



PLANNING BOARD
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PLANNING BOARD MINUTES

August 12, 2010
Ayer Town Hall
1 Main Street
Ayer, MA. 01432

In attendance: Mr. Glenn Garber (V. Chair), Mr. Peter Johnston, Steve Wentzell (Clerk)
& Mr. Mark Fermanian
Susan Sullivan/Office Manager

General Business:

7:10 PM Glenn Garber-V. Chair called the meeting to order.

- Sue Provencher/Community Development Survey

Sue asked if the Board had any questions regarding the survey that Dave Maher gave to them at their last meeting as she was there to collect the completed surveys.

The Board had not filled them out so Sue gave each another copy. They agreed to complete them and get them back to her next week.

Mr. Garber explained that Ms. Gibbons (Chair) was unable to make the meeting tonight as she contacted him to say she is on vacation. He further stated that he only found this out an hour ago and he was not sure why she had not contacted the Planning Board Office Manager, she should have.

7:15 PM Cont. Emily's Way Subdivision/ Off Groton Harvard Rd. and Webster Ave./ Definitive Plan

In attendance: Steve Mullaney (Engineer), Michael and Matthew Field (proponents)

Mr. Mullaney explained the subdivision consists of 11 lots on proposed Emily's Way and 3 on Webster Ave. extension.

Mr. Hamwey (Town consult/engineer) spoke regarding revisions and issues:

The vertical curve from Station 10+74.74 to Station 12+66.74 on High Street does not allow for adequate site distance.

Three foot wide planting strips are not shown on the plans [IV.A.2].

Wheel chair ramps are not shown at the intersection of Groton-Harvard Road and High Street Extension. Wheelchair ramps shall meet the requirements of the state AAB and the federal ADA.

Mr. Mullaney explained the newer subdivisions in town all have sidewalks abutting the roadway and they will follow Federal and State standards on wheelchair ramps.

The water lines will be at a 90 deg. angle a 3' radius bend will be provided as requested by Mr. Hamwey.

Manholes were agreed on.

Possible easement needed on lot 13

Street trees height –not a requirement

Grade may be low at Hudlin property and may have to be graded further for stormwater.

DPW and Fire Chief do not want a gate-this would reveal a 900' dead end.
...proponent leaving this up to the Planning Board.

Note: DPW today provided the 2009 sewer regulations to the proponent.

Street lights not a requirement and lanterns are proposed at each property's driveway
Suggested that the property at the end of the proposed Rd. on Groton Harvard Rd. be inspected by Conservation to determine if it falls under their jurisdiction.

Steve M. explained that the Planning Board provided plans to the ConCom for their comment and none has been given to date.

Mr. Garber opened up the Public Input:

-Mr. P. McGuanne stated the PB needs to determine if the regs from 2001 are in effect.
He is in favor of this project.

-Glenn explained the PB would have to look to Town Counsel for opinion, but would move forward.

-JulieAnne Govang/Groton Harvard Rd. agrees this project is huge and if it helps the Lucchesi's and brings up the property values then she is all for it. She also previously worked for Dumont Enterprises and her old boss Kevin looked at the plans and thinks the basins are a bit too narrow and feels if they were expanded then the project could work.

-Letter attached- (label A-1)

-P. Hughes thinks drainage is problematic

-G. Nonis/Brilliana Ct. does not like the gate although, thinks someone may use Rd. as a shortcut or park in front of the gate. He likes the idea of a cul de-sac instead.

-Cindy Noonan stated that delivery trucks park in front of the VOA on the Street.

-Ms Nehring read her letter/petition into the record:

August 12, 2010

*Ms. Jennifer Gibbons, Chairwoman, Ayer Planning Board
Ayer Town Hall
1 Main Street, Ayer, MA 01432*

RE: Abutter concerns regarding the Emily's Way Subdivision

Dear Ms. Gibbons and members of the Ayer Planning Board:

We, the undersigned, are writing to make known to your Board important questions and concerns described herein, regarding the proposed Emily's Way subdivision that directly abuts the Nashoba Park Assisted Living Volunteers of America Assisted Living facility (VOA). Our response relates to the June 28th Submission Meeting, the opening of the Public Hearing on July 8th and the site walk on August 5th.

