

Sutton Planning Board  
Minutes  
September 26, 2016

Approved \_\_\_\_\_

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

**General Business:**

Minutes:

M: To approve the minutes of 9/12/16, R. Largess

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

Vote: 4-0-2, S. Paul and J. Anderson abstained as they were not present at this meeting.

Filings: None.

Form A Plans:

King – Whitins Road

Motion: To allow the Chairman to endorse the Form A for King dated 9/22/16 showing three lots, two of which are nonconforming, being combined into two conforming lots once minor additions are made to the plan, R. Largess

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

Vote: 5—0

Villas Phase III – Bond & Release of Covenant:

J. Hager explained that the Villas at Pleasant Valley is a three phase project. Phase I was primarily built by John LeClaire and when he went bankrupt, Blackbrook Realty took over and completed remaining units in this phase. There was also a related insurance bond that was recently closed out as the work covered by this bond is complete. Phase II is nearly complete and is secured by a Lender's Agreement. This phase is located off Armsby Road as opposed to Boston Road. The infrastructure through base course is substantially complete, but according to a bonding estimate review by Graves Engineering \$560,808.36 in finish work, including top course paving remains. As the applicant would like to commence building and selling units they are asking to put a lender's agreement in place in this amount in place of the covenant which may only serve as surety until units are to be transferred.

Stephanie Burns on behalf of Black Brook Realty asked for a performance date two years out noting it is very unlikely they will have foundation in for all 44 units within two years and they will want to hold off on at least top course paving until the foundations are complete. It was noted the Board usually does not go out further than a year on projects in active construction so that they may keep a close eye on the progress of the project and be able to adjust security as necessary in a timely fashion. Ms. Burns said she was fine with one year.

There were no comments from those present.

Motion: To establish and endorse the lenders agreement between the Town, Black Brook Realty and Middlesex Savings in the amount of \$560,808.36 with a performance date of October 1, 2017,

W. Whittier

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

Vote: 5-0-0

Motion: To release the Covenant dated 7/9/2001 recorded at the WDRD at B26849P225 in its entirety, W. Whittier  
 2<sup>nd</sup>: R. Largess  
 Vote: 5-0-0

**Site Plan Review Waiver – Ross Express – 39 Gilmore Drive:**

Steve O’Connell from Andrews Survey & Engineering was present with representatives from Ross Express to request a waiver of Site Plan Review for a 3,520 (44’ X 80’) addition to their 13,000 s.f. building at 39 Gilmore Drive. He noted the addition had been shown on the previously approved Site Plan as “future expansion area” at 3,840 s.f. but they were able to shave 4’ off the length of the addition. He present a Site Plan and architectural elevations that showed an extension of the building identical to the existing building. There will be several loading door on the west end of the building for shorter box trucks. No new impervious areas will be added to the site as the area where the addition will go is already paved. No other site alterations are proposed.

Planning Director J. Hager said she had no issues with the proposal but did have concerns about recent noise complaints that seemed to have been resolved until this past weekend when a nearby abutter called again to say the noise had returned. Previously the Terminal manager Jason Renda had immediately dealt with the issue and they had hoped it had been resolved. Mr. Renda was present and expressed his desire to continue to be a good neighbor and that he would do what he could to resolve the issue. It was noted that it was odd this was the first time a sound complaint had been received by the Planning Department and the Board wondered if this was a new resident? It was also noted if so, there really should have been some realization on their part that they were locating next to an industrial park. The closest home is about 600’ from adjacent industrial parking through the woods. The Board asked the Planning Director and Mr. Renda to work on the issue and report back at the next Board meeting.

There were no comments from the public.

Motion: To waive Site Plan Review for a 3,520 s.f. addition to Ross Express at 39 Gilmore Drive, conditioned on the approval of all other applicable local and state Boards, Commissions and Departments, R. Largess  
 2<sup>nd</sup>: W. Whittier  
 Vote: 5-0-0

Correspondence/Other: None

**Public Hearing (Cont.) – Tefta Drive Definitive Subdivision and Retreat Lot**

Retreat Lot: The Board reviewed the proposed retreat lot that will contain the existing home and will have 103’+ of frontage on the public portion of Chase Road. The lot will be 5.549 acres and a non-buildable lot has been created from the remaining 7.735 acres to the Northeast of this lot. As the existing home has a gravel driveway and above ground utilities, the applicant is asking that these features remain and the Board grant a waiver or other relief so they do not have to pave their driveway and bury their utilities as allowed in the bylaw for existing homes. There were no comments from the public.

