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## Planning Board Minutes 05-01-2013

### Mashpee Planning Board

#### Minutes of Meeting

May 1, 2013 at 6:00 p.m.

Waquoit Meeting Room, Mashpee Town Hall

Approved 4-0 on 5/15/13

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

**Also Present:** Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer

### CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan at 6:15 p.m. on Wednesday, May 1, 2013.

### DISCUSSION OF GREENWAYS PROPOSAL & SURROUNDING COMMERCIAL PROPERTY

Chairman Waygan indicated that there had been a good turnout at the Saturday meeting, including individuals who may be interested in taking on responsibilities for assisting with the Greenways Proposal. The Chair stated that Joan Lyons was very interested in assisting. It had been recommended that the work being completed on Route 130 be added to the Greenways brochure as some residents have indicated confusion regarding the two projects and whether they conflicted with one another. It was noted that the two projects would be connected, but also that the Route 130 project would require transportation to access it. There was discussion regarding the importance of showing linkages of all parks and paths. The Chair recommended waiting until after Town Meeting to see if the Articles are funded before incorporating the information into the brochure.

Mr. Kooharian recommended creating a list of interested people to keep them informed and involved with the process. The Chair stated that a subcommittee was allowed, but it was better not to do so, according to the Attorney General's office, and recommended developing a "Friends of the Greenways" organization. The Chair indicated that she would follow up with Joan Lyons. It was noted that the group should reach out to the Chamber of Commerce and environmental organizations and allow for pick-up meetings to generate improved brainstorming.

Mr. Balzarini recommended contacting Selectman Carol Sherman. Mr. Kooharian expressed interest in leading the group and emphasized the importance of remaining focused on the original concept to connect trails and parks with a town-owned piece of land in the center of Town. Chairman Waygan will follow up with Beverly Kane as a possible subcommittee of the Mashpee Environmental Coalition and Mr. Kooharian will follow up with Selectman Sherman and Selectman John Cahalane. Mr. Fudala recommended communicating with Doug Storrs and offered to follow up regarding insurance liability. Chairman Waygan recommended also involving other commercial plazas who might be interested. Mr. Kooharian recommended speaking individually to the businesses located in Mashpee Commons regarding their interest and support for the Greenways proposal. The Chair recommended that Mr. Kooharian also contact Ms. Laurent as she has effectively submitted applications seeking funds from the Community Preservation Committee on behalf of the Department of Public Works. Chairman Waygan also suggested that the Greenways Proposal may need to be presented to the CPC in advance of a request for funds. It was also suggested that the Conservation Commission be contacted regarding possible participation in the Greenways planning, as well as members from other Mashpee Boards and Commissions. The Chair indicated that a strong grass roots effort was necessary to get the Greenways proposal off the ground.

The meeting recessed at 6:55 p.m.

### MEETING RE-OPENED

The Town of Mashpee Planning Board meeting was re-opened with a quorum by Chairman Waygan at 7:00 p.m. and the Pledge of Allegiance was recited.

Chairman Waygan congratulated all members who won the recent election.

## **APPROVAL OF MINUTES—April 17, 2013**

The spelling of Joe Colasuonno's name was corrected in the minutes.

**MOTION: Mr. Mullin made a motion to accept the minutes as amended. Mr. Balzarini seconded the motion. All voted unanimously.**

## **BOARD ITEMS**

### **Old Business**

#### **MMR Military Civilian Community Council/MMR Joint Land Use Study (JLUS)-**

Mr. Fudala announced that a workshop would be taking place the next morning, but Mr. Kooharian indicated that he would be unable to attend due to his work schedule. The Chair inquired whether an alternate could be sent but it was noted that security clearance may be an issue with short notice. Mr. Fudala will inquire about an alternate for future meetings.

**Design Review Committee**-There was no meeting.

**Community Preservation Committee**-Chairman Waygan reported that applications had been accepted for consideration for October Town Meeting, including a request from the Boys & Girls Club, the Great Neck Road South boat ramp and a DPW survey of historic cemeteries.

**Environmental Oversight Committee**-There was no quorum at the meeting.

**Historic District Commission**-There was no meeting.

There was question regarding quorum due to the recent election of three members that had not yet been sworn in and whether their terms had expired. Mr. Fudala anticipated that the hearings would be continued. A 5-minute recess was taken to look into the matter. The meeting reconvened at 7:19 p.m. out of necessity and the Chair recognized the terms of David Kooharian, George Petersen and Joe Cummings as active members of the Planning Board.

