

COHASSET PLANNING BOARD MINUTES

DATE: WEDNESDAY, JUNE 6, 2007
TIME: 7:00 PM
PLACE: COHASSET TOWN HALL – SELECTMEN’S OFFICE
41 HIGHLAND AVENUE, COHASSET, MA 02025

Board Members Present: Alfred Moore, Chairman
William Good, Vice Chair
Stuart Ivimey, Clerk
Robert Sturdy
Mike Westcott

Board Members Absent:

Recording Secretary Present: Jo-Ann M. Pilczak

MEETING CALLED TO ORDER AT: 7:00 P.M.

7:00 P.M. 428 ATLANTIC AVENUE, FORM A APPLICATION, APP/OWNER: CATHERINE AMORY & ROBERT A.T. SCOTT, (21 day deadline = June 25, 2007) Attorney Henderson represented application. Land to be divided between two surviving children. Existing house, tennis court and cottages on property. Henderson has spoken with Paul Shea, Paul Mirabito and Mr. Sestito (Highway surveyor) – to discuss whether guardrail can be used as frontage. May have to alter guardrail to gain access to public way. Member Sturdy does not think the lots are fully surveyed and should have a proper, modern survey. Henderson noted that it has been surveyed multiple times over the years and that they comply with the Registry of Deeds regulations.

MOTION: by Member Ivimey to approve the Form A as presented

SECOND: Member Good

VOTE: 4 -1 (MEMBER STURDY OPPOSED) MOTION CARRIES

7:15 P.M. 230 SOHIER STREET (FORMER COOK ESTATE) RESIDENTIAL CLUSTER DEVELOPMENT DISTRICT APPLICATION CONTINUED PUBLIC HEARING, APPL: ABBOTT DEVELOPMENT, date stamped: March 7, 2007. (65 day deadline to open public hearing = May 10, 2007) Attorney R. Henderson; Abbott Homes: R. Durant, L. Bloom; Coler & Colantonio: J. Morgan, D. Harris, S.Campbell; Northside Assoc. – G. Clark.

Henderson addressed the legal issues brought up at last meeting:

- Are lots on north side of Sohier St. buildable?
Lots are also depicted on plan filed with Registry in 1965. The five lots have from 22,966 SF to 39,120 SF. All in the the RB zone which requires 35,000 SF under current regulations however, there is an exemption in Section 8.3.2.c which indicates that once a lot is legal, it is a legal lot forever if in single ownership. If in common ownership, at least 15,000 SF is required. All five lots are therefore buildable by zoning law. Member Sturdy reiterated concern that the lots will be deemed buildable in the future to which Henderson reiterated that the land will be subject to the special permit and that the lots will be dedicated to a conservation restriction in perpetuity.
- Is a parcel of land a parcel of land if bisected by some geographical factor such as a road?
Henderson noted that 10.5.1 does not define tract or parcel nor does it indicated that the lots have to be on the same side of a road, making interpretation difficult. Henderson cited Wilmington case in which courts ruled that presence of road through a parcel of land does not create 2 lots. Also cited the Zarro case in an Land Court appeals case in Oregon which found that the defendant had purchased the land as a single unit and had dealt with the parcel as a single unit and that a piece of land does not lose its unitary character simply by the happenstance of an intersecting boundry line, street or dedicated road. Also considered “intended use” – Mrs. Cook used the land (her intended use) as a single unit for her residence despite the presence of a road through the parcel. Abbott took the title as a single unit from the Trust. Town Counsel Hucksam cited: “definition of cluster Development” in bylaw and questioned whether these lots could be considered “adjacent land”; the definition of “common open space” in

the bylaw and questioned whether these lots could be considered “within the site”; 10.3.2.e “within the cluster” and questioned whether these lots can be considered “within the cluster”; also questioned whether lots on N side of Sohier St. are “intervening open land”; and, noted that these 5 lots are already “lots” and that generally in a cluster, lots are being created – these lots are already existing and, all have frontage on a street - more like ANR lots rather than lots within a subdivision. Henderson noted that the land used to calculate the open space was solely on the south side of the Sohier St. - lots on the north side were not included in the calculation of the required open space. Modzelewski noted that even without including the lots on the north side of Sohier St., there are over 10 acres which is the requirement for a cluster development.

- What is the significance of there being “lots” with respect to the dwellings depicted on the land?

In past filings – such as Wheelwright Farms”, the original plans started as foundations that were perceived to be “lots”. Wheelwright Farm condo docs submitted for approval state that the “deed will convey the fee and the land under the foundation of the house.” When condo docs were ultimately filed, there was no reference to lots, fee, land etc. as Board waived dimensional requirements with respect to land - allowed it to be a straight condominium with common land other than area within interior walls. Pond St. original condo docs stated that the lower boundary was the floor of the foundation with the fee and underlying land included in the units. But Pond St. decision the Board waived the dimensional requirements. So, the “lots” were only a guide to complete the technical requirement for the bylaw. In reality, the condominium form of ownership insures common maintenance, enhanced maintenance and care of the property in a uniform way to keep up a uniform, tasteful appearance. Infrastructure is maintained by the Trust and not by the municipality – which is a benefit. Henderson asking Board to waive necessity of having a “lot” for every unit and let Abbott file as a single family 27 house condominium project.

