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**Town of North Reading**  
*Massachusetts*

TOWN CLERK  
NORTH READING, MA

*Community Planning*

**MINUTES**

**Tuesday, April 21, 2015**

Mr. Daniel Mills, Chairperson called the Tuesday, April 21, 2015 meeting of the Community Planning Commission to order at 7:30p.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  
William Bellavance

**STAFF**

**PRESENT:**

Danielle McKnight, Planning Administrator  
Debra Savarese, Administrative Assistant

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

### **Minutes**

Mrs. Romeo moved, seconded by Mr. Hayden voted 5-0:

that the Community Planning Commission vote to accept the minutes of March 23, 2015 as written.

Mrs. Romeo moved, seconded by Mr. Pearce and voted 4-0: (Mr. Mills abstained)

that the Community Planning Commission vote to accept the minutes of April 7, 2015 as written.

### **55 Swan Pond Road – SPR- (cell tower)**

Mrs. McKnight stated that she had a discussion with Mr. Klasnick in regard to the draft Conditional Approval. One of the items he requested be change is that the sound be measured from the property line, rather than the base of the tower. She also spoke to him in regard to the bonds that would be required and he requested that the bonds be done the same as what was done for 0 North Street.

Mr. Hayden stated that a cash bond should be held until the as-built plans are submitted.

Attorney Earl Duval of Duval and Klasnick LLC stated that he is representing Verizon Wireless. With regards the bonds: the cash bond would be acceptable, but they would prefer that the performance and removal bonds be in the form of a surety, based on the 35 year lease. He would also offer for consistency that the lease with the Town of North Reading obligates Verizon Wireless to maintain insurance and therefore was hoping that the commission would consider just including a reference to the lease insurance obligation to satisfy 2a) of the performance guarantees.

Mrs. Romeo moved, seconded by Mr. Hayden and voted 5-0:

that the I move that the Community Planning Commission vote to approve the application of Verizon Wireless for a Personal Wireless Facilities Special Permit and a Site Plan Review Special Permit for 55 Swan Pond Road, North Reading, MA, filed on 2/26/15 by Daniel D. Klasnick, plans entitled "Verizon Wireless, North Reading 3 MA, 55 Swan Pond Road, North Reading, MA 01864, Middlesex County," prepared by Hudson Design Group, 1600 Osgood Street, North Andover, MA 01845, dated 5/9/14 and last revised 2/6/15, including all accompanying information, maps and renderings.

**Planning Administrator's Update**Carpenter Drive - update

Mrs. McKnight stated that the town engineer asked for additional information for the wall and Mr. O'Neill is waiting for the additional detail from his engineer.

DHCD

Mrs. McKnight stated that DHCD sent her the official letter that the town did receive the grant.

Budget

Mrs. McKnight stated that the Board of Selectmen will be meeting on April 27<sup>th</sup> to discuss department budgets. She is unable to make this meeting, but Mr. Mills will be attending.

Traffic Counts

Mr. Mills stated that the commission discussed doing traffic counts, which will be conducted in May.

Mrs. McKnight stated that the Town Administrator asked if Chapter 90 was supposed to go towards traffic counts. Last year the DPW did a Bayside Engineering study on Rte. 28 in which a couple of locations were captured. She believes that the other counts were taken from data that was compiled in 2002.

Mr. Pearce asked why the DPW did this.

Mrs. McKnight stated that they needed it for various places around town. She does not know what specific projects it was in relation to.

Economic Development Guides

Mrs. McKnight stated that she is in the process of acquiring quotes for the Economic Development guides.

**Pluff Avenue & Fairway Road (Citizen's Petition to rezone) – P.H. 8:00PM**

Mrs. Romeo read the public hearing notice into the record.

Mr. Mills once again reminded all present that the meeting is being recorded. This is a Citizen's petition, not something that this board initiated

Robert P. Bodoïn of 8 Pluff Avenue stated that he currently lives in Georgia and spends limited time in North Reading. He had the opportunity to visit North Reading during the height of the snowstorms in Massachusetts. He commented that he could not see the Dunkin Donuts building on the corner of Main Street and Pluff Avenue because the company across the street (Zanelli) had plowed their snow so high. This morning as he was trying to exit Pluff Avenue there was a compressor in the street. Although he is pro-business and own businesses, he is firmly against this. This is a residential street. Even though he is only here part-time this bothers him, that's how bad it is. What started out as a rental store is now on the street itself, all the time and the ramp truck is in and out. There are two solutions: The board can vote it down tonight or put an L-shaped sidewalk around the entire section with the proper curb-cuts and this will eliminate the business. He made a poor choice going there and is over-extended.

