

PLANNING BOARD MINUTES
OCTOBER 6, 2014

Call The Meeting to Order

Chairman David Plunkett called the meeting to order at 7:05 P.M. in the Town Hall Auditorium. Present at the meeting were, Stephen Johnson, Robert Fowler, Nancy Reed, Vincent Fratalia, Director of Community Development Steve Sadwick and Recording Secretary Dawn Cathcart.

(A) Committee Reports/Administrative Actions

(A1) Zoning Bylaw Subcommittee

Mr. Sadwick stated that he will send out an email to schedule the next subcommittee meeting.

(A2) Master Plan

Mr. Sadwick reminded everyone that the Visioning Session will be held at the Senior Center on October 15, 2014 at 7:00 PM and the public is invited.

(A3) Committee Reports

There were no committee reports.

(A4) Wells Drive – Bond Release, As-Built and Street Acceptance

Mr. Cuoco stated that a letter was received today from Cuoco and Cormier and there were thirty-one items on the memo from the Town Engineer. This memo dated today addresses a number of the issues. Mr. Plunkett asked if the Town Engineer has signed off on everything. Mr. Sadwick replied not as of today, there are still some outstanding issues. Mr. Plunkett asked if we should recommend adoption at Town Meeting. Mr. Sadwick replied that as long as the DPW and Town Engineer have been satisfied. Mr. Sadwick added that he will check to see if the Town Clerk posted for a meeting prior to Town Meeting.

Dick Cuoco, Dennis Sheehan and Maureen DiPalma appeared for discussion. Mr. Cuoco stated a memo from Cuoco and Cormier dated October 6, 2014 was prepared and they would like to address the issues. Item #1 was addressed by a Planning Board waiver; Item #2, the inverts were not exactly as designed but they needed to be set at the elevation of the wetlands. This was a field change approved by Joseph Serwatka; Item #3, the open space is deeded to Conservation. The easement was sent to Mr. Sadwick today. Mr. Plunkett asked if the mortgagees have accented to the easement. Ms. DiPalma stated that they are waiting for the signed deed but they are ok in the concept. Items #4 and #5 have been addressed; Item #6, the contractor cleaned the catch basin sumps last week; Item #7, the placement of the houses were changed due to sewer being available. This resulted in less impervious surface; Items #8, #9 and #10 have been addressed; Item #11 Cuoco and Cormier did not do the drainage calculation so they are not sure, but they can chip it out if needed. They will not ask for a bond release until all items are completed. Items #12 and #13 were addressed. Item #14 the debris has been removed and Kyle Boyd from Conservation inspected it. Items #15 and #16 have been addressed. Item #17, a maintenance access was not called for the approved plans but they believe the Town can have access with the correct equipment. Item #18 again Cuoco and Cormier did not design this but it has not overtopped. Items #19, #20, #21, and #22 have been addressed. Harrington Paving is coming in tomorrow which address Items #23 and #29. Items #24, #27, and #28 have been addressed. Item #25, the guard rail will be installed tomorrow. Mr. Sadwick stated that the minutes show that the fence was waived but there is no mention of the guard rail being waived.

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Mrs. Reed asked what material the guard rail will be made of. Mr. Sheehan replied wood. Item #26 the pole lights are 3' beyond the sidewalks which have sloped granite curb and will not be the Town's responsibility. Item #30 the handicap ramp will be cut out and redone tomorrow. Item #31 the basins were filled with silt and they have been cleaned.

Mr. Johnson stated that he is ok with approving provisionally tonight or tomorrow at Town Meeting. Mr. Sadwick stated that he just checked and the Planning Board is not posted for before Town Meeting so we can handle this on Town Meeting floor.

Mr. Fowler stated that there are very few items left and we are still holding a large bond. Mr. Sadwick stated that the bond release could be scheduled for a few weeks after Town Meeting to make sure all the issues are addressed.

Mr. Fratalia asked if all homes are on sewer. Mr. Cuoco replied yes, the subdivision was originally designed for septic systems but sewer was available at the time of construction. Mr. Fratalia stated that he has no problem with the conditional approval.

Mrs. Reed asked how the drainage calculation issues can be resolved. Mr. Cuoco replied that they can only verify the volume. It does go up and down and has been active for three to four years.

Mr. Plunkett asked if the Town Engineer agrees with the Cuoco and Cormier letter dated October 6th. Mr. Sadwick replied he was not sure, but what happens if he doesn't agree. Mr. Plunkett stated that the only outstanding issues are Items #2, #4, #7, #10 and #25. The applicant has stated that Item #25 will be addressed by adding wooden guard rails where the Town Engineer has indicated. Mr. Plunkett stated that Items #3 and #15 – the mortgagee of record would need to subordinate the easement plan as part of the record.

MOTION - Mrs. Reed made a motion to approve the changes in Cuoco and Cormier letter dated October 6, 2014 as non-substantial changes subject to the review and approval of the Town Engineer. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

MOTION - Mr. Johnson made a motion to approve the street acceptance for Wells Drive. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

Mr. Cuoco thanked Mr. Sadwick, Mr. Hardiman and Mr. Boyd for all their help.

