



TOWN OF EASTON
Planning & Zoning Board
136 Elm Street
North Easton, Massachusetts 02356
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Regular Meeting – Tuesday, May 26, 2009

Board of Selectmen Meeting Room
Easton Town Offices
136 Elm Street, North Easton, MA 02356

Present: Christine Santoro, Chair; Walter Johnson, Gregory Strange, John Duggan, Alice Savage, Acting Director of Planning, Pamela Almeida, Recording Secretary

Absent: Colin Gillis, Clerk, Peter Deschenes

Christine Santoro called the meeting to order at 6:30 p.m.

6:30 P.M. BOARD BUSINESS

Chair Report: Christine Santoro asked all Board members to check their schedules regarding meetings for Queset Commons, the initial, joint public hearing is set for June 17, 2009 with the Conservation Commission in the F.L. Olmsted School cafeteria beginning at 6:30 p.m. Gregory Strange will not be able to attend the initial meeting. The following dates will be July 22, 2009 (everyone available), August 12, 2009 (everyone available), September 2, 2009 (everyone available) and September 23, 2009 (everyone available).

Scenic Road Regulations booklet: Ms. Santoro read through and was amazed at how many hoops have to be gone through, and suggested to the Board to think of which roads they would like to consider as a scenic road.

Queset Commons: Ms. Santoro received a copy of a letter that was sent to David Colton, Alice Savage, Stephanie Danielson, Mark Bartlett, Norfolk RAM Group, from Garrett Tunison, of Tunison & Smith, regarding the filing fee for Queset Commons, requesting in writing that the PAA consider using BETA for consultant review. The letter is available for review by the members. Alice Savage reported that what was done was a request for cost estimate was received from both Woodard & Curran and BETA Group. She received today a cost estimate from BETA Group but would like to further discuss it with them. Mr. King feels that BETA Group may not be the most cost effective company.

Peter Deschenes arrived at 6:50 p.m.

Fieldstone Estates: Ms. Savage informs the Board the 20-day appeal period has passed and Azu Etoniru has brought the mylar of Fieldstone Estates for signatures. No vote is needed. The Board also signed the Form E: Covenant.

Approval of minutes: May 11, 2009. Gregory Strange had a few corrections. The recording secretary will make the corrections and resubmit for approval.

7:00 P.M. ADMINISTRATION OF SUBDIVISION CONTROL LAW
(Peter Deschenes arrived)

Form A (ANR) – 310, 312 & 316 Bay Road: Frank Ribelin explains the plan does not create any further buildable lots, that the plan adds 30 feet of frontage to the existing property at 312 Bay Road; it will still leave the abutting property that is supplying the frontage with over 200 feet of frontage. Will also add another 26,000 s.f. of land to the back of 312 Bay Road, this will still leave over 40,000 s.f. of land to the existing property that is supplying the land. The reason behind this plan is because we will be coming shortly with an Estate Lot plan, what we are doing now is setting the ground work to create enough frontage so there is 190 feet of frontage at 312 Bay Road and have over 120,000 s.f. of contiguous upland so we can cut it off and leave a 40 foot entrance to the Estate Lot and will have 80,000 s.f. to the existing lot.

Walter Johnson motions to approve the ANR plan as submitted, seconded by Gregory Strange. Motion passes (5-0)

The Board signed the mylar and Frank Ribelin took for recording.

Bond Establishment/Lot Release Request – Harvey Estates (08-10)

Christine Santoro announced that in the absence of Colin Gillis, alternate member, Peter Deschenes will be appointed to vote.

Present: David Welch

Discussion began with the review of an updated Road Cost Estimate: Mr. Welch explained to the Board that the plan was approved by the Board without cape cod berm, that is why the rain garden is being used, nor were fire alarm boxes or underground lighting system included in the approved plan.

Alice Savage explained that waiving of the fire alarm box is not in the Decision. Mr. Welch was informed that because it was not in the plan, it is considered waived. Ms. Savage explains that though the fire alarm box is not on the plan, but not waived, the Rules & Regulations govern.

