

Town of Mashpee

16 Great Neck Road North, Mashpee, MA 02649
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Planning Board Minutes 08-21-2013

**Mashpee Planning Board
Minutes of Meeting
August 21, 2013 at 7:00 p.m.**
Waquoit Meeting Room, Mashpee Town Hall
Approved 9/18/13 4-0-1

Planning Board Members Present: Chairman George Petersen, Mary Waygan, Dennis Balzarini, Joe Cummings
Also Present: Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer
Absent: David Kooharian, 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, August 21, 2013 and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES—August 7, 2013

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

DISCUSSION

Ms. Waygan reported that she, Mr. Balzarini and Mr. Fudala attended the Board of Selectmen meeting. The BOS unanimously approved and recommended the proposed bylaw amendments that would appear at October's Town Meeting. Mr. Fudala anticipated that the public hearing for the Zoning Articles would take place during the first meeting of October.

MOTION: Mr. Balzarini made a motion to schedule the public hearing for October 2 at 7:10 p.m. Ms. Waygan seconded the motion. All voted unanimously.

No business had been scheduled for the September 4 meeting, and in consideration of Rosh Hashanah, it was decided that the meeting would be canceled.

MOTION: Mr. Balzarini made a motion to cancel the September 4th meeting of the Planning Board. Ms. Waygan seconded the motion. All voted unanimously.

SPECIAL PERMITS

Applicant: Windchime Point Condominium

Request: Permission to remove certain trees. Review of additional arborist reports, June 15 site visit, decisions taken and additional Board action required. (Continued from August 7)

Mr. Petersen will contact Windchime again regarding the need for the additional arborist report.

MOTION: Mr. Balzarini made a motion to continue Windchime Condominiums, regarding the trees, to September 18th. Ms. Waygan seconded the motion. All voted unanimously.

APPROVAL-NOT-REQUIRED PLAN

Applicant: Mashpee Commons LP

Location: Between Route 151, Route 28 and Jobs Fishing Road, identified on the Mashpee Assessors Maps as Map 74, Block 20

Request: Signature of a 2-lot plan adjusting lot lines of existing lots approved 6/11

Chairman Petersen read for the record the request and Mr. Fudala confirmed that the fees had been paid. Tom Bunker of BSS Design represented Mashpee Commons regarding their request to readjust the lot lines of 11 and 12

in order to create three lots, although seven lots would be created for banking purposes. Lot 11 would be divided into lots 13, 14 and 15. Lot 12 would be divided into lots 16 and 17. Lots 16 and 17 would be combined to create lot 19 while 15 and 16 would be combined to create lot 18. The final lots would consist of 14, 18 and 19 and 19 would be the same size as 11. It was stated that a note beneath the signatures would indicate that the lots would be compliant with Zoning Board requirements.

MOTION: Mr. Balzarini made a motion to accept Approval-Not-Required for Mashpee Commons, LP, as presented. Ms. Waygan seconded the motion. All voted unanimously.

Chairman Petersen signed the plans.

PUBLIC HEARING

7:10 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 16 lot cluster subdivision

7:10 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 Definitive Subdivision Plan for a 16 lot cluster subdivision

Chairman Petersen read for the record the public hearing notice and opened both public hearings. Matt Costa, of Costa Associates, was present to describe the proposed 16-lot residential cluster subdivision located between Degross Road and Blue Castle Drive. Mr. Costa indicated that the development would consist of three parcels (14, 20, 13) combined to develop a project under the Cluster Zoning Bylaw. The proposal included an access road between Degross Road and Blue Castle Drive to provide adequate access, including a new lane to connect to Blue Castle and improve a section of Blue Castle Drive along the frontage of the development. The property was located in a Zone 2 recharge area, and an application had been submitted to the Board of Health. Parcel conditions would adequately serve septic systems and a nitrogen aggregation plan would be developed. Development of the parcels would require the maintenance of 66% open space and the applicant had filed with Natural Heritage. Density calculations were located on the plan but would require additional input from the Planning Board.

