



*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

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**Daniel J. Toomey Hearing Room**  
**August 11, 2015**  
**7:00 p.m.**  
**MINUTES**

Chairman James Sears called the meeting to order at 7:15 p.m. Planning Board members James Sears, Margaret Zilinsky, Kristine Cheetham, Aaron Henry, William Prentiss and Associate Member John Farmer were present. Planner Kate Day was also present.

**STAFF BRIEFING**

Day said that the next Planning Board meeting is September 8, 2015, and a few new applications have been filed. There is a proposal for 22 Page Street for a residential development, along with a few smaller matters. The Danvers Traffic Advisory Committee (DTAC) did meet regarding the Cumberland Farms proposal. The consultant from BETA Group, Inc. was at the meeting, and the applicant was happy to pay for the peer review fee. A report should be available for the meeting on September 8<sup>th</sup>.

**CONTINUED PUBLIC HEARING**

**76 Newbury Street.** Request for Special Permit and Site Plan Approval pursuant to Section 30 and Section 4 of the Zoning Bylaw submitted by TMC CF New England, LLC for property located in the Highway Corridor District. The applicant proposes to demolish the existing building and construct a 4,738 square foot New England-style retail convenience store along with the installation of three sets of double row dispensers (six gas dispensers). (Assessor's Map 48, Lot 7) (*SPA action date: September 9, 2015/Special Permit action date: September 9, 2015*) (**To be continued without discussion at the request of the applicant to September 8, 2015**)

**MOTION:** Prentiss moved to continue the public hearing for 76 Newbury Street to the next Planning Board meeting scheduled for September 8, 2015. Cheetham seconded the motion. The motion passed by unanimous vote.

## **OTHER MATTERS**

**100 Kirkbride Drive.** Request for a Minor Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Hathorne Hill Homes, LLC for property located in the Hathorne West Zone District. The applicant proposes to relocate parking spaces. (Assessor's Map 24, Lot 22) (*SPA action date: September 22, 2015*) **(To be continued without discussion at the request of the applicant to September 8, 2015)**

**MOTION:** Prentiss moved to continue the minor modification application for 100 Kirkbride Drive to the next Planning Board meeting scheduled for September 8, 2015. Cheetham seconded the motion. The motion passed by unanimous vote.

## **PUBLIC HEARING**

**28 Elm Street.** Request for a Site Plan Approval submitted by Amanda Lyons Brinkley and Clarence R. Lyons, III, Trustees of Lyons Realty Trust for property at 28 Elm Street, pursuant to Section 4 of the Zoning Bylaw. Said property is located in the Commercial-1 Zoning District. The applicant proposes to construct a 701 square foot single story addition to the existing building. (Assessor's Map 43, Lot 341) (*SPA action date: September 4, 2015*)

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Amanda Lyons Brinkley and C.R. Lyons. Also with her was Scott Cameron, Project Engineer, and Peter Pitman, Project Architect. McCann said that the applicants were proposing a small addition to the side of the building, which will be 701 square feet. The purpose of the addition is to make the building more handicapped accessible to provide access to the building as well as within the building. The addition itself will allow a handicapped ramp that will be in the handicapped accessible view room. There will be handicapped accessibility to the front of the building. They are trying to keep pace with the handicap regulations. The streetscape will not change. McCann said that you will not see the addition unless you look directly at the property. Funeral homes are not a permitted use in this zone. She told the Board that a finding to allow the alteration of the non-conforming use was received by the ZBA. McCann said that the landscaping is being reduced slightly, but they will enhance the landscaping they presently have. She said that parking is grandfathered on the site. The property currently has 16 parking spaces on site, and those 16 parking spaces will remain. McCann stated that street parking is available. There is a municipal lot across the street. The applicants do control parking on two parcels abutting the property for a total of 30 parking spaces.

