



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

**Meeting of the Mashpee Planning Board
Wednesday, November 21, 2018
Waquoit Meeting Room, 7:00 P.M.**

Call Meeting to Order: 7:00 p.m. – Waquoit Meeting Room – Mashpee Town Hall

- Pledge of Allegiance

Approval of Minutes

- Review and approval of meeting minutes from **September 27, 2018 and November 7, 2018**

New Business

- Reschedule Board approved public hearings scheduled for 12/05/2018 to the meeting of 12/19/2018

Old Business

- Performance bond for remaining roadway construction on the Evergreen Subdivision roadway.

Chairman's Report

Board Member Committee Reports

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Greenways/Quashnet Footbridge, Historic District Commission, MMR Military Civilian Community Council.

Updates from Town Planner

-NONE-

Additional Topics (not reasonably anticipated by Chair)

Adjournment

**Mashpee Planning Board
Minutes of Meeting
September 27, 2018 at 7:00 p.m.
Waquoit Meeting Room, Mashpee Town Hall**

Present: Chairman Mary Waygan, Dennis Balzarini, Joe Cummings, David Weeden, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consulting Engineer

Absent: David Kooharian

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 the Chair, at 7:00 p.m. on Thursday, September 27, 2018. The Chair thanked attendees for coming and encouraged public participation. The Chair stated that the meeting was being videographed and recorded. The Chair welcomed attendees and asked that anyone addressing the Board do so using the microphone, stating their name and their business. All comments should be addressed through the Chair and the Board and a determination would be made whether comments would be heard by the Board, or taken under advisement. Due to the lengthiness of the agenda, public comment would be taken only during the Public Hearing, limiting speaking time to 3-5 minutes. Mr. Balzarini asked that speakers not repeat themselves. The Chair suggested that speakers state their agreement to a previous point made so that all public commenters could be heard.

The Pledge of Allegiance was recited.

Mr. Lehrer introduced Adam Henschel, Mashpee High School Senior, who spent the day assisting in the Town Planner's office.

APPROVAL OF MINUTES—July 18, 2018, August 1, 2018 and September 5, 2018
Minutes were not considered

PUBLIC HEARING

7:10 p.m. October 15, 2018 Town Meeting Warrant, Proposed Zoning Amendments

The appointed time having arrived, the Chair opened the Public Hearing and read for the record the Public Hearing Notice.

Before initiating discussion, the Chair reported that the Planning Board had been in receipt of a letter from Melinda Baker supporting a modification to Mashpee's Accessory Dwelling Unit Bylaw. The Chair noted that the item was not currently on the Warrant. The Chair stated that, should the Board reconsider accessory apartments, they would read into the record Ms. Baker's letter.

The Chair announced that Article 14 in the Warrant, Wireless Overlay District would have a Public Hearing on October 3.

The Chair referenced Article 9, a General Bylaw listed on the agenda, which did not fall under the jurisdiction of the Planning Board to hold a Public Hearing or offer a recommendation to Town Meeting. The Board would not be considering the Article.

Warrant Article 10: Marijuana Establishments-The Chair read the Public Hearing Notice for Article 10. It was clarified that the Article represented a cap of one establishment, 20% of Mashpee's alcohol licenses. Mr. Lehrer pointed out that, if the Town were to issue additional liquor licenses, it could increase the number of marijuana establishments. Written comments were included in the packet from Tom Fudala, but not Town Counsel or others. The Chair opened to public comment.

Simon Romancey inquired why the limit was one retailer, noting that 3% of sales could be collected from marijuana establishments compared to 0% of sales from liquor stores. It was Mr. Romancey's opinion that one store would create a monopoly. The Chair responded that the Planning Board did not submit the Article and was printed in the Warrant as it now appeared and suggested that the speaker could attend Town Meeting to ask for an amendment on the floor. Mr. Romancey responded that he likely would not, as he was not yet a registered voter, but suggested the success of the new industry could be better determined with more than one establishment.

Warrant Article 11: Signs-The Chair read the Public Hearing Notice for Article 11. Mr. Balazrini had no issue with the Article but recommended warning business owners first. Mr. Cummings also did not have issue with it and stated that there was a first warning built into it. The Chair reported that written comment was received from Mr. Fudala but no other written correspondence received. There was no public comment.

WITHDRAWN-Warrant Article 12: Seasonal Signs-The Chair read the Public Hearing Notice and announced that the Article had been withdrawn. Mr. Balzarini inquired about the reasons for withdrawal and Mr. Lehrer responded that a number of flaws had been identified in the Article, suggesting that it could be improved to become more beneficial to businesses and the community.

WITHDRAWN-Warrant Article 13: Mixed-Use Planned Development-This Article was withdrawn by the Board of Selectmen and, as a result, Mr. Lehrer explained that numbering of the Articles listed in the Public Hearing differed from the numbering of the Articles listed in the current Town Meeting Warrant, dated September 26 in a memo from Town Manager Assistant, Terrie Cook.

NOTICE Warrant Article 15/Warrant Article 12: Light Industrial Overlay District-The Chair read the Public Hearing Notice for Article 15/12. Mr. Balzarini expressed his support. The Chair reported that written comment was received from Mr. Fudala but no other written correspondence was received from Town Counsel or others. Board members were in receipt of the April 2018 minutes from the EDIC. The public was invited to comment.

Mr. Fudala stated that the existing version of the Article was better written than the previous Article. However, Mr. Fudala suggested a legal problem due to the advertising since Article 15 Draft 2 had been pulled from the Warrant, and two Articles were added to the Warrant, which could create a serious problem, adding that a brand new Article had been submitted September 11, which did not allow sufficient time to properly advertise.

Mr. Fudala indicated that he and Mr. Lehrer had discussed the Article further, following the last meeting, in order to incorporate his comments in to the new version of the Article. However, Mr. Fudala suggested the need to fix a conflict created by "Eating Places," in conflict with the Zoning Bylaw. Mr. Fudala suggested deleting Café Food Service and Outdoor Use Seating because of the conflict it created and deal with it in a future Zoning Article. Mr. Fudala suggested the likelihood that

the legal issue of removing the original Article may be a bigger concern and suggested the possibility of scheduling a Public Hearing before Town Meeting. There was no additional public comment.

Warrant Article 16: Raze and Replace-The Chair read the Public Hearing Notice for Article 16. The Chair reported that the Board was in receipt of a letter from Attorney Kevin Kirrane in support of Article 16, noting a change in the interpretation of the existing Bylaw. The Chair read portions of Mr. Kirrane's letter. Comments were also received from Mr. Fudala and the Chair provided copies of the May 2nd Planning Board minutes when Raze and Replace was first discussed with the Planning Board. The Chair also referenced correspondence dated August 27, 2018 between the Planning Board Chair and the ZBA, requesting that they address the concerns discussed about Raze and Replace. Though not included in packets, Mr. Lehrer reported that the ZBA decisions requested by the Chair were available for review at this evening's meeting. There was no additional written correspondence received, including from Town Counsel.

The Chair confirmed that she had asked that ZBA decisions be provided to the Planning Board to better understand what had been approved in the past. The ZBA provided decisions for 118 Waterway, 18 Shorewood Drive and 5 Cantor. Although requested, plans for the decisions were not available. Mr. Balzarini inquired why the Board would consider the plans and the Chair responded that the ZBA stated that they had done them for years and she had requested that they provide examples. Mr. Balzarini stated that he had shown Mr. Lehrer the area. The Chair invited public comment. Comment needed to be placed on hold to open the next Public Hearing.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing for Ockway Highlands Subdivision until 8:00 p.m. Mr. Weeden seconded the motion. All voted unanimously.

8:00 p.m. Ockway Highlands Subdivision, Discussion and Possible Action to Modify or Revoke Approval

The Chair stated that there were two public hearings for Ockway Highlands. The appointed time having arrived, the Chair opened the Public Hearing for Ockway Highlands Subdivision and read for the record the Public Hearing Notice. Another Public Hearing would also be opened to review the Special Permit and the Chair stated that all comments from this Public Hearing would be rolled into the next Public Hearing.

