

Minutes of the Planning Board Meeting of September 27, 2016

Pursuant to a notice filed with the Town Clerk, the Planning Board met at 7:00 p.m. on September 27, 2016 in the First Floor Meeting Room, 141 Keyes Road, Concord, MA.

Present:

Brooke Whiting Cash
John Cratsley
Rob Easton
Gary Kleiman
Matt Johnson
Allen Sayegh

Absent:

John Canally

Elizabeth Hughes, Town Planner
Marcia Rasmussen, Director, Dept. of Planning & Land Management

The meeting commenced at 7:00 p.m. and was audio-recorded. Chair Whiting Cash announced to the audience that anyone recording the meeting should inform her.

Recommendation to the Board of Appeals **Special Permit & Site Plan Approval** **300 – 310 Baker Avenue**

Daniel Holmes, of Lerner & Holmes PC, appeared before the Board on behalf of Normandy Baker LLC to discuss the application for a Special Permit and Site Plan Approval, under Sections 7.2, 7.5, 7.7.2.4, 11.6, and 11.8 of the Zoning Bylaw, for the expansion of parking spaces and work within the Floodplain Conservancy District at 300-310 Baker Avenue (Parcel #3794-1).

The Board considered a draft recommendation letter dated 9/28/16 to the Board of Appeals prepared by the Town Planner.

Mr. Holmes affirmed the understanding that parking spaces within the bumpout of the Residence Inn remain the exclusive use of the 300/310 Baker Avenue building.

Parking lot lighting for security and safety was discussed with the Applicant's representatives. Mr. Kleiman requested that the light locations be identified on the plan and that light shining backward be shielded.

Chair Whiting Cash asked for comments from the audience and there were none.

Mr. Kleiman moved that the Planning Board recommend that the Zoning Board of Appeals grant a Special Permit and Site Plan Approval, under Sections 7.2, 7.5, 7.7.2.4, 11.6, and 11.8 of the

Zoning Bylaw, for the expansion of parking spaces and work within the Floodplain Conservancy District at 300-310 Baker Avenue (Parcel #3794-1) with the conditions contained in the aforementioned recommendation letter as amended. Mr. Easton seconded. All **VOTED** in favor.

Committee Liaison Reports & Staff Updates

Mr. Kleiman updated that Planning Board on the Request for Proposal for a consultant for the Comprehensive Long Range Plan update. Director Rasmussen outlined the consultant process.

Mr. Cratsley updated the Board on the activities of the Community Preservation Committee and the 2017 funding applications received. Mr. Cratsley reported that, at the recent Chairman breakfast, there were questions asked about the impacts of the Floor Area Ratio (FAR) zoning bylaw amendment. Town Planner Hughes offered to forward to the Board a recent Board of Appeals decision on a FAR special permit application.

Recommendation to the Select Board **Chapter 61B Lot 4A & Parcel A, Forest Ridge Road**

Town Planner Hughes explained that Abode Builders of New England, Inc., the developer of the Black Birch Alternative Planned Residential Development is looking to develop Phase II on another lot off Forest Ridge Road that is currently owned by the Thoreau Club. She explained that, since the land is currently taxed under Mass General Law (M.G.L) Chapter 61B “Classification and Taxation of Recreational Land”, the Town has right of first refusal to purchase the property when the property owner enters into a purchase and sale agreement, and that the Planning Board is required to give a recommendation to the Select Board on whether the Town has an interest in this land for any municipal purpose, such as housing, recreation, or municipal use.

The Board considered a copy of the notice to the Town dated 9/1/16 regarding the right of first refusal, purchase and sale agreement, and maps of the subject lot. Town Planner Hughes explained that no municipal use has been identified for the parcel.

Chair Whiting Cash asked for comments from the audience and there were none.

After discussion, Mr. Kleiman moved that the Planning Board recommend that the Select Board decline or not exercise the Town’s Right of First Refusal under M.G.L. Ch. 61B for Lot 4A and Parcel A on Forest Ridge Road. Mr. Easton seconded. All **VOTED** in favor.