- Does inclusionary zoning apply to this type of project?

Nothing more to be said beyond the bylaw does not apply to single family houses and in fact the bylaw defines multifamily as residential units for more than one family – simple does not apply here. Town Counsel agreed.

Steve Campbell, Coler & Colantonio: handed out responses to Modzelewski 06/06/07 letter. ***Back up docs to be submitted in near future.***

- Road width will be maintained at 20’ wide to keep lower impervious ratio but will be changed to a 1 way road with restricted parking on inside of road. Modzelewski wants to see plans, but looks good.
- Entry road will be leveled for 50’ at 2% grade as requested by Modzelewski
- Modzelewski wanted 150’ radius. Radius to remain at 115’ but will post 19 mph (in accordance with Mass Highway allowance) speed limit. Will also rework some landscaping to increase sight line and add speed bump if necessary. Modzelewski suggested bringing road closer to septic field to straighten curve in road. ***Will submit turning radius plan to Modzelewski to show Fire Dept can turn.***
- Drainage calcs included pavers with lower CN value on driveway with goal to reduce impervious footprint. ***Will submit drainage calcs showing pavers as impervious*** – calculations show it works. Board will have to decide which they want – pervious pavers or asphalt driveways. Can build maintenance guidelines into condo docs. Board feels pervious pavers should be encouraged.
- Level spreaders on SW corner discharging onto abutter’s property. ***Will submit new design that includes new detention basin to capture water through a swale and discharge the water in such a way that there will be reduction in volume towards the Stop & Shop.*** Water from roofs will be dealt with by pervious pavers. Drywells will not work with the soil that is on the site.

Deb Mitchner – Geller & Geller: provided detailed tree inventory including new trees and shrubs to be planted. Trees along wall on Sohier St. will remain. Wall to be redone. Modzelewski asks that trees being saved to added to the grading plan. ***Site planting rendering to be submitted.*** Member Sturdy would like to see an overlay showing location of other large trees. Mowed lawn will be around houses – meadow around the rest of the property to minimize maintenance required. Emergency road to have 12’ wide double sided break away gate. Reviewed unit distribution showing various house designs in same locations to show that driveway layouts etc. do not change much with change in design choices on lot.

Gordon Clark – Northside Associates: reviewed various designs, proposed colors, styles of garage doors etc. Abbott feels strongly that buyers should be allowed choice of house style on the lot they want to purchase. Member Sturdy still does not agree.

Continued to July 11, 2007 Planning Board Meeting. ***Modzelewski wants documents and plans 2-3 before the meeting to provide adequate review time.***

9:10 P.M. 226 CJC HIGHWAY, OWNER: JOSEPH ROSANO Owner Joseph Rosano, Attorney Maureen Hurley and Sean McCarthy, Neil Murphy Assoc. in attendance. Site Plans and architectural drawings available at this meeting. Attorney Hurley addressed major questions raised at May 23, 2007 meeting:

- Crocker Lane cut-through to Rt. 3A cannot be closed as Barry, US Gov't. and Ward have deeded access rights but, applicant will not pave Crocker Lane to discourage cut throughs and will post "Private Way – No Access". Attorney Hurley will provide copies of easements
- Parking has been reduced from 17 to 10 spaces so front will have large lawn area
- Driveway has been moved further from Rt. 3A intersection but not as far as Crocker Lane (John Modzelewski thought it could be moved even more. No traffic studies have been done
- Drywells have been added and increased lawn area will improve infiltration.

Member Moore noted that Town Counsel has given opinion that a site plan review should be required. Moore is concerned that present materials do not provide enough information for site plan type detail to be examined. Member Sturdy very concerned about train traffic and number of curb cuts. Members Westcott and Good were comfortable discussing the application without a full site plan given the applicant addressed major issues noted above – particularly if applicant would separate/block Crocker Lane access from parking lot with fence of some sort so no access to Crocker Lane (and therefore to Rt. 3A) from the parking lot is available. Applicant Rosano agrees to but up a fence to block access to Crocker Lane from parking lot so only access and egress from parking lot is via King St. Members Westcott and Good added that if applicant will identify easement holders, provide copies of easements and approach easement holders and ask if they would relinquish rights to use Crocker lane the need for the SPR might be eliminated. Member Ivimey agrees with Member Moore stressing concerns about traffic and safety. Attorney Hurley questioned the impetus for the Planning Board to get involved now when a building permit (now expired) was issued months ago. Member Westcott would like to encourage the applicant to address the remaining issues discussed relative to Crocker Lane and continue to the next meeting to see if it can be resolved. Member Good agreed requesting agreement from the Board that the Crocker Lane cut through is the key issue which if addressed by the applicant, ends all concerns to that the fourth meeting doesn't end up with the same end result. Modzelewski noted that his comments are not as detailed as they would be with a full site plan review. Member Moore noted that Rosano can decide if wants to address the Crocker Lane resolution and return to another meeting – Member Ivimey noted that there maybe abutter who should receive legal notice via a Site Plan Review.

