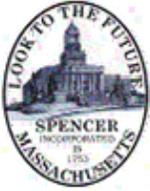


Planning Board – Town of Spencer

Minutes



Regular Planning Board Meeting
Tuesday, May 5, 2009 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

The meeting was called to order at 7:00 p.m.

Planning Board Members Present: Vice Chair Paul Tee, Shirley Shiver, Paul Sauvageau and Robert Ceppi.

Planning Board Member Absent: Chairman Fabio Carrera.

Staff present: Adam Gaudette, Town Planner and Bea Meechan, Senior Clerk, ODIS

Old Business:

A. Continue - Minor Site Plan Review, William Farmer, 19 Maple Street. Mr. Gaudette stated that after the previous meeting (April 21, 2009), he met with Mr. Farmer and his engineer at the site to discuss what should be shown on the revised plan. Mr. Farmer made a presentation on the revised plan as follows:

- The utility pole has been moved to a new location.
- Landscaping on southeast corner of Cherry Street: some existing large shade trees will remain there, some of the rip-rap (in the area where it is not too steep) will be removed and lawn will be there. Also, some landscaping will be added on the southwest side along the retaining wall (where the rip-rap meets the wall).
- The dumpster is now located at the north side corner, next to the property formerly owned by Lamoureux, which is now owned by Mr. Farmer. There will be screening for the dumpster and additional landscaping in this area. The new location provides more space for the dumpster truck to maneuver in and out of the driveway safely.
- Removed the snow storage located near Maple Street, to prevent any snow melting then going over the sidewalk and freezing in the winter time. Mr. Farmer will plow snow, place it to the rear and the back of the building, and remove the snow off the site.

Mr. Gaudette explained the site will gain an additional 20 feet of land along the sidewalk of Maple Street/Route 31 after the State has finished its roadway's construction. Mr. Farmer will have a lawn in this area.

Mr. Gaudette stated that a performance bond for landscaping would be included as part of the conditions in the decision.

Mr. Gaudette presented the pictures of the proposed sign to the Board. The sign will have a light post on the top. Mr. Farmer needs to file a sign application to ODIS. The sign must meet the signage regulations in the Spencer Zoning Bylaw.

Mr. Gaudette indicated that Mr. Farmer has already addressed all concerns as shown on the revised plan presented tonight. Mr. Gaudette will make a modification in the draft decision stating that snow will be removed off the site after the plowing is done.

The Board needs three members to act on the voting. Two members who are present in tonight's meeting were not present at the previous meeting (April 21, 2009). In order to cast the vote, they are required to sign the Adjudicatory Hearings Form at the Town Clerk; however that has not yet happened. One member, who had attended the previous meeting, isn't present for tonight's meeting. Under the circumstances, the Board couldn't conduct the voting.

Mr. Gaudette and the Board agreed that the revised plan is in compliance with the requirements. In addition, Mr. Farmer has already obtained a building permit from the ODIS; the Board said that Mr. Farmer can continue doing things at his own risk.

Ms. Shiver made a motion to continue the decision on the application to May 19, 2009. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

B. Discussion on Deer Run Phase I & II.

At the previous discussion (4-21-2009), the Board indicated that based on the developer's failure to perform items in the decision approvals, time requirement and performance guarantee; the Board moved forward to start a formal procedural to rescind the approved decision for subdivision Deer Run Phase I. The Board also directed Mr. Gaudette to check the status on the extension approval on Phase II. Mr. Gaudette said that the developer, Mr. Harrington failed to meet the requirements of his extension from last fall as well.

Abutters were present tonight for this informal discussion.

Mr. Gaudette notified the Board's decision to Frank Chamberlain of Framingham Co-operative Bank (the third-party in the agreement). Mr. Gaudette was referred to attorney Joseph Antonellis (Bank's attorney) to discuss the matter and find a solution. After the discussion, they arrived at the solution that the Bank will foreclose on Harrington and take ownership of the subdivision, then complete the necessary work.

Mr. Antonellis said that the Bank is also considering having Hannigan Engineering (Peer Engineering) to finish the remaining survey work on Phase 1. Mr. Gaudette has contacted Hannigan Engineering and explained the situation and discussed what is remaining to be done on Phase 1.