The Chair referenced the Special Permit Decision, as well as an inspection report, drafted by Mr. Rowley, dated September 25, 2018. Mr. Rowley summarized that the project had been going on for some time, with several inspections occurring over the last year regarding clearing along Blue Castle, Great Neck Road South and construction at Carriage Drive, including the need to address run off issues with hay bales. Mr. Rowley stated that a contractor had been hired to complete basic construction on drainage systems at Blue Castle Drive and Carriage Drive but construction ceased. Following the efforts of Mr. Virgilio, resident of Blue Castle Drive, to encourage the completion of the drainage work, additional work occurred at the intersection of Blue Castle Drive and Great Neck Road South. Mr. Rowley submitted photographs of the work, noting that it was still not complete and that the binder was placed on the road, a rolled berm on Great Neck Road South and hydro seed was necessary and there was evidence that there was some transfer of material within the drainage area that could impact the subsurface drainage systems. In addition, on Carriage Drive, Mr. Rowley expressed concern about the condition of that sub surface system. Mr. Rowley stated that activity was necessary in order to correct the situation by finishing the construction at Blue Castle Drive and Great Neck Road South. Regarding Carriage Drive, Mr. Rowley cautioned against loam and seed until the drainage system could be inspected, as with the Blue Castle drainage system.

MOTION: Mr. Balzarini made a motion to continue this Public Hearing for Ockway Highlands Subdivision to October 3rd at 7:30 p.m. Mr. Cummings seconded the motion.

CONTINUED October 15, 2018 Town Meeting Warrant, Proposed Zoning Amendments

The Chair reopened the Public Hearing for the Town Meeting Warrant, returning to Article 16 and beginning with public comment.

John Lynch, 25 Overlook Knoll, stated that he was opposed to Article 16. Mr. Lynch also expressed appreciation for the work of Mashpee's Boards and Commissions. Regarding Article 16, Mr. Lynch suggested that opponents were being painted as people against development or expanding homes, but stated that they were attempting to reach a balanced conclusion that worked for everyone. It was Mr. Lynch's opinion that Articles 16, 17 and 18 watered down protections for all. Mr. Lynch suggested that the issue came out of a request from a homeowner to sextuple the size of a home that would then need variances for setbacks, triggering a legal review of Raze and Replace. It had been determined that the common practice of the old ways were determined by Town Counsel to be illegal and improper. Mr. Lynch noted the appearance of Raze and Replace in the Spring, and the Planning Board's desire that there be meetings to discuss the issue further. The Article was then withdrawn from the Town Meeting Warrant and there had since been no meetings of interested parties. Mr. Lynch stated that the ZBA then presented three Articles, the new Raze and Replace which substantially weakened the zoning, making it easier to not meet the standards and allowing the Building Inspector to act at the beginning, removing the super majority. Mr. Lynch referenced Massachusetts zoning and nonconformities and the need to limit nonconformities. Mr. Lynch wished to work out issues to accommodate all ahead of time rather than in the courts, and expressed concern about septic and water issues. Mr. Lynch provided an outline of his remarks along with a petition signed by 55 residents and read the text of the petition, in opposition of the three Articles. Mr. Lynch stated that, of the 16 homes on this street, no one supported the Article and he was in possession of eight letters. Mr. Lynch stated that the Town Planner recognized and protected side yards and setbacks, with his Article, which was removed from the Warrant. Mr. Lynch provided the letters and petition to Mr. Lehrer to be scanned and forwarded to Planning Board members.

Donna McDonald, not a permanent resident of Mashpee, but a 16 year homeowner who bought their neighbor's home. Ms. McDonald stated that there were hardly any tear downs remaining. Ms. McDonald stated that they had already moved the home back from the road and done everything to conform, but it was a non-conforming lot. They hoped to become residents of Mashpee and had spent the money, were ready to build, but everything had been held up. Ms. McDonald stated that Mashpee was a beautiful town.

Hans Binks, 23 G Place, distributed information about Raze and Replace. Mr. Binks agreed that a plan was needed and the old regulations needed to change, but expressed concern about adjusting setbacks and preferred the existing checks and balances, stating his opposition to Article 16. Mr. Binks stated that there was a lack of green space, flooding issues, oversized homes, creating a ridiculous looking community with homes of all sizes and poor environmental issues with 3-5 bathroom homes being built in place of parcels with single bathroom homes. Mr. Binks asked that a new plan be developed.

Jill Dunn, full time resident at Greenswoods Circle, noted that she had purchased their home five years ago while seeking a thriving, multi-age, diverse community in which to settle. Ms. Dunn found herself concerned after the last meeting, anticipating homes would increase in value and allowing young families to grow in Mashpee, suggesting that growth should be supported or young families would

move elsewhere. Ms. Dunn stated that, when purchasing a property, the owner was investing their hearts and funds and should be able to improve their home adding that it should be a conversation among zoning, inspectors and the Town, not neighbors. Ms. Dunn expressed her opinion that the Town had done a nice job developing the Mashpee. Finally, Ms. Dunn suggested that residents impacted by the Article, should it not be passed, should be grandfathered because their investment would be harmed.

Christina Thomas, Shore Drive, referenced 132 Shore Drive West, stating its location in New Seabury and noting that the development had their own regulations. Ms. Thomas stated that she had a 70 year old home she wanted to replace because she was constricted by the 50% flood zone regulations.

Scott Goldstein, member of the ZBA, clarified that the intent of the Article was to better clarify the wording in order to continue to approve projects as they had in the past. Mr. Goldstein confirmed that they had never awarded a variance to allow a home closer to the lot line beyond its existing location. The Chair noted that concern had been expressed regarding the addition of a second floor and Mr. Goldstein responded that it would be within regulated height restrictions. Mr. Goldstein further stated that the Article impacted the entire Town, which represented 90% of the homes in Mashpee. The intent was not to increase the size of the home. Mr. Cummings stated that a second floor increased the square footage of the home but Mr. Goldstein pointed out that it did not impact the lot coverage. Mr. Cummings inquired about impacts to the septic and Mr. Goldstein responded that the advantage to tearing down the home would ensure that a new Title V septic system would be installed, an improvement over possible cess pools. Additionally, new construction would require improvements to address runoff issues.

The Chair acknowledged Alexander Joyce, land use planner for Bourne, to speak, who encouraged tabling the Articles to allow greater public debate and the Planning Board and Town Planner to review the Bylaws. Mr. Joyce stated that Zoning was intended to eliminate non-conforming structures and uses, or make it more applicable to zoning. Mr. Joyce stated that he had drafted a memorandum to the Board regarding Article 18 and the Chair stated that he could submit it during discussion of Article 18. It was Mr. Joyce's opinion that the Articles were all interwoven, adding that he had done lengthy research on Raze and Replace Articles, which required certain criteria to be met. Mr. Joyce recommended that Mashpee review other Cape Bylaws.

Lena McCarthy, Shore Drive, stated that she had been a condominium owner since 1984, and a summer resident for 53 years. Ms. McCarthy referenced her long time membership of Milford's Planning Board, and commended the Planning Board for their work and efforts. Ms. McCarthy felt that Raze and Replace would be acceptable provided all regulations were appropriately applied but questioned whether a new Zoning Bylaw was necessary. It was Ms. McCarthy's opinion that a homeowner should be allowed to make improvements as long as they complied with regulations, including not exceeding a 35 foot height restriction. Ms. McCarthy shared pictures of large homes located within the flood zone, noting that she could understand the frustration of abutters when they see such large homes being built. Ms. McCarthy asked that the Planning Board vote unfavorably toward the Article until there could be more conversations with neighborhoods, suggesting the development of a Committee to investigate the matter further. Mr. Balzarini responded that there were homeowners who were waiting to build their homes town wide.

