

Minutes
Planning Board
January 12, 2005

Members Present: Tim Gerraughty, Acting Chairman; Janet Byrne;
Tim Howard; Rob Hoover, Clerk

The meeting was opened at 7:06p.m.

Discussions

Pillsbury Pond Bond Reduction

Sean Curry representative for Symes Associates is requesting a surety reduction from \$117,836 to \$15,276.00. A letter from millennium engineering supporting the reduction has been submitted. Mr. Curry explained that they are looking to close in spring.

Ms. Byrne made a motion to reduce to the surety held to 15,276, seconded by Mr. Howard. 4-0 in favor of the motion.

Georgetown Shopping Center

It was explained that the Zoning Board of Appeals rejected the appeal filed. Mr. Gerraughty went on to say that the rejection shouldn't have happened, the board had taken time off from work and vacation to expedite the process then the Zoning Board rejects the application based on the filing fee to delay the process.

Mr. Hoover made a motion to file a new application for appeal by a person aggrieved to the Zoning Board of Appeals, second by Ms. Byrne. Voted 4-0 in favor of the motion.

Mr. Gerraughty explained that the board could take no action on the shopping center until the Zoning Board of Appeals made a decision. Mr. Gerraughty read the letter from Town Counsel.

Mr. Lappin stated that he understood the Planning Board point of view but he is trying to make progress on the list from H.L. Graham Associates.

Mr. Gerraughty commented that the restaurant has alcohol permit from the state and he would like to discuss with the board possibly entering an appeal to the state and to the Board of Selectmen.

Mr. Hoover requested additional clarification on items he had brought up to the shopping center that have yet to be resolved. The items are as follows:

1) Grading and drainage is not fully resolved for that area between the Cit-go and restaurant. There are no ifs, ands or buts with this one. He has asked for this information over and over again. He wanted to see plans that show existing conditions for this area (as they filled it in right up to the top of wood retaining wall) and for that area where they say water is going to outfall into the wetlands. Also want to see a proposed grading and drainage plan for this entire area. Where the water begins and where it will outfall. Words and waving hands are not acceptable. What they submitted was incomplete and also not acceptable.

2) Is the fire lane between the restaurant and Cit-go a fire lane? Drawings say it is. If it is doesn't it need to be able to support a fire vehicle? Need a response to this.

3) As built shows one parking island and curbing not per approved drawings. Significantly different. What are they going to do about this? Why did they build it that way? It's a potential accident for a parked car that is not protected.

4) What is their response for the existing retaining wall which sits within 5 feet of septic system when we were told by civil we couldn't put in a curve to the wall to accept a new tree because they were not going to allow any walls within this zone? What is their response to when I asked about the wall which appeared to be within this zone was told by the civil they had taken all walls back out to the 10 ft setback?

5) Bollards and fire access out back is not up to the fire chief. I think he signed off on it but this is a planning board decision to be discussed and made or not made by the board. While the ball is in our camp on this one, a response from the applicant is required as we made it clear in our public hearing that bollards were a good idea.

6) State rep. for ADA compliance has still not come out to the site as far as I am aware. Did the board or you ever request this person to come out? I know Jack knew his name and said we would ask him to do so. While this one is mostly planning board responsibility the applicant heard this at the public hearing and needs to acknowledge it.

Mr. Lappin stated he will respond.

Mr. Hoover reiterated that the issue of drainage at the Cit-go and the retaining wall had been specifically asked to the engineer to see what was proposed on the plan would work over a year old.

Mr. Lappin explained that he will submit new plan that shows this information and shows agreement with Cit-go acknowledgement and approval.

Mr. Hoover went on to say that the occupancy permit was issued by the building inspector stating that all health welfare and safety were satisfied. These items that he is bringing up all have to do with the health, welfare and safety of the site.

Rob pointed out that the as built documents the retaining wall in front of septic when he tried to get trees in and a solution to possible modify shape of wall he was specifically told walls were not allowed in 10' zone of the septic system. The engineer had told the board that the wall was taken out of zone. Mr. Hoover asked again at the December 8 meeting now the as-built shows retaining wall within 5 feet of system.

Mr. Lappin will look into this.

Mr. Hoover also pointed out that the parking aisles \center stall of spaces have painted line dividing Parking Island on the end, the original plan approved designed and lay out enclosed to protect the end vehicles. This is different on the as-built, the cars could get hit this is another health safety and welfare issue. Mr. Hoover requested that they finalize and resolve these items also.

Mitchell Kroner represents Steve's Family Restaurant stated that they were upset they couldn't speak at the December 30, 2004 meeting. They have been in Georgetown for 25 years. He explained that should the board appeal the liquor license that it would be viewed as a personal attack. He feels that this could be mediated with the Board of Selectmen. He also doesn't understand why the Planning Board didn't delegate to the Town Planner and the Consulting Engineer. There are other people in the shopping center other businesses are affected. He feels that the business just relocated to a new location and didn't need a permit

Mr. Hoover explained that this not a personal attack but people should own up to what has happened because everyone shares in why we are here in this situation. He doesn't want any finger pointing.

Mr. Arthur Rauseo stated that he is looking for help from the Planning Board. He sent a letter to the town planner in November 2003 and says he never received a response. Mr. Gerraughty questioned whether Mr. Rauseo wanted to discuss the appeal that will be filed. Mr. Rauseo didn't. Mr. Gerraughty explained that he can come on the next agenda to discuss his new issue.

Public Hearings

The Meadows-Independent Senior Housing Special Permit

A request was made by the applicant to without with out prejudice and to waive any future filing fees.

Mr. Hoover made a motion to accept the request to withdraw without prejudice and waive filing fees. Mr. Howard seconded.

Mr. Gerraughty clarified that only the filing fee is waived and that the applicant will still need to pay for consulting fees and advertising.