Scott Cameron, from The Morin-Cameron Group, Inc., addressed the Board and described the site. He showed how they would be adjusting how the site is laid out. The four parking spaces on the side of the building will remain, and they will be adding a handicapped space. He stated that a handicapped ramp will be reconstructed in concrete at the front of the building. There will be a new handicapped ramp in the back. Cameron showed the 16 parking spaces on the site along with the adjacent properties with cut-throughs to allow more parking. Cameron described

the landscaping stating that the front is nicely maintained. He said that one tree was removed from the side of the building and a large tree will remain. The improvements in landscaping will be focused around the addition. He showed the landscaping plan to the Board. He said it would be a mix of perennials and grasses with a good mix of color and quality. It will enhance the rest of the property visible from the street, especially from the back. There is a slight reduction in landscaping. There is presently 24% landscaping. It will be reduced to 20.7%, due to the 700 square foot addition. Cameron said that there were waivers related to the existing conditions of the site. They were requesting a waiver to combine all plans into one plan. They were requesting a waiver of off-street loading and waste disposal, along with a minor landscaping waiver to maintain conditions on the site. Since there is an increase of 400 square feet of impervious area, a roof drywell was proposed to mitigate the slight increase of roof runoff from the addition.

Peter Pitman, from Pitman & Wardley Architects LLC, addressed the Board. He said that the key component was handicapped accessibility. There is a non-compliant ramp right now, and this will be reconstructed and redone to be compliant, along with a second means of egress. The addition will be located on the side of the building. He explained how they wanted to tie in with the existing period details to mirror the existing vernacular.

McCann told the Board that favorable comments were received from the Building Dept., Fire Dept. and Engineering Dept.

Cheetham asked about lighting and snow storage. Cameron showed the snow storage area on the plan. Excess snow will be hauled off the site. Pitman described the lighting and said that there would be sconces at the doors. There would be minimal lighting on the ramp. Cheetham asked if there would be any posts in the lot, and Pitman responded no. Sears asked for the lighting cut-sheets to be given to Day.

Zilinsky asked McCann if they met the requirement for a funeral home for parking. Is a waiver needed for parking? McCann responded that they do not need the parking currently, but they are grandfathered. Cameron said that there are 16 parking spaces on-site. McCann said that they are maintaining what they currently have. They have off-street parking available, the municipal lot across the street and the parking on the abutting parcels.

Zilinsky asked if it was appropriate to ask for a waiver since the site does not comply with zoning. McCann said the parking was grandfathered, but if the Board thought it was necessary she would ask for a waiver.

Prentiss agreed with Zilinsky. He would like to see the waiver for parking. He had no problem with snow removal.

Farmer asked if this was currently a mixed-use building. McCann said that there was an apartment upstairs. Farmer asked about parking for the tenants. Cameron explained there were 14 on-site and 2 for the tenants. Farmer asked if this proposal was to increase the capacity of the funeral home. McCann pointed out that this was not to increase the number of funerals or

capacity of the funeral home. It was to address handicapped accessibility. It makes the viewing rooms within the facility handicapped accessible, and includes a handicapped bathroom.

Elaine Glass, 69 Pine Street. Glass questioned the gable on the house and asked if it was going to be a two-story structure. Pitman said that there would be no occupiable square footage. The gable is to allow a slightly higher ceiling.

**MOTION:** Prentiss moved to close the public hearing for 28 Elm Street. Zilinsky seconded the motion. The motion passed by unanimous vote.

**MOTION:** Prentiss read the Certificate of Action and moved to approve the Site Plan for 28 Elm Street. Cheetham seconded the motion. The motion passed by unanimous vote.

## **MINUTES**

July 28, 2015

**MOTION:** Zilinsky moved to approve the minutes of July 28, 2015. Henry seconded the motion. The motion passed by unanimous vote.

Sears recused himself and said that Zilinsky will take over as Chair of the meeting.

