

WEYMOUTH PLANNING BOARD
McCulloch Building, Whipple Center, 182 Green Street
January 15, 2013
Minutes

PRESENT:

Walter Flynn, Chairman
Sandra Williams, Vice Chairman
Paul Hurley
Dave Chandler
Mary Akoury, Clerk

ALSO PRESENT:

Robert Luongo, Principal Planner
George Lane, Town Solicitor

Chairman Flynn called the January 15, 2013 meeting of the Planning Board to order at 7:00PM and entertained a MOTION to Open the Public Hearing and dispensed with the reading, Mr. Chandler made the MOTION to Open the Public Hearing. Mr. Hurley SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Public Hearing - Court Ordered Remand

Petr: Edmund McLelland and James Miller

Locus: 119 Randolph Street
Sheets 48 and 49, Block 509, Lot 16

Zoning: R-1

Proposed definitive subdivision to create four (4) buildable lots

Solicitor Lane opened the meeting stating that this matter is back before the Planning Board by Remand from the Norfolk Superior Court. Solicitor Lane reviewed the documents and feels that the Planning Board should look at the decision again.

Chairman Flynn asked Solicitor Lane did the court give direct areas to focus the Remand. Solicitor Lane stated that the remand was ordered by Solicitor Lane and Attorney Galvin's combined assent.

Mr. Luongo stated he has had several meetings with Town of Weymouth's Engineer regarding all the Planning Board's recommendations and concerns. Mr. Luongo does have copies from Attorney Galvin regarding maintenance of the easement in the subdivision. Attorney Galvin stated this subdivision has been before Planning Board for a number of years now. In October 2011 the applicant came to the Board with their engineer and received a favorable nod to go forward with their plan that called for a 37.87 foot wide right-of-way (ROW) for 35 linear feet of ROW. In 2012 a public hearing on the applicant's subdivision was held with several continuances. The Planning Board ultimately denied the subdivision application and only listed a few reasons for its denial. In the Planning Board subdivision rules and regulations if a subdivision plan is able to be redrafted to satisfy the deficiencies that were highlighted then the plan must be approved. So the applicant reviewed the listed issues, fixed all deficiencies and is now seeking approval based on Planning Board bylaws.

Mr. Luongo stated he went back to Town of Weymouth Engineering office regarding the detention area; the intended work there satisfied Chip Fontaine, Town Engineer. From the Engineering Department's point of view, the only remaining things to be fixed are some contour lines and grading; the plan has been redrafted to comply with Planning Board's denial.

Shawn Hardy stated there was a request to do a perc test on the soil; he had those tests done and witnessed the test. The test was substantiated.

Mr. Hardy stated that regarding the overflow swale; he spoke with Town of Weymouth's Engineer and it is a self contained basin, and not anticipated to have an overflow.

Mr. Chandler stated he is the Planning Board member that brought up the concern about the pipe drainage over someone's property; who would want to live there? Mr. Hardy stated this design is over and above what is required under regulations. Mr. Chandler asked what the problem is; why won't the applicant just put a pipe in? Attorney Galvin stated applicant would have to run the pipe into the wetlands and it would interfere with two lots. The by-laws require developers to comply with 25 year storm only. Hardy Engineering has designed this basin to comply with a 100 year storm and two times that. Mr. Chandler stated then why did your engineer agree to the pipe at all? Mr. Hardy stated he does not remember ever doing that. Mr. Chandler stated that is the only reason that he voted in favor of this request last time but now if the pipe is not going in he is not in favor of this request.

Mr. Hurley asked if the small sliver of land (also known as lot 5) was addressed. Attorney Galvin stated the reason that it was not addressed is it wasn't part of the remand. If the sliver (lot 5) was deeded to the lot owner that abuts the small sliver (lot 5) it would affect an abutter's zoning. The applicant has decided to leave the sliver alone (lot 5). Lot 5 will be the responsibility of the homeowner association. Ms. Akoury asked where does it state that lot 5 is the responsibility of the homeowners association? Attorney Galvin stated the applicants will always be responsible for the sliver (lot 5). Attorney Galvin stated that the town has no obligation to be responsible for the road. Solicitor Lane stated the road is a private way, they will get plowed for public safety purposes, and certain procedures have to be followed.

Ms. Williams asked if the Town of Weymouth plows this private road can the Town of Weymouth bill this homeowners association for plowing. Solicitor Lane stated the town plows all streets as a matter of public safety. Mr. Hurley asked why this homeowners association is any different from Weathervane and/or Arbor Hill. Solicitor Lane stated he cannot answer because he is not familiar with those places.

Ms. Williams asked a question from page 5 of the covenants; can the town over rule the association over drainage repairs if it feels they are not being kept up to the town's requirements? Attorney Galvin stated he assumes the town would go ahead and fix it up to their standards and then send a bill to the homeowners association.

Chairman Flynn asked a question from page 13 of the covenants; the town has the right not the obligation to fix and change the homeowners association the bill for the work.

