

PLANNING BOARD MEETING OF DECEMBER 12, 2006

PLACE: TOWN HALL BANQUET ROOM

Meeting called to order at 6:30 P.M. by Chairman Fleurent

I. ADMINISTRATIVE BUSINESS

A. Quorum/Attendance

Members Not Present – Dennis Vello

Planning Director William Roth was also in attendance.

B. Acceptance of Minutes –

James Holmes motioned to accept the minutes to the November 28, 2006 meeting with amendments. Timothy Cox seconded. The vote was unanimous. The motion passed.

C. Planning Board Bills – None

1.) GAF Engineering - \$431.25 – Mariner Estates (2)

Wayne Hayward motioned to pay this bill. James Holmes seconded. The vote was unanimous. The motion passed.

D. Receipt of Plans – None

E. Approval of Plans –

1.) Form A – Goulart Family – 442 Bridge Street

William Roth – They are proposing 6 lots. All are in compliance. I am recommending endorsement.

Marinus Vander Pol – Can lot 6 be subdivided?

Chairman Fleurent – I don't think that it can.

James Holmes motioned to endorse the plan. Timothy Cox seconded. The vote was unanimous. The motion passed.

F. Other -

1.) Reduction in Surety – Shannon Meadows

Attorney Chip Mulford – The latest estimate from Tibbetts is that you continue to hold \$30,000.00.

William Roth – The Board is holding a total of \$285,000.00. There is only \$30,000.00 left. I don't know what the Board's pleasure is on this. I have prepared releases to retain various amounts.

Chairman Fleurent – What does the attorney feel comfortable with?

Attorney Chip Mulford – I would like to see you approve the \$30,000.00 with a contingency. We are reputable and will do what we have to do to make this right. I would respectfully request that you go with Tibbett's report.

Wayne Hayward – We are not done with this. It is a large subdivision. Will \$28,000.00 cover any problems? This money is the only thing we have purview over on you.

Gary Staffon – Is the slope considered finished? When I went out there, it looked kind of rough.

Attorney Chip Mulford – I don't know the answer to that. Tibbetts felt it was finished.

Marinus Vander Pol – We had a number of residents come in, concerning the chicane. The developer was very accommodating to the concerns of the residents and us. Also, all of the lots have sold. So, the developer is pretty much cashed out. If the chicane needs to be fixed, where will the money come from?

Attorney Chip Mulford – The developer. If the Board wants to address that issue, I would suggest you do it prior to Town Meeting.

Timothy Cox – I thought we were going to give that a year.

Chairman Fleurent – There was talk, but no motions or votes.

James Holmes motioned to retain \$100,000.00. It will give them incentive to finish the job. The motion died for lack of a second.

Wayne Hayward – Normally we require a homeowners association.

Attorney Chip Mulford – Your expert came up with the \$30,000.00 figure. We're asking that you follow the advice of your expert.

James Holmes – I didn't want to release a dime of this money until the project was done.

William Roth – I have prepared three releases that retain \$30,000.00, \$50,000.00 and \$100,000.00.

Gary Staffon - I feel that based on the reputation of Long Built Homes, a \$50,000.00 bond is appropriate.

Wayne Hayward – We have securities for a reason to protect the residents.

James Holmes motioned to release all but \$50,000.00. Gary Staffon seconded. The vote was unanimous. The motion passed.

II. PUBLIC HEARINGS

1.) Definitive Subdivision – Bouvier/Severence – 249/253 Main Street (continued from 10/24/06)

William Roth – At the last hearing, there were several minor issues and a major issue regarding the detention pond. Since then, they have re-looked at the proposal and are proposing to drain the pond to Main Street. GAF has identified some issues for your review. I believe the applicant has addressed all of the major issues. I am recommending approval subject to a long list of conditions.

Attorney Michael Kehoe (for the applicant) – Mr. Roth has said what we've done. We have a better plan than has previously been presented.

John Keegan (SITEC Engineering) – We feel the pond will work and meet all Town standards. There will be less run off and less volume. It will exceed your standards.

Wayne Hayward – Is the BPW OK with the 6-inch pipes?

William Roth – That wasn't one of their concerns.

Gary Staffon - How high is the detention pond roadway?

John Keegan – About two and a half to three feet.

Herb Gordon (abutter) – My property is ten feet from the pond. I have an elm tree that will probably be dug up. Do I have any recourse?

Chairman Fleurent – I have no answer for that.

George Graves (abutter) – Is there a problem with putting a 12 inch pipe instead of two sixes?

John Keegan – It has easy access with the manhole.

William Roth – I saw an issue on lot 5. There is a drain manhole. It's within the easement. That should be part of the detention lot. That structure should be on the lot. It doesn't really reduce the lot size by much. I can make that a condition.

John Keegan – We don't have a problem with that.

Chairman Fleurent – He said he was agreeable to all the comments.

James Holmes motioned to accept proposal with the order of conditions. Timothy Cox seconded. The vote 6-0 (Mr. Vander Pol abstained). The motion passed.

Wayne Hayward motioned to close the public hearing. Timothy Cox seconded. The vote was 6-0 (Mr. Vander Pol abstained). The motion passed.

