

**Mashpee Planning Board  
Minutes of Meeting  
October 5, 2016 at 7:00 p.m.  
Waquoit Meeting Room, Mashpee Town Hall  
Approved 10/19/16**

**Planning Board Members Present:** Chairman Mary Waygan, Dennis Balzarini, Joe Cummings, David Kooharian, David Weeden, Robert (Rob) Hansen  
**Also:** Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer

**CALL TO ORDER**

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan, at 7:00 p.m. on Wednesday, October 5, 2016. The Pledge of Allegiance was recited.

**APPROVAL OF MINUTES—September 21, 2016**

**MOTION: Mr. Balzarini made a motion to accept the minutes as presented. Mr. Cummings seconded the motion. 4 yes, 2 abstain**

**ADDITIONS TO THE AGENDA REQUIRING ROLL CALL VOTE**

**MOTION: Mr. Balzarini made a motion to add to our agenda tonight, the proposed Article 40 to see if the Town will vote to accept the layouts as public ways of Windsor Way, Victoria Circle, Saxony Drive, Tudor Terrace and Sheffield Place by roll vote. Mr. Kooharian seconded the motion. Mr. Hansen-yes; Mr. Weeden-yes; Mr. Balzarini-yes; Mr. Cummings-yes; Chairman Waygan-yes; Mr. Kooharian-yes**

**MOTION: Mr. Balzarini made a motion for Article 31 to be placed on our agenda tonight. Mr. Kooharian seconded the motion. Mr. Hansen-yes; Mr. Weeden-yes; Mr. Balzarini-yes; Mr. Cummings-yes; Chairman Waygan-yes; Mr. Kooharian-yes**

**MOTION: Mr. Balzarini made a motion to add to the agenda the removal of the trees at Windchime. Mr. Kooharian seconded the motion. Mr. Hansen-yes; Mr. Weeden-yes; Mr. Balzarini-yes; Mr. Cummings-yes; Chairman Waygan-yes; Mr. Kooharian-yes**

Mr. Fudala suggested that Mr. Cummings step down from consideration of the issue as a property owner. When the Chair inquired about recusing himself, Mr. Cummings responded that he did not see the matter as a conflict.

**Article 40**

Planning Board members reviewed the plans regarding the Article 40 road taking. Mr. Fudala noted that the taking documents would include drainage easements. The road was initially intended to be connected to David Way to access South Sandwich Road. The road was to be taken to the point of David Way. The road was built with a turnaround/easement, on which is now Conservation land, leaving a question as to how it would be addressed. Mr. Rowley stated that

the drainage easements were not defined by dimensions. Mr. Fudala suggested recommending the Article, subject to adding definitions to the drainage easements.

**MOTION: Mr. Balzarini made a motion to recommend to Town Meeting that the Town should take the layouts as public ways of Windsor Way, Victoria Circle, Saxony Drive, Tudor Terrace and Sheffield Place as shown on the map, the plans drawn by Baxter & Nye Engineering & Surveying dated December 30, 2015, with the amendment that the dimensions of drain easements are specified on the plans. Mr. Kooharian seconded the motion. All voted unanimously.**

### **Article 31**

Mr. Fudala stated that the slope easement was not being taken by the Town but the drainage easement would be. Mr. Fudala stated that there were no dimensions listed for the drainage easement.

**MOTION: Mr. Balzarini made a motion to recommend to Town Meeting for the Town to accept the layouts as public ways of Leeward Lane as shown on the plans entitled Leeward Lane Easement Taking plan dated December 30, 2015, prepared by Baxter & Nye Engineering & Surveying with the condition that the meets and bounds of the drainage easements are specified on the plan. Mr. Kooharian seconded the motion. All voted unanimously.**

### **Windchime Tree Removal**

Mr. Fudala stated that he received an emergency request to remove three large pine trees. Mr. Fudala recommended that the Board allow the removal of the trees tomorrow. One tree was totally dead while the other two were experiencing tremendous rot and bug damage. Windchime will return to the Board with a landscaping plan. No additional trees will be authorized until the landscape plan is submitted to the Board.

**MOTION: Mr. Balzarini made a motion to allow Windchime Point to cut down three trees and provide a landscaping plan as marked on Davey's map. Mr. Kooharian seconded the motion. All voted unanimously.**

### **PUBLIC HEARING**

#### **7:10 Public hearing on 4 zoning articles (Articles 18, 19, 20 &21) on the warrant of the October 17, 2016 Annual Town Meeting**

The appointed time having arrived, the Chair read for the record the Public Hearing notice, as well as each of the proposed Articles.

