



HULL PLANNING BOARD

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September 15, 2014

Members Present: Jeanne Paquin, Chair, Jennifer Berardi-Constable, Vice Chair, J. Timothy Reynolds, Steve Flynn, Joseph Duffy, Harry Hibbard

Members Not Present: Nate Peyton

Staff Present: Robert Fultz, Community Development & Planning Director
James Lampke, Town Counsel
Ellen Barone, Administrative Assistant

7:10 pm J. Paquin called the meeting to order

Continuation of a Public Hearing filed by Adam J. Brodsky, Esq. for William J. Horne which seeks a Roadway Extension to North Truro Street in an application under the Subdivision Control Law for Approval of an Amendment to Definitive Plan.

Documents and Plans:

- Memo to R. Fultz from John Chessia of Chessia Consulting Services, LLC dated 9/15/14 re: North Truro Street Roadway Extension – update on waiver request, address outstanding engineering issues, and list of construction related conditions for project approval.
- Email to/from John Chessia and Daniel Armstrong re: North Truro Street Extension Waivers
- Waiver request update letter prepared by Strong Civil Design, LLC dated June 5, 2015, revised September 11, 2014 sent to R. Fultz from Daniel Armstrong.
- Plans entitled “Roadway Plan for North Truro Street in Hull, MA” dated August 22, 2013 last revised 9/13/14 (Rev No. 5 – Revised per Town Peer Review Comments) prepared by Strong Civil Design, LLC, consisting of two sheets. Only Sheet 2 was provided.
- Technical Design – Drainage Channel - 1 page, prepared by Strong Civil Design, LLC. Calculations for the proposed swale along North Truro Street.
- Email from Adam Brodsky to R. Fultz with J. Lampke copied. Email includes email chain from/to David Ray, R. Fultz and E. Barone.
- Copy of original plan with location of the bound in grayscale.

Proponent presentation:

Presentation by Adam Brodsky, attorney for William Horne – They have reached out to John Chessia, engineer, and have recently submitted an updated waiver letter revised September 11, 2014. The letter reflects changes and the proponent believes any issues have now been resolved. Design angle of the swale has been changed which is reflected in revised plan submitted. There is also a new note on the plan signed by D. Armstrong and D. Ray. A. Brodsky wanted to state a correction to a comment he made at a prior hearing regarding a construction sequence. There is a construction sequence provided on sheet 1 of the plans. A design calculation for flow rate was requested by J. Chessia and this now has been provided. The proponent's engineer, D. Armstrong, was asked to summarize the modifications made to the waiver letter. The following sections/waivers have been added: Section 4.C (3) Storm Drains, Section 5.K (1) Grass Plots, several sections which reference “Typical Road Cross Section”- Figure 1 (six bullet points address this), and construction specifications of Section 5.D Drainage System, 5.I Sidewalks and 5.J Curbing.

Engineering Consultant response:

John Chessia shared his findings relative to the additional materials submitted. He is in agreement with the waivers on the revised waiver letter. He clarified items in his memo dated September 15, 2014 where he felt a waiver was not needed. He pointed out issues that would be at the Board's discretion – 4.B.2 Projection of streets, 4.C.1 Drainage design, 5.D Drainage system construction materials, and 5.L Tree installation. He explained the design issues of the swale and the need to eliminate a sharp angle that could not be maintained on a gravel surface. There are also recommended conditions of approval to consider which are stated in J. Chessia's memo.

Dan Armstrong responded to swale design issue. He confirmed in doing his calculations that the drainage would completely stay in the right of way. The contours are drawn based on both the cross-sectional and the longitudinal slope. Depth of three inches is greater than the hundred year storm event. Shape of contour line is done on purpose (1) for the gravel turning radius and (2) to have a steep drop off in grade from the road to the gravel turning pad makes it less accessible for turning purposes – so it's meant to be a continuous slope to the bottom.

There is a disagreement between Mr. Chessia and Mr. Armstrong on the design calculation of the swale.

Board response and discussion:

R. Fultz asked how the gravel would be maintained or destroyed if the abutter wanted to add a driveway.

J. Chessia responded that the project proposes twelve inches of crushed stone. It may need to be re-raked or graded back and forth.

