

SEEKONK PLANNING BOARD
Public Hearing - Regular Meeting
January 13, 2015

Present: Ch. Abelson, M. Bourque, R. Bennett, S. Foulkes, D. Sullivan, D. Viera,
Absent: L. Dunn (with cause)

7:00PM Ch. Abelson opened the meeting

Public Hearing - Jacob Hill Estates Definitive Subdivision Amendment:
Palmer River Development Co., LLC

D. Sullivan read a statement concerning a state ethics question. He said he is the State Secretary of the MA Call Volunteer Fire Fighters Association and this organization is presently in a lawsuit in which Atty. Eric Brainsky is representing the plaintiff. He went on to say he contacted the State Ethics Commission in Boston and they did not feel any conflicts existed but recommended he file a disclosure form with the Town Clerk, which he did. He said he believed he could hear matters that involved Atty. Brainsky but requested him to comment.

Atty. Eric Brainsky commented that he did not see any ethical problems with D. Sullivan sitting in on the public hearing for Jacob Hill Estates. He noted that one case had nothing to do with the other and he appreciated D. Sullivan's thoroughness in the matter.

Ch. Abelson opened the public hearing and read the order of business.

A motion was made and unanimously voted to waive the reading of the legal notice.

Introduction of Planning Board Members

E. Brainsky introduced himself and said he was representing the applicant Palmer River LLC. He went on to summarize they were seeking a 2 foot modification to the interior radius of the cul-de-sac. He said this change was prompted by the Fire Chief to widen the cul-de-sac because larger fire apparatus could not make it around the cu-de-sac. He went on to say the modification had been reviewed by the PB's consultant engineers and CEI had signed off on it. He also noted DPW was fine with it.

D. Viera commented that if B. Lamoureux the DPW Director had any issues he would have written a memo to the PB with his concerns.

D. Sullivan commented on the email from 1/12/15 from M. Antonio in which he confirmed the elevation of the outlet control structure would be set to finish asphalt grade.

Ch. Abelson said asked for proponents or opponents to speak. None.

D. Viera noted again that the 2 foot radius modification was at the Fire Chiefs request.

A motion was made seconded and unanimously voted to close the Public Hearing.

A motion was made seconded and unanimously voted to approve to amendment to Jacob Hill Estates subdivision dated 11/26/14 confirming that the outlet control structure according to the schematic drawing was even with the asphalt.

Form A: 96 Pond St- Dunlop

Ch. Abelson told the PB that this agenda item had been withdrawn.

Form A: 64 Bittersweet Drive – Conservation Commission

Sean Leach from SITEC Engineering representing the Town of Seekonk summarized that they were creating two lots, one with an existing residence and the other to be restricted land for conservation use.

A motion was made, seconded and unanimously voted to endorse the Form A for 64 Bittersweet Drive

Definitive Subdivision Country Brook Estates: Amendment to covenant

J. Swift representing Watermellen LLC summarized that an abutter to the subdivision wanted to buy a piece of the property to add to his property. He noted it had already been before the PB and endorsed as a Form A. He said this was releasing lot 19 to be excluded from the covenant.

A motion was made seconded and voted to approve the amendment declaration by adding to the end of the first paragraph in the “Preface” of the Declaration, the following sentence: “Lot 19 shown on the Final Plans is excepted from the property.”

Discussion: Decision for Winterfell Subdivision

Atty. E. Brainsky representing the applicant introduced himself and P. Carlson from InSite Engineering. He went on to summarize they wanted to discuss two issues, one being the mylars and the covenant and the other a minor modification to one of the conditions on the definitive subdivision. He said that one of the conditions was the \$5,000 fee in lieu to the Fire Department to be paid by the applicant. He noted on a smaller subdivision like Summer Meadows it made more sense to pay that all up-front. He went on to say that Winterfell was a larger subdivision and when the PB decision was made it was a condition of the approval that all of the lots and all of the fees in lieu had to be paid before recording which would mean paying \$55,000 up-front. He said his client thought this was a lot of money up-front and that is why they were asking for the modification to say, only allow the fee in lieu to be imposed when a building permit was pulled.

M. Bourque said he had talked with Fire Chief Healy and they were both in agreement that by paying when you pull a building permit would be a nightmare to track. He went on to say there were problems currently with this condition concerning Summer Meadows in that a building permit was issued for Summer Meadows last week and currently there was no check, which proved there was no enforcement of this condition. He also noted he didn't think it should be up to the PB to check every time a building permit was issued to see if a check was given.

Ch Abelson asked if there was a covenant on the entire parcel.

P. Carlson said there will be.

Ch. Abelson suggested making them do it at the time they ask for the release of reduction in surety. He noted he was trying to work out a middle of the road compromise. He said they can't do anything until the covenant is released.

D. Viera said he was concerned from the beginning and that is why the PB made it a condition. He asked who would police if you don't get the money up-front.

P. Carlson said if the homeowner wanted to do the sprinklers for insurance proposes then the \$5,000 paid by that lot owner had already been paid he asked how would the \$5,000 be paid back?

D. Sullivan said if it is a condition of the plan and the condition of the subdivision as a home owner they can do whatever they want it has no reflection on the plans or the subdivision approval.

P. Carlson said in his experience he thought there was good policing of the permits between the departments and thought this was something that could be worked out.

Atty. Brainsky said he was not aware of the recent situation at Summer Meadows. He noted that he thought \$55,000 was a lot of money prior to recording.

Ch. Abelson suggested again that when they come to PB for a reduction in surety make them at pay at that point.

