

PLANNING BOARD MEETING of March 26, 2013: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairperson, Wayne Hayward - Opened the meeting at 6:30pm

Quorum/Attendance

Members Present – Wayne Hayward, Francis Budryk, Kaisa Cripps, John Farrell, Jr., Rene Fleurent Jr., Jeffrey Lucas, Peter Nopper and Gary Staffon.

Planning Director William Roth was in attendance.

Acceptance of Minutes March 12, 2013

Gary Staffon made a motion to accept the Minutes of February 26th, and was seconded by Jeffrey Lucas. On the question, Kaisa Cripps asked for a couple of amendments. Ms. Cripps referred the Board to clarify what Mr. Hayward said on pg. 4, advising it should read, “No disrespect to..”; and also in the same sentence, “her planning board experience is a little more limited...”.

Wayne Hayward made the motion for the two changes to be amended on the minutes as stated, and was seconded by Gary Staffon.

Rene Fleurent, Jr. also questioned his time arrival on the minutes. As he was late, he asked why at the beginning of the minutes it was presented that he was absent, when he actually arrived late.

William Roth advised he would change it to add Mr. Fleurent’s name after Mr. Staffon, with the time he arrived of 6:47 p.m.

John Farrell, Jr., Jr. also asked for an amendment to the correct spelling of his name on page 4; whereas it was spelled incorrectly.

Planning Board Bills:

1. **Monaghan Printing** - \$68.00 - Envelopes

Jeffrey Lucas made a motion to pay the bill to Monaghan Printing for \$68.00 and was seconded by Francis Budryk. The motion passed unanimously.

2. **Chadwick Awards** - \$60.00 – Borges Plaque

William Roth explained they made a plaque for Mr. Borge’s 43 years of service on the Planning Board, with the intention of presenting it to him at a future Board of Selectman meeting.

Jeffrey Lucas made a motion to pay the \$60.00 to Chadwick Awards for the plaque and was seconded by Francis Budryk. The motion passed unanimously.

3. **Staples** - \$147.27 – Office Supplies

Jeffrey Lucas made a motion to pay the \$147.27 to Staples for Office Supplies, and was seconded by Francis Budryk. The motion passed unanimously.

II. CURRENT PLANNING:

Receipt of Plans:

Unac ST Disc – **Michael and Donna Ristuccia** - Fir Street – (PH 4/23/13)

William Roth explained at the last hearing the Board approved the Street Discontinuance; however Fir Street was not included in the legal advertisement, as it should've been; and it was solely the error of Mr. Roth, as he forgot to include it in the advertisement. Therefore, a new hearing would need to be held.

Jeffrey Lucas made a motion to have the Public Hearing for Fir Street on 4/23/13, and was seconded by Gary Staffon.

Francis Budryk, on the question through the Chairman, asked if the monies have already been received to pay for this advertisement.

William Roth replied that he will be paying it out of the Planning & Economic account, as it was his fault.

The motion passed unanimously.

Approval of Plans:

None

III. PUBLIC HEARING:

1. Def Subdivision – **David & Sandra Teves** – Judson Drive

Wayne Hayward excused himself from this Public Hearing, as he is abstaining as an abutter. Mr. Hayward turned the Public Hearing over to the Vice Chairman, Gary Staffon. Mr. Hayward left the room.

Gary Staffon first introduced the Board and then asked Mr. Roth to read the advertisement, which he did.

Dave Davignon, Civil Engineer for the applicant was present to speak on the proposal. He stated that the Teves' purchased the lot in August 2012, and it was a fairly large lot. He said they originally wanted a three lot subdivision, but now would like it to be two lots vs. three.

Mr. Davignon explained that they were short 23.13' of frontage to create a second lot through an ANR Plan. He explained that there is a house being built on the front lot, and is currently under construction. He said the driveway comes into the left. He proposed an apron driveway, 40' wide layout, it would be a common driveway for the two lots. He said they are proposing a house on the rear lot.

Mr. Davignon stated that he has read through Mr. Roth's report, and they are not opposed to further discussion. He said they could build a hammerhead driveway, if that's what the Board required.

Francis Budryk asked Mr. Roth what the differences of the plans were, and asked Mr. Roth to explain why he was oppose to the proposal.

William Roth stated that he wrote his oppositions in his Memorandum. But he felt it was 'bad practice', and that it's a glorified driveway, adding additional ROW can be a burden to the Town in the future. He said where there would be a Private Road, at one time or another; it would come in before Boards in the future because the owners would be tired of maintaining it. "They don't want to put monuments in," Mr. Roth said. "I've stated my reasons why in my report." He did agree with Mr. Davignon that putting a hammerhead in for one lot is needless. Mr. Roth said in his opinion, it was a long term complication.

