
Planning Board Minutes 04-16-2014

**Mashpee Planning Board
Minutes of Meeting
April 16, 2014 at 7:00 p.m.**

Waquoit Meeting Room, Mashpee Town Hall
APPROVED 3-0 on 5-7-14

Planning Board Members Present: Chairman George Petersen, Mary Waygan, Dennis Balzarini, David Kooharian, Joe Cummings

Also Present: Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer, Tom O'Hara-Selectman

Absent: Joe Mullin

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 Petersen at 7:00 p.m. on Wednesday, April 16, 2014 and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES—March 19, 2014 and April 2, 2014

Ms. Waygan provided a mark-up of the March 19th minutes.

MOTION: Mr. Balzarini made a motion to accept the minutes of March 19th with Ms. Waygan's revisions. Mr. Kooharian seconded the motion. All voted unanimously.

MOTION: Ms. Waygan made a motion to accept the April 2nd minutes as presented. Mr. Balzarini seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:10 Public Hearing regarding zoning amendment proposed for action at May 5 Annual Town Meeting relative to provisions regarding floodplains.

The appointed time having arrived, the Chair opened the public hearing. Mr. Fudala stated that FEMA had adopted new flood insurance rate maps for Barnstable County and, in order for Mashpee to participate in the flood insurance program, the Town would need to adopt the maps into zoning before July 16, 2014. Mr. Fudala read the wording changes. Ms. Waygan inquired about the explanation for it being an emergency article and Mr. Fudala responded that it was because zoning changes were typically addressed at October Town Meeting. There was no public comment.

MOTION: Mr. Balzarini made a motion to close the public hearing. Ms. Waygan seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to recommend approval of Article 14 for the Warrant as presented. Ms. Waygan seconded the motion. All voted unanimously.

Ms. Waygan announced that Town Meeting would take place on May 5 at the high school at 7 p.m.

7:20 Applicant: BCDM, LLC

Location: On and between Blue Castle Drive and Degross Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48

Request: Approval of a Special Permit for a 15 lot cluster subdivision (Continued from 4/2/14)

7:20 Applicant: BCDM, LLC

Location: On and between Blue Castle Drive and Degross Road, identified on the Mashpee Assessors Maps

as Map 104, Blocks 14, 20 and 48

Request: Approve 15 lot cluster subdivision Definitive Subdivision Plan (Continued from 4/2/14)

The appointed time having arrived, the Chair opened the public hearing and read for the record the request. Matt Costa was present to represent the applicant. Mr. Costa summarized the plans for portions of Blue Castle since the last meeting. Mr. Costa indicated that additional information was requested regarding improvement of the road in its current location or relocation of the road into its proper layout. Since the last meeting, Mr. Costa collected additional information through fieldwork and further evaluation, developing two separate plans, and as a result, determined that it made the most sense for all parties involved to improve the roadway in its current location.

Additionally, Mr. Costa met with #8 Blue Castle owner, Hugh Barnes, who agreed to grant an easement for the road in its current location in order to complete improvements from Great Neck Road to a location just past his driveway. Mr. Costa added that the apron would be rebuilt in order to control the runoff. Mr. Costa submitted both plans for consideration by the Board. Mr. Costa also met with #7 Blue Castle owner, Ernest Virgilio, to discuss the improvement of the road in its current location.

Referencing the plan to relocate the road into the layout, Mr. Costa pointed out that Blue Castle would intersect with Great Neck road at greater than 90 degrees, the road would travel through the natural low point requiring a significant amount of work and relocation would impact #7 and #8 Blue Castle, requiring removal of substantial stonework and impacting driveways. Mr. Costa suggested that this plan did not make the most sense.

Mr. Costa summarized the benefits of improving the road in its current layout, with an easement, to include replacement of the paved apron with an appropriate grade and berm to shed the water. Paving would occur past the driveways and would include a drainage swale in a natural low area. The driveway at #7 would be slightly realigned. Gravel road improvement would continue beyond the pavement, with ditches on either side for run-off. At #7, a culvert may be needed to address run-off issues.

Mr. Costa indicated that the plan had been approved by both impacted neighbors. Mr. Wall drafted an easement that would allow use, improvement and maintenance of the road. Mr. Costa suggested the plan would be a good solution. Mr. Balzarini inquired whether an easement would be needed for the drainage at lot #7 but Mr. Costa stated that it would fit within the existing road layout and would not require an easement.

