

SEEKONK PLANNING BOARD
Public Hearing - Regular Meeting
January 14, 2014

Present: Ch. Abelson, M. Bourque, S. Foulkes, D. Viera, R. Horsman, L. Dunn
R. Bennett (7:06)
J. Hansen, Town Planner

Absent:

7:00PM Ch. Abelson opened the meeting

Public Hearing- Definitive Subdivision Amendment: Pine Hill Estates - Plat 24,
Lot 73 & 394 Newman Ave. Applicant: Najas Realty, LLC

Ch. Abelson opened the Public Hearing and read the order of business.

A motion was made by D. Viera seconded by R. Horsman to waive the reading of the legal notice.

Introduction of Town Planner and Board Members

Atty. Eric Brainsky of 1547 Fall River Ave. Seekonk introduced himself and said he was representing the applicant Najas Realty; he asked if the meeting could be postponed till PB member R. Bennett arrived.

R. Bennett arrived 7:06PM meeting resumed.

Atty. Brainsky summarized he was before the PB because his client had petitioned the PB to amend the previously approved Definitive Subdivision plan for Pine Hill Estates by showing an increase in the limit of disturbance from 25% to 30%. He noted they received a variance from the ZBA for the increase and now must receive approval of the plan amendment from the PB.

D. Viera asked if it would affect the aquifer protection area.

Atty. Brainsky said he did not think it had any effect on the aquifer protection area.

P. Carlson said it would not affect any of the drainage in fact it was over designed because of the original ten lots.

Ch. Abelson commented that the goal of the area of limited disturbance increase was to create larger back yards.

R. Bennett said he had concerns about the fertilizing of the lawns as opposed to having a wooded area.

P. Carlson said the additional half-acre is predominately at the back end of the cul-de-sac. The first four lots would only be picking up 5 feet more than what was previously approved.

J. Hansen commented that the Operation and Maintenance Plan (O&M) states that no fertilizers are allowed in the subdivision.

S. Foulkes said the PB doesn't have to say yes just because ZBA said yes.

Atty. Brainsky said he went through the Town's Zoning Bylaw and in Section 9.4.4.1 subsection 6 it reads that pesticides and fertilizers which are in compliance are mandated by federal and state regulations and subject to a yearly review by the BOH.

J. Hansen said the O&M plan is part of the Home Owner's Association.

P. Carlson added that it is all part of the deed.

Ch. Abelson asked for any proponents or opponents to speak.

Valerie Carroll 484 Newman Ave. said the subdivision was in her backyard and asked how many more trees would be cut.

P. Carlson explained that the lots behind her house would be gaining an additional ten feet of lawn and the open space would remain untouched. He also said the limited area of disturbance would have a split rail fence around it and anything outside could not be disturbed.

V. Carroll said concerning fertilizing, she thought it would be impossible to enforce.

M. Bourque asked if they need to clear cut up to the line.

Atty. Brainsky noted it was not the developer's intent to clear cut.

M. Bourque said in his opinion he would rather see the fence be moved back without the trees being removed.

Atty. Brainsky said his client would be willing to have a waiver to keep those trees.

A motion was made by R. Horsman and seconded by D. Viera and unanimously VOTED: to adjourn the Public Hearing

Discussion

R. Horsman said he would want a house with as much back yard as possible. He noted that adding five feet was not much and they weren't increasing septic so he thought it made very little difference. He added he was concerned for the future of conservation subdivisions when other developers see how difficult it was to work with the town they would just go for a conventional subdivision and clear cut the land.

A motion was made by R. Horsman and seconded by M. Bourque and

VOTED: to approve, the amended Definitive Subdivision Plan – ‘Pine Hill Estates’, sheet 5 – Disturbance and Tree Overlay Plan, revised October 22, 2013 subject to the following condition:

1. The developer shall not cut down any of the 17 trees greater than 10” in diameter that lie in between the originally approved limit of disturbance (25%) and the proposed limit of disturbance (30%).