We respectfully request your Board procure the services of professionals with specific expertise to respond to these (and any other) questions and concerns, such services to be paid for by the proponent under the Consultant Bylaw as approved by the Planning Board at your June 28, 2010 meeting.

This level of review will provide critical support in reviewing this difficult site, conformance with previously approved site plans on abutting properties, compliance with existing Ayer zoning bylaws, traffic safety and its impact on the adjoining neighborhoods, and the complexity of this site with regard to stormwater management both surface and subterranean.

Such services should consist of:

- 1 Civil engineer. Hamwey Engineering of Leominster. Already retained. Scope: to verify all calculations and assumptions by the proponent's civil engineer for the project on pre- and post-development stormwater design and its impact, and confirmation that lot sizes and road grades conform to Ayer zoning bylaws. See Addendum One for specific concerns.*

2. Geotechnical engineer. To perform site work to independently verify key data that delineates the project's pre- and post-development stormwater impact, especially as it relates to the effect of peak storms on both surface and subterranean groundwater.
Note: Dan Nason, Ayer DPW Superintendent and Hamwey Engineering have requested this as well. See Addendum Two for specific concerns.
3. Traffic engineer. To create an updated traffic study to include Groton-Harvard Road, High Street, Winthrop Avenue and Highland Avenue on the impact of the proposed through road at High Street. See Addendum Three for specific concerns.
4. Land Use Attorney. To review the project in order to determine if it meets town of Ayer zoning bylaws, is allowable with the previously approved abutting Site Plans, and if it meets other state and federal regulations for land use & water protection. See Addendum Four for specific concerns.
5. Request for Determination of Applicability (RDA) by Ayer Conservation Commission. To see if the outfall of the stormwater system at Groton-Harvard Road falls under Wetlands Protection Act jurisdiction. Hamwey Engineering has requested this as well. See Addendum Five for specific concerns.

The VOA has been a good neighbor and more importantly, provide a needed service for the elderly of our community. We are certain that your board would agree that any project that permanently affects that quality of life for area residents should be put through the most rigorous level of scrutiny, given the many legitimate concerns raised.

We look forward to working closely with you and thank you for your hard work and careful consideration of our comments and concerns.

Respectfully submitted: signatures

Addendum One: Civil Engineer. Scope of work to include but not be limited to:

- *Verifying all calculations and assumptions by the proponent's civil engineer, making sure that property dimensions meet the specific town bylaws, and that the grading of the road and driveways can be adequately addressed to meet local bylaws and state safety regulations.*
- *Confirming that calculations for stormwater management are correct and conform to peak storm events on surface water and impervious surfaces.*
- *If the installation of the 'security gate' is required, confirm the adequacy and legality of property dimensions, grading of the road and driveways, and especially the creation of a nonconforming dead-end road in excess of 500 feet are all in compliance with Ayer zoning bylaws & applicable state safety regulations.*
- *In winter, determining where the accumulated snow will go on the new "High Street" extension that is above station 900 to 1000 feet and beyond. This new road has been described to be cut into ledge that is up to 7 feet tall, appearing as a steeply sloped canyon, with no shoulder area to hold winter snow.*
- *Determining that if the developer insists that the end of the Webster Avenue extension is a conforming cul de sac, should it be required to comply with the subdivision regulation, requiring conforming street width (24 feet) and sidewalk (3 feet) as requested as one of the waivers for the project? Where will these 27 feet come from?*
- *Determining the impact on the VOA and other abutters' properties by making the Webster Avenue extension conforming. Parking for VOA requires special attention.*

Addendum Two: Geotechnical Engineer. Scope of work to include but not be limited to.