## **PUBLIC HEARINGS**

### **7:10 Applicant: Bayswater Seaside II, LLC / Bayswater Development, LLC**

**Location: 108 - 116 Shore Drive West, Assessor's Map 132, Blocks 7, 8, 10, 11 & 38**

**Request: Approval of Definitive Plan for 17 lot "Oceanfront" subdivision**

The appointed time having arrived, the Chair opened the public hearing and read for the record the public hearing notice. Tom Bunker of BSS Design represented the applicant, along with Joe Colasuonno of Bayswater. Mr. Bunker stated that the location was along Shore Drive West and just beyond the golf clubhouse and Tidewatch Condominium. The plan represented several existing lots and a current road layout and included the consolidation to be combined into 16 house lots with one unbuildable lot. The area is part of Section 21 of New Seabury, subject to the Special Permit where zoning requirements do not apply. The lots would be in the 7500-15000 foot range and all lots would be served by a private sewer. The four waterfront lots would include a beach maintenance easement in order to continue the beach nourishment program. An emergency access agreement will be provided for Tidewatch Condominiums. Mr. Bunker stated that there were sewer and drainage easements located at the site and that the site was flat and the road at primarily a 2% slope. Mr. Bunker stated that there was no work proposed within 100 feet of the coastal bank. Drainage would feature 3 pairs of catch basins.

Mr. Rowley confirmed that he had just received the plans and needed more time to review them, noting that they were similar to the original plan. Mr. Rowley referenced lots 1692, 1691, 1695 and 1684 noting that the total dimensions of the common line differed on one side from the other side. Regarding the drainage and fire apparatus access, Mr. Rowley inquired about the note to relocate it and Mr. Bunker responded that it was existing and would be relocated. Regarding the road profile plan, Mr. Rowley requested an explanation regarding compliance of the drainage design to the Subdivision Regulations and zoning provisions. Mr. Bunker stated that there would be no septic systems so nitrogen would be reduced and not enter the stormwater. Mr. Rowley responded that septic nitrogen was a Board of Health issue and that stormwater nitrogen removal should occur by means such as with vegetated swales or pre-treatment before entering the ground. Mr. Rowley recommended taking another look because the Stormwater Regulations did not allow direct infiltration without pre-treatment. Mr. Rowley also noted that the bottom of the leaching pits were well below the test pits, so there was no guarantee that they would not hit groundwater, requiring another look. Chairman Waygan stated that she would accept public comment but indicated that the hearing would be continued.

Mr. Fudala referenced three documents including a letter for the Tidewater attorney, an email from the Fire Department indicating no issue with the emergency access cross-section and Mr. Rowley's email regarding the coastal bank. Mr. Rowley referenced item #4 of the attorney's letter regarding the 100 foot natural buffer zone required between the wetlands and developed property, known as the NVSB (naturally vegetated buffer strip). Mr.

Rowley stated that he was unsure whether the Planning Board could require the NVSB from the applicant as it would typically be required by the Conservation Commission, who would determine the limit of the wetland and the location of the coastal bank through recording in the Registry of Deeds. Mr. Rowley confirmed that ConsCom would typically consider an application concurrently or prior to review by the Planning Board to establish the coastal bank as a defined line. Mr. Bunker suggested that ConsCom had not considered the plan because development was far enough away from their jurisdiction but Mr. Rowley stated the coastal bank needed to be established in order to know how much of the lot would be encumbered by the 100 foot buffer, under the Wetlands Act. Mr. Colasuonno stated that the 100 foot setback was out of the area of the buffer zone and that they planned to file when they planned to build on the lot. Mr. Rowley responded that the abutters had expressed the concern to the Planning Board so the issue needed to be considered and read the attorney's statement. Chairman Waygan recommended that the applicant consult with ConsCom. Mr. Rowley pointed out that the Planning Board was required to show the coastal bank line, not define it, and the applicant had indicated that it was accurate, adding that he felt it was appropriate for ConsCom to confirm that it was in fact an accurate line, registered and established.

Mr. Bunker stated that the applicant would go to ConsCom to build each lot. John Kivlehan, an abutter, referenced his experience regarding the 100 foot buffer that was established by the Army Corps of Engineers due to erosion.

Mr. Rowley stated that the coastal bank would not necessarily affect the approval or disapproval of the subdivision plan because it would not impact drainage or road locations.

Mr. Fudala inquired about the seaward property line and Mr. Bunker responded that it was the current high water line. Mr. Bunker referenced lot 1694, pointing out the solid lines and noting that they would be connected.

The appointed time having arrived, the Chair opened the next public hearings at 7:30 p.m. and continued them to return to the 7:10 public hearing.