Aye: R. Horsman, R. Bennett, M. Bourque, D. Viera, L. Dunn, & Ch. Abelson

Nay: S. Foulkes

Motion passes (6-1)

Definitive Subdivision: Jacob Hill Estates – Plat 17, lot 79-Off Jacob St. & Taunton Ave – Deliberations & Decision Applicant: Palmer River Dev. Co. LLC

The Planning Board deliberated on January 14, 2014 toward the following decision regarding the Modified Subdivision Plan which shall and does supersede the earlier decision that is the subject of the aforesaid litigation:

Members: The following members were in attendance at the December 10, 2013 public hearing and deliberated on January 14, 2014 toward this decision:

Neal Abelson
Ron Bennett
Michael Bourque
Sandy Foulkes
David Viera

The following members were not present on December 10, 2013 but certified in writing that they have examined all evidence received at the missed session, which evidence included an audio of the missed session (Mullin Rule adopted at Annual Spring Town Meeting 2009):

Phoebe Lee Dunn
Russ Horsman

Findings of Fact:

A majority of the Planning Board approved the following findings of fact:

- The entire record of the first proceeding before the Planning Board concerning the earlier plan was incorporated into the record of this remand proceeding and each voting member was familiar with the record from the first proceeding.
- The Property consists of a vacant wooded 16.9 acre lot that is zoned R-2/Mixed Use.
- The proposed project, as shown on the Modified Subdivision Plan, would create 11 new house lots, all >15K sq. ft., on a ±788' public road ending in a cul-de-sac (Palmer River Rd). The yield plan indicates 9 developable lots are possible. The new incentive zoning provision is to be utilized here, which will designate one lot as affordable and one additional market rate lot will be granted as a density bonus for providing said affordable lot.
- Individual septic systems and public water shall service the lots.
- Open space areas shall equal 40%, (40% minimum required). Wetland percentage of open space does not exceed wetland percentage of site.
- The subdivision access way shall be 22' of paved width from Jacob Street until the beginning of lot 1, at which point, the paved width of the way shall become 24' wide and continue around the cul-de-sac and back to lot 6. This will allow a greater distance of the areas to be disturbed from large trees presently located on the property boundary to the north near Jacob Street.
- A 4-foot sidewalk, with an integral curb on the north and east side of the proposed subdivision access way road, shall be provided.
- The Board's reviewing engineer, CEI, reviewed the Modified Subdivision Plan and opined in a report dated December 5, 2013, that all prior concerns and issues have been satisfactorily addressed, provided that all of the conditions set forth below are imposed and satisfied.

- The DPW Superintendent, Fire Chief and Police Chief, in letters dated 10/25/13, 10/29/113 & 11/1/13, respectively, indicated that Jacob Street is the preferred and safer access point for this project to reach Taunton Ave (rather than direct access onto Taunton Ave) and that the modified roadway width and sidewalks will enhance public safety.
- The project, as modified and shown on the Modified Subdivision Plan satisfies all of the requirements of Zoning By-law §25 and the Planning Board's Subdivision Rules and Regulations, except as specifically waived below.

Waivers:

A majority of the Planning Board found, under G.L. c.41, §81R, that it would be in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law for the Board to waive strict compliance with the following specific requirements under the Rules and Regulations Governing the Subdivision of Land in Seekonk, Massachusetts, with the express requirement that all conditions of approval set forth hereunder and all requirements of the Rules and Regulations not waived shall be complied with:

- Section 7.2.1.8 – Roadway

The applicant is seeking a waiver for the required property line radii at its intersection with Jacob Street and the required curb radii at the street intersection with Jacob Street. This request will provide a safe vehicular roadway. Jacob Street is a 66' layout, thus there is ample room to provide a 30' turning radius at the pavement intersection.

