

SEEKONK PLANNING BOARD
Regular Meeting
BOS Meeting Room
December 13, 2016

Present: R. Bennett, S. Foulkes, L. Dunn, J. Roach
Absent: M. Bourque (with cause), D. Sullivan (with cause)

Ron Bennett opened the Planning Board meeting at 7:05 p.m.

Discussion: ANR Application for 400 North Wheaton Avenue

AP 5, lots 83 & 165 located in the R-4 Zoning District

Jeff Tallman from Sitec, Inc. summarized the ANR plan to add a 3rd lot to the property and addressed concerns regarding the previous denial in 2006. The proposed frontage will be on Willard Avenue but will be accessed via North Wheaton Avenue through a utility easement. The plan is very similar to the one that was previously denied by the PB in 2006. Several court cases were referenced in the denial (Perry vs. Planning Board Nantucket, Gifford vs. Planning Board Nantucket and Gates vs. Planning Board of Dighton) but in his opinion those cases have different circumstances. The most similar case has wetlands and a wetland alone cannot prevent access since you can cross a wetland. It is not up to the Planning Board to determine if crossing can be permitted.

L. Dunn asked about the width of easement

J. Tallman said it is 30' in width. It is on the east side and away from the wetlands.

L. Dunn asked if it will be considered a driveway or a street.

J. Tallman said it is a driveway.

J Aubin said it is an access easement.

L. Dunn asked if it would be considered a shared driveway.

J. Aubin said the proposed access is for a single lot.

R. Bennett asked if it follows the Rules and Regulations.

J. Aubin said the easement will need to be recorded.

J. Tallman confirmed the easement is shown on the plan and will be recorded.

L. Dunn said she is uncomfortable making a decision without approval from Conservation.

J. Aubin said with regard to the development of the proposed lot, Conservation would be involved with the distance from the wetland edge. As far as if the lots meet the requirements of an ANR, such as if they have frontage and adequate area, then they qualify. He asked Mr. Tallman how far along they were in the project, such as the septic system...

J. Tallman said they submitted the plan for a zoning determination, the endorsement of the ANR, perking through BOH, and Conservation.

J. Aubin said considering the previous legal concerns and since the PB just received Mr. Tallman's letter/documentation, he recommends the PB ask for a continuance and ask for town counsel to review.

J. Tallman said the presence of a wetland does not constitute an illusory frontage. It has to be something physical. A wetland is something that you could be permitted to build through, assuming you go through Conservation. Mr. Tallman requests this to go forward through the permitting process so they are ready to break ground in the spring.

J. Roach recommends our town counsel review the documentation.

R. Bennett asked Mr. Tallman if he would be agreeable to continue this to the next meeting.

J. Tallman said yes.

J. Aubin recommends a motion to continue this ANR application until the January 10, 2017 PB meeting.

L. Dunn made a motion to continue the ANR application to the January 10, 2017 PB meeting, S. Foulkes seconded and it was unanimously approved.

VOTE: Approved 4-0

Discussion: ANR Application for 33 Lake Street

AP 16, lot 186 located in the R-2 Zoning District

Paul Carlson from InSite Engineering, Inc. summarized the ANR application for 33 Lake Street. The proposed application is an extension of a previous Form A that was previously approved by the PB. This Form A will separate the existing lot 1 (AP 186) into 2 lots. Lot 1A will have 3.72 acres of land and will run along Route 44 and Lake Street. The second parcel of land, lot 1B, will have approximately 11 acres of land and have 15 ft. of frontage just for access out to the back. The idea for this particular parcel is that it may be donated to Conservation or be put into a

conservation easement in the future. Mr. Carlson said they meet the requirements for lot 1A and lot 1B will be designated as a non-buildable lot with 15 feet of frontage.

J. Aubin asked if lot 1B is primarily wetlands.

P. Carlson answered correct.

S. Foulkes asked if it would be accessed off Lake Street or Taunton Avenue.

P. Carlson said lot 1A is on the corner so it has frontage on both Lake Street and Taunton Avenue. Lot 1B has frontage on Lake Street but is labeled as a nonbuildable lot.

S. Foulkes said the plans states "it does not *appear* to be built on." She asked if that could be changed in the future.

P. Carlson said it could be but it would have to come before the board in order to meet the current zoning regulations for it to be buildable. It does not meet the requirements under the current Subdivisions Rules and Regulations.

J. Roach asked since this is the second application for this property, if there is the potential for another Form A in the future, or if there was a potential buyer requesting this change.

P. Carlson said there could be a potential buyer.

L. Dunn made a motion to endorse the Form A for 33 Lake Street to create lot 1A with frontage on Taunton Avenue and Lake Street with 3.72 acres of land, and lot 1B (not for development) will have 15 ft. of frontage on Lake Street and will have 11 acres. J. Roach seconded and it was unanimously approved.