Mr. Kivlehan referenced point #3 in the letter from the attorney concerning Tidewatch septic easements not currently shown on the plan, which should be shown until the easements were released. Mr. Fudala confirmed that the easements were currently shown on the plan. Mr. Kivlehan inquired about access to the beach to continue beach nourishment and Mr. Bunker confirmed that access would be maintained for the purpose of beach nourishment. Mr. Kivlehan inquired whether homeowners would be notified of their responsibility to maintain the beach nourishment and Mr. Colasuonno stated that fees would be set aside for beach nourishment. Mr. Colasuonno added that Tidewatch had plans to release the septic easements over the next 30 days. Abutter Ken Liatsos suggested that the new homes would not be 100 feet back from the coastal bank as his own home was 100 feet from the coastal bank, but Mr. Bunker stated that no homes were identified on the plan. There was discussion regarding the movement of the coastal bank. Mr. Liatsos inquired whether the homes would be located 100 feet back from the Coastal Bank and Mr. Bunker responded that they would be located where ConsCom approved. The Chair announced that abutters would be notified by ConsCom of any public hearings. Joe Padula, of the Seaside Homeowners Association, expressed concern about the number of large trucks using the existing road to assist with beach nourishment, damaging the road now maintained by Seaside, and with the number of trucks expected to increase with construction. Additionally, Mr. Padula expressed concern about the amount of construction noise that would occur during the 3 months that homeowners would be residing on their properties. Mr. Kooharian inquired about the annual rate of the beach loss and Mr. Colasuonno responded that they had been nourishing 10,000-12,000 yards per year and had installed COIR envelopes to assist with nourishment. Money would be set aside to maintain the nourishment and it was noted that 2000-3000 yards per year was expected for nourishment from New Seabury and Tidewatch from the top of the bank and would use the easement road. Mr. Fudala inquired about abutters' access after selling the Bayswater properties and Mr. Colasuonno responded that access had been granted through the 2<sup>nd</sup> hole of the golf course but that no future agreement had been established. Mr. Fudala stated that the application had been submitted to the Board of Health for comment. Mr. Fudala will follow up with the Board of Health for their comment.

**MOTION: Mr. Balzarini made a motion to continue the public hearing to May 15 at 7:20 p.m. Mr. Kooharian seconded the motion. All voted unanimously.**

**7:30 Applicant: Southworth Mashpee Properties , LLC**

**Location: Simons Road / Fin' Me Oot / Willowbend Drive**

**Request: Approval of definitive subdivision plan modification (Continued from 4/17/13)**

**7:30 Applicant: Southworth Mashpee Properties , LLC**

**Location: Simons Road / Fin' Me Oot / Willowbend Drive**

**Request: Approval of Special Permit Modification of site plan for 40 condominium units (Continued from**

**4/17/13)**

Southworth public hearing was reopened and the Chair read for the record the public hearing notice. Mathew Eddy, Baxter Nye Engineering, provided plans to members of the Planning Board and provided updates regarding issues discussed at the previous meeting. In anticipation of Town Meeting, Mr. Eddy stated that the Board of Selectmen approved the relocation of the road on April 22<sup>nd</sup>, following Planning Board approval.

Regarding the irrigation well historical discrepancies, Mr. Eddy reported that Baxter Nye measured 437 feet from the well to the river, with the nearest point from the well to the project being 1768 feet. Mr. Eddy stated that an additional plan was provided for stand-alone wells that would be controlled and owned by the homeowners association.

Mr. Eddy met with Mr. Rowley regarding his concerns and submitted a letter addressing each of the concerns, located in Board Members' packets.

**40 foot wide openings**-required by the Fire Department in the 2009 plan to allow space for side-by-side vehicles

**Pre-inspection of drainage facilities**-there was agreement that inspection of the existing facilities would take place at the time of construction; verify their size, count, necessary cover and support vehicle loading and replaced in kind as needed

**Relocate 2 leaching basins of existing facility**

**Crosswalks**-two cobble strips will act as calming devices on Simon's Road and striping along the calming device near the tennis courts to create a crosswalk.

**Sidewalks**-Mr. Rowley recommended a sidewalk near the 16 family units to access the recreation facilities on Simon's Road, rather than walking in the road, but Mr. Eddy responded that it was not part of the previously approved plan.