Tree Preservation Subcommittee **Final Recommendation**

Krista Collins presented the Tree Preservation Subcommittee’s Final Recommendation to the Planning Board and the work done to review the issue and options. On behalf of the subcommittee, she thanked the Planning Board for their interest in this issue and noted that the task was more challenging than first expected. Ms. Collins noted that while the Subcommittee

did think a bylaw was needed, the Subcommittee did not reach a consensus on what would be best for the community. Ms. Collins proceeded to go through the recommendation in the report and the two bylaw options. She expressed concerns with the need to conduct more research to assess impact to staff time and Town resources with the implementation of any new bylaw.

The Board discussed the two bylaw options presented, the definition of tree yard, the potential for a tree fund, impact on enforcement of the bylaw, and whether the bylaw would be a general or zoning bylaw.

Chair Whiting Cash asked for comments from the audience.

Ken Miller, 75 Whites Avenue, a member of the Town's Trails Committee, asked if there are any distinctions about trees to removed, noting that Norway Maples are considered invasive and often should be removed.

Lori Gill Lazaris, a member of the Climate Action Network, commented on the overall benefits that trees provide.

Tanya Barteveyan Gailus urged the Board to move forward with a bylaw and that only one survey respondent was concerned about the cost.

After discussion, the Board decided to schedule time on the next meeting agenda to discuss next steps.

Preliminary Subdivision Plan #241
Keuka Road, Hosmer Meadow Subdivision

Ian Rubin, of Markey & Rubin, Inc., and Craig and Hope Beckman, appeared before the Board to discuss the application of Keuka Road LLC for a Preliminary Subdivision Plan "Hosmer Meadow Subdivision" to allow a road improvement with waivers for a 5-lot subdivision for the future development of 11 dwelling units on 12.48 acres off Keuka Road (Parcels 3838, 3842-2, 3849, 3850, 3851, and 3825).

The Applicant's attorney, Matthew Watsky, submitted a letter to Board dated 9/15/16 to address claims of ownership by an abutter (Balfour) to the center of Keuka Road right of way and a right by that owner to place a fence blocking passage along a portion of that right of way.

The Board considered the Planner's Report for Preliminary Subdivision Plan #241 dated 9/26/16. Mr. Rubin, the Applicant's civil engineer, presented a letter to the Board dated 9/27/16 with comments on the aforementioned Planner's Report. The Board acknowledged receipt of correspondence from Mrs. Balfour citing residents' concerns and reasons for opposition to the plan.

Town Planner Hughes explained that the Board's role in this matter is to render a decision on the preliminary subdivision plan pursuant to M.G.L. Ch. 41, Section 81 and the Town's Subdivision Rules & Regulations. A preliminary plan does not constitute approval of a subdivision. A

preliminary plan should show sufficient information about the subdivision to form a clear basis for discussion. She explained that the site is comprised of 15 parcels that front on a paper street known as Keuka Road per a 1913 McCaller Tract Plan that was filed with the Registry of Deeds prior to the adoption of subdivision control law by the Town. The Applicant proposed a Preliminary Subdivision Plan to reconfigure the parcels from the 1913 Plan and to improve Keuka Road so that it will have adequate access for a future 11-unit Planned Residential Development. The Applicant has requested five waivers from the Subdivision Rules & Regulations design standards.

Chair Whiting Cash asked Mr. Rubin to explain the Applicant's responses to the comments made in the Planner's Report. Mr. Rubin explained the comments contained in the aforementioned response letter.

Ms. Whiting Cash raised concerns about adequate emergency vehicle access, parking of cars on the road and impeding emergency vehicles. Mr. Rubin replied that fire equipment does not have to stay on the pavement for access and it was up to the neighborhood to police and put up signs regarding no parking.

Mr. Kleiman questioned the steep slope on one side of the roadway and whether sidewalks were provided. Mr. Rubin stated there were no sidewalks. Ms. Whiting Cash and Mr. Johnson felt that a sidewalk on one side would be needed.

