



Town of Danvers
Planning Board

Danvers Town Hall
One Sylvan Street
Danvers, MA 01923
www.danvers.govoffice.com

James Sears, Chairman
Margaret Zilinsky
Kristine Cheetham
William Prentiss
Aaron Henry
John Farmer, Associate
Member

Daniel J. Toomey Hearing Room
June 9, 2015
7:00 p.m.
MINUTES

Chairman James Sears called the meeting to order at 7:00 p.m. Planning Board members James Sears, Margaret Zilinsky, Aaron Henry, William Prentiss and Associate Member John Farmer were present. Kristine Cheetham arrived at 8:00 p.m. Planner Kate Day was also present.

STAFF BRIEFING

Day told the Board that they have an application to add a second story to the building located at 96 High Street. The building is a craftsman bungalow next to Century 21. They want to bring it up one story to add additional office space.

Day said that there will be nothing to present to the Planning Board for the meeting scheduled for June 23rd.

Day said that she would be happy to reschedule a walk of the I-1 District. The walk done last Thursday was very constructive. The Lees were invited, but Jeremy Lee was out of town so the group did not take a tour of the Lee property. Sam Cleaves is coming to town to discuss the delivery time for the final report for the MAPC. June 30th was the theoretical deadline, but they may need more time.

Day said that last Tuesday night the Bike-Ped Committee, along with the MAPC, presented a bike-ped plan to the Selectmen. It was a constructive discussion, and they explained why connectivity is important. On Thursday evening, there was a workshop about the parking study done by Nelson\Nygaard. Attendees praised consultant Jason Schrieber's presentation.

There was a discussion among the Board concerning the summer schedule for the upcoming Planning Board meetings.

OTHER BUSINESS

Overlook and Hilltop Roads. Request by Folly Hill Realty Trust for reduction of performance guarantee for completed site improvements for a portion of the Definitive Subdivision known as Hilltop Estates Subdivision.

Albert Ellis, of 9 Dolliver's Neck Road, Gloucester, Massachusetts appeared before the Board on behalf of Folly Hill Danvers LLC. He is here to request a reduction of the \$550,000 bond, and he told the Board that they have a recommendation from the Engineer to reduce the bond to \$218,000. They have been doing the work that the Town Engineer, Rick Rodgers, wanted which included doing an overlay on the entirety of the road. They redid all the sidewalks and curbs, raised structures and did a top coat. They removed the ears of the cul-de-sac which were in the original layout of Overlook Drive. They have not completed all of the construction that needed to be done on that portion of the street. The work that remains are the trees and work on grass plots, delivery of a certified as-built plan and miscellaneous items. All of these items will be attended to in the fall. Ellis said that this should be the last request for a bond reduction for five months. He said that Mike Nelson has been terrific to work with and appreciates his cooperation and assistance.

Sears asked how many houses were left and Ellis responded seven. Ellis said that the historic limited liability company is selling the seven lots to a new entity. That closing will take place within the next 45 to 60 days, and those lots will be built out. The remaining nine lots, the last portion of Overlook, are listed in the MLS and they are entertaining offers from various developers.

Henry said this was all good news, and he is pleased the project is moving forward.

Zilinsky and Prentiss had no comments.

Farmer supported the reduction and felt with a Tripartite they should have some sort of acknowledgement from the bank.

Paul Galanes, from Peoples United Bank, addressed the Board and said that he has been working hard with the owners, the Town and Town Counsel. Real estate taxes have been paid and infrastructure done

Farmer said that when Engineering signs off, maybe the third party named on the Tripartite should confirm that funds are available.

MOTION: Zilinsky read the Certificate of Action and moved to approve the Request for Reduction of Performance Guarantee for Hilltop Estates subdivision. Prentiss seconded the motion. The motion passed by a unanimous vote.

FORM A

15 Florence Street/22 Hardy Street. Request by Paul Fitch for endorsement of Form A plan to reconfigure existing parcels to form two buildable lots and one non-buildable lot in the R-1 zoning district. (Assessor's Map 52, Lot 77) (*Approval Not Required Action Date: June 12, 2015*) (**Continued without discussion at the applicant's request to June 9, 2015**)

Robert Scarano appeared before the Board on behalf of Paul and Karen Fitch. He thanked Day for facilitating communication between Town Counsel and himself. He forwarded a letter to the Board indicating that there are factual issues outstanding. He felt that some of the issues being raised are a result of non-visits to the site. Town counsel questioned whether there is adequate frontage on the ground. Scarano asked the Planning Board to a site visit to determine whether the lots have adequate frontage. He said there is a prior ANR plan recorded with the Registry of Deeds that was approved by a prior Board. He felt the issues being raised now are contradictory since the only change is the applicant. He requested the Board make a site walk.