In regards to surety or bond, Ms. Savage explains that the unfortunate fact is that the Board was under the mistaken impression that in taking a lot, that the Board was taking ownership of the lot in the event that the developer goes into default, the Town would own the lot. She has been advised this is not the case. Mr. Welch asked for an explanation of the changes in the Rules & Regulations in regards to posting a bond/lot and feels that the Rules & Regulations should be effective from the date of filing, and not change part way through. Mr. Welch understands the changing in rules, but does not understand how changes can affect a project that was approved before the changes took effect. Ms. Savage explains the Statute is the Statute and unfortunately previous practices have not been following the Statute and we have the legal opinion that we can no longer continue that way. The opinion comes from Town Counsel and also several lawyers that were at training sessions that several Board members last Spring. Ms. Santoro explains that the Boards past practice was not in the Town's best interest and must go forward with the present legal opinion.

With regards to posting a Bond, Ms. Savage informed Mr. Welch that the Bond had to be with an approved insurance company, explaining that the insurance company has to be registered to operate in Massachusetts.

Mr. Johnson states that in the past the Fire Chief has been asked regarding installing fire alarm boxes in certain areas. Fire Chief Stone reports that there is a fire box located at Elderberry, which is close and sees no problem.

In regards to the lighting standard, Ms. Savage states that were it has not been specifically waived that per the Subdivision Rules & Regulations, Section 7.7.4 'the developer shall provide street lighting and make the necessary arrangements required by the local electric utility. Street lighting shall be in accordance with the Board of Selectmen's Street Lighting Policy and the recommendation of the Department of Public Works...' Mr. Welch reports that there will be lights at all 7 lots (at the end of the driveway) and will be tied in with the lot and will turn on and off at the same time. Mr. Johnson asked for the wattage, Mr. Welch was not sure.

Ms. Savage recalculated the RCE, removing the cape cod berm, fire alarm boxes and lighting with a new figure of \$69,245.28.

Gregory Strange motions to approve the RCE in the amount of \$69,245.00, seconded by Walter Johnson. Motion passes (5-0)

Ms. Savage asked if Mr. Welch would be submitting a Tri-Party Agreement as a form of surety. Mr. Welch states he will pick up the template from the office.

7:15 P.M. PRELIMINARY SUBDIVISION PLAN
409 & 433 Depot Street (Open Space Residential Development)

Present: Richard Staiti, Attorney for Applicant; Dino Susi, Applicant, David Crispin, BSC Group, and Fire Chief Thomas Stone

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Attorney Staiti reviewed comment letters and responses received on this proposed project. He feels confident they can address all of the comments by the Staff Review report dated May 22, 2009. He expresses the purpose tonight is to address any issues, make any corrections necessary to help the applicant move forward with his proposal. They are intending to go to the Zoning Board of Appeals relating to the requirement for a Special Permit for work within the Flood Plain, and also for the 6th lot.

Project Summary: The proposed project will divide 16.85 acres of land into 6 – 10,000 square foot OSRD lots off of a 600-foot long private lane. In addition one 2-acre non-buildable parcel will remain with the subdivision and one 6.4-acre non-buildable parcel will be donated to the Conservation Commission, Mass Audubon or other non-profit organization. The proposed access roadway will be comprised of land on the site and two access easements over land of abutters.

David Crispin, Civil Engineer and Land Surveyor, BSC Group, addresses the Board and informs them he has drainage area location on the site, which was not submitted with the plans dated April 17, 2009 and received by the Planning & Community Development Office on May 7, 2009. He points out there is approximately 240,000 square feet of uplands at the site, however an area of upland on Parcel B is not clear on the plans, but will be verified, which would give enough for the 6th lot. The reason the applicant is going to the ZBA for the 6th lot, is that there is about 18,000 square feet of wetland (currently) in the area that was mapped back in 1989 as uplands. What happened was that Carriagehouse Lane was built; rain came down, in the last 15 years or so has converted to the area to wetlands.

The majority of the site is wetlands and there is also an intermittent stream located on the site. The watershed drains from Carriagehouse Lane area under the ground out towards Depot Street. In addition to the wetlands there is a FEMA Flood Plain. An Order of Resource Area Delineation (ORAD) was issued by the Conservation Commission to verify the wetland lines.

