

TOWN OF WENHAM

Planning Board
Meeting Minutes of October 13, 2016
Wenham Town Hall, 138 Main Street

Pursuant to the Open Meeting Law, M.G.L. Chapter 30 A, §18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Planning Board was held on Thursday, October 13, 2016 7:30 PM in the Selectmen's Meeting Room.

With a quorum present, Mr. Geikie called the meeting to order at 7:30 PM.

Board Members Present David Geikie, Chair; Minot Frye, Vice Chair; Stephen Kavanagh; Don Killam; Virginia Rogers
Also present: Margaret Hoffman, Planning Coordinator; Catherine Tinsley, Recording Secretary
Town Counsel Attorney Ilana Quirk, K & P Law

Officials present not participating
Selectman Catherine Harrison
Town Administrator Peter Lombardi (A-7:43 pm)

Old Business

- Continued Public Hearing - 213R Larch Row
Request for Modification to previously approved "Special Permit Under Zoning Bylaw Section XVIII – Residential Open Space Communities" dated September 10, 1992

The Chair stated that this hearing was continued from September 15.

The applicant has requested the hearing be continued to the next regularly scheduled Planning Board Meeting.

The hearing was reopened and continued to November 10 without further discussion.

The Planning Board unanimously voted to continue the hearing for 213R Larch Row to a date certain of November 10, 2016 at 7:30 pm at Town Hall.

- Continued Public Hearing - Wenham Pines (Lakeview Golf Course)
Flexible Subdivision
Application Location - 56-60 Main Street

Present:

Mike Clark, DCI, Engineer & Peer Reviewer for the Town
Miranda Gooding, Glovsky & Glovsky Attorney for the applicant
Sr. Project Manager, Roy Tiano, Hancock Associates

Attorney Gooding briefly summarized the applicant's request for a flexible development plan saying that DCI, the Town's peer reviewer, has been working with the applicant's engineer to resolve the comments in the peer review report and the applicant is prepared to focus on the Yield Plan for a determination by the Board.

The Yield Plan is the number of building lots that the Planning Board would permit for a conventional subdivision under the Zoning Bylaws and Land Use Regulations. The applicant must show each lot on the planned is buildable.

DCI was hired by the Town to perform a peer review of the applicant's revised Yield Plan dated October 5, 2016.

Engineering comments were addressed.

Attorney Gooding referenced the Hancock associates response to the peer review dated October 10, 2016.

She observed that before the Board can consider the actual project for a cluster development the Yield Plan must be approved and stressed the importance to the applicant to have the Yield Plan reviewed and approved by the Board, otherwise, engineering work may be undone if the Board does not concur.

She further noted the applicant previously came before the Board for a preliminary discussion on the Yield Plan in an effort to save time and costs. The applicant believes the land could reasonably be developed under all applicable requirements.

Approved 11.10.16

Mr. Tiano joined the discussion of the Yield Plan and referenced a schematic design of the 32.4-acre property showing an 18 lot development with the required 170 feet of frontage for each lot, with two minor roads, and showing the required upland; the soils are adequate for septic systems.

Mr. Tiano clarified that the flood storage at the Main entrance would be replicated in another area.

(Peter Lombardi arrived)

Attorney Gooding suggested the number of lots would not have an impact on the project because it is cluster housing. The development would still be set back 500 feet from Main Street and would have the same number buildings, only the number of units would change. This difference would be minimal to the town but to the applicant it is paramount for this to be a successful low impact development with contiguous open space.

A general discussion of the Yield Plan followed with a series of questions related to the wetlands, the proposed bridge, and common drive. During this discussion, it was again noted that this is a Yield Plan and would not be built and the definition of “reasonable” should be considered in the decision. The Board reviewed the potential special permits for the project.

Attorney Gooding provided the Board with a list of the changes made to the revised plan.

The calculations used to attain the proposed 25 units was further explained according to the Town’s Flexible Subdivision Bylaw. It was noted that this includes the existing farm house which is proposed to be restored and made into two affordable units.

- Yield Plan – 18 units
- Density bonus for open space – 3 units
- Age restricted development – 4 units

The applicant is aware of the value of the rolling vista long Main Street and will utilize the dedicated open space for walking paths and natural habitat.

The four acquisition phases were further explained in detail. Each acquisition could stand along; an ANR would be filed for each phase. The applicant is requesting the phasing be granted in the special permit.

Phase one includes the purchase of the parcel and the common infrastructure of the road (to phase 2) septic, bridge, detention basins, the two family and the development of four units.

Phase two is three buildings, 7 units with two duplex/ one triplex

Phase three and phase four completes the build out and could feasibly be done at the same time pending finance /sales.

The bulk of the infrastructure is in phase one.

The affordable units will be completed by the time the applicant requests the Certificate of Occupancy for the 12th unit; this is the half way will be ready at the half way point of the project.

The construction syncs with the acquisition phases. The phasing plan gives the applicant some flexibility.

It was important to the Board that the delineation of the open space be completed and filed

Regardless of who develops the land, the project in its entirety is bound to the flex development by way of the Host agreement with the applicant and owner of the property and goes on record at the same time the special permit is filed.

This permit is tied to a flexible development plan.

Attorney Quirk recommended the phasing plan has a peer review to confirm that each phase would stand alone in the event the project is abandoned. Attorney Quirk also recommended both the applicant and the land owner be listed jointly on the Special Permit and the Special Permit required it be synced with the host community agreement for a flexible development.

