



Town of Wayland Massachusetts

Planning Board Meeting Minutes for Meeting of July 26, 2016

In attendance: Reck (Chair), Montague, Hill, Murphy and Riley.

The meeting was called to order at 7:30 PM in the School Committee Meeting Room in Town Hall.

I. Public Comment

Molly Upton

1. Ms. Upton reviewed the restrictive covenant recorded on 150 Main Street and thinks that by allowing Planning Board approval of any changes to the status of Hammond Way was contrary to the Board's intent when it voted to remove condition 30 from the site plan approval decision.

2. Ms. Upton also commented on the Conservation Cluster bylaw and regulations, and thinks that developer/applicant should be required to show that septic systems are feasible in the yield plan. She also questioned the efficacy of the provision that requires that the homes be similar within a cluster development.

II. New Business

A. Open Meeting Law Complaint

Resident George Harris filed an Open Meeting Law Complaint against the Planning Board, a copy of which is available in the Planning Office. Member Dan Hill provided his opinion on whether the Open Meeting Law complaint was valid, and whether any violations were committed with respect to the public meeting notice and the minutes. He stated that based on his review of the law and the cases, Mr. Harris' interpretation of the law was incorrect, and that there were no violations. He recommended that the Board respond as such. Mr. Montague moved that the Board respond with a denial that any violations are present. Seconded by Mr. Murphy. Approved 5-0.

B. Brookside Chapter 40B Project Eligibility Application

Nan Balmer presented the draft comment letter that would be sent to MassHousing from the Board of Selectmen. The Planning Board members had a few non-substantive comments, but overall liked the substance and form of the letter.

III. Old Business

A. Rice Road Conservation Cluster Application

Address: 52-60 Rice Road

Applicant: Tom and Sarah Greenaway

Kevin Dandrade, PE of TEC was retained to peer review the yield plan and viability of the conceptual subdivision road. He made a presentation on his findings. Mr. Dandrade's opinion is that the conceptual road is feasible, probably requiring some grading and retaining walls, but still able to comply with the 8% maximum grade for roads in the subdivision rules and regulations.

Betsy Brigham, Rice Road asked several questions of Mr. Dandrade, including what the slopes would be off the sides of the conceptual road. She questioned whether Mr. Dandrade considered feasibility under the state and local wetland laws. Mr. Dandrade said he did not see any issue with the feasibility of placement of structures and road within the wetland buffer areas. She also questioned whether there's a BOH regulation that would prohibit a septic systems within the 100-foot buffer, and if so, if that affected the feasibility of the yield plan. Developer's engineer Mike Connors responded that he thought the restriction was 75 feet from the wetland, and that anyway there is enough room outside the 100-foot buffer to place septic systems on each lot on the yield plan.

Ms. Brigham also raised the point that the conceptual plan does not comply with the recent amendment to the subdivision regulations that requires a 50' setback from the subdivision road to the perimeter of the subdivision parcel. Mr. Connors agreed that in the location of the cul-de-sac, the road is closer than 50 feet to the perimeter of the tract.

Tom Greenaway (Applicant) – explained the recent changes to the plans. The common driveway does not exceed a 10% grade, which is the maximum grade in the regulations. The building footprint on Lot 3 was pushed back to the vicinity of the existing house, which was a desire of the Board's from previous hearings. The house on Lot 4 was moved further away from the abutter to the south (Leonard). Mr. Greenaway noted that he had submitted a revised list of requested waivers from the Conservation Cluster regulations, including waivers from several application requirements set forth in Section III.B.3, which was the subject of a comment letter from an abutter's attorney. The comment letter was apparently written by Attorney Michael Fee on behalf of resident Betsy Brigham, apparently dated July 22, 2016 and addressed to the Planning Board, but which was not provided to the Planning Board members before or during this hearing. Attorney Fee was not present at the hearing and Ms. Brigham did not have copies of the letter to provide to the Board members. One copy of the letter was placed on the table in front the Board members.

Mike Connors (Applicant's engineer) stated that the reserve septic area on Lot 2 is proposed to be next to the driveway. The Board stated that it would prefer that this reserve area not be used, to preserve the natural vegetation adjacent to Rice Road. Connors said they would put the reserve area between the trenches of the primary leaching field. The Board discussed that it would make this a condition, or alternatively, impose a condition that if the Applicant installs a separate reserve area, the owner must replace a failed septic system in the existing location if at all feasible, and only use the reserve area if the existing area cannot be used for the replacement system.

Attorney Brian Levey, for the Applicant, stated that if the Board does not vote tonight to approve the 5-lot conservation cluster plan, the Applicant will prepare and file a preliminary subdivision plan, followed by a definitive plan, in order to obtain grandfathering protection over the project in the event that Town Meeting adopts the Planning Board's proposed changes to the Conservation Cluster zoning bylaw at this fall's town meeting. Levey stated that in that case, the Applicant may elect to simply proceed with the 5-lot conventional subdivision plan, given that it will need to invest financial resources in developing a definitive plan. Mr. Hill stated that he disagreed with Attorney Levey's contention that a definitive plan would need to be filed in order to preserve the "zoning freeze" under G.L. c. 40A, §6, and that all the Applicant would need to do is file a preliminary plan.

Attorney Levey proceeded to rebut the letter from Michael Fee. Mr. Hill expressed his strong discontent with having to react to new information being presented for the first time at the hearing, with no advance notice of the legal issues and arguments being presented by both members of the public and the Applicant's attorney, and then being asked to vote on the application that same night, under threat that the Applicant would abandon the cluster plan and resort to the less desirable conventional plan. Several neighbors and residents commented that the Board should not rush into making a decision on the special permit application simply because of the Applicant's attorney's statements. Several Board members expressed their frustration with being confronted with these demands, but the consensus was that if the hearing were continued to another evening, there would not be any new information that would change their opinions about the desirability of a 5-lot conservation cluster plan. The Board discussed keeping the hearing open to allow for additional submissions and follow-up to the Attorney Fee letter, as well as confirmation of the yield plan's conformity with all subdivision rules and regulations including the 50-foot setback requirement.

Mr. Murphy moved that the Board approve the 5-lot conservation cluster special permit application at 52-60 Rice Road, subject to submission of a revised yield plan that confirms compliance with the 50' setback requirement in the subdivision regulations, and subject to such terms and conditions as the Board may impose in its decision. Seconded by Mr. Montague. Approved 5-0.

Further the Board voted to continue the public hearing to September 6, 2016. Moved by Mr. Murphy, seconded by Ms. Riley. Approved 5-0.

The Board discussed its concerns with how this application has been processed, and some communication issues. At 10:30 PM Mr. Murphy moved to adjourn, seconded by Mr. Montague. Approved 5-0.

Respectfully Submitted,
Daniel C. Hill