Kevin Dunne, registered voter living at Greenwood Circle, noted that there were a number Mashpee homeowners speaking that were not registered voters. The Chair stated that she had not inquired about speakers' voting status. Mr. Dunne stated that he was interested in the economic impact of decisions

being made by the Planning Board, adding that people do not like others building on land that they owned, but that it was good for Mashpee tax collections and Mashpee Departments needing the tax revenues, such as the schools or emergency responders. As long as homeowners were compliant with Mashpee regulations, it was Mr. Dunne's opinion that the Town should be able to quickly clarify the rules.

Fred Naddaff, Overlook Knoll was recognized to speak and began referring to a prior speaker, but the Chair asked that speakers not name other speakers and to address the topic under discussion. Mr. Naddaff stated that he found it interesting that others were allowed to speak without disclosing their relationship. The Chair again asked that Mr. Naddaff to share his opinion about the Bylaw. Mr. Naddaff stated that the Article was intended to bring clarity to the existing Bylaw, adding that the existing Zoning had been working. The Article would provide discretion that they used all along and better clarified it, and would free up the homes that had been unable to move forward. Mr. Naddaff further stated that new homes over the years added millions of dollars to the tax base. A no vote would reverse the trend and reduce property values, and reduce tax revenue, impacting the Town's infrastructure. Mr. Naddaff further referenced future expense to the Town of Mashpee, such as sewerage. New homes were more energy efficient with a smaller carbon footprint and were safer with better systems. Mr. Naddaff suggested that a no vote would put Mashpee at odds with Massachusetts State law, which would open up the Town to potential and costly lawsuits. Mr. Naddaff emphasized that it was not a Popponesset issue but a town wide issue. Mr. Naddaff pointed out that the ZBA and Board of Selectmen were in support of the Article and asked that the Planning Board also support it. Finally, Mr. Naddaff stated that he found the Mashpee residents' use of the term, McMansion, derogatory and offensive, adding that the issue was about the entire Town and should not be about a small group of homeowners. Mr. Naddaff referenced his own project, stating that the Article was about the Town of Mashpee and not his project.

Norman Gould, ZBA member, confirmed that the regulation needed further clarification and was creating an embarrassment for the ZBA. Mr. Gould stated that he did not want what happened in Truro with the Klein home to happen in Mashpee. Mr. Gould asked that the Planning Board help the ZBA resolve the issue.

Tom O'Neil stated that he had spent 26 years in Mashpee as a resident and a business owner and expressed his pride in the community. Mr. O'Neil emphasized the importance of moving forward and not backward, in this community. It was Mr. O'Neil's opinion that Article 16 continued how the Town operated for many years, suggesting that the Article only clarified language. Mr. O'Neil stated that there were already numerous regulations in place. Mr. O'Neil discussed a similar scenario of neighbors in Lexington who expressed opposition to change. Regarding home size, Mr. O'Neil stated that each of the homes he had built were an improvement for all involved, citing examples of wastewater and energy conservation. Mr. O'Neil was in support of Article 16, noting that it impacted everyone in Mashpee. Mr. O'Neil suggested that people should be proud of others who could build larger homes and should support one another in the community.

The Chair noted that minutes from the May 2 meeting regarding this topic, had been provided to Planning Board members.

The Chair called for a break taken at 9:16 p.m. with the meeting reconvening at 9:25 p.m.

NOTICE Warrant Article 18/Warrant Article 17: Continuance, Extension or Alteration-
The Chair read the proposed Article. Comments were received from Mr. Fudala but no comments

were received from Town Counsel or other parties. A petition with at least 50 signatures was received opposing the Article. The public was invited to comment.

Mr. Fudala stated that the Notice did not reference any replacement, which was problematic for the Article. Mr. Fudala suggested that the biggest problem for the Article was that it would eliminate grandfathering for the majority of homes in Mashpee, due to the deletion of a provision. Mr. Fudala suggested that removal of grandfathering would create even more work for the ZBA through variances. There was discussion about the removal of grandfathering. As a result, it was Mr. Fudala's opinion that Article 16 was a terrible Bylaw.

Mr. Joyce was recognized and returned to speak, disclosing that he had represented Mashpee homeowners John Lynch and Jim Kelly and in opposition to a requested Special Permit/Special Variance Finding at the ZBA. There was further clarification that Kevin Kirranne represented Mr. Naddaff in that hearing. Mr. Joyce drafted a memorandum containing a survey of local towns and their regulations regarding non-conformities. The Chair asked that it be provided to Mr. Lehrer in order to be distributed to Board members. Mr. Joyce suggested that detriment was not sufficiently defined in Mashpee's proposed Article and recommended verbiage used by Falmouth, reading it aloud and recommending it be incorporated. Mr. Fudala stated that Mashpee provided the protections and questioned the relevancy of Mr. Joyce's memorandum to Article 17, suggesting that it was related to Raze and Replace. As a 33 year Mashpee Town Planner, Mr. Fudala added that he knew well the Town and State regulations.

Mr. Lynch noted that Article 17 made it easier to add onto a house that was already not in compliance and reduced the voting threshold and featured internal contradictions. Mr. Lynch was in agreement with Mr. Fudala's comments. Mr. Lynch further recommended that the Planning Board review the May 2 meeting for comments provided by Mr. Rowley and Mr. Gould. Greater clarification was needed for homeowners who wished to buy, sell or reconstruct their homes. There was clarification that Mr. Lynch's document was titled Continuance, Extensions, Alterations.

The Chair announced the intent to close the meeting at 10 p.m. and the likelihood of extending the hearing to October 3. The Chair further noted that the Planning Board had, again, been given insufficient time to address the Articles in a timely fashion.

NOTICE Warrant Article 19/Warrant Article 18: Setbacks from Water or Wetlands-The Chair read the Notice. Written comment was received from Mr. Fudala and the Chair noted that the October 2016 Town Meeting Warrant Article 19 dealt with the same issue, with different wording, and was discussed in the October 5 2016 Planning Board minutes. Mr. Lehrer reported that nothing was received from Town Counsel and Mr. Lynch confirmed that it was referenced in the submitted petition. The Chair opened for public comment.

Mr. Fudala stated that the Public Hearing Notice did not provide an explanation about the Article with proper notice. Mr. Fudala suggested that the Article submitted allowed for the setback of the wetlands to be determined by the Conservation Commission, which was illegal due to it not being allowable for setbacks to vary from lot to lot, based on opinion and an agency like the Conservation Commission, could not legally determine a setback. Mr. Fudala had previously provided a version of this Article that would be legally allowable. The Chair recommended that the previous Article from 2016 be reviewed along with the Planning Board minutes. Mr. Fudala added that there was no mention informing the public that the 50 foot setback was being eliminated by this Article.

Mr. Lynch was in agreement with Mr. Fudala and suggested that the 50 foot setback was a prohibition that protected wetlands and water lands and was different from the mandate of the Conservation Commission. Mr. Lynch felt that the Article presented many problems and suggested that it was illegal.

Mr. Naddaff stated that the petition submitted included 55 people from one neighborhood of a population of 15,000 in Mashpee.

There was no further public comment.

NOTICE Warrant Article 20/ Warrant Article 19: I-1 District Parking-The Chair read the Public Hearing Notice. There were no communications other than what was received from Mr. Fudala.

Mr. Fudala was recognized to speak, stating that a provision was established in 2003 to prevent ugly development in commercial districts, requiring that parking not be allowed in the front of buildings. It was Mr. Fudala's opinion that the ZBA did not like the provision and had been granting variances in their decisions to every industrial project, with no appropriate justification. Mr. Fudala stated that the Bylaw was adopted to improve the aesthetics of commercial and industrial areas and in conjunction with the Cape Cod Commission's design guidelines. It was Mr. Fudala's opinion that the ZBA was ruining the industrial zones, which would lead to lowering property values and discouraged an ability to create high class developments. The original October 2013 Bylaw had been submitted by the Board of Selectmen, the Planning Board and the ZBA together. Mr. Fudala further emphasized that the commercial areas were not hidden away and were in fact located on well-traveled streets.

