



TOWN OF EASTON
Planning & Zoning Board
136 Elm Street
North Easton, Massachusetts 02356
Tel: (508) 230-0630 Fax: (508) 230-0639

Meeting Minutes
Wednesday, December 3, 2008

Members Present: Christine Santoro, Colin Gillis, Walter Johnson, Gregory Strange, John Duggan, Alexander Maller

Staff Present: Alice Savage, Planner; Pamela Almeida, Recording Secretary

Christine Santoro opened the meeting at 6:30 p.m.

6:30 P.M. BOARD BUSINESS

- **Chair Report:** Christine Santoro reports:

Christine Santoro reminds the Board of the 2008 Smart Growth/Smart Energy Conference being held in Boston on December 12, 2008 if anyone would like to go they need to sign up by this Friday.

Christine Santoro asked for the latest update on Shovel Shop. Alice reports that if there are additional comments to submit, the deadline has been extended to the end of December. Alice also reports that the Turner Brothers have requested demolition permits from the Building Department.

Christine Santoro asked for the latest on the South Coast Rail Road. Alice reports that the ENF is very lengthy and will email the link to the summary presentation to the Board.

Christine Santoro informs the Board that Alexander Maller has tendered his resignation to the Board effective December 5, 2008.

Walter Johnson brought up the letter received from Marc Rousseau to the Board regarding the elimination of Director of Planning & Community Development position. He is concerned that there is no explanation as to what will happen at the end of this fiscal year, questioning if there will be a Planner. There has not been anything definitive discussed by the Town Administrator at this time.

Christine Santoro asked if there has been anything submitted regarding Queset Commons? Alice reports no.

OTHER BUSINESS

ANR-Holy Cross Fathers Land Court Plan – Signatures only

The Board voted to approve the plan at the last meeting (November 19, 2008) however, the plan did not have an engineer's stamp or signature. A new Mylar was submitted with appropriate stamp and signature, and Board signed.

Approval of Meeting Minutes - November 19, 2008

Walter Johnson motioned to approve the meetings of November 19, 2008, seconded by Colin Gillis. Motion passed

7:00 P.M. BOND RELEASE – Raven Estates

Present: Mike Ferrone, Briarwood Construction.

Mr. Ferroni submitted a request for release of surety to work completed. The Street Inspection Report and Road Cost Estimate were submitted by the Land Use Agent. Alice feels that the Board could release funds with the exception of those items not completed (fire alarm box, tree, island landscaping) for a total to hold \$18,799.00 and hold the remaining funds.

Gregory Strange motions to hold \$18,799.00 and hold the remaining funds, seconded by John Duggan. Motion passes. (5-0)

**7:30 P.M. VOTE - Heather Woods Residential Compound/Subdivision
(SP 08-18)**

Present: Greg Bielski, 23 Olde Farm Rd.; Walter & Linda Newell, 198 Prospect St.; Christina & Charles & Debbie Bramante, 7 Olde Farm Rd.; Cathy Hohenstein, 3 Olde Farm Rd.; David Hardy & Bobbi Fried, 11 Olde Farm Rd.; Bill Hohenstein

Christine Santoro informs the Board that the meeting will be video-taped.

Alice Savage reports that Gregory Strange has listened to the tapes from the November 19, 2008 meeting and completed the Mullin Rule form. All members are eligible to vote with the exception of John Duggan and a majority of the Board is required to pass.

Alice explains she has drafted two decisions. One is for approval the other for denial. She reviews the Draft decision for approval by going through the waivers and recommended conditions.

DRAFT OF WAIVERS

Planning & Zoning Board
Meeting Minutes, December 3, 2008

1. Filing and review fee, except the fee for advertising (\$350).
2. Section 4.02.1.g. requiring a sketch plan showing the prospective street layouts. The Residential Compound requires that the road remain a cul-de-sac.
 1. Section 4.02.1.j requiring an Environmental Impact Statement;
 2. Section 4.02.1.l requiring a Traffic Projection Study;
 3. Section 4.02.3.g. The trees within fifty feet of the right of way are not shown on the plan.
4. Section 5.12.5. Waiving the requirement of a “K” pipe analysis.
5. 4.02(1)a. The Board has accepted a mylar prints in place of sepia prints, and photocopies instead of any other sort of copy.
6. 4.02(1)c. “A certified check...” The requirement for a certified check in the amount of \$100 for each boundary marker is waived. This amount will instead be included in any Road Cost Estimate requested by the Applicant or the Board, until such time as the monuments have been installed in accordance with the Plan.

The Board further to waive the following substantive provisions of its Subdivision Rules and Regulations related to road construction and layout, substituting in all cases that the roadway and its appurtenances, including the stormwater drainage system, shall be constructed in accordance with the approved plans.