- *To determine this project's overall impact on stormwater runoff during peak storm events of rain, snow and ice on the entire property. Specific emphasis should be placed on the low-lying properties already subject to high water and flooding that are nearest to Groton-Harvard Road,*

on the Groton-Harvard Road itself (focusing on traffic safety), and the potential for impact in Fletcher's Pond.

- Fieldwork, including new test pits and borings to ledge, should be done verify proponent's data. Are the field measurements for existing subsoil to ledge conditions correct? We believe the depth to bedrock/ledge stated in the proponent's report is not adequate to have made this determination. This should be verified.
- Groundwater modeling should be independently verified to test the data, calculations and assumptions made by the proponent to determine stormwater impacts, detention basins sizing and groundwater flow and on the low-lying properties already subject to high water and flooding that are nearest to Groton-Harvard Road, including the abutting properties.
- Determine how the proposed blasting, grading and other extensive changes to the deeply sloped property, affect surface and groundwater runoff, especially during peak rain, sleet and snow storms.
- Determine if the stormwater retention basins are adequately designed to contain water during large storms. Are the lowest elevation basins adequately above (higher than) the groundwater elevations during peak rains to avoid overflow?
- Considering the shallow depth to bedrock and ledge and the 80% removal of vegetation at this site, determine if the assumptions for the proponent's stormwater model correct, And will protect resources during pre and post development.
- If the blasted ledge is reused to build the housing pads, determine what the effect of subterranean groundwater movement and potential for groundwater breakout at the lowest grades. (Blasted rock is highly permeable in comparison to the existing soils that will be removed).

Addendum Three: Traffic Engineer. Scope of work to include but not be limited to.

- Create an updated traffic impact study to include Groton-Harvard Road, High Street, Winthrop Avenue and Highland Avenue impacts during peak traffic times of both rush hour and when the VOA experiences peak traffic. The focus should be on safety, emergency access for VOA residents and the residential neighborhood (which includes 2 certified day care providers on High Street).
- This should be done assuming the proposed gate is not installed (or not functional) so that full potential impact can be assessed, and compared to if the gate is installed. Whether or not a gate is required, we believe the project should be assessed as if a gate were NOT there, since there is no guarantee in the future that it will remain closed.
- How will this project then affect vehicular traffic through the High Street neighborhood?
- Will it become a commuter by-pass during peak traffic periods to get to the Ayer Schools, Park Street, Groton, and all towns north of Ayer?
- Parking spots will be lost on the Nashoba Park site. How will the re-grading on High Street and the re-configured of Webster Avenue impact the previously approved parking spaces for the VOA? Is the proponent legally allowed to do this?
- If VOA parking spaces are lost, how will this impact the surrounding neighborhood? Will the family and friends who visit the VOA be able to find adequate parking nearby?
- Will there be adequate handicapped parking available?
- If there is a locked gate at the top of the "High Street" extension, how will large vehicles (moving vans, oil delivery trucks, snow plows, emergency vehicles) turn around when driving up from Groton-Harvard Road up to the top of the proposed road, where it terminates at a gate? Again, there are special concerns in the winter with snow accumulation.
- Under either proposal (with and without the gate) will access for emergency vehicles (fire, police, ambulance) be in any way impacted for the 72 Assisted Living Residents, and by either the two certified day care homes on High Street? Will someone's life be at stake because of inadequate emergency access to the VOA, or to the Day Care facilities?
- We are especially concerned about the winter, with snow build up at the top of High Street, where plows currently are not able to plow adequately because of the 15%+ incline on High Street. (Note, currently, there are daily visits by EMS responders to the VOA and snow piles have already been blocking driveways at the top of High Street.)

Addendum Four: Land Use Attorney. Scope of work to include but not be limited to.