Mr. Mills stated that for clarification this board is not approving or denying the citizen's petition. This decision will take place at the Town Meeting in June. This board is holding a public hearing to recognize that it is a warrant article.

Mrs. McKnight stated that she also wants to clarify that the petition is to rezone the properties from Highway Business to Residential zone.

Robert P. Bodoïn stated that there is rumor that he is going to expand. This is a nice residential street.

Charles Carucci of 3 Chestnut Street stated that he owns a business on Main Street across from Pluff Avenue. He is pro-business, but he is curious how the board feels about this, considering that the board voted to put a subdivision up at the end of the street.

Mr. Pearce stated that this board did not vote to put a subdivision in that area. It was forced upon them by the State through the 40B process. Actually, this board did not want that to be done, but they were not given anything to review. The process went through the Zoning Board of Appeals.

Mr. Mills stated that the board will make a decision tonight.

Mrs. McKnight stated that this board will need to make a vote to recommend or not recommend support of the petition this evening.

Mr. Pearce stated that the board could decide at Town Meeting.

Mrs. McKnight stated that the board needs to vote this evening.

Michael Kushakji of 1 Fairway Road stated that he is in favor of changing all of the properties to residential for a couple of reasons. Pluff Avenue is a very narrow road and to use it as an egress for large trucks is not only undoable at this point, but is also very dangerous for the children walking to and from school. There just is not enough room to park a truck or turn a truck in this area. Secondly, a few days ago there was a ton of sand on the sidewalk. The trucks are filling up with sand, backing up onto the sidewalk and dumping it. Not only is the Town held responsible for at least keeping the companies in check, so the sand is not dumped on the sidewalk, but the businesses are also responsible to keep and maintain the sidewalks in the condition that they are supposed to be.

Margaret O'Rourke of 4 Pluff Avenue stated that she lives across the street from 3 Pluff Avenue that is the corporate office of Dunkin Donuts. She has to put up with this business every day of the week, with their trash and plowing their parking lot into her yard. The Great American Tavern is in the rear of her property, so she does not understand why she has to suffer and have her land turned into residential, where she will probably never be able to sell it.

Scott Feffer of 10 Pluff Avenue stated that he has three children that are relatively young and this proposed a safety issue for him. The last thing they need are industrial trucks backing up and going down the street. The owner has talked to the residents about where they can and can't have their children wait for the school bus. It seems like the business owners do not have the best interest of the residents in mind.

Timothy Zanelli owner of 299 Main Street stated that the sand on the sidewalk was from Dunkin Donuts pushing the snow. His property is not going to change; it is going to stay commercial, because this is not part of the petition. As for the trucks being a danger is no different than the cars blocking the street and parking on his property every morning. There are also cars that park on the street to go into Dunkin Donuts. His trucks go in and out, but the use of the property has never changed. They have a safe driving record, and before the kids go to school or come home from school the trucks are gone for the day. In the middle of the night when they are loading sanders the kids are in bed. There are no trucks driving on the sidewalks and if the kids stay on the sidewalk instead of walking in the middle of street they are safe. To try to change a whole street to residential when the only way that this subdivision was built in a Highway Business zone was because of a 40B. The Town does not have enough commercial property already, so to try to take away commercial does not make any sense. He recently purchased 4 Pluff Avenue and now the property lines are going to jagger if this petition is approved.

Margaret O'Rourke stated that she can understand why the residents on Fairway Road would want to change to residential, but why change Pluff Avenue. Pluff Avenue has already been commercially zoned. When her husband bought the property 40 years ago, he purchased it for the sole reason of it being commercial. They put a "No Parking" sign in front of their property because the trucks for Dunkin Donuts were parking there and it still did not help. These residents knew that they were buying in a commercial zone.

Mrs. McKnight stated that the board does not have to vote to recommend or not recommend, they just need to vote to refer it to Town Meeting.

Randi DeLoreto of 299 Main Street stated that the claim made that the compressor was in the street is false. It was on her property, near her fence. Deliveries have been made there for several years and she has told the truck drivers not go down Pluff Avenue or Fairway Road. They do not have a lot of frontage, so the trucks do back down Pluff Avenue, onto their property and are only there for 15 minutes. The Zanelli trucks are usually gone by 6:00am, before any of the residents are awake and the trucks return between 4:00pm and 5:00pm. The Town received record high snow this past winter and the Town also had problems removing snow.

