

PLANNING BOARD MINUTES

DATE: March 14, 2013
TIME: 6:00 P.M.
FOR: Regular Meeting
PLACE: Fire Station
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle Schroeder; Richard Dohoney
Jack Musgrove present via telephone
Brandee Nelson, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 6:02 P.M. Mr. Musgrove had not called in yet.

FORM A'S:

Jack Magnatti was present with Mark Reynolds from Kelly, Granger, Parsons and Associates with a Form A application on behalf of Theodore and Cynthia Cushman for a parcel of land located on the west side of Pleasant Court. The parcel of land is to be conveyed from an abutter named Keefner to allow the Cushman's to have ownership of a fence between the two parcels. Parcel A contains 189.28 square feet and is not to be considered a separate building lot.

Mr. Dohoney made a motion to approve the application, Ms. Schroeder seconded, all in favor.

MINUTES: FEBRUARY 28, 2013

Ms. Schroeder made a motion to approve the minutes of February 28, 2013 as amended, Mr. Hankin seconded, all in favor.

OPEN SPACE RESIDENTIAL DEVELOPMENT DISCUSSION:

Mr. Hankin asked Mr. Dohoney if he had anything to add to the OSRD discussion that took place at the last meeting.

Mr. Dohoney said the Barrington Brook project was an atypical plan. It should not be considered for judging how the bylaw worked or didn't work.

Ms. Nelson said Ms. Schroeder had a good point at the last meeting that there are some particular terms that should be defined to make the bylaw clearer.

Mr. Musgrove joined the meeting via telephone. A quorum was present in the room.

Mr. Dohoney said he had an issue with the requirement of perpetuity of the restrictions.

Mr. Rembold said MGL 80 defines perpetuity.

Mr. Dohoney said yes.

Ms. Nelson asked if all properties could be eligible to have open space maintained in perpetuity.

Mr. Dohoney said yes it is just a legal form.

There was discussion of Conservation Restrictions and permanent easements. It was discussed that the current restrictions on the Barrington Brook are only good for 20 years and if there were automatic renewals of the restrictions and easements they are really not in perpetuity. Mr. Dohoney said the Department of Conservation Restrictions, DCR, can certify the development as having a conservation restriction through an application process. There wouldn't be any thresholds to receive the certification.

Ms. Schroeder said there is not monitoring or surveys required to get the certification.

Mr. Dohoney said that is correct. He said receiving the certification actually reduces the value of the land.

Mr. Rembold said he didn't understand that there is a dual value of a CR. The State can determine if there is CR value or not. He said he agrees that there would need to be a CR under the statute, MGL 184 sec. 32, but also that the DCR needs to review the property for conservation value.

Mr. Musgrove said there would be a permanent CR that would mean there is a state endorsed ban of development on the property.

Mr. Dohoney said there would be a state endorsed document that bans what is specified to be banned.

Mr. Musgrove said we could require that the state certify the CR for the open space, then, additionally require a management program. One document to ensure there won't be any development and the other to determine how it would be managed.

Mr. Dohoney said at one time the state said a CR is not enforceable, the legislature said it could be enforceable if the state signs off on it. It used to take a long time but not so long anymore. He said the applicant could get the sign off during the application process. The restriction would not be binding until it has been filed with the Registry of Deeds.

Mr. Hankin said he felt the OSRD is preferable in all cases over a conventional subdivision but he said he is concerned over the devaluation of the land.

Mr. Dohoney said although the open space land would be devalued the remaining land to be developed would have added value.

Mr. Hankin said we have seen and will continue to see the developer wanting their prime land to develop and using the residual land as the open space land.

Mr. Rembold said the applicant needs to go through the steps to identify topography, soils and habitats and whatever else is necessary.

Ms. Nelson said her firm identifies those characteristics as a matter of course using published data.

Mr. Dohoney said the Board could consider going the Bobrowski way and cutting the bylaw down to two lines saying the Planning Board could waive any provision in the ordinance if the applicant provides X.

Mr. Hankin said that is essentially what we have now with the OSRD.

Mr. Rembold suggested the Board could apply the bylaw to a piece of land to see how it would work.

Ms. Nelson said that might be a good idea. She agreed with Mr. Dohoney that Barrington Brook was an odd situation that did not give a good test of the bylaw.