- Investigate the complex history and legal ownership of Webster Avenue's right of pass and re-pass. There is a need to determine what is actually and legally allowed under current use and ownership and how it impacts previously approved Site Plans for abutting properties.
- Determine if the creation of a conforming cul-de-sac off of a nonconforming access street at Webster Avenue (with a width less than 24 feet wide and 3 foot sidewalk as requested by the proponent through a waiver to the Ayer Subdivision Regulations) is allowable once the right of way issues are resolved.
- Determine if the re-grading of High Street on the upper section violates the previously approved Site Plan for the VOA (approved by the Ayer Planning Board in 2004) where it will create an estimated loss of up to 7 parking spaces. Can the proponent legally eliminate parking areas that were formerly approved for the VOA, and can they re-grade this large area?
- The developer's civil engineer stated that the extension of High Street adjacent to the VOA was not on the MEMS property, and so is not subject to subdivision regulations. If the developer is proposing to extensively re-grade this area, should it be included as part of the subdivision?
- The developer's civil engineer stated that any alteration to the VOA Site Plan (approved in 2004) as it affects the High Street extension could be modified without the VOA's consent. Is this an accurate statement, considering the direct impact on the VOA, which in turn, impacts the neighbors?
- Determine whether a locked gate at the top of the High street extension is allowable under Ayer Zoning Bylaws and state highway regulations for dead-end streets. This is with regard to its impact on turnaround of large vehicles, snow removal etc. without a conforming 120 foot max diameter Cul-de-sac, considering that the High Street Extension would then be well in excess of the 500' maximum allowable length for the road for a dead end street.
- If there is no gate and through traffic is approved, determine if it is legal to allow such an impact on a quiet, residential neighborhood. In 1999 a project that created through traffic by use of a High Street extension to Groton-Harvard Road was rejected by the Planning Board.
- Care and maintenance of the detention basins is essential for the management, treatment and purification of the expected stormwater runoff. Can a "Neighborhood Association" be legally mandated to do this?. If so, is this actually effective in managing, in perpetuity, the stormwater impacts this area is prone to?

Addendum Five: Ayer Conservation Commission RDA Scope of work to include but not be limited to

- Review potential for impact of untreated stormwater runoff might impact Fletcher's Pond coming from the last 100+/- ft of the proposed new road, and from overflows from the lowest elevation stormwater retention basins.
- Determine how stormwater runoff, which might flow directly into Fletcher's Pond through a storm drain (and possibly indirectly, as surface run off) from the project affect pond ecology?
- Determine if the drainage area directly across (east) Groton Harvard Road from the Luchessi's house is a Wetland Resource Area? This appears to be a drainage route created by the storm drainpipe.

Additional Considerations

- What will the impact of blasting, increased vehicular traffic, density of housing, and loss of the natural view-shed have on the VOA's 72 elderly residents?

-Janet Provadakes questioned the grade again on the school roadway and why it was closed?

Peter Johnston explained his belief was that it was not designed properly for the busses.

-P. Hughes submitted his comments as follows:

August 12, 2010

Ms. Jennifer Gibbons, Chairwoman, Ayer Planning Board
Ayer Town Hall
1 Main Street, Ayer, MA 01432

RE: Need to hire competent consultants to review the Emily's Way Subdivision

Dear Ms. Gibbons and members of the Ayer Planning Board:

The previously read "Ayer Residents letter of concerns regarding the proposed Emily's Way Subdivision" was submitted for distribution electronically to the Planning Board on Tuesday August 10 so as to allow sufficient time for Board Members to familiarize themselves with those concerns. I trust you all found time to read it.

At this point we are 35 days into the Public Hearing process at which significant questions have arisen requiring review by creditable consultants and to date we only have one under contract. We are 56 days from the point of submission and only have a remaining 56 days till the required 90 day review period is up unless an extension is granted to hire consultants, get up them up to speed, hear their reviews and ask questions of them.

It is still troubling that in spite of 65 days being allowed under our bylaws from the point of submission till the required first opening of a public hearing, the scheduling of the first Public hearing was only 21 days after the point of submission so some how we have lost an additional 44 days during which these reviews could have been ongoing or at least creditable consultants hired before the opening of the public hearing obligates the town to the 90 day review period. So why would the board need this level of review?