Mr. Lehrer asked to be recognized and referenced the removal of the design guidelines as a potential infringement and stated that he would like to continue to work with the Planning Board to establish proper and good requirements regarding the Industrial Overlay. There was agreement from the Planning Board.

Mr. Cummings stated that Premier Auto body was lost due to the requirement of parking behind the building. Mr. Fudala stated that the plan did not meet Zoning requirements, presenting a plan engineered with parking in the front. There was discussion regarding the display of vintage cars in the front of one location which was allowed.

There were no additional comments.

NOTICE Warrant Article 21/Warrant Article 20: Deletion of Section 174-25 I(9) in its entirety-The Chair read the Public Hearing Notice. No communications were received other than from Mr. Fudala.

Mr. Fudala was recognized to speak. Mr. Fudala stated that there was no explanation in the Article that the Special Permits applied only to docks that crossed more than 70 feet of wetlands. The original Bylaw was established to provide control over extremely long docks. Mr. Fudala stated that elimination of the table resulted in eliminating the right to anyone in Town to have a pier or dock, making all docks non-conforming. Mr. Fudala had provided the appropriate revised language to fix the Article. The Chair responded that the Board had made the comment to the Board of Selectmen. There was no additional public comment.

WITHDRAWN-NOTICE Warrant Article 22: Swimming Pool Setbacks-The Board of Selectmen withdrew the Article.

NOTICE Warrant Article 23/Warrant Article 21: Mixed Use Planned Development (MPD)-As the citizen petitioner, Chairman Waygan left the table and chairing the meeting was given to Vice Chair Cummings. Vice Chair Cummings read the Public Hearing Notice. No communications were received, *including comment from Town Counsel. A letter from Mashpee Commons' Tom Ferronti had already been read.*

Mr. Fudala was recognized and stated that he wrote the Article one year ago, providing it to Chairman Waygan. For the record, Mr. Fudala stated that the Article was a result of discussions he heard while attending every meeting and visioning session with Mashpee Commons and incorporating aspects that would be amenable to the Planning Board, such as open space and affordable housing. Mr. Fudala clearly stated that in no way was his proposed Article a response to Mashpee Commons, but was an Article to assist Mashpee Commons with their plans for future development and submitted before Mashpee Commons' proposed FBC. Mr. Fudala suggested that there were some aspects that he would change but emphasized that it was never an anti-Mashpee Commons Article.

Ashley Fisher, Mashpee Shellfish Constable, supported the Bylaw as it coincided with the Mashpee Comprehensive Wastewater Management Plan and incorporated water quality measures reducing nitrogen to 3 mg/L, while also encouraging affordable housing and open space. Ms. Fisher added that the Environmental Oversight Committee also supported the Article.

Chairman Waygan returned to the table and announced her hope that Town Counsel would respond to a September 7 request for comments, related to two motions made by Selectman Gottlieb. Chairman Waygan stated that the Citizen Petition Article could not be withdrawn by her, except on the floor during Town Meeting.

Chairman Waygan stated her wish not to close the Public Hearing for vote until October 3 to allow the Planning Board to further consider tonight's comments and review submitted documentation and review additional comments from Town Counsel.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to October 3 at 7:45 p.m. Mr. Cummings seconded the motion. All voted unanimously.

ROAD TAKING

Discussion and vote on Warrant Article 22 to see if the Town will accept the layouts of Pierre Vernier Drive, Katian Way and Gunter's Lane in Pimlico Heights as public ways-The Chair stated that a vote would need to be taken before Town Meeting, so discussion should occur on October 3. Mr. Rowley confirmed that he had been in discussion with Ms. Laurent regarding the plans, noting that there was no mention of road monuments or bounds to identify the limits of the layout. Ms. Laurent would be following up with the engineer to have the bounds identified on the plan, if they had tied in to the monuments.

NEW BUSINESS

None at this time

OLD BUSINESS

None at this time

CHAIRMAN'S REPORT

The Chair reported that she had been in receipt of a letter from the Town Clerk regarding Massachusetts General Law, Chapter 268A, Section 23(b)(3), known as the Conflict of Interest Law, applied in cases of private financial interests or relationships. The Chair stated that she had neither, in regard to Warrant Article 16, Raze and Replace.

The Chair also reported that, on August 28, Mashpee Commons acknowledged receipt of the Planning Board's list of 25 items requesting additional information regarding the Mashpee Commons by Design expansion located at the rotary. An email was received today from Tom Ferronti of Mashpee Commons, confirming that they were working to coordinate answers that would be available at this time. The Chair read for the record the letter.

The Chair announced that the Town Meeting Warrant could now be found on the Town's website. Town Meeting will be held Monday, October 15 at 7 p.m. at the high school

BOARD MEMBER COMMITTEE UPDATES

Community Preservation Committee-A memo from the CPC had been received regarding Community Preservation Act funding in Mashpee. Information was not included in the packet but Mr. Lehrer would forward the information. The Chair noted that the usefulness of the funds and the Committee was being considered and ideas for projects would be considered.

Cape Cod Commission-No update

Design Review Committee-No update

Environmental Oversight Committee-No update

Historic District Commission-No update

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

Plan Review-No update

Greenway Project & Quashnet Footbridge-No update

PLANNING STAFF UPDATES

Launch of OpenCounter Zoning Portal-Mr. Lehrer reported that the Zoning Portal was now live and explained that the portal would identify the allowable use for each parcel in Mashpee, along with the appropriate department contacts. The site would assist Mr. Lehrer as applicants would be able to print out their specific needs, while also providing Mr. Lehrer with data identifying who was searching for what on the portal and identifying potential needs for zoning changes.

Administrative Secretary Vacancy Update-The posting would close tomorrow and interviews would begin in one week.

Affordable Housing Working Group Progress-An RFP draft was being developed for 950 Falmouth Road, with evaluation criteria. It was hoped that the RFP would be issued in January.

CORRESPONDENCE

-January 2018 Discharge Monitoring Report for South Cape Village N=5.60

-February 2018 Discharge Monitoring Report for Southport N=39.75

- March 2018 Discharge Monitoring Report for South Cape Village N=4.50
- April 2018 Discharge Monitoring Report for South Cape Village N=8.90
- May 2018 Discharge Monitoring Report for South Cape Village N=5.20
- June 2018 Discharge Monitoring Report for South Cape Village N=5.80

WATERWAYS LICENSES

None at this time

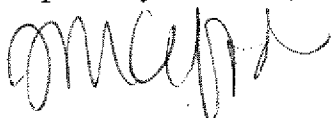
ADDITIONAL TOPICS

None at this time

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Cummings seconded the motion. All voted unanimously. The meeting ended at 1:25 p.m.