## **PUBLIC HEARING**

**Whipple Hill.** Request for a Cluster Development Special Permit and Preliminary Subdivision Plan submitted by Whipple Hill, LLC for a portion of 155 Hobart Street containing approximately 13.5 acres of land as shown on Assessors Map 42, Lot 8A pursuant to the Rules and Regulations Governing the Subdivision of Land, Town of Danvers Planning Board. Said property is located in the R-II Zoning District. The applicant proposes to construct a 20-lot Cluster Subdivision under Section 33 of the Danvers Zoning Bylaw. (Assessor's Map 42, Lot 8A) (*Preliminary Subdivision action date: August 27, 2015/Special Permit action date: 30 days after the close of the public hearing*)

Zilinsky read the legal notice and opened the public hearing. Zilinsky explained that there were two hearings this evening. One is for the preliminary subdivision, and one is for the special permit. She asked Henry to read the requirements for a preliminary subdivision and special permit for cluster subdivisions to make sure the audience understands the procedural process. Henry explained to the audience that subdivisions are a by-right process. If you hit all requirements set forth in the subdivision regulations, the Planning Board must approve the plan. Sometimes waivers are requested, and then the Planning Board has some discretion in those instances. He explained that in the second item, the applicant was asking for was a special permit for a cluster subdivision. Clustering is a special permit which is a discretionary permit.

This could be denied by the Planning Board. The Planning Board will weigh the two development proposals to see what makes more sense for the community. He hoped his explanation has set the stage as for what the Planning Board can and cannot do. Henry felt it was important that people understood what the powers of the Planning Board are in this situation.

Zilinsky explained that the preliminary subdivision approval requires a majority vote of the Board, which with one member recusing himself means three votes out of four. However, for the special permit, the associate member is allowed to join the Board for a five member vote to allow a super majority of the Board. This means that they would need four votes of approval to allow the special permit.

**MOTION:** Prentiss moved to allow the associate member, John Farmer, to join the Planning Board for the deliberations of the vote of the special permit. Cheetham seconded the motion. The motion passed by unanimous vote.

Zilinsky addressed the audience and explained how the process would happen. She said that the applicant will present. The Board will question and make comments based on the presentation. Once this has been completed, the meeting will be opened to the general public. Zilinsky said there was language in the handout provided regarding participation. Cheetham read the language.

Zilinsky said that they were going to try to limit the audience comments to about 25 minutes. She explained that this hearing will probably be continued to September 8<sup>th</sup>.

Attorney Nancy McCann appeared before the Board on behalf of the applicant, Whipple Hill LLC. McCann gave the audience a brief history of the property located at 155 Hobart Street. The property is owned by the Roman Catholic Archbishop of Boston and is used as the St. Mary's of the Annunciation Cemetery. About two years ago, the owner began the process regarding the possibilities of future expansion of the cemetery and estimated what would be needed for a cemetery for the next 50 years. It was determined that there was about 13 ½ acres that would not be needed for expansion going forward. In the fall of 2013, St. Mary's and the Roman Catholic Archbishop of Boston wanted the Town to have the opportunity to look at this property for open space going forward. The Town was approached to see if they wanted to purchase the property. That process went on for six months. The Town was offered the property formerly in February of 2014, and was given 60 days to review the property. Appraisals were done and extensions granted. In June of 2014, it was determined that the Town did not want to acquire any portion of the property. At this time the owner and parish marketed the property, and it was put under agreement by Whipple Hill, LLC, who is Gordon Thompson, Cheryl McDonald and John Thompson. They are very well known to the Town, and have done a lot of quality work.

McCann said they learned through conversations with various staff of the Town that a cluster subdivision might be appropriate for this particular piece of property. It consists of 13 ½ acres abutted by the remainder of St. Mary's Cemetery, Endicott Park, Clark Farm and other residential homes. Based on what was heard during the process leading up to where they are

now, they came up with a cluster development proposal. As the chair alluded to, cluster special permit goes hand in hand with the subdivision regulations. McCann explained that cluster approach would allow a development of property for residential uses allowing using less of the site for building purposes and leaving more open space. She explained that they cannot do any more lots in a cluster than what could be done in a conventional subdivision. Under a standard subdivision, a 20-lot conventional subdivision could be developed on this site, which sets the number of lots allowable under a cluster approach. They have guidelines for lot size, frontage and how much open space if needed. A cluster subdivision plan has been submitted with the cluster special permit. In conjunction with the special permit application, a preliminary subdivision application can be filed. A cluster subdivision is a two-part process. The bylaw allows filing of the preliminary subdivision plan, along with the special permit.