1. Section 4.02.3.d/5.03. No sidewalk is required
2. Section 5.01.2-6. The street shall be constructed to the width and length shown on the plan indicated above.
3. Section 5.01.2f. Waiving the requirement that the required cul-de-sac have a property line diameter of no more or less than 120 feet; instead, the cul-de-sac shall be constructed as shown on the plan.
4. Section 5.01.2.i. Waiving the requirement that the pavement width in a minor street be 24 feet; instead, the roadway shall be constructed as shown on the Plan.
5. Section 5.01.6. Waiving the 24-foot width requirement, and the requirement that the roadway should be constructed in accordance with Plate 4 or 4a.
6. Section 5.01.2.h. No 25-foot easement the end of the cul-de-sac for pedestrian traffic and/or utilities is required.
7. Section 5.02.2 c. Subgrade material shall be as shown on the plan.
8. Section 5.02.3. The pavement should be pervious asphalt, as proposed on the plan, constructed according to best engineering and construction practices.
9. Section 5.08. No curbing is required.
10. Section 5.10. A closed drainage system is not required. The drainage system shall be installed as shown on the plan.

DRAFT OF CONDITIONS:

1. A Registered Professional Engineer. shall observe installation of the stormwater drainage system, including the paving stones and subgrade, and after installation shall certify in writing to the Board that it has been installed correctly and is functioning properly.
2. The pervious paving system shall remain pervious in perpetuity
3. The applicant’s plans require removal of the O, A, B, and C1 horizons, as well as

Planning & Zoning Board
Meeting Minutes, December 3, 2008

- any additional unstable base material that might be uncovered during excavation to be removed. The excavation shall be inspected by a competent professional (Massachusetts Licensed Soil Evaluator) and said professional shall certify to the Board/Commission the system was installed in accordance with the plans.
4. The applicant shall install infiltration trenches for building roofs to infiltrate building roof runoff
 5. That a new plan be submitted for signature that indicates that Lot 1 is not a buildable lot, including a note specifying that the Special Permit grants permission to construct three (3) houses, only.
 6. That the developer should fund the first year of the Homeowners' Association expenses.
 7. In all cases where the Zoning By Law conflicts with the Subdivision Rules and Regulations, the Zoning By Law shall govern.
 8. No foundation permit shall be issued until such time as the following have been completed:
 - a. Installation of all underground utilities
 - b. Installation of roadway subgrade, subbase, base course, and road binder
 - c. Installation of base for street lights and related wiring
 - d. Installation of the complete stormwater management system verified in writing by a Professional Engineer, that the system has been completely built as approved by the Board and is in good working order.
 9. No certificates of occupancy shall be issued on any lot until the roadway and all related improvements, with the exception of the top course of pavement, have been constructed according to the approved Plan and lamp posts wired to a minimum of 150 watts are installed at the end of each driveway in the subdivision where it meets the private way. Verification of the proper completion of all work shall be provided by a Registered Professional Engineer.
 10. Paragraph (a) of the "Declaration of Trust Establishing the Heather Woods Homeowners Association Trust" shall be amended to read, "To maintain, repair, improve, change or alter any property, real or personal, including building, repairing, tearing down and rebuilding structures of additions thereof, and maintenance, repair and inspection of the roadway and appurtenances (including any stormwater management infrastructure, waterlines within the roadway layout, and street lights) subject to the requirements imposed by the Declaration of Easements and Restrictions;
 11. A paragraph (m) shall be added to the Homeowners' Association Declaration of Trust under "Powers and Duties of Trustees," which shall contain the following text "To enforce compliance with and implement the Stormwater Operation and Maintenance Plan included in the Hydraulic/Hydrologic Analysis for Heather Woods, as amended though September 25, 2008.
"Inspection" shall mean inspection by a qualified and licensed professional." A copy of the Stormwater Operation and Maintenance Plan shall be attached as an Appendix to the Declaration of Trust.
 12. A paragraph (n) shall be added to the Homeowners' Association Declaration of

Trust under “Powers and Duties of Trustees,” which shall contain the following text, “The Trust shall be responsible for snow removal on Heather Lane.”