MOTION: by Member Ivimey that the Planning Board opine to the Building Inspector that no building permit be issued until a Site Plan Review is conducted relative to Cohasset Bylaw 12.6.1

SECOND: Member Sturdy

VOTE: 3 - 2 MOTION CARRIES

Modzelewski to contact Mass. Hwy. to see if they would prefer the Crocker Lane curb cut be closed.

Applicant Rosano to confer with his attorney before filing a Site Plan Review.

10:00 P.M. 16-22 DEPOT COURT SITE PLAN REVIEW, OWNER/APPL.: RICHARD BROWN, (30 day deadline to open public hearing = June 1, 2007) Richard Brown presented, reviewed landscape and elevation plans.

MOTION: by Member Ivimey to close the public hearing

SECOND: Member Westcott

VOTE: 5 - 0 MOTION CARRIES

MOTION: by Member Ivimey to approve the site plan review as presented, conditioned upon submission of plans finalizing details.

SECOND: Member Good

VOTE: 5 - 0 MOTION CARRIES

10:10 P.M. ADMINISTRATION

- **VOTE TO ACCEPT MAY 23, 2007 MINUTES**

MOTION: by Member Sturdy to approve 05/23/07 minutes adding "Vice Chair" for B. Good

SECOND: Member Ivimey

VOTE: 5 - 0 MOTION CARRIES

- **SET JULY MEETING DATES – July 11, 2007 and July 25, 2007.**

10:12 P.M. ANGUS JENNINGS, CONCORD SQUARE DEVELOPMENT CO., VILLAGE PROJECT STATUS AND UPDATE. Project is four weeks into contract. Will be interviewing village property owners to

verify the number of subsidized units in Town. June 19, 2007 is public kick-off meeting. Goal is to get property owners and business owners in village business district to attend and report their future plans, to help clarify concepts and areas where Concord Square's attention and efforts should be focused. Challenges in Village include parking, accessibility and high turnover of small businesses. Presently, there are no subsidized housing units in the Village – total number of existing housing units will be verified by interviews with the property owners. First 60 days to be information gathering followed by Market Study piece in mid-late June. Also plan face-to-face discussion with those in the study area. Town has applied for supplemental funding to provide for architectural resources. Member Sturdy noted concern with viability of the Village businesses which may or may not involve zoning changes. Concord Square will look at regulations and perhaps suggest zoning reforms for the Village. Member Westcott noted that goals are to focus on vitality of Village and housing in the Village. Member Moore thinks apts. should help landlords defray costs, not make money – cautions that the Village not become another residential district. Member Sturdy commented on preserving character of the Village and that Downtown Village has to become a destination.

Comments from the public included:

Wayne Sawchuk:

- Apts. are absolutely vital – business owners cannot survive without rental apartment income.
- Train is separating the downtown business district in two – what is this doing to the Town?
- Relief from the 40,000 SF requirement for more than 2 apartments.

Peter Brown – EDC:

- There is some merit to grandfathering some properties so they are not disadvantaged by smaller lot sizes
- Town owned parcel between train tracks and Red Lion Inn must be looked at to determine how it can be used.
- Supports the effort for supplemental funding for architectural resources.
- All owners of the 45 parcels in downtown should be notified of meetings, Concord Square efforts etc. in person and in formal letter
- Income from apartments would help subsidize the ever growing costs of construction/renovation
- Pitched roof are important contribution to the feel of the downtown – flat roofs have to go.
- Proximity of 35' high buildings next to residential districts must be considered in any changes.
- Impact of the train is important to viability of businesses
(Wayne Sawchuk added that a nice landscaped area along the town train way with a nice "Cohasset Center" sign so people on train can see an attractive area as they go by and be attracted to come back to it).
- Village Merchants' Association is necessary

Tom Callahan – Cohasset Housing Authority: Noted that residential use has always been part of the Village and this is a good opportunity to provide smaller, entry level and downsizing level units in a \$200,000-\$300,000 market range. Member Sturdy feels this may place financial burden on property owners and that there are already a lot of affordable units that the State won't count. Sturdy also noted that the Concord Square survey should also look at the fact then when a certain amount of renovation is done, the building must be brought up to code, which could be prohibitive for the property owners and, stand in the way of any progress. Wayne Sawchuk added that "no full apts. above the second floor" should also be examined because he thinks elderly could be well served by living on third floor with elevator accessibility and sprinklers.

John Tedeschi: Accessibility between stores and how people are going to get around is important. Isolating a good portion of the Downtown Business District with the train line without a footbridge over the tracks to Smith Place is a big issue and should be looked at.

MOTION: by Member Sturdy to adjourn

SECOND: Member Ivimey

VOTE: MOTION CARRIES

MEETING ADJOURNED AT: 11:10 P.M.

NEXT MEETING: WEDNESDAY, JUNE 20, 2007 AT 7:00 P.M.

MINUTES APPROVED: STUART IVIMEY, CLERK

DATE: JUNE 20, 2007