

## Planning Board Minutes June 8, 2004

BOSTON PLANNING BOARD      JUNE 8, 2004

PRESENT:      Patricia Hacker, Chairman

David Stringfellow, Vice Chairman

Michael Pohl, Secretary

Margaret Andrzejewski

David Bernas

J. David Early

Richard Hody

Jeffrey Mendola

ALSO    Kelly Vacco      Town Attorney

PRESENT:      Dennis Kramer    Code Enforcement Officer

Brien Hopkins    Councilman ? Town Board Liaison

Richard Brox      Planning Consultant

Lydia Herren      Springville ?G.I. High School Government Student

Chairman Hacker called the meeting to order at 7:30 PM.

### MINUTES

Chairman Hacker asked if there were any corrections or revisions to the minutes of May 25, 2004:

Being none, Mr. Stringfellow made a motion to accept the minutes, seconded by Mr. Pohl. All in favor.

CORRESPONDENCE: Mr. Pohl reported the following:

- Letter dated May 26, 2004 from the Planning Board to the Town Board with recommendation for the Barrett Site Plan.
- Letter dated June 3, 2004 from Town Clerk Shenk to Martin Barrett advising of Town Board approval of the Site Plan providing Planning Board stipulations are met.
- Pamphlet advising of Planning and Zoning Schools ? 2004, sponsored by the Association of Towns and the State of New York.
- Erie County Department of Environment and Planning Community Development Needs survey.
- Other correspondence to be read at point in agenda.

#### BRIEN HOPKINS - LIAISON

Mr. Hopkins reported that the Town Board members are at a standstill regarding the Marcia Baeumler request for a Special Use permit on Herman Hill Road.

Mrs. Vacco: I was requested to re-evaluate my prior position, and it is clearly a mixed use. They need to go to the Zoning Board of Appeals for Special Use permit. As it relates to our specific code ? if it's not specifically delineated under the Zone that you are in as a Special Use, a use cannot be created to fit the circumstances. The criteria for the Baeumler case does not fit the special use for the Zone that they are in.

Chairman Hacker: What about the fines?

Mrs. Vacco: Their only concern was that we let the Court know what the decision of the Town Board was before their next appearance in front of the Justice.

#### ANTHONY BERNARDI ? DISCUSSION ONLY

Mr. Bernardi was not in attendance.

Mr. Pohl read Mr. Bernardi's letter dated June 2, 2004 requesting that he be on the Planning Board agenda for June 8.

Mrs. Hacker: I have been in contact with Rebecca Anderson from the D.E.C. and will continue to be so, so we are definitely still in the discussion stage. This whole situation revolves around the fact that a lot was sold off of Mr. Bernardi's property, years ago. That lot had frontage designated to it in a deed, although when the home was built that frontage was not used for the driveway. Now the driveway exists on property that the landowner does not own; making it a fact that there is no legal frontage for that property and no legal frontage for Mr. Bernardi. There is an existing "t" turnaround that Highway Superintendent Poore is willing to have turned over to the Town. The Town has checked the quality of the road, and it's his opinion that with certain items being met that he would accept the road.

Discussion followed regarding the 100-year and the 500-year floodplain issue.

Mrs. Hacker: Ms. Anderson would like to advise Mr. Bernardi on the placement of the homes, because of these issues.

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Mr. Kramer: Mr. Bernardi called this morning and wanted to get a fill permit to start working down there. I advised Mr. Bernardi that he prove to someone that he is out of the 500-year floodplain; and what he will do with the flow in case there is a flood situation.

Mr. Brox: There seems to be some miscommunication, the only time you have to worry about a floodplain is if it's in the 100-year, the 500-year doesn't matter.

Mr. Hopkins: But, Rebecca Anderson, from D.E.C. told us?.

Mr. Brox: Check with the Corps of Engineers.

Mr. Kramer: I told Mr. Bernardi that he shouldn't be changing grades there until a site plan has been submitted, along with the SEQR; leave the grades as they are until there is approval, then work with the homeowners after they buy the property.

Mrs. Vacco: Remember, even though we are aware of his intentions, Mr. Bernardi has not made an application to this Board. He is fully aware that by virtue of the Town taking over that property and the extension of that road it will put him into Town Code Section 104 ? Subdivision of Land, should he decide to subdivide that property, he said ? I am aware of that, I have spoken to Pat Hacker about it, I'm just not ready to do that now.?