Henry said that he had the chance to drive down Florence and Hardy Street. He does not need a site visit because he felt the frontage did not exist on the ground.

Zilinsky said that she had not had a chance to go to the site. She was not sure that the Planning Board needed to do a site visit.

Prentiss said that he did not get down to the site. He is familiar with the streets, living not too far away. In his opinion, he was not sure looking at the maps that a site visit would make a huge difference in his opinion. This has more to do about a technicality about how rules are in place. Prentiss said he would do a site visit, but felt it would not change his opinion.

Farmer said that the question was whether there was 80 linear feet. He did not know how a site visit was going to help this issue. He does not have any objection going down to the site.

Scarano said that technical compliance was an issue raised by Town Counsel, and this would require a measurement on the ground. The 1999 ANR plan showed technical compliance by the fact that the roadway was accepted. These are public ways certified by the Town Clerk. The applicant believes he does comply with the rules.

Henry said that this was an ANR that many communities would endorse. The Town of Danvers has gotten to the point that this might not happen due to the advice the Board is getting from their attorneys. He doesn't care what are being done with the lots. Henry said he is looking at the statute and what our attorneys say. Henry felt Scarano was hoping an ANR plan would get through rather than submitting a subdivision.

Scarano said that the Board were listening to opinions from Town Counsel who said "seems like".

Henry asked Scarano if he was suggesting that the Board not follow Town Counsel's advice.

Scarano responded that the Board had an independent decision to make concerning the length of the frontage on Florence and Hardy Street, and he wants the opportunity to show the frontage is there. A determination needs to be made, and that is the factual issue in this case.

Sears said that the Board is not the finders of fact. The Board uses their experts to provide them with counsel. Just like the Board uses the Town Engineer, they rely on staff and Town Counsel. This is the opinion that we have been given to act on.

Scarano argued that Town Counsel has not been to the site. He felt the Board was willing to adopt whatever Town Counsel said.

Henry asked Scarano whether the Board should have come up with their own estimate on the reduction of the performance guarantee that was just before them.

Scarano said that the Board needs to rely on the Engineer's determination where the frontage is on the ground. He felt the Engineering Department should look and determine what the frontage is on Hardy and Florence Street.

Michael Duffy, 18 Hardy Street. Duffy said that this has come before the Planning Board along with the Conservation Commission and Zoning Board of Appeals. The ZBA determined that a conforming lot could not be divided into two non-conforming lots. The Conservation Commission has gone to the site a couple of times. Now there seems to be the question of existing frontage along with questions regarding property lines. Duffy felt that a determination on frontage can't come before the Board until property line issues are brought up.

Jim Morose, 20 Hardy Street. Morose said that a Form A application is supposed to be a fast track application when all criteria are met. He felt there were too many questions being raised. These plans are certified, and the 80 feet do not exist on the plans.

Janet Morose, 20 Hardy Street. Morose asked if the Board members had received the letter from their legal counsel. This was confirmed.

Bob Bradstreet, 18 Essex Street. Bradstreet said that he saw that they were dividing two buildable lots, but it also showed one non-buildable lot. He asked if a non-buildable lot can be made buildable by appeal, or does the lot become an island. Henry explained that the small sliver of parcel that was being created was to move lot lines to accommodate the neighbors. He explained this sliver would merge with the bigger lot.

A discussion ensued concerning the frontage and Town Counsel's opinion.

Sears was going to poll the Board concerning their vote. Scarano asked if a full Board was present, and Sears responded there had four out of the five members of the Board. Scarano asked the decision be made at another meeting since the full Board was not present.

A discussion ensued concerning Board members schedules for upcoming meetings. A recess was called to wait for the fifth Planning Board member, Kristine Cheetham.

Cheetham entered the meeting at 8:00 p.m.

Scarano addressed Cheetham and told her his concerns regarding Town Counsel's opinion regarding frontage.

Cheetham said that she had taken a look at the site and had reviewed the paperwork.

Zilinsky asked Scarano why he was coming before the Planning Board if there was an approved ANR plan from 1999.

