

Sutton Planning Board
March 28, 2011
Minutes

Approved _____

Present: T. Connors, S. Paul, R. Largess, D. Moroney, W. Whittier, J. Anderson
Staff: J. Hager, Planning Director

General Business:

Minutes

Motion: To approve the regular and executive session minutes of 3/14/11, W. Whittier
2nd: D. Moroney
Vote: 6-0-0

Form A Plans None

Reservoir Avenue Extension – J. Hager explained that the owners, the Smiths, want to get a building permit for 32A Reservoir Avenue. In accordance with a ruling from the courts, in order to qualify for a permit, they must construct the missing portion of Reservoir Avenue along their frontage to provide safe and adequate access. The Board reviewed the court ruling as well as various plans and aerial maps.

The Smiths would like the Board to waive the public hearing process as the extension is minimal and they would like to know what waivers the Board would consider. It was noted they had met with the Planning Director, Highway Superintendent, and Fire Chief. These officials indicated pavement width consistent with the existing 22' of paved width of Reservoir Avenue would be adequate, and that 8 - 10" of compacted gravel base would likely also be adequate, depending on soil testing in the area. The Smiths will have to construct a "T" turn around at the end of the layout with two sections of compacted gravel off the pavement edges.

The Board stated they need to be very cognizant of precedent. They also strongly believe letting the public know what's going on is better for everyone involved. Therefore, a public hearing will be required. They also stated the owner needs to compile a list of waivers they feel are appropriate and justify why they think they should be granted. It was noted the Board would likely not waive the requirement for topography and grading on the new section of roadway as they aren't engineers and need to make sure what is proposed won't cause issues on abutting property or the rest of the roadway.

There was some mention about a proposed project further up Reservoir Avenue that would have to make similar improvements to Reservoir Avenue, but the Board stressed they can't make decisions now about a project that may or may not go forward in the future. The owner noted they were not trying to circumvent any regulations, they just felt the court ruling stated that the Town should apply their regulations in a reasonable manner.

Correspondence/Other:

Villas Surety: John Burns of Black Brook Realty, the new owners of the Villas, was present to ask the Board if they would consider an adjustment to the letter agreement dated 2/4/2011. The agreement called for Mr. Burns to deposit \$125,000 of the \$199,000 Westchester bond payout into a cash bond account reducing the tri-party agreement with Middlesex Savings by the \$125,000. Bond payouts would be made first from the tri-party and then the cash bond.

The tri-party that is in place fully covers the work for Phase II, but a cash bond is a far better type of surety. As the pay out from Westchester is technically the Town's money, it is completely reasonable for the Board to require that these funds be utilized for security in a form preferred by the Board. In response to some cash flow concerns from Mr. Burns, it was agreed that he could utilize \$74,000 (interest free money) of the \$199,000 to get going on the project as long as this work was secured in the tri-party.

Mr. Burns stated it was his fault for not understanding that his \$300,000 loan with Middlesex was more of a letter of credit in that he can't actually take out cash from it, it just covers the Town in case of default. He stated he is very financially stable and has never defaulted on a bond. It was noted both Middlesex and Mr. Burns signed the tri-party that states cash WILL actually be paid out of these funds, and Mr. Burns signed the letter agreement stating exactly how funds and surety would be handled. Mr. Burns acknowledged this was true, but noted the details were worked out back in November, when not all financial details of the land transfer etc. had been finalized.

When asked about what happened to the \$74,000? Mr. Burns responded he had to pay the Condo Association \$125,000 at closing with more to follow.

The majority of the Board decided that Mr. Burns needs to provide the cash security agreed to, but they will allow draw down from the cash bond before the tri-party. They noted Mr. Burns will be doing business on the Villas and Leland Hill Estates for some years to come, so it will be in his best interest to make sure he meets his obligations expeditiously. R. Largess noted he was happy to see "wind in the sails" of this project, and as long as the Town isn't at risk, he is happy to help move things forward.

Public Hearing – Proposed Bylaw Changes

T. Connors read the hearing notice as it appeared in The Chronicle.

J. Hager explained that the proposed bylaw changes are housekeeping articles. FEMA has recently updated flood maps state-wide. Each town must update its bylaws referencing the new map information. If towns don't update their bylaws within a certain period of time, it can affect the validity of resident's flood insurance policies. There are also changes to agency names and regulation numbers to bring them up to date.

No one was present to comment.

Motion: To recommend that Town Meeting vote to approve articles 12-15, S. Paul
2nd: W. Whittier
Vote: 6-0-0

Motion: To close the public hearing, D. Moroney
2nd: S. Paul
Vote: 6-0-0

Motion: To adjourn, D. Moroney
2nd: S. Paul
Vote: 6-0-0

Adjourned into Executive Session at 8:18 PM