

Sutton Planning Board
Minutes
October 7, 2013

Approved _____

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

General Business:

Minutes:

Motion: To approve the minutes of 9/9/13, W. Whittier

2nd: R. Largess

Vote: 4-0-2, S. Paul and J. Anderson abstaining as they were not present.

Endorse Helegesen Retreat Lot Covenant

Motion: To endorse the covenant for the three Helgesen retreat lots on Manchaug Road, stating they will never be further divided, R. Largess

2nd: W. Whittier

Vote: 6-0-0

Form A Plans

Helgesen – 7 lots, 3 retreat, 3 standards and one with the existing home

Motion: To allow the Chairman to endorse the Form A plan for Helgsen dated 9/10/13 showing six new building lots, R. Largess

2nd: W. Whittier

Vote: 6-0-0

Forest Edge Update:

J. Hager noted roadway binder repairs and leveling have been completed in accordance with a settlement reached in the law suit brought by Mr. Bruce against the site contractor. She showed photographs of what the site looked like in March of 2012, September of 2012 and presently. Mr. Bruce confirmed he has removed all but two pieces of equipment from the site. The Planning Director noted the Building Commissioner was on the site visit with her last week and noted two unregistered vehicles can be located on a lot in Sutton, so as far as he is concerned there are no enforcement issues to respond to at present.

J. Anderson expressed the Board's frustration that Mr. Bruce was requested a long time ago to remove construction related equipment and materials from the site and there appears to be no reason why the majority of this work was not completed until very recently.

Karin Edwards of 144 Ariel Circle noted the dumpster near her unit was only recently removed.

Mr. Bruce stressed that in accordance with the condominium master deed he is allowed to have equipment on the site. He reviewed that he has spent \$75,000 on litigation to make sure that the binder was properly repaired so that the residents and the Town would not have issues with an improperly constructed roadway years down the line. He stated he intends to top course pave phase 1 through the location of where a gas line needs to be stubbed for two of the remaining phase 1 units.

Bruce Akerley of 106 Ariel Drive expressed concerns with an area in front of his unit that was marked but not repaired. J. Hager will look into this matter.

Alice Mahoney of 132 Ariel Drive asked when the sidewalks will be installed? Mr. Bruce said he intends to do them when he does the phase 2 sidewalks. He wants to get in the curbing and top course now.

Richard Mahoney of 132 Ariel Drive asked him when intends to do the paving? Mr. Bruce said he wants to pave before winter. Mr. Mahoney added the entire boulevard entrance is pitch black at night, it needs lighting now.

J. Hager reviewed bonding provisions as stipulated by Mass General Law. Mr. Bruce explained issues with the TriParty Agreement that was used for surety on phase 1. He noted he has proposed several means of securing the project, including creating a cash escrow account that will receive a deposit as each unit is sold in order to be granted an occupancy permit. It was noted this doesn't provide adequate surety for the Town and isn't allowed by law. He noted he has made similar arrangements in other towns. He has looked into insurance bonds and cannot obtain one, and doesn't have the money for a full cash bond. He stated he currently has no debt and therefore has no banking relationships to help him secure construction.

Mr. Bruce verified he wishes to push street lighting, landscaping and the remaining sidewalk into phase 2. He noted he can ask National Grid to mount flood lights on the power poles at the entrance in the meantime.

In response to a request from the Chairman for input, S. Paul stated Mr. Bruce needs to make good on his phase 1 commitments and then the Board can consider what should be done to commence work on Phase 2. R. Largess stated he feels all equipment should have been moved off the site a long time ago in accordance with the original request from the Board. T. Connors stated the plan on the books was what residents bought into and what Mr. Bruce sold. He needs to finish Phase 1 completely and then the Board will talk about phase 2. M. Sanderson asked what will trigger Mr. Bruce's ability to complete phase 1? Mr. Bruce stated securing financing for the four remaining units plus surety for uncompleted items, which may now take longer.

Mr. Akerley stressed they have lived under the current conditions for 6-8 years. It is not safe and needs to be completed.

Ms. Edwards expressed everyone wants Mr. Bruce to continue building, but the residents are being harmed by the condition of the project, not being able to sell units and not being able to secure financing in some cases.

M. Sanderson asked if lights on the power poles at the entrance are adequate for the time being? Mr. Mahoney noted that it's really more than the lights, the entire boulevard entrance is an embarrassment, although it's a little better since the re-paving. This work should not be pushed to phase 2, these items along with the sidewalks are part of the money he paid when he bought his unit years ago and they should be completed.

