

PLANNING BOARD

DATE: October 12, 2017
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa
Pedro Pachano, Associate Member
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 7:00 P.M.

FORM A'S:

Brian Casella was present with a Form A application on behalf of Windy Hill Farm located at 684 Stockbridge Road. The plan creates two parcel of land located on the east side of Stockbridge Road. Parcel 1 contains 2.00 acres of land. Parcel 2 contains 34.304 acres of land. Parcel 2 is to be purchased by the State to put the land into an Agricultural Preservation Restriction.

Mr. Hankin made a motion to approve the plan, Mr. Fick seconded, all in favor.

MINUTES: OCTOBER 5, 2017

The minutes from October 5, 2017 were passed over.

BARRINGTON BROOK:

Matt Ward and Dave Ward from Stone Path Development were present to discuss releasing the covenant on 6 lots.

Mr. Rembold said SK Design submitted a formal report for the work and the cost of the work remaining. A schedule of assessed values for the lots in Phase II was submitted. The lots held in covenant have a value of over \$2 million, more than what will cost to finish the remaining work.

Matt Ward said the Barrington Brook project has sold all 21 lots in Phase 1 of the project. When Stone Path Development took over the project it was an eyesore for the community. The project is now successful with Phase 1 lots sold.

Mr. Fick said there is a lot of infrastructure work completed. He asked what remains.

Matt Ward the majority of the road work is done in Phase I. The entire project has sewer, water and electric in. Phase 1 needs shade trees to be planted and a top coat on the boulevard.

Mr. Hankin requested clarification of work that is done and remaining.

Mr. Ward said all the utilities are in. In Phase I the road is cut in for Thrushwood. The roads in Phase I need a top coat of blacktop. There is no sense putting in the top coat until all the construction has been completed.

Mr. Ward said there is approximately \$500,000 worth of work remaining-far less than what is held in covenant.

Mr. Rembold said if the Board is willing to entertain the proposal, the developer needs to submit a Form E for the covenant release and the engineer will submit a Form F for a report on the project. He reminded the Board that at the start of a typical project there is nothing in place. The covenant is the performance guarantee for the work to be done. When the 44 lot development was approved most of the main road, sewer and water work had been completed so only 10 lots were held in covenant. He said it is not uncommon for a developer to request release of lots as the project progresses.

Mr. Rembold said the DPW Superintendent has verified the remaining work and he made sure all the costs were included and appropriate. The total for the remaining works seems to be appropriate.

Ms. Nelson asked if anyone had additional questions as this conversation is for informational purposes.

Dave Ward said he feels 4-1 coverage for the remaining work is inappropriate.

Mr. Hankin suggested a bond could be provided for the remaining work then all the lots could be released.

Dave Ward said he would prefer not to provide a bond as it would be costly.

Ms. Nelson asked why not release all of the lots for a bond.

Dave Ward said not all of the work is done. He said it would take time for the bank to do an appraisal. We want to continue with what we started. We don't want to change mid stream. He said there is a significant amount of work done so it makes sense not to hold all property in covenant.

Mr. Hankin asked if Mr. Ward wants to release all of the property except for what is worth \$500,000 or less.

Ms. Nelson said we need to listen to the information provided so we can decide what we will allow Mr. Ward.

Matt Ward said 150% of the estimate to finish the work seems fair. He said he did not want to designate specific lots to be released.

Ms. Nelson asked what the status of Thrushwood is.

Matt Ward said it doesn't have any asphalt.

Ms. Nelson asked if the water, sewer and electric are in.

Matt Ward said yes that infrastructure is in.

Mr. Rembold listed what was left to do; 700 tons of blacktop for 1.5 inch top course, some small sewer connections, sidewalks, \$80,000 for asphalt and sidewalks for the main road in Phase 1, \$50,000 for additional sewer connections and miscellaneous work.

Matt Ward said the 3 inch sewer connection is in. He said a significant amount of the infrastructure is in place.

Mr. Rembold said on Londonderry and Thrushwood the base coat through the top coat of asphalt has to be done.

Mr. Fick asked when that will be done.

Matt Ward said the goal is to have the work done in the next two years. If sales are healthy we should be able to finish the work in two years.

Ms. Nelson said 150% of the estimate for the completion of the work seems reasonable. She asked if the Town had reviewed the project.

Mr. Hankin said if tomorrow they walk away there would not be enough held in covenant for the Town to finish the work. He said \$750,000 can be put up in a bond and all the lots can be released.

Ms. Nelson asked Mr. Hankin if there is any value in reducing the number of lots held in covenant.

Mr. Hankin said the purpose of holding lots in covenant is to get the infrastructure in. That hasn't been done. If the Town were to end up owning lots they would most likely be the least desirable lots and the tax payers would end up paying for the completion. We are allowing them an option to have all the lots released by putting up a bond.