Respectfully submitted,



Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

- 9/15/18 Letter from Town Clerk Deborah Dami Regarding Zoning Bylaw Articles, Received 9/22/18
- 9/27/18 Email Response from Tom Ferronti, Mashpee Commons to Chairman Waygan
- 9/21/18 Email Correspondence from Chairman Waygan to Tom Ferronti, Mashpee Commons Regarding Planning Board List of Questions
- 8/1/18 Letter from Melinda Baker, South Sandwich Road, Regarding Accessory Dwelling Bylaw
- Planning Board Public Hearing Notice
- 9/26/18 Terrie Cook Memo Re: 2018 October Town Meeting Zoning and Road Petition/Taking Articles
- Tom Fudala Comments Re: 2018 October Town Meeting Zoning and Road Petition/Taking Articles
- 9/4/18 Kevin Kirrane Letter Regarding Article 16
- May 2, 2018 Planning Board Minutes Regarding Raze and Replace
- Raze and Replace Needs a Real Plan
- Public Hearing Notice for Ockway Highlands Subdivision Approval
- Abutters Notice of Public Hearing for Ockway Highlands Subdivision Special Permit
- Ockway Highlands Cluster Subdivision Special Permit
- 9/25/18 Charlie Rowley Letter Regarding Inspection of Ockway Highlands/Blue Castle Drive/Carriage Drive
- 9/25/18 DPW Director Catherine Laurent Memo Regarding Ockway Heights Subdivision
- 9/25/18 Letter from Attorney Jonathan Polloni Regarding Blue Castle Drive on Behalf of Ellen Brady
- 9/25/18 Letter from Attorney Jonathan Polloni Regarding Blue Castle Drive on Behalf of Duco Associates/Henry Barr
- Road Taking Plans

**Mashpee Planning Board
Minutes of Meeting
November 7, 2018 at 7:00 p.m.
Waquoit Meeting Room, Mashpee Town Hall**

Present: Chairman Mary Waygan, Dennis Balzarini, Joe Cummings, David Weeden, David Kooharian, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consulting 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 the Chair at 7:00 p.m. on Wednesday, November 7, 2018. The Chair stated that the Planning Board encouraged public participation and that the meeting was being videographed and recorded. The Chair welcomed attendees and asked that anyone addressing the Board do so using the microphone, stating their name, address and their comments. All comments should be addressed through the Board to the Chair and a determination would be made whether comments would be heard by the Board, or taken under advisement. The Pledge of Allegiance was recited.

APPROVAL OF MINUTES—September 27, 2018 and October 17, 2018

There was clarification that the October 3 minutes were approved at the last meeting and the Chair requested to hold the September 27 minutes for further review, due to their length. There were no comments regarding the October 17 minutes so the Chair asked for a motion.

MOTION: Mr. Balzarini made a motion to approve the minutes as presented. Mr. Cummings seconded the motion. 4 yes, 1 abstain

PUBLIC HEARING

7:10 p.m. Ockway Highlands Subdivision, Discussion and Possible Action to Modify or Revoke Approval (Continued from 9/27)

The appointed time having arrived, the Chair opened the Public Hearing for Ockway Highlands Subdivision and read for the record the Public Hearing Notice. There was discussion regarding the timeline of continuances, noting that the hearing had been noticed beginning September 19 for the original notice and scheduled for September 27, continued to October 3 and 17 and finally to November 7th. The Chair stated that the first Public Hearing would be regarding the Subdivision and all comments in the first hearing would be rolled into the second Public Hearing, regarding the Special Permit at 7:20 p.m.

Mr. Rowley reported that there had been substantial improvements to Blue Castle Drive since his last report, and included meetings with Mr. Morin regarding grading between the two paved areas. Mr. Rowley did not witness the grading or rolling, but he would review it tomorrow to inspect the thickness. During last week's inspection, it appeared that the amount of material in the roadway would be adequate. A revision was made to the location of the drainage ditch on the right hand side to create a more gradual transition from a 20 foot width pavement to a 16 foot width of gravel. The stone shoulder remained. Work was being completed on the left hand side of the road. In addition, work was being completed on Carriage Road, where Mr. Rowley witnessed that despite seeding, some erosion problems had occurred. To limit erosion Mr. Rowley recommended lining with jute netting. It was Mr. Rowley's opinion that Mr. Morin was making a good effort to grade Blue Castle between the

two paved areas, adding that he wanted to ensure that there would be a good crown to ensure proper water shedding. Mr. Balzarini inquired about what appeared to be a steep slope and Mr. Rowley responded that it would look steeper since it was typically ¼" but the exaggerated slope was needed to allow the water to shed off and reduce pothole degradation. Mr. Balzarini inquired whether the plow would scrape the crown and Mr. Rowley confirmed that the crown would need to be maintained. Mr. Balzarini inquired about the Blue Castle entrance with a berm on the left hand side only and the resulting runoff. Mr. Rowley stated that the pavement was pitched to the right so that runoff would enter the drainage area in front of Mr. Virgilio's home. Mr. Balzarini referenced Degrasse Road and a cover and Mr. Rowley responded that there had been a settlement of material and he believed it was an electrical manhole, not related to the drainage system.

Chairman Waygan referenced Mr. Rowley's September 25 written report and Mr. Rowley confirmed that Mr. Lehrer had incorporated details into the Special Permit Modification. Mr. Rowley noted that they were just one week away from the previously stated deadline of November 15 and inquired whether the Board wished to discuss removing the deadline or extend it further. Mr. Rowley added that Carriage Drive drainage, to be addressed in May 2019, would be fine. Mr. Rowley confirmed that substantial progress had been made since his last written report. The Board invited public comment.

Mr. Virgilio was recognized and confirmed that there had been a great deal of improvement and non-compliance issues were being corrected. Mr. Virgilio was in agreement that the maintenance of the crown in the road would be very important. Mr. Virgilio stated that the asphalt on the left hand side was not backed up and on the right side, the berm was not backed up. Additionally, Mr. Virgilio expressed concern about heavy equipment that could break up the area. Mr. Virgilio noted that more stone was needed in some areas to back up the washout and loam to back up the berm. Mr. Virgilio appreciated the efforts of Mr. Rowley and the Planning Board to work toward creating a good product that would last. Mr. Virgilio expressed his interest in being involved with discussion and an understanding of an established maintenance program.

The Chair recognized the developer, Mr. Morin, who agreed with Mr. Rowley's assessment of the conditions and work completed. Although Mr. Morin felt that the November 15 deadline was aggressive, he stated that the paving of the entrance and the berms had been completed to deflect water to the drainage area. The drainage area had been completed, but he was in agreement that it needed to be backed up, which he could complete before the weekend. Regarding the December 15 deadline for the gravelling of the roadway, Mr. Morin reported that they had added more than 45 tons of material, with regrading, addressing shallow areas. Regarding the May 1 deadline, Mr. Morin confirmed that the Carriage Road drainage areas had been graded, infrastructure completed and seeded, with grass growing. Some areas would need to be touched up due to some erosion issues. It was Mr. Morin's hope that action would be unnecessary due to the fact that issues had been addressed.

The Chair inquired whether Mr. Morin felt that he could meet the deadline for Conditions 1 and 2 and Mr. Morin responded that he believed that they had been met, except for small items. The Chair inquired about the manhole cover and Mr. Morin responded that it needed to be raised or swaled back, but he would review the issue further and make corrections. Mr. Morin was in contact with the DPW regarding entrance fencing and signage at the roadway. Regarding the bonding, he would be talking further with Mr. Rowley about the appropriate amount and attend one of the next two Planning Board meetings. Regarding the maintenance agreement, Mr. Morin stated that it would need to be developed prior to the conveyance of the lots with Association documents recorded. Mr. Morin intended to speak with the neighbors regarding potential paving, but he would need more information about drainage expectations and costs. Mr. Rowley confirmed that the Homeowners Association would need to be in

place prior to negotiating with other homeowners, as required by the Special Permit. Regarding drainage for the area, Mr. Rowley stated that Mr. Morin would need to develop an engineering plan, adding that the pavement should be 20 feet wide so that the whole pavement would be the same width from one end to another.

Mr. Lehrer stated that, in anticipation of the nearing November 15 deadline, the Board could choose to take action on the Modification by removing the deadline or replace with an alternative date, prior to execution. Regarding the maintenance agreement, Mr. Morin suggested that, should there be an agreement amongst the neighbors to pave the road, there would be no need to maintain an asphalt road. Although a 20 foot width would be preferable, there would be a cost factor to consider but it would ultimately depend upon the Planning Board.

Mr. Balzarini stated that he would offer an extension to Mr. Morin since he was making an effort to complete the work. Mr. Rowley stated that there was a December 15 deadline and suggested that the November 15 items (Condition Items 1 and 2) could be given that deadline to ensure the work was completed, much of which has already been completed. Item 3 would remain as a May 1, 2019 deadline. The Chair requested that Mr. Rowley's letter be attached to the Decision.

