

MINUTES

Tuesday, August 5, 2014,

Mr. Daniel Mills, Chairperson called the Tuesday, August 5, 2014 meeting of the Community Planning Commission to order at 7:33p.m. in Room 14 of the North Reading Town Hall, 235 North Street, North Reading, MA.

MEMBERS

PRESENT: Daniel Mills, Chairperson
Christopher B. Hayden, Vice Chairperson
Patricia Romeo, Clerk
Warren Pearce

STAFF

PRESENT: Danielle McKnight, Planning Administrator
Debra Savarese, Administrative Assistant

OTHERS

PRESENT: Richard Carnevale, North Reading DPW Director

Mr. Mills informed all present that the meeting was being recorded.

Sidewalk Survey - discussion

Mr. Carnevale stated that he would like to bring this project to a close because they are over budget now. The intent for this was existing sidewalks only, the CPC also planned to look at gaps, they are looking at two different documents that will go into a Master Plan, so he found some examples to show how other areas have done sidewalk Master Plans.

Mr. Pearce asked how they went over budget with BETA.

Mr. Carnevale stated that they were going through iterations of stuff that were not in the scope, such as the gaps. He believes that putting both items together as a Master Plan would be the way to go.

Mr. Mills stated that he thinks that this would be a good idea. He did review part of the first draft and it was their intent to just have the sidewalks inventoried. The commission was hoping that someone else could put in the money for the wheelchair ramps and signs, but this did not happen. The sidewalks were inventoried, and this is where he thought that it was going to stop, but it did not, the draft he saw did suggest that was some prioritization.

Mr. Carnevale stated that when he goes to the Capital Committee they will ask why certain sidewalks were picked.

Mr. Mills stated that he saw notations (balloons) on the map around the school areas that more or less said that these were the priority locations.

Mr. Carnevale stated that it is a requirement of State law to have sidewalks in certain areas around the schools. There are certain sidewalks in those radius's that are in poor shape and others that don't exist.

Mr. Mills stated that his concern is that there was a small, local, residential road that was marked with a balloon, and in his eyes he saw this being listed as a priority because it was in a school area.

Mr. Carnevale stated that not necessarily. Look at it from a safety standpoint; putting a sidewalk on Main Street, or higher street traffic, is better for safety than on a side street. He has seen people walking from Edgewater walking down Lowell Road and at the end of North Street which is very dangerous.

Mrs. McKnight stated that the theory is that they are supposed to prioritize the areas around the schools for children walking to school.

Mr. Carnevale stated that not many children walk to school in this town.

Mr. Pearce stated that when the priorities are made, people are going to want to know how they came up with these areas. A quick evaluation should be done of where there have been accidents or incidents involving people and vehicles.

Mr. Carnevale stated that police reports and standard form of use are very vague in regard to where it happened.

Mr. Mills asked if a GPS coordinate system is required. He knows that it is required by the State and the Registry of Motor Vehicles.

Mr. Carnevale stated that the average person fills out the form.

Mr. Mills stated that yes, if it is under a certain dollar amount, but what happens if it is a police record or a pedestrian. His concern is that they should have a document that has sidewalk priorities that are acceptable, so he would want it stripped out or fixed.

Mr. Carnevale stated that this is independent of the long time wish list of what sections that they should do first. So it is two separate documents that they put together for the Master Plan.

Mr. Pearce stated except if they accept this report with the priorities, then those defacto become our priority.

Mrs. McKnight asked what the Town's responsibilities are.

Mr. Carnevale stated that from the school it is a half mile in.

Mrs. McKnight asked if this means that the Town has to do these sidewalks first.

Mr. Carnevale stated no.

Mr. Pearce stated that they should remove the priorities because if they change what is in there they don't have any standing to make the change because they would be in violation of State law.

Mr. Carnevale stated that this survey is not serving the purpose as intended.

Mr. Mills asked if the GIS information that BETA is being accumulated into the Town's database. If not, it should be.

Mrs. McKnight stated that when the information is requested it is sent.

Mr. Mills stated that that this commission is not responsible for the maintenance of sidewalks, but would be willing to help locate funding for the projects.

Mrs. McKnight asked the commission how they would like to move forward with the information that they have.