Ms. Shiver asked for an explanation on the legality of the procedure.

At this time Mr. Antonellis explained the Bank is the third-party in the agreement and would like to ensure some level of comfort to the Board. The Bank is fully committed and will pursue the necessary process to complete the subdivision. Mr. Antonellis informed the Board that Mike Harrington (the developer) is aware of the Bank's intention and if the Board responds positively to the proposal (let the Bank take over the subdivision), the Bank will take the following actions:

- ✓ Do a speedy foreclosure, anticipating the foreclosure to be finalized in June, 2009.
- ✓ Transfer the Deed to the Bank, take ownership of the project.
- ✓ The Bank has the right to act on the licenses and permits issued to the developer (Mike Harrington).
- ✓ Filing extensions on the definitive subdivision on both Phase 1 and 2.
- ✓ Contacting Hannigan Engineering to complete the remaining work on Phase 1.
- ✓ Plan the remaining work on Phase 2.

Ms. Shiver has a concern with the assignment as it refers to land on Kittredge Road, Briarwood Lane and Hummingbird Lane which are extended to North Brookfield. She then asked if there is any problem with these areas.

Mr. Gaudette explained the situation to the Board:

The amendment to the decision on Phase 2 required the developer to maintain the emergency access all the way (through Phase 2 of subdivision) to Spencer Road in North Brookfield. Also the remaining length of Briarwood Lane and Hummingbird Lane, which extends all the way through Spencer Road in North Brookfield, must be constructed to have a secondary egress for Subdivision.

The North Brookfield decision required the developer to do some improvements to Spencer Road and must be approved by the North Brookfield Planning Board prior to constructing the subdivision in North Brookfield.

Mr. Gaudette said that he will contact the Town of North Brookfield and report back to the Board.

The Board asked about the timeline to finish the work on Phase 1.

Mr. Antonellis responded the contract agreement with Hannigan (for the work on Phase 1) has yet to be established. Thus, he could not specify on the timeline.

The Board commented that this is the precedent case in which the Bank proposes to take over the subdivision and take full responsibility. There are still more documents to be reviewed. The Board then decided to continue the **discussion to May 19, 2009.**

Mr. Gaudette stated that the Planning Board has advertised a public hearing to rescind the original approved decision on Deer Run I on May 19, 2009. Notifications will be sent to Mr. Harrington and all abutters.

Mr. Antonellis said that he would have some idea on the timeline for a completion on Phase 1 on that date. He thanked the Board members for their time.

C. Continued Public Hearing on Major Site Plan Review – Country Spirits, 10 West Main Street. Mr. Tee opened the public hearing at 7:45 pm. Mr. Gaudette gave a brief review to the Board:

At the previous hearing (February 17, 2009), Mr. Dubois gave a presentation of the plan to the Board and was advised to address comments from Town Officials (ConCom, U&F, Highway Department, Sewer Department and Mr. Gaudette), and Town Peer Engineer. The Board made a motion to continue the public hearing to March 3, 2009.

The applicant requested to postpone to a later date as additional time was needed to revise the plan. They hadn't yet received comments from the Sewer Department, the easement agreement with National Grid had yet to be finalized, and the traffic study on the sight distance hadn't completed yet.

Note: There were no abutters present tonight for this hearing.

Mr. Gaudette said that a revised plan has been provided, but Mr. Dubois is waiting for approval/confirmation letters from the Sewer Department, U&F and comments back from Cullinan Engineering (Town Peer Review Engineer), in addition they still need to conduct soil testing.

At this time Mr. Gaudette asked Mr. Dubois to give a presentation on the revised plan to the Board.

Mr. Dubois presented the up-dated information and a summary on the revised plan as follows:

- The easement issue with National Grid was resolved.
- Relocated the detention pond and the fence as suggested from U&F and Cullinan Engineering.

- A 6-foot vinyl fence will be installed on the top of the slope, on the westerly side of the building (separate the abutter property from the parking lot in the back of the building).
- Two parking spaces (front parking lot) are eliminated and the building has been shifted to meet the setback requirement.