Mr. Balzarini inquired about the Homeowners Association and the collection of dues for repair work. Mr. Morin responded that he could initially set up a budget or reserve fund for infrastructure, but once the developer was removed from the process, it would be up to the Association to make decisions, who often times preferred to pay lower dues.

MOTION: Mr. Balzarini made a motion to close the 7:10 Public Hearing for Ockway Highlands Subdivision. Mr. Kooharian seconded the motion.

7:20 p.m. Ockway Highlands Subdivision, Discussion and Possible Action to Modify Special Permit (Continued from 9/27)

The appointed time having arrived, the Chair opened the 7:20 Public Hearing for Ockway Highlands Subdivision Special Permit and read for the record the Public Hearing Notice.

MOTION: Mr. Balzarini made a motion to roll all public comment and discussion from the 7:10 hearing into this hearing. Mr. Kooharian seconded the motion. All voted unanimously.

There were no additional comments offered.

MOTION: Mr. Balzarini made a motion to close the 7:20 Ockway Highlands Subdivision Public Hearing. Mr. Kooharian seconded the motion. All voted unanimously.

There was discussion regarding Special Permit Modification #1. It was determined that the deadline for Items 1 and 2 would be changed to December 15. The Chair asked Mr. Lehrer to carefully review Section III, Chronology to ensure all correct dates were included.

MOTION: Mr. Balzarini made a motion to approve Special Permit Modification #1 as amended. Mr. Kooharian seconded the motion.

It was confirmed that Mr. Rowley's inspection letter of September 25 would be attached to the Modification.

All voted unanimously.

Mr. Balzarini will return to Town Hall to be notarized and sign the Modification.

7:30 p.m. Road Renaming-Shields Road & Santuit Lane to Shields Avenue Extension

The appointed time having arrived, the Chair read for the record the request from the Mashpee Fire Department and the Public Hearing Notice.

Clay Nicholson, Mashpee's 911 Coordinator, reported that he had been contacted regarding an issue whether Shields Avenue was Shields Way. Mr. Nicholson inspected the area, finding no street signage and identifying Shields Avenue as such, per the Subdivision plan. While in the area, Mr. Nicholson identified a variety of issues, including left sided house numbering that included both odd and even numbers which was a non-standard practice that could cause an issue in emergencies, a two-sided one-way sign that could cause confusion and the lack of a DO NOT ENTER sign for the one-way road. The Fire Department also inspected the area and a plan was developed through the Address Working Group to mitigate the issues.

Mr. Nicholson explained the submitted maps of identifying the existing conditions with problem areas and the new proposed addressing plan. The public was invited to review the maps. Mr. Hansen inquired about the proposed numbering, specifically #91 suggesting an entrance across from #88 and Mr. Nicholson confirmed that the lot numbers were based on the location of the driveways. Mr. Nicholson noted that the purple areas represented a home intended to be razed by the current owner and the lot combined with another. The Chair read a letter stating existing similarities in the names of other roads and the potential for confusion, the issue of numbering and the confusion of the roads, including town owned road versus private road. A request had been received from the DPW Director to rename the entire road.

The Board invited the public to comment.

Mike Campbell, year round resident at Santuit Lane, agreed that there were issues that needed to be addressed. However, Mr. Campbell pointed out concern about the name change, noting, that there were similar street names in existence throughout the Town, suggesting that renaming the road to Shield Road Extension did not make sense for the area, adding that there were already three "Shields" named roadways. Mr. Campbell stated that Santuit Lane was the historical road name and represented a lot of history in the area. Mr. Campbell suggested merging all roadways to Santuit Lane, which would be the only so named, in Mashpee.

Donna Sewell, Santuit Lane, expressed her opposition to changing the name. Ms. Sewell stated that she had been involved with three emergency calls with no problems.

George Schmidt, Santuit Lane, agreed that the lack of signage was an issue, and noted that Santuit Lane existed long before the establishment of Shields Road. Mr. Schmidt suggested that there was

neighborhood consensus for the renaming to Santuit Lane. Historically, Mr. Schmidt stated that the area was the location of the original Wampanoag meeting house and camp area. Mr. Schmidt further noted that the Cotuit Fire Department had no difficulty locating his address for a fire at his home. Mr. Schmidt supported the naming as Santuit Lane, adding that personally, he would incur an expense due to recently ordered stationary. The Chair confirmed that Mr. Schmidt had submitted an email thread amongst the neighbors discussing the issue of renaming to Santuit Lane.

Susan Lindsay, Santuit Lane, supported renaming the entire stretch of roadway to Santuit Lane. Ms. Lindsay shared the history she learned about the area from long time neighbor and member of the Wampanoag Tribe, Bing Hollingsworth, who grew up hunting the area and knew the area as Santuit Pond and Santuit Lane. Ms. Lindsay was in agreement that signage and numbering required improvements in the interest of safety. Ms. Lindsay explained the way in which the existing numbering had occurred. Ms. Lindsay noted that there were no issues with Google Maps or FedEx deliveries or GPS. Ms. Lindsay was in favor of maintaining Santuit Lane.

The Chair inquired whether there was a neighborhood association and Mr. Schmidt responded that he served as Treasurer and Ms. Sewell served as the President. The Chair suggested that signage solutions would need to be paid for by the neighborhood and Mr. Schmidt confirmed that they were aware of that. There was discussion about property ownership of neighbor Mr. Richards, who indicated that he did not want Shields Road Extension.

Mr. Hansen requested clarification from the neighbors about their preferences, suggesting that they were in favor of renumbering but not changing the street name. Mr. Schmidt reiterated the personal expense he would incur from renumbering but that he understood the issues with the existing conditions and hoped that he could maintain #17.

John Phelan, Mashpee Deputy Fire Chief, confirmed that the Department has had difficulties locating homes in emergency situations. Mr. Phelan stated that the lack of sequencing in the numbering of the homes created a significant emergency situation and the street naming was less of an issue for emergency responders compared to the need for sequential numbering. The Chair inquired whether the Fire Department could sponsor a meeting with the Homeowners Association to identify a unified numbering system for each house, which Mr. Phelan responded that they could. Mashpee Fire Chief, Thomas Rullo, stated that his responsibility was to quickly locate the house, to respond to an emergency, and solve the problem.

The Chair referenced an email received from resident Suzanne Greenberg expressing her concern about the changes, but preferring the street name be changed to Santuit Lane.

The Chair invited Board members to comment. Mr. Weeden inquired about property #1/#91 with the Santuit Lane return and the possibility that frontage could be changed. Mr. Phelan confirmed that the driveway was at the back of the house. Further discussion should occur with the owner of the property. Mr. Cummings suggested that the proposed numbering was realistic, referencing the #1/#91 property.

Mr. Balzarini suggested that the house numbering be corrected while maintaining the street name of Santuit Lane. The Chair added the necessity of appropriate signage. Mr. Phelan noted that the 911 Coordinator was the decision maker regarding numbering but was confident that he would work with the neighbors. Mr. Nicholson inquired about the start of Santuit Lane and Mr. Schmidt referenced the town owned land that could remain as Shields Road, starting Santuit Lane at the intersection of the cul-de-sac but it was suggested by the Board that the entire length be Santuit Lane.

The Chair recommended continuing the Public Hearing to allow for the meeting between the homeowners and the 911 Coordinator and Fire Department. Mr. Cummings stated that there seemed to be consensus to change the street name to Santuit Lane, with the new numbering system. Mr. Lehrer suggested that the original noticing was to change the name to Shields Avenue Extension and therefore may require new noticing for the renaming. Mr. Weeden suggested consulting with Ms. Laurent regarding town road ownership and Mr. Lehrer responded that there was a list identifying town road ownership. The Chair asked that the hearing be continued to December.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to December 5 at 7:10 p.m. on the condition that the Homeowners Association, the 911 Coordinator and the Fire Department meet to come up with a plan and keep the Town Planner in the loop in case there was a need to re-advertise. Mr. Kooharian seconded the motion.

