

MILLBURY PLANNING BOARD
MINUTES
FEBRUARY 24, 2014

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The regularly scheduled meeting of the Millbury Planning Board was held on Monday, February 24, 2014, at 7:00 p.m., in the Municipal Office Building, 127 Elm Street, Millbury, MA.

Present: Edd Cote, Richard Gosselin, Paul Piktelis Michael Georges, Jeffrey Markarian

Absent: Jaime Dubey

**7:15 p.m. Steve Gallo – Autumn Gate Estates Surety Increase & Lot Release (Lots 4 & 20);
Cooper Road ANR**

Steve Gallo was present to address the Board. The right-of-way to Autumn Gate II was originally located on the definitive plan as an easement. Mr. Gallo stated that customers raised concerns over the easement and access to the adjoining subdivision. This ANR plan would create two parcels. The two abutting parcels are to be removed from the plan, and Mr. Gallo will retain ownership for the time being. In addition, his attorney advised him that, while the easement was on the plan, one wasn't drafted. Mr. Gosselin is concerned that this would land-lock the abutting subdivision.

With reference to the surety, cash in the amount of \$23,750 was received. Motion by Jeff Markarian to accept the sum of \$23,750 to secure performance of the covenant (lots 4 & 20), seconded by Paul Piktelis, motion carried unanimously.

Motion by Jeff Markarian, seconded by Edd Cote, to release lots 4 & 20 from the covenant executed by Foxgate, LLC on July 15, 2013, in consideration of the deposit of \$23,750, to secure performance in lieu of the covenant, motion carried unanimously.

Discussion on the ANR plan continued. Mr. Gosselin believes the ANR plan will cut the access off to the subdivision in the back. Ms. Connors advised that a road right of way is being created, and access to Autumn Gate Phase II will remain open. Gallo Builders will retain ownership of Cooper Road. They will have the option of retaining it as a roadway, or if through the court system it is determined that the easement does not exist, they can deed one-half of the roadway to each abutting lot owner. Lot 2R won't have sufficient frontage unless the road exists, or half of it is deeded to Lot 2R.

Mr. Gallo stated that if lots 2 and 3 were sold as is, there would be two homeowners who would be part of this issue, by approving this plan, he is the only one that will have to deal with it.

Mr. Georges asked if the easement was recorded with the Registry, Mr. Gallo stated that the easement is on the plan which was recorded.

Mr. Gosselin is afraid that the Town would be in jeopardy if they approved a plan without access.

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Mr. Gallo stated that when the Board approved Autumn Gate II, it was the same applicant as for the Autumn Gate I Subdivision. Autumn Gate I was then sold afterwards. An easement may not have been retained. He said he has tried to contact the owners of the other subdivision and has not received a response.

Ms. Connors stated that the ANR plan does show the easement and existence of Cooper Road.

Motion by Jeff Markarian to endorse the plan of land entitled "Lot 2R-3R Autumn Gate Circle, Millbury, MA" prepared by HS&T Group, Inc., 75 Hammond Street, Worcester, MA, dated February 18, 2014, seconded by Edd Cote, motion carried unanimously.

7:30 p.m. Zoning –related Warrant Articles Public Hearing

Clerk Jeff Markarian read the public hearing notice.

Town Planner Connors reviewed the revisions recommended by Jon Eichman, Town Counsel.

1. Raise and appropriate \$10,000 to update Master Plan

Terry Burke Dotson asked that the definitions of roadways be added back in, such as a lane, a way, a street, etc. Ms. Connors advised that these definitions can be found in the Subdivision Rules & Regulations, and explained the purpose of the Master Plan.

2. Amend Zoning Map by rezoning to I-I portion of S-II District and Business II District,

There are two parcels owned by Aggregate Industries, and Barrday (formerly Lewcott Corp.). The Town of Sutton zoned their portion of Aggregate Industries property to Industrial zone.