Lets us be clear that information presented by Mullaney Engineering is "Their Opinion" of many of the interpretations they have presented for a difficult and complicated site with complex interpretation of rights of passage bylaws etc, designed to favor the developers view. Clearly, an exhaustive review regarding those interpretations and the hiring of consultants to counsel the Planning Board will aid in making a determination critical to whether this is a viable or non conforming project that would withstand an appeal should it be rejected for cause for any one of the many previously presented concerns.

But one thing that Mullaney Engineering has repeatedly stated (more or less) was given the state of the Ayer Zoning bylaws; how was my client to know what was required?

My answer to that is given what was presented as the concept for the Emily's way Project at the April 1st Planning Board meeting; How about actually presenting what you proposed to build? The loop road dead end is not even allowed under Ayers Zoning Bylaws and the way it is laid on the site, transecting the steep cliffs is not even buildable. The questions I ask are; Why wouldn't you present a concept plan that looked like what has been submitted as a Definitive plan? Why not take the step of submitting a Preliminary plan to demonstrate good faith that a significant change is what will be submitted as a Definitive plan rather than obligate your Client to all the expense of a comprehensive Definitive Submission that has generated so many questions and concerns and looks nothing like the concept plan submitted?

I urge the Planning Board to hire these additional consultants as soon as possible to answer the many troubling questions this submission has generated.

Respectfully submitted

*Patrick Hughes
27 Groton-Harvard Road.
Ayer MA 01432*

Mr. Hughes stated that Crabtree was a huge expense for the town due to Planning Board approval.

-Bob Beerbaum/VOA asked that people leave their residents alone and please stop soliciting signatures etc. from the residents. He would like the Planning Board to please make sure the integrity of the building (esthetically) not be compromised. He is in favor of a gate.

-Daphne Cooke/Highland Ave. not in favor of project and would like the proponent to provide granite markers at each corner of the property.

-JulieAnne G. stated that in response to Mr. Hughes' comments she did get a copy of the original plan and it was her understanding from the meeting on April 1st that PB Chair Jenn Gibbons suggested the thru way to Highland and that the proponent didn't *just come up with a different plan for submission* as stated.

-Mr. Hughes stated –true.

-Laurie Sabol stated that traffic is an ongoing issue and she feels it will be worse for the children and elderly.

-Mr. George Hines asked if Mr. Lucchesi was allowed to come before the Planning Board as a former member or if this is unethical and should be reported.

-Cindy Noonan stated possibly reporting to ethics board in Boston.

-Mr. Lucchesi stated that the assumption of “collusion” is absurd. He and his wife are simply selling their house to the developer.

-J. Callahan stated there are many ambulances and fire apparatus that visit the VOA on a daily basis. He is against the project.

Planning Board Input:

-Steve Wentzell asked about the original plan and likes the “loop” idea as an option.

-Steve M. explained that that plan would require some additional waivers and would not support the water main loop from High St. it would require more grading additional tree cut and a quarry like area.

-Ted Cook/abutter asked why the proponents engineer didn't look at the site first before submitting a plan

-Mr. Mullaney explained that the idea of connecting to High St. was offered by the Planning Board Chair at the informal conceptual plan stage.

-Mr. Garber stated that originally the plan was submitted for comment only. Which is allowed.

-Mr. Hines/abutter asked about the developer possibly disappearing before the project is finished.

-Glenn G. explained that there are sureties that are put into effect for these projects and the protection of the town.

-Steve M. stated the DPW Dan Nason wants the water looped.

-Mark F. questioned whether or not it would be problematic to do away with the emergency access altogether and still loop the water main.

-Fred H. explained this was not a good idea as the amount of blasting and quarry areas would be a problem.

Planning Board discussed the time frame for project and the probability of time extensions needed along with Geotech Engineer and ConCom input.

