

PLANNING BOARD MEETING
November 18, 2014
Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS:

Chairperson, Wayne Hayward – Opened the meeting at 6:32: p.m. and noted the meeting was not being recorded.

Quorum/Attendance:

Members Present: Chairperson, Wayne Hayward, Vice Chairman, Rene Fleurent, Jr., Peter Nopper, John Farrell, Jr., Kaisa Holloway-Cripps, Jeffrey Lucas and Gary Staffon.

Absent: None.

Planning Director, William Roth, was also in attendance.

Kaisa Cripps made a motion to accept the October 20, 2014, minutes and was seconded by Gary Staffon. The motion passed unanimously with two abstentions, Mr. Lucas and Mr. Farrell, Jr.

Planning Board Bills:

1. GCG Associates, Inc. – 89-Barnes, Richard #2 - \$142.50.

Gary Staffon made a motion pay GCG Associates \$142.50 and was seconded by John Farrell, Jr. The motion passed unanimously.

2. Staples – Supplies - \$226.84 (\$680.50 for ink, split three ways – Planning Board, CPC & P&E.)

Gary Staffon made a motion to pay Staples \$226.84 for supplies and was seconded by John Farrell, Jr. The motion passed unanimously.

II. CURRENT PLANNING:

Receipt of Plans:

None

Approval of Plans:

1. **Form A – Richard Barnes** – 214 Huttleston Avenue

Mr. Barnes was present for the request.

William Roth reviewed the Form A.

Rene Fleurent, Jr. asked what they were trying to accomplish and Wayne Hayward said that the Planning Board had to make two findings, one is that there is proper frontage from the street, which it does and is the access to the lot already constructed, which he thought was through the plaza. Mr. Hayward does not like the 81R request since they are before the Board with a Form A and not a subdivision.

Kaisa Cripps said it seemed on lot 2, that it look like it dips down into lot 1 and Mr. Barnes said they placed the lot lines to coincide with the required parking in each boundary.

William Roth said when they looked at it, the restaurant and the medical office all met the parking requirements of everything shown and they had crossover parking access and a maintenance agreement.

Richard Barnes said it was in the agreement, the Master Document, that they share access and parking.

Wayne Hayward explained that it can only be granted in subdivision control, if a lot didn't have frontage you can waive lot frontage requirements under subdivision control by using an 81R. An 81R request has to be in writing and the Board has to make finding on 81R, each and every one that it is in the public interest to do it. This is an application, approval not required under subdivision control. The Board has to look at, does he have minimum frontage and is the road constructed so there is access.

William Roth explained that his reading of it, the Planning Board may waive strict compliance with such portions of these regulations which is subdivision control that included ANR, where such action is in the public interest and not inconsistent with the proposed intent. Mr. Roth said he did this in consultation with the engineer and noted that access was provided through easement and not through its frontage, that they meet the frontage standard, they don't meet the access. (Discussion ensued.)

Wayne Hayward asked Mr. Barnes if he was comfortable, if they just approved the plans. Mr. Barnes indicated he would defer to Mr. Hayward and Mr. Roth and asked if the comment would be stricken. Mr. Hayward said they would leave the comment on the plan, but not take a formal vote on it.

Gary Staffon made a motion to approve the plan and was seconded by John Farrell, Jr. 6 in favor and Kaisa Cripps was opposed.

2. *Form A* - Philip DeNormandie – Shaw's Cove Road

Doug Schneider, Civil Engineer/Land Surveyor was present on behalf of Mr. DeNormandie.

William Roth explained it was a three sheet set of plans. One, is an overall plan showing lots being created and the second shows the specific creation of parcels F-2, 3, 4, and F1, and third, shows creation of lot F5. Mr. Roth explained that it is 200 feet of frontage of accepted public way that's constructed and F1 meets the requirement.