Mr. Carnevale stated that they should review the sidewalk Master Plans that he sent to them to see if they would like to follow any of those procedures. He suggested that they work on this as a winter project.

GIS – work plan

Mrs. McKnight stated that Mr. Carnevale sent a work plan for the coming year, concerning GIS. She does have a couple of items: 1) changes to zoning map, update to interactive mapping site. 2) EDSAT development assessment – will need to analyze the distance/proximity to the highway from different development sites. 3) They have funds for the flyover that will take place in April. Mr. Carnevale asked for any additions to the work plan to be emailed to him.

Swan Pond Road – Street acceptance/discussion

Mrs. McKnight stated that town engineer asked her if she thought it would be a good idea to discuss with Town Counsel, whether there could be any potential issues because of the properties that Swan Pond Road and Adam Street cut through. She was told that for Adam Street, street acceptance would cause those properties to be sliced in half and they would be leaving the owners with non-conforming lots, and so, the process to go through and the consequences to the property owners seem to be quite a burden. Swan Pond Road is a little different, all of the parcels that that section of Swan Pond road runs through are actually town owned, but the problem is that one of them is under the control of the Conservation Commission. It was taken by eminent domain and the taking order did not say that the roadway and the easement on the roadway were to stay in existence. It does extinguish all of the rights that were previously there. So, what would happen now because it is Conservation property, it would be subject to Article 97, which means that when custody is changed from the roadway or the use of the property it needs to go through the State Legislature. She spoke to the Conservation Agent, Leah Basbanes who told her that she does not believe that the commission would have any issues with the change.

Mr. Pearce asked if they effectively cut the lot in half, would it become two Conservation properties.

Mrs. McKnight stated that she believes it would. She then went back to Town Counsel and explained that Swan Pond Road has been used as a roadway for over 100 years and has been paved since the 90s. They are not proposing to make any physical changes to the property or changing the use. It has been used as a roadway and will continue to be used as a road. The attorney stated that this is a gray area. The Town could pursue it and it could be challenged and she cannot make any guarantees. They could go ahead with the process of asking Town Meeting to authorize the change in legislation. It would probably take about a year, and assuming it passes, then go to Town Meeting and ask for Street acceptance the following year.

Mr. Pearce stated that even though the agent may say that it is okay, the commission may not.

Mrs. Romeo stated that this was discussed a couple of years ago with the prior Planner, Robert Rodgers and he said that those lots cannot be split in half.

Mr. Pearce stated that the indication to the conservation commission would have to be that the lot is going to be split. He does not know if an ANR would be required.

Mrs. McKnight stated that it would not be a subdivision or an ANR plan; it would just be a street acceptance.

Mr. Pearce asked what the value in doing this is. Is it worth it?

Mr. Carnevale stated that it would be 5,000.00 to 7,000.00 per year.

Mr. Hayden asked if they accept the road will this give the owners frontage and the possibility to build.

Mrs. McKnight stated that this does not change the development potential.

Mr. Pearce stated that there is a lot of development out there now and that means more wear and tear on the road. The rights of abutters to access this portion of the road were discussed. Mrs. McKnight said she would discuss this issue with counsel.

The consensus of the commission is to schedule a public hearing if we are able to proceed with street acceptance.

Flash Road/Determination of Access – Bond release

Mrs. Romeo moved, seconded by Mr. Hayden and voted 4-0: (Mr. Rooney absent)

that the Community Planning Commission vote to accept the August 5, 2014 report from Design Consultants, Inc. and that amount of \$11,485.44 be established as sufficient to ensure the completion of the flash Road, Determination of Access. (Previous bond amount \$58,058.69)

Leland Road/Determination of Access – Bond release

Mrs. Romeo moved, seconded by Mr. Hayden and voted 4-0: (Mr. Rooney absent)

that the Community Planning Commission vote to accept the July 31, 2014 memo from Michael Soraghan, Town Engineer, and that the remaining balance of \$1,639.00 be released to the Northshore North Reading Holdings, LLC.