Mr. Crispin furthers that there is a 40 foot easement on the abutting property, allowing it to be out of the wetlands; 600 foot cul-de-sac length, designed as an OSRD as a Lane (30 foot length, 18 foot width as defined in the Zoning Regulation under the Residential Compound section). Which reads that and “OSRD can be based on a lane under the zoning regulations”.

Storm drainage stormceptor, into a detention basin in the roadway, although this is a preliminary plan, believe can meet all the Conservation Commission standards and because filling a sliver of wetlands can dig the wetlands out in another area to compensate the not only the wetland loss but the flood storage loss.

Each lot is 10,000 s.f. with 20 feet of frontage. He indicates there is a question of the Common Driveway as to whether it meets regulations. The idea was to have all six lots come off of the Common Driveway.

Ms. Savage asked if the Board reviewed her report.

Mr. Johnson asked for the water table. Mr. Crispin states that some informal test pits were done in the area and the results were no more than inches (10 feet) in three pits, 10.5 feet in one pit. Mr. Johnson also wanted to know the location of the wetlands because he was looking at two maps and believed there were discrepancies, showing it in different places. Mr. Crispin explained that the two maps showed different pieces of the property, however, there are markings on both maps, that when placed together, show the full parcel.

Mr. Johnson also inquired about the rip-rap in wetlands. Mr. Crispin states it is a detention basin close to the wetlands. He could not locate the test pit in that area, but will get the information to the Board. Mr. Johnson questions the roadway going in is all in wetlands, and asked if test pits were done. Mr. Crispin states that because this is a preliminary plan, test pits were not done in this area but can be.

Ms. Santoro asked what the length of the road was and Mr. Crispin responds that the roadway is 600 feet. She asks the length of the Common Driveway, Mr. Crispin, states it is approximately 300 feet. Ms. Santoro states that that the maximum length for a common driveway can only have 3 house lots. Mr. Staiti informs the plan can be revised. It was explained that a hammerhead type design was proposed in the same area, but more than 600 feet long, the hammerhead provided a 3-point turn, but would need of a waiver of the length of the road.

Gregory Strange asked if the submission included the hammerhead design of the cul-de-sac. Crispin indicates no, stating that a turnaround is required for emergency vehicles. Ms. Santoro points out that the roadway appears to be narrower as it gets longer down from 18 feet to 16 feet. Fire Chief Stone voices concern, indicating that emergency vehicles need the extra width and also a turn around.

Ms. Savage's primary concerns that were not addressed, 1. The proposed project was predicated on two special permits from the PZB, as well as an additional permit from the ZBA and a variance which would have to be obtained prior to the application because the Board cannot waive the lot 6 condition. Mr. Staiti asked for clarification to have to go to the ZBA to have them act on the proposed 6th lot. Ms. Savage explains the variance would be from the requirements of the bylaw, not a variance on a lot. The variance would be on the tract of land we have and it wouldn't be subject to this particular provision and would be surprised the ZBA has not looked favorably on that type of application the past. Mr. Staiti explains the procedures are new to him and thought they would go to the ZBA and ask for the 6th lot if accepted, fine if not then come back with a revised plan of 5 lots. Mr. Staiti reiterates they are looking for guidance.

Ms. Santoro asked if there were any further discussion from the Board.

Walter Johnson motions to continue, seconded by Gregory Strange. Motion withdrawn.

Walter Johnson motions to deny the preliminary plan without prejudice, John Duggan seconded. Motion passes.

**8:10 P.M. PRELIMINARY DISCUSSION OF QUESET COMMONS
PERMITTING PROCESS**

Present: Douglas A. King.

Mr. King summarizes that they filed the Draft MEPA in April 14, 2000, filed a Notice of Intent with Conservation Commission May 1, 2009 and Site Approval with PAA on May 15, 2009. He explains that one of the problems in a development of this size and in this economy has to figure out where the demand is so that it will be economically feasible. The process has been in the works for three years now and thought the affordable housing would begin first. However, a 92 unit site in Stoughton has opened and taken the demand from Easton, resulting in putting Phase 1B on hold. He explains that the recession we are in have slowed apartments rentals, therefore it is tricky figuring out which part to begin building.