Mr. Costa indicated that waivers being requested were outlined in his letter.

-Minimum Width of Streets-The applicant requested a 30 foot road layout for the proposed access road and had taken appropriate slope easements across the necessary properties. The required 40 foot road layout would help to maximize open space and the utilities would fit within the road layout.

-Curb Radius-Due to the property line's intersection with Degross and the fact that parcel 49 was not owned by the developer, it would be difficult to build the radius at that location but instead curve the pavement by sliding the intersection north.

-Center of Pavement-The existing traveled way along Blue Castle meandered all over the road layout and on abutting properties. Additionally, an easement was taken by the Water District and was 5 feet off the property line. The applicant requested a waiver from the center of pavement requirement, but within the 40 foot road layout (excluding easements), because the applicant planned to relocate the pavement to match it with the existing traveled way for a seamless transition, as well as to minimize impact to the utilities.

-Minimum Grade-A .9% slope grade, in place of the 1% grade, was being requested but Mr. Costa felt that it would work itself out.

Referencing Mr. Rowley's August 5th letter, Mr. Costa indicated that he would continue to work on technical issues with him. Mr. Costa referenced the design sequence required by the cluster development regulations and stated that he had submitted four plans identifying the resource area, open space and building lots. Regarding density calculations, Mr. Costa pointed out that he calculated the density of the lots using decimal places, resulting in 9.27 lots, 12.76 and 2.3 to arrive at a total of 16 lots, though the use of whole numbers would result in 15 lots.

Mr. Costa suggested that the regulations did not specify whether decimals or whole numbers should be used and requested guidance from the Board since 16 lots versus 15 lots impacted the development both financially and physically. Mr. Costa pointed out that the regulations allowed a cluster subdivision with twice the area required by Zoning, which the developer owned and Mr. Costa discussed the area as a contiguous fee ownership. Mr. Fudala confirmed that the entire tract of land would be considered a cluster subdivision as one unit since contiguous land could be crossed by roadways. Additional items would be worked out with Mr. Rowley regarding stormwater, light impact development style and other design issues.

Mr. Costa indicated that the housing would be good-sized, single family style homes, comparable to the homes located at Blue Castle and Great Neck Road. A subdivision covenant would be established to address issues such as stormwater management, privacy and the maintenance of the aesthetics of the development, such as requiring similar light posts and privacy screening.

Mr. Rowley read for the record the regulations regarding the design process, suggesting that the required information was not included in the initial application, though Mr. Fudala just provided information to Mr. Rowley attempting to address the issues not previously handled. Mr. Rowley pointed out that the regulation intended for the cluster development to be unique, with the main features considering nearby wetlands or unbuildable areas and unique features to the site identified prior to drawing the final lot lines. The document submitted did not include any unique features and appeared not to take into consideration any alternate locations within the parcel to construct the homes. Additionally, Mr. Rowley referenced the total number of lots and the regulation that referenced the total being wholly divisible by the lot size, suggesting that decimals should not be considered. Mr. Rowley suggested that 15 would be the number of whole lots and noted that it was the first cluster subdivision considered for Mashpee. There was also discussion regarding the resulting affordable lot and extra lots as a result of the open space. Mr. Rowley added that the development of 15 lots in place of 16 would allow more space for better access and radius at the intersection of Degross Road and Ockway Lane, which may eliminate the need for the waivers.