Planning Administrator Update

Wireless Bylaw

Mrs. McKnight stated that she received comments from Town Counsel (Patricia Cantor) on the wireless bylaw, and she has included a marked up draft in the dropbox for the commission's review. She left out comments and questions about issues she raised that she was told by Ms. Cantor do not require a change. Much of the substance of the bylaw remains the same. The purpose of the changes is to ensure they stay in compliance with the latest FCC regulations, and in some cases, to clean up old or inaccurate references to other sections within the zoning bylaw. The proposed changes are:

1. Page 3, section C: Change District Regulations to General Regulations (we have no specified district for wireless facilities)
2. Page 4, section C (1)(a): Change references to site plan review to include the special permit requirement stipulated in Section 200-95 of the zoning bylaw. Add a reference to Section 200-28, which discusses CPC issuance of special permits. Remove reference to Section 200-85, which does not discuss site plan review. Add language stating that special permit requirements apply unless the project is subject to the Telecommunications Act of 1996, as amended by the 2012 Middle Class Tax Relief and Job Creation Act, or the "TCA" (the Act that exempts many wireless projects from the need to obtain local special permits, especially for collocation).
3. Page 4, Section C (2)(b): clarify that projects require a special permit unless they are exempted by the TCA.
4. Page 6, Section D: Change "special permit regulations" to "performance standards," since they will now be applied as requirements for special permits and as preferred standards for those projects now exempt from special permits.
5. Page 9, Section E (1.1): This new section is added to describe a procedure for those projects now exempted from special permits by the FCC; this includes the building inspector referring applications to the CPC for review and comment.
6. Page 13, Section E (2)(f): Ms. Cantor recommends removing the requirement for submitting radiofrequency radiation, since the FCC does not allow towns to deny permits based on these levels. Companies do need to comply with FCC standards, but they do not need to provide the information to towns.
7. Page 14, Section E (2)(g)[1]: NEPA requirements. Not all filings trigger NEPA, so "all applications" has been changed to "certain applications."
8. Page 15, Sections F (3) and (4): References are added to clarify that certain collocation projects are exempt from FCC regulations due to the TCA.
9. Page 16, Sections G (1)(a) and (b), and G (2): References are added to clarify that certain modifications to existing facilities are exempt from FCC regulations due to the TCA.

10. Page 16: Ms. Cantor raised concerns about requiring annual reports, with the penalty for not doing so being revocation of the special permit. She does not think this is necessary or advisable and recommends either removing the section or just taking out the requirement for annual reports. I recommend removing it, but we should discuss what the CPC prefers.
11. Page 17, Section J: Changes are made to clarify that reconstruction or replacement of certain facilities will no longer trigger a special permit due to the TCA, and refers those projects to the procedure outlined in Section E(1.1).

Retaining Wall

Mrs. McKnight stated that at the last meeting, they decided to schedule a discussion with Mr. Prisco, as the CPC liaison, about the proposed approach to retaining walls. Because Mr. Prisco was not available to attend the August 5 meeting, and out of concern that time would run out if the BOS did wish to pursue a zoning bylaw, she scheduled a meeting with Mr. Prisco, Mr. Mills and Mr. Pearce to discuss the issue. Everyone was in agreement that the approach they discussed at the last meeting – an informal, advisory review of walls by the CPC – would be a good way to move forward. She has spoken with Jim DeCola, Building Inspector and Martin Fair, Board of Health Director both of whom agree with the approach. She has also written a draft MOU between Planning, Building and Health outlining the process. The draft has been submitted to the Board of Selectmen for their review and comment. As mentioned in the draft MOU, she suggested they create a handout specifying preferred design guidelines to aid in the review of walls. A public workshop/design charrette would be an important step in solidifying the design standards.

JT Berry Property

Mrs. Romeo stated that she checked to see if the undeveloped site had been examined by an archeologist and found that it had not. She also found that if the Town buys the remaining piece of property and resells, the buyer would probably be liable to finish the exploration of the remaining piece.

Mr. Pearce asked what the archeological results from the now developed site were.

Mrs. Romeo stated that they found a lot of items that date back three to eight thousand years ago.

Minutes

Mrs. Romeo moved, seconded by Mr. Hayden and voted 4-0: (Mr. Rooney absent)

that the Community Planning Commission vote to approve the July 22, 2014 minutes as amended.

Adjournment at 9:50PM

Respectfully submitted,

Patricia Romeo, Clerk