Mr. Rubin continued to review his letter. Mr. Beckman commented that his attorney would be submitting another opinion that this project was not a subdivision and subject to the requirements of the Subdivision Rules & Regulations. He stated he would be willing to grant a time extension to allow for review by Town Counsel.

The Board discussed with the Applicant concerns raised by Natural Resources, Board of Health, Town Engineer and Town Planner regarding the grading, stormwater drainage, high groundwater and on-site sewage disposal system. Ms. Whiting Cash felt that 8 feet of fill was a very significant change to the natural topography of the land. Mr. Easton expressed concern with the stormwater drainage, noting the area was already wet with high groundwater and the proposed project would put more stress on the existing system. Mr. Rubin stated he was confident he could engineer a system to meet the Town's stormwater regulations.

Chair Whiting Cash asked for comments from the audience.

David Mitchell, 820 Main Street, spoke in opposition, asking why it is proposed to raise the height of the road by 8 feet.

Marianne Balfour, 696 Main Street, spoke in opposition, citing concerns about negative impacts to safety and traffic.

James Balfour, 696 Main Street, spoke in opposition, expressing concerns about the existing high groundwater levels and the potential negative impacts to abutters from the proposed development.

Gerard Soucy, 770 Main Street, spoke in opposition, expressing concerns about the amount of proposed fill and the height of the roadway.

Douglas Ellis, 632 Main Street, spoke in opposition, expressing concerns that this development will negatively impact stormwater drainage to his property.

Robert Schulman, 680 Main Street, spoke in opposition, expressing concerns that this development will negatively impact stormwater drainage to his property. He commented on a 1992 report that mentions Swansea muck soils on the site, typically found in swamps and bogs in Massachusetts, and not good construction soil.

Joan Parker, 838 Main Street, spoke in opposition.

Cheryl Petrone, 734 Main Street, spoke in opposition, mentioning that often her back yard is soggy in the springtime.

Mrs. Balfour asked who takes responsibility if stormwater does negatively impact adjacent properties post-development.

Tanya Barteveyan Gailus, 62 Prescott Road, opined that it would be a mistake to grant waivers before solutions are provided.

David Lyczkowski, 800 Main Street, asked about the basis for granting waivers. Town Planner Hughes explained that under M.G.L. Ch. 412, Section 81R, the Planning Board may grant waivers of its regulations that are “in the public interest and not inconsistent with the intent and purpose of the subdivision control law.” Mr. Lyczkowski opined that granting the requested waivers would be in the best interest of the Applicant, not of the Town.

Mick Vergura, 744 Main Street, spoke in opposition, repeating the concerns expressed by others, that of negative impacts of the development on stormwater runoff and traffic safety.

The Board determined it would request permission from the Town Manager to seek Town Counsel’s opinion on Keuka Road and opinions submitted by the Applicant.

The Applicant submitted a time extension request form dated 9/27/16 to grant an extension to the 45-day time period to 11/16/16 for the Planning Board to file its decision with the Town Clerk on the Keuka Road Preliminary Subdivision Plan Application. The original will be filed with the Town Clerk on 9/28/16. Mr. Easton moved that the Board accept the time extension request to 11/16/16 and continue the discussion to the 10/25/16 meeting. Mr. Johnson seconded. All **VOTED** in favor.

List of documents presented which are on file in the Planning Division Office at 141 Keyes Road, Concord, MA:

- Draft recommendation letter dated 9/28/16 to BOA re: 300/310 Baker Ave. application

- Letter dated 9/1/16 Comins & Newbury re: Lot 4 and Parcel A, Forest Ridge Road
- Tree Preservation Subcommittee Final Report to Planning Board
- Handout re: Keuka Road preliminary plan application submitted by M. Balfour

The meeting adjourned at 9:12 p.m.

Respectfully submitted,

Gary Kleiman, Clerk

Minutes approved on: 10/25/16