Darin Haig asked how close the property was to residential properties. There are a few abutters in the rear, on Rice Road there is a small area, but with a buffer there. High tension wires are in between. There is an additional Article proposed to increase the buffer to 200 feet.

Mr. Haig asked how this was related to the medical marijuana article. There is no relationship.

3. Amend Zoning Map by rezoning to B-I that portion of the I-I District

These parcels are along Canal Street and Howe Avenue. No public comments.

4. Amend Zoning Map Article 2 DISTRICT REGULATIONS

No public comment.

5. Amend Article 4. SPECIAL REGULATIONS (Registered marijuana dispensaries)

Ms. Connors read and explained the various proposed sections.

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Lt. Donald Desorcy from the Millbury Police Department presented his research to the Board. He spoke to departments in Colorado and Maine, asked where they were located, and any issues they may have had. Maine Deputy Chief had very few problems, marijuana is allowed for medicinal purposes only. There had been a big problem with illegal marijuana there. People using the services of medical marijuana were going through proper protocol. District was outside downtown area, within business areas, and areas with large box stores and body shops.

In Colorado it is legal for communities to ban dispensaries but that is not allowed in Massachusetts. Western Colorado communities have accepted them, both recreational and medicinal. Approximately 240 are regulated. There are some major problems, federal law and state law are in conflict, federal law still prohibits the use of marijuana.

The buffer zone was increased to 1000 feet from schools, etc., and if they get closer the federal agency then seems to get involved. Banks will not usually loan or accept money from these locations, as they do not want legal ramifications due to federal laws. Therefore, large sums of money remain there. Internal theft and burglaries, owners and employees that have been assaulted for access to money or products are also a problem as well as odor and noise complaints. Tax revenue is high, but a lot of money is spent on addiction, treatment and education.

Edd Cote asked if there was any additional exposure to crime to the abutters. Lt. Desorcy was told that when customers leave the facility, some robberies have occurred, it depends on the demographics in the areas in which it was located.

Mr. Cote asked if in Maine and California where it is medicinal only, was there a problem with people loitering, trying to buy from those who had prescriptions.

Lt. Desorcy responded that if there is availability of illegal marijuana it becomes less expensive, therefore, it is less of a problem with a medicinal facility. It is based on supply and demand. It is believed that not all crimes are reported as the dispensaries are concerned with licenses and renewals and they don't want negative publicity.

Mr. Cote asked about organized crimes – Lt. Desorcy stated that there are some allegations because of the amount of money involved.

Darin Haig, 92 McCracken Road – is the town being pro-active? Is there someone who is interested in locating here? Ms. Connors advised that this bylaw is pro-active, establishing areas, and the building inspector will have to determine if it fits the criteria of a district, depending on how he views the use. There are some defaults imposed by the state. He asked what would happen if this bylaw is defeated at town meeting? The building inspector will have to determine where it will be allowed. Mr. Cote stated that this regulation is more restrictive, but very close to what is proposed by the state. There is currently a 35 dispensary cap in the state. 15 have currently been approved. Mr. Haig asked if any of McCracken Road is in the

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proposed district – yes, a large area to the south of Sycamore Street, the area where casino was proposed, for example.

Terry Burke Dotson – 20 Salo Terrace – If located within the Route 146 overlay district it is close to schools, and includes the shopping mall, and these areas can be reached by foot. She recommends locating them within the Business II areas only. Can only access those areas by vehicle. She would like the Board to consider the Town Planner's original proposal limiting them to only Business II zones, and to increase buffer zone as recommended by Lt. Desorcy. Mr. Cote stated that the mall is not an area in this proposal as it is within the school buffer zone.

Motion to continue public hearing to 8:50 pm this evening, (for ten minutes), by Jeff Markarian, seconded by Edd Cote, to allow the Board to address the next agenda item. Motion carried unanimously.