- Section 7.2.2.2 – Roadway Width

The applicant is seeking a waiver for the required width of pavement from 24' to 22,' from the intersection of the subdivision access way with Jacob Street until the access way reaches the first lot and then the access way shall be widened to 24 feet. The grant of this request will provide a safe vehicular roadway, minimize the stormwater runoff and safeguard the Linden trees abutting the property.

- Roadway Location

The applicant is seeking a waiver to shift the roadway off the centerline. This request is reasonable and would protect the row of Linden trees abutting the property, which are a valuable resource.

- Section 7.2.4.1 – Dead-end Streets

The applicant is seeking a waiver for the length of a dead-end street from 720' to 788'+/-. This request will provide a safer vehicular roadway than one that entered with direct access from Taunton Avenue and this waiver is similar to waivers granted by the Planning Board in the past.

- Section 7.4.1 – Easements

The applicant is seeking a waiver to place the Basin on multiple lots owned by individual lot owners, in lieu of one lot that is owned by the Homeowners Association. The Planning Board agreed that this would be reasonable, provided that the Homeowners Association retains the necessary drainage easements, to allow it to perform the necessary work to maintain and repair and replace the drainage areas. The Homeowners Association instrument and the easement instrument shall be provided to the Planning Board for its review and approval, as to form, prior to being recorded. The Homeowners Association instrument and the subject easements shall be recorded in favor the Homeowners Association before any individual lot is conveyed and shall occur before endorsement of the plan occurs.

- Section 7.5.2 – Water Main

The applicant is seeking a waiver to not loop the water main. The applicant and the applicant's engineer met with the Water Department and the Water Department agreed that a looped main is not needed for this project. This waiver will minimize the excavation near the row of Linden Trees abutting the property which are a valuable resource.

- Zoning By-Law Section 25.10.5 – Disturbed Areas

The applicant is seeking a waiver to allow the proportion of disturbed areas within the Conservation Subdivision to exceed 25% of the total tract

as it directly supports the provision of and access to the additional on-site affordable units.

Any waiver not expressly granted is hereby denied.

Conditions:

A majority of the Planning Board voted to impose the following conditions on any grant of subdivision approval for the project:

1. Prior to endorsement of the Modified Subdivision Plan, it shall be modified to indicate the increased subdivision access way width to 24 feet from the beginning of lot 1, continue around the cul-de-sac, and back to lot 6. In addition, a note shall be provided that shall require signage to announce the narrowing and widening of the roadway in each direction to warn motorists of the change in width.
2. Prior to endorsement of the Modified Subdivision Plan, the applicant shall submit a copy of the Homeowners Association instrument and all drainage easements to be held by the Association to the Planning Board of its review and approval as to form and for consistency with this decision, to ensure that the Association shall have the appropriate authority to maintain and repair the drainage infrastructure. The instruments shall provide that the Town may, but shall not have the obligation, to perform emergency repairs and to lien the Homeowners Association and the individual homeowners for the reasonable costs of any such repairs. The Homeowners Association instrument and the easements shall be recorded simultaneously with the endorsed plan.
3. Prior to endorsement of the Modified Subdivision Plan, the applicant shall submit to the Planning Board, for its review and approval as to form and consistency with this decision, an open space restrictive covenant on the open space land shown on the Modified Subdivision Plan. The covenant shall be recorded simultaneously with the endorsed plan.
4. The open space plan shown on the Modified Subdivision Plan, shall be delineated by a split rail

fence. Prior to issuance of any building permit, the fence shall be in place.