### **Article 18**

Submitted by the Building Inspector initially, but properly submitted by the Board of Selectmen. Mr. Fudala noted that a fence had been constructed too close to an intersection at Mashpee Neck Road, impacting the site distance. Article 18 would create a theoretical triangle at an intersection that would not allow anything above 2.5 feet in the area. Mr. Fudala suggested that 25 feet would be a better option because of the road radius but that it could not be changed at this point. Mr. Rowley inquired how it would be calculated on a curved road. The Chair inquired about the status of the fence currently built. Mr. Fudala stated that it would be grandfathered since it was a

Zoning Bylaw, if it were it a Town Bylaw, problem areas could be addressed. There were no comments by the Board. Mr. Rowley pointed out that there would be some challenges associated with calculations particularly if a road was curved, without further definition. Additionally, 20 feet was insufficient if the road radius was 25 feet. Mr. Balzarini suggested that it was a good start. Mr. Rowley recommended the Board consider an amendment to their Subdivision Rules & Regulations should the Article pass. There was no public comment.

**MOTION: Mr. Balzarini made a motion to approve Article 18 to Town Meeting as presented. Mr. Kooharian seconded the motion. All voted unanimously.**

#### **Article 19**

Also initially submitted by the Building Inspector, and then by the Board of Selectmen with the support of the Conservation Agent. Applicants seeking setback answers had to face both Conservation and Zoning Board of Appeals. Mr. Weeden expressed concern about the change allowing construction closer to the waterways and preferred that it remain as is. There was discussion regarding the existing process. Planning Board members agreed that, due to the environment, a variance should not be a simple process. There were no additional comments.

**MOTION: Mr. Balzarini made a motion not to approve Article 19 as submitted. Mr. Kooharian seconded the motion. All voted unanimously.**

#### **Article 20**

The Chair inquired what would be allowed within the 50 foot wooded buffer. Mr. Fudala explained that the Article originated with the Northbridge project, adding that setbacks and lot sizes could be reduced in the Commercial Center Bylaw. The Article is intended for future commercial development allowing the Planning Board to make changes to the 50 foot wooded buffer. Mr. Fudala stated that the land that would be affected included areas between Route 28 and Donna's Lane and North Market Street and the Police Station, areas that were intended to be developed as downtown Mashpee. The Article would remove a buffer that would not make sense for a downtown area. Mr. Kooharian inquired whether developers could build closer to the road. Mr. Fudala stated that the Commercial Center Bylaw allows the Planning Board to reduce setbacks and lot sizes according to the individual project. Mr. Kooharian liked the idea of having buildings closer to the road, identifying a town center and slowing traffic down for pedestrian traffic, versus a wooded area that may promote speeding. Mr. Weeden expressed concern that the character of the Town had changed and would not want to see buildings constructed adjacent to the roadways and felt that there should be some sort of buffer. The Chair stated that waiving the buffer would result in a streetscape but there was general agreement that it would be decided individually once projects were presented to the Board. Mr. Fudala stated that the current building setbacks were 40 feet front, 40 feet rear and 20 feet on the sides. The Chair stated that it would provide greater flexibility. Mr. Fudala felt that the 50 foot buffer did not make sense for that part of Town. Mr. Hansen expressed concern about parking and Mr. Fudala responded that parking must be placed on the side or back of a building and was not allowed in front. The Chair was comfortable with the change. There was no further comment.

**MOTION: Mr. Balzarini made a motion to recommend Article 20 as submitted. Mr. Kooharian seconded the motion. All voted unanimously.**

## **Article 21**

Mr. Fudala explained the history of the Article in relation to the setbacks and water quality. There were no comments.

**MOTION: Mr. Balzarini made a motion to accept Article 21 as written for the Town Warrant. Mr. Kooharian seconded the motion. All voted unanimously.**

**MOTION: Mr. Balzarini made a motion to close the Public Hearing. Mr. Kooharian seconded the motion. All voted unanimously.**

## **SPECIAL PERMIT SITE PLAN APPROVAL**

**Applicant: Southport on Cape Cod Development, LLC**

**Location: Southport Retirement Community, Atlantic Court**

**Request: Approval of site and landscaping plans for final 4 Southport units**

The Chair read for the record the request. Ron Bonvie was present to discuss his request and distributed plans for review. Mr. Bonvie discussed existing conditions and noted his preference to change their original plans by relocating the sales building and replacing it with a 5-unit building. Mr. Bonvie also submitted landscape plans. Mr. Rowley inquired whether the walkways would be connected. Mr. Bonvie indicated that there would be no walkways between buildings. There was discussion regarding the addition of walkways, including Mr. Hansen's suggestion extending a walkway to the post office boxes. Mr. Bonvie expressed his preference to keep walkers away from the busier roadways but agreed and would have his engineer submit a plan to the Board. Mr. Rowley referenced the Grey Hawk sidewalk.

