

DENNIS TOWN CLERK
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DENNIS PLANNING BOARD

Minutes of Meeting held July 17, 2023

The Planning Board meeting, having been duly posted, was called to order at 6:30p.m. by Chairman Paul McCormick Jr. in the Nathan Stone Hearing Room at Dennis Town Hall.

Present: Paul McCormick Jr., Brad Bishop, John Terrio Jr., Rick Hamlin, Jeffrey Eldredge, Elizabeth Patterson (leaves during the last item), Chris Hedetniemi (came in late via Zoom)

Absent: NA

Staff: Paul Foley (Town Planner), Anna Pannell

Chairman Paul McCormick Jr. opened the meeting, introduced the members and outlined the procedures and process of the meeting.

ADMINISTRATIVE MATTERS

1. Committee Reports

2. Minutes: June 5, 2023 and January 23, 2023

Motion: To approve Minutes as presented (Elizabeth Patterson) Jeffrey Eldredge 2nds.

VOTE: Unanimous, 6-0-0. **Motion Verdict:** Minutes approved

3. ANR's: None

Public Meetings:

1. Chandler Drive and Courtney Lane - Review of Roadway Update

Before an update was presented, Board Member Rick Hamlin suggested that a 5-10 min maximum, time limit be put into place for the discussion. Chairman Paul McCormick Jr. agreed and proceeded with the update. Dan Ojala, of Down Cape Engineering, stated that, they made some good progress and discussed some of the other meetings he attended in regards of pricing for the project. He mentioned a few other updates and thought that they were in good shape to have the work done by Labor Day.

Town Planner, Paul Foley then added that the Planning Office sent out letters to the neighbors to see if there was a consensus whether to keep or remove the light posts. Most want them to be removed with only a couple asking to keep the lights. With one of them thinking that they were town lamp posts already. With only 4 people not responding at all, over all twelve wanted the lights taken down and two wanted to keep them. D. Ojala agreed with the Town Planner.

Tom Rennell, of number 11 Chandler Drive, asked D. Ojala if he was also addressing the cobble driveways that occupy at least 4 residents' homes? Ojala reassured Mr. Rennell that they do and that there are specifications to treat those and cut them back and dispose of the stones. Ojala went on to say that the Town of Dennis likes to have a short, paved apron of a couple of feet and that it would be a nice neat cut and that the cobbles would be returned to whomever the owners are. Ojala further clarified that they have two plans of attack and whichever one is the most economically reasonable is the one

they will go with. **No official Motion was made during this time**

2. PD 648 Setucket Road Preliminary Subdivision – Preliminary review of proposed 2-lot subdivision at 648 Setucket Road (Map 294, Parcel 25). John Magliozzi, 30 Christopher Hall Drive, Dennis, MA. is seeking preliminary comments and review of a 2-lot subdivision of a 2.36-acre property owned by Paul Edwin Heard in the R-40 Zone and within the Old King’s Highway District.

Dan Ojala expressed that this was an application for a preliminary plan. The goal was to flush out any issue that the Board might have with the current plan and to make those changes as needed, noting that the Board would have another bite of the apple when they do the definitive plan.

He went on to describe the lot. Ojala went on to say that the applicant had requested to cut the lot in two and that it would be difficult to split them without laying down a road, reminding the Board that there are laws in place that limit things like the width and radius of pavement as well as providing drainage, things of that nature. He added that they’ve thrown a drainage easement in the back of the property and that one of the waivers requested is that the drainage go in a dedicated easement. Mr. Ojala went over some alternatives there would be for drainage, clarifying concerns about the need to move a town hydrant and catch basin. The catch basin is low set and takes quite a bit of water if the Board wanted to grant a waiver, then they could shift the entrance and tighten things up a bit. However, he goes on to say that the original plan was to reset and regrade that basin to the new grades. He noted the location of the fire hydrant and where that would be moved a little bit to the West to coincide with the construction. He continues to talk about the layout of the property and additional work that is going into the lot then turns any comments or questions over to the Board and the Town Planner.

Board Member Rick Hamlin comments that while he does understand that this is a Preliminary Hearing, he wanted to be sure that there will be completed and stamped plans for the next time the project comes to the Board, to which D. Ojala assures that that he would.

