
Planning Board Minutes 05-07-2014

Mashpee Planning Board

Minutes of Meeting

May 7, 2014 at 7:00 p.m.

Waquoit Meeting Room, Mashpee Town Hall

Approved 5-0 on 5-21-14

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

Also Present: 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 Petersen at 7:00 p.m. on Wednesday, May 7, 2014 and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES—April 16, 2014

MOTION: Ms. Waygan made a motion to approve the minutes of April 16th as presented. Mr. Kooharian seconded the motion. All voted unanimously.

PUBLIC HEARINGS

Hearing under the provisions of Massachusetts General Laws Chapter 85, Sections 3A and 3B, to consider a proposed change in the name of “East Way” to either “Cottage Lane”, “Cobblestone Lane” or “Cardinal Lane” (Continued from March 5, 2014).

The Chair opened the public hearing. Mr. Fudala reported that an email had been received from Marshall McStay, President of the Sandalwood Village Association, requesting a continuance of the matter. Mr. Fudala attended a town staff meeting regarding the East Way name change and stated that Assistant Town Manager Tom Mayo was attempting to schedule a meeting with Mr. McStay and other concerned residents from Sandalwood Village in order to work out the issue. It was requested that the hearing be continued to June 4.

MOTION: Ms. Waygan made a motion to continue the public hearing for the name change of East Way to either Cottage Lane, Cobblestone Lane or Cardinal Lane to June 4th at 7:10p.m. Mr. Kooharian seconded the motion. All voted unanimously.

7:20 Applicant: Bayswater Development, LLC

Location: Cross Road, New Seabury Section 5, Map 116, Lot 74

Request: Approval of 21 lot Definitive Subdivision Plan

The appointed time having arrived, the Chair opened the public hearing and read for the record the request. Mr. Fudala pointed out a letter received from Mike Richardson, Executive Director of Peninsula Council, requesting a postponement of the meeting to allow residents not yet returned to Mashpee, to attend the meeting at a future date. New Seabury expressed interest in resolving the matter this evening. Mr. Fudala stated that engineering issues had been addressed. Mr. Rowley distributed his letter of recommendation for approval. Mr. Kooharian suggested, unless there was a strong reason to postpone the meeting, they should move forward to address the matter tonight at the scheduled hearing. Ms. Waygan stated, based on the letter, that there were residents unable to attend who wished to comment on the matter and recommended opening the meeting, but continuing it to a future date when the residents would be able to attend. Chairman Petersen inquired about how a continuance would impact the timeline. John Falacci, Project Manager, indicated his preference that the meeting move forward. Mr. Falacci added that he had not received direct correspondence from the abutters, but that they had met with some neighbors to clarify confusion about a separate construction project located at the sales office. Mr. Falacci indicated that notice went to the abutters for the entire section 5 area, even outside of New Seabury, but noted that the subdivision was pretty isolated. There was agreement that a smaller number of residents should have been notified, but that the Town did not have the most current information from Land Court. Mr. Fudala also emphasized that the three proposed model homes had nothing to do with the subdivision, adding that there were few actual abutters to the

subdivision. Chairman Petersen indicated that the public hearing could move forward and that the Board could refer back to the letter.

Mr. Falacci summarized their request for a 21-lot subdivision located at Cross Road and provided a history of the project, including meetings with the Board of Health, the Fire Department, GIS and the Conservation Commission as well as with Mr. Fudala and Mr. Rowley. Mr. Falacci indicated that one road had been eliminated, but retaining Salt Water Circle. Mr. Fudala confirmed that the Board of Health and Fire Department had approved the plans. Mr. Fudala recommended that the applicant present their plans to the audience.

David Crispin, of the BSC Group, described the plans, noting that the subdivision would divide a 38-acre parcel that included a well field. Approximately three acres of the land would be divided for the subdivision and would include such improvements as a new 20-foot wide road, draining to a low point on the back side, and reconstruction of Cross Road, channeling drainage into storm drains and rain gardens. Mr. Crispin added that subsurface rainwater cisterns had been conceptualized for irrigating the landscaping. There would be just one catch basin at the site. The majority of the lots would front the new street. Mr. Crispin indicated his belief that they were in compliance with the subdivision regulations, adding that they would be requesting some waivers.

Chairman Petersen inquired about Cross Road and Mr. Crispin confirmed that it was currently a dead end. Mr. Fudala added that the Address Working Group had requested that Cross Road Extension be changed to just Cross Road. Ms. Waygan inquired about Salt Water Circle and it was confirmed that the name had been approved. Ms. Waygan referenced the Fire Department's approval and the plan that had been reviewed and it was confirmed that they had reviewed the most current version of the plan. Mr. Rowley referenced the fourth page of his May 2 letter highlighting the requested waivers. There was discussion regarding the variety of responses to Mr. Rowley's initial review but Mr. Rowley confirmed that changes had been made to the plans.