Mr. Rowley recommended an interpretation by the Planning Board of the bylaw to determine the calculation for the lots. Mr. Costa described the calculation in detail to include 40,000 square feet allowing 12.76 lots; 50% open space required with every 40,000 square feet, doubled for a bonus lot, allowing 2.31 lots and 10 additional lots, with one affordable bonus lot allowing 16.07 lots. Mr. Rowley stated that it was a benefit to encourage developers to use the rationale as it would encourage increased open space. Mr. Balzarini responded that he would support the 15 lots, allowing the adjustments to correct the layout of the road. Mr. Costa indicated that he could achieve the re-alignment on to Degross with 16 lots and would prefer that it not drive the Planning Board's decision. Ms. Waygan stated that fractional lots were stretching the intent of the cluster zoning bylaw. Mr. Balzarini inquired about the 30 foot layout and Mr. Rowley indicated that it would be the standard but that it would have 5 feet on either side rather than the typical 10 feet. Mr. Rowley recommended a closer look at the topography, which could result in an adjustment to the road layout. Mr. Rowley added that relocating the road did not show stormwater run-off capture but that a reduction to 15 would allow a design to protect Degross from pavement run-off. Mr. Costa responded that he would address the run-off in the next round of plan revisions. Regarding the open space, Mr. Costa indicated that Natural Heritage required that they create as much open space as possible. Mr. Costa added that the density calculation required a ruling from the Planning Board and that the waiver for the road would have impacts to the open space. The Fire Department did not support the radius and Mr. Costa indicated that it would be re-designed in consultation with Mr. Clifford. Mr. Balzarini inquired about the house layout straight down the road and Mr. Costa responded that there was limited character to the area and the layout was developed to allow adequate space for access and the creation of marketable properties. Mr. Costa stated that the lots would be clustered and the homes would have a Nantucket-style feel, similar to New Seabury. Chairman Petersen stated that the wording in the regulation would have been different if the intent was to consider decimals. It was stated that Mr. Fudala review previous clusters to determine how calculations had been previously determined. Mr. Fudala will communicate the information to the Chair. Mr. Costa indicated that the Planning Board's decision regarding the calculation would impact their revisions and Ms. Waygan responded that Board members seemed to be in agreement regarding 15 lots but that they would research previous calculations. Mr. Fudala will review previous plans.

Chairman Petersen expressed concern about blended intersections, and the angle, and the confusion created about right of way. Mr. Costa stated that the minimum requirement was 60 degrees and that their intersection was 73 degrees, but planned to increase it closer to 90 degrees with the adjustment of the intersection. Mr. Fudala confirmed that the Board of Health approved the subdivision plan at their July 24th meeting. Additionally, minutes were provided from the Plan Design Review meeting regarding review of the subdivision. Chairman Petersen inquired whether there was any other configuration for the 16 lots and Mr. Costa responded that it was driven by the open space corridor and road frontage. Mr. Costa stated that adjustments would be made. Mr. Rowley inquired about whether the progressive study was acceptable. Mr. Costa stated that he had submitted an 11x17 set to include the property abutting resource areas, soils and non-priority historic habitat and Zone 2; the layout of open space; and the topography with building sites and property sheet. Mr. Costa could develop a fourth sheet working in cooperation with Mr. Fudala and Mr. Rowley. Mr. Rowley responded that the lots had been laid out in a linear fashion but suggested that there may be more options to make the layout more attractive with a closer view of the topography. Mr. Fudala stated that the original plan located all lots along Blue Castle Drive, but it was re-designed to create the open space corridor which the applicant had submitted to Natural Heritage. Mr. Fudala noted that there were constraints to the parcel since Blue Castle Drive was already in place. Ms. Waygan indicated her approval of the layout. Mr. Costa stated that he would clarify the plans regarding their sequence.

Regarding the Plan Design/Review meeting, Mr. Fudala reported that there was a request that the Planning Board require the developer to pave Blue Castle Road to Great Neck Road, a total of 2,200 feet with 900 feet along land of other property owners. Mr. Balzarini inquired whether property owners would share in the cost. The Town Manager also requested sidewalks and Mr. Rowley confirmed that it was in the Subdivision Regulations. However, there were presently no sidewalks on Blue Castle and there was discussion noting that the intent of the regulation would be that an entire neighborhood would feature sidewalks, not just one small area. Mr. Costa emphasized their effort to pursue light impact development and would pursue a waiver for sidewalks. Mr. Rowley indicated that the first part of the road seemed to be well maintained up to where the road would be paved. Beyond the area, the road became rougher. Ms. Waygan stated that Blue Castle appeared on the list of roads that would not be plowed by the DPW. Mr. Costa indicated that areas would be provided along the edge of the pavement for plowing spoils. Mr. Fudala stated that the Town would plow the street once it became an approved Subdivision Plan, but there was question regarding the area beyond the pavement. Chairman Petersen read the minutes from the Design/Plan Review Committee. It was thought that a request to pave the entire road would be beyond what was required of the Subdivision Regulations but that conditions could be placed on the Special Permit. Mr. Balzarini stated that it would not be reasonable for the developer to pave the road unless the homeowners shared the cost, since they would benefit from the improvement. Mr. Costa indicated that requiring the developer to pave the road may result in the cost being assessed to the homeowners, and stated that there had been legal findings supporting the developer. Mr. Fudala stated that the Design Plan Review continued the public hearing in order to seek the advice of Town Counsel regarding pavement of the road.