Board member Brad Bishop also speaks up, and references the staff report and of a deadline of July 30, 2023 and wonders what we need to do by that deadline? Town Planner, Paul Foley clarified that if the Planning Board approve the preliminary plan, it doesn’t mean that you will approve the Definitive Plan, but the Board has to decide within 45 days. The Town Planner then pulled up a visual of the area surrounding the property in question pointing out wetlands and other protected habitats and their locations. He goes on to say that the lot is in an environmentally sensitive area and reiterated the relocation of the fire Hydrant and the catch basin. In addition, he adds that the lot has over, 80,000 sq. ft stating they can’t add a duplex on this one lot, because they would need a 100ft frontage. He then added that he’s is still getting used to pan handle lots being allowed and that he was surprised to see someone trying to subdivide a panhandle lot. They cannot do an ANR because they do not have frontage. It’s a tough lot. He noted the geography of the lot, indicating that there is a drop of 45’ from the panhandle to the north side of the lot where it is steep. He noted a long retaining wall that will be required abutting a neighboring property that is up to 7 feet tall and the removal of trees and the placement of the driveway, concluding that they’re going through a lot of extra expense to create one additional lot.

B. Bishop asks the Town Planner if the applicant would still have to go through the extra expense if it was just one house as opposed to two? To which P. Foley states that they have to build it to the standards of a road for a subdivision. If they want to build a single house on the existing lot they could just build a driveway. Mr. Bishop asked if they would still have to move the catch basin, the fire hydrant, as well as the other updates mentioned by the Town Planner. P Foley explained that If it was just one they could do a driveway and probably avoid that but because they want two lots, they are supposed to build to a town road standard and create a cul-de- sac to create the frontage.

D. Ojala added that a lot of the old panhandles are only 20 ft wide, this is 40 ft wide. Chairman P. McCormick asked the engineer and the applicant what they want from the Board in order to move the project along. P. Foley clarified that the purpose of a preliminary, at least on the applicant's end, is to get feedback from the Board about their proposed project. Just because the Board might approve of the plan during the preliminary, doesn't mean that they will during the official Definitive Plan hearing. Complications could arise that might change how the Board and Town Planner see the project. The purpose is to see if the Planning Board has concerns about the Project at hand so that time and resources aren't wasted when it comes time for an official Plan, It doesn't bind you either way.

B. Bishop felt that for this particular application and preliminary plan he would vote to **not** approve of the plan, knowing that they can do a lot of work to come back. Board member Jeff Eldredge asked about the 7ft wall and suggested a way to allow for more space in the area. D. Ojala noted how tricky the corner was to see around and discussed possible ways to alter the turn for better visibility. He goes on to discussing Zoning regulations and is willing to work with staff, the engineering department and so on to make any necessary alterations, some cosmetic and some that could save some resources, as long as public safety is up-held. The goal is to keep the road narrow and preserve the rural character of the lots. He adds some other notes but ultimately states that he was willing to work with the Board and department Heads to make any necessary changes to the plan as needed.

Elizabeth Patterson asked if there are any alternatives to moving the Fire Hydrant and catch basin? Ojala said that because of the direction, the Fire Department will need to come in, the hydrant may still have to be moved regardless to give the fire trucks enough room to come in. He considered moving it back as opposed to off to the side.

There was some further discussion about the plans presented, to which E. Patterson noted the Board would be voting on the concept in order for the engineer and the applicants to flush out the project a bit more to be able to bring a definitive plan for the next time. P. McCormick states that he liked the asphalt where the engineer had it plotted, agrees that it should be made safer and encourages the movement of the fire hydrant. He then presents the motion.

Motion: Approval of the preliminary plan

E. Patterson 2nds. VOTE: 5-1-0

Aye: Elizabeth Patterson, Paul McCormick Jr., John Terrio Jr., Rick Hamlin, Jeffrey Eldredge

Nay: Brad Bishop

Abstain: NA

Motion Verdict: Preliminary approval passed

3. DS 254 & 270 Sesuit Neck Definitive Subdivision – Written Decision Update

Town Planner P. Foley said that he spoke with the Engineer and the Attorney and came up with 12 Conditions in regards to the project. Attorney, Mike Ford, said in regards to the first condition, “The Covenants and Restrictions offered for the Open Space Subdivision should reflect the presentation made to the Planning Board, restricting the open space to passive recreational uses only.” Claiming that along with the application they filed a Draft Declaration of Trust, and sent to the previous Town Planner to which he referenced one of the Zoning Bylaws, which described restriction to recreational uses, not passive recreational uses. He asked that the word “passive” be removed. Chairman P. McCormick asks if the Board and Town Planner can strike the word ‘passive’ from the final conditions. Which was agreed.