Mr. Lehrer summarized that if the meeting among residents, 911 and the Fire Department determined that the road name would be changed to Santuit Lane, they would notify him and he would re-notice the Public Hearing and the Chair would cancel the 7:10 Public Hearing.

All voted unanimously.

Mr. Lehrer suggested that the Board vote to hold a potential Public Hearing at 7:20 for a potential name change to Santuit Lane and Mr. Balzarini concurred. Mr. Weeden stated that it would need to be posted. Mr. Lehrer confirmed that he would do so tomorrow.

MOTION: Mr. Balzarini made a motion that Mr. Lehrer schedule the name change of Santuit Lane on December 5 at 7:20 p.m. Mr. Kooharian seconded the motion. All voted unanimously.

Mr. Hansen suggested that the town-owned lots also be addressed to accommodate the full extension of the road. Mr. Nicholson concurred. Mr. Lehrer will re-notice the neighbors. Mr. Campbell inquired about who would be responsible for plowing the road and Mr. Balzarini responded that the Town would maintain the Town portion of the road. Mr. Lehrer clarified that the Town-owned lots were likely deeded to the Conservation Commission but that rights to the roadway would not be deeded to the Conservation Commission so the roads would likely not be maintained by the Town without negotiation with the Conservation Commission.

NEW BUSINESS

Charles Rowley, October 2018 Services-An invoice in the amount of \$990 was received for services provided in October.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley \$990. Mr. Kooharian seconded the motion. All voted unanimously.

Discussion Regarding Shared Driveway at 659, 673 & 687 Main Street & Associated 8/6/10 Special Permit Decision-The Chair read the request. John Jordan, of 673 Main Street, was present for discussion regarding the requirement to expand the street from 16 feet to 20 feet. Mr. Jordan was in the process of applying for a building permit.

Mr. Lehrer referenced the 2010 Special Permit Decision with conditions, including the need to widen the driveway. Mr. Lehrer also referenced a letter from Mr. Rowley indicating the existing conditions at that time. Mr. Lehrer stated that he had nothing on file indicating that the Special Permit Decision was a fully executed document, which he wanted to discuss with the Board. It was evident that a decision had been made and conditions satisfied, but it was not attested by the Town Clerk following the 20-day appeal period. Mr. Lehrer had consulted the Registry of Deeds, Planning and Building Department records and consulted with Mr. Rowley. The Chair recommended following up with former Town Planner Tom Fudala. Mr. Jordan confirmed that lot 659 had been built so the Chair suggested the possibility that it would appear under 659 at the Registry of Deeds. The Chair suggested that the Town Clerk would have the document but Mr. Lehrer responded that she did not. Pending additional research, Mr. Lehrer suggested that Mr. Rowley be authorized to make an inspection. Mr. Lehrer will follow up with the Town Clerk to see if she would reissue the document.

Planning Board members concurred with authorizing Mr. Rowley to conduct an inspection. Mr. Rowley recommended reviewing items 2 and 3 of the Conditions, particularly in reference to the dwelling being located no further than 150 foot from a paved road and the requirement of a 20 foot wide pavement if there was no variance. Mr. Lehrer recalled that the driveway had been widened to 20 feet and Mr. Jordan agreed. Mr. Rowley stated that the driveway was created as an easement to avoid three driveways off of a very steep grade, with frontage on Route 130. Mr. Rowley referenced his letter at the time. The Chair suggested that an attorney involved may have additional information. Mr. Rowley suggested that there could be additional information in the file for the building permit for the last lot built. The Chair inquired whether the closing attorney had found anything in the title search and recommended looking for the recorded book and page.

Mr. Lehrer suggested the possibility of the Planning Board scheduling a Public Hearing to consider a shared driveway for the addresses, at an upcoming meeting. The Chair responded that there was already a 2010 decision but Mr. Lehrer responded that there were unanswered administrative questions. The Chair suggested seeking the advice of Town Counsel. Mr. Rowley recommended following up with the original owner of the land who would have received the original document.

MOTION: Mr. Balzarini made a motion to set a Public Hearing for December 5 at 7:30 p.m. Mr. Kooharian seconded the motion. All voted unanimously.

Request Lot Releases for Evergreen Subdivision Roadway-Mr. Lehrer summarized that the roadway at the Evergreen subdivision had been initiated and they were seeking bonding to complete the work. Mr. Rowley reported that the cost estimate included the work to be completed, with the exception of the binder course of paving that would be completed tomorrow and to be inspected by Mr. Rowley. The base estimate total was \$67,200 which at 50% would require a bonding total of \$100,800. The project proponent would notify the Board how they wished to bond the project at the next meeting, five lots were currently under agreement. Mr. Rowley stated that, if Evergreen provided the documentation ahead of time, the Board could approve it and release the lots at the next meeting.

The project proponent stated that they were seeking approval of the suggested amount. Mr. Rowley stated that a time would be established in which they would complete the necessary work to complete the project. Mr. Rowley added that a street sign would be needed. It was determined that Evergreen would attend the next meeting on November 21 as there was consensus that there would be a quorum of members to attend a 7 p.m. meeting. Mr. Rowley informed the project proponent that they would need to provide certified funds in the bank or a performance bond.

Request for Release of Covenant, 35 Fox Hill Road-Mr. Lehrer reported that Robert Bevilacqua submitted a certified letter requesting a Release of Covenant and inspection from Mr. Rowley. Mr. Rowley stated that there was already a Release of Covenant, believing that there was not a Covenant for 35 Fox Hill Road. Mr. Lehrer responded that he would follow up with Mr. Bevilacqua to clarify.

Request for Waiver of Special Permit Modification Application Requirements, Windchime Condominiums-Mr. Lehrer stated that David Bennett anticipated a potential modification with upgrades discussed previously. At that time, Mr. Bennett had requested modification to the groundwater monitoring program and an escrow fund as determined by the modification. Mr. Lehrer stated that, according to the minutes, it was determined that modification to the groundwater monitoring program should be done at the same time as the request for the release of funds and the upgrade of the wastewater treatment plant. Windchime's letter was requesting a waiver from the entirety of the Special Permit Application requirements, except for B1, B5, B13, B14 and B19. The project proponent has requested a hearing for the first meeting in December. Mr. Lehrer indicated that, under consideration today, was the waiver, in anticipation of the application.

Mr. Lehrer noted that the Planning Board would be waiving a copy of their recorded deed, site plan of existing conditions, plan of site within 300 feet, impact to Town services, property lines and street layouts, phasing of the project, locust plan, sidewalk and walkway plans, landscaping plans, proposed utility plans, building elevations, signage, site lighting, calculations of areas away from wetlands and provisions of open space.

The Chair inquired about Windchime's tree inspections and their current contact. Mr. Cummings noted that trees were marked in red ribbon, adding that Mr. Money was the contact. There was consensus that the waivers were acceptable.

MOTION: Mr. Balzarini made a motion to have a Public Hearing for December 5 at 7:40 p.m. Mr. Kooharian seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to accept waivers for all provisions under Section IV, Form and Content of Applications, with the exceptions of Sections B1, B5, B13, B14 and B19. Mr. Kooharian seconded the motion. All voted unanimously.

The Chair requested that Mr. Lehrer request an update from Windchime's Landscape Committee, to be presented at the Public Hearing. The Chair updated Mr. Lehrer with the way in which the Board had conducted tree removals with Windchime.

Design Guidelines for Light Industrial Overlay District & Solutions to Conflicting Sections of the Zoning Bylaw-Mr. Lehrer presented his proposal for the Board's consideration, including design guidelines, as a starting point. The Chair noted her preference that the Cape Cod

Commission's Architectural and Site Design Standards be referenced and asked that the item remain on the agenda.