Ms. Nelson asked if it would be helpful to see a map showing what lots are held in covenant and which ones are proposed to be released.

Mr. Hankin said they don't want to specify the lots to be released.

Matt Ward said that is correct, we don't want to be specific about the lots to be released.

Mr. Pachano asked what part of the project has been completed.

Matt Ward said all the lots in Phase 1 have been sold, some are still under construction. He said the project will be cash negative to the end. The Town is holding \$2 million in assets for \$500,000 worth of work.

Mr. Pachano asked why some of the money from what was sold wasn't put into finishing the infrastructure.

Matt Ward said the money has been going back into the project. We want to continue to sell Phase II lots to get money for the work but the lots are held in covenant.

Ms. Nelson said she sympathizes with the desire to sell. She said we are struggling with where the right balance is. The lots are not liquid assets for the Town. She asked if Thrushwood were to be built out how many lots would be needed to finish the work.

Matt Ward said he is not sure how many houses it would take.

Ms. Nelson asked Matt Ward to give some figures.

Matt Ward said he didn't know it hasn't been figured out. We need to sell lots and houses to generate money.

Mr. Fick said it would be reasonable to release some lots. He said he is not sure what the right number is.

Mr. Higa suggested some of the lots could be released and we could ask for a conversion of lots into a bond.

Ms. Nelson said that is too much to negotiate.

Mr. Fick said he thought Mr. Higa's suggestion was reasonable.

Mr. Rembold said the Performance Guarantee could be a mix of a covenant and a bond.

Mr. Fick said maybe as the cost is reduced a bond for \$250,000 could be put in for 5 lots.

Mr. Hankin said he looks at it differently. \$14 million dollars in real estate has been sold. Why couldn't the infrastructure have been completed?

Matt Ward said millions of dollars have been spent on the infrastructure. We are looking for help to get the project done.

Mr. Fick suggested letting people in the audience speak.

Ms. Nelson agreed. She informed the audience that the Board does not have recourse for all issues in the project. The Board is limited in their scope.

Many people from the development were present with issues regarding the project. Several people spoke expressing frustration with areas of the project that have not been completed. The

swimming pool is not finished, homes are not completed, there is concern that the project will not be completed and the Town would not have the money to finish.

There was support expressed for the Wards and success for the project. The concern over the infrastructure not being completed was expressed by most.

Ms. Nelson explained that the infrastructure is within the Board's purview. Issues with the amenities and unfinished homes would have to be addressed by the Home Owner's Association.

Dave Ward stated that because of the covenant sales have stopped. It is not to anyone's benefit for the project to be stopped.

Ms. Nelson said the Board is not interested in stopping the sales.

Dave Ward said a bond would be difficult to get.

Additional comments from the homeowners included people suffering for the lack of completion. People are living in the development but the roads are difficult to walk on and the sidewalks have not been built. Drainage is incomplete in some areas and top course is not on the road(s). The police are not able to find homes because there is no signage. There isn't even a sign on Burning Tree Road. Some are living in homes they have not closed on because of items that remain to be finished.

Matt Ward said there are punch lists that have to be finished. Some people want to be in their homes so they move in.

Ms. Nelson said it is challenging to live in a construction zone.

Mr. Fick said he thinks the property should be freed up. The covenant could be reduced to 6 lots.

Mr. Pachano said we should keep in mind that Phase 1 is not done.

Mr. Fick said yes but it can't be completed because of ongoing construction.

Mr. Rembold suggested that the applicant make a formal proposal and submit the paperwork.

Ms. Nelson asked for a development plan showing what lots have been sold and what remains. She said it seems the applicant wants a flexible release. We would like to have a schedule of completion.

Matt Ward said a bond is not possible. He suggested it might be helpful for the Board to view the property.

Mr. Fick said it might be helpful to see Phase 1 so we could see the items that could be completed. He said a schedule of completion would be helpful.

Ms. Nelson said the applicant needs to provide a schedule of completion for Phase 1 and a schedule of completion for Phase II along with a proposal of what lots would be requested to be released from the covenant.

ZONING ITEMS FOR THE ANNUAL TOWN MEETING:

Mr. Fick said he prepared some language for a marijuana bylaw. He revised 7.18, the medical marijuana bylaw. He said we need to have something in place. This revision could allow us to go into the Annual Town Meeting with options otherwise we have to default to the State law.

Mr. Hankin said he we need to reduce the minimum setback to allow for retail marijuana establishments on Main Street and Railroad Street. It doesn't make sense that a store could go on the north side of Railroad Street but not on the south side of Railroad Street.

Mr. Rembold said the special permit option would come into play in that situation. He asked if the Board wanted a moratorium before applications are accepted. If the Board is not concerned then things can play out at the ATM. He asked if the Board is concerned about having regulations in place prior to April.