Chairman Waygan summarized the requests to include: a crosswalk at Southport Drive with handicap ramps, extend Grey Hawk sidewalk, crosswalk located at parking lot entrance and sidewalk down parking lot entrance. Mr. Rowley submitted a letter from October 5 regarding the project. Mr. Fudala inquired about a note to remove a driveway and Mr. Bonvie indicated that it would be removed. Mr. Fudala requested that the plan be updated. The Chair expressed her preference to see the revised plan prior to a vote. Mr. Hansen inquired how the sales building would be removed or if it could be used by the Southport Board, and Mr. Bonvie stated his interest in offering it as a means of affordable housing if the Town had a nearby lot available. Mr. Bonvie will return on October 19.

## **DEFINITIVE SUBDIVISION PLAN**

**Status of construction schedule for BCDM / Ockway Highlands road work**

Matt Haney was present to discuss the status of the construction schedule. Mr. Haney stated that he had been back and forth with Verizon but this week had reached an understanding that they would allow replacement of the pedestals with handholds. Stumps have been scheduled to be removed at the end of the month and water lines would be installed a few weeks later. Following the winter, drainage would be completed. Lines have been marked by DigSafe.

The Chair inquired whether Mr. Haney had met with Mr. Rowley in the field and Mr. Haney stated that he would meet with Mr. Rowley. Mr. Rowley responded that he would schedule a

meeting to discuss stump removal and identify grading to protect neighboring properties. The Chair requested that a meeting take place next week. Mr. Fudala confirmed that complaints had been received from the neighbors regarding runoff onto their property adding that something needed to be done since the land would be left all winter. Mr. Haney stated that there was no water up and downhill from the subdivision and stumps were located off the side of the travelling way and would not be an issue, but that it would be monitored. Mr. Fudala added that the road was beat up from work vehicles and Mr. Rowley responded that potholes should be graded with temporary material and would be appreciated by the neighbors. Mr. Haney responded that he would have the roads regraded when the stumps were being pulled. Mr. Balzarini recommended hay bales and Mr. Rowley responded that there remained a good buffer at this point. Mr. Rowley noted that a curb cut permit was still needed from DPW Director Catherine Laurent if they planned to use Degrasse. Mr. Haney stated that he would use wood chips for a staging area and Mr. Rowley recommended a stone apron so that material did not flow out onto Degrasse. Mr. Rowley will meet with Mr. Haney on Monday, October 10 at 12:30, Mr. Balzarini will also attend. Mr. Fudala stated that illegal dumping of wood chips had been reported. Mr. Haney stated that they had not, but will follow up with Ace Landscaping.

Blue Castle resident Timothy Dorsey inquired whether there would be a traffic detail for stump removal since there were access issues when the trees were being cut down. Mr. Haney stated that it was complicated with the trees because it was a single lane road. Mr. Haney felt that there would be plenty of space for trucks to be located in the layout, rather than the road, so there would be no issues. Mr. Dorsey stated his preference that there be a traffic detail. Mr. Haney stated that if there was a problem, he would take care of it. The Chair requested that Mr. Haney stress with his contractors that they need to have the smallest amount of impact to the neighborhood, even if it means the addition of a flagman.

Ernie Virgilio, resident on Blue Castle, expressed his disgust in the way that he and his neighbors' lives had been disrupted. Mr. Virgilio had been in contact with the phone company engineer and confirmed that no one other than Verizon does Verizon's work. Mr. Virgilio also stated that Mr. Haney had not attempted to reach Verizon initially. Mr. Virgilio stated that he cannot control runoff onto his property and requested that the situation be settled. Mr. Virgilio asked if the Planning Board could overrule the decision and the Chair responded that another entity could appeal the Board's decision but that the appeal period had passed. The Chair stated that the engineer would be meeting on site with the developer on Monday.

Eric Lubrano of Blue Castle was also frustrated with the process that has dragged for over a year, with a road that looked bad. It was clarified that the construction plan was requested within the year.

