

DATE: January 12, 2012
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle Schroeder; Jack Musgrove;
Ethan Culleton; Richard Dohoney
Brandee Nelson, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:00 P.M.

FORM A'S:

There were no Form A's presented.

MINUTES: DECEMBER 8, 2011

Mr. Musgrove made a motion to approve the minutes of December 8, 2011 as amended, Ms. Schroeder seconded, all in favor.

SPECIAL PERMIT & SITE PLAN REVIEW: 178 MAIN STREET

The Board received a special permit application and site plan review application from Mark Firth and Bettina Schwartz for a restaurant at 178 Main Street. The applicants were present with their architect, Gaetan LaChance.

Mr. LaChance presented a sketch of the porch with railings shown on two sides of the building. He said the site plan had been revised changing the ramp access to a garden path. The plan also showed plantings to screen the exterior cooler.

Mr. LaChance said the pavement on the back side of the building would be removed and replaced with grass. Drainage on the site will not be an issue as there will be less pavement than currently exists. There are 28 parking spaces that will be adequate for the proposed 88 seats in the restaurant.

Mr. Firth said he figured 88-100 seats to be an economically viable number of seats without stretching too far.

Mr. Hankin said the number of seats will be set by the special permit. It is best to ask for the most seating you will want. If you don't request enough seats you would have to come back to amend the special permit to get more.

Ms. Schwartz said there are many factors that helped determine the number being requested.

Mr. Hankin said if your break point is 99 then that is what you should ask for.

Ms. Schwartz said including staff they feel they are at the maximum number.

Mr. LaChance said it is a coincidence that the parking and the seating numbers line-up like they do. Mr. LaChance said he had discussed the ramp at the Design Advisory Committee meeting where it was suggested that a graduated garden path might be a nice alternative. That is what we have chosen to go with.

Mr. Hankin said it is much nicer than a ramp. He asked about the dumpster.

Mr. LaChance said the dumpster would be located in the far back portion of the property and would be screened with a fence.

Mr. Hankin said it appears that proposed lighting would be on the sign and along the path. He said any lighting needs to be downward directed.

Mr. LaChance said the lighting on the site would be in compliance with the Dark Sky ordinance. There wouldn't be anything too bright.

Mr. Hankin asked if there had been talk about planting street trees.

Mr. LaChance said it had been discussed with the Main Street Reconstruction planners.

Mr. Hankin said there might be grants available to help with the cost of the trees.

Mr. Rembold said there was discussion during the Main Street Reconstruction meetings about planting trees in that area. He said it would be nice to see them included.

Mr. Hankin asked about the construction material of the terrace.

Mr. LaChance said manmade permeable stone would be used. He said the surface material had not been determined. It would be ADA compliant. There would be some texture so it would not be slippery.

Mr. Hankin asked if there would be screening around the terrace.

Ms. Schwartz said there is some existing shrubs that may be moved around the terrace.

Mr. Firth said we want a barrier around the terrace so people would know they have to enter the area from inside the restaurant.

Ms. Nelson asked if there would be lights or heaters on the terrace.

Mr. Firth said the area is already well lit, he did not expect to add any lights.

SITE PLAN REVIEW DISCUSSION:

The applicants have requested a waiver of the \$75.00 application, a waiver of the drainage plan and drainage calculations and the traffic study.

Mr. Musgrove said he thought there should be a waiver of the parking requirements.

Mr. Hankin said he did not think there was an issue that warranted a waiver.

Mr. Musgrove said that was okay. Mr. Musgrove made a motion to approve the site plan review with the waivers for the fee, drainage plan and calculations and traffic study, Mr. Dohoney seconded. Mr. Musgrove recommended the condition that the plan be revised to show the garden path method of access and the lighting plan showing the location of the lights and it will specify that the lighting will comply with the Dark Sky ordinance.

Mr. Hankin said it should be specified that there will be no up lighting on the site and that the dumpster and exterior cooler will be screened from public view. He asked if the street trees should be part of the conditions.

Mr. Rembold said they should not be specifically referred to as street trees.