B. Bishop noticed that a few of the conditions seemed new. He wanted to know if moving forward, that the Planning Office would like all of the conditions presented, be standard conditions, where applicable. P. Foley clarified that some of these were ones that had been used in offices he was previously at and clarified that the reason for the meeting with applicant attorney and engineer was to ensure that everyone knew what was going on and that there wouldn’t be any miscommunication. There was some additional deliberation as to what was and wasn’t in the decision as well as some uncertainty about phrasing and how much or how little needed to be applicable.

R. Hamlin claimed that it was his understanding that the Board gave the Town Planner Administrative authority to come up with the conditions and work with the engineer for any edits needed. He wondered if they were to approve of the conditions presented why did they need to affect everything else that is going to come before the Board? P. McCormick clarified that these conditions have been proposed for this specific application. Going on to say that should the Town Planner and the Board agree to continue with these conditions in the future that is for us to take case by case. Some of these could potentially be used in the future but for the present moment are only being applied to the current case.

J. Eldredge comments that for the stone wall that was proposed, that the Board agreed it should go in front of Old Kings Highway, but because the Planning Board doesn’t usually interfere with another Boards decision, he wondered if the Planning Board should even be speaking about what to do with the stone wall if its already been decided on by another Board.

Motion: E. Patterson stated that she was in favor of passing the conditions as long as the word ‘passive’ is struck from the first condition

Conditions:

1. The Covenants and Restrictions offered for the Open Space Subdivision should reflect the presentation made to the Planning Board, restricting the open space to recreational uses only.
2. The Planning Board approved the following Waivers:
 - Waiver required for turning tee (4.B.2.b)
 - Waiver required for vertical curve length less than 100 feet (4.B.1.k)
 - Waiver required for positive grade entering subdivision (4.B.1.k)

-Waiver required for drainage leaching/reserve within road layout (4.C.2.g)

3. A Preconstruction meeting is required with the Department of Public Works, Engineering, Conservation, Water, Building, Health, Planning and the Fire Department before work begins. This shall include clearing, cutting, removal of stone walls, digging, foundations, etc...
4. The applicant, contractor and engineer shall be responsible for ensuring all work is performed in conformance to the construction and inspection requirements set forth in Section 5 and Section 6 of the Subdivision Rules and Regulations.
5. An approved Road Opening Permit shall be required prior to commencing any work within the layout of Sesuit Neck Road to access the site.
6. The stones of the stone wall, where the curb cut will be, shall be reused in the reconfigured stone wall leading into the property per the approval of the Old King's Highway District.
7. A Stormwater Management Permit Application shall be filed with the Building Department for construction of the Subdivision as shown on the recorded plans. This application shall include all necessary documentation, calculations, and certifications required in the Town of Dennis Stormwater By-Law.
8. The applicant, contractor and engineer shall be responsible for ensuring full compliance with the Town of Dennis Stormwater Management By-Law and the Approved Stormwater Management Permit. All erosion and sedimentation controls shall be in place prior to commencing any excavation or clearing, inspected by Dennis Engineering and Conservation, and maintained for the duration of the project.
9. The Property is in an Environmentally Sensitive Area (ESA) and will need a 16B variance from the Board of Health for each lot to be built upon. As conditioned by the Board of Health, no variance to Title 5 shall be allowed.
10. Much of the property is within the jurisdiction of the Conservation Commission and shall comply with any Order of Conditions.
11. The lot owners shall apply for all required permits and will comply with the intent of the Dennis Stormwater By-law, all requirements of the Dennis Conservation Commission and Board of Health and any other permits that are required.
12. Endorsement of the approval is conditional upon the provision of a performance guarantee, in the form of a Covenant duly executed and approved, to be noted on the plan and recorded with the Barnstable County Registry of Deeds, said form of guarantee may be varied from time to time by the applicant subject to agreement on the adequacy and amount of said guarantee by the board.

J. Eldredge 2nds

VOTE: Unanimous 6-0-0

Motion Verdict: Passed and approved of conditions

ADDITIONAL BUSINESS:

1. Multi-Family Housing Overlay Discussion

E. Patterson announced that she would be down from this hearing.

P. Foley gave a short summary of the project and noted he had also applied for a grant to hire a consultant to help with the public participation and design guidelines with respect to the various

housing issues, but that there wouldn't be any news about that until some time in October. In the meantime he has heard from members of the Planning Board and the Select Board who are looking to move the MFHO bylaw forward. Therefore, he will proceed on both the short-term and long-term tracks. He has revised the draft Multi-Family Housing Overlay from last year and will set out the ambitious schedule that will be needed to prepare it for the Fall Town meeting. Simultaneously they will await word on the grant and proceed with that when and if it is awarded. In the Meantime, the MFHO bylaw stalled for a while so Mr. Foley looked it over and brought up some of the changes he was suggesting for the Multi-Family Housing Overlay Bylaw as follows:

- a. Added 14.1.1 – Intent
- b. Added 14.1.2 - Any Special Permit issued for a MFHO development shall be subject to all state and local laws, rules and regulations...
- c. Changed 14.3.1 to by Special Permit with Planning Board as SPGA rather than by right.
- d. Lowered maximum height from 50' and four-stories to 35' and three-stories.
- e. Raised maximum building coverage from 30% to 40%.
- f. Lowered total site coverage from 70% to 65%.
- g. Raised parking from 1 space per unit to 1.34 parking space per unit
- h. Lowered maximum number of units per building from 30 to 25.
- i. Removed increasing density with increase of affordability. Density has been lowered to maximum 20-units per acre from 30-50 depending on affordability.
- j. Removed "High-Rise Residential". Added "Mixed-Use" as housing type option

He explained some of his reasoning behind the suggested changes and provided some background before passing discussion over to the Board for comments and questions.

B. Bishop commented that they need to get this over to the ZBSC fairly quickly due to the deadline for the warrant being September 19, to which he added that there would be no more than three meetings at the current pace the ZBSC were going. Going on to say that it would still take a significant amount of time for the ZBSC to really do something useful with it.

Chairman P McCormick Jr. thought that the proposed area is a more appropriate area and assumes that the ZBSC would be in even more support of it. After P. Foley brought up some visuals of the three draft possible districts and R. Hamlin commented that he was keen on saving that property for industry. He thinks that putting apartments there would help with housing opportunities. Stating that ultimately its more beneficial than it is detrimental. Additionally, he pointed out some corrections that needed to be made. He also wanted more input from Board member B. Bishop on the matter.

B. Bishop claimed that his findings based on the numerous ZBSC meetings he attended, he found that there was a significant amount of confusion and perhaps miscommunication about the project concept. His hope was that the information they receive from the Planning Board meeting will remove at least some of that confusion. He goes on to say that the Town Planner should give the ZBSC the lot sizes, number and owner, should also provide some additional clarity. He provides some additional information but overall, he seemed to think that the ZBSC needed some assurance that this project concept would work based on how it was being presented. He added that because of that he would

prefer a smaller map, and reduced conditions as he thought that would be the best way for the project to move forward. There was some additional discussion surrounding the Zoning using Industrial and residential as an example. P. Foley affirmed that within districts there could also be potential sub-districts.

J. Eldredge asked that, if you're at 2-3 stories why not 4 or 5 stories? To which B. Bishop said that not just members of the ZBSC but, other individuals as well just can't wrap their head around the idea of something being 4 stories tall. He goes on to say that some of the concern was about the building being a monolithic eye sore. The three stories, at least at the present moment seemed to be the most of what people could accept. He goes on to say that there didn't seem to a lot of advocacy for affordable homes. There was continued discussion about the visual presentation of the proposed buildings but also about what height to make them.

Chairman P. McCormick Jr. agreed with B. Bishop on the lack of support for affordable housing, and claimed that there was already a 4-story building in Dennis port, and that it looked not much different than the 3 story homes/buildings. This isn't our village to create necessarily. It should be up to those who are developing it. However, he added that the Board should have a say in the visual presentation to make sure it fits with the look of the surrounding homes and area.

There was continuous deliberation about one of the proposed changes in particular, d. Lowered maximum height from 50' and four-stories to 35' and three-stories. The consensus was to change the proposal from 35 to 40 ft and the three stories to three and a half stories, to which most of the other Board members seemed pleased with.

B. Bishop also suggested that the phrasing in different section of the document be changed from all incomes to a select range of incomes.

J. Eldredge added that the affordable rate that is calculated by the formula being put out there is really not affordable, as it was above rate that most of those whom the homes are intended for can afford.

Once a general consensus of agreement on the changes was made Chairman P. McCormick Jr. summarizes some of the key alterations to the proposed changes.

1. 4.1 Section 2 strike 'all' and change to 'range of'
2. 40ft high structures at three and a half- story
3. Section 14.3.2 G, fix typo of '30' to '25'

There was additional deliberation of some of the other changes after which B. Bishop presents the Motion.

Motion: To take the second of three maps presented by the Town Planner adding the 50' buffer along route 134 as stated in the bylaw.

R. Hamlin 2nds

VOTE: Unanimous 6-0-0

Motion Verdict: Passed

Meeting adjourns at 7:52 pm

Minutes Approved on August 7th 2023