Ms. Waygan inquired about a stone wall removal at #38 and Mr. Costa responded that it was a stack of rocks, emphasizing that he made every effort not to impact residents' landscape features, but necessary in some cases to achieve the appropriate road width. Ms. Waygan inquired whether the owner had been notified and Mr. Costa responded that he had not but that the rocks were located within the layout. The Chair inquired whether the applicant could relocate and rebuild the rocks but Mr. Costa indicated that the applicant should not be responsible for the residents' landscaping located within the street layout. Mr. Costa stated that he would notify the resident by letter.

Mr. Fudala indicated that the paving ended in the middle of Mr. Virgilio's driveway but Mr. Costa responded that the driveway would be aligned by 5 feet so that the pavement would end at the edge of the driveway. Mr. Virgilio reviewed the plan earlier in the day and suggested that Mr. Rowley was most qualified to offer input regarding the best plan. Mr. Virgilio discussed his personal concerns with Mr. Costa and agreed to the proposed plan but expressed concern regarding drainage and maintenance of the road in the future. Mr. Costa stated that the maintenance would be part of the covenant. Mr. Fudala inquired whether it would include maintenance and cleaning of the catch basin and swale, to which Mr. Costa responded that it would, noting that it was a dry grass swale.

Mr. Rowley indicated that the rolled berm at the entrance would ensure that water would stay on Great Neck Road South rather than run down Blue Castle. Catherine Laurent must be in receipt of a plan from the applicant and arrangements would need to be made with the Department of PublicWorks to rebuild the apron. Mr. Rowley referenced the drainage area located on Mr. Virgilio's side, noting that it would be unnecessary on the other side due to the pitch. Mr. Rowley explained the benefits of an exaggerated crown to allow run-off and limit the potential for potholes but emphasized the importance of maintenance in order to maintain the benefits. Mr. Rowley suggested the possible need for an equalizer pipe where swales would not be able to cross the driveway to prevent run-off. Mr. Rowley recommended identifying the location of driveways that may need an equalizer pipe beneath the driveway, including Mr. Virgilio's driveway. Mr. Rowley agreed that, after reviewing both plans with Mr. Costa, improving the roadway in its current layout seemed to offer the best option, provided the easement was obtained for lot #8. Mr. Rowley noted that Mr. Costa had shown the easement line over the Water District easement line so that it would be the same easement, which would be helpful should the Town eventually decide to take over the road. Mr. Rowley recommended that the pavement be extended 5-6 feet beyond the return of Mr.

Virgilio's driveway, allowing a better transition. Mr. Costa emphasized his efforts to make his client happy as well as other involved parties. Mr. Rowley indicated he would defer to Mr. Virgilio if he was happy with the plan as it was presented, regarding the pavement and his driveway. Mr. Fudala questioned the berm in front of Mr. Virgilio's driveway and Mr. Rowley responded that it would need to connect into his driveway. Mr. Virgilio agreed with Mr. Rowley's suggestion to extend the pavement 5 feet beyond his driveway and also suggested an apron around his driveway to control the run-off. Regarding Mr. Barnes' driveway, pavement would be matched to his cobblestone apron.

Mr. Costa requested consideration of Mr. Wall's drafted condition regarding improvement of the existing road with an easement, with an option of relocating the road should the easement not be acquired. Mr. Fudala cautioned that, should the Board accept the condition, they would then be accepting both plans.

Discussion returned to the plan for the improvement of the road in its current layout and additions to be made including the extension of 5 feet of pavement beyond Mr. Virgilio's driveway and rolled beam, and a note on the plan identifying where swales were in contact with the driveways, and the possible need for equalizer pipes. Ms. Waygan indicated that she would support the plan with those amendments and notification of lot #38 regarding rock removal.

Mr. Wall arrived at the meeting and reference was made to the condition updates. Mr. Fudala recommended that the Board review the other plan relocating the road into its proper layout, in case the Board planned to accept Mr. Wall's proposed condition. Mr. Cummings agreed with the recommended amendments regarding the existing road plan. Mr. Balzarini supported the plan for improvement of the existing roadway and Mr. Kooharian agreed that it made the most sense if the homeowners supported the plan.