(B) 23 Pine Street, Nancfour LLC, Family Suite Special Permit

Attorney Robert Scarano and Keith Anderson appeared for the family suite special permit for 23 Pine Street

MOTION - Mr. Johnson made a motion to waive the reading of the public hearing notice. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

Attorney Scarano stated that this is owned by a family LLC. They have owned the property for several years and Mr. Anderson's sons, Keith and Wayne have lived in the house since 2007. Attorney Scarano stated that they are in receipt of a letter from the Board of Health saying they must connect to Town Sewer but they can't until this issue has been straighten out. One of the units is over 800 SF and there is a common entry and no construction will be done. Attorney Scarano added that his sons, Keith and Wayne are part of the LLCs as beneficiaries.

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Attorney Scarano added that there is adequate parking and the affidavit will be signed. This would not require a subordination agreement due to the Special Permit, but they have one on file if needed.

Mrs. Reed stated that she thought Town Counsel had an issue with the LLC owning the property. Attorney Scarano stated that children are percentage owners of the LLC as beneficiaries so he disagrees with Town Counsel. The two brothers are related as required by the bylaw.

Mr. Fratalia asked if they house is served by separate services. Attorney Scarano replied there are one water and one oil service and two electrical services.

Mr. Fowler asked if the Building Commissioner was ok with this. Attorney Scarano replied that he has spoken with the Building Commissioner and that is why we are here before the Board.

Mr. Johnson stated that he understands estate planning but our bylaw does not address this type of configuration. The last time you were here, I thought you were going to change the bylaw but nothing changed so we are in the same position as before. This should be investigated more.

Mr. Plunkett stated that members of the LLC are not liable for the obligation of the LLC. The membership is freely transferable and does not comply with the bylaw. Attorney Scarano stated that they will sign an affidavit. Mr. Plunkett stated that it is people vs. a legal entity. Mr. Johnson stated that we can't determine how an LLC has a relation to one another. Attorney Scarano stated that the LLC would not apply for anything. Mr. Plunkett agreed with Mr. Johnson that there have been no changes in the bylaw since the last time. Mr. Johnson stated that we discussed it but nothing happened. We focused on the affidavit but there were unresolved issues. Since there have been no changes to the bylaw he is uncomfortable with making a different decision. Attorney Scarano stated that there could be a conditional approval pending the property being removed from the LLC and perhaps transferred into a joint tenancy recorded at the Registry of Deeds. Mr. Johnson stated that they are not recommending estate planning but we need to comply with the bylaw.

Mrs. Reed asked if we could stipulate how the family relates to the LLC. She can't see why they would have to change the estate.

Mr. Plunkett stated that the letter from Town Counsel was pretty clear, we can't adhoc the bylaw. The staff cannot keep track of who or what is in the LLC. Last year there was the potential ramification of issues that could arise and nothing has changed. Attorney Scarano stated that #13 was added to the bylaw. Mr. Plunkett that item only addressed the subordination issue and in the event of a foreclosure.

Mr. Fowler stated that Town Counsel gave us direction when this first came up and it stated that an LLC cannot be considered an owner. The applicant should come back and have Town Counsel revisit the different options.

Attorney Scarano stated that he will investigate this further and contact Town Counsel.

MOTION - Mr. Fowler made a motion to continue the family suite special permit for 23 Pine Street until October 20, 2014 at 7:25 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

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(C) **Laurier Avenue, Brian J. Smith and Donna Walsh Definitive Subdivision**

MOTION - Mr. Johnson made a motion to continue the Definitive Subdivision for Laurier Avenue until October 20, 2014 at 7:20 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

Old Business

There was no old business.

New Business

Mr. Sadwick stated that in June, the owners of Galloway's appeared to discuss some changes. They are having an issue with finding some plants that were specified on the plan. They cannot find the Juniper Silver Mist and Red Pear. Lorraine Black was contacted and she said that Juniper Blue Pacific and Pries Pear are acceptable replacements.

MOTION - Mr. Fowler made a motion that the plant changes as recommended by Ms. Black are approved as a non-substantial change. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

Director's Report

There is no Director's Report.

Adjournment

MOTION - Mr. Fowler made a motion to adjourn the meeting at 8:35 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

Approved on: 11/17/14

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List of documents for 10/6/14 Agenda

Documents can be located at the Community Development Office

- A. 7:00** Committee Reports/Administrative Actions
- 1- Zoning Bylaw Subcommittee
 - 2- Master Plan
 - 3- Committee Reports
 - 4- Wells Drive Street Acceptance
 - *Ltr 10/6/14 fr Cuoco & Cormier re: As Built Plan*
- B. 7:00** 23 Pine Street, Nancfour LLC
- Family Suite Special Permit
- *Application packet dated 9/3/14.*
 - *Memo 9/23/14 from Director of Public Health.*
 - *Ltr 2/19/14 fr Attorney Zaroulis*
- C. 7:10** Laurier Avenue, Brian J. Smith and Donna Walsh
- Definitive Subdivision
- *Application packet dated 9/4/14.*
 - *IDR held 9/29/14*
 - *Memo 9/23/14 from Fire Department.*
 - *Review letter 10/1/14 fr Mike Carter.*