

---

## Planning Board Minutes 07-03-2013

### Mashpee Planning Board

#### Minutes of Meeting

July 3, 2013 at 7:00 p.m.

Waquoit Meeting Room, Mashpee Town Hall

Approved 8/7/13

**Planning Board Members Present:** Chairman George Petersen, Mary Waygan, Dennis Balzarini, Joe Cummings,  
**Also Present:** Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer

**Absent:** Joe Mullin, David Kooharian

### CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Petersen at 7:15 p.m. on Wednesday, July 3, 2013 without a quorum.

Ms. Waygan made an announcement that she was serving as the Planning Board representative to the Charter Review Committee and had distributed the Charter and survey to Planning Board members for comments, particularly Sections 1 and 2. Packets were made available to the public and Ms. Waygan confirmed that a link to the Charter and the survey was available on the Town's website. Ms. Waygan also referenced the 14 lots from the Town Meeting Petition Article that was available in Board members' packets.

At 7:25 the meeting was officially opened with a quorum and the Pledge of Allegiance was recited.

### APPROVAL OF MINUTES—June 5, 2013 & June 19, 2013

Approval of the minutes were deferred since a quorum of attending members was needed.

### PUBLIC HEARING

#### Public hearing regarding approval of name change for a private way at Willowbend from "Postage Stamp Road" to "Eagle Court"

The Chair read for the record the public hearing notice and indicated that a request had been received for a continuation to July 17. Ms. Waygan stated that she would not be in attendance at the July 17 meeting.

**MOTION: Ms. Waygan made a motion to continue the public hearing to July 17<sup>th</sup> at 7:10 p.m. Mr. Balzarini seconded the motion. All voted unanimously.**

Residents were in attendance who expressed concern regarding the name change. Mr. Fudala recommended that they contact Clay Nicholson regarding for the name change, due to safety reasons. Mr. Fudala will review the files to locate any historical reference to "Eagle Court."

### PRELIMINARY SUBDIVISION PLAN

**Applicant: Federal National Mortgage Association c/o Cotuit Solar LLC**

**Location: 36 Savanna's Path / Trinity Place**

**Request: Review and approval of 1-lot preliminary subdivision plan and road designs (continued from June 19, 2013)**

Mr. Rowley indicated that the request did not comply with the regulations for a preliminary plan and recommended that more discussion was needed with the applicant regarding the proposal. Mr. Rowley stated that the plan did not show a cul-de-sac, which would be needed to turn around for any street that was dead-ended. However, if the road was extended toward Sampsons Mill, it would be extinguished if the road was extended and constructed.

Additionally, there was no explanation submitted to address the drainage. Mr. Balzarini inquired about the easement and Mr. Rowley stated that the drainage easement line on the plan did not provide an explanation about drainage plans. Ms. Waygan recommended that the project engineer consult with Mr. Rowley.

Joe Heckler of Cotuit Solar stated that the plan was being considered by three Mashpee Boards. The request for a

variance had gone to the ZBA but a subdivision modification was needed before the ZBA could provide their decision. Mr. Heckler believed that the site plan had the drainage details and had been provided to the ZBA. Mr. Fudala stated that a layout and lot line was being created and a piece of the definition of the layout was missing.

Mr. Rowley indicated that he had received no details regarding the site plan and recommended that the additional information was necessary in order to be in compliance with Planning Board regulations. Mr. Heckler stated that he would follow up with Mr. Rowley.

Regarding the cul-de-sac, Mr. Heckler stated that Design Review had determined that, if the road was extended to Sampson's Mill Road, the cul-de-sac could be eliminated. Mr. Fudala stated that Savanna's Path existed to the building on the plan but the end of the pavement needed to be tied into the dirt road. Mr. Fudala suggested the possibility of the road being gated for emergency access only. Mr. Rowley pointed out that the cul-de-sac was a requirement of the regulations and standard feature of a dead end street but that the Planning Board could grant a waiver if the applicant so requested and provided reasoning for it in the application.

Mr. Fudala stated that the Planning Board that the Preliminary Subdivision Plan was filed on June 5 and had 45 days to act. Mr. Fudala stated that the Board could approve the request, approve it with conditions or deny it with reasons. If approved with conditions or denied with reasons, the applicant could still return with a Definitive Subdivision Plan meeting the conditions or resolving the reasons.

