

Sutton Planning Board
Minutes
September 10, 2012

Approved: _____

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

General Business:

Minutes:

Motion: To approve the minutes of 8/20/12, D. Moroney
2nd: J. Anderson
Vote: 3-0-1, T. Connor abstains as he was not present at this meeting

Form A Plans: None.

Street Acceptance Recommendations

J. Hager explained that she is working with Highway Superintendent, Mark Brigham and Assessor, Robert Nunnemacher to get roads that were supposed to be public actually accepted as public ways. The roads that are being brought to Town Meeting are Benoni Drive, Blueberry Meadow Drive, Cedar Hill Drive, Strawberry Knoll Drive, Trilliam Run, Wildflower Drive and Skye Line Drive. The first step in the process is the Selectmen have to vote their intention to lay out these ways and refer the layouts to the Planning Board for review and input. Then the Selectmen place the layouts and descriptions on file with the Town Clerk. Then Town Meeting votes to accept the ways. Then the Selectmen issue and Order of Taking that goes on file at the Registry.

(R. Largess arrives)

Motion: To recommend the Selectmen lay out the roadways within the Stonebridge/Colonial Acres Subdivision and Skye Line Drive in accordance with recorded plans and legal descriptions as drafted by Mr. Nunnemacher and agreed to by Town Counsel, D. Moroney
2nd: J. Anderson
Vote: 4-0-1, R. Largess abstains as he wasn't present for the entire discussion.

Forest Edge

Jonathan Bruce was present to update the Board on the status of the Forest Edge project. He noted he has made an effort to move construction trailers away from units and other items into the Phase 2 area. He does not anticipate construction re-commencing anytime soon, but does not believe he is in violation of any bylaws.

J. Hager noted you are not allowed to have construction trailers and equipment on a site unless construction is active. She explained that this situation is just like New State Acres when Dana Gravison was required to remove construction equipment and materials off his site in South Sutton as

well as remove potentially hazardous rock piles as construction was stagnant. He stated he would move the construction items to the open space in Grafton, but felt that would make residents even unhappier. She noted construction equipment wouldn't be allowed on residential land in Grafton either. Mr. Bruce stated he is doing the best he can.

On a question from the Board, Mr. Bruce stated a pre-trial conference relative to his lawsuit against his paving contractor was scheduled for August and is now scheduled for next Thursday. There have been depositions and the matter is going to trial. He noted he continues to try to be responsive, even cutting brush in phase 2 on a request from a resident

D. Moroney asked the Planning Director to refresh his memory on how we've come to the current position. J. Hager reminded him that the performance deadline having expired was what started the entire review of the project that resulted in determining the current bond is insufficient. Mr. Bruce then suggested a means of surety that is not allowed by law and thus there is still no current surety agreement in place. Mr. Bruce stated he is not aware of any bond having expired. He feels he has not knowingly done anything wrong and as far as he is concerned surety is still fully in place for this project.

T. Connors stated that as the performance deadline in the surety agreement has expired, the normal procedure is to pull the bond and complete this work. As the bond amount is not sufficient, he noted it would be in Mr. Bruce's interest to make sure residents are happy and the site is kept up until such time as the bond can be increased and building can continue. Mr. Bruce stressed he is trying to cooperate and is not being evasive.

W. Whittier noted not moving the construction equipment is a problem for the residents but the bigger problem is an expired bond. Mr. Bruce stated he asked for Graves to come out and update the bond figure considering the binder issues, but was blocked from getting an update even at his own expense, so he can't post a new bond. J. Hager stressed that Mr. Bruce wanted Graves to produce a new number for use in litigation. As the active engineer on the site, they are not to get involved in litigation if they can avoid it. There is a bond figure that's only two years old and Graves WILL go back out to the site when it is imminent that Mr. Bruce will be posting an updated bond. Mr. Bruce stressed he could have lied about his primary reason for wanting the update but he didn't and now everything is at a different point in time and litigation is moving forward.

J. Anderson noted dealing with construction equipment would better show residents he is making an effort. Mr. Bruce noted complaints were only received from two residents out of 36 units. He re-stated he is working to the best of his ability. He said if the Board's compromise position is that the trailers and other equipment be moved further away in a group someplace he'll do what he has to do to accomplish this.

R. Largess said the construction trailers and equipment should be moved off the site. T. Connors and J. Anderson agreed. Mr. Bruce stated he has no place to put these things so he can't do that. J. Hager noted they had to have come from someplace and they should return to where they came from. She noted if the Board cannot resolve the issue it will have to go to the Building Commissioner for enforcement and possible ticketing.

Bridle Path Covenant Extension

Lori Funari was present to ask the Board for an extension of their covenant for the Bridle Path Definitive subdivision containing 37 lots off Barnett and Jones Roads. She stated related litigation with property owners, O'Shea, was settled. They are confident they can clear the title, keeping the approved plans the same, but will need a year to eighteen months to accomplish this.