Motion: To grant the waivers under sections j. and k. of the retreat lot bylaw to allow the existing gravel driveway and above ground utilities for the home at 13 Chase Road to remain as long as this current home remains, having found this access has been adequate for all types of vehicles for quite some time, J. Anderson  
 2<sup>nd</sup>: R. Largess  
 Vote: 5-0-0

- Motion: To grant the Special Permit for a retreat lot with 5.549 acres and 103 feet of frontage at 13 Chase Road based on the plan dated 9/19/16 with the following conditions:  
 J. Anderson  
 1. Approval of all other local, state and federal departments, boards and commissions  
 2. The house number shall be visible at the street.
- 2<sup>nd</sup>: W. Whittier  
 Vote: 5-0-0

Definitive Subdivision: The Planning Director updated the Board that substantially all technical issues have been resolved and that it is now possible to take action on this subdivision. The Board was given a list of recommended minimum conditions as well as a list of waivers that must be addressed.

The Board addressed required waivers:

- Motion: To grant a waiver from Section 4.A.2.k. to allow roadway cross section variations of a 40' ROW, 24' pavement, cape cod berms, no planting strips, and no sidewalks, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway and that the waivers are consistent with the roadways in the surrounding area, R. Largess
- 2<sup>nd</sup>: W. Whittier  
 Vote: 5-0-0

- Motion: To grant a waiver from Section 4.A.3. to allow a 40' ROW width with 24' pavement, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway and that the waivers are consistent with the roadways in the surrounding area, R. Largess
- 2<sup>nd</sup>: J. Anderson  
 Vote: 5-0-0

- Motion: To grant a waiver from Section 4.A.5.b. to allow a dead-end street with a 140' ROW diameter with 100' pavement and no island, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway, R. Largess
- 2<sup>nd</sup>: M. Sanderson  
 Vote: 5-0-0

- Motion: To grant a waiver from Section 4.A.6.a. to allow the property line radius at the intersection of Tefta with Chase Road to be zero' on the southwest and 27.42' northeast, and to allow the pavement radius to be 24' on the southwest and a compliant 30' on the northeast, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway  
 R. Largess
- 2<sup>nd</sup>: J. Anderson  
 Vote: 5-0-0

- Motion: To grant a waiver from Section 5.G.1. to allow Cape Cod berm throughout the entire subdivision except at the intersection with Chase Road, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway, R. Largess

- 2<sup>nd</sup>: J. Anderson  
 W. Whittier asked why Cape Cod berm and asked if this won't create maintenance issues with it being destroyed by the plows. J. Hager said the Highway Superintendent prefers Cape Cod berm to vertical granite as he'd rather repair the berm than the plows. He doesn't even necessarily want it at the intersection with Chase Road as none exists on Chase Road, but I explained I've never seen the Board waive vertical granite at street intersections. W. Whittier said if this is the Highway Superintendents preference and his department is the one that will have to maintain everything, the Board should not require otherwise.
- Motion: To withdraw the previous motion R. Largess, as the second on the motion W. Whittier allows the withdrawal.
- Motion: To grant a waiver from Section 5.G.1. to allow Cape Cod berm throughout the entire subdivision including at the intersection with Chase Road, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway, R. Largess
- 2<sup>nd</sup>: J. Anderson  
 Vote: 5-0-0
- Motion: To grant a waiver from Section 5.I.1. to allow the elimination of sidewalks, having found safety department heads and the Highway Superintendent as well as the Town's consulting engineer feel what is proposed is adequate for the safe operation of this roadway and that the waiver is consistent with the roadways in the surrounding area, R. Largess
- 2<sup>nd</sup>: W. Whittier  
 Vote: 5-0-0
- Motion: To grant a waiver from Section 5.J. to allow the elimination of planting strips, having found if you don't have sidewalks, no planting strip exists, but street trees will be planted in the general area where the planting strip would have been, R. Largess
- 2<sup>nd</sup>: W. Whittier  
 Vote: 5-0-0
- Motion: To grant Definitive Subdivision Approval for Tefta Drive with two new lots based on the plan set dated 9/19/16 with the following conditions: J. Anderson
1. Approval of all other applicable state and local departments, boards and commissions.
  2. Prior to endorsement, snow removal easements must be include on one or both lots.
  3. Prior to endorsement, Type III pipe should be revised to Types S pipe, water tight joints.
  4. Prior to endorsement all waivers and conditions of approval shall be listed on the plans to be recorded.
  5. Prior to endorsement in accordance with MGL, the applicant shall provide a covenant that states no lot shall be transferred until the construction of the roadway and any related site restoration is complete or any remaining work is secured through one of the other methods provided in MGL.
  6. Prior to endorsement Lot 4 shall be re-labeled as Parcel A.
  7. An electronic file of the roadway and parcel lines shall be provided to the Assessor's Office in a form determined by them.
  8. Prior to commencement of construction the applicant shall attend a preconstruction meeting with the Planning Department, applicable department representatives, and other bodies that have responsibilities relative to the site, as well as the site contractor and other personnel the applicant feels are appropriate.