The other part, spoke with Ms. Savage, and Roosevelt Circle, which is an accepted street, would have to be un-accepted (shown on the Site Plan P-1). Believes to un-accept a street, it would have to go to Town Meeting and then the cul-de-sac would have to come out.

Ms. Santoro recalls during past meetings talking about phasing process, which had to do with the architectural development, and required more specifics. Mr. King says that the architectural elements are in the profile submitted, but hard to design a building not knowing the actual use; impossible to determine not knowing the marketable components that fit. Ms. Santoro points out that, under the proposal, Phase 1 (1A) (refers to Bldg. 1 north elevation). Mr. King states that if look at Building 1, North Elevation, the design is indicated, however, will not know to draw full architectural plans if do not know what will be done in the retail space (medical, shopping store). He indicates that part of this journey was the Developers Agreement for the facades and what were going to do. But what we are now trying to do is get the site approvals we need with the Town and Conservation. Ms. Savage asks Mr. King that he means the Design Standards, not the Developers Agreement. Mr. King indicates that the Developers Agreement has how to design and what to use as material. Ms. Savage believes that is the Design Standards. She clarifies for the Board that the Developers Agreement talked about the mitigation and under the jurisdictional with the Board of Selectmen. The Design Guidelines talk about things like can't use vinyl, etc., and that is in the zoning. Mr. King corrects himself that is what he was referring to. Ms. Savage states that it was part of the discussion that those types of things are subject, sort of yes and no.

Gregory Strange states that the Board spent all that time doing the bylaw and we were going to be doing architectural guidelines all at once and the architectural aspects are very ambiguous because the law does not allow it and as a Board member who fought to keep the PZB as the PAA and help deliver this project as what was promised to the

Town. If we go ahead and just approved the Site Approval, understanding why Mr. King needs the site approval, but at the same time, seems to pull any authority or say away from the PZB/PAA, don't know if, as we go through the Site Approval, can we come up with an addendum or subset of details, materials, etc. What if Mr. King decides to sell and another developer comes in and goes in a different direction.

Mr. King, refers to the footprint (Phasing Plan), need to take all the guidelines into consideration (PZB Design Guidelines; Conservation Commission recommendations, 40R Bylaw, etc) that are ambiguous, but had a lot of meat in it then take the Conservation concerns (staying out of wetlands and Morse's Pond), then take the 40R zoning that say have to put 20 units to an acre, it is impossible to change the footprint too much and have given the facades that have been submitted every time, and with more definition. Mr. King feels that what is happening with this Board and every community in Massachusetts, is with all of the time and effort that has gone into the project there currently the cost of doing these jobs are ridiculous.

Gregory Strange feels that as a Board member and as a individual that we got into this and this is how it is going to happen, and now asking to change how going to do it. He is not saying you have to make the building look exactly this way, just thinking that as we going through this, why can't we come up with an exterior schedule of the buildings. Mr. King argues that the plans presented are giving that and how can have more detail until have the footprint, how can you design a building without having the size of the foundation or knowing the market for what you are going to do. We are not changing what was agreed on, feels need to get approval from Conservation Commission first, which may change the footprint. But will not pay architectural fees without getting Conservation Commission approval.

Mr. Johnson agrees with Mr. King, how he can present buildings drawings when everything is not approved. Mr. Johnson agrees that Mr. King has done everything asked of him thus far. Mr. Johnson asked for clarification of a document included in the submission. Mr. King was not sure. Ms. Savage believes it is part of the MEPA application, assumes there have been discussions of bringing in a bus.

Ms. Savage comments the way the process was set up is a requirement that all items be submitted at the same time. Would like to see in writing what the specific request is and see in writing what is being addressed now and what will be addressed later. As discussed in a past meeting of looking for a conditional approval where there would be a condition on coming back for a further review of certain elements of the plan.

Peter Deschenes explains that the Board wants to preserve the ability to work with Mr. King on the project. Mr. King continues to state the need to get confirmation from Conservation Commission before proceeding with complete architectural, lighting, landscaping and facade details.