Chairman Petersen read for the record a letter from abutters to the development from Karen & Rick Walden regarding increased traffic and pavement of the road.

Abutter Ben Perry stated that he was opposed to the project, noting that his driveway was directly in line with the new road and feared vehicles crashing into his home. Mr. Perry also recommended utilizing the 16th lot for a cul-de-sac and additional emergency access gate on Degrass Road. Mr. Perry expressed concern regarding the speed of the traffic in the area and the use of the area as a cut-through. Mr. Perry supported the idea of the Town requiring that the entire length of the road be paved and a condition that his driveway be relocated with a boulder placed in front of his home for safety purposes. The general consensus from the public was that they were concerned that Ockway Lane, as presented, would attract greater traffic on Degrass Road. Mr. Perry emphasized the speed of cars using the area as a cut through. Mr. Balzarini inquired whether residents of Blue Castle wished to have their street paved, to which a resident responded that they did, but did not want to pay for it.

Timothy Dorsey, of Blue Castle Drive, stated that he, along with other neighbors maintained the road with plowing and repairing, adding that the width of the road was 10 feet. Mr. Dorsey expressed concern about the possible additional 20 cars that would be added to the road traffic. Mr. Dorsey felt that the developer could afford to pave the road.

Eric O’Ronald, a resident on Blue Castle Drive, stated that he had paid thousands of dollars every year to maintain the road and that the developers never contributed to the expense of the road despite an indication to do so. Mr. O’Ronald stated that the road would stop 1/3 of the way in front of his property. Mr. O’Ronald supported the developer’s right to their business but felt that the current residents should be treated fairly.

Linda Labelzic was a resident of Tracy Lane and Degrass, and whose son was hit by a car in 1986 when he was 6 years old. Ms. Labelzic expressed concern about the increase in traffic since that time. Ms. Labelzic also lost a dog to a driver cutting through the neighborhood. Ms. Labelzic expressed concern that the roads had never been brought up to Town standards and that the new development would bring in additional traffic. Mr. Fudala stated that the Board of Selectmen took Tracy Lane to Degrass and Degrass to Red Brook as town roads in the 1970’s, but that they had not been brought up to Town road standards. Mr. Fudala added that a stop sign at the intersection would be a reasonable request of the DPW. Ms. Labelzic stated that there was an ineffective stop sign on Tracy but that it was not a 4-way STOP at the intersection. Chairman Petersen inquired whether the applicant would consider closing off the back of the road and Mr. Costa responded that the developers had a right to build off of the town road with suitable pavement and access, and did not feel that a cul-de-sac would fit in the area. Mr. Costa re-emphasized that the developer would have the legal right to assess charges for homes fronting on Blue Castle in order to pave the road. Ms. Waygan recommended that the case law be provided before placing a pavement condition on the Special Permit.

Dave Bilodeau, of Degrass Road, agreed that traffic was too fast for the road and expressed concern about the

addition of 16 homes on postage-stamp sized lots and inquired where visiting cars would be parked given the narrow street and short driveway. Mr. Bilodeau noted that the development sounded similar to a seasonal area such as the New Seabury neighborhood, but unlike the existing neighborhood. Mr. Bilodeau expressed concern about increased, fast traffic, the strain on the environment of 16 homes being located on 10,000 square foot lots and the density compared to the existing more private neighborhood.