**MOTION: Mr. Balzarini made a motion to deny with the reason for the driveway with no cul-de-sac and no drainage plan, and to finish the definition of the new layout being created.**

There was continued discussion regarding the cul-de-sac and Mr. Rowley emphasized that eliminating the cul-de-sac would not resolve the issue of individuals needing to turn around. Mr. Heckler indicated that he would like a waiver from that aspect of the Subdivision Bylaw. Chairman Petersen advised Mr. Heckler that he would need to provide a good reason and explanation for the waiver. Mr. Heckler stated that he would follow up with Mr. Rowley to discuss options available to him, such as a "T" or change to the layout line.

**Ms. Waygan seconded the motion. All voted unanimously.**

#### **SPECIAL PERMITS**

**Applicant: Windchime Point Condominium**

**Request: Permission to remove certain trees. Review of arborist reports. Report on June 15 site visit, decisions taken and additional Board action required.**

Ms. Waygan and Mr. Fudala participated in the tree walk and Ms. Waygan stated that she would forward her report and photographs to Planning Board members. Mr. Fudala noted that Windchime's arborist had submitted information, but Ms. Waygan had requested more detail and recommendations for replacements. Ms. Waygan noted that she needed feedback from Planning Board members because some of the trees had initially been identified to be saved previously. Mr. Cummings will forward Windchime's contact information to Ms. Waygan for follow up.

**Applicant: Southport on Cape Cod**

**Location: Southport Phase III**

**Request: Signature of Final Site Review Plan decision for Southport Phase III, Section 3 (approved June 19, 2013)**

Board members signed the decision.

**Applicant: Southport on Cape Cod**

**Location: Southport Phase III, Buildings 52, 53, 54 & 55, also Buildings 64 & 65**

**Request: Report on June 24 "tree walk", recommended decisions regarding trees to be retained at Buildings 52, 53, 54 & 55 and recommended removal of previously-preserved trees between Buildings 64 & 65**

Mr. Rowley stated that due to the change in grade, there were very few trees that could be saved and it was noted that the trees being removed would be replaced. Three trees were identified, a 5 inch pine located between buildings 52 and 53 and two oaks (6 and 9 inch, marked #8269) located between buildings 52 and 51. Mr. Rowley stated that Mr. Bonvie had reported that he installed 15 additional trees, typically spruces or small deciduous trees.

There was discussion about touring Southport in the fall. Mr. Rowley confirmed that Mr. Bonvie agreed to install construction fence along the buffer with Algonquin but between the buildings and the fence line, the briars would be removed.

**MOTION: Ms. Waygan made a motion to accept the recommendation of the Town Planner and the Planning Board Engineer to require Southport on Cape Cod to retain the three trees in the area of buildings 51, 52 and 53; the one tree between 52 and 53 which is a 5 inch pine and the two trees between 51 and 52 which are 6 to 9 inch oak. Mr. Balzarini seconded the motion. All voted unanimously.**

## **DISCUSSION**

### **-Proposed October TM Zoning Bylaw Amendment Article Regarding Medical Marijuana Treatment Centers**

Mr. Fudala referenced Health Agent Glen Harrington's correspondence supporting the bylaw. Town Counsel also provided correspondence that the bylaw was compliant from a legal perspective. Correspondence was also received from the ZBA. Mr. Fudala indicated that the DPH would likely regulate the number of facilities allowed in each town as only 35 facilities would be allowed in the State. The Police Chief had endorsed the bylaw. Mr. Fudala reported that Selectman Cahalane made two suggestions to Mr. Fudala for the bylaw; prohibiting a facility from within 500 feet from a public or private kindergarten, primary or secondary school, park or playground as well as possibly adding nursery schools and places of worship. Planning Board members were in agreement with the change.

Mr. Fudala read through the proposed bylaw and explained various aspects of the bylaw. Mr. Fudala pointed out that if there was not a dispensary located nearby, marijuana could be grown in the home, though all must be registered, with background checks completed by the DPH, and would not be regulated by the Town. Mr. Fudala noted that there could be two separate structures, a center/dispensary, as well as a growing location, but that both would need their own special permit and located in an I-1 industrial zone. Ms. Waygan inquired about gymnasium or dance studios also being located in I-1. Mr. Rowley inquired about buildings with several bays and the amount of weight existing tenants would have to deny a medical marijuana facility and Mr. Fudala responded that the abutting owners would receive notice of a public hearing, but legitimate reasons would need to be expressed since the centers had been authorized by the State. There was discussion regarding smoking regulations for Mashpee. A public hearing was anticipated for September.

