

Sutton Planning Board  
Minutes  
July 6, 2015

Approved \_\_\_\_\_

Present: R. Largess, S. Paul, W. Whittier, J. Anderson, M. Sanderson  
Staff: J. Hager, Planning Director

**General Business:**

Reorganize Board – Tabled to end of meeting.

Minutes:

Motion: To approve the minutes of 6/15/15, W, Whittier

2<sup>nd</sup>: J. Anderson

Vote: 4-0-1, M. Sanderson abstained as she was not present

Form A Plans:

Myers – Griggs Road/Ramshorn Pond – This Form A plan shows the creation of 3 non buildable lots that will provide access to Ramshorn Pond. Town Counsel has provided an opinion that as the plan does not show the division of this tract into two or more buildable parcels it is not a subdivision and the Board needs to sign it if the remaining land is in conformance. The original parcel never had adequate upland area and the regularity factor is not shown.

Motion: To endorse the Form A plan for Myers with the addition of the regularity factor for the remaining house lot and adjustments to the plan showing upland area remaining with the existing home, S. Paul

2<sup>nd</sup>: J. Anderson

Vote: 5-0-0

Amorello – Burdon Street – The Board reviewed the plan to split a parcel into two house lot and felt it wasn't in conformance as they thought when a lot lies in two districts; it must meet the requirements of the more stringent district. The Planning Director will seek counsel on the issue.

Pleasant Valley Crossing Fencing Discussion – Tabled to the end of meeting.

Endorse Pleasant Valley Crossing Amended Site Plan – This plan shows the change from a sit down restaurant along Route 146 to two multi-tenant buildings. It was approved by the Board and has run the appeal period with no appeals filed.

Motion: To endorse the Amended Site Plan for PV Crossing dated 1/29/15, S. Paul

2<sup>nd</sup>: M. Sanderson

Vote: 5-0-0

Villas at Pleasant Valley – Update and Phase III Discussion - John Burns was present to update the Board on the status of this 111 unit condominium project off Boston Road and Armsby Road. The Board Road side containing Phases I and II is nearing completion. Mr. Burns asked the Board to update the performance date in the covenant for Phase III, and informed the Board that he has reviewed preconstruction requirements for this phase and is in contact with the Pepkas whose home will be directly across from the Phase III entrance to resolve required screening to block their home from exiting headlights. The covenant stipulates that no units will be transferred out until the roadway and

services are complete to serve them or an alternate form of surety is put in place to guarantee these items can be completed by the Town if the developer defaults.

Motion: To extend the performance date on the Phase III Covenant to July 6, 2017 and to also update the current ownership and lending institution, S. Paul

2<sup>nd</sup>: M. Sanderson

Vote: 5-0-0

Filings – The Board acknowledged the legal filing of three applications to add a drive through window for a Starbucks in one of the multi-tenant buildings and to revise the architecture for all three multi-tenant buildings to make them more affordable.

Correspondence/Other:

82 Whitins Road – Retreat Lot: J. Hager noted there is correspondence relative to the retreat lot that does not meeting the condition that the driveway be paved to 12’ wide and 15’ cleared width. The current owner says he wasn’t aware there was no occupancy permit, but is currently working with the Building Commissioner to bring the home up to Code and intends to begin working on the driveway in July.

Jaber Common Driveway – Brian McEwen from Graz Engineering was present to inform the Board that the common driveway they approved for 33 and 39 West Sutton Road had to be moved over because a new power pole was installed in the proposed driveway opening. Mr. Graz also noted the adjacent lot is being purchased by the Jaber’s other daughter and they would likely to eliminate the screening plantings between this lot and the proposed common driveway, particularly because much of this area between the lots is natural heritage endangered species area that will grow back up with natural vegetation over time. The common driveway used to be 26’ from the lot line and now it needs to be 12’ away. It reverts to its original location once it is about 100’ into the lot.

Motion: To approve a field change to relocate the common driveway within 12’ of the lot line and to allow the elimination of the screening plantings for the driveway as long as the adjacent lot is purchased by a family member of the Jaber’s who doesn’t desire the screening, W. Whittier

2<sup>nd</sup>: S. Paul

Vote: 5-0-0

### **Public Hearing Accessory Apartment – 26 Highland View Drive**

R. Largess read the hearing notice as it appeared in The Chronicle.

The applicant is requesting an attached 560 s.f. accessory apartment to be added to the existing garage at this location. The addition will be at the rear of the existing garage extending away from the road with very little visibility. The unit will have public water and sewer.

The Board reviewed departmental comments received from the Police, Board of Health, and Highway Department.

In response to a question from W. Whittier the applicants confirmed there will be no increases to the driveway to account for the apartment.

Motion: To approve the accessory apartment for 26 Highland view drive with the following conditions, S. Paul

- 1. Approval of all other required departments, boards and/or commissions,
- 2. Compliance with all fire protection regulations, including NFPA 1-2015 edition
- 3. Separate street numbers must be utilized and clearly posted for the main home and apartment (i.e. 14 and 14A),
- 4. Units must have separate and distinct phone numbers.

2<sup>nd</sup>: W. Whittier  
 Vote: 5-0-0

Motion: To close the public hearing, W. Whittier  
 2<sup>nd</sup>: S. Paul  
 Vote: 5-0-0

(M. Sanderson steps down from the Board due to conflict as the applicant)

**Public Hearing - Scenic Roadway – 33 Century Farm Road**

R. Largess read the hearing notice as it appeared in The Chronicle.

Miriam Sanderson noted there was a wall along the frontage of the lot at some point but according to the previous owners, the rocks were all sold off some time ago. The rubble that currently exists was placed there over the years by Kenny Linder as he worked on the property. There are no other historic walls in the immediate area on this side of the road.