13. The Homeowners’ Association trust shall be amended to specifically include “maintenance (including snowplowing), operation, repair, and inspection of the roadway, lighting, and stormwater management infrastructure” under paragraph 4, “Powers and Duties of Trustees.”
14. Ownership of any lot shall provide automatic membership in a Homeowner’s Association responsible for all maintenance and snow removal of or from the private lane, as described in the Declaration of Trust revised through September 22, 2008, and further revised as above. The Homeowner’s Association shall retain all rights, responsibilities and obligations with respect to the private lane in perpetuity.
15. The Declaration of Trusts shall be amended as follows: Under paragraph number 5, Common and Special Charges, letter (e) shall read, “all expenses of enforcement of and compliance with the Declaration of Easements and Restrictions, and this Declaration of Trust, including the employment of a professional property management company.”
16. Paragraph number 6, Payment of Common and Special Charges, of the Declaration of Trust shall be amended as follows (text to be inserted shown in italics):
Payment of Common and Special Charges: The Trustees shall employ a professional property management company to advise the Trustees as to amount of common charges necessary to fulfill all duties and responsibilities outlined in this Declaration of Trust, including sufficient capitalization of a replacement fund for all infrastructure owned by the Trust. The amount shall be reassessed by a professional management company in 2010, and every 5 years thereafter. All Owners shall pay the common charges assessed by the Trustees in yearly installments on the first day of March each and every year, or at such other time or times as the Trustees shall determine. The amount shall be not less than the amount most recently recommended by the professional property management company, If the amount due is not paid within ten (10) days of its due date, then a late charge/processing fee of \$25.00 is also due. If the amount due is not paid within 30 days of the due date then the Trustees may begin legal action for payment. The Trustees shall be entitled to collect all costs of collection including reasonable attorneys’ fees in addition to the sums due. At the time of the initial purchase of a lot from the developer, the developer shall contribute a non-refundable \$100.00 to provide a working capital fund, and to maintain said fund as required by the Trustees. Special charges shall be paid within sixty days after notice from the Trustees, or as the Trustees in their sole discretion may otherwise require.
17. Twenty-five hundred dollars (\$2,500) of the sale of each house shall be awarded to the Homeowners’ Association Trust, to offset the costs of maintenance and replacement of Trust property.
18. Evidence that the Trustees have complied with the above shall be a prerequisite to obtain any future work permits for any of the lots created herein.

Planning & Zoning Board
Meeting Minutes, December 3, 2008

Christine opens comments from the Board. Walter Johnson voiced his concerns with the water in the area. He continues that no plans were submitted showing any septic systems. He feels that with the current water problems, and no Environmental Impact Statement submitted, he would not vote to approve.

Colin Gillis thinks the waivers requested and the conditions of the draft decision meet what the Board requires. Feels that the septic systems is what the Board of Health approves, not this Board.

Gregory Strange asks if this Board approves, commenting that it was denied by the Conservation Commission, what happens if up the road Conservation makes changes and approves, will it void our approval and will the project come back? Alice states no. At this point, if this Board approved, could not get building permits as it was denied by Conservation and an appeal is before DEP. Gregory speaks to the public and feels for their concerns, but also feels that someone has the right to build what they want on their property as long as it meets Planning requirements. He indicates that he is conflicted and does not know how he will vote.

Alexander Mallers states that his opinion is that there was an argument that though this is a small project and we should waive requirements, but can become a big project that affects other properties in Town. He states he is not questioning the proposal, he is questioning why the Board approved to waive the Environmental Impact Statement. He feels the Board should not waive and recommend an Environmental Impact Statement be submitted.

Alice clarifies that if not receiving an Environmental Impact Statement is a basis for their denial, and it was put in as a condition to receive, then once received would result in an automatic approval. John Duggan asks, if the Board approved with a condition to submit the Environmental Impact Statement, the second it is submitted, the project is approved, no matter what the report says, simply because the condition was met.

Christine Santoro asked what the Environmental Impact Statement could show versus what has been submitted and would it make any difference if decision? Alexander Maller feels it could give more derogatory information and show this project is not good.

Walter Johnson asks why at the last meeting, both the Attorney and Developer would not agree to an Environmental Impact Statement and asked for the public hearing to be closed.

Alice Savage informs the Board that they have 90 days to vote from the date they voted to close the public hearing and they should not feel obligated to vote tonight. However, would need to discuss with Town Counsel on re-opening the public hearing which would result in the applicant having to submit a request to extend the decision time.

Planning & Zoning Board
Meeting Minutes, December 3, 2008

Colin Gillis motions to approve the subdivision as proposed, including the waivers, seconded by Gregory Strange. Motion is denied. (2-3-0) [Approved - Colin Gillis & Gregory Strange, Denied- Christine Santoro, Walter Johnson & Alexander Maller]

Gregory Strange motions to approve the Special Permit, seconded by Colin Gillis. Motions denied. (0-5-0) [Approved – None, Denied – All]

8:45 P.M. CONTINUED PUBLIC HEARING—Rules and Regulations

Continued to December 17, 2008

ADJOURN

Walter Johnson motions to adjourn at 8:50 p.m., seconded by Colin Gillis

Respectfully submitted by Pamela Almeida

Signed by,

Colin Gillis, Clerk

Date