8:40 p.m. 29 McGrath Road ANR Plan

Frank Preston, surveyor for the applicant, Millbury Solar, LLC was present and addressed the Board. The plan will create a lot on the McGrath Rd. with a cul-de-sac, encompassing the entire solar farm. The remaining land is to be conveyed to the town which contains two parcels, one approximately 12 acres and another approximately 3 acres. Mr. Gosselin stated that this land is partially in Sutton and that these points will have to be monumented. Mr. Preston stated that they already are with one exception because it is in an active construction area, but it will be.

Motion by Jeff Markarian, seconded by Paul Piktelis, to endorse the ANR Plan of land prepared for Millbury Solar LLC, by Whitman & Bingham Associates, 510 Mechanic Street, Leominster, MA, dated 2/14/14, land in Millbury and Sutton, located off of McGrath Road, motion carried unanimously.

9:45 p.m. Chairman Gosselin declared a five minute recess.

9:55 p.m. The Board re-opened the Zoning- related Articles public hearing.

Mr. Cote asked Lt. Desorcy if he had any recommendations as to zoning, location or buffers. He did not.

Terry Burke Dotson is concerned that there is potential for recreational use here in the future, take this away from areas that would accommodate foot traffic, drop the idea of the Route 146 overlay district. She asked the Board to go back to Ms. Connor's original proposal, which was just the Business II zone.

Priority Development Sites Warrant Articles:

Clerk Jeff Markarian read letter from Board of Selectmen supporting re-districting of priority development.

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Letters have been sent to all landowners. Forms were sent out for signatures of those who would like to be included. One landowner on Route 146 has already indicated he wants his site removed. A question and answer session has been scheduled for next Monday, at 7 pm. On Providence Street one parcel has an unknown owner, therefore it was removed from the original bylaw proposal.

The parcels will be changing depending on how the landowners respond. Town counsel suggested a simple article accepting Chapter 43D. Ms. Connors would like to keep this public hearing open for the March 10th meeting so that she can get the new proposed language from town counsel.

Motion to continue the public hearing to Monday, March 10, 2014, at 7:15 p.m. by Jeff Markarian, seconded by Paul Piktelis, motion carried unanimously.

9:30 p.m. Minutes

Motion by Edd Cote to approve the minutes of February 10, 2014, as written, with no modifications, seconded by Paul Piktelis, motion carried on a 4-0-1 vote, Jeff Markarian abstained.

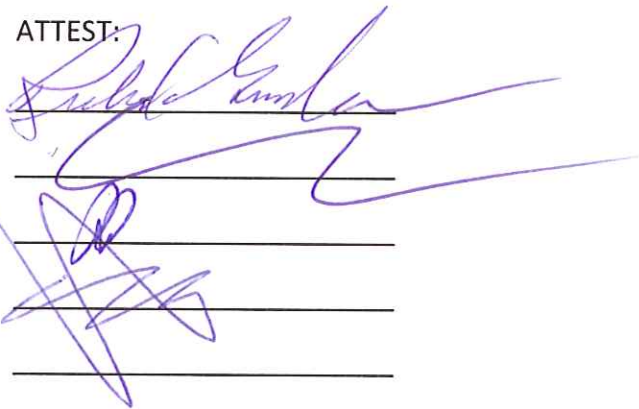
Adjournment:

Motion to adjourn by Jeff Markarian, seconded by Edd Cote, motion carried unanimously. Meeting adjourned at 9:35 p.m.

Respectfully submitted,

Susan M. Dean

ATTEST:



Handwritten signatures in blue ink over horizontal lines. The first signature is clearly legible as 'Paul Piktelis'. There are three other illegible signatures below it.

PLANNING BOARD AGENDA

February 24, 2014

- 7:15 p.m. Steve Gallo - Autumn Gate Estates Surety Increase & Lot Release (Lots 4 & 20)
Cooper Road ANR
- 7:30 p.m. Zoning-related Warrant Articles Public Hearing
- 8:00 p.m. 29 McGrath Road ANR
- 8:05 p.m. Colleen Cannon - Cordis Mills Minor Modification

Other Business:

- Mail, Minutes, Vouchers
- All business not reasonably anticipated to be discussed

Subject to Change