Mr. Dohoney said he did not want to mandate trees, Mr. Musgrove agreed.

Mr. Hankin said if trees are planted they should be approved by the Tree Committee.

Mr. Dohoney said that would be reasonable.

Mr. Musgrove said he did not think it needed to be part of the conditions.

Mr. Dohoney seconded the included conditions in the motion.

Mr. Hankin called for a vote on the motion with the conditions, all in favor.

Mr. Musgrove made a motion to send a favorable recommendation to the Board of Selectmen with the conditions included in the site plan review approval, Ms. Schroeder seconded, all in favor.

NOLAN DRIVE:

Kathleen Kotleski and Taj Mongiardo were present to discuss their request to change the zoning map for property located on Nolan Drive that is currently zoned R-2 but the businesses on the property are industrial uses.

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The property had been zoned industrial until 1989 when the zoning was changed to R-2. William Nolan had applied for an industrial subdivision in April of 1989 that was denied. After filing and being denied a definitive plan for the property Mr. Nolan appealed the Board's decision to Land Court which resulted in the mandate that the Planning Board approve the subdivision plan and the zoning would revert back to the Industrial zoning in place at the time of the original preliminary submittal. The zoning would revert to R-2 after 8 years. During the intervening eight years the land was zoned Industrial several business purchased the land establishing industrial uses. When the zoning reverted back to R-2 the business in place became pre-existing non-conforming uses.

Mrs. Kotleski and Mr. Mongiardo explained that their property is not worth anything in a residential zone because the only businesses that could operate on their properties would have to be the same as what is currently in place. They said no one would want to build a residence in this industrial area so they would like to submit a petition to town meeting to change the zoning back to Industrial.

Mr. Musgrove asked if changing the property to Industrial would allow Mr. Nolan to have a legitimate gravel operation from the existing gravel bed.

Mr. Rembold said no. Land Court denied a gravel operation on the site. There can never be a gravel operation on that site.

There was discussion of the lots that would be included in the rezoning. After much discussion Mrs. Kotleski and Mr. Mongiardo were advised to petition for the zoning change to their properties and that of Mr. David Lanoue who wants to have his property included. None of the other landowners have indicated that they want the zoning changed for their lots so it would be best to deal with only the properties whose owners are part of the request. The proposed zoning lines should follow property lines, not splitting any parcels.

Mr. Rembold pointed out that when the zone was changed at the special town meeting in 1989 there was only one vote against the change.

Mr. Musgrove said he thought all the land previously zoned Industrial should go back to Industrial. He said he thought the Town would go along with the change if proposed by the Planning Board.

Mr. Dohoney said he thought the property owners should submit the petition.

Mr. Rembold agreed.

Mr. Hankin said he does not want to be seen as supporting the gravel operation.

Mr. Dohoney said he would be disinclined to change the zone on any property without the property owner's knowledge or permission.

It was agreed that the petition to rezone the land would be submitted by the land owners.

BURNING TREE ESTATES/A.K.A BARRINGTON BROOK

Attorney Edward McCormick was present along with Engineer Jim Scalise from SK Design Group and developers Dave and Matt Ward.

Mr. McCormick said Stone Path Corporation owner of Burning Tree Subdivision is financially distressed. The project began in January 2002 as a PURD with 60 units. The PURD bylaw did not work so a traditional subdivision allowing 15 dwelling units was approved. When construction began on the roads it was clear that the road design and

engineering would not work so the plan was redesigned by SK Design group and finally a revised plan was approved in 2005. Since the approval, only three lots have been sold. Although everything has been tried in order to sell the large estate lots, nothing has worked. There is over 2 million dollars in infrastructure but no interest in the property. Mr. McCormick said it is a disaster.

Mr. McCormick said in an effort to make something work on the property we have contacted Mr. Dave Ward who is interested in an Open Space Residential Development (OSRD). He said a successful plan would build a tax base, pay off the mortgage and be good for the community.