2.) Definitive Subdivision – Barbara McCoy – 307R Wigwam Beach Road

William Roth – I received comments from the BPW today. I have identified in my memo numerous issues that need to be addressed to proceed. They are below the 13 feet elevation. Their proposed frontage is contrary to what we've done in the past. The previous subdivision didn't construct the road to the required 16-feet. The next issue is that they don't trigger the stormwater regulations, but I recommend that a mini drainage report be required. Another issue is that in 1997, there was to be drainage swales constructed. They are non-existent. Neighbors have told me that drainage is going onto their property, adversely impacting them. There are numerous waivers that they are looking for that I need some direction on from the Board. The Board of Health will have to look at the issue with the sewer tie-in. The Fire Chief is opposed to the gravel road and is adamantly opposed that there is no hydrant. The Building Commissioner/Conservation Agent has issues.

Attorney Matthew Thomas (for the applicant) – I was going to walk through the subdivision. But I will respond to Mr. Roth instead. With regard to the 13 feet elevation, that's not an issue. We will raise the elevation to 13 feet. With regards to the frontage issues, it is my understanding that it is the discretion of the Board. We would respectfully suggest the Board grant this. As far as the 1997 decision, BPW felt the gravel road was fine. A certificate of occupancy was issued and you released the bond. We will construct the drainage swales. We will give a drainage report. There is an agreement that states that any of the owners can tie in to sewer. We intend on using that sewer line. With regard to the fire hydrant issue, we would be willing to talk to the Fire Department about that to resolve the matter. As far as additional frontage, there is none. She would be willing to put on a restrictive covenant that there will be no further subdivision. She is

looking to build something that's easier to maintain, sell one of the lots and make her financial situation better. We are requesting that you grant the waivers and we will do the things we have said we will do.

Gene Manzone (abutter) – I heard the same story ten years ago. That was for one lot. The road hasn't been maintained for ten years. It's not gravel and it gets like quicksand in the winter. The run off goes into my driveway. If they want to do a subdivision, do it right. The road is a mess. This isn't a subdivision, it's a private road. This is getting old.

Attorney Matthew Thomas – We are not looking to adversely affect the right of way. She is the owner of the right of way of which others have a right of way. She can do what she wants according to the law as long as she doesn't adversely affect passing. We will improve the road accordingly. In 1997, the BPW approved the road. We don't want to keep it the same way.

Matthew Hebert (abutter) – I bought my property from her and she informed me that no further lots could be subdivided. I had that understanding when I bought the property. If someone puts a fence up on one of these properties, I won't be able to bring my boat down. They're also talking about an extension right to my driveway.

Attorney Matthew Thomas – There is no intention to put a fence there. There is no intention to stop them from getting to the beach. We will put a covenant that we will not put up a fence. She has no intention from stopping anyone from using the right of way. This is just a matter of drawing a line.

Chairman Fleurent – Did you improve the way?

Matthew Hebert – I made it passable.

Wayne Hayward – Is there an ownership dispute?

Attorney Matthew Thomas – No.

Discussion ensued regarding particulars of the plans.

Attorney Matthew Thomas- We will write the covenant in such a way to make that a single-family residence with no further build out.

Wayne Hayward – You will have well water and town sewer?

Attorney Matthew Thomas – Yes.

Wayne Hayward – I suggest you put that in writing for the Board of Health. Whose responsibility is it to keep the road up?

Chairman Fleurent – The owner.

Attorney Matthew Thomas – Actually, it's those who use it. They won't issue a certificate of occupancy unless they meet the regulations.

Gary Staffon – We have gone 18 feet with gravel roads in the past. We know the Fire Department will not be in favor of a gravel road. Will the hammerheads be adequate for the Fire Department?

Attorney Matthew Thomas – Yes.

Timothy Cox – I'm not sure 16 feet is adequate. I'm for what the Fire Chief wants.

Attorney Matthew Thomas – Your rules and regulations do not say anything about a gravel road. If you want to go to 18 feet, we will look at doing that. It's a single-family residence. The impact will be low.

Timothy Cox – It's actually two single-family dwellings.

William Roth – As far as water, the Board could require that it come down to Wigwam Beach.

Attorney Matthew Thomas – I'm not sure that's the Planning Board's purview.

Wayne Hayward – We need to keep what we're talking about in scale. Our regulations allow this. It will never be a public street. I would ask that the stonewall remain. It's a private way with no homeowner's agreement. We have ways of securing this; bonds, cash, covenants. We're talking about basics. The Town zoning is in effect and is protecting the town. Let's fix the road. I think Mr. Hebert has some right to this road.

Attorney Matthew Thomas – We're offering to fix the road.

William Roth – The two lots in question should be responsible for the road maintenance.

Attorney Matthew Thomas – We have no problem with that.

Albert Borges motioned to continue the hearing to February 27, 2007 at the applicant's request. Wayne Hayward seconded. The vote was 4-2 in favor (Timothy Cox and James Holmes opposed). The motion passed.

Attorney Matthew Thomas – We will agree to continue if we know what we continuing for.

William Roth – Drainage needs to be shown, a mini drainage report, improving the road, sewer issue be addressed, sewer line should be shown on the plan, and address fire hydrant issue.

William Roth – I am distributing a proposed budget for '08 for your review. It's basically level funded. We need to review it at the January 9, 2007 meeting so it can be submitted.

Wayne Hayward motioned to adjourn. Timothy Cox seconded. The vote was unanimous in favor. The meeting was adjourned at 9:00 p.m.

Respectfully submitted,
James Pelland, Secretary
To the Planning Board