Gary Mathieu of 109 Ariel Drive agreed that Mr. Bruce should finish phase 1 completely.

S. Paul wondered if there was a way to allow the four remaining units in phase 1 to be built but not allow occupancy until all phase 1 items are completed? J. Hager stated she's sure some arrangement could be worked out to truly protect the Town. S. Paul added while they may be able to pull the inadequate bond that currently exists, it will not complete the remaining work so this makes little sense. The Board will give Mr. Bruce until spring to complete phase 1 and/or secure bonding, and then the Board will update the phase 2 covenant.

J. Hager noted that several times Mr. Bruce referred to the roadways being the complete responsibility of the Association once he top course paves them. She clarified that regardless of terms in the Master Deed or other private arrangements, as far as the Town is concerned until the Board approves the AsBuilt plans, once the entire project is constructed, Mr. Bruce remains responsible for construction and maintenance of the entire project. Therefore if curbs are damaged before the project is complete, or the like, it is Mr. Bruce's responsibility to repair those items before the Board will issue final approval and execute a release of any remaining surety.

J. Hager also verified that conduit is in to serve the five lights along the boulevard islands and noted these aren't full street lights they are more ornamental, less expensive, pole lighting.

Correspondence/Other:

Hours of Operation – Villas and Leland Hill Estates – There are no written regulations stating the acceptable hours of construction operation in Sutton. Numerous complaints have been received at the Villas and at Leland Hill Estates. The Planning Board and Zoning Board of Appeals didn't state hours of operation in either permit. The Board asked J. Hager to extend an invitation to Mr. Burns to discuss reasonable expectations for hours of operation at the Board's next meeting.

Public Hearing – Proposed Bylaw Changes (Cont.)

Retreat Lot Access (petitioned) - J. Hager reviewed graphics showing what the petitioner is requesting and also addressing concerns from the first night of public hearing. It is not legal to access a retreat lot on one roadway from a common driveway located off a different roadway.

The Chairman asked for input from the Board.

M. Sanderson stated in order to receive a retreat lot permit you have to prove it's possible to actually put in the retreat lot driveway. Considering this, and that the safety department heads have full control over safety standards for the common drive and any private drive involved in retreat lots, she saw no issues and noted the benefit of reducing the number of driveways accessing a roadway.

W. Whittier stated in this situation he completely agrees the proposed change is beneficial, but wished there was another way that wouldn't affect the town as a whole to accomplish what is being requested.

T. Connors thinks the proposed change usurps the subdivision regulations and is not in the best interest of the Town.

S. Paul noted common driveways require shallower grades and more pavement and the common portion is limited to 500' therefore he does not see an issue.

R. Largess said this is basically a tweak to the retreat lot bylaw that he thinks works, and if not, can be adjusted again. As a special permit the Board will have the ability to review each situation on a case by case basis. The proposal also improves safety with fewer access points along roadways.

J. Anderson said he was mindful of T. Connor's concerns but feels there is mitigation in place to ensure these situations are safe.

Motion: To recommend that Town Meeting approve the proposed bylaw change to allow access to a retreat lot via a common driveway, R. Largess

2nd: S. Paul
 Vote: 5-1-0, T. Connors opposed as he felt the proposal does not serve the Town well, and this type of access should be accomplished through the subdivision process.

Roof Signs (petitioned) - J. Hager showed the Board graphics of what was proposed and potential changes to the language of the petition.

The Chairman asked for input from the Board.

R. Largess stated he could appreciate the tenant’s needs and concerns for adequate identification. He noted however, that the along Route 146 these signs won’t be used by the traveling public on the highway, they will be used for those inside the plaza. He had no objection as long as the signs are sized more appropriately.

S. Paul noted the Board requested a sign subcommittee be formed to look at the sign bylaw comprehensively. He doesn’t feel changes should be done piecemeal and for the interest of one site.

W. Whittier concurred with S. Paul. He added perhaps sign bylaw changes should treat businesses along Route 146 differently.

M. Sanderson stated she has no issues with roof mounted signs at this specific location and would appreciate signs here as she often has trouble finding where she’s going inside the plaza, but she does have an issue with this change town-wide. She felt it’s almost more important to make sure signs are consistent and cohesive on a site. She stated she was cautiously in favor of the change.

J. Anderson stated he is also sympathetic to the petitioner, however felt the Board needed to look at the bigger picture. He asked the Board to picture the plaza with no second story and roof signs all across the roof of this long building. He is not in favor of the change.

There were no comments from the public.