Robert S. Bodoïn of 8 Pluff Avenue asked if the Zanelli's have children.

Randi DeLoreto stated that they did not.

Robert S. Bodoïn asked what the Zanelli's plan was for 4 Pluff Avenue.

Randi DeLoreto stated that they were unsure at this point.

Robert S. Bodoïn stated that this will mean more trucks, more deliveries. His biggest concern is the safety for the children.

Timothy Zanelli stated maybe adult entertainment.

Michael Kushakji stated that the business is at 299 Main Street, the residents just don't want to anymore businesses expanding down Pluff Avenue to Fairway Road. He has seen the trucks drive up onto the Dunkin Donuts sidewalk, back up and dump sand. He has called the building inspector several times to clean up the sand and to inspect. Secondly, the snow on Pluff Avenue was about 20' high and the Town did not hold Dunkin Donuts or TZE accountable for cleaning the sidewalk.

Randi DeLoreto stated that it is not their sidewalk.

Michael Kushakji stated that someone from 299 Main Street blew snow over to that side.

Robert P. Bodoïn stated that he just wanted to reiterate that the compressor was on the public road. The previous owner of the property was very settled and quiet. The new owner need about 4 acres, but is working on a postage stamp. They use the street as part of their property, they even said themselves.

Margaret O'Rourke asked if her house could be exempt from this petition.

Mr. Mills stated that this board does not know the situation of each property. He is not sure whether things are grandfathered or uses.

Mrs. McKnight stated that current uses are grandfathered.

Joe Veno of 11 Rock Street stated that he believes that when it goes to Town Meeting she could file an amendment that could be voted that evening.

Mr. Pearce stated that those properties have a higher value as commercial because they are surrounded by commercial. So the people that have those properties would probably follow that path, but if they do, it basically makes the whole thing not effective because all of the properties that were built under the 40B are mandated to stay as residential by the 40B process. That permit never expires.

Mrs. McKnight stated that in terms of the Comprehensive Permit they know that the affordable units have deed riders and can never change. DHCD are also of the opinion that the 40B means that those properties that were built under the 40B as residential can never change. She also spoke to Town Counsel and they advised her that the market rate units that were built, potentially, could be developed commercially in the future because they have no deed rider. They would have to meet the requirements of the Highway Business zoning district to be developed, or would need to be combined with other properties. But, there is some potential, and although DHCD may not agree, and there is a gray area and there have been case law, although they do not have a definitive answer.

Mr. Hayden stated that the request to rezone to Residence A also means that they will become non-conforming lots. If they want to do anything to the property they will most likely need to go to the Zoning Board of Appeals for approval.

Mr. Pearce stated that this is one of the problems with the 40B process. It allows developers to build houses on sub-standard size properties that do not meet any of the zoning. This is why, for the most part, perpetuity they stay as 40Bs because even if they step outside that they do not meet any other of the zoning criteria, to be changed to anything else. Those properties that were built under this 40B will be residential forever. The properties that are zoned commercial now, obviously the town would have preferred that those houses not be built because there is such a shortage of commercial space. There is a new Economic Development Committee that is trying to find a way to build more businesses in town and now they are going to be asked to give up more commercial property.

Michael Kushakji stated that the demographics have changed. It's irrelevant whether it says it on paper that it's residential or commercial, and who is happy and who's not. People are not selling their homes, leaving and selling them to a dentist office. So it really does not matter if the Economic Development Committee is happy or not, because the realty on the ground is that there are homes there.

Mr. Pearce stated that people may not be upset if the 40B is changed to residential, but if you try to go after commercial property that is not included in the 40B; those people who bought their property in the commercial zone are going to be upset.

Mr. Hayden moved, seconded by Mr. Bellavance and voted 5-0:

that the Community Planning Commission close the Public Hearing.

Mrs. Romeo moved, seconded by Mr. Hayden and voted 5-0:

that the Community Planning Commission vote to refer the Citizen's Petition to rezone Pluff Avenue and Fairway Road to the June 2015 Town Meeting.

Michael Kushakji stated that they would like the board to vote to recommend or not recommend, so that the residents know where they stand.

Mr. Mills stated that he would take that into consideration.

The consensus of the commission is to wait until town meeting.

