



BELLINGHAM PLANNING BOARD

2 MECHANIC STREET
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PlanningBoard@bellinghamma.org

Meeting Minutes January 10, 2013

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

Present at the Meeting

Patricia M. Murphy (PMM), Chairman - absent
Glenn C. Wojcik (GCW), Vice Chairman
Amber S. Griffiths (ASG)
Roger H. Oakley (RHO)
Peter Pappas (PP), Secretary
Andrew T. Greene (ATG), Alternate

Other Officials:

Stacey J. Wetstein (SJW), Town Planner
Jean Keyes (JK), Planning Board Coordinator

GCW opened the meeting at 7:00 p.m.

Northwoods II Definitive Subdivision and Major Residential Development Special Permit Modification of Landscape Plan: Decision Deadline: 2/15/13

PP: Motion to waive reading of the Public Notice.

RHO: Second.

Vote: Carried 4-0. (GCW, RHO, PP, ASG)

Mark Anderson of Heritage Design Group is present on behalf of the applicant.

Mr. Anderson explained that the Applicant would like to modify the tree plantings. He stated that they have made mistakes made from the beginning of the project concerning the trees. According to the approved plans, 84 trees placed 40 feet apart were to be planted and this was not done properly and not all trees were planted or placed according to the plan. The landscaper had 12 leftover trees that were planted in the open space and this was done incorrectly and was not approved prior by the Board. Mr. Anderson further stated that homeowner, Nikyda Resto will get two additional trees on her property that are allergy-free and they will be planted in the spring. Mr. Anderson further stated that 61 trees were planted and this includes 19 retained trees and 12 planted in the open space.

SJW responded that the 19 retained trees were not noted on the original plan. According to GCW, RHO and PP the applicant did not get permission to keep the 19 retained trees and they were not noted on the approved plan. The Applicant is still required to plant 15 trees. RHO further stated that we have no way of knowing if the 19 retained trees are good and meet the Town's requirements.

ATG questioned whether the 12 trees, which were incorrectly planted in the open space, should be counted in the total as he is concerned about setting an incorrect precedent. SJW responded that the 12 trees were planted in the open space because the open space was severely damaged during construction.

PP expressed further concern that Mr. Anderson's client planted trees in incorrect places and did not get permission from the Board to do so. SJW agreed and stated that the Applicant applied for a permit and it was granted and that what is built must be done so according the permit and approved plans.

GCW stated that the Applicant owes 15 trees (2 of which will be planted in Ms. Resto's yard) and he should meet with the tree warden and determine the best location for them and if the retained trees are good. The trees should be planted in the spring.

Mr. Anderson agreed and further explained that it was a good policy to retain trees that existed previously. If it is a well-established tree, it should be saved. We took for granted that the 19 we saved were good solid trees and they were approximately where the new trees would have gone. SJW stated that she would have agreed except that the existing, retained trees were not on the original plan. That is the issue. The Applicant should have come back before the Board when they decided that they were going to retain 19 existing trees. ATG agreed with SJW and stated that the Applicant should have come before the Board previously not after the fact when disregarding the approved plans.

Angel Resto, husband of Nikyta Resto and a homeowner in Northwoods II, questioned the installation of the two trees in his yard in the Spring as they have installed irrigation system already. The markings on his lawn where the trees are to be planted are where the irrigation system is and are where the underground electrical lines go into the house. He questioned the repair of the lawn after the trees are planted and if it will be hydro seeded. SJW stated that the homeowner put their irrigation system without seeing the plans and there were no markings on the lawn as to the location of the trees. PP stated that the plans are on record and the homeowner needs to investigate and look at the plans before installing the system. Mr. Resto stated that he does not want the trees if this will cause them to redo their lawn and fix the sprinkler system. GCW responded that the homeowner can make the decision to take the trees or not. SJW stated that if the homeowner doesn't want them, then they have to be placed along with the 15 trees. GCW advised Mr. Anderson and Mr. Resto to send SJW an email in Spring with their decision.

SJW suggested that the Board write a decision with the following conditions: 15 trees need to be planted in the Spring of 2013 based on original plan, and in consultation with SJW and tree warden. The homeowners should be informed of the location of the trees. A final tree plan and an explanation of the tree warranty must also be included.

RHO: Motion to approve the Northwoods II Definitive Subdivision Modification of Landscape Plan with specific conditions.

ASG: Second.

Discussion: ASG asked if the Applicant will mark where the trees will go. SJW stated that this will be done and that the Applicant should know where the underground lines are when marking where the trees will be planted. Mr. Anderson explained that when the development began, he called SJW and suggested that trees be planted along North Street and she agreed. Mr. Anderson agreed to meet with tree warden and SJW. SJW will write up the decision.

Vote: Carried 4-0. (GCW, RHO, PP, ASG)

RHO: Motion modification to include approval of the Northwoods II Major Residential Development Special Permit.

ASG: Second.

Vote: Carried 5-0. (GCW, RHO, PP, ASG, ATG)

RHO questioned why a fine cannot be levied in situations like this. SJW explained that there is no provision in our general code to assess fines in situations like this.

Subdivision Rules & Regulations Modification Public Hearing

PP: Motion made to waive the reading of the Public Notice.

ASG: Second.