McCann explained that a conventional subdivision would have 20 lots, but they would not need the special permit process. A cluster requires the developer to go through an additional approval process. We think it is the appropriate site for this. The special permit decision needs to come first. If the special permit is granted, there would be another hearing for the subdivision. There is a lot of review that goes into the cluster subdivision process. If the special permit is not granted, a conventional subdivision plan could be done in its place.

The cluster subdivision presented is an extension of Sandpiper Circle. This was made possible in 1966 through the Sandpiper and Bayberry development. It would be a 20-lot cluster subdivision with twenty-percent being left in open space adjacent to Endicott Park, which is owned by the Town. The open space would remain in perpetuity with a deed and a conservation restriction. McCann said that they have utilized the natural division by virtue of wetland locations. The cluster fits well on this site with no disturbance of wetlands or buffer zones.

Scott Cameron, from The Morin-Cameron Group, Inc., described the neighborhood aerial plan. Cameron started his description of the plan set with Sheet 4 which was the conventional plan. He highlighted the delineation between the cemetery and the subdivision area. This plan is a conventional plan which followed the zoning bylaw with area and frontage. There is a high point or ridge on the site where the road is shown. The topography is a gentle slope and is walkable. The "T" cul-de-sac would go over a bridge or culvert.

Cameron said they looked at the conventional plan to see what could be done for a cluster development. He said it was determined that the cluster subdivision could yield 20 lots. The cluster/special permit looks at reducing the lot size from 20,000 square feet to 12,000 square feet. You can go down on frontage. This enables a developer to shrink the size of the footprint of the development with preserving open space. With flexibility with the design of the lots, they can provide open space with less infrastructure, less pavement, less roads, and clearing of trees. The wetland would not be affected. The subdivision would extend off Sandpiper.

Cameron described the lotting layout where you can see the geometry of the lots. They went with a fifty-foot right-of-way. It shows the perimeter of open space. The special permit says you need to provide 30% of the property as open space. They are providing 32.7%, which does not include access points and buffer zones, so it is closer to 36%.

Cameron described the plan and profile. This is a preliminary plan to show the topography to see slopes of the roads. They are looking at grades between 4.5% and 5.5%. The bylaw allows a 10% grade. The goal of the design was to follow topography to conform to the land and minimize disturbance and infrastructure.

Cameron said that they initially asked for one waiver and engineering commented stating the 600 foot waiver on the dead end street is acceptable as long as the water main is looped. Cameron said the water main loop will be extended to another main water connection. Weston and Sampson did a water analysis for flows and pressures. He said that neighbors are familiar with this due to the lack of water pressure. If the water is looped back, domestic water use may need booster pumps in the homes. The fire flow was the big improvement. By installing the water main, we will exceed the fire code requirement. There will be an improvement in water quality as well, as there will be more of a fluctuating water flow.

McCann summarized that the cluster layout and subdivision offers benefits aesthetically, environmentally and practically from a utility standpoint. These benefits make the cluster subdivision superior to a conventional subdivision. The cluster provide 30% to remain as open space. The cluster would create less utility service and pavement. It will not impact wetlands or the buffer zone. They will be creating a water loop. This is a process to be continued to the next meeting. This meeting was to start the discussion and get input in order to be prepared to come back at the September meeting to address comments heard from departments as well as the Board and audience.

Cheetham asked if they could provide a brief overview as how things are prepared for clearing and flow down the hill.