Motion: To recommend that Town meeting NOT approve the proposed bylaw change,
 W. Whittier

2nd: S. Paul

Vote: 6-0-0

Motion: To close the public hearing, W. Whittier

2nd: M. Sanderson

Vote: 6-0-0

Public Hearing – Site Plan/Route 146 Overlay Special Permit – Minardi – Landscape Business- 72 Worcester Providence Turnpike

J. Anderson read the hearing notice as it appeared in The Chronicle.

J. Hager showed the Board an aerial of the site located on Route 146 south just to the south of TLC Pet Haven and diagonally across from Myers Auto and Stonegates.

Paul Hutnak P.E. was present from Andrews Engineering to review the site plan with the Board. He stated his client, John Minardi, wants to use the site as his landscape contracting yard to store his equipment and materials. He would eventually like to build a building but isn’t sure when that will occur so they would like to return to the Planning Board to have the architecture approved at that time. Mr. Minardi did provide a picture of the type of building he wants to build.

Mr. Hutnak noted much of the site in under the jurisdiction of the Conservation Commission and they have begun the process with the Commission.

The Board reviewed commentary from Graves Engineering. Mr. Hutnak noted there is about 10' high of earthen berm and landscaping proposed to screen the site and they are amendable to changes in the variety of plantings. J. Hager expressed concerns with whether what is proposed will truly screen all the equipment and materials Mr. Minardi will need on the site until the building is built.

R. Largess asked if this will also be a retail location? The site is just for the contractor, not for clients and retail customers. Mr. Minardi's current location is on Route 20 behind Tri-State Trucking in Shrewsbury. He employs 5 crew and they work from 7 AM to 6 PM.

M. Sanderson asked what type of equipment will be on the site. Mr. Minardi stated backhoes, bobcats, and trucks.

Diane Clark of 76 Worcester Providence Turnpike lives adjacent to the site to the south. She stated her well has been polluted by LaMyers that used to be located across the street and it's supposedly drinkable now, she has concerns about this happening again. She has lived at the site for 32 years and worries about how much harder it will be to get in and out of her driveway with vehicles with trailers next door.

Ron Clark of 76 Worcester Providence Turnpike noted years ago the owners filled the part of the site on which this use would be located 10' higher than the surrounding wetlands, since that time they have had water in their basement and this potential use just brings them more concerns. He asked what the building would look like. He noted there is a very sparse buffer between their lot and this site. He also asked if there was a well or septic and if the applicant would need a variance or special relief to install them. Mr. Hutnak stated there are future plans for a well and septic when the building goes in and that they do not anticipate needing any special relief. He added they are not cutting any vegetation except for where the basin and septic will go to the rear of the site.

T. Connors expressed concerns with just a contractor's lot and felt the building should be required to store equipment.

W. Whittier agreed and had additional questions about storage of materials.

M. Sanderson asked if salt would be stored on the site and if avoiding leaching and conservation issues had been considered. She added the visibility exiting the site is lousy now and cautioned about the safety of the crews leaving the site. It was noted there would be specialized containment for salt storage and that they intended to improve visibility exiting the site.

R. Largess noted the site is very small which complicates design and storage. He asked if there wasn't a way to help the abutter's water issues? P. Hutnak noted much of the runoff coming off the hill will now be captured and attenuated slowly which should help the abutters.

J. Anderson noted a parking yard wasn't really in the spirit of the Route 146 overlay. He had concerns that the buffer might hinder visibility. P. Hutnak noted the buffer berm is over 25' off the paved surface of Route 146 and the vegetation in the State's layout will be maintained to actually improve visibility. P. Hutnak stated that he wasn't sure why the building should have to be constructed immediately if they have the proper screening for the site. He noted they could have just got everything approved and then waited to build the building but they wanted to be upfront.

R. Largess noted on such a small site it is unlikely the Town will get a more aesthetic use and if this one is designed to be low visibility then it shouldn't be an issue.

T. Connors asked where equipment maintenance would be performed? Maintenance will take place off site until the building is built.

The use needs a special permit from the ZBA. The Board cannot act until the ZBA rules on the use. If the Zoning Board of Appeals feels the site is appropriate for the use, the Planning Board cannot say no, they can just regulate how the use should operate and be laid out within the bounds of the bylaws.

Motion: To continue the public hearing to November 4 at 7:15 P.M., S. Paul
2nd: T. Connors
Vote: 6-0-0

Motion: To adjourn, T. Connors
2nd: W. Whittier
Vote: 6-0-0

Adjourned 9:55 P.M.