Scarano explained that they were reconfiguring a lot line. He approached the Board and showed the line on the ANR plan. He explained that Mr. Morose's garage encroaches on the Fitch property, and they are looking to carve it out and give this property to Mr. Morose.

A discussion ensued between Scarano and the Board concerning the frontage and Town Counsel's opinion.

Sears asked Scarano if he had had a conversation with Town Counsel. He replied that they never got to boil it down to determine what the footage on the ground is. He felt it is the Planning Board's duty to interpret what the bylaw says.

Another discussion ensued relative to the communications between Scarano and Town Counsel.

Sears asked Cheetham if she had sufficient knowledge to act on this application this evening. Cheetham felt in her mind it met the requirements. She has seen the cul-de-sac on Hardy Street. The people have a nice neighborhood. She does not have a problem with the ANR. People now have a nice coastal view and do not want a house there.

Prentiss felt that the problem has to do with whether the frontage is long enough. This is an opinion between two attorneys. He said that the Board has never created non-conforming lots. The determination as to whether the frontage is there is the question between the two attorneys. Prentiss said that he would have to vote against the application. It would not stop the applicant from presenting a subdivision application.

Zilinsky said that she agreed with Prentiss. If the dispute is between Town Counsel and the applicant's legal advisor, she would have hoped that they would have worked it out. She said that she has a question about the frontage. She would like to see what the Conservation Commission has to say. Given our legal guidance, she is not comfortable going forward and voting in favor of this application.

Henry agreed with Zilinsky.

Sears stated that he was in agreement with the Board.

Scarano said that he was here to request a site walk. He said that if the Board was not going to do a site walk, he would request to withdraw the application without prejudice.

Sears asked the Board if they felt there was a necessity to do a site visit. Zilinsky said even if she saw the site, she would not vote for the application.

Sears polled the Board, and they did not see the need to do a site walk.

Scarano asked to withdraw the application without prejudice.

MOTION: Prentiss moved to accept the withdrawal of the ANR application for 17 Florence Street and 22 Hardy Street without prejudice. Zilinsky seconded the motion. The motion passed by unanimous vote.

Scarano asked if they resubmitted the application, could the fee be waived.

MOTION: Prentiss moved to waive the fee for a future application for an ANR for 17 Florence Street and 22 Hardy Street. Henry seconded the motion. The motion passed by unanimous vote.

MINUTES

May 26, 2015

MOTION: Henry moved to approve the minutes of May 26, 2015. Cheetham seconded the motion. The motion passed by a vote of 4-0. Zilinsky abstained.

Sears asked Day to recap the site walk and discussion at the parking study workshop.

Day said that she would be happy to schedule an afternoon site walk. They met and spoke with the group that is contemplating potential redevelopment of one of the buildings in that area. They looked at all possibilities and densities. The site is about an acre. The proposal contemplates redevelopment of 22 residential units with a nice mix of ground-floor commercial uses. Jason Schrieber, from Nelson/Nygaard, was there for both discussions and he provided his observations.

Day reported that the parking Open House on Thursday, June 4th, was well received by the over 50 participants at this open forum, which was very interactive in its format. The consultant explained that there is a compromise between the parking and development that you want, and they will craft their recommendations how to do this. Nelson/Nygaard will be doing an analysis on land uses in the downtown as it concerns parking. They came up with a figure of 1,600 parking spaces in the downtown area. The grant funding cycle terminates June 30th and they may need some more time.

Day said that Cleaves is coming to meet with staff to talk about the completion date of the MAPC report. He was also present at the site walk and at the parking meeting. Day said that they may be looking to push back the deadline to the end of July. We have to be patient to see how the scheduling works out.

Prentiss said he would like to do a site walk.

Cheetham pointed out that there are a lot of small houses in the back of this industrial area. The area needs to blend. They need to see how well they can transition this area. When the zone changes to commercial, it can change the dynamic of the neighborhood.

Zilinsky said that those industrial buildings have a lot of land. She was amazed at the “open space” in that area.

Day said that there was a site on Maple Street, near Hannah Engineering and the HVAC building, that has a very large parcel that is deep. This would be perfect for underneath parking. Schrieber will provide his observations.

Sears confirmed that they were not going to have a meeting on the 23rd of June. The Board decided to wait and see whether they would forfeit one of the meeting dates in August.

ADJOURNMENT

MOTION: Prentiss moved to adjourn. Zilinsky seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 8:45 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on July 28, 2015.