New Seabury resident, Nick Rucki, suggested that the Board was unable to proceed in a smooth manner due to recent information being received and recommended that the meeting be postponed until the information was available to others. Chairman Petersen suggested that there may be a continuance, but that materials which had been submitted were being reviewed. Mr. Rucki added that there were people who wanted to be at the meeting, but could not, and who may also have questions. Mr. Rowley offered to summarize the plans and any changes since April. Mr. Rucki indicated that the plan seemed to be initially much grander and suggested that the notice may not have accurately described the intentions of the meeting. Mr. Falacci confirmed that the public hearing notice was distributed to a wider area than needed and that the project would impact just a small portion of the abutters. Mr. Falacci added that notices and communication had been disseminated and requested that the matter be considered at tonight's meeting.

Mr. Rowley summarized his meeting with the applicant, Mr. Fudala and Mr. Crispin, including changes that were made at the meeting in order to simplify the project. As a result of the meeting, the plan was revised. Mr. Rowley developed a detailed report for each page of the plan and identified any questions or issues requiring revisions. Mr. Rowley had since received additional revisions to the plan and comments and identified additional areas requiring revisions. The plans received tonight reflect all changes and modifications and Mr. Rowley recommended approval of the plan as presented though subject to any additional discussion. Mr. Rucki inquired about the plans, and changes and Mr. Rowley provided an explanation about some of the revisions.

Chairman Petersen opened the public hearings for BCDM, LLC. Mr. Balzarini arrived at the meeting.

MOTION: Ms. Waygan made a motion to continue both public hearings for BCDM at 8:15p.m. Mr. Kooharian seconded the motion. All voted unanimously.

Mr. Fudala recommended that a vote on the waivers be taken first. Mr. Rowley indicated that the waiver regarding the less than 1% slope was a reasonable request which would not impact construction. Regarding the waiver for the sidewalks, Mr. Falacci stated that no other neighborhood within New Seabury had sidewalks, but that the developments featured jogging and walking paths, as well as common areas. Additionally, beyond some gas lanterns at intersections, there were no street lights in other parts of New Seabury and lighting on homes and driveways would serve as lighting for the area. The Chair inquired about the end of the road and Mr. Falacci confirmed that it would conclude at the tennis courts and driving range allowing adequate space for turning around. The Chair inquired about other aspects of the plan and Mr. Rowley provided explanations. Mr. Falacci pointed out that they had already initiated work on erosion control.

The Chair referenced Mr. Rucki's concerns and the letter received from Mr. Richardson, clarifying that the clearing of land by the sales office on Red Brick Road and Mall Way was not part of the plans being discussed tonight. Mr. Falacci confirmed that it was not related. The Chair suggested that the plan showed consistency with the other New Seabury developments and Mr. Falacci confirmed that they wished to maintain the character of New Seabury.

Members of the public were invited to comment. Mr. Rucki inquired about the use of the cleared land by the sales cottage. Mr. Falacci responded that it was cleared in order to build three spec homes. Mr. Fudala added that the spec homes were not related to the subdivision being considered but were part of New Seabury's Special Permit in Section 5.

MOTION: Mr. Balzarini made a motion to give the applicant a waiver not to put the sidewalks in since the Planning Board found that the trails at New Seabury were adequate access for pedestrians. Ms. Waygan seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to waiver the streetlights because they have post lights on each driveway to the development. Ms. Waygan seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to waiver for less than 1% longitudinal slope because the Planning Board found it existing and working well. Ms. Waygan seconded the motion. All voted unanimously.

Ms. Waygan recommended keeping the public hearing open until June 4 due to the letter submitted by Mr. Richardson. Mr. Falacci indicated that he had been in contact with Mr. Richardson regarding the issue, referenced the confusion and requested that the matter be moved forward. Mr. Balzarini agreed that the issue should not be prolonged. The Chair also agreed with the project proponent and that it was unrelated to Mr. Richardson's letter of concern. Additionally, the applicant worked with Mr. Rowley to address all of his concerns.

MOTION: Mr. Balzarini made a motion to close the public hearing for the Cottages at New Seabury Phase I. Mr. Kooharian seconded the motion. 3 voted yes, 1 voted no

Mr. Fudala inquired whether the Board wished to add any conditions to the plan. Mr. Rowley referenced the erosion control conditions listed on Sheet 6. Mr. Fudala indicated that the road covenant had not been presented and Mr. Rowley confirmed that there was a covenant in the application, but that it was dated in March. A new covenant would need to be submitted and recorded with the plan.