**Cul-de-Sac**-the reduced radius was vetted in 2009 and was acceptable due to Natural Heritage and in discussion with the Fire Department, additionally the cul-de-sac was not a true dead end due to the gravel road extension

**Cross-section**-access aisle and sheet flow run-off; it was agreed that the approach was acceptable, adequate and safe and other locations in Mashpee also featured a high elevation; the rumble strips will also slow the traffic; Mr. Rowley stated that he had requested a full-size version of the cross-section to more closely review the grades more accurately

**Conservation restrictions/Natural Heritage**-no proposed structures or planting within the conservation deed restriction

**Drainage**-test pit information had been provided and had been considered in 2009; Mr. Rowley will ensure lack of groundwater and good soil during the construction phase

**Vegetated pretreatment**-all roof drains have been directed into rain garden areas for pre-treatment prior to entering an underground infiltration chamber. Mr. Rowley added that pretreatment prior to entering the bio-retention area had also been added and provided.

Jack McElhinny, attorney for Willowbend Country Club, reported about the results of the Design Review Committee. Mr. McElhinny stated that the Fire Department requested receipt of a 20 scale copy of the plan to review fire safety plans. In addition, there was discussion regarding variances granted by the ZBA for the three 39-foot buildings. Mr. McElhinny stated that two of the buildings had not been re-located and the third building was in the same location with a slightly different orientation and may require a return to the ZBA. Chairman Waygan requested that the Fire Department review the plan prior to Planning Board approval. Mr. Eddy stated that he had met with the Fire Department informally and agreed to follow up. Mr. Fudala stated that Plan/Design Review decision was subject to Fire Department approval and recommended receipt of an email from Joel Clifford. Mr. Rowley indicated that he wished to further review the road profile.

Chairman Waygan invited public comment and Mr. Aliberti referenced the 2011 state report regarding cranberry bog irrigation and water withdrawal and referenced previously described documents reflecting his concerns about water being withdrawn from the Santuit River. Mr. Barry Dallas, an abutter to Santuit River, also expressed concern about the wells depleting water from the river. Mr. Eddy responded that there was one proposed irrigation well that would be located over 2000 feet from the river. Tim Sullivan, Willowbend Director of Construction, confirmed that the well would be permitted by the Town for under 100,000 gallons per day and estimated that it would draw a maximum of 40,000-50,000 gallons per day during the five month irrigation season. Mr. Sullivan stated that the well depth would be 50 feet and did not anticipate any impact to the Santuit River. Mr. Dallas recommended stipulating a depth limit in case of drought. The Chair indicated that it may be out of the jurisdiction of the Planning Board. Mr. Sullivan noted that the well located 437 feet from the river had not been in use since November, and confirmed that the well is not utilized for water from November to April.

**MOTION: Mr. Balzarini made a motion to continue the public hearing to May 15 at 7:40 p.m. Mr. Mullin seconded the motion. All voted unanimously.**

## **BOARD ITEMS**

### **New Business**

**Discussion of Zoning By-law Section 174-45.B. regarding definition of “private wastewater treatment plant” and potential amendment of Section 174-25.1.2. regarding maximum building footprint in C-3 zoning district-**Mr. Fudala noted that there had been interest in a possible assisted living facility in Mashpee in a C-3 Zone and inquired whether the Board would be interested in sponsoring an Article for an assisted living facility to allow a footprint greater than 20,000 square feet within a C-3 Zone. Mr. Fudala also noted the possible need for a private wastewater treatment facility. There was discussion about the possibility of utilizing a Nitrex system. Mr. Rowley suggested that there was a limit of 76 beds for nursing homes before needing to get a groundwater discharge permit. Mr. Fudala pointed out the interpretation of the word “plant” in the bylaw and whether it required it to be above ground or would an underground facility be considered a plant. It was suggested that if it was achieving its goal it could be referred to as a plant. Mr. Petersen suggested following up with the State for greater clarification. There was discussion regarding 20,000 square feet and it was noted that the last bylaw was defeated by neighbors. The Chair recommended reaching out to the neighborhood and involving the public early in the process. It was recommended that the bylaw be reviewed for the next meeting.

**C. Rowley Expense Vouchers-**Invoices in the amount of \$285 for Southport and \$1,235 for Planning Board were submitted by Mr. Rowley.

**MOTION: Mr. Mullin made a motion to approve the vouchers. Mr. Balzarini seconded the motion. All voted unanimously.**

## **ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting adjourned at 9:05 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary

## **LIST OF DOCUMENTS**

- Bayswater Development Subdivision Plan of Land
- Attorney Dana Cetlin Letter
- Joel Clifford Email
- Charles Rowley Email
- The Village at Willowbend, Site Construction Plans
- Mathew Eddy 4/30/13 Letter
- 5/6/13 Town Meeting, Planning Board Recommendations
- Standards for Development in C-3 Districts