Mr. Geikie questioned what Security the applicant was proposing to assure the development is completed and was told by Attorney Gooding the applicant was willing to provide a triparty Agreement or a Bond.

Attorney Quirk explained that because this is a Special Permit the seizing surety is different than subdivision surety whereas the town does not have the benefit of the stator authority. A written agreement in the even it is seized it goes through town meeting to be appropriated out to do what is necessary in the event of a default. A gift account under Ch. 44 § 53A may be a good option; this will be further discussed to agree on a resolution.

Mike Clark opined this is almost like three projects and all phases complies to the intent of the bylaw.

He noted such issues as if this becomes a driveway dead end such as a hammerhead turnaround or the requirement of easements to access the back to lots as these would be land locked.

Discussion ensued. The owner joins in the applicant provides surety the project will be done but the timing is essential i.e. that the road meets fire code.

Such things as stock piling, snow storage, and earth moving has yet to be finalized. The applicant has been advised to submit a limited disturbance plan and that Conservation Commission approval be conditional review of the storm water pollution protection plan.

Ms. Rogers questioned what phase unit 12 is expected to be finished in in relation to the affordable housing also being completed. Attorney Gooding clarified the affordable units will be built by the completion of Unit 11 in phase 2.

In her closing statement, Ms. Gooding said the land owner is in agreement with the acquisition phasing and possible land easements. She observed that they will be back with a final plan taking in all comments of the peer review and Planning Board. She asked for a poll of the board to understand where the members stand on the 18 lots, noting the Yield Plan is not going to be built and the applicant is eager to start on the actual plan.

Formally amend the application to request the two special permits DCI suggested were omitted from the application.

1. Zoning Bylaw § 8.4 - Removal of trees in excess of 6 inches in caliber. Additional surveying was done and approximately 15% of the trees would be removed (38 of 260). The applicant is planting in excess of 200 new trees as part of the landscape maintenance plan. This information is
2. Zoning Bylaw § 9.3- Erosion control for grading in excess of 15% to level the platform for the buildings
3. The Planning Board requested the applicant submit in writing a confirming the amendment made tonight to the application. This can be done in conjunction with adding the land owner to the Special Permit.

It was observed that the Conservation Commission has not commented on the Yield Plan, as the determination of the Yield Plan is with the Planning Board as it is not actually going to be built and Ms. Gooding suggested this would be confusing and the Planning Board should reference the Peer Review. By asking the Commission for an opinion, the applicant would be compelled to present a Yield Plan to the Conservation Commission and this adds considerable expense and uncertainty and is not what was meant by the bylaw. Ms. Hoffman noted that the Conservation Commission would also rely on a peer review of this plan, similar to what was provided by Mr. Clark.

Mr. Clark stated he did significant work reviewing the wetlands but what was proposed in the Yield Plan is doable. The main focus was the number of basic units and the permitting can proceed from there. He noted that the engineering won't change with the number of units.

Mr. Clark has not looked at the new updated documents dated 10.5.16.

Ms. Hoffman noted this is the town's first look at the details of the peer review however for precedence the Board may want to have a formal peer review for the record.

The Chair opened the hearing to the public for comments or questions. There was none.

Mr. Geikie stressed that the Planning Board is very interested in public opinion. The hearing will be continued and there will be other opportunities to provide comments.

The Chairman proposed to take this under advisement.

Before the November 10 meeting:

- o The Planning Board will review the updated Peer Review report of the revised Yield Plan dated 10.5.16
- o Formal amendments to the application submitted in writing as indicated by the applicant at this meeting
- o Two new special permits earth removal/ tree removal
- o Comments from the Fire Department
- o Board of Health responses

It was the consensus to forgo further advertising.

The Board reserved the right to take advise from any other town Boards, Commission

Vote: Mr. Killam moved, and it was seconded to continue the hearing for Wenham Pines to a date certain of November 11, 2016 ay 7:30 pm in Town Hall. The motion carried unanimously.

The Board recessed and reconvened.

Ms. Hoffman noted the written decision for 60 Arbor Street was not on the agenda but requested the Chair provide time for the Board to read and sign the decision if they were so inclined. The written decision for 60 Arbor Street was provided to the Board without comment or discussion. Ms. Rogers stated that she had questions regarding the decision, and did not sign the decision.

Ms. Hoffman will post a meeting next week if necessary; the deadline to file the decision is October 19.

Administrative

- Open discussion for potential Zoning Bylaw Amendments for 2017

Ms. Hoffman reminded the Board that the Town has hired General Code to re-codifying the general zoning and subdivision Bylaws to make them cohesive and more user friendly. All amendment/changes must be presented and voted by Town Meeting.

Ms. Hoffman is working with Town Counsel and asked the Board make suggestions to the Bylaw they want considered.

If the process is complete, a public hearing will be held in January.

Ms. Hoffman and Ms. Rogers attending a Zoning Reform to try and is trying to allow for denser housing in all kinds of communities, specifically near transportation. It is generally agreed spread out zoning is not sustainable or good for the future but that septic is not manageable on quarter acre lots.

- Minutes: September 15, 2016

Vote: Mr. Killam moved to accept the Planning Board minutes of September 15, 2016 and it was unanimous to do so.

The Planning Board unanimously adjourned at 10:07 pm.

Respectfully Submitted By
Catherine Tinsley
10.18.16