

**Deerfield Planning Board
August 4, 2008
Minutes**

Meeting convened at 7:18 P.M. in Main Meeting Room at Deerfield Municipal Offices.

Members Present: Peter LaBarbera - Chair, John Baronas, Lynn Rose, Roger Sadoski

Members Absent: John Waite, James Paciesnik, Elizabeth Schmitt

Also Present: Mark Wightman, Attorney Donna MacNicol, Ken Cuddeback

Wightman ANR Plan

Mr. Wightman reported that the ZBA voted on June 5, 2008 to grant his request for a variance and presented a letter from the ZBA confirming that his shared driveway meets the specifications imposed by the ZBA variance granted to him on June 30, 2008. He reported that the driveway was built in accordance with the design outlined in Item 8, previously presented to the Planning Board.

Mr. Wightman reported that he has purchased the property for his ANR Plan and has met all the recommendations of the Planning Board. He requested a copy of the Covenant which the Planning Board wanted him to sign and stated that he will soon close on the sale of the first lot. Mr. LaBarbera explained that the need for the Covenant was no longer necessary because construction of the shared driveway made all three lots buildable.

Mr. Wightman described the driveway and Mr. LaBarbera asked if the ZBA had requested a Shared Driveway Agreement. Mr. Wightman reported that the ZBA had not requested one; nevertheless, he was going to make a Shared Driveway Agreement part of the sales agreement for each lot. Mr. LaBarbera asked if the Agreement would be registered with the deed and Mr. Wightman confirmed that it would be.

Mr. Baronas asked who inspected the driveway and Mr. LaBarbera reported that the Planning Board had received a letter from the ZBA stating that the driveway meets the ZBA's specifications. Mr. Baronas asked how long the land would stay in the configuration specified in Mr. Wightman's ANR Plan. Mr. Wightman stated that the deed will specify that the lots cannot be changed or become a subdivision and that buyers would be informed.

Mr. LaBarbera asked for clarification as to whether the lots are to remain as designated. Mr. Wightman stated that he is entitled to return to the Planning Board with a different ANR Plan if the lots do not sell. Mr. Wightman stated that the lots are beautiful 16 acre lots. Mr. LaBarbera stated that the Planning Board's concern was the issue of viable access.

Mr. Baronas stated that the Planning Board's consideration of Mr. Wightman's plan has differed from the usual process of endorsing an ANR Plan. Mr. Sadoski stated that he will abstain from voting on the plan. Mr. LaBarbera stated that 3 affirmative votes would be adequate for endorsement. Ms. Rose asked if Mr. Baronas had further concerns. Mr. Baronas stated that Mr. Wightman's proposal did not constitute an ANR and that it was a Subdivision; he stated the Mr. Wightman's plan circumvented Deerfield Zoning By-laws.

Mr. Wightman recounted the process of Mass Highway approving three curb cuts and the Planning Board joining him in preferring the alternative option of a shared driveway, because of safety concerns. Mr. Baronas explained that he was concerned about the Planning Board's endorsement of Mr. Wightman's Plan setting a precedent and that the role of the Planning Board is to protect the Town's best interests.

Mr. Wightman stated that he had acted in good faith to meet the Planning Board's recommendations. Mr. LaBarbera stated that the concerns being discussed by the Planning Board are not personal, but a matter of policy; because the Zoning By-laws do not support shared

driveways. The Town has made a decision against shared driveways. Because of the shared driveway, the Wightman Plan constitutes a small subdivision.

Mr. Baronas stated that the Mr. Wightman's ANR Plan was not an Alternative Procedures Plan (APP), but it was similar to one. Mr. Wightman stated that all the information presented to the Board is in the Buy/Sell Agreement. Mr. LaBarbera said that the Planning Board's administrative assistant could check the language in the deeds for the lots for inconsistencies; and inconsistencies would constitute a violation of the conditions of the ZBA variance. He noted that once the first lot is sold, the Shared Driveway Agreement would be cemented.

Mr. LaBarbera asked if funds will be held in escrow to pay for maintenance of the shared driveway. Mr. Wightman explained the particulars of the Shared Driveway Association Agreement, a 9 page document. He stated that a lien can be placed on a house if any owner who fails to comply with the terms of the Agreement. An Association vote will carry, if two of the three Association members vote in the affirmative. Mr. Wightman explained that one member can act alone at their own expense. Mr. LaBarbera asked what would happen if all members of the Association fail to act. Mr. Wightman stated that the Zoning agent has the authority to inspect and that the ZBA had addressed the issue of maintenance.

Mr. LaBarbera noted that technically the ZBA does not have the authority to issue a Use Variance, such as was granted to Mr. Wightman; but he said that he had not thought of that fact previously. Ms. Rose noted that the point of the shared driveway was to minimize danger and to make things safer. Mr. Wightman stated that the expense of both options was almost identical. Mr. LaBarbera noted that the policy discussion was not specific to Mr. Wightman's ANR Plan. Mr. Wightman enumerated ways in which the current configuration of his Plan benefited the town. He suggested that if an applicant can prove that they can do something different, they deserve support from the Planning Board.