5. The requirements of Zoning By-law §25.10.1 (affordable unit amounts, size & distribution) and 25.10.1.4 (construction schedule) shall be adhered to, which require that the 6th lot built upon shall contain the affordable unit and a permanent deed restriction provided as required.
6. Prior to issuance of a building permit for each lot, the lot owner/developer shall submit a lot site plan and supporting information documenting the following:
 - a. The grading of the lot is consistent with the impervious surface coverage and the drainage patterns depicted on the approved Subdivision Plans.
 - b. The development of the individual lots will implement and maintain erosion and sediment control measures during construction as stipulated on the approved Subdivision Plans. The lot plan should illustrate the placement and details of these measures.
7. The applicant will cut back 5' of brush in a northerly direction from the proposed road to increase the sight distance.
8. Runoff from the impervious surfaces of each individual lot shall be required to be handled on the lots through stormwater management measures, such as roof infiltration systems and rain gardens, so that there is no increase in volume or rate of runoff when pre-construction and post-construction conditions are compared. Said measures shall be submitted to and approved by the Planning Department prior to the issuance of building permits for each lot.
9. Anchored tarps shall be required to secure temporary soil stockpiles.
10. A positive recommendation shall be received from the BOH and prior to issuance of a building permit for lot 3, Board of Health approval shall be required indicating acceptable soils and groundwater conditions

have been documented to support a soil absorption system and perc tests have been performed.

11. A copy of the USEPA NPDES General Permit No. 1 and SWPPP shall be submitted to the Planning Department prior to construction.
12. Construction shall be closely monitored by the Board's inspector along the section of roadway that is offset from the centerline to ensure that measures to protect the adjacent property to the north are implemented and maintained.
13. Black chain link fences shall be installed around all stormwater management facilities, with a smaller sized one around the bio-retention area in the cul-de-sac.
14. If blasting is to occur, then prior to the start of any blasting, the Applicant shall provide evidence to the Building Inspector and the Planning Board that all of the required licenses and permits have been obtained to allow any blasting that is planned and evidence of adequate insurance to compensate any impacted property owners. If blasting is required, then videotaping of adjacent dwellings within 300 feet shall be performed.
15. If any blasting occurs, it shall be performed in accordance with all state, federal and local requirements, including 527 CMR 13.00 and local Fire Department regulations. The following additional requirements shall apply:
 - a. Preblast condition surveys shall be performed on residences and other structures within 300 feet of the perimeter of the Property, provided that the owners grant written permission for the survey of their property to occur.
 - b. The name and references for any blasting contractor shall be submitted by the Applicant to the Fire Department in advance of any blasting at the Property by such blasting contractor.
 - c. A schedule of blasting shall be provided in writing before blasting starts to all abutters and those within 300 feet of the perimeter of the Property at least one week prior to blasting. Such schedule shall give starting dates and times and estimated completion dates. The schedule shall be updated as necessary to reflect

adjustments to the blasting schedule and shall be provided to all abutters and to those owners within 300 feet of the perimeter of the Property. A notice of completion shall be sent to the Fire and Building Departments and to all abutters and those owners within 300 feet of the perimeter of the Property within 15 days after all blasting at the Property is completed. Blasting shall be conducted only during 8:00 a.m. to 4:30 p.m., Monday through Friday.

d. Blasting specifications shall require the contractor to limit peak particle velocities to the requirements of 527 CMR 13.09, Part 9, Figures a and b. Restrictions shall also be placed on noise and dust as required under 527 CMR 13.09.

e. Vibration monitoring shall be done for each blast.

f. A blast monitoring report shall be submitted to the Applicant and to the Fire Department by the blasting contractor for each blast. Such reports shall be retained by the Applicant for at least one year after the completion of all blasting.

g. The blasting contractor shall prevent flyrock by proper design of blasts and by use of blasting mats.

h. The blasting contractor shall perform small test blasts when blasting in a new area to determine the relationship between size to blast, vibrations, and airblast overpressure.

i. The blasting contractor shall maintain insurance and bonding in accordance with 527 CMR 13.04(10).

16. The Applicant shall keep the site clean during construction. Upon completion of all work on site and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Planning Board shall be notified in writing of the final disposition of the materials.

A motion was made by R. Bennett and seconded by M. Bourque and VOTED: to approve, based on the above findings of fact and conditions, the Definitive Subdivision Plan – ‘Jacob Hill Estates’, latest revision date of November 8, 2013.