At this time the Board and Mr. Gaudette had a discussion regarding the stopping sight distance and intersection sight distance for the traffic on Route 9 (westbound and eastbound) and the location of the site. Ali Khorasani, Engineer from AK Traffic Transportation, had prepared an analysis on the subject matter. The analysis was submitted to the Board and Mr. Gaudette for a review prior to tonight's hearing. The Board and Mr. Gaudette have several concerns, which Mr. Khorasani gave responses as follows:

- **Concern #1:** For both directions, eastbound and westbound of Route 9, if a patron intends to pull into the proposed site, and is slowing down not stopping; would there be enough room for the following motorist to pass around and continue traveling on the street?

Response: Mr. Khorasani explained that, Route 9 is a two-lane highway with one lane in each direction. It has a 40-foot pavement width, consisting of one 12-foot travel lane and an eight-foot shoulder in each direction. The following motorist would have enough room to safely maneuver around (to the right of) a vehicle waiting to turn onto the proposed site.

- **Concern #2:** A patron is backing out (from the parking lot immediately located near the Route 9 entrance), intending to exit out on Old Spencer Road. And, at the same time patrons are pulling into the proposed site from both directions on Route 9. Would there be sufficient stopping sight distance for followers of these who are entering into the proposed site so as to not collide?

Response: Mr. Khorasani indicated there is sufficient stopping sight distance (420 feet coming westbound and over 500 feet from eastbound) in both directions with the travelling speed of 40 mph. In addition, this stopping sight distance is beyond the standard distance requirements from both the State and ASSHTO. (See the analysis report).

- **Concern #3:** A Patron intends to exit out from Route 9's access either eastbound/westbound. Would there be sufficient intersection sight distance for making a safe left/right turn out from the proposed site, especially when making a left turn?

Response: Note – there is a hill approaching the proposed site on eastbound direction. The hill has a slope of 6% grading. Mr. Khorasani stated that generally a vehicle is slowing down when travelling up the hill, when it arrives on the crest of the hill, people inside the vehicle are able to see a vehicle that is waiting/stopping at the access. Naturally when making a turn (left/right turn) at the intersection, people would look for a

safe sight distance to complete the turn. Also, there is a posted speed limit sign, limit to 40 mph, locates on the westbound and the analysis indicated that the intersection sight distance meets the standard requirement with a speed limit of 40 mph - both the State and ASSHTO.

- **Concern #4:** Volume of traffic during the peak period. At the previous hearing, Mr. Derosier, abutter, who resides on the westerly side of the proposed site, stated that he has a difficult time exiting out of his driveway either west or east bound (Route 9). He is concerned that the proposed site would increase the traffic volume and would worsen his current situation.

Responded: Mr. Khorasani said that based on the trip generation, the traffic volume is generally low within the vicinity of the proposed site. Furthermore there are two accesses to the proposed site. Most Town of Spencer residents would use Old Spencer Road's access. Out of town patrons would use Route 9's access. Based on the traffic study during the peak hour, it is estimated that it would be 1.5 vehicles entering and exiting out every minute for both accesses. Therefore the traffic volume generates from the proposed site would have a minimal impact, if any, to the current traffic.

The Board and Mr. Gaudette commented that the above demonstration and the analysis report from Mr. Khorasani had helped clarify their concerns.

As mentioned above the applicant is still waiting for letter of approvals from U&F, Water Department and addition comment back from Cullinan Engineering. The Board then decided to continue the public hearing to the next scheduled date.

Ms. Shiver made a motion to continue the public hearing to May 19, 2009. Mr. Sauvageau seconded the motion and vote was 4-0 in favor.

D. Continued Public Hearing - Definitive Subdivision and Site Plan Review, Pine Cliff Condominiums OSRD, off Greenville Street. Mr. Tee opened the public hearing at 8:20 pm. Mr. Gaudette said that ODIS hasn't received any new information on the revised plan or any response from the applicant yet.

Mr. Howland, the applicant's engineer, was in attendance to present the revised plan to the Board, which illustrated the landscaping plan and the proposed trail location. He also informed the Board of the following:

- ✓ Met with Water Department and agreed on the locations of fire-hydrants.
- ✓ Met with Highway Department regarding improvements on Greenville Street, no major change to the plan.
- ✓ Location of the cluster-mailbox will be situated adjacent to the Building #1 as indicated by the Post Office.

