

PLANNING BOARD MINUTES  
OCTOBER 20, 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) Approval of Minutes – September 22, 2014 and September 29, 2014**

**MOTION** - Mr. Fratalia made a motion to approve the Planning Board minutes of September 22, 2014 as submitted. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

**MOTION** - Mr. Fratalia made a motion to approve the Planning Board minutes of September 29, 2014 as submitted. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

**(B) Committee Reports/Administrative Actions**

**(B1) Zoning Bylaw Subcommittee**

Mr. Sadwick stated that the next meeting could be held next week either Tuesday or Wednesday. The next meeting was set for Tuesday, October 28, 2014 at 7:00 PM in the DPW Conference Room.

**(B2) Master Plan**

Mr. Sadwick stated that the Visioning Session was held on October 15, 2014 at the Senior Center. It was attended by approximately thirty people. The data will be compiled and they will look at the existing Master Plan and where to go in the future.

**(B3) Committee Reports**

Mr. Fratalia stated that the Green Committee met last week and the work has started with the grant that was awarded. They will hopefully be completed by the end of November.

**(B4) 209 Salem Road, Chapter 19 Waiver Request**

Mr. Sadwick stated that the applicant is requesting an exemption from the requirements of the Stormwater Management & Erosion Control Bylaw since this project will be under the review and approval of the Planning Board.

**MOTION** - Mrs. Reed made a motion to approve the waiver for Section 19.043, Stormwater Management & Erosion Control Bylaw for 209 Salem Road subdivision. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

**(C) 1 Radcliff Road, VTH 7, LLC Continued Site Plan Special Permit**

**MOTION** - Mr. Johnson made a motion to continue the Site Plan Special Permit for 1 Radcliff Road until November 17, 2014 at 7:10 PM. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

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**Old Business**

Mr. Sadwick stated that he sent an email to the traffic engineer for Ocean State about the traffic light. He responded saying that Mass DOT has approved the permit and it is in process of getting bids and should be installed in the spring. Mr. Plunkett asked if the closest lights will be synchronized. Mr. Sadwick replied he could ask. Mr. Johnson asked if the lights will have the emergency beacons. Mr. Sadwick replied yes.

**New Business**

There was no new business.

**Director's Report**

There is no Director's Report.

Mr. Fratalia asked how the Town Hall project was going. Mrs. Reed stated that she visited the Town Hall last week and it was stripped to the bone. There was no rot or insect damage. There is arched brick in the lobby and there is marble over the doorway. Mr. Fowler asked if the inscription in the window will stay. Mrs. Reed replied yes, it will perhaps be kept inside.

**(D) 12 Crest Road, Michael and Karen Dumont Family Suite Special Permit**

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

Attorney Cheryl Golden and Karen Dumont appeared for the family suite special permit. Attorney Golden stated that the Dumont's are having trouble getting the subordination agreement from the bank so they are applying for a Special Permit. Ms. Dumont stated that all the documents have been filed at the Building Department. This family suite is within 800 SF and has only one bedroom. There will be a direct access to the outside with a side door and will be contiguous with the single family home. This meets all setbacks and her mother and father will live there. This unit will be handicap accessible.

Mr. Fowler asked how old her parents were. Ms. Dumont replied they are only 70 years old. Mr. Fowler asked if the 3-season room would be considered the common area. Ms. Dumont replied yes. Mr. Fowler stated that the 3-season room would have access to the family suite and access to the main house through the mudroom. Ms. Dumont replied yes.

Mr. Johnson stated that he supports this application. Mrs. Reed also supports the proposal and likes the layout. Mrs. Reed wished them good luck.

Mr. Fratalia asked if the neighbors have been contacted. Ms. Dumont replied yes, they have been very supportive.

Mr. Plunkett stated that this is a nice proposal and wishes them well. Mr. Plunkett stated that a condition of the permit would be to add #14 from the bylaw.

There was no audience input.

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**MOTION** - Mr. Fowler made a motion to close the public hearing. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

**MOTION** - Mr. Fowler made a motion to approve the family suite special permit as presented with the addition of a condition that encompasses #14 from the Family Suite Bylaw. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

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

Attorney Richard O'Neill and Bob Gill appeared for the continued definitive subdivision. Attorney O'Neill stated that this subdivision will extend the roadway. This is not creating any new lots. This is to build out two existing lots. One lot has an acre with 150' of frontage and one is a non-conforming lot. They will be submitting a 40A, Section 6 package for the non-conforming lot but they need to show adequate access. This subdivision is to layout the way. An IDR was held a few weeks ago and they are proposing modifying the existing layout into a private way. This will also require an ANR.

Mr. Gill stated that during the IDR, there was a question if the supply of water would be adequate and a hydrant flow test was performed and the flow was adequate. There was also a concern from the consulting engineer so test pits were done. There is a sewer stub and water gate available at this location. The question of the street name was also brought up and they are looking at Day Street or Zack Drive. Mr. Fowler stated that the name of the street should be addressed to the public safety committee.

Mrs. Reed asked if the consulting engineer has submitted a review letter. Mr. Sadwick asked if revised plans have been submitted. Mr. Gill replied yes, last week. Mr. Sadwick stated that we have not received an updated letter yet. Mrs. Reed asked if there are any zoning issues. Attorney O'Neill replied yes, one of the parcels is in a split zone, R40 and Heavy Industry and the other is in the Heavy Industry. They will be going to the Zoning Board of Appeals but they need to get the 40A determination first. Mrs. Reed stated that the Planning Board would issue a Special Permit for a residence in a Heavy Industrial zone. Mr. Sadwick stated that they would need to look at the dimensional requirements also.