Mr. Hankin said yes.

Ms. Nelson said she is concerned. She said she thinks a moratorium is a waste of time. If we want control we need to have a regulation in place.

Mr. Higa asked if there is concern about limiting the number of stores to be allowed.

Mr. Rembold said the Town can limit the number with a general bylaw, not zoning.

Mr. Higa supported a moratorium.

Ms. Nelsons said it would be a waste of time.

Ed Abrahams said nothing has come before the Selectboard. The Selectboard has not discussed what can and can't be done. He said he would appreciate the Board's input when it comes to the Selectboard.

Mr. Rembold said this is a time sensitive matter. The Board will need to have a discussion with the Selectboard.

Mr. Hankin said he is most concerned with not having anything in place and defaulting to the State law that most likely will have a 500 foot setback from sensitive areas where children congregate as was the case with the RMD state regulations.

The Board's final decision was there would be no moratorium, no special town meeting and to allow the matter to be addressed at the Annual Town Meeting.

Ms. Nelson asked if Mr. Rembold was ready to discuss the Water Quality bylaw.

Mr. Rembold said no.

Attorney Richard Dohoney was in the audience. He said he didn't think the Water Quality bylaw was so confusing that it requires a zoning change. He said it is an interpretive matter at a staff level. He believed a letter to the Building Inspector from the Planning Board providing guidance on how to interpret the section in question may be all that is needed.

STATE ROAD ZONING:

Mr. Rembold suggested rezoning the existing B-2-A zone to R-4, and use the B-2-A designation for State Road and call it the State Road zone. Then rewrite the B-2-A regulations to apply to State Road. Applying the R-4 zone to the current B 2-A would make the Thornewood Inn nonconforming so that might have to be addressed.

Mr. Pachano said he wanted to clarify a statement he made at the last meeting. He said there was discussion of a minimum apartment size. He said that he stated that the minimum size would be 720 square foot but that doesn't apply to us in Massachusetts. He said that the code that applies is one room in the apartment would be a minimum of 70 square feet. Potentially an apartment could be 120 square feet. The minimums were reduced for the "tiny house" movement.

Ms. Nelson said it appears the principal issue for State Road is what it should be named.

Mr. Fick suggested that the developed portion of the B 2-A could change to the B-2 zone, which is across the street.

Mr. Hankin said Fountain Pond could be zoned R-4.

Ms. Nelson said then we would have a B 2-A zone to use for State Road and apply new dimensional requirements.

Mr. Rembold said he would prepare a map with uses for State Road.

The Board then discussed the Downtown area.

Mr. Hankin asked how the MXD would impact a property with a carriage barn near the property line.

Mr. Rembold said the property would already be non-conforming. The MXD might make it conforming but maybe not. Just writing in the text that something is conforming is not the same as actually meeting the setback requirements. It either meets setbacks or it does not. The MXD text said that anything already exists could maintain those setbacks.

Mr. Hankin asked if housing could be added to the carriage barn.

Mr. Rembold said he thought so but it could be a grey area. The bylaw would be written with the clear intent to make it conforming but it would be up to the Building Inspector.

Mr. Hankin said we would want to preserve the character of the neighborhood. A 15 foot backyard setback should be maintained.

Mr. Pachano said we should then zone for whatever is there.

Mr. Hankin said that is what we are trying to do.

Mr. Pachano said the minimum lot area requirement for a dwelling unit could be amended and keep everything else.

Mr. Hankin asked if a non-conforming structure could be changed to a new use.

Mr. Rembold said he would look into it.

Mr. Pachano said changing the minimum lot area per dwelling unit from 5,000 square feet would be huge. It won't protect the character of the neighborhood.

Mr. Higa said if the change would create incentives to take down buildings it would definitely change the character of the neighborhood.

Ms. Nelson said Mr. Pachano has pointed out some of the issues. If we keep some of the requirements we will maintain the character.

Mr. Rembold said for next time he would prepare a map with the MXD applied and the new regulations for State Road.

TOWN PLANNER'S REPORT:

Mr. Rembold said he didn't have a report.

BOARD & COMMITTEE UPDATES & CONCERNS:

Mr. Higa said the CPC had approved 10 of 11 applications to move on to step 2 of the process.

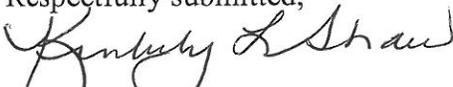
Mr. Rembold reminded the Board there will be a meeting on the Open Meeting Law changes at the Town Hall on Tuesday October 17th at 5:30 P.M.

CITIZEN'S SPEAK TIME:

No one spoke.

Having concluded their business, Ms. Nelson adjourned without objection at 9:16 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary