

WAREHAM PLANNING BOARD MINUTES

Monday, March 11, 2013

7:00 P.M.

**Memorial Town Hall ~ Lower Level Cafeteria
Wareham, Ma 02571**

CALL MEETING TO ORDER

Chairman Barrett called the Planning Board meeting to order at 7:00 p.m.

ROLL CALL

Members present;

George T. Barrett, Chairman
Michael A. Baptiste, Sr., Vice Chairman
Michael Fitzgerald, Clerk
Charles Klueber
John Cronan

Also present;

John M. Charbonneau, Town Planner

PRELIMINARY BUSINESS

Approval of Minutes – November 5, 2012 & November 19, 2012 - The Town Planner advised the Planning Board's secretary to email the Minutes to the Board Members from now on, for review, prior to the meeting. No action was taken on the Minutes.

Invoices to be paid –

- Invoice #52056 from Hancock Associates in the amount of \$4,000.00 – see detailed invoice & excel spreadsheet (53G)
- Wareham Week invoice #23469 in the amount of \$105.00
- Ricoh USA Inc. invoice #88486074 in the amount of \$117.50
- WB Mason invoice #I100113075 in the amount of \$15.72
- WB Mason invoice #I10091319 in the amount of \$88.85

All invoices were discussed by the Board, a Motion and second were made and the vote was unanimous (5-0-0) to pay the invoices with the Chairman's signature and date of vote taken.

Discussion – Tri party agreement – "Jonathan Estates" Subdivision

Attorney Margaret Ishihara was present, representing the contractor/applicant, Mario DiBono, in regard to the subdivision known as "Jonathan Estates".

The Board discussed the tri-partite agreement and the Town Attorney's (Jon Witten) comments/concerns were brought forward and discussed by Board members. *Transcriptionist could not clearly hear any conversation from Attorney Ishihara or Mr. DiBono due to background noise and Board Members conversation on the tape.

The Town Planner was asked to forward any/all comments from Attorney Jon Witten to Attorney Ishihara.

The Chairman asked that this matter be placed on the March 25, 2013 agenda for further discussion.

CPTC Spring Conference – Twelfth Annual Conference - Registration(s) due for March 8, 2013.

Chairman Barrett reminded the Board of the CPTC Courses to be held at Holy Cross in Worcester, MA on Saturday, March 16, 2013.

No action was taken on this item.

Housing Production Plan – c/o Sandy Slavin. Sandy Slavin introduced herself to the Board and informed them that she was the Chairman of the Affordable Housing Trust Committee. With concern regarding the Housing Production Plan, Mrs. Slavin said that one of the questions presented to her from the Planning Board is that this is nothing more than a recommendation and explanation was given concerning 49 units per year.

The Town Planner informed the Board that CHAPA keeps track of the housing in Wareham. The Town Planner encouraged the Board to support this, accept the bylaws and advised that there are basic things that the Planning Board can do. The Building Department would be involved and that the goals need to be reached. The guidelines reference Zoning Board of Appeals guidelines and involvement, for a Special Permit, the Zoning Board of Appeals will be involved. The Town Planner stated that he supports the Housing Plan. Chairman Barrett asked the Board if there were any questions. There were no questions. Mrs. Slavin thanked the Board for their time.

Chairman Barrett asked the Board to take action. Mike Fitzgerald stated that he has questions regarding the impact. The Town Planner said there are pros and cons but there is nothing detrimental and certain strategies are indicated within the plan. John Cronan asked about 49 units in this economy. The Town Planner informed the Board that Wareham has not reached their 10% and there are ways to turn back a 40B project. John Cronan indicated that the Zoning Board of Appeals has already circumvented the rules that were set up for 40B's. Michael Baptiste asked how much money Wareham has spent and stated that the developers are more clever and they have the money to spend. The lawyers love to debate and 30B (1989) had 8 exemptions. For example, how much money was spent on the Westfield site for consultants, etc.

Chairman Barrett stopped the conversation and advised the Board that Westfield was neither in front of the Board nor on the agenda.

John Cronan asked the Chairman if he wanted the Board to consider this to be a vote.

Chairman Barrett asked Mrs. Slavin if there was a timeline for the Housing Plan approval.

Mrs. Slavin replied that no, however, the Housing Plan needs both approvals. Chairman Barrett indicated that the Planning Board will vote on this at the next meeting, March 25, 2013.

Form A – 2230 & 2232 Cranberry Highway – c/o J.C. Engineering, Inc.

The Town Planner advised the Board that J.C. Engineering had come into the office last week and when he looked at the plan today, he indicated that there are 2 non-conforming lots in the Strip Commercial district. The Town Planner said that he wondered if they needed Zoning Board of Appeals for the nonconformity before coming to the Planning Board for a Form A (ANR plan). Brad Bertolo, representing J.C. Engineering, Inc., informed the Board that the proposal is for a lot line, not construction. Access is for an existing structure. There is case law on this and it was presented to the Board. Mr. Bertolo stated that there are two structures and they existed prior to zoning.

Michael Baptiste added that, as for the existing use, the garage with an apartment is not an old structure, this is 15-20 yrs old at the most and this was one lot with a house and a garage.

Mr. Bertolo advised the Board that the Assessors Field Card was reviewed and 2232 Cranberry Highway shows a garage with an apartment above. There is no

sewer on the property but there is a septic system on 2230 Cranberry Highway. Additionally, 2230 Cranberry Highway and 2232 Cranberry Highway are owned by the same person.

John Cronan asked if this was to try to make two separate lots.

The Town Planner answered that no, the applicant and Form A is to move a lot line.

John Cronan added, the point is that if you move the lot line, you are getting two for one. So, if you had a garage and made an apartment by taking out the garage doors and you move the lot line, you have two separate lots. Two separate lots with single ownership that do not meet zoning.

Chairman Barrett stated that the lots should be combined.

John Cronan said, "You cannot have two houses on the same lot." When did it become a residence rather than a garage? We need to check the assessment field card and verify whereas there is one common owner for the property with two field cards.

Michael Baptiste said that this property used to be a pottery business, the garage.

Chairman Barrett asked the applicant where the driveway will be for 2230 Cranberry Highway, this was the driveway for the house and garage for years (referring to the plan).

Michael Fitzgerald stated that the two lots do not meet the zoning requirements as is, they are non-conforming, and this just makes it more cloudy.

Brad Bertolo answered that this is a land swap, we are not changing any lot to make it more non-conforming, they are just changing shape.

The Town Planner suggested that the Board could ask for a continuance for the next meeting, Monday, March 25, 2013 and this is within the 21 days (Form A). The Town Planner stated that he would ask Town Counsel to see if his opinion was correct.

Chairman Barrett reviewed the proposed plan with the Members, there are two lots, the proposal is to cut the garage off and make two lots. Where is the driveway and are you leaving as one or not? The argument for access, would it be separate and where is it? Chairman Barrett said that he thinks this is a zoning issue, himself.

Michael Baptiste suggested that the Town Planner look back into the records as to when this was a residence and garage and when a change took place.

The Town Planner recommended to the Board that Town Counsel has office hours on Thursdays, so, the Chairman and the Town Planner could sit down and get Town Counsel's opinion (on this matter). The purpose of the Form A (ANR) is to make it less non-conforming, two are non-conforming and this is an equal land swap.

Michael Baptiste said that the applicant made its own hardship by making the garage into a residence and now wants to change lot lines.

Chairman Barrett will put this on the next agenda for Monday, March 25, 2013.

Best Friends Preschool – Modification to Site Plan – c/o Maria Laporta

The applicant approached the Board and stated that they would like to add a 3-car storage garage in the back area of the approved plan.

The Town Planner informed the Board that they could consider this as a major modification and require a public hearing or make changes this evening with an amendment to the approved site plan.

The applicant informed the Board that the proposed garage would be a concrete slab with no loft, will comply with all setbacks, there will be no reduced parking, the water runoff from roof will be a drip strip.

Michael Fitzgerald asked where the access to the garage will be.

Michael Baptiste asked if there wasn't an issue with the Fire Department, relative to the access around the building.

The Board was told that the Fire Department knows about the change in plan.

The applicant further stated that the garage will face the cul-de-sac and it will be 25' to the peak. Someone asked where the garage doors will be.

The applicant said that the garage doors will also face the cul-de-sac and this proposed garage will only be used as part of the school. The height of the school is 42'. Discussion ensued regarding the building itself is 10,000 SF and 20' x 30' = 600 SF.

John Cronan suggested this to be a minor modification.