VOTE: Approved 4-0

Discussion: ANR Application for 91 Jacob Street

AP 21, lots 58 & 203 located in the R-2 Zoning District

P. Carlson from InSite Engineering summarized plans for the ANR application. Seven lots are being proposed. Each lot will have the minimum of 120' frontage and 22,500 sq. ft. of land. Lots 6 and 7 (which combine the Palmer River lot with the Infinity Homes lot) will swap frontages in order to make the existing subdivision lot 1 more conforming. Lots 5, 6, and 7 will front on Palmer River and lots 1-4 will front Jacob Street.

S. Foulkes inquired about the different names on the application and the Certificate of Good Standing.

P. Carlson said 91 Jacob Street was under an estate and Mr. Rollins purchased the property.

S. Foulkes said she is concerned with the removal of the street trees since Mr. Wright was passionate about keeping the trees.

P. Carlson said that it was his understanding the agreement that Mr. Wright had is no longer available through his heirs. He believes the intent is to maintain as many trees as possible.

Discussion of the trees took place among the board members due to a previous court case regarding the trees.

J. Aubin said all the lots meet all the ANR requirements.

J. Roach made a motion to endorse the ANR application for 91 Jacob Street, AP 21, lots 58 & 203.

(At this time, no second was made)

P. Carlson said since the board did not approve the ANR, they will go to the clerk for approval due to PB's failure to act. He requested, for the record, the reason for non-approval.

J. Aubin said at this time it is not being denied for non-approval, but rather for inaction.

Steve Rollins from Infinity Homes introduced himself and discussed the trees. Although he does not know the history of the trees, he agrees that he doesn't want to take down any trees that aren't necessary both from an economic standpoint, as well as for esthetic reasons. He understands the PB's concern and will keep as many as he can, but until he knows where the driveways, septic systems, utilities, waterlines, etc. will go, he cannot guarantee how many will be kept.

L. Dunn said in light of Mr. Rollins' statement she will 2nd the motion; and S. Foulkes opposed.

**VOTE: Yes – 3
No - 1**

Discussion: Update Madison Court (off Read Street)

Michael Costa from Costa Development provided a progress update for Madison Estates. The following will need to be completed in the spring of 2017: 1) top coat; 2) retention area; and 3) part of the sidewalk. The town is holding approximately \$60k surety with only \$30k worth of work to be completed.

L. Dunn asked if there is a HOA.

M. Costa said they do but he has not turned it over to them yet.

R. Bennett asked for the time frame to complete the work.

M. Costa said April or May weather permitting.

S. Foulkes asked for a reason for the delay.

M. Costa said he did not understand the time frame involved.

J. Roach asked if there are any safety concerns or if there have been any accidents reported due to the delay.

M. Costa answered no. He advised that he will email the residents and John Aubin within a week.

J. Roach referred to some of the emails received from the residents stating there were other outstanding projects that needed completion.

M. Costa said an area of the split rail fence fell down.

R. Bennett said it was in his best interest to complete this project since the town is holding surety.

Discussion: Update Logan Court (off Onley Street)

J. Aubin provided photos of Logan Court to the Planning Board to review.

Mr. O'Loughlin from 1 Logan Court said he was present when Mr. Aubin took the photos. He referred to the photos of his backyard and stated the pond has enlarged by 10' and it is now 80'x50'.

R. Bennet asked if any work has been done since the last update.

Mr. O'Loughlin said there might have been some work done, but it is not working. He went to six different subdivisions (Walker Street, Oak Hill, Madison Court, Stone Ridge and Summer Meadows) and none of them have the type of swale that Logan Court has. The swale in the front does not appear to be working properly since water ponds in the swale and does not flow downhill like it is supposed to and the banks where the stones are is soft and receding downward. There is a foot of stones a foot wide that people park on and kids ride their bikes on. The stones

end up in the street and down into the swale. The time schedule that Mr. DeCastro presented to the PB and the residents has not been met. We have had the same argument for the past six months and nothing is getting done. The road was supposed to be done in November and that is still not installed. The swales are supposed to be operational and the backyard conditions still have not been looked at.

J. Aubin agrees that the schedule from Mr. DeCastro has not been kept to. As far as the functioning of the swale, that will need to be looked at by the Town Engineer and DPW. Mr. Aubin recommended: 1) to see the installation inspections by the town engineer; 2) ask for DPW's input; and 3) ask town counsel how to move forward since a covenant is being held on the remaining lot.

S. Foulkes asked what surety is left.

J. Aubin said there is a covenant on the remaining lot. The PB voted to release the covenant subject to a bond but that has not been received, therefore, the covenant is still in place.

L. Dunn asked if the covenant was over the entire subdivision.

J. Aubin answered the covenant is on the remaining lot.

Mr. O'Loughlin referred to DeCastro's letter of July 6, 2016 stating that by September the front and rear swales would be completed and they are not. John Hansen, the Town Planner in August 2013, made a condition of approval that the subdivision was to have an as-built print of the roof infiltration systems.