Francis Budryk asked what the financial consequences are?

Mr. Davignon replied that he didn't think the layout would change.

Kaisa Cripps asked if the already existing shared driveway to the East was an option they explored.

Matias Bethel, of 25 Judson Drive stated she shared that driveway and there was no way that it was big enough for two more lots.

William Roth stated that the frontage on their property on the cul-de-sac and a creek separated the house from the cul-de-sac.

William Roth explained, as in his report, the example from Rivard Lane that there were issues there, and it was a similar proposal to this one.

Applicant, Dave Teves asked what the issues were on Rivard Lane, because he lived there and he doesn't remember there being any issues.

William Roth said, 'there were construction and maintenance issues, plowing, rutting of the gravel.

Mr. Teves said he didn't understand what the issues there were.

Kaisa Cripps asked Mr. Roth if he was suggesting an 81R waiver to the frontage requirement?

William Roth explained that the Board could issue a waiver under 81R, to allow less than the required 100-foot frontage. However, the applicant would have to also go in front of the Zoning Board of Appeals to get a variance for the frontage.

Jeffrey Lucas said after reviewing the plan that it was not out of the ordinary to have less than 100' of frontage in that part of Town.

Mr. Davignon said he concurred with Mr. Lucas; on Joanna's Way there was 68', then 136', then 68' of frontage; so it's consistently between 60-80'.

Jeffrey Lucas said that he would also recommend an 81R.

Kaisa Cripps asked if in these circumstances is it in the deed that it's a shared driveway.

Mr. Davignon said that's correct, it is part of the deed.

William Roth said, 'That's a private matter.'

Ms. Defelice of 10 Judson Drive asked if anyone is going to look into the drainage in that area.

William Roth said that there are catch basins that will be installed for the storm water.

Ms. Defelice said that now all the water runs into her driveway.

Jeffrey Lucas said that the swale they are going to put in is going to let less water flow onto other people's property. Mr. Lucas asked if Ms. Defelice has talked to the BPW.

Ms. Defelice said she had not.

"That would be a place to start," Mr. Lucas said.

William Roth asked the Board to perhaps give a sense if they are leaning toward the 81R waiver. He said the Board did not have to take the vote tonight, but just give the applicant comfort to go to the Zoning Board of Appeals.

John Farrell, Jr. asked Mr. Staffon to perhaps request a straw vote from the Board.

Jeffrey Lucas asked if they prefer the variance on one lot, 'Lot 2'?

William Roth said it would make it cleaner as lot 1 keeps 100' frontage.

Jeffrey Lucas asked what if they split it ½ & ½?

Kaisa Cripps asked if they went for a variance, what would the ROW look like.

Rene Fleurent, Jr. said it would look like it does now.

Mr. Davignon said it would be a paved apron with driveway that went straight down.

Francis Budryk asked Mr. Davignon if he was okay with the suggestion from Mr. Roth.

Mr. Davignon said, 'Yes. With a supporting letter for the Zoning Board of Appeals.'

Gary Staffon asked for a straw vote from the Board at this time.

Rene Fleurent abstained.

John Farrell, Jr. stated, "In favor."

Peter Nopper, "In favor."

Gary Staffon was, 'In favor'.

Kaisa Cripps, "Oppose".

Jeffrey Lucas, 'In favor.'

Francis Budryk, 'In favor.'

Therefore it would be 5 in favor, 1 oppose and 1 abstain.

Mr. Davignon asked the Board to continue the Public Hearing to May 14, 2013.

Gary Staffon said he wanted to just make one more point, and said that when the applicant goes to the Zoning Board of Appeals they look at what your hardship is for a variance. Here, it's that you don't have enough frontage. Mr. Staffon told them it's their preference to go before that Board, but they might not have a big enough hardship.

William Roth stated that the May 14th meeting would be the first public hearing the Board would hear it.

Gary Staffon pointed out that there is an election coming up to this Board on April 1st, and that they could have a different board.

Peter Nopper made a motion to continue the Public Hearing to the May 14th meeting, and was seconded by Rene Fleurent, Jr. The motion passed unanimously.

2. Bylaw Amendment – **Solar Bylaw**

Wayne Hayward explained this is another review of the Bylaw from the last revisions of 2/27/13, and if the Board remembers that they removed everything in yellow. He said there were two uses, one was the On-Site Ground-Mounted SPEF, and the second was the large Scale Ground-Mounted SPEF.

William Roth explained the prohibition of clear cutting, whereas larger land masses property owners that are not wooded because they can't clear cut.

John Farrell, Jr. asked, if the Board was adopting the language from Mass General laws for pg. 3 #8, "clear cutting of trees and natural vegetation, within 5 years..."