The Board voted 4-0 in favor of the motion.

Rock Pond Estates Definitive Subdivision

Mr. Byrne recuses herself from the hearing.

Mr. Gerraughty explained that there are only three members voting and wanted to make sure that the applicant still wanted to go forward with the hearing. Mr. Pelich said he would go forward.

Mr. Graham comments that the plans are finalized.

Mr. Simmons submitted a memo to the Planning Board as requested at the last meeting. Within the memo Mr. Simmons stated that a Claws b-1 Response Action Outcome has been submitted. It also states that he spoke with a representative from DEP and that they concurred that the data represented are naturally occurring.

Mr. Hoover remembered questioning the irrigation but didn't believe he had received a response. He questioned whether it could pull up any contaminants. Mr. Bussing explained that the water drains through the water table is around 20' down and any water will continue to go down and will not push up.

Mr. Hoover reiterated that if the property is irrigated is there a concern with what you have found. Mr. Simmons stated that there is no issue, that groundwater is not an issue here at all.

Mr. Howard stated having known the problem with contamination. Mr. Simmons is a professional and that it is no longer an issue for people to reside on site, there are no mercury, no heavy metals that approach what DEP defines as high levels. He understand that the arsenic found is not a result of something dump on site and that no other contamination submitted a prior conclusion of petroleum fuel transfer operation, diesel crack case oil parked on site work done no significant risk biodegrade eventually. Mr. Howard stated that he understand a second opinion would cost about thirty thousand dollars. He questioned who Mr. Simmons spoke with at DEP. Mr. Simmons stated Donald Muldoon. Mr. Howard felt that the guarantee of safety falls on the LSP.

Mr. Hoover explained that at the last meeting the board was looking for a piece of paper written in a certain way. The last paragraph in Mr. Simmons memo is a second opinion to him. Mr. Howard stated that he doesn't have trust in the DEP and he thinks they rubber stamp some things. He also doesn't think it's fair to delay the project or spend money on another LSP when he's told the second opinion will be the same. He would like to make potential buyers aware of the tests done on site.

Mr. Pelich agreed that the buyers should be aware but felt that placing it in a deed restriction would cloud the title. He did state that he would have to disclose for liability reasons anyway.

Mr. Gerraughty explained that the board had done their due diligence and has gone as far as we can go. He has a better comfort level because all the tests have been done.

Mr. Hoover made a motion to close the public hearing, seconded by Mr. Howard.

Ms. Janet Byrne questioned whether this would extend to root vegetables?
Mr. Simmons stated that the statement of no public risk extends to the root vegetables.
Lois Richardson questioned the marking of trees, construction schedule and hours of operation. It was explained that these items would be part of the decision issued.

The Board voted 3-0 in favor of the motion.

Mr. Howard explained that he wants people to know about the reports prior to closing but doesn't know how they could do it.

Mr. Gerraughty stated that they can't put it in decision we would not be able to police it. We as a board have gotten more than sufficient information

Mr. Pelich reassured the board that he builds custom houses and would be letting potential buyers know in the beginning. He stated that he would hand Mr. Simmons letter to them.

Amendments were made to the draft decision as suggested by H.L. Graham Associates Inc and by the Planning Board.

Mr. Hoover made a motion to approve the definitive subdivision with conditions as amended, seconded by Mr. Howard. Voted 3-0 in favor of the motion.

Minutes December 8, 2004

Amendments were made to page 4.

Mr. Hoover made a motion to accept the minutes of December 8, 2004 as amended, seconded by Ms. Byrne. The board voted 3-0 in favor of the motion.

MVPC

Ms. Byrne stated she would look into possible becoming the representative for MVPC.

Discussion

Mr. Gerraughty stated that this nothing personal, he does not have an agenda with the restaurant but without a valid occupancy mixing alcohol in will make a worse situation.

It was determined by the board to contact the beverage commission requesting them to revoke or withhold the license until such time as a valid occupancy has been issue.

Mr. Hoover questioned whether the town would be liable if something should happen because the restaurant served alcohol. Mr. Gerraughty stated that a lawyer would most likely go after restaurant, the waiter and the Town of Georgetown

Mr. Hoover made a motion to request to the ABCC and the Board of Selectmen to revoke or temporarily suspend the license until a valid occupancy is issued, seconded by Ms. Byrne. The board voted 4-0 in favor of the motion.

The board requested the town planner to write to the building inspector appointing authority after the 14 days are up as to why we have received no written response. Mr. Hoover questioned whether it is the Planning board's position to observe or showing up and presenting the issue.

Mr. Gerraughty stated that he wants all the issues resolved in writing regarding what has taken place then the board can look at taking the steps to issue occupancy.

Ms. Angeljean Chiarmadi questioned whether the board was aware that on December 8, 2004 that none of the individuals had signed off on the occupancy? Mr. Gerraughty explained that the shopping center had been told they could come to our next agenda and possibly receive a sign off from the Planning Board.

Vouchers

Mr. Hoover made a motion to approve the 30 vouchers as presented which includes the one for \$600.00 made payable to the Town of Georgetown for the ZBA application fee, seconded by Mr. Howard. The board voted 4-0 in favor of the motion.

Board Business

Mr. Gerraughty requested that an opinion be obtained from Town Counsel on whether the members had to be present at all the hearings to issue a decision.

The board requested that the Town Planner send a letter to the Board of Selectmen requesting that alternate building inspector be named for 114 Jewett Street where the owner/applicant is related to the Building Inspector. Also that a letter be sent to Kenny Kumph regarding the condition in the lease agreement that the lessee has to obtain permits from the Planning Board.

Mr. Hoover made a motion to adjourn the meeting at 9:50p.m., second by Mr. Howard. The board voted 4-0 in favor of the motion.