



TOWN OF SWAMPSCOTT

PLANNING BOARD

ELIHU THOMSON ADMINISTRATION BUILDING
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

MEMBERS

ANGELA IPPOLITO, CHAIR
JEFFREY BLONDER, VICE CHAIR
CLINTON BENCH
GEORGE POTTS
JR YOUNG

STAFF

HELEN KENNEDY, SECRETARY
BRIAN SZEKELEY, TOWN PLANNER

MAY 12, 2014 MEETING MINUTES

Time: 7:00– 8:45 pm

Location: Swampscott Senior Center, 200 Essex St (rear)

Members Present: A. Ippolito, J. Blonder, G. Potts, JR Young

Members Absent: C. Bench

Others Present: Brian Szekely (Town Planner), Nate Cheal (engineer), Chris Drucas (attorney), Ken Shutzer (attorney), Derek Bloom (architect), Mr. DeMaura (attorney), John Sarkis (applicant)

Meeting called to order at 7:00 pm by Chair Angela Ippolito.

MEETING MINUTES

Prior meeting minutes will be approved at the next Planning Board meeting.

APPROVAL-NOT-REQUIRED

14ANR-01

134-138 EASTMAN AVENUE

The Board opened up review of the application for endorsement of plan believed not to require approval for properties located at 134, 136, 138, and 140 Eastman Ave (Map 17 – Lots 6A, 6B, 6C, 6D respectively).

Engineer Cheal told the Board as part of the original special permit granted for 330 Paradise Road. The developer wants to combine the remaining lots on Eastman Ave to achieve 100' frontage making three buildable lots.

Abutter Eugene Barden told the Board any prior approvals from the Planning Board as far back as 1988 expired if not completed within two years of approval under Section 81 as subdivision lots.

Chair Ippolito told Mr. Cheal there is no existing subdivision; in order to approve an ANR there has to be a street and utilities already in place. Town Planner Szekely confirmed that an Approval Not Required would require utilities in place; all they are proposing is cutting up the land. There has to be frontage. A. Ippolito pointed out there is no existing street in the middle of the property.

B. Szekely read from the ZBA decision for 330 Paradise Road: ZBA had stated they should file for a subdivision, not an ANR. Mr. Cheal: the only land registered is for 330 Paradise Road.

J. Blonder: is it the Planning Board's belief that this is not an ANR? It seems to be a subdivision.

Chair Ippolito requested a motion that Board does not believe there is an ANR to approve; this particular issue requires a subdivision plan. Mr. Cheal needs to go back to Hanover to make it conform to ZBA decision. They will have to go back and redesign, everything else is to remain as it is. A. Ippolito will send written response to engineer Cheal. G. Potts made the motion, JR Young seconded; unanimous approval.

SITE PLAN REVIEW

PETITION 14-1

61 PHILLIPS BEACH AVENUE

Petition of P & C DeBoever (second amended request) for special permit for nonconforming use and/or structure to demolish existing home and construct a new conforming home on an existing nonconforming lot at 61 Phillips Beach Avenue.

Attorney Shutzer representing the DeBoevers told the Board Chapter 6 special permit was sought because lot is not large enough. Structure to be demolished is larger than the structure planned. Architect Bloom read the dimensional specifications. Chair Ippolito said she wanted to talk about outdoor wood-burning fireplace and chimney. Architect Bloom said it would be like an outdoor fire pit or fireplace. Attorney Shutzer said the design aspect is more important that the house is suitable; the house is suitable under Section 5.4.8.6, resembling houses built in the 1930s.

B. Szekely told the Board petitioners want a higher chimney so smoke can go over adjacent houses. Design of fire pit has no chimney at all. No other comments from the Board. Board of Health asked about emissions related to other houses and Attorney Shutzer repeated the new house will replace an existing house.