OLD BUSINESS

Planning Board Memorandum to Community Preservation Committee-The Chair reported that she provided a summary to the Community Preservation Committee regarding the continuation of CPA funding, representing the ideas previously recommended by Planning Board members, with proposed amounts for the projects. The Chair explained the origin of the CPA funds that were in place until 2020, when Mashpee would be eligible to opt out. Selectmen Gottlieb, as Chair of the CPC, was seeking information regarding needs for CPC funds going forward, as the 3% surcharge could be removed in 2020. It was Mr. Balzarini's opinion that the funds were beneficial to the Town. The Chair agreed that positive impacts from the funding could be seen throughout Mashpee, such as playgrounds, the dog park, the splash pad, open space and Habitat for Humanity homes. Mr. Hansen stated that removal of the funds would limit the opportunities to fund special improvement projects for Mashpee. Mr. Hansen supported the continued funding versus lowering the tax. Mr. Kooharian agreed that it was important to invest in the place where they lived.

Board members discussed the Chair's memorandum and "associated surcharge." The Planning Board voted unanimously to recommend the continuation of the Community Preservation Program and the associated surcharge.

MOTION: Mr. Balzarini made a motion to authorize the Chair to submit this memo as amended. Mr. Kooharian seconded the motion. All voted unanimously.

Execute Willowbend Special Permit Modification #35, Approved 9/1/18-Signed by Planning Board members.

CHAIRMAN'S REPORT

The Chair reported that she had checked in with Tom Ferronti of Mashpee Commons, letting him know on November 3 that the Planning Board would be meeting tonight, and whether they had any materials to submit for consideration. The Chair read Mr. Ferronti's response indicating that Mashpee Commons had not yet completed their analysis, but stating that they would update the Town Planner with their progress and determine the appropriate time to return to the Planning Board.

The Chair stated that the deadline for submitting Bylaw changes for May, if the Board of Selectmen allowed it, would be February 11. The Chair expressed concern about another potential time crunch. Mr. Balzarini stated that if Mashpee Commons wished to work with the Planning Board, they needed to attend a meeting before January. The Chair would follow up. Mr. Rowley inquired whether they would be continuing to work with their prior FBC document or whether they would return with something new. The Chair responded that she did not know. Mr. Lehrer stated that it was unlikely they would start from scratch and that they would like to find a middle ground. Mr. Balzarini stated his opinion that their draft was likely written before they hosted their charrettes.

Mr. Hansen referenced the recently constructed 3-story building at Mashpee Commons, inquiring whether it met Mashpee's height requirements. It was noted that the project fell within a Chapter 40B project. Concern was expressed regarding the potential of a 5-story building at Mashpee Commons. Mr. Lehrer stated that the Planning Board would have control over whether or not they wished to see a 5-story building at Mashpee Commons. Reference was made to the 5-story building located in the Industrial Park in Hyannis. Mr. Lehrer stated that the Planning Board could dictate the terms of the

Form-Based Code. Mr. Balzarini stated that he had received multiple complaints regarding the height of the 3-story building located at Mashpee Commons.

Chairman Waygan recommended discussion with state legislators regarding the Town's or developer's inability to bear infrastructure costs for this type of development. Mr. Balzarini referenced the funds awarded to the 40B project that constructed the road which the Chair responded was from MassWorks. Mr. Rowley suggested that Jobs Fishing Road toward Route 28 was incomplete and the upgrades not complete. Mr. Hansen expressed concern about dangerous curbing in the area that needed an adjustment to the pavement striping.

The Chair shared the response she received from the Ethics Commission exonerating her from any suggested unethical behavior, which she distributed to all who had been in receipt of the original letter from the Town Clerk. It was confirmed that Board members could speak to their constituents.

The meeting calendar has been requested for 2019 and the Planning Board confirmed that they would continue to meet the 1st and 3rd Wednesdays at 7 p.m.

BOARD MEMBER COMMITTEE UPDATES

Cape Cod Commission-Mr. Weeden confirmed that the last of the technical bulletins had been reviewed by the subcommittee and the public comment period would soon be ending. It was the Chair's opinion that the RPP needed a little more bite and the performance measures should be returned to the Plan. Mr. Lehrer also referenced "Cape Cod Place Types" and the lack of clarity and criteria needed to identify the place types. Mr. Weeden responded that he would look into who would be identifying the place types.

Community Preservation Committee-The Chair stated that seven applications had been received to include the acquisition of the Tavares property, a running track reconstruction at the high school, a proposed basketball court at Attaquin Park, Community Garden reconstruction, construction of the Mashpee War Monument, transfer of funds to the Affordable Housing Trust and Armenian Church property acquisition for Affordable Housing.

Design Review Committee-Mr. Cummings reported that RCA Electrical Contractors attended regarding the building of two structures at 20 Evergreen Circle, off of Route 130. One structure would total 7,320 square feet and the other 2,400 square feet. The project proponent would be returning to make adjustments to the color and out of scale cupolas. Cape Cod Dog Center was a proposed brick building with parking in the front. Mr. Rowley stated that he had been asked to review both projects. Mr. Lehrer confirmed that the design was attractive for an industrial area but he did not like the site plan, adding that a bylaw was in place that did not allow for parking in the front of the building, adding his opinion that the short side of the building should front the street to allow for more attractive building massing. Despite his recommendations, the project was passed and Mr. Lehrer asked for the Planning Board's opinion on the project. It was noted that the ZBA would grant a variance to the Bylaw, and stated by the project's attorney. Mr. Rowley noted that variances needed to be a result of something unique due to the topography or shape of the lot, otherwise it should be dismissed. Mr. Lehrer would be attending the ZBA meeting.

Environmental Oversight Committee-No meeting

Greenway Project & Quashnet Footbridge-Ms. Laurent would be assisting with the bridge and the Chair asked Mr. Kooharian to take over the project and schedule the site visit.

Historic District Commission-No update

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

Plan Review-No update

PLANNING STAFF UPDATES

Administrative Secretary Update-An early December start date was expected pending further clearance

Zoning Amendment Proposals for Consideration at Future Town Meetings-Mr. Lehrer wished to start discussion on the issue. The Chair noted that she had asked Stephanie Cox to look at Mashpee's existing ADU Bylaw. Mr. Lehrer had drafted a similar Bylaw and the Chair responded that the existing Bylaw had already been approved. Mr. Lehrer inquired how best to share items with the Board and the Chair recommended that he bring concept to the Board, adding that typically Bylaw considerations were accepted in fall. Mr. Lehrer responded that he would develop a list.

Design Review Committee-Mr. Lehrer was working to develop a more structured way to review applications with review criteria for Design Review.

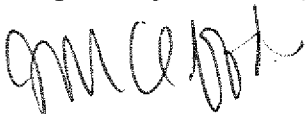
ADDITIONAL TOPICS

None at this time

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting ended at 9:50 p.m.

Respectfully submitted,



Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

- 11/6/18 Charles Rowley Invoice for Services Rendered October 2018
- 11/6/18 Mary Waygan Email to Andrew Gottlieb Regarding Community Preservation Funds
- Special Permit Modification #1, BCDM, LLC, Ockway Highlands Cluster Subdivision
- Public Hearing Notice Street Renaming of Santuit Lane & Shields Avenue to Shields Road Extension
- 10/27/18 Email from Suzanne Greenberg Regarding Santuit Lane
- Map Santuit Lane, Proposed Addressing
- Map Santuit Lane & Shields Avenue, Existing Conditions & Issues
- Map Shields Road Extension
- 7/20/10 Charles Rowley Letter Regarding 659 Main Street
- Special Permit Decision for 659, 673 & 687 Main Street
- Form D Covenant from Evergreen Energy LLC
- 11/7/18 Pastore Excavation Cost Estimate for Evergreen Circle
- Robert Bevilacqua Request Letter to Release of Covenant for 35 Fox Hill Road
- Robert Bevilacqua Check for Inspection
- 10/24/18 Windchime Condominium Trust Request Regarding Special Permit Modification
- Light Industrial Overlay Proposal
- 11/2/18 Mary Waygan Letter Regarding Ethics Commission Response
- 11/8/18 CPC Agenda