Mr. Rucki inquired about how the development would address wastewater and Mr. Falacci confirmed that the homes would be served by the treatment plant and serviced by municipal water. Mr. Falacci added that an independent environmental monitor would be overlooking this and future projects. Mr. Fudala also indicated that inspection fees would be due before signing.

MOTION: Mr. Kooharian made a motion to approve the plan dated May 7, 2014, sheets 1-15. Mr. Balzarini seconded the motion. All voted unanimously.

Chairman Petersen signed the Certificate of Action.

7:45 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 4/16/14)

7:45 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 4/16/14)

The appointed time having arrived, the Chair opened the public hearings and read for the record the requests.

Attorney Brian Wall represented the applicant. Mr. Wall indicated that, following the last meeting, five issues were to be addressed to include revising Special Condition #9 to eliminate the two options, revising Condition #10 to initiate annual maintenance of Blue Castle no later than the sale of the first lot with no lots being released on Blue Castle until the improvements were made to the road, revision of the covenant to tie maintenance of Blue

Castle to the Special Permit, notify owners of lot #38 that the improvements would impact their stone walls with no dissatisfaction expressed, and a draft easement forwarded to Mr. Barnes with verbal approval received.

Mr. Wall also reported that a revised plan had been submitted reflecting the pavement extension of 5-feet to the end of the driveway with an apron as understood from the last meeting but reflected in the minutes as 5-feet beyond the driveway. Mr. Wall asked that the Board consider the plan as submitted, as adequate. Mr. Rowley pointed out that on the other plan, the driveway had been adjusted and when the driveway was readjusted, the 5-foot extension beyond the driveway was lost. Mr. Rowley noted that the intent to extend the pavement beyond the driveway was to protect the end of Mr. Virgilio's driveway. Mr. Rowley suggested that it would not be a great deal of pavement to extend the pavement 5-feet beyond the driveway and that Mr. Virgilio had expressed his preference that it be designed in that manner. Mr. Balzarini recommended that the applicant extend the pavement 5-feet beyond the driveway, noting that it would not be a significant added expense. Mr. Virgilio was present and was invited to review the current plan. Mr. Virgilio stated that, without the extension, the water would likely cause erosion to the end of the driveway and suggested that an additional 5-feet was not an unreasonable request. Mr. Fudala inquired about relocating the driveway so that 5-feet of pavement would extend beyond the driveway. Mr. Rowley responded that there was space to do so, if so inclined. Mr. Virgilio stated that he was concerned about erosion and did not agree with the existing plan, but would support a plan with the 5-foot extension of the pavement. Board members were in agreement that the 5-foot extension had been agreed to previously and was a reasonable request to protect the property. Mr. Wall indicated that the applicant would not have an issue with the extension but that it was an honest interpretation from the last meeting by Mr. Costa. In Condition #9, Mr. Wall proposed adding "with the additional requirement that the pavement be extended 5-feet further to the west." Mr. Fudala suggested that it may not be needed for the Special Permit but, instead, approve the Special Permit with a condition that the plan be revised to show the extra 5-feet using the same May 1 date. There was agreement from all parties. Mr. Fudala noted that the plan would be reviewed after the 20-day appeal period. Mr. Rowley suggested that it be clearly stated in the minutes, for purposes of clarification, that the intent of the request was that the 5-foot extension of pavement further to the west extend beyond the end of Mr. Virgilio's driveway. Mr. Fudala would also draft the note as a condition for the Subdivision Certificate of Action.

Ms. Waygan referenced Condition #3 regarding affordable housing. Mr. Fudala stated that two versions had been provided to members of the Board for consideration. Ms. Waygan stated that there was Board consensus that donation of the affordable lot occur within three years. Ms. Waygan requested that "should said donation and recording not be completed within 3 years of the date of the approval of the Special Permit, both Lot 15 and Lot 4 should be considered permanent and unbuildable and part of the restricted open space" be struck as it would negate the provision that the affordable lot be conveyed within 3 years, which had also been accepted by the project proponent. Mr. Fudala stated that the wording was included because it was part of the bylaw and loss of the lot would result in the loss of a \$150,000 building lot. Ms. Waygan indicated that they could return to the Planning Board to modify the Special Permit if there was an issue. Mr. Fudala stated that it was part of the zoning bylaw, whether or not it was in the Special Permit.

MOTION: Ms. Waygan made a motion to strike "should said donation and recording not be completed within 3 years of the date of the approval of the Special Permit, both Lot 15 and Lot 4 should be considered permanent and unbuildable and part of the restricted open space" from the Conditions. Mr. Balzarini seconded the motion.