Vote: 4-0 Carried. (GCW, RHO, PP, ASG)

SJW stated that she is not sure if the Board or Town can assess a fine. SJW will ask Town Counsel Jay Talerman but she thinks it is not allowed under MA Gen Law and that it would have to go under a different department who can assess fines. PP stated that maybe the fine is not the answer as the Board is now

thinking about changing the inspection process. The building process should be stopped if developers are not in compliance. An inspection would have uncovered the tree issue at Northwoods II if the inspections were done properly. The Board should do something to ensure that developers abide by the plans that are approved. SJW will ask about the fines if the inspection shows violations and if stepped up fines could be used. PP stated that the Board should be proactive in its approach to this issue and that is why the Board is now revising the bylaw.

RHO agrees with some sort of fine but also stated that the rules and regulations should state that if an existing tree is to be retained, it must meet the Town's criteria of a healthy tree. SJW stated that this is why the Board needs to strengthen the Subdivision Rules and Regulations.

Section 321. Submittals: SJW is proposing the following addition: "N: Landscape plan showing existing trees and other vegetative growth to be maintained and proposed location of new plantings (see Section 451)."

Section 451. Plantings: Added language to Sub-Section 4532, removed the language under (F), and added language to Sub-Section 4534.

Sub-Section 4534: SJW added language that states "Prior to any houses being built and prior to the lot releases, the markers should be placed and this will be inspected and approved." And "The marker should state the species of the tree and should remain on site until the trees are planted." RHO questioned Section (B) of 4532. PP suggested that if the existing trees are remaining, then they must be noted on the plan. SJW will add language should that states that, "Existing trees will count towards the Town's tree requirement and must be marked on the plans provided that the trees meet the town's requirements for a healthy tree and have been approved by the tree warden."

PP asked that SJW include language that if the developer has to modify the tree plan in any way, they must come back before the Board in the very near future. SJW will add this language.

Nikyta Resto, homeowner in Northwoods II, asked if the Developer should have disclosed where the trees would be planted. Per SJW and per Town Counsel Jay Talerman, the Town cannot make the Developer put any specific language in the deed. PP explained that the lot is defined as recorded on the plan filed in the registry of deeds. SJW further explained that it is also up to the homeowner to research the project and to follow the plans. GCW stated that developers are not required to disclose this information and that is why the Board is trying to correct this situation and prevent it from happening in the future.

Section 455. Monuments: Language added by SJW to Sub-Section 4551 and 4556. The Applicant can request a waiver if they feel that they don't need a certain monument. PP questioned existing monuments that border a new subdivision. RHO agreed that the Applicant might have to put in a new bound if one doesn't exist if the land abuts existing property. SJW will adjust the language and present to the Board again.

SJW asked the Board to review all of the subdivision regulations and let her know if there is anything else they might want to correct. SJW will talk with Town Counsel Jay Talerman and get this done quickly.

Planner's Report:

1. Zoning for Spring - MRD correction on number of lots) - tabled until a later date
2. Letter to ZBA – Lussier – tabled until a later date
3. Minor projects bylaw – tabled until a later date
4. Gibbs gas station on Pulaski Blvd: SJW explained that the lease is running out. Had preliminary meeting with the developer today and they would like to lease the larger lot next to it and build larger gas station. It is not a large expansion.

5. Gave update about Friends of the SNETT website, Facebook, and gates on Lake Street.
6. CVS is coming back before the Board on Feb 28, 2013.
7. Woodbury Ridge – the Massachusetts governor extended the permit extension act. They get another 4 years for all permits.
8. PP regarding Elmshade: He will send notes to JK and she will post on website for the other Board members. Mark Anderson presented to Environmental Protection Agency.

General Business:

Old Business:

PP: Motion to sign the December 13, 2012 Meeting Minutes.

ASG: Second.

Vote: Carried 3-0. (GCW, PP, ASG) RHO abstained

RHO: Motion to sign the vouchers and payroll.

PP: Second.

Discussion: SJW explained the vouchers and payroll.

Vote: Carried 4-0. (GCW, PP, ASG, RHO)

New Business (81-P)

RHO: Motion to adjourn.

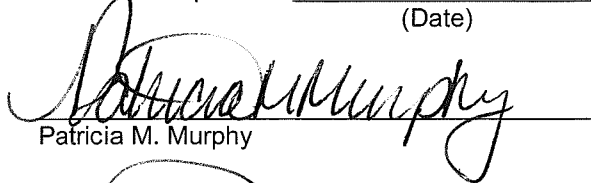
ASG: Second.


Vote: Carried 4-0. (GCW, PP, ASG, RHO)

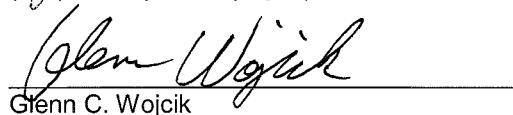
Meeting Adjourned at 8:30 p.m.

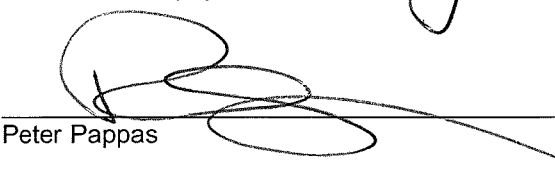
Minutes Accepted on: _____

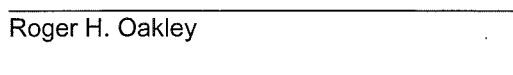
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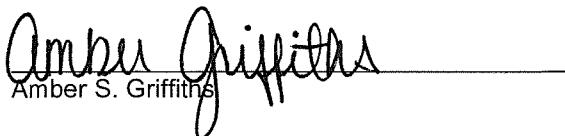

Patricia M. Murphy


(Prepared by: Jean Keyes)


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