The Board considered the plan relocating the roadway into the proper layout. Mr. Fudala expressed concern regarding pavement ending in the middle of Mr. Virgilio's driveway. Mr. Costa responded that it would be too costly to pave the entire layout from Great Neck Road due to the additional costs of compacting, gravel, clearing and other work associated with relocating the roadway. Mr. Costa added that he was charged with the responsibility of representing the best interests of his client. Mr. Costa noted that further details would need to be addressed with Mr. Rowley regarding this plan. Regarding Mr. Virgilio's driveway, Mr. Costa indicated that it would be relocated. Mr. Virgilio expressed his preference for the plan utilizing the existing roadway, with the amendments, and recommended more discussion before accepting the plan relocating the road into the proper layout. The Chair agreed that the plan lacked the details shown in the existing roadway plan. Mr. Kooharian pointed out the possibility that it would not be the applicant's responsibility to realign the entire driveway because the road would be in a different layout. Mr. Costa stated that the road would be relocated and some driveways would require new connections. The Chair pointed out that it was the applicant changing the road and the location of residents' driveways. Ms. Waygan suggested that the plan likely would not be used, and recommended that the plan in the existing road layout be the only one considered at this time. Mr. Costa noted that the applicant had expressed concern should there be trouble acquiring the easement from Mr. Barnes, and was the reason why both plans were recommended for the condition. Ms. Waygan recommended a condition with language allowing a return to the Board with an engineered plan should an easement not be acquired. Mr. Wall indicated that a new public hearing could be scheduled and the Special Permit modified.

Mr. Fudala suggested addressing the driveway issue in the plan relocating the roadway to its proper layout. Mr. Rowley indicated that more preparation was needed in the plan besides relocating a driveway and recommended that the applicant secure the easement as soon as possible. Mr. Wall will attempt to acquire the easement prior to the next meeting. There was agreement to adjust the condition showing the plan featuring improvements in the existing roadway layout and deleting the plan that would relocate the roadway into the proper layout.

The Chair invited the public to comment. Mr. Virgilio inquired about the maintenance plan. The Chair explained that the maintenance plan would be part of the association's covenant. Mr. Virgilio also inquired about standards of road structures and road improvements to be completed and Mr. Rowley indicated that it would be a condition of the approval. Mr. Wall confirmed that all improvements to Blue Castle Drive would be completed before occupancy permits were released, as listed in Condition #9. Mr. Rowley suggested that Blue Castle construction be part of the lot release, requiring proper security to be posted. Ms. Waygan read Condition #9. Mr. Wall stated that it would be fine to include it under the subdivision but that Condition #9 would ensure that Blue Castle would be complete prior to the homes being sold. Mr. Wall suggested deleting the sentence in Condition #9 to avoid two separate standards for Blue Castle. There was further discussion regarding the issue. Mr. Costa recommended tying in release of lots on Blue Castle to the improvements of Blue Castle. The applicant offered to draft the wording. Mr. Wall confirmed that annual maintenance would be performed on Blue Castle and listed in Condition

#10, which Mr. Fudala read. Mr. Rowley recommended more detail due to the importance of the road being graded and maintained in an exaggerated fashion in order to prevent potholes, including drainage maintenance. Mr. Rowley will draft the text and will copy Mr. Wall. Mr. Wall read the text from the covenants regarding Blue Castle maintenance. There was discussion regarding the need for specificity or an attachment regarding the maintenance. Mr. Wall and Mr. Rowley will develop the language. Mr. Fudala noted that the plans would be filed in his office. Ms. Waygan requested the revised covenant and conditions prior to the next meeting.

Mr. Fudala referenced the waiver request for the sidewalk requirement for a portion of Blue Castle Drive located in Finding #35. There was consensus among the Board. Chairman Petersen read Finding #35.

MOTION: Ms. Waygan made a motion to approve the requested waiver for the section of Blue Castle Drive west of Carriage Road. Mr. Balzarini seconded the motion. All voted unanimously.

Linda Lubelczyk, of Tracy and Degross, expressed concern about increased usage of Degross if Blue Castle was not immediately improved to be used for construction. Mr. Rowley suggested that the usage of the roads would be related to the work being completed, so that construction closest to Blue Castle would utilize Blue Castle. Ms. Lebelzek stated that the road width of Degross was just over 18 feet wide.