At this meeting or before, the applicant/engineer shall submit four (4) full size sets of the endorsed plan, one (1) 11" X 17" reduced set and one (1) electronic copy to the Sutton Planning Office.

9. Prior to the start of construction, the applicant will submit and operation & maintenance plan for the drainage system (swales and basins). The drainage system shall be maintained by the owners of the lots in perpetuity. Deeds to these lots shall reference this responsibility. An easement will be granted to the Town prior to public roadway acceptance. If owners do not maintain the basin and the Town has to perform maintenance to preserve proper functioning of the system, each owner shall be equally billed by the Town for the maintenance they had to perform.
10. Construction shall be limited to Monday through Friday 7 AM to 5 PM and Saturday 8 AM to noon, no Sundays or local, state or federal holidays
11. The applicant shall pay the cost associated with construction inspections by the Town's the Towns' consulting engineer in accordance with Section 5.Q. of the Subdivision Rules & Regulations. Prior to construction the applicant shall establish an escrow account with the Planning Department and shall maintain a positive balance in the account until the Planning Board has determined that construction has been completed in accordance with the Subdivision Rules & Regulations, the approved plans and any granted waivers.
12. During construction the applicant shall take measures to ensure run off is contained to the site.
13. The applicant shall install a street name sign consistent with other Town road signs prior to issuance of a building permit for any new homes.
14. Prior to occupancy of the last building, the Applicant shall provide to the Planning Board an As-Built Plan and written certification from the Applicant's project engineer that the site has been constructed in accordance with the approved plans.
15. Street trees must be installed prior to occupancy of any homes is granted and must be maintained continuously by the applicant until such time as the Town votes to accept the roadway as public. Dead or diseased plantings shall be replaced immediately if in the spring or fall planting seasons, or in the next planting season if found during the summer or winter.
16. If discharge pipe along Chase Road creates negative impacts such as icing at the end of the pipe, this shall be mitigated at the expense of the applicant and with the approval of the Sutton Highway Superintendent.

2<sup>nd</sup>: R. Largess

There were no comments from the public.

Vote: 5-0-0

Motion: To close the public hearing, W. Whittier

2<sup>nd</sup>: R. Largess

Vote: 4-0-0

### **Public Hearing – Proposed Bylaw Changes**

R. Largess read the hearing notice as it appeared in The Telegram & Gazette.

(W. Whitter steps off the Board believing this proposed bylaw change will directly effect his property.

W. Baker takes his place.)

J. Hager explained the applicant for the wireless tower on land formerly owned by Whittier Farm, now owned by the Town, near the town line with Oxford is in the application process. Due to issues with slope and wetland, it is not possible to meet the required 200' separation to the nearest lot line. Only 142' to the facility fencing and 171' to the tower can be achieved. While case law related to the Telecommunications Act of 1996 (TCA) requires towns to vary/ease the terms of this regulations where there is no functional alternative to fill a gap in coverage, this situation demonstrates that a waiver provision may be useful and appropriate in this bylaw as it has been in other Town bylaws like the Route 146 Overlay District, where it is impossible to anticipate each unique situation. The Selectmen have decided they should sponsor this article.

W. Whittier of 7 Douglas road asked who the abutters are in this case? J. Hager said Whittier Farms is the abutter with whom the facility setback is reduced to approximately 142'.

Motion: To recommend that Town Meeting approve the proposed article, R. Largess  
2<sup>nd</sup>: W. Baker  
Vote: 5-0-0

(W. Whitter steps back on the Board. W. baker returns to Associate status.)

Motion: To close both bylaw public hearings, R. Largess  
2<sup>nd</sup>: W. Whittier  
Vote: 5-0-0

W. Whitter said the Oakhurst Road solar installation appears to be smaller than anticipated and asked the Planning director to see how much has been constructed. It is possible only the Sutton portion has been installed.

Motion: To adjourn, R. Largess  
2<sup>nd</sup>: W. Whittier  
Vote: 5-0-0

Adjourned 8:30 P.M.