Ms. Williams asked a question from page 10 of the covenants Section F; the applicants still need permission/approval from the Conservation Commission. Solicitor Lane and Mr. Hurley both stated yes.

Ms. Williams stated on page 13 of the covenants, section C of the covenants states until 30 years from execution of this contract; shouldn't this be deeded until infinity? Attorney Galvin stated the language was intended to bind it forever, but don't know why it doesn't read like that. Mr. Chandler asked if after 30 years isn't this a state covenant. Solicitor Lane stated yes.

Mr. Chandler asked Attorney Galvin are the Millers building these houses.

Anne Hilbert
45 Doris Drive

Ms. Hilbert asked isn't it the duty of this board to disclose when someone is selling; shouldn't a notice of DEP have been filed? Mr. Hardy stated an ANRAD was filed; notice of intent was not filed because intent was to keep out of resource area.

Ms. Hilbert stated public law 42.16 states water over someone's driveway is a public violation.

Ms. Hilbert asked how the water will be moved over to Oakdale Street. Mr. Hardy stated DPW will tap into the water and sewer easement at the line at Oakdale Street.

Ms. Hilbert asked if any blasting is scheduled to take place at this development. Chairman Flynn stated that is a matter for the Fire Department and not for the Planning Board.

Ms. Hilbert asked what does the applicant intend to do about the mosquito issue in the wetlands at this development. Chairman Flynn stated that he doesn't know if it is the applicants issue to handle mosquito problems because of the wetlands in the area; that is something that is handled by the Health Department and the Town combined.

Ms. Hilbert asked about the turning radius; is it large enough for the Fire Departments approval? Will these new homeowners need flood insurance? Chairman Flynn stated he can get the answer to this question for Ms. Hilbert.

Mr. Hardy stated the elevation is 163 at the roadway.

Ms. Hilbert asked is the zoning R1 or Watershed? Mr. Luongo stated Watershed is an overlay district for this area that is zoned R-1.

Ms. Hilbert stated this is Weymouth, our build out is 89%. This project is not necessary. We do not need more homes we need commercial businesses.

Stephanie Dwyer
20 Oakdale Street

Ms. Dwyer stated the applicant has flip-flopped on who will build these homes for the past three years on this parcel. She has concerns on the financial stability of the applicant because one of the applicants has a \$60,000 federal lien placed on himself. Further, Ms. Dwyer is concerned that their resources will run dry and abutters will be left staring at holes in the ground.

Chairman Flynn stated that the applicant has stated they will stay with this development until all homes are sold.

Judy Cardey
115 Randolph Street

Ms. Cardey asked if there is to be any encroachment on her lot due to the retention pond.

Mr. Hardy stated the line is a continuous line that matches lot on the side. No request for set back and not proposed as of now.

Ms. Cardey stated so no setback rules on a retention pond?

Mr. Hardy stated no and it is called a pond but it is dry.

Ms. Cardey asked how the pond will be built. She asked because the land is all ledge.

Ms. Cardey stated there is water in her backyard; she cannot go out in her backyard at night because of the mosquitoes. It is major health concern.

Chairman Flynn stated the retention pond will be dry within ten hours; so no mosquitoes.

Regan Lobo
125 Randolph Street

Ms. Lobo stated she does not want wild animals to come into her backyard because of building on their natural habitat.

Mr. Dwyer
20 Oakdale Street

Mr. Dwyer stated he is afraid people who buy these four lots won't know about all these by-laws and will not take care of this fifth lot.

Attorney Galvin stated that all homeowners will be sure to be made aware of the by-laws and the obligations of these lots.

Mr. Dwyer stated the applicant owns the parcel and the lots already look awful because of the applicant's lack of their own involvement on the parcel

Claire Rexford
Trustee for Russ Rexford
388 Columbian Street

Ms. Rexford stated do these new homeowners have to go to another board to get permission to put homes on the lot and which committee do they need to go before?

Chairman Flynn stated yes.

Ms. Rexford asked what current abutters will have to look at.

Attorney Galvin stated proposed homeowners will have to go before the Conservation Commission to get permission.

Mr. Chandler asked Mr. Hardy did you check the ledge. Mr. Hardy stated yes, he went down nine (9) feet. Mr. Chandler asked Mr. Hardy, did you hit water? Mr. Hardy answered no.

Mr. Hurley asked staff does Planning Board have correspondence from Engineer and DPW. Mr. Luongo stated yes.

Mr. Hurley made a MOTION to CLOSE the Public Hearing. Mr. Chandler SECONDED the MOTION. It was UNANIMOUSLY VOTED. Public Hearing Closed.

Mr. Hurley made a MOTION to TAKE COURT ORDERED REMAND UNDER ADVISEMENT. Ms. Akoury SECONDED the MOTION. It was UNANIMOUSLY VOTED.

ADJOURNMENT

At 9:10PM, there being no further business, a MOTION was made by Ms. Akoury to ADJOURN and was SECONDED by Mr. Hurley. It was UNANIMOUSLY VOTED.

Respectfully submitted,
Christine Callbeck
Recording Secretary

Approved by:

Chairman, Walter Flynn

Date