Erik Lubrano reported that Blue Castle had just been graded within the week and encouraged a review of the road and the potholes that had already formed due to the recent rain. Mr. Lubrano requested that a surface be applied to Blue Castle before any construction began. Mr. Lubrano also expressed concern about potential danger to cars sliding into the ditches alongside the road and recommended wider roads or catch basins. Mr. Rowley responded that catch basins would not be effective on the gravel road and suggested sanding any ice that may appear. The trench depth would be 3.5 feet wide by 1 foot deep, with gravel beneath. Mr. Lubrano also expressed concern regarding the width of the road.

Carl Lubelczyk inquired about who would fund the maintenance of Blue Castle should there be delays in selling the homes. Mr. Fudala responded that the applicant would fund the maintenance. Mr. Fudala also noted that the Police Department was pleased with the addition of the radar sign for Degross Road and other roads in Mashpee.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to May 7 at 7:45p.m. Ms. Waygan seconded the motion. All voted unanimously.

BOARD ITEMS

Old Business

Discussion of Greenways Proposal and Surrounding Commercial Property-Mr.

Fudala reported that Mashpee Commons had requested that their insurance company support the trails. Mr. Balzarini inquired whether an update could be provided on the Town's website. Ms. Waygan inquired about the next step in the process. Mr. Fudala indicated that there were plans in place and it was up to Mashpee Commons settling the issue with the insurance company. Ms. Waygan will have an update added to the website and Mr. Kooharian will contact Buff Chase.

MMR Military Civilian Community Council-Update of MMR Joint Land Use

Study-No update

Design Review Committee-Mr. Cummings reported that there was no Design Review meeting but that he attended the Plan Review regarding torches at an art studio on Great Neck Road North. It had been determined that since it was a home occupation business on 3 acres, there would not be an issue.

Environmental Oversight Committee-The Chair reported that the EOC was continuing to work on the nitrogen fertilizer bylaw for the October Town Meeting. The Chair will send the latest draft of the proposed bylaw to Mr. Fudala.

Historic District Commission-No update

Charter Review-There had been no recent meeting.

Community Preservation Committee-Ms. Waygan reported that there would be a CPC land purchase article on the Warrant at Town Meeting.

New Business

C. Rowley Expense Vouchers-No invoices at this time.

Report Regarding Willowbend- Jack McElhinny, attorney for Willowbend, was present to discuss Bryant's Cove Road, an ancient way required to remain open to the public, parts of which have been rerouted and in some

cases, obscured. Mr. McElhinny explained that the cart path/ancient way was dirt in some areas and crushed shells in other areas. Mr. McElhinny stated that, in some cases, aeration plugs had been placed on top of cart paths, a cost-effective means to stabilize the sometimes muddy paths. Mr. McElhinny shared pictures of areas in question with members of the Board, noting that signs identifying the ancient way were in place and remained open to the public. Mr. McElhinny stated that there was no intent to discourage public usage of the ancient way and anticipated that the cart paths would revert to dirt and mud during the golf season. Mr. McElhinny stated that he would have the maintenance department apply crushed shells on the path, noting that it was no more than a few hundred feet.

Mr. Kooharian inquired whether there was any requirement that the way consist of a specific material and Mr. Fudala noted that it was originally a dirt road, but use had reverted to cart and pedestrian use. Mr. Kooharian suggested that the grass would still be usable. Chairman Petersen suggested the possibility of losing the definition of the way if it was covered by grass. Mr. McElhinny responded that Willowbend did not wish to lose the definition of the path. Mashpee resident, Paula, stated her wish that the ancient way not be obliterated as many people walked the paths on a regular basis and recommended the removal of grass over the ancient way. Paula did not have a preference for a material, only that the ancient way remain defined. Mr. McElhinny emphasized that there was no malicious intent and indicated that he would send new photos once the work was completed.

CORRESPONDENCE

-Waterways License Application Notice-Brenda Clermont, seasonal dock at 1 Sunset Circle in Johns Pond

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS

-Article 14 Public Hearing Notice
-Article 14
-Special Permit Decision for Ockway Highlands
-Brian Wall Letter