

**MINUTES**  
**PLANNING BOARD – OCTOBER 7, 2013**  
**Dennis Town Hall – 6:30 p.m.**

Present: Mezzadri, (Chair), DiManno (Vice-Chair), Nashawaty, (Clerk), Eldredge,  
Farmer  
Absent: Patterson, Fortier  
Staff: Gregory

**Item #1:** Covenant Release: Partial Release Diamond’s Path, Lots 1, 2, A & B on Definitive Subdivision Plan of Land in South Dennis prepared for Edward Crowell.

**Discussion:** Dan Ojala of Down Cape Engineering spoke on behalf of the applicant. They are requesting the release of two unbuildable parcels on the eastern side. Mr. Mezzadri read a letter into the record from Attorney Andrew Singer requesting a partial release of covenant of lots 1, 2 A & B. Lots 3 & 4 will remain under covenant. The Board had no objections to this request.

**Vote:** A Motion was made by Mr. Eldredge and seconded by Mr. Malzone to approve the partial release. **VOTE: 6-0-0 APPROVED.**

**Item #2:** ANR: Thomas W Fichtel et al, 164 South Street, East Dennis, MA (Assessor’s Map 12, Parcel 194).

**Discussion:** Dan Ojala of Down Cape Engineering spoke on behalf of the applicant. Parcel B4, a 5,475 s.f. piece on the north side, has been created strictly for conveyance and does not take away any frontage or size. A note on the plan states the parcel is not a separate building lot.

**Vote:** A Motion was made by Mr. Eldredge and seconded by Mr. Malzone to approve the ANR. **VOTE: 6-0-0 APPROVED.**

**Item #3:** Dr. Elmir Sehic, Semina LLC, 489 Main Street, Dennis, MA is seeking Site Plan Approval for a professional office under section 4.1 of the Dennis Zoning Bylaw. The property is located in the Limited Business Zoning District at 489 Main Street, Dennis, MA (Assessor's Map 306, Parcel 44).

**Discussion:** Present were Dan Ojala, Dr. Sehic and his son. Subsequent to the last hearing, Mr. Ojala submitted the required revised drainage calculations, which were approved by Engineering. The remainder of the meeting revolved around the issue of whether an external sidewalk should be constructed, which the applicant was opposed to. The applicants offered a number of arguments against the construction of an external sidewalk noting that until the Town knew what the State would require, agreeing to an easement was premature; relying upon the Town to plow and shovel in a timely fashion would hinder clear access to the building for their patients and also create a liability in case of a slip and fall accident; costs of materials would be exorbitant; and the sidewalk would connect up to nothing on either side of the property and therefore be useless. Dr. Sehic’s son distributed copies of various statutes under Mass General Law stating that Selectmen are responsible for establishing public sidewalks and claimed that Mr. Rodricks asked for an easement five feet past the existing phone poles verses an easement in front of the poles. They presented a number of photographs showing tape measurements to support this claim, and discussion continued regarding potential width of a sidewalk as well as its placement.

Joe Rodricks of Engineering then addressed the Board. A number of years ago a Master Sidewalk Plan was recommended by the Advisory Task Force and then adopted by the Selectmen to establish sidewalks along Route 6A for safety. This project will take years to accomplish and will be performed in pieces as various business apply for permits. He noted the Town has no intention of causing liability problems for any property owner. Because of costs, community and business participation is necessary. Engineering was looking for a two to three foot easement verses the five feet the applicant quoted. Mr. Rodricks pointed out that the granting of an easement would remove the applicant from any liability in case of an accident. Further, if the State later required more, the applicant could then waive the costs.

Mr. Mezzadri noted that under Site Plan Review, the Planning Board cannot demand an easement from an applicant; however, in a redevelopment area, they can condition that a sidewalk be constructed whether or not an easement is granted. Peter Nyberg talked about current drainage and noted that if a two foot easement was granted, a grading problem would occur. He suggested a possible compromise of granting the applicant inclusion of open space from the easement if the applicant agreed to it.

Dr. Sehic chose not to grant an easement for the external sidewalk. As a result, his project will not be able to proceed with the rest of his project until State approval is granted.

**Vote:** A Motion was made by Ms. DiManno and seconded by Ms. Farmer to approve the site plan with conditions: a sidewalk must be built, and prior to receiving a building permit the applicant must provide proof that a state curb cut permit has been issued by Mass DOT; an asphalt sidewalk 5' in width behind phone pole will be established; if State DOT requires more than 5', this condition shall be waived and the applicant will build according to MASS Transit standards. **VOTE: 5-1-0: APPROVED (Malzone opposed).**

**Additional Business:**

**Review of Minutes from 8/19/13 and 9/9/13 and 9/23/13.** The Board unanimously approved these minutes with edits.

**The meeting adjourned at 8:45 PM**

**The Board unanimously approved these minutes on December 2, 2013.**