Wayne Hayward said, "Yes."

John Farrell, Jr. said, so he'd have to wait 5 years to put these up if he owned land with trees, so as not to clear cut.

William Roth said that, 'we don't want to take forested land, for the sake of being Green; it's very controversial.'

Rene Fleurent, Jr. expressed his concerns with the language as well. "I'm having a hard time with the language," he said. "I'm adamantly opposed to that language."

Jeffrey Lucas asked, 'if we do retain that section, shouldn't it reflect the previous 5 years?'

William Roth said it was 5 years from the application.

Wayne Hayward said this was the chosen language of the State.

A discussion ensued on whether to keep the language or what options may be to change the proposed language.

John Farrell, Jr. said he had an issue with the fact there that was no definition of what "clear cut" was.

Jeffrey Lucas said where this is a new Bylaw, he'd rather be more restrictive in the beginning than to be lenient and regret it later.

John Farrell, Jr. said he thought the Board needed to define "clear cutting", and "natural vegetation."

Gary Staffon said, "Being an agricultural person"; he was of the opinion that if someone wanted to cut down 10 acres he'd be opposed, but if they wanted to cut down 4-5 acres he'd be okay with it. He said that the Board would then make that decision, at the time, of what clear cutting is.

Resident, Laurent Francis of Smugglers Road said, 'A farmer's field is considered open space; if someone had a 10 acre site, and 5 of it was forested, you could use the open space under the Bylaw. To Mr. Farrell, Jr. question, what is the vegetation?'

Wayne Hayward said, "Special Permit and Latitude, it gives us great authority to make those decisions." He said vegetation is an interpretation.

Jeffrey Lucas said we have to approve as it is today to get to Town Meeting this year. Jeffrey Lucas made a motion to approve as is, and was seconded by Gary Staffon.

Wayne Hayward ruled Mr. Lucas out of order, as he sensed there had to be more discussion.

Francis Budryk asked, 'why does he have to get 5 years if he clear cuts, why not immediately, when they request Special Permit?'

Wayne Hayward said that clear cut prevents someone from clear cutting, waiting six months and then coming in for a Special Permit.

More discussion ensued on clear cutting.

Wayne Hayward said that if there is consistency from community to community, it makes for the best management practice; because it is adopted by the State, it's good for statewide consistency. Mr. Hayward told John Farrell, Jr. and Rene Fleurent, Jr. that they do make a good argument.

Rene Fleurent, Jr. expressed that his point of view was that you can clear cut anything in Town for everything but this, and that's what his concerns were.

Jeffrey Lucas said he'd rather be restrictive now then regretting it later. "We can take it case by case, we have that authority," he said.

'I'm with Mr. Lucas,' Kaisa Cripps said, 'to err on caution.'

Francis Budryk said, 'this is all Special Permit, we review everything.'

John Farrell, Jr. said that his concern is vagueness leads to interpretation.

Jeffrey Lucas referred the Board to page 3-4, (G, 10), "Setbacks shall not be used for any purpose other than natural vegetation...". Mr. Lucas said, 'if you clear cut and then replant, that's not natural vegetation.'

Rene Fleurent, Jr. said, "How is nature being defined here?"

Wayne Hayward said, 'Taking out #8, is sending a clear message.'

William Roth told the Board of two corrections, page 2 (F) #7.. types and numbers of planting(s), the 's' needs to be added; and page 3 (G) 1a, "or AG districts", or WRP (will be added.)

Wayne Hayward asked for a straw vote in striking #8 (re: the clear cutting), and it was 6 to 2 approve to keep it in the bylaw.

Jeffrey Lucas made a positive recommendation to Town Meeting with the two corrections stated by William Roth, and was seconded by Francis Budryk. The motion passed unanimously.

Kaisa Cripps asked if the Board of Selectman have asked them to discuss the Bylaw with them prior to Town Meeting?

Wayne Hayward said, "No. This Bylaw originated from the Board of Selectman."

IV. LONG RANGE PLANNING:

NONE

V. CORRESPONDENCE:

NONE

VI. OTHER BUSINESS:

Wayne Hayward told the Board that there was a clerical error in the last Neighborhood News article that quoted the MTH at 200'; and that it actually is 265'.

Wayne Hayward reminded everyone that April 1st is Town Elections. Encouraged viewers to get out and vote!

John Farrell, Jr. wanted to thank everyone on the Board for working with him for the past month, and he hopes to continue to be on the Board after the election.

Jeffrey Lucas made a motion to adjourn, and was seconded by Gary Staffon. The motion passed unanimously.

The meeting ended at 8:30p.m.

Respectively submitted,

Patricia A Pacella
Recording Secretary