**MOTION: Ms. Waygan made a motion to authorize the submission of the Article with the changes suggested by Selectman Cahalane. Mr. Balzarini seconded the motion. All voted unanimously.**

## **BOARD ITEMS**

### **Old Business**

**Discussion of Greenways Proposal and Surrounding Commercial Property**-Ms. Waygan reported that she had compiled an email list of meeting attendees and would be sending an email to inquire about the best time to schedule a meeting. Ms. Waygan anticipated scheduling a meeting in the fall.

### **MMR Military Civilian Community Council-Update of MMR Joint Land Use Study**

Mr. Fudala stated that a consultant had met with him about overall development of the base, including a possible MassDevelopment take-over of the water and wastewater utilities. Additionally, there was consideration of a private developer taking over the housing. There was also a possible design for connecting the roads between Falmouth and Bourne while avoiding the secure areas. There may be industrial development on the base, related to the military.

**Design Review Committee**-Mr. Cummings reported that there were no meetings.

**Community Preservation Committee**-Ms. Waygan had no update

**Environmental Oversight Committee**-The Chair had no update.

**Historic District Commission**-Mr. Balzarini reported that there was no quorum at the meeting so the applicant, Town of Mashpee, received a hardship certificate in order to complete their work updating the Archives and adding the public restrooms. The Committee reorganized so that Earl Mills was elected Chair and Brian Hyde was elected Vice Chair.

**14 Parcels of Town-owned Land and Proposed Uses**-Two lists from members of the Affordable Housing Committee were provided in Planning Board members' packets. Mr. Fudala reported that, at the Land Committee meeting it was stated that the Planning Board was not the agency with the authority to deal with the issue, but that it was the Board of Selectmen. Ms. Waygan stated that she had been in touch with the Planning Board's Board of Selectmen liaison for months regarding the concern about the land. Ms. Waygan suggested that it was important for the Planning Board to make recommendations on the lots. Mr. Fudala reported that attendance at the Town's Land Committee meeting included Selectman Cahalane, Town Manager, Assistant Town Manager, Mr. Fudala, Town Assessor, Berkeley Johnson from Affordable Housing Committee. Selectman Richardson and Chuck Gassier were unable to attend. Mr. Fudala stated that the working group decided to submit three articles for the October Town Meeting Warrant and planned to submit one article per parcel. The three articles for October would include 147 Lovell's Lane for conservation, 108 Orchard Road and 68 Strawberry Avenue for affordable housing. Mr.

Fudala will work on updating his 5-6 page spread sheet of available parcels by January. Additionally, Mr. Fudala would be researching parcels held by the Town that lacked deed references.

#### **New Business**

**C. Rowley Expense Vouchers**-Invoices were received in the amount of \$522 from Southport and \$332.50 for Planning Board services.

**MOTION: Mr. Balzarini made a motion to pay the invoices for Mr. Rowley's service. Ms. Waygan seconded the motion. All voted unanimously.**

Planning Board members signed the voucher.

#### **WATERWAYS LICENSES**

-William Ferner and Diana Leccesse to construct and maintain ramp, float and pile in the Mashpee River at 44 Barbary Circle

#### **CORRESPONDENCE**

#### **ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Ms. Waygan seconded the motion. All voted unanimously. The meeting adjourned at 8:40 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary  
Transcribed from audio tape

#### **LIST OF DOCUMENTS**

- Savanna's Path Preliminary Subdivision Plan
- Windchime Provided Tree Description
- Medical Marijuana Article
- Glen Harrington Email Regarding Medical Marijuana
- Board of Health Meeting Format Regarding Medical Marijuana
- Town Counsel Email Regarding Medical Marijuana
- ZBA Email Regarding Medical Marijuana
- May 2013 Lands Info & Recommendations
- Land Usage Summary
- Berkeley Johnson Memorandum to the Town Manager
- FAQ Massachusetts Rivers Protection Act
- Coastal Community Planning & Development Training
- Mashpee Charter Review Committee Survey
- Mashpee Charter