-Steve M. stated that the October meeting would be the appropriate time to talk about an extension.

-Glenn feels Town Counsel legal advise is needed as well as Determination of Applicability (ConCom).

-Laurie Nehring (PACE) added that borings may be off if a Geotech is not utilized for this project.

-Bd. feels thru street is not as good as a cul de sac but understand the issues.

-Glenn asked for Fred Hamweys input on further Geotech –along with Dan Nason (DPW)

Glenn stated that the Planning Board needs to submit a letter to legal counsel.

The board discussed the next meeting date and suggested waiting to see what they get back for input. Susan S. explained if they were going to continue the Public Hearing they needed to continue to a date and time certain.

Peter Johnston Motioned to continue the Public Hearing for Emily's Way to September 9th, 2010 at 7:00PM.

Mark 2nd VOTE 4-0 All in Favor

Minutes:

Steve Wentzell motioned to approve the minutes from July 8th as written.

Peter Johnston 2nd VOTE 4-0 All in Favor

Steve Wentzell Motioned to approve the minutes of July 16, 2010 as written.

Mark Fermanian 2nd VOTE 4-0 All in Favor

Bills:

Steve Wentzell read the bill for Emily's Way issued by Kopelman & Paige (referencing a telephone conference with the Chair and Vice Chair on June 21, 2010 regarding Procedural Irregularities) for \$102.00.

Pauline Conley questioned this bill.

Glenn Garber stated this was a Planning Board matter.

Pauline asked to speak to the Board.

Glenn agreed

Pauline questioned the use of legal counsel without BOS or Planning Board's approval. What procedural irregularities? Pauline would like clarification. These were all charges made before the Public Hearing opened.

Glenn stated the Chair spoke to T.A. J. Ritter and rec'd authorization. Although, he's not sure when she spoke to him.

Pauline suggested that Jennifer Gibbons and Glenn Garber find another source to pay – not taxpayer money “until you can answer those questions”.

Board decided to table 1st bill until they receive clarification.

Steve Wentzell motioned to approve payment for 2nd item on K & P bill for Emily's Way (Subdivision-Review issues with submission of subdivision plans and hearing schedule dated 6/22/10) for \$ 51.00.

Peter Johnston 2nd VOTE 4-0 All in Favor

Steve Wentzell read #3 on the Bill Emily's Way Subdivision –review town's subdivision rules and regulations; review emails from planning board staff assistant; telephone conferences with member, planning board re: procedural problems. For \$357.00

Susan Sullivan stated they “cannot charge the proponent, this was about me and the email sent by Glenn” not the subdivision. Board agreed.

Peter Johnston motioned to table 1st amount billed for \$ 102.00 and 3rd for \$357.00.

Mark Fermanian 2nd VOTE 4-0 All in Favor

Steve read #4 dated 6/24/10 Emily's Way (subdivision-telephone conference with Planning Board Vice Chair re: subdivision issues: review subdivision application and Site Plan requirements: evaluate plans in terms of Site Plan requirements)for \$ 187.00

Mark Fermanian motioned to pay 187.00

Peter Johnston 2nd

Pauline Conley asked what was discussed in an hour and ten minutes and was this reported back to the Planning Board?

Glenn stated the procedures and subdivision requirements were discussed and “No” this was not reported back to the Board.

Pauline asked if Town Counsel agreed or disagreed with the 2001 proposed subdivision regs?

Glenn stated that question just came up tonight.

Mary Aratta (Public Spirit) asked if Town Counsel should be at these meetings or is this usually done in memo form?

Glenn stated this was done in memo as part of the peer review for the project.

(re: 187.00) Motion has been made and 2nd VOTE 4-0 All in Favor

After discussion Board feels they need clarification regarding this legal bill.

Glenn Garber stated that the question should be asked of the Chair.

Steve Wentzell Motioned to adjourn

Peter Johnston 2nd VOTE 4-0 All in Favor

Adjourn 9:56 PM