Someone asked if the Conservation Commission is aware of the change and if they need to extend the hay bales for runoff. The Town Planner stated he would check with the Conservation Agent.

The applicant advised the Board that the tree line has changed and there will be arborvitaes all over the property.

The Town Planner told the Board that, if, the Board approves this as a minor modification, he will request a change on the plan.

Chairman Barrett asked that any documentation from the Fire Department and Conservation Commission is to be submitted for the Board to review.

Additionally, the applicant has to put new garage on a plan, get the documents requested and the fire hydrant will be moved closer to the building.

The Town Planner indicated that he will draft a letter saying that the Board approves a minor modification with provisions.

Chairman Barrett asked the Board's input and if the majority wished that this project be put on the agenda for Monday, March 25, 2013.

The Board wants this to be put on the next agenda, Monday, March 25, 2013.

Site Plan Review – 3041 Cranberry Highway

Chairman Barrett asked the Board if they would like to set a public hearing date for a Site Plan Review application received at 3041 Cranberry Highway.

The Town Planner advised the Board that this is where the Thai Restaurant is located and used to be Subway. There is a vacant lot next door that they want to use as a parking lot. The two lots are under separate ownership.

The Town Planner is waiting for feedback from the Building Commissioner ~ if one lot can be used for a parking lot and the other lot to be used for the restaurant. There are three parties, the Thai restaurant, Kent's Welding and one vacant lot for the parking. There are also conservation issues on the vacant lot.

Michael Baptiste asked, if this is a parking lot, what happens to the buffer.

Chairman Barrett asked the Board for a potential site plan review date. The Town Planner answered that he is not sure of the date yet.

Chairman Barrett asked that this be put on the next agenda, Monday, March 25, 2013.

PUBLIC HEARINGS – None

CONTINUED PUBLIC HEARINGS - None

ANY OTHER BUSINESS/DISCUSSION

Discussion - SRPEDD Local Technical Assistance Program/Request Form – The Town Planner advised the Board that he sent an email to ask for assistance for TDR, to give some background, TDR never made it to Town Meeting. The Town Planner advised the Board that the Municipal Assistance offered by SRPEDD is

taken for this year, however, we can get a Grant, of which, the Town Planner will apply for that is good until the end of the year.

John Cronan commented that not one thing has been done yet relative to the Housing Production Plan.

Chairman Barrett brought up street names and feedback. The Board received a request for a private way off of Avenue A. The request was from Albert Fantasia of 26 Avenue A in Wareham, MA. Mr. Fantasia requested to name the private way either Fantasia Way or Fantasia Point.

The Police Department (911) has approved this request.

Motion made by Charles Klueber, seconded by John Cronan to approve the private way to be named "Fantasia Way".

Vote: Unanimous (5-0-0).

TOWN PLANNER'S REPORT

Zoning By-Law proposed changes/update for Town Meeting Warrant – the Town Planner will submit a Marijuana moratorium for the Town Meeting Warrant and the public hearing will be in April 2013.

Medical Marijuana public hearing date change – April 8, 2013

Sign By-Law discussion – the Town Planner advised the Board that he will have a Memorandum with bullet points to point out what we do not have in our existing bylaws and that the Committee decided to have a one size fits all for all zoning districts. One sign bylaw for every zoning district to include distraction, LED, blinking lights, etc.

Ethics training on-line for Board Members/Certificate to be filed with Town Clerks office

Update(s):

Bella Terra Circle – roadway completion

Preservation Lane – roadway completion

Memorandum dated January 30, 2013 - Master Plan Committee Reactivation

CORRESPONDENCE

NOI to sell/intent 61A – Eagle Holt to residential use, there are four lots and various parcels, called "The Pond at Fearing Hill". The plan was done by GAF Engineering, Inc.

Discussion ensued, however, stopped.

Chairman Barrett informed the Board that this item is not an agenda item and all it needs is a vote for recommendation as to whether or not the Board of Selectmen have the right of 1st refusal.

Chairman Barrett asked for this to be placed on the next agenda for Monday, March 25, 2013.

ADJOURNMENT

A Motion and second was made to adjourn the Planning Board meeting.

Vote: Unanimous (5-0-0).

Date minutes approved: 3/25/13

Attest:

George T. Barrett
George T. Barrett, Chairman

Date copy sent to Town Clerk: 3/26/13 (65)