Cameron responded that the drainage analysis has not been done yet. The soil testing has been done. The engineer highlighted Ashley Lane in his comments to manage stormwater. They will collect everything in the center of the property and retain it. It will be discharged down towards Hobart Street. There would not be a lot of drainage back towards Sandpiper itself. He described the high and low points. He showed where they would try to catch drainage along the boundaries.

McCann said under a preliminary plan, a full stormwater report is not done. Stormwater will be addressed later.

Cheetham asked Cameron to point out where the drains would be on the property. Cameron pointed to them on the plan and stated that they were at the naturally low points of the property.

Henry asked some questions that he felt may not be able to be answered tonight, but he wanted to get them on the table. He questioned the length of the dead-end street. He asked if they were measuring from the intersection of Sandpiper and Bayberry, but Bayberry is a dead end way. The bylaws state that the dead end street should be limited to 600 feet to avoid creating dead end water mains. But it does say if a water main is connected, the Board “may” waive. He asked

what if the Board did not waive this requirement. He questioned what the plan would look like if that waiver did not happen since the language says “may” waive, not “must” waive. This is critical for him. He is concerned with Lots 14 and 18 on the proof plan. Lot 14 has the wetland crossing. Between the driveway setback requirement and wetland no-build 35 foot buffer zone, is there room for the driveway? He questioned whether there are really 20 lots. Henry questioned the road width being classified as a minor road. A minor road serves 20 homes, but there are two roads leading to it. Henry questioned whether Sandpiper was serving 22 lots, and if so, would it not be considered a local road. He would like this clarified.

Henry discussed the road length again. He stated that the cluster proposal has shorter roadways than the proof plan shows. He would like this quantified. He would like to know how much less road the cluster has. He would like to know the difference between the cluster and conventional plan not only in road length, but in earth disturbance. Henry said that he would prefer a cluster to a conventional subdivision.

McCann said that they did have some of the answers tonight, but they preferred getting all the answers to review in detail at the next meeting.

Prentiss said that Henry touched about the waiver of the length of the road. He felt it was dependent on the type of water system and approval through the Engineering Department whether something like this can be done. He would like this explained because his vote on a waiver of this would depend on whether Engineering agreed with the changes to increase the water. Prentiss said that he understands that the cluster increases the density. He questioned the western portion of the site left as open space which was included when the numbers were given to come up with 20 lots. He asked whether these lots were buildable lots to begin with given the location of the water lines. He said that if this is a buildable area, he understands how the number is 20. If it is not a buildable area, does it include the open space numbers to bring it up to 20. McCann responded that it is a buildable area. She said that they met with staff, including the Building Inspector, regarding a conventional layout. What was included in the conventional 20, those are buildable lots. Prentiss said that he would prefer a cluster approach and wants to see the open space.

Farmer asked if they had looked at any other options as to where the open space could be reallocated in the cluster.

Cameron said that in looking around the property, there was residential on every side of the site with the exception of Endicott Park and Clark Farm. They were looking to have continuous open space with other open space parcels, and it seemed like the most logical place.

Farmer asked if the neighborhood was consulted, and McCann responded that was the purpose of tonight’s meeting. McCann said that during every site walk and discussion there was no question the the most desirable area for open space would be where it was contiguous to other open space. Farmer confirmed the linear calculation for roadway length.

Zilinsky said that she was concerned with the stormwater. She likes the cluster plan better, but there are a number of issues that will come up at the next meeting. She opened the discussion to the audience.

