the previous decision:

"The Planning Board may, by an affirmative vote of at least 5 members taken at a public meeting, permit said use, or a portion of said use, to commence prior to compliance with or completion of all conditions. This approval is subject to the sole discretion of the Planning Board, who may require a performance bond or other measures to ensure compliance and completion of all of the conditions.

Vincent discussed the prior meeting when the Board had this vote and 6 members voted and the vote did not receive the 5 affirmative votes to issue the building inspector to issue a partial occupancy permit. He further felt it was his opinion it didn't pass. He felt this warrants waiting further down the line for further completion prior to issuing a partial certificate of occupancy. Magarian noted the Board meets every 2 weeks, and they can come back.

McEwan addressed the Board informing them he's done research on this and all the Board is doing is authorizing the building inspector to do his/her job. He mentioned a couple points he felt might be useful. The State Building Code Chapter 1 is in regards to temporary occupancy where a temporary issue of occupancy permit is granted, the portions of the temporary occupancy must consider the safety issue and the building inspector is authorized to issue a temporary occupancy permit with or without the Board's consent.

McEwan further voiced his concerns; the second point is the Planning Board's procedure constitutes the Planning Board. He further noted the Board is a 7 member board with 2 associates, different types of permits require different votes to pass, he further noted there is only a few instances where the larger than majority is required that would be the reconsideration of special permit, which it would need the approval of the entire board less one member. A special permit need 5 members to hold a meeting to approve a special permit, for other applications it's a simple majority of the board of 7, you can have a meeting with 4 members as long as it's not a special permit, an administrative amendment requires a majority. McEwan felt the Board might have over stepped their bounds, the Board can't make their decisions based on someone else. Magarian further expressed her concerns regarding the rush. Fiordalice felt it's because they want to be able to use the indoor fields during the winter season. Magarian felt she needs to make sure this is not rushed along and everything is done for the safety of the children, she expressed her concerns that she didn't have any concrete answers.

McEwan reiterated the fact they cannot use the building until the building inspector says it's safe, same situation whether we're involved or not.

Mary O'Connell addressed the Board - it was her opinion the Board voted on the matter, a comment was made that 5 votes were necessary for it to pass, she felt the Board did not need to reconsider their vote, the Board denied the vote, she felt it should be put to rest. Assistant City Solicitor Shanna Reed addressed the Board informing them the City Council can't dictate their rules to the Board. Further discussion regarding City Council rules versus the Planning Board rules. Solicitor Reed noted she didn't have the knowledge regarding the Planning Board's rules.

Councilor Babinski inquired as to what the motion was? The motion was to deny. McEwan noted the motion was to deny, the vote was 4 to approve the motion of denying, but if you read the ordinance you need 5 votes to approve a motion for a special permit. Chair McEwan voiced his concerns regarding who has the authority to do things and who doesn't, who has authority over enforcement? Who makes sure the developers area following the conditions attached to the decisions? He noted a lot of things are happening now and he doesn't have the answers on the tip of his tongue, he felt the Board should not change anything and wait to get some clarification.

McEwan also noted the outdoor use was allowed by the building inspector, they never came to planning board about that.

The Board further questioned why this is before the Board? Vinskey noted this condition has been on most decisions, going back several years. The new building inspector has noted the conditions and brought it to the Board's attention.

McEwan asked if the Board has ever done a building inspection. No, that is the building inspector's responsibility. Carellas also noted it's a matter of safety, insurance company view as matter of safety; have to have faith in people doing their job. Magarian asked why is there a rush? The Board meets every 2 weeks. Carellas felt at the end of the day you have to have faith in the people doing their jobs, whether they move in today and start playing it's not up to the Planning Board to decide. Magarian said she was not questioning anyone, but rather having a trust issue with the applicant. Carellas noted at the end of the date the State Law trumps the city's. Goyette agreed but felt the Board should allow the building inspector to do her job, the Board is just saying that we're allowing the building inspector to do her job and make sure the safety issues are addressed. Magarian asked about the rush? McEwan reiterated the fact the Board is not reviewing the special permit, all the Board is deciding is really whether to authorize the Building Inspector to do her job.

Vincent voiced his concerns that no one was here from the company representing the applicant, he felt there are 3 P.E.'s in the company and that there wasn't one person available to answer questions? Further discussion among members as to whether the vote that was taken was a valid vote or not.

The Board reiterated the discussion regarding the process for voting on the authorization to have the Building Inspector issue a temporary c.o. After further discussion the Board felt that they could reconsider.

Attorney Reed noted the board has discretion on what the Boards rules are, if the applicant wants to come back and request at the next meeting that's up to the Board. McEwan asked if there is a punch list? Attorney Reed noted the Board needs to be cautious regarding the building aspect of it some of the outstanding issues were the safety measures, fire suppression system, wall, electrical, handicapped bathrooms. Magarian noted she was concerned about ventilation. Attorney Reed noted the building inspector has to comply with any ventilation code, she also noted the partial use is good up to 180 days, a permanent c.o. is not issued until 100% complete, doesn't get permanent c.o., and site doesn't end up half finished.

Vinskey noted the final piece of the puzzle is the final c.o. Vincent commended the building inspector for reading the conditions. Motion to continue for 2 weeks to gather further information and felt the applicant should attend and make a new request to the Board. Agreed.

Vinskey noted he was compiling filing deadlines for the Board and, in an attempt to limit the number of continuances, asked if the Board wanted to establish different (earlier) deadlines for projects over the aquifer, to coordinate with once-monthly BAPAC meetings. Hopefully then, the applicants will have all external comments by the first hearing date. The Board agreed.

X. Executive Session re: Roots Athletic Center litigation

McEwan announced that the Board will be entering executive session and will not reconvene in regular session. Magarian MOTIONED, seconded by Fiordalice to enter into Executive Session to discuss pending litigation. Attorney Reed mentioned that the Chair should note that an open meeting may have a detrimental effect on the litigating position.

Roll Call Vote:

Philip McEwan	-	Yes
Peter Fiordalice	-	Yes
Carl Vincent	-	Yes
Robert Goyette, Jr	-	Yes
Jane Magarian	-	Yes
William Carellas	-	Yes
Cheryl Crowe	-	Yes
Raymond St. Hilaire	-	Yes

(executive session minutes withheld from publication)