Mr. Stringfellow: Does the Town have a survey signed by a licensed surveyor that shows exactly where the 100-year floodplain is?

Mr. Brox: That generally happens during the subdivision process.

Mr. Stringfellow: But the Town may be accepting a road that is down in the floodplain.

Mrs. Vacco: The Town Engineer has done a study and has confirmed that the road is not.

Discussion followed about the extension of a road, that with the intent to subdivide property will cause the subdivision process to proceed.

Mr. Early: What is the Town's advantage of taking over this road?

Mrs. Vacco: The Highway Department is currently plowing on private property. It has been paved by the Town, in error; it is a stretch of road that has been quasi created by the Town, it is not Town property now; and the turnaround that was in existence, that the Town does own, is all overgrown, it is no longer useable.

Discussion followed regarding the dedication of highway.

Mr. Kramer: During the Eckis 't' turnaround discussions it was said that there couldn't be a driveway within 50 feet of the 't', is that law or not?

Mrs. Vacco: That was the former Highway Superintendent Kreitzbender's decision. That is not in our Code.

Mrs. Hacker: Highway Superintendent Poore has not said anything about the 50 feet, but he will not allow anything off the ends.

Discussion followed about possible driveway placement.

7264 BOSTON STATE ROAD ? NICHOLAS CHARLAP

Mr. Pohl read the letter dated May 27, 2004 asking Mr. Charlap for revisions that need to be made and submitted to the Planning Board for further review.

Mr. Charlap was not able to be in attendance this evening, there was no further discussion.

## RICHARD BROX RECOMMENDATIONS

### Subdivision Revisions

Mr. Brox reviewed each of the 13 items that were on his recommendation.

Mrs. Vacco reminded all members that any changes would need to go to Public Hearing before being approved.

Smith request ? Woodlee Court Subdivision

Mrs. Vacco: They are dealing with Orchard Park.

## CODE ENFORCEMENT OFFICER KRAMER

Mr. Kramer reported that CVS is applying for a variance for additional signage. I have not heard anything from them about demolition or anything else

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Code Enforcement Officer Kramer, con?t.

The Tomasello property on Boston State Road has been bought by Randy Keen, grandson of the original owner, to operate a small lawnmower service. I have advised him that proper parking spaces and striping will need to be done.

Mrs. Hacker: Hasn?t one year gone by since the last retail business was in there?

Mr. Brox: The one-year time frame would apply to a non-conforming use.

Mr. Kramer: He will need a sign permit, which will probably be referred to the Planning Board. There is an existing standard there so he will probably utilize that.

Mr. Kramer: One last thing. I talked with Rebecca Anderson this morning and she reiterated that her letter stands.

Mrs. Hacker: I've had calls about the collision sign on Herman Hill Road.

Mr. Kramer: Butch (Lisowski) said that he would take a look at it.

Mrs. Hacker: Any further business?

Mr. Brox: I will not be in attendance until September, but if you need anything please call.

#### NON-AGENDA ITEMS

#### SUMMER SCHEDULE

Mrs. Hacker asked if anyone knew of anything that might be coming before this Board that might prevent a reduction in the meeting schedule. She added that the Planning Board would continue to work with Nick Charlap.

She added that Dana Darling called her and said that he has a letter from the Planning Board dated May 13, 2003 stating that we are in approval of his subdivision as it was in the preliminary stage at that time. Then the Town Board sent a letter on August 11, 2003, that it was tabled. His question is: "Since it is not a full year, does he need to start all over?"

Mr. Kramer: The Town Board never acted on the rezoning, they tabled that.

Mr. Brox: My opinion would be that if the Town Board tabled rezoning, and holding this up from proceeding, that the August date would be the one we should follow.

Mrs. Vacco: I will verify what the letter stated.

Discussion followed regarding the summer schedule.

Summer schedule will be Tuesday, July 27 and Tuesday, August 24.

Mrs. Hacker: Any further business?

Being none, Mr. Stringfellow made a motion to adjourn at 8:33 PM., seconded by Mr. Pohl. All were in favor.

Respectfully submitted,

Michael J. Pohl

Secretary

MJP:tjf