Mr. Fudala confirmed that the Bylaw would provide a punishment should the affordable lot not be conveyed within 3 years.

All voted unanimously.

Ms. Waygan inquired whether the conditions included Mr. Wall's Condition #9 and #10 and Mr. Fudala confirmed that it included #9 as proposed with the May 1 date. Condition #10 was amended based on Mr. Rowley's recommended revisions regarding the crown of the gravel road. Mr. Wall confirmed that he was in receipt of a copy of Mr. Rowley's language which was acceptable to Mr. Costa and the applicant. Mr. Fudala added that he would also be drafting the Subdivision Decision with three conditions to include the pavement extension beyond Mr. Virgilio's driveway, filing of the covenant and payment of inspection fees.

Chairman Petersen invited public comment. Tim Dorsey of Blue Castle Drive inquired about the width of the road, referencing New Seabury's earlier comment that they'd be installing a 20-foot wide road as required by law. Mr. Fudala responded that the paved area would be 20-feet but the remainder of the crowned gravel road would be 16-

feet wide because it was not part of the subdivision. Mr. Dorsey inquired whether the 10 homes fronting Blue Castle would have a paved road width of 20-feet and it was confirmed that they would.

Carl Lubelczyk of Tracy Lane referenced earlier comment about the possibility of the project being sold and Mr. Fudala confirmed that all Special Permit conditions would be in place regardless of a sale. Mr. Fudala added that should the project be sold, the Planning Board would typically invite the new owner to a meeting to ensure that they were aware of the permit conditions.

Erik Lubrano of Blue Castle expressed concern about the drainage trenches that would be present on both sides of the roadway and the potential for standing water. Mr. Rowley reported that the trenches would be 1-foot deep and, given the soil, would drain readily. Mr. Lubrano indicated that the neighborhood had been faced with swarms of mosquitos already. Mr. Rowley suggested that the majority of Blue Castle was flat and the crown should shed the water to the edges, allowing the water to drain right where it would come off the road. Mr. Fudala indicated that the trench would be stone lined. Mr. Lubrano inquired about mail delivery and Mr. Fudala suggested that would be discussed with the post office. The Chair suggested they may travel Degress Road or the improved road may allow them to use Blue Castle. Mr. Lubrano referenced the pipes that would be installed beneath the driveways, noting that #38 had expressed concern regarding their existing brick driveway aprons and asked that their rocks not be removed from the site as they may be salvaged and that the brick aprons be re-installed. The Board recommended that the homeowners send a letter to Mr. Wall.

Mr. Rowley asked Mr. Wall whether the plan would accompanying the proposed easement to be recorded and Mr. Wall responded that it would be attached to the easement as a sketch plan. Mr. Rowley pointed out a possible typographical error on the last page which Mr. Wall will correct.

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

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

MOTION: Ms. Waygan made a motion to approve the Special Permit Decision for BCDM, LLC "Ockway Highlands" Cluster Subdivision Blue Castle Drive/Degress Road as presented. Mr. Balzarini seconded the motion. All voted unanimously.

MOTION: Ms. Waygan made a motion to approve the Definitive Subdivision with the conditions that 1) Blue Castle Drive pavement shall be extended 5-feet beyond the existing Virgilio driveway, 2) covenant must be filed prior to signature and 3) inspection fees must be paid prior to signature. Mr. Balzarini seconded the motion. All voted unanimously.

The decision was signed by Chairman Petersen. Mr. Fudala announced that a representative from the company from which the radar could be purchased would be meeting with him and the Police Chief. It was confirmed that Linda Lubelczyk would be in contact with the Board of Selectmen regarding the request for additional stop signs.

SPECIAL PERMIT

Applicant: Southport on Cape Cod

Location: Leisure Green Drive North, Southport

Request: Approval of site plan for Phase III Buildings 11-16

Ron Bonvie was present to request a site plan approval for the construction of six buildings within his special permit of 750 homes. Mr. Bonvie indicated that Mr. Rowley had reviewed the plans for the six buildings which would be located on Leisure Drive and would include two five-plexes, two three-plexes, two four-plexes. Mr. Rowley indicated that, due to grading and drainage issues, the original larger plan had been divided into two pieces. Board members reviewed the plans. Mr. Bonvie indicated that homes on Leisure Drive had been sold. The other portion of the original plan was still being engineered. Mr. Fudala will develop a decision to be signed at the next meeting. Mr. Rowley added that the grading for the other five buildings and contours of the driveways were considered and recommendations made to ensure that grading went around the buildings. Other drainage issues were also considered and Mr. Rowley summarized specific recommendations to address any issues. Mr. Rowley indicated that there were no drainage issues at Leisure Green Drive so the plan was separated out. Mr. Fudala inquired about the leaching pit, rip rap and a walking path and Mr. Bonvie responded that it was a natural meandering shell path. Mr. Fudala recommended that it be slightly relocated so walkers would not trip on large

stones and Mr. Bonvie indicated that the Conservation Agent would determine its final location.