D. Armstrong replied the current design is for a turn around and not a driveway.

R. Fultz stated the Board is responsible for making sure there is access to all lots.

D. Armstrong confirmed there is access to the lot. The property owner wanting access would have to build his access to the street. They are not building driveways to every person's property.

Comments/questions from the Public:

Kevin Conway, 218 N. Truro St – wondering if he is to continue accessing his property as he has will he now have to raise the elevation of his property to meet the proposed slope.

Response from D. Armstrong – if he wants drive way access at this location he will need to get a driveway permit and build a driveway that is not adversely affecting the roadway design or his property.

K. Conway stated that he will now be denied access and in order to gain access it will be an expense to him as a result of someone else's project.

A. Brodsky stated Mr. Conway doesn't presently access his property over this frontage. He has blocked this area with vegetation. He can have access in the future but he will have to design his driveway to meet the town's road.

K. Conway said the statement was untrue. He has kept a boat in this area for years. Most of the extension of this road is his frontage – around 40 feet. The extension is not all in front of Mr. Horne's property. It is in front of his property.

J. Duffy asked if Town Counsel has a comment on the obligation of the Board in connection with this issue.

J. Lampke responded that he does not have a comment as it is not totally clear what each party wishes to do.

J. Duffy wonders if there is another issue here that we were not aware of when we started.

J. Lampke stated the BOS wishes to have input from all departments, boards, officials that have any issues or concerns about this project. If the Planning Board feels there is something beyond what is before them in the sense of an amendment to the prior subdivision then the BOS would want the Boards comments on any issue that may affect this proposal.

J. Duffy asked if the Board wanted to go further with any comment would the Board have any obligation with respect to the decision.

J. Lampke replied the Board should certainly not be approving plans that impede or interfere with the rights of others, but he is not in a position to comment on whether or not this plan interferes with what someone else wishes to do. That is what engineers are for.

R. Fultz stated the Planning Board clearly has a responsibility to try and make sure there is access to all lots. This is an access issue. Whether or not there is adequate access with the current design is something the Board will have to decide. He restated prior question as to what would happen to gravel turnout if the abutter drove over it to access his property. This is a private system built in the right away, so it is important for Board to consider how it affects access.

J. Duffy questioned if there was access to the abutter's property only in the turnaround or if there was access on the remaining frontage that is adequate.

S. Flynn asked Town Counsel who would pay for a curb cut to add a driveway if there was a sidewalk in front of the property. J. Lampke replied that it would be the homeowner's responsibility.

S. Flynn asked what type of access was required. He thought there would not be blocked access just from a down grade. If a driveway was requested at a later date the abutter would go through the same process as anyone else and pay for their own design and construction.

J. Constable commented it did not seem to be a matter of access but that Mr. Conway would now have more work if the plans are carried out.

A. Brodsky stated Mr. Conway has 80 feet of frontage the public way and the turnaround is only 22 feet wide.

Elizabeth Parkes, 21 Berkley Road – asked if a plan had been submitted by Mr. Conway for the driveway. If the road isn't constructed then he would have to construct the road to the get to the place where she believes he wants a driveway. Mr. Horne is constructing a roadway where there is currently shrubs and grass.

K. Conway replied that many people in the Town of Hull keep vehicles and boats in a non-traditional unpaved driveway, such as pulling into the yard. Normally when a town builds a road they make cuts in the curb where driveways are located, they don't expect the homeowner to pay for this. He already has a historically used driveway space, which currently abuts N. Truro St now. It is at the end of his hedge row. That is where he backs his boat in beside the shed in the winter. Currently the grade is the same. There is no change in elevation.

J. Paquin asked Mr. Conway to point out his property on the plan.

S. Flynn agreed that the Town would put in a curb cut if there was an existing driveway. Because you are able to park a car in the front yard does not make it a driveway.

H. Hibbard confirmed his understanding that the way the drainage system needs to be built there will be a bump that the boat will have to go over to get into Mr. Conway's yard. Seems like the Board could decide that it complies with the requirements and then if Mr. Conway needed a driveway he would have to address the drainage system and any changes at that time. Mr. Conway's issue doesn't seem to have anything to do with the Board's decision.