J. Hager noted that normally the Board does not extend surety agreements for more than a year at a time, but considering this subdivision is grandfathered until 2018+ and the Board has been informed of the likely timing on resolving title issues, she has no objection to a two year extension from the original performance date back in April.

Motion: To extend the performance date in the Covenant from 4/1/12 to 4/1/14, D. Moroney
2nd: R. Largess
Vote: 5-0-0

Fields – Accessory Apartment, 458 Boston Road discussion

David Field was present to hear the Board's thoughts on a possible re-filing for a detached accessory apartment and/or addressing potential concerns with his approved attached accessory apartment on Boston Road.

Mr. Fields was approved for an attached accessory apartment. He constructed the unit and has not attached it to the main dwelling yet as he has been working to address Conservation issues in his back yard that require access between his house and the accessory apartment. Those issues will likely be resolved shortly and he is seeking input as to whether it might be possible to get a new permit to leave this unit detached. When Mr. Fields called the Planning Director, she noted there were concerns with whether the unit that was constructed was even compliant with the bylaw it was approved under, so Mr. Fields also wanted to discuss these concerns.

J. Hager confirmed that Mr. Fields has been working diligently on the Conservation issues that prevent attaching the two structures into one. She also noted the accessory apartment that was constructed is quite nice. However, several changes were made to the building that makes it appear to be a cottage sitting next to the main house. Vertical barn board was changed the horizontal clap board. The small central barn window at the peak was changed to two windows. The window style was changed from simple paned barn windows to fancy residential windows with transom panes across the top. The small changes combined with making the garage door more fancy as well which calls attention to the fact that it is off to the side, makes this look like a small one car garage cottage.

He stated he honestly did not think about the effects of the window and siding changes that his mother had made, but said his builder said he would put vertical siding on a dwelling structure as it wouldn't be water-tight. He asked if painting it red would help?

W. Whittier noted the structure is lovely but it either needs to be attached or it needs to look like and accessory building not another home.

R. Largess confirmed this is also a retreat lot and that the home isn't really visible from the Road. He also stated that maybe the Board could have been clearer during the public hearing process about

sticking to the approved plans carefully. He also noted with a connection some of the features can be relaxed.

Mr. Fields showed the Board various plans that were approved and several in explanation. He showed the Board how the three central windows on the front of the carriage house have been framed out for a future barn door, even structurally. He also noted they relocated an interior stair well noting the potential future use as a barn or large garage.

D. Moroney stated he never supported connecting these structures, but if that is what the bylaw required at the time and that is what the approved plans show, that is what must be constructed.

J. Hager noted while Mr. Fields future plans to change out the windows for a barn door are great, there is nothing in the permit or the current regulations that will force that to happen.

T. Connors noted that Mr. Fields hasn't met the criteria for an attached or detached unit. He stated Mr. Fields either has to build what was approved or other considerations will have to be made.

J. Anderson stated the unit does not look like a barn at all. The original design looked closer and understandably was maybe not scrutinized as closely as it was approved as attached. He agreed it's a great cottage or carriage house as Mr. Fields refers to it, but not an accessory apartment.

K. Nunnemacher of 24 Singletary Avenue was present. He stated he doesn't favor more regulation and subjective standards regardless, but this unit does look different as built. He noted he thinks there is a waiver provision in the bylaw the Board could use to waive the attachment. J. Hager noted this would be the same as a use variance as it would allow a different type of use, a detached dwelling unit, that isn't currently allowed in the bylaw.

Mr. Fields will consider the Boards concerns with the approved unit as well as obstacles to getting the unit approved as detached and proceed from there.

Filings: The Board acknowledged the legal filing of tow applications:
Public Shade Tree relocation application at 24 Quabbin Path
Two Retreat lot applications at 19 & 36 Quabbin Path - retreat lots that were planned as part of this subdivision. There may be a problem with grandfathering and the size of one of these lots.

Correspondence/Other: None.

Public Hearing – Proposed Bylaw Changes

W. Whittier read the hearing notice as it appeared in The Chronicle.

J. Hager explained that in response to questions and concerns that arose after detached accessory apartments were approved via petitioned article, she has drafted various grammatical changes as well as changes meant to stress that accessory apartments must maintain the single family appearance of the property of which they are a part. Therefore, if a unit is detached, it should look like a barn or garage, not a cottage or other residential structure.

The Board discussed proposed language and decided to be direct on what detached structures should appear to be. They also decided to insert a maximum percentage of floor area that an accessory apartment may occupy in a detached structure. Several related wording adjustments were recommended. (As attached)

R. Nunnemacher of 24 Singletary Avenue provided input relative to using percentages and other discussion.

Motion: To recommend Town Meeting approve proposed changes to the accessory apartment bylaw meant to correct grammatical errors and clearly stipulate the appearance of accessory apartments and their size relative to the structures they are within, R.

Largess
2nd: D. Moroney
Vote: 5-0-0

Motion: To Adjourn, D. Moroney

2nd: R. Largess
Vote: 5-0-0

Adjourned 8:54 PM