**Planning Administrator Update – cont.**

Mrs. Romeo recused herself from the table and will exercise her right as a private citizen and as an abutter.

**Amber Road**

Mrs. McKnight stated that this is in regard to a letter received about Amber Road, permit update. Over the last two years she has sent letters, emails and made numerous phone calls to DCR requesting updated information about the permit that was granted for the development and improvement of Amber Road. The Department of Conservation and Recreation finally responded. They responded in a letter, both to her and information that was sent by the DPW Director, Mr. Carnevale. What might be confusing in the letter is Mr. Carnevale's notification was that the town intended to pave a portion of Haverhill Street in the fall and wanted to let the applicant and DCR know that this was in the near future, and if any roadwork needed to take place in conjunction with the Amber Road improvements, that they would need to do it because there would be a five year moratorium on opening up Haverhill Street. In response, it seems that DCR misunderstood this notification and thought that the town wanted to go in and pave Amber Road. It is her understanding that Mr. Carnevale is correcting that impression.

The aspects of the letter that were in response to her inquiries which were what is the status of this permit, has it been extended, it was originally supposed to be a year. They were given the original permit, but did not receive any copies of subsequent extensions. Also, the developer had initially been held responsible for maintenance, ice and snow removal during the winter as a condition of the original permit. Her question was, is this still the case because there is no maintenance taking place. Their response was that the permit had been extended and a copy of the extension was included, and no the applicant is not responsible for any maintenance. Those



were the two questions that she had answered and it is the only update that she has. She does not know what the future plans of the project are, there was no mention made of that.

Mr. Pearce stated so, what they basically said was that they don't want the contractor to work on it or maintain it during the winter months.

Mr. Hayden stated even though they admit that there are two houses there.

Mr. Pearce stated they don't want the town or the developer to do anything there and they don't explain how the maintenance of the roadway during the winter is supposed to take place, which he finds very odd because right up the street DCR has a parking area where people can park their cars and go cross country skiing through the forest. They plow and maintain this area all winter long, so what is in the letter is totally inconsistent with what they actually physically do a half a mile away.

Mrs. McKnight stated that DCR maintains the other road, so now that they have a private developer who is improving Amber Road, is not held responsible and DCR is not responsible.

Mr. Mills stated that this is not an agenda item, just the planner's update.

Patricia Romeo of 253 Haverhill Street stated that it was her understanding that in the original contract that the developer got from DCR, it was the developer's responsibility to maintain the road and keep the access open for the two residents on the so called Amber Road and suddenly now it says from 2014 to 2015 that it is not the developer's responsibility to do it,

Mr. Pearce stated that it did originally say that, but it was during construction. They further clarified that it is their policy that there is to be no construction three months out of the year, at which time it is not required to be maintained.

Mr. Hayden stated that he thought in the original contract they had to stop work at some point, but they were to continue clearing the snow, to allow access to the residences.

Mr. Pearce stated that they talked about maintaining the access to the existing properties during construction; he does not believe that they mentioned anything about snow.

Patricia Romeo stated that the letter also says that the permittee is required to shut down the construction site throughout the winter, and prior to winter shut down the road shall be cleared of all debris and material, so as to be navigable up to any existing buildings, and ingress, egress. It is not, there are boulders strewn right across the roadway. You cannot get past her lot into their property, DCR.

Mr. Pearce stated that DCR does not have the personnel or budget to deal with it and the developer has taken advantage of that.

Mr. Hayden asked what the developer is waiting for.

Mr. Pearce stated that it is hard to figure, because with the proper filing and dealing with the problems head on, would have been more financially rewarding, than what the developer has.

Patricia Romeo asked if the town and the commonwealth intend to let her be marooned on top of a hill in North Reading, Massachusetts, and not be able to get in and out of her property, because this is what he intends to do. He intends to prevent her from accessing her garages and house except by ladder. And this is exactly what is going to happen and everyone is a party to it.

Mr. Pearce stated that the board's response to anyone that came in with a similar problem, their advice would be the same because they do not have a formal filing to approve or deny. The real issue is with the State and the only way he believes that there would be any relief is to go to the State through our elected officials.

Mrs. Romeo stated that she can call the newspapers and go into the governor's office and create a scene.

Mr. Prisco asked her if she had any discussion with Representative Jones.

Mrs. Romeo stated that she already has and received no help.

Adjournment at 9:30PM

Respectfully submitted,

  
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Patricia Romeo, Clerk