MOTION: Ms. Waygan made a motion to accept the plans dated March 18, 2014 as presented. Mr. Kooharian seconded the motion. All voted unanimously.

Chairman Petersen signed the plans.

BOARD ITEMS

Old Business

Discussion of Greenways Proposal and Surrounding Commercial Property-Ms. Waygan reviewed the Planning Board website and recommend usage of "links" in order to include information about the Greenways. There were also links referencing the Mashpee Commons Development Agreement which Ms. Waygan recommended removing from the site. Mr. Fudala indicated that he would be in contact with IT about updating the site. It was noted that the Town Clerk page offered the most up to date documents.

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

Design Review Committee-Mr. Cummings reported that the Lawrence Gravel Pit was expected to be purchased by PA Landers. Mr. Fudala noted that there was consensus that the uses were still permitted, though it would be finalized by the Building Commissioner. Mr. Fudala also announced that Mocean in Mashpee Commons wished to rent out kayaks, surfboards and canoes and was in possession of a permit from 1994, which may no longer be valid. The roof top sign was not allowed.

Environmental Oversight Committee-The Chair reported the possibility of changing the meeting night.

Historic District Commission-No update

Charter Review-Ms. Waygan reported that a public hearing would take place on Monday, May 12 at 6:30 at Town Hall. Comments may also be forwarded to the Town Manager's office. There was discussion regarding changes to the Board of Health and Town Clerk.

Community Preservation Committee-Ms. Waygan reported that there were no applications received for the April 1 round. The next round was likely to be due in October. Mr. Fudala inquired about the Littleford parcel and Ms. Waygan indicated that the applicant was advised to contact the Affordable Housing Trust and a land use attorney regarding access to the lot prior to resubmitting an application.

New Business

Budget Status- Mr. Fudala reported that there would be insufficient funds remaining in the engineering budget, approximately \$1000, which would not carry through the remainder of the year. Mr. Fudala contacted the Town Manager regarding a transfer of funds from the Finance Committee and based on an estimate from Mr. Rowley of approximately \$2,140 to carry through to the end of the fiscal year. Ms. Mason believed that the meeting would take place at the end of May and sufficient funds were available to pay for the current April invoice. Should the meeting fail to result in additional funds, there would be an additional mechanism to transfer funds for the May and June invoices.

C. Rowley Expense Vouchers-An invoice in the amount of \$190 for Southport services was received for April. Another invoice was received in the amount of \$917.50 for regular services in April 2014.

MOTION: Mr. Balzarini made a motion to pay \$190 for the Southport inspection. Mr. Kooharian seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to pay the bill for Mr. Rowley for \$917.50 for the April inspections 2014. Mr. Kooharian seconded the motion. All voted unanimously.

The vouchers were signed by Board members.

CORRESPONDENCE

-WhiteWater, Inc. – March 2014 SouthCape Village WWTP Discharge Report, N=6.1

-Keegan Werlin LLP – NSTAR Electric Notice of Adjudication / Notice of Public Comment Hearing Tuesday, May 6, 7 pm at Mashpee Town Hall regarding exemptions from the Mashpee Zoning By-law requested from Mass DPU for substation expansion at 21 Orchard Road

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted

unanimously. The meeting adjourned at 9:18 p.m.

Respectfully submitted & drafted from recording,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS

- Marshall McStay Email Regarding East Way Name Change
- Mike Richardson Letter Regarding Bayswater Development
- Glen Harrington Letter to Bayswater Development
- Charles Rowley May 2 Definitive Plan Review of The Cottages at New Seabury
- BSC Group Response to Charles Rowley Definitive Plan Review of The Cottages at New Seabury
- Charles Rowley May 7 Letter Responding to BSC Group Response
- BSC Group Response to Charles Rowley May 7 Letter Responding to BSC Group's Initial Response
- Mashpee Fire Department Joel Clifford Email Regarding The Cottages at New Seabury
- The Cottages at New Seabury Definitive Subdivision Plans
- Brian Wall Packet Regarding BCDM Development
- Costa Associates Existing Road Improvement Plan
- Brian Wall Email Regarding Easement
- 8 Blue Castle Road Easement
- Special Permit Decision for Ockway Highlands