Great frustration was expressed and the Chair requested respect for the Board. Mr. Balzarini stated that the developer was the problem and needed to step up to the plate with no further excuses. Mr. Weeden inquired about an extension if the permit if the schedule was delivered and Mr. Fudala responded that the schedule had been delivered, but had not been followed. The Chair requested that following Monday's meeting the schedule be finalized in a way to minimize the impact to the neighbors, prior to contacting Town Counselor to identify other options. On

Monday, Mr. Rowley will be looking at the locations for stump removal and will also assess the drainage areas and report the results.

Wayne Reed of Blue Castle inquired about the end of the road where water would also be running down the hill in front of three homes. Typically the neighbors would be grading the road prior to the winter and is concerned about water on his property. Mr. Fudala pulled out the plan to look at drainage plans for his area. Mr. Fudala confirmed that once the road was paved, it would be pitched away from his property. Mr. Rowley will take a look on Monday and Mr. Fudala suggested that the road be stabilized prior to the winter. Mr. Weeden added that periodic stabilization may be needed throughout the winter. Mr. Rowley stated that once the stumps were pulled, a rough grade could be completed to protect the homeowners.

### **SPECIAL PERMITS**

#### **Status of parking facilities at 168 Industrial Drive**

Mr. Fudala stated that he was awaiting a revised plan from Matt Eddy with the existing approved parking spaces.

### **BOARD ITEMS**

#### **New Business**

**Charles Rowley September Billings**-Invoices were received in the amount of \$237 for Southport services and \$485 for regular Planning Board services in September.

**MOTION: Mr. Balzarini made a motion to pay Charles Rowley \$237 for his work at Southport. Mr. Kooharian seconded the motion. All voted unanimously.**

**MOTION: Mr. Balzarini made a motion to pay Charles Rowley \$485 for work in the month of September. Mr. Kooharian seconded the motion. All voted unanimously.**

Vouchers were signed by the Planning Board members.

**Planning Board Budget**-Mr. Fudala stated that the Planning budget was level funded and the meeting would be 10:15am on November 15. The Planning Department has budgeted for an Assistant and Administrative Assistant. It was hoped that confusion regarding the hiring of an Assistant Planner would be clarified at the May Town Meeting.

#### **Old Business**

**Report on Status of Greenway Project**-The Chair forwarded the draft Scope of Work to Mr. Kooharian and Mr. Weeden.

**Design Review Committee**-No meeting

**Community Preservation Committee**-Warrant articles related to the CPC will appear at Town Meeting. The deadline for May applications is end of October.

**Environmental Oversight Committee**- No meeting

**Historic District Commission**-No meeting

**MMR Military Civilian Community Council**-Update of MMR Joint Land Use Study-No meeting

**Cape Cod Commission**-No meeting

## **CORRESPONDENCE**

- March 2016 Discharge Monitoring Report for South Cape Market Place N=3.3
- April 2016 Discharge Monitoring Report for South Cape Market Place N=5
- May 2016 Discharge Monitoring Report for South Cape Market Place N=6.7
- June 2016 Discharge Monitoring Report for South Cape Market Place N=5.8
- July 2016 Discharge Monitoring Report for South Cape Market Place N=6.5
- August 2016 Discharge Monitoring Report for South Cape Market Place N=4.1
- Citizen Planner Training Collaborative – Fall 2016 Workshops notice-Mr. Hansen has signed up to attend the workshop. Mr. Weeden also wished to attend.

**MOTION: Mr. Balzarini made a motion to reimburse Rob Hansen \$30 for the fee to attend the Citizen Planner Training Workshop. Mr. Kooharian seconded the motion. All voted unanimously.**

**MOTION: Mr. Balzarini made a motion to reimburse David Weeden for a Citizen Planner Training Workshop for \$30. Mr. Kooharian seconded the motion. All voted unanimously.**

Vouchers were signed by Planning Board members.

## **WATERWAYS LICENSES**

- Paul S. Hovsepian - retain and maintain existing pier and construct and maintain a ramp and 2 floats at 13 Compass Circle, in Popponesset Creek

## **ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Mr. Cummings seconded the motion. All voted unanimously. The meeting adjourned at 9:16 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary

## **LIST OF DOCUMENTS**

- Town Meeting Warrant
- Planning Board Zoning Articles Public Hearing Notice
- Southport Cape Cod Plans
- Charles Rowley 10/5 Letter Regarding Southport
- Draft Decision for Southport
- Charles Rowley 10/5 Email
- Windchime 10/5 Email
- Proposed Planning Board Budget