**Aye: R. Bennett, R. Horsman, M. Bourque, Ch. Abelson, D. Viera
Nay: L. Dunn, S. Foulkes – Did not agree with the waiver for dead-end street length or disturbed areas.**

Motion Passed: (5-2)

Site Plan Review – 1058 & 1080 Fall River Ave. Applicant The Seekonk Realty, FLP

David Bray of Caputo and Wick LTD. Representing the applicant Seekonk Realty, FLP summarized the site Plan to the PB.

Existing Conditions

- Commercial plaza containing several commercial retail establishments.

Proposal:

- Construct a new 2500 sf free-standing restaurant with 55 seats in parking lot. Restaurant type not yet known. Footprint approval being sought.
- **Section 10.6.1**-Eighty-nine (89) parking spaces are proposed (75-139 are required); **10.6.1.20**-Less than 100 peak additional peak hour trips generated; **10.6.2**-Drainage system will consist of a Stormwater Recharge Structure, which will contain drywells; No review of system required since not more than 1 acre of land being disturbed and impervious pavement being replaced by new structure; **10.6.3**-A 0'-4' landscaped buffer around site exists (10' required); 30% shade provided (30% required); **10.6.4**-Photometric Plan submitted indicates greater than 2.0 footcandle minimum required for new parking spaces; **10.6.5**-No drive-thru facility proposed; **10.6.6**-No architectural designs submitted since restaurant type not yet known.

A motion was made by R. Horsman seconded by L. Dunn and unanimously

VOTED: to approve the Site Plan for 1058 & 1080 Fall River Ave – Plat 7, Lot(s) 15 with the condition that when the restaurant type is known, architectural drawings shall be submitted to the Town Planner for confirmation that the design complements the existing buildings in the vicinity as per section 10.6.6.

A motion was made by R. Bennett seconded by L. Dunn and unanimously

VOTED: that a one year extension be given for the Site Plan approval for 1058 & 1080 Fall River Ave – Plat 7, Lot(s) 15 (Approval shall expire in 2 years)

Site Plan Review – 410 Newman Ave. – Seekonk Library

Gary Sagar representing the Library Trustees summarized the proposal. He said it consisted of 50 overflow parking spaces to be constructed with pavers and to only be utilized for event parking. He went on to say it will be located in the back of the Library and it has already been approved by DEP via the landfill's post-closure use application.

A motion was made by M. Bourque and seconded by R. Bennett and unanimously

VOTED: to approve the Site Plan for 410 Newman Ave. – Seekonk Library

Form A: 214 Central Ave- Healey

A motion was made by R. Horsman and seconded by D. Viera and unanimously

VOTED: to endorse the Form A for 214 Central Ave.

Form A: 85 Davis Street & 15 Lindsey Ct.

A motion was made by R. Horsman and seconded by D. Viera and unanimously

VOTED: to endorse the Form A for 85 Davis & 15 Lindsey Ct.

Form A: 1160 Newman Ave. Pawtucket Country Club

A motion was made by R. Horsman and seconded by M. Bourque and unanimously

VOTED: to endorse the Form A for 1160 Newman Ave.

Approval of Minutes: 12/10/13

A motion was made by D. Viera and seconded by R. Bennett and it was unanimously

VOTED: to approve 12/10/13 Planning Board minutes with minor changes.

Discussion

A motion was made by D. Viera seconded by M. Bourque and it was unanimously

VOTED: to rescind the vote made by the Planning Board on 12/10/13 concerning the partial covenant release for Three Ledges subdivision and to allow a covenant on one lot (lot 14) as surety, and going forward with any new subdivisions a developer will not be able to have a covenant on individual lots within a subdivision.

Adjournment

A motion was made by R. Horsman seconded by D. Viera and it was unanimously

VOTED: to adjourn at 9:15 PM.

Respectfully Submitted by,
Florice Craig