Ms. Sanderson stated she would like to remove this section of rubble to grade out to the road properly from installation of a new septic system.

J. Anderson asked how far the rubble wall was from the edge of the road? W. Whittier noted the location of the rubble is close to the right of way boundary but may not be the boundary and may actually be on private property which doesn't require approval. W. Whittier noted the next lot down also has the grading out to the road with no wall.

D. Moroney of 82 Eight Lots Road stated he believes the rubble is on private property.

Motion: To grant the scenic roadway request to remove the rubble along the lot to allow for grading out to the road from installation of a new septic system, W. Whittier  
 2<sup>nd</sup>: S. Paul  
 Vote: 4-0-0

Motion: To close the public hearing, S. Paul  
 2<sup>nd</sup>: W. Whittier  
 Vote: 4-0-0

(M. Sanderson returns to the Board)

**Forest Edge Discussion**

Jon Bruce was present at the request of the Planning Director to update the Board on the status of the Forest Edge condominium project. He noted he intends to complete the remainder of Phase 1 work prior

to winter and unlike last year he is not requesting the Board allow him to build the last four units in the phase first. After he completes the bonded work he would like the Board to request release of the Phase I surety in its entirety and at that point he would be able to get building permits for the remaining four units. He also agreed to update the Covenant for Phase 2, but requested a four year extension to complete these 44 units and related infrastructure.

Wayne Staltare of 137 Ariel Circle was concerned with the effects of cement trucks and other construction equipment on the roadways.

Gary Mathieu of 109 Ariel Circle felt a 4 year extension of the Phase 2 covenant was too long. He noted if the customary extension is 2 years than this is the maximum the Board should allow.

Bruce Akerley of 106 Ariel Circle Stressed he thinks everyone wants the project to move forward. He asked if it would be possible to use the emergency access off Follett Street for construction vehicles. Jon Bruce agreed that's what he intends to do.

Richard Mahoney of 132 Ariel Circle who is a Trustee said these are the same promises from a year and a half ago. He asked for a firm completion date. Mr. Bruce stressed this isn't the same as before as he isn't asking for the remaining 4 units to be released prior to completing the roadway etc. He intends to do this work before the end of the year and the Board can then release the last four units.

W. Staltare of 137 Ariel Circle said he loves to hear Jon intends to finish Phase 1 but noted the Association is doing a lot of upkeep on their own with no help from Jon.

W. Whittier recalled that there was some gas line missing that was required prior to top course paving?  
J. Bruce confirmed he has contacted the gas company to arrange for these lines to be completed.

Mr. Bruce stressed he spent a significant amount of his own money to take contractors to court and get the road repaired properly. He noted he could have just overlaid what was there and walked away but he didn't. He wants to finish the project and do it correctly and the lawsuit and finances haven't allowed him to until present.

Due to confusion about required bonding J. Hager explained that the Board's approval, and every condo project the Board has approved in the last 15 years, requires a covenant that says the owner won't sell any units until the infrastructure to serve the units is done or another form of surety is in place to protect the Town. There is a covenant in place for Phase 2 but the performance date has expired and needs to be renewed. The Tri party agreement which is surety for Phase 1 has an expired performance date and both the bank and Mr. Bruce violated the terms of the agreement by allowing the release of the financial surety which backed the agreement and by transferring ownership from one bank to another with no notice to the Town. It is uncertain if this agreement is still enforceable, but it would likely cost significant legal fees to pursue and the bond amount of \$64,000 is insufficient to complete Phase 1 work.

Mr. Bruce has agreed to extend the Phase 2 covenant although he has asked for an additional 4 years. He has also agreed to complete Phase 1 work, but he will not post a new bond for this work. Normally the Board would not allow any work to proceed without proper surety in place, so Mr. Bruce is being held to a different standard because of the unique nature of this situation.

Alice Mahoney of 132 Ariel Circle noted although several units have sold recently and the missing lighting in the boulevard continues to be an issue with sales and with visitors. She noted the general appearance of the entrance is poor.

J. Anderson was leery that Mr. Bruce wouldn't give a timeline for the work he intends to do. Mr. Bruce stated he is sub-contracting 100% of this work and will keep the Planner apprised of scheduling as it becomes known to him.

The Board declined to act on the Phase 2 covenant until Phase 1 is complete. The Board requested, and Mr. Bruce agreed to come in for an update on September 14<sup>th</sup> at 7 PM.

### General Business (Cont.)

#### PV Crossing Fence Discussion:

Patrick Doherty of Midpoint Engineering was present to ask the Board to allow them to install a shorter length of fence on the north west boundary of the project. It will run from the entrance crossing on Boston Road to where the earthen berm starts near the multitenant building at which point they have opted to leave a significant berm with trees in place and therefore fencing isn't needed here. He also asked the Board if they have to install post and rail fence along the entire frontage of the property. The Board approved the use of the existing berm and vegetation with minimum 4-6' high trees planted in any gaps instead of fencing in the location specified, and they would like stone wall and fencing at the entrance radii and an adequate distance along the frontage on the north and south to clearly define and highlight the entrance. With the landscaping planned for the frontage the remaining fencing is not necessary.

Motion: To nominate Miriam Sanderson for Chairman and S. Paul Vice Chairman for the upcoming year, W. Whittier

2<sup>nd</sup>: S. Paul

Vote: 5-0-0

Motion: To adjourn, W. Whittier

2<sup>nd</sup>: J. Anderson

Vote: 5-0-0

Adjourned 9:17 P.M.