M. Bourque said that they had assistance from Town Council with the bylaw and it passed and in his opinion to start changing it would not be a good thing. He noted that it was modified for Summer Meadows and problems are starting to arise from that modification.

D. Sullivan suggested continuing the discussion and getting a legal opinion.

Ch. Abelson suggested asking the applicant if it was something they even wanted to bother with.

Atty. Brainsky said he did not want to push the PB to vote on something they were unsure of. He said he would like the PB to be sure before his applicant gets an unfavorable vote or they just withdraw all together.

D. Sullivan said if it is legal and we can do it then he didn't have a problem with it but he said there was a question in his mind.

P. Carlson said the \$55,000 bond or cash still had to reflect the \$55,000 along with the other modifications that are not complete. The Town Planner reviews it with the Town Engineer for what is remaining for the road itself plus whatever is remaining of the \$55,000. He noted that it would be sitting out there in cash or as a bond.

M. Bourque noted it could be sitting out there for years without the town being able to use it.

Atty. Brainsky said they were talking about including the fee in lieu as a portion of the construction cost estimate portion of the surety.

M. Bourque said if you don't pay it out it stays there.

P. Carlson said you can claim it at some point.

M. Bourque asked at what point? He said right now it is black and white it is given at the beginning not at some point which could be months down the road.

Atty. Brainsky asked if they took a vote tonight along the lines of what Ch. Abelson suggested, having it subject to pay when the covenant was released and you make that vote a condition upon correspondence from your Town Council saying what you are doing is a legal would that be acceptable?

D. Viera said he did not want to change anything that was in place and would like to see getting paid up-front.

A motion was made seconded and voted to deny the modification request.

Vote: 4 ayes- 2 nays

Motion passes to deny.

Discussion: Amendment of Preliminary Subdivision Plan:

Brigham Farms – Sec. 3 – G. Sagar

G. Sagar introduced himself and summarized that section 3 of Brigham Farm was an approved Preliminary Plan for 8 house lots on 28 acres of land. Included with the approval there was a waiver on the length of the dead end street the road was 2,400 ft long. He also said there was a waiver on the environmental impact statement, sidewalks and the pavement width of the road was reduced from 30 ft to 26ft. He said the approved wetland line was good until May 2016 and the new street would be called Matt's Way. He noted when section 2 was built there was an 8 inch water tap installed for the new proposed road. He went on to say that when the Preliminary Plan was drawn up it was under the old frontage requirements in an R-4 zone. He said the project had sat dormant but with the recent approval in November 2014 of the amended Conservation Subdivision Bylaw it only made sense to keep that design in mind. He noted the

only impact was where the wetland crossing would be and it was reviewed and approved June 13, 2006.

He summarized in the new Conservation Subdivision design they reduced the amount of road length from 2,400 ft to 1,400 ft. He said it was an 8 lot subdivision with a cul-de-sac and noted they are positioned in accordance to the new regulations to make them advantageous for solar. He said the open space was 80% of total subdivision and noted as part of the original approval in phase 1 there was a piece of land and it was the decision of the PB in 1980's to include an easement to that parcel which he now owned. He went on to say in 2007 at a Town Meeting he was authorized access to an easement over that original easement. He said that the new subdivision was 6 lots and the Conservation Subdivision was 8 lots. He commented that in the new regulations it was required that a Preliminary Plan be approved by the PB also that a concept plan be provided which he has provided. He requested the PB to approve the conceptual plan and allow him to go to the definitive phase.

Ch. Abelson asked about what type of waivers he might be looking for.

G. Sagar said a 26 ft road, grass sidewalks and the radius of the cul-de-sac would be in compliance to whatever it needed to be for fire apparatus.

M. Bourque said he liked the new design and that was what the PB was looking for from a conservation subdivision.

A motion was made seconded and voted unanimously to endorse the conceptual plan for Brigham Farm Section 3 dated January 15, 2015.

Correspondence:

Mark Shane 16 Gardner Neck Road Swansea introduced himself and said his project was Swan Brook Assisted Living Project he went on to summarize his concerns about receiving another bill from the consulting engineering reviewing his project. He felt he was getting billed too many times for the same thing. He asked the PB to please look into it.

Ch. Abelson said he would look into the history of the project and make it an agenda item for the next meeting to discuss.

Ch. Abelson discussed the CCRCOD and how the description was not in the new Zoning Bylaw book. He was looking into it and was going to talk to the Town Administrator and possibly Town Council to see if a public hearing would be necessary to put it back in the book.

Ch. Abelson to talk to Nate Kelly at Horsley & Witten and then ask them to attend the next PB meeting to explain.

Ch. Abelson brought up the Town Planner position, he said two members of the PB should work with the TA to narrow down the candidates and once narrowed down the candidates will be interviewed by the full PB.

A motion was made seconded and voted unanimously to extend the search for Town Planner till Feb 28, 2015. Update in MMA and place an ad in The Beacon for the February issue.

N. Abelson will send an email to the Water District asking when the changes will be done so we can get a copy.

N. Abelson to get the budget from Finance Department to go over with the PB.

N. Abelson to get a copy of the Town Planner contract and job description for the PB to look it over for the next meeting.

Approval of Minutes: 12/9/14

A motion was made seconded and voted unanimously to approve the 12/9/14 PB minutes with minor type corrections.

Adjournment

A motion was made seconded and voted unanimously to adjourn at 9:45 PM.

Respectfully Submitted by,

Florice Craig