Mr. Fratalia stated that we need to get the consulting engineering letter. Mr. Gill stated that he was waiting on the test pit data and they updated the plans based on that information. Attorney O'Neill stated that he will amend the application for the special permit for a residence in a Heavy Industrial zone. They would also request that this be continued to get the engineering review, a list of waivers, the roadway layout and this could be conditioned with the ZBA approval.

Mr. Fowler stated that an 18' roadway is the minimum to pass on and anything to make this easier would be recommended. Attorney O'Neill stated that they looked at different options for the road. Mr. Gill stated that he did speak with the Fire Department and 18' will work for this option since the road will be private and will only service two houses.

Mr. Johnson requested a flow chart and the private way should be marked as such.

Mr. Plunkett asked who current takes care of Eggrett Street. Mr. Gill replied Mr. Smith because he owns all the parcels in this area. Mr. Gill added that they will also be filing with Conservation.

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Attorney O'Neill stated that they will be modifying the existing plan of 1916 that is recorded and he will amend to include the special permit. Mr. Plunkett stated that plan pre-dates the subdivision rules and he does not want to set an example that this would be the new standard. Attorney O'Neill stated that the certificate of title was based on this plan.

**MOTION** - Mrs. Reed made a motion to continue the definitive subdivision until November 3, 2014 at 7:15 PM. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

**(F) 23 Pine Street, Nancfour LLC, Family Suite Special Permit Continued**

Attorney Robert Scarano and Keith Anderson appeared for the continued family suite special permit for 23 Pine Street. Attorney Scarano spoke with Town Counsel and he drafted a proposed condition.

Mr. Fowler asked if we have anything from Town Counsel. Attorney Scarano stated that Mr. Sadwick also spoke with Town Counsel and he was pushing an enforcement action if there is a problem. Mr. Sadwick stated that he did speak with Town Counsel after Attorney Scarano but this was prior to the proposed language being submitted. Town Counsel stated that he may not have an issue with the LLC but looking at the condition, the manager and then another family has to occupy the other unit.

Mr. Johnson stated that the first paragraph, last sentence, "the occupying manager and other occupant". Mr. Fowler stated that the manager of the LLC has to be related to the other person occupying the unit, which is standard for the bylaw. Mr. Plunkett stated that is the problem, there is nothing that covers that. Mr. Johnson stated that he does not want to stand in the way, this is a good thing but he is concerned with trying to fix it on the fly. The same issue is still there from the beginning. The bylaw needs to be fixed. The only letter we have from Town Counsel states and LLC can't file for the family suite, there has been no new letter received and he would like a letter from Town Counsel stating why it is ok now. Mr. Fratalia agreed. Mrs. Reed also agreed and he needs to review this proposed special condition.

Mr. Plunkett stated that the key question is an LLC or corporation can maintain a family suite. The manager for the LLC can be anyone and now this becomes a rental property. There needs to be a distinction from member vs. manager. Mr. Fowler stated that it has to be owner occupied. Mr. Plunkett replied correct. This would be easy to abuse and create a nightmare for enforcement. Is the intent of bylaw is to create a MFD as long as they are related?

Mr. Johnson stated that if we went forward with this, it could be the current manager of the LLC only. Mrs. Reed asked what if the property is sold. The language should be tightened up.

There was no audience input.

Attorney Scarano stated that SPGA can add reasonable conditions. This could be tabled until Town Counsel has provided his opinion and where the Board is comfortable. Mr. Fowler stated that we don't need comfort, Town Counsel needs to finish his comment in writing.

Mr. Plunkett stated that Town Counsel needs to provide in writing if a multi-family housing option to members of LLC that are related which complies with the bylaw. Mr. Johnson stated that Town Counsel should also review Attorney Scarano's proposal and provide an explanation if this is ok. Mr. Fratalia stated that Town Counsel should attend the next meeting.

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**MOTION** - Mr. Johnson made a motion to continue the family suite special permit for 23 Pine Street until November 3, 2014 at 7:20 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

**(G) Concept Plans – 1 Dewey Street, Tewksbury Funeral Home**

Attorney Richard O’Neill and Dick Cuoco appeared for a conceptual plan for 1 Dewey Street. Mr. Cuoco stated that he is representing the owner of 1 Dewey Street, Map 47/Lot 74 and Attorney O’Neill is representing the owners of Map 47/Lot 75. Mr. Cuoco stated that they are looking at combining the two properties together. This would provide overflow parking for the funeral home. There are currently three parking spaces with an open curb cut that are reserved for the family. They would be proposing lining the property with arborvitaes.

Attorney O’Neill stated that his client is undergoing a discussion with the Building Department on how many legal units are located at his property. The house was built in 1895. His client has received a violation from the Building Department so this option may be the best for both owners to come in with a filing under the Town Center Overlay (TCOD). Mr. Fratalia asked what the house is being taxed at. Attorney O’Neill replied four units, but the Assessor’s do not look at legality.

Mrs. Reed stated that this is a perfect application for the TCOD. This will spruce up both properties and she is ok with the three existing parking spaces in the right of way.

Mr. Fowler asked what is the occupancy for the house at the corner of Dewey Street and Town Hall Ave. Mr. Cuoco replied he was not sure. Mr. Fowler believes it is a group home and perhaps this house could also become a group home. Mr. Cuoco stated that they looked at that option, but the better option is MFD.

Mr. Johnson stated that he is no problem with the preliminary concept.

Mr. Plunkett stated that if the three spots are not needed, then don’t show it on the plan. Mr. Cuoco stated that the Board has a good sense of the TCOD but some of the staff not so much.

Attorney O’Neill stated that we are limited in historic buildings so if we can save one, that would be positive.

**Adjournment**

**MOTION** - Mr. Fowler made a motion to adjourn the meeting at 8:50 PM. The motion was seconded by Mr. Johnson 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.*