B. Szekely said site plan must show existing water and sewer lines; clay pipes must be replaced entirely. FEMA flood map regulations will change effective July 16, 2014, and it could be to petitioner's advantage to raise house in anticipation of new regulations. Attorney Shutzer told the Board raising the house will make it stand out like a sore thumb; he believes petitioner would prefer to pay higher insurance rates instead. No other comments from the Board. There are no changes planned for existing landscaping. Architect Bloom said the materials of the new house are listed on the plans. Driveways will be preserved. There are no conservation issues.

Board said plans submitted should be stamped and include distances from surrounding structures. B. Szekely said basements will not be allowed after FEMA regulations change July 16, 2014.

J. Blonder moved contingent approval based on receipt of stamped plans by the Planning Board and confirmation abutters have been contacted. No recommendation will be signed until receipt of these requirements by Planning Board Chair who will submit written recommendation to Zoning Board of Appeals for 5/21/2014 meeting. Attorney Shutzer said abutters on three sides (fourth side is a street) will be contacted and confirmation submitted to Planning Board.

Subject to satisfaction of contingent items, motion to recommend to ZBA seconded by A. Ippolito and unanimously approved. A. Ippolito will write the Board's response.

PETITION 14-07

267-269 HUMPHREY STREET

Petition of Humphrey Development LLC for use special permit, dimensional special permit, and site plan special permit to construct new three-unit dwelling, demolish an existing two-family dwelling and any dimensional special permit or variance or additional relief from or under any provisions of the Bylaws. The proposal is self-identified as substantially different than the previously submitted petition 13-5.

Attorney Drucas told the Board this plan is substantially and materially different from Petition 13-5 which was denied by the ZBA. This plan is much like petition 13-39 which ZBA said was reduced from five units to three units, reduced lot coverage, reduced height to 28.8, footprint reduced by 22%, gross floor area is reduced. Petition 13-39 was the last thing approved and was significantly smaller to satisfy an abutter. Petition 13-39 was withdrawn and resubmitted because of the 40 foot distance requirement between lots with multiple structures.

Planner Szekely asked Attorney Drucas if he planned to go through changes between petitions 13-39 and 14-7.

Attorney DeMaura was recognized and pointed out under Chapter 40A Section 16, it says a person who has received an adverse decision cannot bring a new petition until two years have elapsed. He read the language to the Board. Mr. DeMaura told the Board their job is not to decide specifications and material findings as to material changes and consent to ZBA findings. Planning Board should review after ZBA makes the findings; he suggested postponing this meeting until after the ZBA meeting on May 21.

Chair Ippolito said ZBA Chair said petition needs to go to Planning Board first.

Mr. DeMaura said that if the ZBA makes decision it is substantially and materially different, then it has to come back to the Planning Board. He says three units are not substantially different from five units.

Resident Gene Barden stated that it doesn't make a difference; the Planning Board makes findings and sends that to ZBA who review and then can send back to Planning Board.

Attorney DeMaura responded that Section 16 of MGL assumes that entire process will have had a full evidence review and ZBA would explain that it had full and fair hearing and send it back to the Planning Board to agree. Planning Board authority is limited to the findings that ZBA made.

A. Ippolito clarified that the Planning Board performs a site plan review and makes recommendation to ZBA to make a determination. Planning Board should review the petition for site plan.

Attorney Shutzer stated that the ZBA needs to make findings and list them in their decision.

B. Szekely reviewed the language online and told the Board Attorney DeMaura's statement was correct.

A. Ippolito moved to take no action that evening. Petition was not advertised as site plan review and can't comply with Chapter 40A, Section 26. Motion seconded, approved unanimously. A. Ippolito will send written comments of Planning Board to ZBA.

NEW BUSINESS

Board member Blonder remarked on the new awnings at the Shell station on Essex St. Board discussed fact that the new awnings replaced existing awnings. Town Planner will follow up with Building Inspector's office.

J. Blonder moved to adjourn, seconded by A. Ippolito, and unanimously approved.

Meeting adjourned at 8:45 PM

Helen Kennedy
Planning Board Secretary