J. Aubin said an as-built is usually provided during the roadway acceptance process.

Mr. O'Loughlin said it was supposed to be prior to issuing any certificates of occupancy.

(Several people began speaking at once)

Mr. O'Loughlin said Mr. Carlson said he would come to their properties in August to show them where the infiltration systems were, but has not done so.

P. Carlson from InSite Engineering said the swales and all the subdivision components have been built in accordance with the plans. The swales are grassed, which has some erosion and it is natural. I have stated in numerous emails that Mr. DeCastro is at the mercy of Cardi Paving. Cardi Paving has had Mr. DeCastro's \$10,000 deposit for 6 months. So as far as the timing for paving, he has to wait for Cardi Paving. As far as the swales are concerned, they are functioning properly as they are supposed to. The water is to come off the road, go into the swale, and either infiltrate or convey.

R. Bennett asked Mr. Carlson if he knew if each individual property was graded correctly.

P. Carlson said he has no jurisdiction over that and that is between the homeowner and Mr. DeCastro. A rear swale was not proposed or a part of the definitive subdivision approval. He agrees that there are components that were a part of the subdivision, such as the recharge and drywells. However, he won't know exactly where those drywells or infiltration systems are until Mr. DeCastro tells him. The drywells are an issue between the homeowners (ANR lot and lot 2) and Mr. DeCastro since they do not have anything to do with the subdivision. As far as the as-built, that cannot be done until the final coat has been put down.

R. Bennet asked for a timeframe.

P. Carlson said Mr. Cabral from DPW has stopped paving until the temperature is at 45 degrees or higher on a continuance basis.

J. Aubin asked Mr. Carlson if the swale is operational as it is constructed right now.

P. Carlson said it is functioning the way it is supposed to function.

R. Bennett said he recommended the town engineer do an inspection and ask for an opinion from town counsel.

(Several people began speaking at once)

Mary Medeiros from 3 Logan Court asked how they will know where the infiltration systems are if they can't get a response from Mr. DeCastro and if Mr. Carlson does not know where they are located. Mr. Carlson said he would show them where they were and install 2 more on the ANR lot and lot 3 since it was part of the plan and they don't have them. She also voiced her concern regarding who will be responsible for plowing Logan Court since the road has not been accepted.

J. Aubin advised her that the BOS asked that all subdivisions in town be plowed in town. The town will plow unless there is a safety concern or equipment concern (such as raised structures) from DPW.

Mrs. Medeiros said as far as if/how the swales are functioning, they collect water (since water goes in them) and then there are pipes that go under their driveways which are higher than the swale so no water gets into the retention basin. If the swales are going to stay the way they are, what is the point in having the retention basin if they don't flow down the street because it is not graded properly.

J. Aubin said the swale will need to be inspected by DPW and the town consulting engineer.

Mary advised the PB she emailed Dig Safe regarding a conversation she had with a subcontractor while they were planting a tree near the underground utilities. She asked him if he called Dig Safe and he said he did when they put the swale in but not this time.

Mr. O'Loughlin asked if the town engineer could contact one of the residents before they come so one of the residents could show them their concerns.

R. Bennett said we could ask them to contact Mr. O'Loughlin.

S. Foulkes made a motion to request Mr. Aubin: 1) contact town counsel for their opinion regarding how to move forward; 2) to request an inspection from inspecting engineer, and have them contact Mr. O'Loughlin or one of the residents when they go out to inspect; and 3) to speak with Dave Cabral at DPW. J. Roach seconded and it was unanimously approved.

VOTE: 4-0

Discussion: To accept Neal Abelson's resignation from the Planning Board

J. Aubin read the letter of resignation from Chairman, Neal Abelson.

L. Dunn made a motion to accept Neal Abelson's letter of resignation with regret, S. Foulkes seconded and it was unanimously approved.

VOTE: Approved 4-0

Monthly Department Update

J. Aubin provided the monthly update.

Correspondence

J. Aubin provided the correspondence received by Planning Department.

Approval of Amended October 11, 2016 Minutes:

Martin O'Loughlin from 1 Logan Court asked that pages 9 and 11 be amended.

S. Foulkes made a motion to accept the amended change on page 9 of 18, J. Roach seconded and it was unanimously approved.

S. Foulkes made a motion to accept the amended change on page 11 of 18, L. Dunn seconded and it was unanimously approved.

Approval of Minutes for November 1, 2016:

S. Foulkes made a motion to approve the 11/1/16 minutes, L. Dunn seconded and it was unanimously approved.

Discussion: SRPEDD Update

Jamie Roach was unable to attend last session and will provide an update after the next meeting.

Adjournment

A motion was made by S. Foulkes to adjourn the meeting, L. Dunn seconded and it was unanimously approved.

The meeting was adjourned at 9:10 p.m.

Respectfully Submitted by,

Kristen L'Heureux