Ms. Savage explains that at it currently stands, with all the missing information, the Board would be well within their rights to deny (application missing information);

however, that is not what the Board would want to do. Would like explicit documentation as to what is not included in the submission, as a waiver request, with the idea that the Board would grant a waiver with the substitution that it would be subject to further review. Not clear what Mr. King is looking for i.e. to have an approval of the Board then come back or whether to discuss some elements first then submit. Mr. King states it is like a Site Plan Approval. Ms. Savage agrees, but indicates that with a Site Plan Approval are required to submit a landscaping plan, a detailed lighting plan. Mr. King asks how those items can be submitted without knowing the exact footprint. Ms. Savage asked when Mr. King was looking to have the other elements reviewed. Mr. King indicates after the approval of the Conservation Commission. Mr. King has continued concern that Conservation Commission needs to clarify their issues, and whether or not they can build this project as proposed. If the Conservation Commission decides the pond at the sight is a river, this project will not happen.

Ms. Santoro feels the Board has addressed a lot of the concerns, and getting back to the design guidelines that we have and the number of photographs and renderings we do have, we want to make sure that what we see is close to what we get. Mr. Johnson would have no problem saying give tentative approval on what is submitted. Ms. Santoro states that until Mr. King is saying that until he goes before Conservation Commission and gets their approval, cannot give definite designs.

Gregory Strange reads from the design standards (Section 2.5.7) which state “said design standards are intended to be applied flexibly by the PAA as part of the planned approval process”. Mr. Strange asks that everyone understands that, any development of any type goes through these steps, and indicates that we are not looking for a final sets of plans, cares only about how the buildings look on the outside, how they tie into the character of the neighborhood and of Easton and all the things we talked about for six months. Time and time again, people from the State and you have told us that the architectural end wasn’t very strong, but were told we will work together to make it beautiful, Mr. Strange feels there is the risk, whether it is with Mr. King or with anyone else, and because the economy is changing, that what if decisions have to be made, for fiscal reason, to skimp on the detail. Mr. Strange feels that, though someone else thinks the buildings are beautiful, that it is subjective, saying that the PAA may be looking for a higher level of detail as is promised. A worst case scenario would be that, though the Town has a long history of working with Mr. King, what if Mr. King decides to walk away, sounds like this could be a 20–30 year job, so thinking of the time and what happens on the backside of this. Mr. Strange expressed that he is not anti-project at all and doesn’t want to slow up the timeline, but wants to speed it up, but voices his concern that some of the things that we all have to go through when we want something to be done, we aren’t looking for exact plans, but there will have to be some landscaping to get through the Conservation Commission. Mr. Strange does not think it is unreasonable to come up with some agreements of level of detail of the building, whether it is masonry trim around the windows or what the awnings are going to be. The bylaw is written to do all at once in harmony, not approve the site plan, and then at some point get back with the architectural plans.

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Mr. King says that there are 8 phases and have to build the sewage treatment plant, then build drainage, then the drainage so it is used for irrigation, and have to factor in the green building regulations, but until get through the Conservation Commission to know how the road will lay out, and that they are going to lay out the way they are proposed, it is impossible to do what is asked, but from the schematics on the north elevation or south elevation, is there something there the Board does not like? The way things have been done by the Easton community, by southeastern Massachusetts, by the State of Massachusetts and by this country the last 25-40 years, will have to change for this approval process, because there is a correlation between what something costs and by what you either rent it for or what you sell it for. And all this bureaucracy and time period has made cost of housing dramatically increase faster than the wages of the American people. So it is time be a little more flexible.

Mr. Strange agrees but explains that one of the reasons why we came up with the PAA was to approve the plans for architectural and site-wise so that in return for allowing higher densities and a faster permitting process, that we have a say in the whole spirit of things.

Mr. Johnson expresses that he has no problem approving the concept before the Board tonight. Ms. Santoro states that is not why we are here.

Ms. Savage asks the Board if they are available for June 13th, (Saturday) for a Site Walk, joined by the Conservation Commission at 8:30 a.m.

A joint public hearing with the Conservation Commission will be held on Wednesday, June 17, 2009 beginning at 6:30 p.m. at the F.L. Olmsted school cafeteria.

ADJOURN

Walter Johnson motions to adjourn at 9:00 p.m., seconded by John Duggan. Motion passes.

Respectfully submitted by Pamela Almeida, Recording Secretary.

Signed by,

Colin Gillis, Clerk

Date