Keith Lucy, 7 Ashley Lane. Lucy said that he abuts the parcel on the northeast corner of the site. He wanted to correct a statement earlier in the meeting where it was said that the surrounding lots were homes consisting of 6,000 to 25,000 square feet. He said that there are homes in that area on lots upwards of 75,000 square feet, and he cannot find one that is below 20,000 square feet. He met with 20 to 25 abutters last Saturday. Lucy said there was flooding in his back yard which was resolved with a pipe that ran through his yard as well as neighbors yards to a retention pond. He pointed out that the retention pond proposed in the new subdivision would then run into the retention pond at the end of Ashley Lane which is not what it was designed for. There is significant water in this area. When purchasing the property, one of the best features was that it abutted the cemetery. He said when the Town did not want to purchase the property as open space, he offered to purchase 10,000 square feet of land that abuts his land. However, they could not come to an agreement. This happened in the fall of 2014. During the past winter, the property was marketed, and an agreement was reached. In July of 2015, the neighbors are finally brought into the process. If they had spoken with the abutters, they would have been told that any development that involves a cluster that does not benefit everyone should not exist.

Lucy said that with a cluster development, his direct abutters would move from two to three. He knew that this may seem like a “NIMBY” attitude, but the bylaw has a clause where the cluster states it will have no more adverse impact on nearby developed neighborhoods. He felt that increasing his abutters from two to three, and moving homes closer to his back yard affects his privacy and his views. He stated that a conservation easement or restriction on the property does not transfer ownership to the Town. This is not going to be an extension of Endicott Park. The Town was offered to acquire a smaller parcel of land for \$400,000. The Town did not purchase the property after a memo from the Open Space Rec and Advisory Committee. Lucy felt that privacy and use will be degraded. The homes on Bayberry have built-in landscape buffering, but his home will not have buffering. Properties on Robert Road have built-in landscape buffering. He felt that Clark Farm should not be lumped together with Town open space. Lucy felt that smaller lots and less privacy will not have a large purchase price. He is not opposed to the development. He asked for a rejection of this plan and to have the developer come back with a different cluster plan or a conventional subdivision.

Amy Maxner, 4 Sandpiper Circle. Maxner said that the cluster subdivision is a choice. If the cluster proposal gets too contentious, you can do a conventional. She believes in the principles of a cluster, but it benefits one part of the parcel. The City of Beverly requires at least two to three conceptual plans of the clusters to see the different options. Maxner said she is ambivalent whether the open space should be owned by the Town. If the land was private, it could be better allocated to have a better screening and buffer for abutters. Maxner said that with a 10-foot buffer, not even three inch trees would survive the excavation that would happen. She felt it was the Planning Board’s discretion to ask the developer to evaluate a 25-foot buffer to see what could be preserved for privacy that would be lost if it were only a 10-foot buffer. She felt it was the Planning Board’s discretion to request alternatives to the cluster.

William Clark 163 Hobart Street. He said that he was the largest private abutter to this property. He felt there were inaccuracies to the plan. He said he was advised by Town Counsel to recuse himself from any meetings or discussions about this development until tonight's Planning Board meeting. He said that Ganson's Lane was inaccurately set forth on the locus map. Ganson's lane goes from Hobart Street northwest 500 feet between the cemetery and his property. This is not shown correctly on the map. He has concerns with the four water retention areas on the map. Two of them are at 45 degree angles, and this would not work. Clark asked where the water loop was going to go. They are going to put 20 houses that have 150 foot elevations. He felt there was going to be a significant reduction of pressure. Clark felt it was very important to allow the public to have access to the open space. He felt they made a mistake with the Choate Farm development. The public cannot access the Swampwalk from Locust Street, and he felt this was very important. Clark corrected Lucy by saying that there was a deeded 20-foot recreational easement to the Town on his property.

Audrey Michaud, 4 Bayberry Road. Michaud was concerned that there was one way into the development. Bayberry Road is a circle which leads to Sandpiper and is the only way into the subdivision.

Holly Gould, 154 Hobart Street. Gould is concerned with water drainage. Her house floods all the time now. What is this development going to do once built? She also pointed out that there is a corridor of wildlife that uses this property. She felt it was sad that it might no longer be there.

David McKenna, 383 Andover Street. McKenna said that they are surprised that they are selling the land. He is concerned about the drainage because water will seep down four feet and run downhill. He does like the cluster development. He asked if these will be smaller homes to be more affordable to the residents of Danvers. He felt smaller lots with smaller homes will be a benefit to the Town in general.