R. Fultz reiterated that the swale is an integral part of this drainage system and is a private project in the Town right of way. It has the potential to affect the abutter's access to his lot and given the design that access could impact the storm water system. In his opinion both of these things are the responsibility of the Board. R. Fultz asked if Mr. Conway did want to do access (in the spot pointed out on the plan) would it destroy the drainage system. It is not comparable to a sidewalk which is a public amenity. He would guess that maintaining a drainage system functionally would be more difficult than making a curb cut in a sidewalk to a road.

K. Conway stated it doesn't matter if you call it yard or driveway, it is access that he has now. He asked if he would be responsible for repairs to drainage system if it became damaged by backing boat over it. He doesn't feel that he should have to sacrifice access or money for this project.

Board continued response and discussion:

J. Constable stated that she is still unclear as to how this project will deny access to Mr. Conway's property.

R. Fultz replied that access won't be denied but it will impact access and Board needs to think about that. If Mr. Conway chose to have access over system the implications would need to be considered.

J. Constable asked if Mr. Conway parked in his yard after the construction was done would it harm the drainage system or is just an increased elevation of three inches.

D. Armstrong stated that if Mr. Conway drove heavy machinery over the drainage system he could potentially bring runoff into his property. He could do that now. If he dropped the grade of his property, he could potentially have runoff. If the grades are kept where they are now and he maintains his property, he will not have runoff into his property.

J. Constable asked if construction would prohibit Mr. Conway from constructing a driveway.

D. Armstrong response was no.

S. Flynn confirmed his understanding that Mr. Conway could drive over the gravel and park in his yard and it would not have a serious affect on the drainage.

D. Armstrong responded - correct.

J. Chessia stated a boat trailer on crushed stone could displace the gravel. He thought that tweaking of the grades could minimize that issue. Also the change from catch basins to open swale would change the parameters.

T. Reynolds asked if the gravel was a requirement of the Conservation Commission.

D. Armstrong responded – yes.

D. Armstrong stated that changing the grades to Mr. Chessia's suggestion would make the gravel steeper which would move the gravel more. Due to gravity he is trying to keep it as flat as possible so there is less movement. If the gravel was moved it is the responsibility of Mr. Horne to make sure within the right of way the gravel and drainage system is maintained as part of his DEP permit.

J. Lampke asked for confirmation that the proposed road improvements are going to improve the drainage overall for properties in that area. He also asked for confirmation that the infrastructure being proposed will impact the access Mr. Conway is currently accustomed to.

J. Chessia responded that it will change Mr. Conway's access – there will be a bump to go over, the gravel will move and he will have more turning room.

A. Brodsky responded that there is currently no storm water management on this portion of N. Truro St.; the project will provide this so this is an improvement for everyone. Mr. Conway has been using Town property as his own for many years. He will now be obligated in the future to use his own property. There are plenty of places to access his property for a driveway. There does not need to be a driveway right where the turnaround is. There is an eighty foot frontage. There does not need to be a conflict with the existing design. A driveway can be built in any of the other locations.

J. Constable feels too much time has been spent asking the same questions and receiving the same answers. The boat is currently in the water in season, so we are only talking about backing over the area twice a year.

J. Lampke stated when an infrastructure system is designed by public authorities they try to do it in such a way as to minimize any adverse impacts to abutting properties. He thought that J. Chessia's suggestions could make this project less of an issue.

J. Paquin stated to A. Brodsky regarding somebody using town land, that people all over the Town have used Town property for a variety of things. So she would prefer that we don't bring that into the discussion. The Board needs to consider that allowing one person access is changing the access of another person.

R. Fultz stated that after the last meeting he had a question about identifying the bound and taking of the road by Town meeting. The corner of S. Truro and N. Truro is pointed out on the plan. On the original plan it shows the bound some distance from the corner – scaled at 35 ft – if true - it would put part of the drainage system in a private way. He made an inquiry to David Ray the land surveyor and A. Brodsky. Responses were received. A. Brodsky stated the professional land surveyor has stamped the plans to certify that is the end of the public way. David Ray looked at three things: 1. physically located the bound in the field, 2. actual taking – bound is 1200 feet from intersection referenced in the taking, 3. the 1932 plan appeared to show a discrepancy between that plan and what was located in the field and in the taking, but Mr. Ray says that he as the professional land surveyor has arrived upon the bounds set by the Town engineer reflected in the taking.