Joanne Dorsey, of Blue Castle, stated that sharing the cost for pavement of the road would create a hardship for residents, who received betterments for the water line just two years ago. Additionally, some residents currently paid to maintain their road. Ms. Dorsey expressed frustration that the developers did not pay for the road, nor did they pay for the water line since the property was owned by the Town at the time. Ms. Dorsey also noted that she opted to purchase her home in the area for privacy and so as not to be restricted by the rules of a subdivision. It was Ms. Dorsey's opinion that the developer should pave the entire length of Blue Castle Road.

Wayne Reed, of Blue Castle Drive, expressed concern about the development and noted his preference that the homes be situated on larger lots. Mr. Reed also stated that the developers should pave the entire length of Blue Castle Road and discussed the maintenance of the road that currently occurred 3-4 times per year.

There was a question regarding emergency access and residents recommended that Planning Board members drive the road for information purposes. Mr. Fudala confirmed that the Fire Department had not completed their review of the plan and were awaiting the radius.

Kevin Bino, of Blue Castle Drive, expressed concern about the design of the new development, such as 7 lots on 2.5 acres of land, in relation to the existing neighborhood. Mr. Biner suggested that the developer should have contacted the abutters for feedback.

Mr. Rowley inquired whether Degross had been posted for speed and the public responded that it was posted for 35 mph. Mr. Rowley noted that paving the road would also require consideration for stormwater, grading, widening the road and the removal of trees to do so and would require a reasonable plan. Mr. Fudala added that the road was not located within its legal layout in many places, requiring movement in some areas. Mr. Costa stated that the developer would be paying the access to their development, as required to certain standards, and would be above the existing condition, suggesting that homeowners on that portion of the road would likely use that road. Mr. Costa stated that the developers were doing their part to improve the area of the road in front of their lots and that it would be a major undertaking to pave the additional 990 feet with substantial clearing and excavation and a total realignment with Great Neck Road.

James Bino, of Blue Castle Drive, expressed concern about the lack of communication between the two parties, suggesting that issues could be resolved with improved communication. Mr. Bino also questioned threats regarding costs to improve the road and suggested the possibility of looking into the issue for further discussion. Mr. Bino also expressed concern about lack of details regarding the homes to know that area property values would not be negatively impacted. Mr. Bino recommended that Board members travel Blue Castle Drive. Mr. Bino questioned the practicality of stopping pavement in the middle of the road and suggested that it would have been beneficial if the developers had been available at the meeting and recommended that they participate in future meetings. Mr. Costa stated that all required details related to design specifications had been submitted to the Board. Mr. Balzarini indicated that he was leaning toward having the entire road paved but inquired whether the public understood the impact of doing so. Members of the public expressed consent and residents were aware of the potential for drainage easements and loss of property due to the re-alignment of the road. One resident indicated that fire hydrants were far off the road due to the Town's intent to eventually bring the road up to proper layout of the road. Mr. Balzarini recommended that Mr. Costa speak with the developers regarding the public comment and pavement of the street. Mr. Fudala pointed out that three undeveloped lots existed on Blue Castle and three homes had been illegally constructed. Ms. Waygan recommended that Mr. Costa submit cost estimates to pave the road to the Planning Board for consideration by the Board and the public. Ms. Waygan recommended outreach on the part of the developer with residents and encouraged the residents to acquire copies of the plan in order to be informed. Mr. Costa stated that, though he was not the developer, as the engineer he would be available to meet with residents.

Ms. Waygan inquired whether abutters located between Great Neck Road South and the proposed development had been informed of the hearing. Mr. Fudala stated that anyone within 300 feet of the development received the abutter's notice. Mr. Costa confirmed they used a certified 300 foot abutter's list. It was possible that three abutting owners did not receive the notice and Ms. Waygan asked that Mr. Fudala reach out to the property owners. Archie Barns, Blue Castle Drive, expressed concern about his neighbors and noted that the entrance to Blue Castle

was on his property though the correct layout of the road was located on the front lawn of a newly built home.