Doug Schneider explained that parcel F5 is being kept out of Conservation restriction and was being created as a separate lot for them to maintain and keep. Mr. Schneider said they are creating one parcel and there are actually 4 parcels shown. The biggest, F1, encompasses shore front and the bulk of the salt marsh area is going to be conveyed to Department of Environmental Management (DEM). M1 in Mattapoisett, the plan is going in front of them and is attached to state land. Mr. Schneider explained the property on the north is being put under Conservation restriction. The property Mr. DeNormandie is maintaining is all being put under Conservation restriction and was all being done through the Buzzards Bay Coalition.

William Roth explained that this property was part of \$6 million project of which F1, 2 and 3 are going to be fee owned by DEM. (Discussion ensued.)

Doug Schneider said there was also a trail easement that goes down along the bike path into the woods. The trail will go on DEM property and you will be able to walk from the bike path, through the woods to DEM property. Mr. Schneider explained that the other 3 lots and parcels are 81X lots because they already exist.

William Roth said at some point the assessors had Borges Street erased off and it should not have been. Mr. Roth has contacted N. Douglas Schneider, the engineer who does mapping, to fix this issue.

Wayne Hayward asked if it existed now and Mr. Schneider said it only existed on the plan. Wayne Hayward asked what would be the status of the street in the future and Mr. Roth said it was included in F1 in terms of the fee. Mr. Snyder said it was going to be conveyed to the Shaw's Cove Improvement Association. (Discussion ensued.)

Wayne Hayward asked if it was basically to clear up fees and titles and Mr. Roth explained it was so they could transfer properties, clear title issues.

Doug Schneider 1, 2 and 3 and M1 go to DEM, F5 stays with Mr. DeNormandie and F4 goes off to the Shaws Cove Association.

Kaisa Cripps asked if they were putting an APR on the property and Mr. Roth said they were, Agriculture Preservation Restriction. It is a \$6 million for 400 acres and different funding, oil spill money, APR money, earmark money, CPC, etc.

Gary Staffon made a motion to approve the Form A Application. The plan dated November 10, 2014 is not a subdivision, and was seconded by Rene Fleurent, Jr. The motion passed unanimously.

3. *Form A* – NSTAR – Lots 1 and 2 – Thompson Street

Jeffrey Lucas is abstaining from the all of the NSTAR Form A's because he is an abutter.

Kenneth Conte land surveyor with Beals & Thomas representing NSTAR was present.

William Roth explained NSTAR has been talking about these lots for couple of years. They have finally come in with Form A's and NSTAR called them lots 1, 2 3 4 and 5. There are three separate Form A applications, to keep consistent, they will probably record one after another.

Lot 1 and 2 are all assessor lots they are combining. Lot 1 and 2 are zoned RA. Both accepted constructed public ways so they meet the requirement for ANR and they are all vacant.

Kaisa Cripps asked what they were trying to accomplish and Mr. Roth explained they are taking three assessor lots and creating two lots. (Discussion ensued.)

Gary Staffon made a motion to accept the plans for Lot 1 and 2 for Thompson Street dated October 2, 2014 and was seconded by John Farrell, Jr. The motion passed with four in favor and Ms. Cripps opposed.

4. *Form A* – NSTAR – Lots 3, 4 and 5 – Thompson, Doane and Farmfield Streets.

William Roth explained Lots 3, 4 and 5 are a combination of assessors lots 5 101 288 on Map 2 and Lot 28 on Map 4 and they want to look at creating 3 new lots. All lots meet the frontage requirement of the RA Zone and the streets are accepted ways.

Gary Staffon makes a motion to accept the plans dated October 2, 2014, for Lots 3, 4 and 5 that are abutting Thompson, Doane and Farmfield Streets and was seconded by John Farrell, Jr. The motion passed with four in favor and Ms. Cripps opposed.

5. *Form A* – NSTAR – Lot 6 – Farmfield Street

William Roth explained that this is a consolidation of a lot of different assessor lots. They have 128.89 feet of frontage on Farmfield and part of the Charles Street discontinuance. Mr. Roth was recommending approval as it meets the frontage requirements. Mr. Roth explained there are some encroachments and NSTAR is privately working with the abutters, but they are being worked out and he thought they were going to look at easements for the various obstructions. (Discussion ensued.)

John Farrell, Jr. makes a motion to accept plan for Lot 6 dated October 2, 2014 for Farmfield Street and was seconded by Gary Staffon. The motion passed with four in favor and Ms. Cripps opposed.

III. PUBLIC HEARING:

None.

IV. LONG RANGE PLANNING:

1. Master Plan Discussion

None.

2. Auto Dealer Use – Potential Zoning Amendment.

None.

V. CORRESPONDENCE:

1. CH 61A = Philip Y. DeNormandie – Notice of Sale (without conservation) – Shaw's Cove Road.

William Roth presented the Ch 61A Notice of Sale.

Wayne Hayward asked because of notification, does it give them the option to purchase under 61A and Mr. Roth said they could with no conversion, so the Buzzards Bay Coalition, DEM and various stakeholders are purchasing land that is under Chapter 61A. They are going to turn it into preserved open space.

Wayne Hayward made a motion that we find that the Planning Board has no interest in exercising the option to purchase and was seconded by Gary Staffon. The motion passed with five in favor and Ms. Cripps opposed.

Jeffrey Lucas asked is it only available to the Town if they change from restriction and Mr. Hayward informed him yes. The Town had the option to purchase it.

VI. OTHER BUSINESS:

1. Budget – Discussion

Wayne Hayward said there were a few red flags and part of budget is the purchase of professional services and was not used last year and they haven't used any to his point. Mr. Hayward suggested that they use the unused funds to do some of the things that have to be done with the Master Plan in conjunction with Mr. Roth's Department.

John Farrell, Jr. asked if the \$800 was historical and Mr. Roth advised it was part of the budget and that it was used in conjunction for mapping and different things in the past.

John Farrell, Jr. asked if they should look into hiring a consultant to help with Master Plan and Mr. Hayward said it was a line item that the Town gave them every year. Mr. Farrell asked if Mr. Roth should be requesting more money and Mr. Roth said that to do a Master Plan, it would be between \$100,000 to \$150,000 and that would require a separate Town Meeting Article.

Wayne Hayward said that was a discussion for the future if they wanted to change their budget request for town meeting. The Master Plan should be a separate article at the town meeting. (Discussion ensued.)

William Roth said he would take everything and get it to SERPDD and a private consultant to get an estimate what a Master Plan would cost.

Wayne Hayward said the other item they needed to look at was the salary account. They have \$120 bill for meeting minutes, so they need to check that salary account so they can finish year.

John Farrell, Jr. asked what the budget amount for salary was and Mr. Hayward said it was \$1,900. Mr. Farrell, Jr. asked what the actual was and Mr. Hayward did not have a number.

Wayne Hayward said there is also the reimbursement for mileage for the SERPED Commissioner not being used. Mr. Roth advised that he did those on a quarterly basis. (Discussion ensued.)

William Roth said the budget and the annual report will be on the agenda for December 16, 2014 and he would draft a budget, and if the Board approves it, it will be sent to Selectmen and Finance Committee and they will give the Board an opportunity to discuss it. If there are issues, the Board will be given opportunity to have a voice.

2. EJ's Special Permit Issues.

Mr. Roth said Ms. Melanson could not be here but he spoke with her yesterday and today. The remaining issues are the landscaping, the layout for the front door revision, the driveway and employee striping. Mr. Roth said he received a PDF layout of the doorway and her husband, Ken, is getting three quotes for the driveway and when they decide who the contractor is, she will let the Board know an approximate time frame. Mr. Roth's suggestion regarding the landscaping was they plant the entrance trees at Bridge and Holcomb Streets and he recommended they plant the two trees with the additional plantings along Bridge Street. Mr. Roth felt it would satisfy the landscape requirement, but it would be up to the Board's discretion if it was sufficient. He said that Ms. Melanson's landscaper recommended planting the additional trees in the spring and said the striping will be done as soon as her contractor could fit it in and as long as it was dry; there was no definite time frame. (Discussion ensued.)

Wayne Hayward said he did not think she was addressing the parking issue.

William Roth told her he would present this to the Board and that the Board wanted more detail and specificity. Ms. Melanson was advised that the next meeting is on December 16, 2014, that the Board would want to speak with her. (Discussion ensued.)

Wayne Hayward said he didn't understand why a Certificate of Occupancy was issued when the requirements were not completed.

Kaisa Cripps said CMR Code 780 CMR 111.1 says all permits that are applicable to that project must be approved for Certificate of Occupancy to be issued. This was shared with the Selectmen and they have not returned comment

William Roth said he has spoken on this issue with the Selectmen and the Building Commissioner and he was told it is not a building code requirement, so he could not put it on there. The CMR was pointed out and that it is up to the discretion of Building Commissioner to add other permits.

Rene Fleurent, Jr. asked if the Special Permits outline what the conditions are and Mr. Hayward said that the Board's conditions are not on the plans. They are an attachment to a permit that's recorded at the registry. Mr. Roth said that every Special Permit and Form A's that get signed, goes to the Assessor and the Building Commissioner. (Discussion ensued.)

Rene Fleurent, Jr. said that the Board brought the shortfalls to the attention of the Applicant and we are getting no answer. Mr. Fleurent, Jr. is looking for a letter of commitment saying this will be done by a certain date.

William Roth read the letter he sent to Ms. Melanson and her response.

Kaisa Cripps said she had a few concerns, agreed there were some internal issues that needed to be addressed, but not by the Planning Board; second, Selectmen make statements that EJ's was fine, even

though they are not compliant with the Special Permit; other boards speaking on issues they have no prevue over; and third, regarding the CMR , she was a little concerned that the Building Commissioner felt it was at his discretion when it is common practice of other towns that they all require sign-off by the Planning Board that all Special Permit requirements are met. Ms. Cripps felt they were not setting a good precedent going forward.

Wayne Hayward said that there was nothing legally he could do to for EJ's to comply and Mr. Roth stated that they work with applicant and If they refuse to comply, then the Building Commissioner would issue an enforcement order.

Wayne Hayward said that ultimately a bond would be the way to do it, but didn't know if the Town would allow that.

Rene Fleurent, Jr. said there has to be some type of code if the building isn't in compliance, to shut it down.

Wayne Hayward said if the Board had a check-off list, this wouldn't come up.

Rene Fleurent, Jr. said if she gives the Board a letter of intent, he would be happy with that and if they didn't, they could pursue further action. (Discussion ensued.)

William Roth said he would draft a letter for the Planning Board to endorse to request using the example of CMR asking them to reconsider, other communities do this, etc., and copy the selectmen. Mr. Roth said they could request an enforcement order for non-compliance, \$300 a day fine, but he didn't think it is at that point.

Kaisa Cripps made a motion to ask Mr. Roth to draft letter for the Planning Board to consider asking the Building Commissioner to consider a checklist sign off.

Jeffrey Lucas said he would like to keep this separate procedurally.

Kaisa Cripps said that by the next meeting, the Board should decide if they were going to ask for enforcement or just let the issue go, to ask the Building Commissioner, as a Board under Zoning Bylaw Section 198-4 to enforce the Special Permit Conditions.

William Roth said he was going to request the applicant be present because the Board wants specificity.

Gary Staffon made a motion to adjourn and was seconded by John Farrell, Jr. The motion passed unanimously. The meeting adjourned at 8:59 p.m.

Respectfully submitted,

Tracy White,
Recording Secretary