J. Chessia stated different surveyors could come to different conclusions. There is definitely a difference between the plan and the location.

A. Brodsky stated there are no other professional land surveyors giving you there opinion.

S. Flynn stated it is stamped by David Ray and he is a registered professional land surveyor, so he is comfortable accepting these plans.

J. Duffy stated the Board can only make decisions on the document that the it has.

J. Constable agrees. This is what was asked for last week and the Board agreed they were comfortable with David Ray's assessment.

H. Hibbard stated we have an expert opinion and we do not have an expert opinion disputing it. For our purposes this should be the end of the discussion.

J. Lampke stated that another opinion from a surveyor has not been asked for. The Board is opting to accept the plan as it is. David Ray is an expert hired by the applicant. How the Board decides to remedy the discrepancy is up to the Board.

H. Hibbard suggests that we have no expertise sitting at the table that is qualified to challenge Mr. Ray's opinion on this. If there is someone out there with an interest that would like to present a different expert opinion that is fine, but this is what we have.

R. Fultz reminded the Board that this is a pretty critical issue and that if Mr. Ray did turn out to be wrong, then part of this system would be located in a private way. It appears to be a large discrepancy. The Board could request to have a surveyor.

S. Flynn stated that at the last meeting it was brought up that the plan was not stamped by a land surveyor, now we have it stamped by a registered professional land surveyor and we still are not satisfied. It gets ridiculous. Parameters seem to change and what is asked for is not good enough.

J. Lampke stated it was not said that getting a stamp was what was required to make everyone satisfied. He believes R. Fultz specifically raised questions at that meeting and since that meeting about the discrepancies. A. Brodsky commented that he did not think there was a difference in process regarding public way and private way. They would still have to show the Board the design and go through the same exercise.

R. Fultz conferred with J. Lampke and stated that if it is a private way there would be different approvals required of other property owners.

J. Lampke commented the owner of private property on a private way has the right to improve the private way at his expense as long as he is not harming the other property owners, on the private way, in order to get access to his property.

Kevin Conway commented that there are two private lots and most of the property is conservation land.

Upon a **motion** by T. Reynolds **2nd** by J. Constable and a **vote** of unanimous
It was **voted** to close the Public Hearing on the N. Truro St Extension

J. Paquin explained that the Board will deliberate on the project without taking in any more information. A conditional approval list will be worked through. The date for the deliberations is set for October 8, 2014 at 7:30pm. It was noted by E. Barone that the decision needs to be made by October 24, 2014.

J. Paquin stated we are back to our regular meeting.

ANR Application – 10 Whitehead Ave (Map 27/Lot 149) – Jack Mitchell

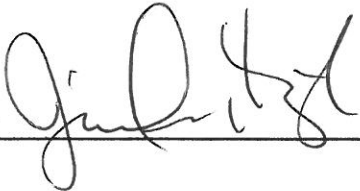
E. Barone presented the application and plans to the Board.

R. Fultz stated the issues – It is an ANR – Application for Endorsement of Plan Believed Not to Require Approval. There are two structures on the lot that pre-date the subdivision control laws, so it was allowed to be divided that way and use undersize lots. R. Fultz had a concern about access to the lot. An email from Jack Mitchell was provided to the Board that confirms adequate access.

The Board reviewed the Application and plan submitted for endorsement as "Approval Not Required" (ANR) under the Subdivision Control Law. Based on the information provided on the plan titled "ANR Plan", project address: 10 Whitehead Ave, Hull, MA, prepared for Jack Mitchell, prepared by Nantasket Survey Engineering, LLC; dated 8/5/2014; the Board determined that the subject lots meet the requirements of lot size and minimum frontage; and the standards of fronts in an appropriate way, minimum frontage and vital access exists were met.

Upon a **motion** by S. Flynn **2nd** by T. Reynolds and a **vote** of 6/0/0
It was **voted** to: Approve and Endorse

8:50 pm Upon a **motion** by T. Reynolds **2nd** by H. Hibbard and a **vote** of 6/0/0
It was **voted** to: Adjourn

Minutes approved:  Date: 8/12/15