Robert Shay, 5 Ashley Lane. Shay said that he would like to see some alternatives. He would like to see some of the open space moved to have a wider buffer zone between the development and the neighborhood.

David Gagnon, 4 Lantern Lane. Gagnon said that his house sits near where the largest retention pond is going to be for the development. He has lived at 4 Lantern Lane since the Ashley Lane development. He said that the retention pond at the end of Ashley Lane was supposed to be maintained by a homeowner's association. Now it is the responsibility of the Town. Right now that retention area is overgrown. After the development is built, it will work fine, but what is going to happen 10-15 years later when the retention area is overgrown. Who is going to be responsible for maintaining this retention area? Gagnon pointed out that the water retention areas are at the low points of the development, but not the low points of the neighborhood. He felt if the development was moved, you could end up with a 30-foot buffer around the entire area.

Maureen Jordan, 146 Hobart Street. Jordan felt that 20 houses was an overestimate. Could it be a few less houses. It may help with the water. She is concerned with the school system and traffic. She said that Forest Street also floods.

Zilinsky asked the Board if they had any questions based on any of these comments. They decided to do a site walk for the Planning Board and staff, tentatively scheduled for August 27<sup>th</sup>. There will be no deliberations at these site walks. It is just a review of the site.

**MOTION:** Prentiss moved to continue the public hearing and extend the action date for the Special Permit and Preliminary Subdivision to September 30, 2015 for Whipple Hill. Farmer seconded the motion. The motion passed by unanimous vote.

## **OTHER MATTERS**

**31 Elliott Street.** Request for a Minor Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Edmunds Cove, LLC for property located in the Residential-II Zone District. The applicant proposes to revise the Edmund's Cove Landscaping Plan by eliminating a proposed fence along the east property line and installing landscaping. (Assessor's Map 44, Lot 26) (*SPA action date: September 4, 2015*)

Attorney Nancy McCann appeared before the Board on behalf of her client, Edmunds Cove LLC. She said that the Project Engineer, Vaclav V. Talacko was not available to attend this evening. She said that John Thompson was present this evening. McCann said if technical questions arise, they can continue to the next meeting.

McCann said that they had proposed a stockade fence for the Edmunds Cove development. They wanted to change it to live landscaping which would also provide sound attenuation. This was discussed with staff at the end of the year as an appropriate measure. We did not go through the whole process with the Board because we thought it was going to be more administrative. We are now coming to discuss this. The landscaping has been installed. McCann said that they had a response from the only abutter that seemed to be favorable to the living screen rather than the stockade fence. She said that Engineering did not have a problem with the modification.

Cheetham said that she recalls that the abutters had a lot of concerns about the fence and landscaping. McCann pointed out that it was the same abutter who sent in the letter not opposed to the additional landscaping. Cheetham said she did not have a problem with this. She would not mind landscaping; however she would like it to be varied in species.

Henry said that the abutter while seemed to agree in concept, she had some specific requests. Were these done? Thompson said that 93 to 94 evergreen pine trees are being planted between the abutter. The abutter is concerned with headlights and she is looking for some additional landscaping next to her daughter's home. Henry reprimanded the applicant saying that he knew better. This needs to be done in advance and did not like that they were here after the fact. Day said that they had thought it could be done administratively. She asked for a plan, but a plan was never provided. Thompson took the blame for the application not being submitted.

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Prentiss said that he did not have much of an issue with this. He liked the vegetation as opposed to fencing. Prentiss asked why staff recommended a site visit. Day said that it might be of some help in the discussion, particularly since Engineering questioned whether sound would be mitigated without the fence. Prentiss confirmed where the landscaping would be. He is not opposed to a site visit or site walk. He asked if they could do it the same time as the site walk for Whipple Hill.

Farmer said he had been on the site and was amazed how quiet it was. He asked if the existing homeowners were amendable to the change. This was confirmed.