MOTION: Mr. Balzarini made a motion to continue both public hearings to September 18 at 7:30 p.m. Ms. Waygan seconded the motion. All voted unanimously.

Ms. Waygan encouraged residents to attend the next meeting or submit their comments to Mr. Fudala prior to the meeting. Mr. Rowley recommended that Mr. Costa not focus on too much detail for the next meeting and indicated that he would work with Mr. Costa to resolve some of the issues. . .

Meeting became inaudible until the crowd dispersed.

BOARD ITEMS

Old Business

Discussion of Greenways Proposal and Surrounding Commercial Property-No update

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

Design Review Committee-Mr. Cummings shared the design from Mashpee Commons featuring retail space on the first floor and office space above. Design Review requested that parking be re-considered and reminded Mashpee Commons that they must also review the signage if it faced the street.

Community Preservation Committee-Ms. Waygan reported that the Board of Selectmen did not recommend additional funding to the Mashpee Housing Authority or funding for the HVAC system at the Boys & Girls Club. Both articles were removed from the Town Warrant.

Environmental Oversight Committee-Mr. Fudala stated that Mike Talbott attended the Board of Selectmen meeting to discuss the Cape Cod Commission's DCPC in relation to fertilizer usage on Cape.

Historic District Commission- No update

Charter Review-Ms. Waygan will be attending an upcoming meeting. Ms. Waygan reported that the Town Clerk had recommended that the Associate Member position on the Planning Board be changed from elected to appointed, as was originally intended. Any comments regarding the Charter should be forwarded to Ms. Waygan or indicated on the Charter Survey.

New Business

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

Cape Cod Commission Email-Mr. Fudala stated that two groups had been circulating emails in opposition to Cape Cod Commission activities. It was not known if the individual who forwarded an email to the Planning Board was a Mashpee resident and did not respond to Mr. Fudala's inquiry. Ms. Waygan confirmed that the email was being circulated among Planning Boards in other towns.

Planning Board Meeting Quorum-There was question regarding Mr. Mullin's attendance at meetings in order to meet quorum. The Chair had not yet received a response so will draft a letter to send to Mr. Mullin regarding his plans. Mr. Fudala stated that a recall was the only way for an involuntary removal but the Chair was interested in learning about Mr. Mullin's plans.

Quashnet Valley Subdivision-Mr. Rowley referenced the 2002 plan and 6 foot catch basins, now typically 4 feet, and asked Ron Gangemi to submit a letter from the manufacturer stating that 6 foot basins were no longer available. Mr. Fudala stated that the Planning Board could vote on the issue upon receipt of the letter.

WATERWAYS LICENSES

None at this time

CORRESPONDENCE

- Board of Health, Memo regarding conditional approval of Ockway Highlands subdivision
- Cape Cod Commission, Notice of 8/29/13 hearing regarding proposed amendment to Chapter H, Municipal Application for Revisions to DRI Thresholds
- Cape Cod Commission, Letter to MEPA regarding Proposed Popponesset Bay Shellfish Grant
- Cape Cod Commission- Notice of 8/21/13 hearing regarding proposed Cape-wide Fertilizer Management District of Critical Planning Concern

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Ms. Waygan seconded the motion. All voted unanimously. The meeting adjourned at 9:46 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS

- Costa Associates Proposal to Subdivide 12.09 Acres
- Charles Rowley 8/5 Letter Re: BCDM LLC Cluster Subdivision
- Fire Inspector Joel Clifford Letter Regarding Ockway Lane Roadway Layout
- Design/Review Minutes Regarding Ockway Highlands
- Karen & Rick Walden Letter Regarding Ockway Highlands
- Section 208 Area-Wide Water Quality Management Planning Meeting-Tuesday, August 27 at Mashpee Public Library, sponsored by the Cape Cod Commission.
- Cottens and Carp Letter Regarding Medical Marijuana Dispensary
- Jobs-Whitings Trust Letter of Extension