- ✓ Still waiting the response from the Sewer Department.
- ✓ Will meet with ConCom on May 13, 2009 to finalize on the Notice of Intent's application and to discuss on the ownership of the open space land.

Mr. Howland said the major issue discussed at the previous hearing was the 100-foot setback requirement for Unit #15; it didn't meet the Zoning Bylaw. Joan Rosseel, an abutter, attended the hearing, had a concern of privacy. Since then, Mr. Sielis and Ms. Rosseel has agreed to swap a portion of land to each other. Mr. Sielis will exchange for a portion of land that would allow Unit #15 to meet the requirement accordance to Section 5.3.9 (Spencer Zoning Bylaw). Mr. Gaudette said that it would require an ANR boundary line adjustment. This will resolve the setback issue and a privacy issue for both. ***(The ANR plan would be presented to the Board tonight for an endorsement, right after this public hearing).*** *Note: the line adjustment will be reflected on the revised plan.*

Ms. Shiver requested to have a profile or cross section of the landscaped walkway be reflected on the revised plan.

Mr. Tee asked whether the Fire Chief has yet commented on the small radius of the cul-de-sac. Mr. Howland replied that the Fire Chief hasn't responded yet.

Mr. Sauvageau referred to a comment from Ms. Underwood, an abutter, from the previous hearing. She is concerned that the proposed project would increase the impact of water runoff, and would add more to the water problem she is currently has. Mr. Sauvageau asked if Mr. Howland had done a calculation to see if she would be further impacted.

Mr. Howland said that the drainage system meets DEP Stormwater Management requirements. He said the particular area has extensive ledge, and based on the soil (Grade B) in the area the additional impervious surface would not have a significant impact on the runoff. For roof-runoff water, some will go into the pocket wetland (which is under the Town jurisdiction wetland), some will go to the roof drainage and discharge into the pond, and some will go directly into the Town road's drainage.

The Board, Mr. Gaudette and Mr. Berthiaume continued a discussion on Homeowner Association and Master Plan documentations, procedures of transferring the open space land ownership, and Phasing Plans process. The Board then decided to continue the public hearing to the next scheduled date.

Ms. Shiver made a motion to continue the public hearing to May 19, 2009. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

At this time Mr. Gaudette presented an ANR plan, a boundary line adjustment, which had been discussed above. The application was submitted by Mr. Sielis. Mr. Gaudette had reviewed the plan and it met the requirements of the Spencer Subdivision Regulations.

After the Board reviewed the plan, Ms. Shiver made a motion to approve the ANR plan and have Mr. Gaudette endorse the plan as submitted tonight. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

F. Discussion – Candlewood I – An on-going problem involving the abutters and the developer.

Mr. Gaudette gave a brief history of the situation to the Board. The Standrings believed the excess water-runoff from the development had contributed to the water problem they had already been experiencing. Mr. Gaudette said that the permanent solution which the Town Officials (U&F, Highway Department, ConCom and Peer Engineer) and Mr. Murkland agreed upon on was to install a pipe across the road to Sibley property. ConCom approved the design for pipe across road to the Sibley property in August, 2007. The Standrings (the abutters) appealed ConCom's decision to DEP, immediately right after. ConCom issued Certificate of Compliance for project on November 18, 2008. And the DEP hasn't yet respond/comment back to the Standrings since.

In the previous meeting (April 21, 2009), the Standrings sought advice from the Board in resolving their on-going problem with the development. The Board directed Mr. Gaudette to contact Rob McNeil (U&F) and Brian Murkland (developer) and reports the outcome to the Board.

Mr. Gaudette had contacted both Mr. McNeil and Mr. Murkland. Mr. McNeil responded that the Town has no obligation to do anything. Mr. Murkland said that he did put an effort to accommodate the problem to the Standrings, since they appealed; he now has no obligation for anything.

Mr. Gaudette said that he would contact the Standings and let them know the outcome.

New Business: None

Other Business: None

Ms. Shiver made a motion to adjourn the meeting at 9:30 pm. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

Submitted by:

Approved:

Bea Meechan
Senior Clerk, ODIS

Fabio Carrera
Planning Board Chairman