Mr. Hankin said one of the things discussed at the last meeting was to have sample drawings as part of the Inventory Constraints and Opportunities section of the bylaw. He suggested that in addition to those samples there should be language for open space management and eradication of invasive species. This could put the developer on notice that these items are expected.

Mr. Dohoney asked if there are levels of maintenance written.

Ms. Schroeder said not that she is aware of.

Mr. Hankin said he had information that it would cost \$300-\$600 an acre to eradicate invasive species, based on a recent quotation from the state for the Pfeiffer Arboretum.

Ms. Schroeder said there are many people in this area who are able to do this work. She said they are not hard to find. Ms. Schroeder said she would try to get more information.

Mr. Hankin said these issues will come up again during the definitive plan discussion for Barrington Brook. It would be good to have information. Mr. Hankin asked Mr. Rembold if there had been any further information from BRPC regarding definitions. Mr. Domina had been offered to look at information for our bylaw.

Mr. Rembold said he would follow up on it.

Mr. Hankin said it would also be good to look at the river area; specifically the inner and outer riparian zones. It would be good to know if it would be an amenity for open space. Mr. Hankin said if the open space is not open to the public it is hard to consider it a public amenity. By what standard is the Board going to consider the open space a public amenity? Perhaps if the invasive species are eradicated the Board could consider that a public amenity.

Ms. Nelson asked where the bylaw refers to public amenity. She said the bylaw actually refers to public interest. Ms. Nelson said she is not in favor of providing public trails through every development.

Mr. Hankin said this developer did not want any access to the open space or trails.

Ms. Nelson said she might feel differently if the trail would be a missing link to existing trails but open space in general is in the public interest with or without public access.

Ms. Schroeder said open space could have habitat, but not if it is filled with invasive species.

Mr. Hankin said some language needs to be added to the bylaw to provide a mechanism to have invasive species controlled.

Ms. Nelson said 8.7.1 3 suggested the last paragraph may cover it as it says maintains in a manner suitable for the intended purpose.

Mr. Hankin said he thinks that 8.7.1 2 and 8.7.1 3 could be expanded to contemplate a scenario like Barrington Brook. We need to have as many ways as possible to encourage the use of OSRD.

Ms. Schroeder said she thinks the bylaw should require that vernal pools be certified and submit the information to National Heritage. She said not every parcel would have a vernal pool. It would be good to have base line data.

Ms. Nelson asked if the Conservation Commission requires anything like that.

Ms. Schroeder said no one had to certify a vernal pool. It would provide more information about where important habitats exist.

Mr. Hankin said as a lay person it sounds very onerous. The goal is to make the OSRD a preferable development over a conventional subdivision.

Mr. Rembold suggested taking some of the suggestions made and use the information when applying the bylaw to a parcel. He said he would pick a couple of test parcels from another town.

TOWN PLANNER'S REPORT:

Mr. Rembold stated the Master Plan is moving along. It is moving into the final draft. All the chapters have been drafted and are in fair shape. There are a lot of details to strip out to make it as readable as possible. Mr. Rembold said he hopes to go to the Annual Town Meeting not to get an endorsement, but to provide an update of the status. The goal is to have a joint meeting with the Board of Selectmen and the Planning Board in June or July to have the plan adopted. It is up to the Planning Board to adopt the plan but it would be good to have the Selectmen present to endorse and support the plan.

Mr. Rembold said the time frame is doable. He said an implementation chart setting the goals still has to be written.

Mr. Hankin said he understands that zoning has been put aside in favor of looking at the town through different "filters" but there are still some issues in my mind.

Mr. Dohoney said the zoning can be applied in the implementation section.

Mr. Rembold said this is a two step process. The goals may require some zoning changes. The Board may want to look at the land use section.

Mr. Dohoney suggested it be put on the agenda.

Mr. Hankin agreed. He asked Mr. Rembold to circulate the section.


Mr. Rembold said at the next meeting the Board will have a special permit to make a recommendation to the Selectmen and Site Plan Review to approve. The application has been submitted by Construct for two-family residence at 314 State Road.

The Board set a site visit for 5:30 P.M. on March 28. Mr. Musgrove disconnected from the meeting.

Mr. Rembold told the Board the zoning public hearing would be held at the next meeting.

Without objection, Mr. Hankin adjourned the meeting at 7:29 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary

