

MILLBURY PLANNING BOARD  
MINUTES  
June 13, 2016

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The regularly scheduled meeting of the Millbury Planning Board was held on Monday, June 13 2016, at 7:15 p.m. in the Municipal Office Building, 127 Elm Street, Millbury, MA. Chairman Richard Gosselin presided.

Present: Richard Gosselin, Edd Cote, David Haak, Paul Piktelis, Michael Georges

**7:15 p.m. Matthew LaPlante, 36 Stone Road, Accessory Dwelling Special Permit Public Hearing, continued**

Attorney Scott Wrenn represented the applicant. An updated plan was submitted to the Board showing pins and coordinates as required. Mr. Wrenn stated the applicant wishes to utilize the home rather than placing an accessory dwelling above the garage. A proposed floor plan was provided to the Board. An elevator would be installed in the home. This option would not change the overall footprint of the property. Mr. Wrenn indicated that Mr. LaPlante is seeking plan approval for a 960 square feet space.

Edd Cote read comments from the Building Inspector with respect to the square footage request as well as inclusion of a sunset clause. It was also noted that the floor plan was not done to scale.

Edd Cote indicated that he did not have any issue granting the 960 square foot request. Attorney Wrenn indicated that the applicant is not opposed to including a sunset clause. Edd Cote stated that he did not see a need for a sunset clause provision due to the new proposal of work to be done within the existing home. Chairman Gosselin was also satisfied with the updated information on the plan showing the pins and coordinates.

Mike Hopkins who will be the contractor for the project stated that he did use a scale rule on the proposed floor plan. He will update the plan and all drawings for the building inspector as part of the overall building permit application.

Edd Cote made a motion to close the public hearing for 36 Stone Road Accessory Dwelling, seconded by Paul Piktelis, voted unanimously.

Edd Cote made a motion to approve the application for an Accessory Dwelling by Matthew & Susan LaPlante located at 36 Stone Road, plan prepared by BC Engineering & Survey Inc. dated 5/14/16 with reference to Architectural Plan submitted with it dated 6/9/16, seconded by Paul Piktelis, voted unanimously.

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**New Business**

**Anthony J. Mangano, Jr., Braney Road – ANR Plan Mangano Estates**

Robert Buckley from Beals & Thomas represented the applicant seeking endorsement for an ANR plan. The plan has been revised identifying parcels rather than lots. Mr. Buckley provided a general overview of the plan indicating that parcels one and two are part of the original lot. Mr. Mangano would like the area behind his residence to remain open space. Approximately thirty-five acres will be transferred to the State. General discussion followed with regard to frontages and access to the individual parcels.

Attorney Thomas Bovenzi came before the Board representing Russell DeDoming in the capacity as Braney Road Realty Trust. Attorney Bovenzi provided plans to the Board identifying an area depicted in the proposed ANR as part of an existing Subdivision Plan approved in 2008. Lot 9A is owned by Mr. DeDoming. Attorney Bovenzi's position is because that lot is part of an approved Subdivision Plan, prior to approval of the ANR, the existing Subdivision Plan must be modified or rescinded. If the Board considered endorsing the ANR plan that would create a cloud on his client's title as outlined in Attorney Bovenzi's letter of June 6, 2016 to Interim Planner, Kevin Flynn. Attorney Bovenzi, on behalf of Mr. DeDoming, opposes the ANR application.

Chairman Gosselin researched records at the Registry of Deeds and could not find any legal transfer from Mangano to anyone prior to 1962. Attorney Bovenzi indicated that Mr. Mangano and another party (his client) owned the land when it was approved. The Plan may not be recorded at the Registry of Deeds. Attorney Bovenzi further stated that there were two owners of the approved plan; Mangano and DeDoming filed the application together. Mr. Bovenzi's client has rights to roads and rights to frontage to the overall plan. Access will be taken away and under the Subdivision Control Law, proper procedure should be followed to rescind the previously approved Subdivision.

Attorney Todd Rodman of Cedar & Chandler in Worcester asked the Board to disregard Attorney Bovenzi's request. Attorney Rodman stated that Mr. Mangano never conveyed any rights to Mr. DeDoming. The Subdivision Plan was never recorded and Mr. Mangano continued to own his property. There were discussions between the two parties, however the property has not been transferred. In September 2013, a formal letter was sent to Mr. DeDoming terminating the agreement. Attorney Rodman stated that Mr. DeDoming cannot possibly have any rights to this land. Mr. Rodman restated that Mr. Mangano and Mr. DeDoming never owned any land together.



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Terry Burke Dotson recalled a disputed portion of the right of way some time ago. Ms. Dotson inquired if the Board knew if there is a legitimate roadway at the end of Braney Road. Chairman Gosselin does not remember if that was ever resolved.

Edd Cote indicated that Interim Planner, Kevin Flynn spoke with Town Counsel and the Board can endorse the proposed ANR plan.

Edd made a motion to endorse the ANR Plan of Land, Mangano Estates, Millbury, MA prepared by Beals & Thomas last modified 6/13/16, record owner, Anthony J. Mangano, Jr., seconded by Paul Piktelis, Richard Gosselin & Edd Cote voted in favor, three abstained Michael Georges, Paul Piktelis and David Haak, unanimous among voting members

**A & D Pub – Release of Performance Bond/Surety**

Chris Adrianopoulos from A & D Pub came before the Board requesting the Release of Surety for work completed per as part of the “Site Development Plan for A & D Pizza”. Bushes have been planted in the front of the building and grass is being cut every other week. As part of the overall landscaping plan, he planted both arborvitae and junipers in the back, however they just died. Mr. Adrianopoulos noted the area is not really visible to the public and only grass is growing in the area. He asked the Board to release the Performance Bond as he has completed all other aspects of the project. Some Board members visited the site and agree to release the Performance Bond.

The Planning Clerk will reach out to the Treasurer’s office for the final dollar amount to be released. The Board will vote at the next meeting.

**Country Candle Company, Inc., 10 West Street – ANR Plan**

Attorney Joe Boynton represented Country Candle Company, Inc., the owner of the buildings at 10 West Street. Country Candle would like to sell parcel 2 of a previously approved plan, however there is a notation on the plan that reads “Parcel 2 shall not be conveyed as a separate lot without the approval of the Millbury Planning Board.”

Interim Planner, Kevin Flynn requested an updated plan however the author of the original plan cannot be found. Chairman Gosselin doesn’t know how the Board can just erase the comment from the original plan endorsement. Lot two does not have adequate frontage. Chairman Gosselin doesn’t see how the property can be sold as a buildable lot without adequate frontage. Attorney Boynton stated the potential buyer is not planning on building anything new

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on that lot but rather upgrading the existing building on the existing lot. Attorney Boynton indicated that they may have to go before the Zoning Board of Appeals for the frontage issue.

Chairman Gosselin would like to see a plan of what the intended use is going to be on that lot. There could potentially be issues with parking spaces, easements, etc. Chairman Gosselin stated the notes were put on the plan some years ago for a reason. He is requesting that Attorney Boynton come back to the Board with additional information so that they can review and the note on the plan can possibly be released. The Clerk will schedule as an agenda item for July 11, 2016 at 7:15 p.m.

**Taniel Bedrosian, Casa Verde – Release of Lots, Tripartite Agreement**

Taniel Bedrosian, developer of Casa Verde Villages Millbury is seeking a Tripartite Agreement between the Town of Millbury, HAYR LLC and Milford National Bank to secure construction of ways and installation of municipal services as well as a Release of Covenant for Lots 24, 25, 42 - 52 Nightview Place and Lots 19 - 23 Skyview Drive. Upon review and discussion of the documents, some information was incomplete. Mr. Bedrosian will work with Interim Planner Flynn to update the information. The Board will schedule a special meeting to review the final documentation on Monday, June 20, 2016 at 7:00 p.m.

**Other Business**

**Engineering Services**

General discussion began with regard to engineering and inspectional services currently being provided by Stantec on behalf of the Town. Board members want to make sure that everyone is on the same page, including contractors with regard to fees and services being provided. Fred Mosely from Stantec came before the Board to assure them that the Town will be provided an estimate on scope and fee for services. The estimate will identify both full and part time inspectional services as needed.

General discussion followed if there is an opportunity for hours to be reduced on various projects. Mr. Mosely noted that an engineer/inspector would not know if bedding, material used, etc. has been installed properly if they are overseeing the installation on a part time basis. The Board also wanted to be sure that the approved rates are being charged.

**Tree Installation - Irene Court**

Derrick Leto of 5 Irene Court and Rocco Bifano of 6 Irene Court came before the Board to inquire about tree plantings that are to take place on Irene Court. The developer painted lines

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in the yards where trees are going to be installed. The homeowners inquired if the trees had to be planted and if they could be planted in other locations. Mr. Leto is having extensive landscaping done on his property and would not want to see any trees planted where they are proposed.

General discussion followed that the approved plan for the development included tree plantings in certain locations. Chairman Gosselin noted that tree placement is negotiable between the homeowner and the builder. A tree could be shifted, however the type of tree was not necessarily negotiable. The trees should be planted in the Town Right of Way and not on private property.

Phil Miles, developer for Eastview Acres, provided a letter from the previous Town Planner that identified the locations where the trees are to be planted. Mr. Miles is willing to have discussions and possibly move tree locations, however if the Board decided to eliminate specific plantings, he wanted something in writing indicating the same.

After a lengthy discussion it was agreed that Mr. Leto would provide a letter to the Town requesting that no additional trees be planted in the front of his property, and Mr. Bifano would accept one tree planting instead of two and would work with the developer for placement.

#### **Meeting Schedule for 2016 Calendar**

Interim Planner, Kevin Flynn provided the Board a meeting schedule for 2016 including deadlines for filing various applications to ensure timely review of applications, advertising and notification process. The Board approved the schedule as written.

#### **Minutes**

Edd Cote made a motion to accept the minutes of May 9, 2016, seconded by Paul Piktelis, voted unanimously.

Edd Cote made a motion to accept the minutes of May 23, 2016, seconded by Paul Piktelis, voted unanimously.

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**Vouchers**

Members approved two vouchers from Stantec for inspectional services at Stratford Village and Casa Verde.

**Associate Member**

Terry Burke Dotson came before the Board with interest in becoming an Associate member of the Millbury Planning Board. Ms. Dotson stated that she is aware of history with many contractors and could assist with site inspections, historical information and provide research as needed. The Board has not had an Associate Member for approximately three years and nobody else is stepping forward. Ms. Dotson is asking to be considered for the position.

Chairman Gosselin believes that Ms. Dotson could provide some history however wants to ensure that there are no political agendas. Mr. Gosselin noted the Board has certain criteria to follow and does not want to put the Town in jeopardy. Ms. Dotson believes she can help the Board as she is well directed and is focused on other Boards she serves on.

Edd Cote stated that he would not support Ms. Dotson's request for appointment. Paul Piktelis stated that the Town has engineers to do inspections and that is not part of the Board's job. He noted that the Board cannot go back when reviewing items before them and Ms. Dotson has consistently brought up past history. Ms. Dotson offered to do inspections for ANR's. Michael Georges stated that the Board should only look at what is currently before them. He has concerns that past history should not be brought forward. Chairman Gosselin wanted to clarify his position that providing history on general situations would be helpful, but not person specific. David Haak did not have any personal concerns.

Edd Cote noted that an Associate member is a joint appointment with the Planning Board and the Selectmen.

Chairman Gosselin will get back to Ms. Dotson.

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**Adjournment**

Edd Cote made a motion to adjourn, seconded by Paul Piktelis, voted unanimously. Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Michelle T. Desorcy

ATTEST:

  
  
  