Mr. Baronas stated that the size of the lots were each 1.5 acres. Mr. Wightman stated that the size has changed: 1.5, 1.9, and 1.8 acres. Mr. Wightman described the driveway and status of the fields and noted that the Plan is Master Plan compliant. He stated that Natural Heritage will control the management of seccessional fields at the wood line. Mr. Baronas asked if the Natural Heritage will monitor maintenance of the conservation property. Mr. Wightman stated that the Conservation Committee issued a declaration of restriction which will last in perpetuity.

Mr. LaBarbera asked who will oversee the maintenance of the conservation property. Mr. Wightman stated that it would fall to the Town, the Land Trust and Natural Heritage. Mr. LaBarbera stated that the discussion is academic and that it is good for the Planning Board to understand how things work. Mr. Baronas asked where the houses will be located on the property and Mr. Wightman pointed out the locations to the Board.

Mr. Baronas moved that: The Planning Board accepts the Wightman ANR Plan with the stipulation that Mr. Wightman meets the conditions set out by the ZBA. Ms. Rose seconded the motion. Mr. LaBarbera offered, and Mr. Baronas accepted, a friendly amendment to substitute ENDORSE for ACCEPT.

Amended motion: The Planning Board endorses the Wightman ANR Plan with the stipulation that Mr. Wightman meets the conditions set out by the ZBA. The motion passed: 3-0-1

Mr. LaBarbera noted that the Planning Board needs to change the regulations to reduce the number of sets of plans that must submitted with applications.

Bement School ANR Plan

Mr. Cuddeback presented an ANR Plan which calls for the division of 2 parcels to allow for a land swap between Bement School and Historic Deerfield, which will result in a 1 acre buildable lot for

Bement School. Mr. Baronas noted that the land is zoned Agricultural Residential. Mr. Cuddeback stated that Bement and Historic Deerfield were trading lot lines.

Mr. LaBarbera asked if a surveyor would put a plan on record to reflect the new lines. Attorney MacNicol stated that they would highlight in yellow the actual ownership for assistance to the Assessors and Mr. LaBarbera asked if zoning maps would continue to show the current property lines. Mr. Baronas pointed out the parking lot. Attorney MacNicol stated that Bement will maintain a parking easement in order to remain in compliance. Mr. Baronas asked what assurances there were that lot lines would be dissolved. Mr. LaBarbera noted issues of nonconformance and the possibility of multiple buildings on a lot. Attorney MacNicol noted that the plan is an educational use. Mr. LaBarbera noted that the lines are nonconforming, because of multiple buildings on the lot. Attorney MacNicol noted that the Plan would result in decreased nonconformance.

Mr. Baronas stated that it was a straightforward ANR. Mr. Cuddeback stated that they had a 2.7 acre lot and were making a 2.9 acre lot. Mr. Baronas stated that there were no assurances of the lines being dissolved. Mr. Sadoski stated that the buildings were constructed before current zoning by-laws were in place.

Mr. Baronas moved that the Planning Board endorse the Bement/Historic Deerfield ANR Plan. Ms. Rose seconded the motion. The motion passed: 4-0-0.

Planning Board Representative to the Community Preservation Committee

Ms. Rose raised the need for a Planning Board representative to the CPC. She stated that she was willing to act as the representative and would be leaving the Open Space Committee. Ms. Rose provided an update on the business of the Open Space Committee. She stated that she had begun to develop a database of organizers who might be able to recommend properties for protection. Ms. Rose stated that the Trustees of Reservations is a nonprofit organization that has money to use for land conservation.

Mr. Sadoski moved: That the Planning Board appoint Ms. Rose to serve as it representative to the Community Preservation Committee. Mr. Baronas seconded the motion.

Discussion: Mr. Baronas noted that farmland originally provided safe habitat for endangered species and now increased efforts to safeguard endangered species have resulted in a move away from farming issues. He stated that if land is not maintained, habitats are lost. Ms. Rose explained the evolution of the Open Space Committee and Green Printing Process. Mr. Baronas stated that if land is locked up to protect endangered species and the species is lost, Deerfield may have already have lost the potential for using it for farming.

Mr. LaBarbera stated that the property in the Wightman Plan does not have agricultural value and that it was a good use to manage the property in a way that accommodated endangered species. Mr. Baronas noted how much property in the Valley has been protected for wildlife and Mr. LaBarbera questioned how much this has happened in Deerfield. Mr. Baronas stated that a lot of times people need to be put first. Mr. LaBarbera stressed the importance of biodiversity and its connection to human survival. He noted that Natural Heritage is overwhelmed; overworked and understaffed. He estimated that 70% of protected land in Deerfield is in farming. Mr. Baronas estimated that the percentage of protected land that is used for farming is closer to 40%.

Motion to appoint Ms. Rose as the Planning Board representative to the Community Preservation Committee passed: 3-0-1

Review of Minutes

Mr. Baronas moved to accept the minutes of June 2, 2008 as presented. Mr. LaBarbera seconded. The motion passed: 2-0-2 abstentions by necessity.

Consideration of the minutes of July 2, 2008 and a memo from Attorney Bobrowski pertaining to the review of the zoning by-law was tabled.

The meeting ended at 8:50 P.M.

Respectfully submitted,
Karen Herold