Mr. David Ward of LD Builders and Associates said he has 28 years in the construction business and has successfully built five projects in Berkshire County. He said his target is second homeowners. The project would begin with a furnished model on site to promote sales. He said the project would realign and increase the density but with open space. We can make this a success and do it quickly. Mr. Ward said he created a development called Silver Maple Farm with 60 detached condominiums. He said that is what he is proposing for this site. The amenities would be built first, tennis courts, pool, and club house. This allows prospective buyers to see what they are getting up front.

Mr. Ward said making a total community is what will make it a successful development. He said he has talked to Berkshire Gas about bringing natural gas into the project and National Grid about street lights. We have a back log of people looking for these types of homes. There would be no increase in town services such as police or fire. There would be 67 units proposed. That is the number that makes the project economically feasible.

Mr. Hankin asked what the price point would be.

Mr. Ward said pre-construction price would begin at \$400,000.00. The price would go up from there.

Mr. Hankin asked when the amenities would be built.

Mr. Ward said right away.

Mr. Scalise addressed the project density reading from the proposal dated January 10, 2012. He said the infrastructure is in place and the wetlands have been designated. Mr. Scalise went through the breakdown of the land concluding with 64.9 acres available to build 64 condominium units. Mr. Scalise said he avoided the buffer zones and ended up with more than 50% open space. He said the bylaw allows for a bonus if the open space is more than 50%. The land area and zoning would allow for 94 units but we didn't like the way it looked. The plan shows clustered units with a lot of open space.

Mr. Hankin asked if the owners of the three lots in the subdivision had been contacted regarding the plan.

Mr. McCormick said not yet.

Mr. Musgrove asked if a waiver would be requested to not increase the road width by two feet.

Mr. Scalise said if you think there is too much density you could debate the traffic impact. We would contend that there are two roads in and out of the site so the traffic would be split lowering the impact on either of the roads onto Christian Hill Road. The infrastructure in place is adequate for the density.

Mr. Hankin said his concern is the traffic impact on Christian Hill Road, he asked if that had been looked at.

Mr. McCormick said not all the traffic would go one way it would divide with the northbound traffic heading out to Division Street.

Ms. Nelson asked how much additional road would be proposed within the subdivision for the dead end road.

Mr. Scalise said there would be an additional 650 feet of dead end road.

Mr. Ward said the road is private with private maintenance.

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Mr. Rembold said one more fire hydrant would be added. Currently there are hydrants every 400 feet along the roads.

Ms. Nelson said if we are having a mathematical discussion then the plan seems accurate.

Mr. Musgrove said if we agree the plan is mathematically accurate then it moves us ahead to the next step.

Mr. Hankin said we are also talking about the number of units which may or may not reflect what the road can support. Also, a road that is far in excess of what the subdivision regulations allow. The math may be correct but may not actually go forward. The plan looks like it is laid out on a pool table it does not reflect the topography at all.

Mr. Scalise said once we get through the first part of the submission we will come back with a plan showing building envelopes.

Ms. Nelson asked what the square footage of the units would be.

Mr. Ward said 1803 square feet. Robert Harrison will be doing the elevations and the architecture.

Mr. Musgrove said the project fits on the land.

Mr. Ward said we are looking for 67 units, that is what is economically feasible.

Mr. Hankin said as the Planning Board we are required to find the public benefit of this project. The layout is a tighter fit than a normal subdivision but still looks like a subdivision. He said the common driveway bylaw allows up to three units on a driveway it would be better to see four or five units on a driveway.

Mr. Scalise said if he grouped the buildings closer together it changes the building specifications. He said the layout is very dense for the grade of the land.

Mr. Hankin said he would like to see how the layout fits with the topography.

Mr. Scalise said he maintained a contiguous open space layout. He said there is a bonus for the amount of open space provided.

Mr. Hankin said the tennis courts are depicted on the plan with an east/west orientation and about 25' of fall across them. He pointed out that tennis courts typically require a north/south orientation.

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Mr. Scalise said he drew them parallel to the contour. He said he would look at it again.

Mr. Hankin said Long Pond Brook falls within the Stream and Lake Protection district. The set back is 300 feet. If anything is within that 300 foot setback a special permit would be required.

Mr. Scalise said he maintained a 200 foot setback.