Cheetham asked what the height of the fence was and Thompson responded six feet. Cheetham felt that a six foot fence did not buffer that much of an acoustical barrier. She said that she did not see the need to do a site visit. Zilinsky felt they should do a site visit because Engineering recommended the planting revisions be reviewed prior to approval. Thompson said that all the trees are not in yet.

Prentiss said that he did not have a problem doing a site visit, but it would be more for curiosity to see the site.

Henry said that a six-foot vinyl fence would not offer the same acoustical benefits as a mature pine. Day asked if a model was available at the site for them to view.

McCann said that the site visit could be scheduled the same night as Whipple Hill, or the Board can drive out on their own to see the site. She told the Board that Whipple Hill would not be a short site visit.

Henry did not see the need for a site visit. Prentiss said he could vote on this application tonight, if the rest of the Board was willing. Farmer said that he has been at the site, and homeowners are happy.

**MOTION:** Prentiss moved to find that the requested modification represents a Minor Modification at 31 Elliott Street, and to approve the modification as requested. Henry seconded the motion. The motion passed by unanimous vote.

**Twin Echo Lane/Duffill Drive.** Request by Twin Echo Development, LLC for extension of Tri-partite Agreement for the Definitive Subdivision known as Twin Echo Lane. (Assessors Map 39, Lots 50, 50A & 51).

Attorney Nancy McCann appeared before the Board on behalf of her client, Twin Echo Development, LLC. The Tripartite Agreement was going to expire at the end of August. They are asking for an extension of the Tripartite Agreement to November 30<sup>th</sup>.

Farmer asked if the bank was in agreement. Day said that they will have to sign the Tripartite Agreement.

**MOTION:** Henry read the Certificate of Action and moved to approve the extension of the Tripartite Agreement to November 30, 2015. Prentiss seconded the motion. The motion passed by unanimous vote.

**Request for Endorsement of Street Acceptance Plans for the Hanson Road Extension.**

The Board endorsed the street acceptance plans for Hanson Road Extension.

Discussion: Proposed addition of WUMP payment condition to “General Conditions” appended to Site Plan Certificates of Action.

Day said that when the WUMP program was developed, there was some question as to when would be the appropriate time to get the payment from the developer. The Building Inspector, Rich Maloney, wanted it at the issuance of the building permit. It became the decision of the DPW, who made it at the time of the Certificate of Occupancy. It has been determined that this is not a good time to spring it on the developer. A decision has been made to have the payment made at the time of issuance of the building permit. The DPW has asked the Planning Board to incorporate this change the general conditions of the Certificate of Action.

Cheetham questioned if the WUMP fee was being added to all of the developments and Day responded that it was for the criteria of multi-family developments that are going to impose increased water demand. Funds are used to mitigate with rebates for toilets and dishwashers. Skyzone was hit with a very high WUMP fee and the developer was not happy. The WUMP fee is the result of a lawsuit and the Town is obliged to follow the letter of that settlement.

A discussion ensued regarding the WUMP fee and the applicability.

Day explained that every decision that requires a WUMP fee goes to the DPW. She said that there is communication from Engineering in their memos that refer to the WUMP fee. She said they try to insert this language in their decisions, but even if it is missed, it is still incumbent of the DPW to impose this.

Cheetham felt if you were going to put that language under general conditions, there was a sentence that stated, “if you are subject to it”, so she felt it was not a general condition. If it is conditional, it should read, “based on a determination from the DPW”, so the applicant understands how that determination is being made.

Day agreed and said they could elaborate. Henry was fine with this since it pointed the applicant to the appropriate contact.

Prentiss wanted confirmation that the Board could make these changes to the general conditions on their own, and Day confirmed this.

**MOTION:** Henry moved to adopt the WUMP language be added to the general conditions with clarification that Cheetham offered. Prentiss seconded the motion. The motion passed by unanimous vote.

## **ADJOURNMENT**

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

The meeting adjourned at 9:45 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on September 22, 2015.