Mr. Hankin said he thinks it would affect about 7 units as laid out.

Mr. Scalise said he knew he stayed out of the river front.

Mr. Rembold said the Conservation Commission will enforce the bylaw for 300 feet.

Mr. Musgrove said the purpose of this visit it to get a determination of yield. If we determine it meets the mathematical requirements they can then move forward with presenting a plan to meet the rest of the requirements.

Mr. Hankin said we have thirty days to decide.

Ms. Schroeder said it is not specified if the buffer zones are developable.

Mr. Scalise said he believes it is developable but he removed the riverfront and wetlands from the buildable area. The buffer zone is not a resource area of land regulated. Regardless, the plan shows much less density than would be allowed by the calculations.

Mr. Hankin said he would like to see something happen on this land. He said he is not opposed to the concept but he is not comfortable with the layout that has been presented. He said he feels that the plans are headed in the right direction.

Mr. Musgrove said for tonight we need to give approval that the proposed 67 units meet the mathematical calculations.

Mr. Scalise asked the Board if the common driveway requirement for a maximum of three units per driveway has to be followed.

Mr. Rembold said the common driveway rules are part of the Town Code. OSRD does not allow the Board to waive the general laws.

Mr. Hankin asked if we could somehow waive the requirements.

Mr. Rembold said he did not know.

Mr. Hankin said we need to research it. It would be good if we could waive that requirement.

Mr. Dohoney asked if general law even applies, these are not individual lots but individual footprints.

Mr. Musgrove said paragraph three allows you to group the units as you want with driveways serving what you want. You need to argue it before us so we can allow it.

Mr. Dohoney did not think a waiver would be necessary as the general law doesn't apply.

Ms. Schroeder commented on the contiguous open space. She said it might be contiguous for humans but not for other species. She said she wanted less edge. It was also suggested that the clusters could be separated in certain areas to create contiguous open space between them, even if that contiguous open space involved crossing a road.

Mr. Musgrove made a motion to send a letter to the applicant approving the mathematical calculations for 67 units as per 8.7.10, Mr. Dohoney seconded, all in favor.

Mr. Hankin encouraged the applicants to go to the beginning of the OSRD section where it talks about the purpose. He said you have to convince us there is a public benefit. Please make sure you address it when you return with your next plan.

SOLAR ENERGY BYLAW:

Mr. Rembold had a computerized map showing the land available for potential solar energy use. Via various overlays, he removed water, roads, railroads, floodplains, priority habitat for endangered species and wetlands. There were other conditions such as Scenic Mountains Act, southern exposure, shading factor, slopes less than 6%, and proximity to three phase power lines that were yet to be mapped. The map yielded areas purported to be "buildable." It was speckled with these buildable areas with no recognizable pattern suggesting a simple overlay district.

Mr. Hankin suggested anything on a roof or in the Industrial zone should be by-right.

Mr. Rembold said right now there is a blank slate to work from. He asked if the Board could narrow down what they wanted for a bylaw and how it would benefit the town.

Mr. Hankin said he is not sure what we should do. He said we don't want to require a special permit because that would be a disaster. No one would ever apply. He said he is not sure where to go from here.

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Ms. Schroeder asked if a bylaw would help the problem of putting the resident's minds to rest while promoting and inviting solar companies to come into our town. Maybe we need a bylaw to promote solar energy in town.

Mr. Dohoney suggested the matter be tabled indefinitely.

Mr. Musgrove said he thinks we should go to the Selectmen to say we have discussed it at length and we can't come up with a bylaw that would work.

The Board agreed with Mr. Musgrove's summation.

TOWN PLANNER'S REPORT:

Mr. Rembold informed that there is a law to allow for remote participation as long as there is a quorum present in the room.

TOWN CHARTER REVIEW COMMITTEE:

The Selectmen have requested a member of the Planning Board participate on the Town Charter Review Committee. Mr. Musgrove suggested Mr. Dohoney could be the Board's representative. Mr. Dohoney agreed.

Mr. Musgrove made a motion to adjourn, Mr. Dohoney seconded, all in favor. The meeting was adjourned at 10:23 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary