

Planning Board Minutes June 8, 2010

BOSTON PLANNING BOARD JUNE 8, 2010

PRESENT: David Stringfellow, Chairman

Mike Cartechine

Robert Chelus

Keith Clauss

Mark Coppola

Rich Skinner

EXCUSED: Patricia Hacker

Joe Litwin

ALSO Jeff Genzel Councilman ? Town Board Liaison

PRESENT: Michael Kobiolka Town Attorney

Thelma Faulring Secretary to the Boards and Committees

Richard Brox Planning Consultant

Adam Fishel Project Engineer ? 7182 Boston State Road

Sean Hopkins Attorney ? Proposed Mobile Home Community

Dana Darling Developer ? Proposed Mobile Home Community

Joe Gauthier Proposed Mobile Home Community

Ron Yormick Deanna Drive resident

Dave Dahl Sun/Journal Reporter

Chairman Stringfellow called the meeting to order at 7:30 PM. and appointed Alternate member Robert Chelus to act as a regular voting member for this evening's meeting.

MINUTES

Mr. Stringfellow asked if there were any additions or corrections to the minutes of May 11, 2010.

Being none Mr. Clauss made a motion to accept the minutes, seconded by Mr. Cartechine and carried.

GENERAL CORRESPONDENCE

Secretary Faulring reported the following:

? Sent to members Erie County Environment and Planning notice of training at Niagara Community College on June 16, 2010 and on June 17, 2010 Erie Community College ? North Campus

? Sent to members FEMA's Flood Risk Map Update ? Friday, June 11, 2010 at E.C.C. City Campus

? Code Enforcement Officer Ferguson's May End of Month report

7182 BOSTON STATE ROAD ? SUBDIVISION OF LAND

Correspondence:

? Planning Board letter dated May 20, 2010 to Town Engineer James Hannon requesting a written review

? Planning Board letter dated May 20, 2010 to Planning Consultant Richard Brox requesting a written review

? Richard Brox review dated May 24, 2010

? Planning Board letter dated May 27, 2010 to Adam Fishel requesting his attendance for this evening's meeting

Mr. Stringfellow: For the new members: about two years ago they came before us with a similar proposal to subdivide the land, basically to make the lot with the pharmacy ? one lot; cut off two other to make two separate lots. We had questions then about the detention pond and the dumpster being on another lot; the lot on the northwest side would be landlocked. They have since revised what they submitted. The question of the landlocked lot they have indicated now that their intention is to deed

that property to the man who owns the lot in front of it that will give it legal frontage on a public road. I think that was the only real problem with that. The detention pond and the dumpster now are going to remain on the property with the CVS building; that eliminated some questions. I guess some of us are sure or not sure whether the other lot that will be split off, which is the one in back, lot 3 on what they're proposing would turn out to be a buildable lot or not. It's got some area of floodplain near the creek; there are two sewer easements going through it. Mr. Brox's letter indicated that it probably could be built on.

Mr. Brox read his review of May 24, 2010.

Mr. Brox: I kind of thought that this building area here and this building area here, because here's your 50 foot setback, you could have parking over the easement, you could have a building and meet the rear yard setback; the floodplain would be a concern. They would have to make designation C floodplain and it would require special construction and permits, etc. My biggest question, as before, how come, are they trying to just get rid of some excess land? Because it's a subdivision it comes here; it starts and finishes with the Planning Board.

Mr. Stringfellow: I believe their written response to that was that they don't have to tell us how come. People can subdivide their land if they want to. Is that correct?

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Mr. Fishel: That's correct. My name is Adam Fishel, from APD Engineering, I'm representing Zaremba, the developer on this project; and essentially Mr. Stringfellow is correct, that we are proposing to subdivide; the zoning ordinance does not prohibit subdivision. As of right now it's my understanding that CVS has this excess property and just want to subdivide it and market it. I have no?I'm not aware of any particular use that's going in there, if they even have anything in mind. What they want to do after the fact is up to them. They would have to go before the Planning Board anyway.

Mr. Brox: We're concerned about the #2 lot which is stated that it is going to be sold, given or whatever to the next door neighbor. There's got to be real proof that is going to happen, not just by word of mouth. It's a landlocked parcel and we aren't about to approve a subdivision with a landlocked parcel.

Mr. Fishel: Can you make that a condition of approval, that we provide formal documentation that the deed or sale of property will be occurring?

Mr. Kobiolka: I think we want to see that up front at that time. The Town Engineer has some concerns with that back lot #3. Since the retention pond will just be taking the drainage from the main parcel, what will happen with the development of the other parcel, as far as drainage goes?

Mr. Fishel: As far as drainage goes, typically site plan approval and as far as SEQR on any other future development, that development specifically has to address their drainage concerns.

Mr. Kobiolka: But with small parcel of .83 or .88, there's not going to be a lot of room for drainage.

Mr. Fishel: I have done underground stormwater considerations on parcels of this size, so it is possible.

Mr. Coppola: It's possible, but is the person who's going to be buying the land going to be able to figure that out for themselves?

Mr. Fishel: That's up to them and their engineer.

Mr. Coppola: But it's our town and we want it to look nice.

Mr. Brox: The concern is CVS or the developer can split this off from the CVS parcel; he'll own it forever. He's going to find out that no one wants to buy it because it's got floodplain, it's got easements, it's going to need a retention area. Then in three, four years it's an in-round proceeding and the County owns it. That's exactly what the Town doesn't want to see.

Mr. Fishel: How will that happen if CVS or the developer still owns the property, still pay the taxes on it?

Mr. Brox: If they quit paying taxes on it. Once it's a subdivided parcel, they just quit paying the taxes and it goes to the County; and then it becomes a liability to the County and/or the Town. There's lots of vacant commercial property, the question is "how come?" And your response to that is it's none of our business; but it still comes out "how come?"

Mr. Fishel: I stick to my response, not necessarily it's none of your business, there's a better way to put it, but it is excess property and CVS wishes to attempt to sell it, and put it on the market for a future development which there are means of putting development on that parcel.

Mr. Genzel: Do you have any idea of what you're going to try to sell that for?

Mr. Fishel: I'm not the developer so I have no idea.

Mr. Coppola: Is there an assessment?

Mr. Kobiolka: CVS has filed an Article 7 and it's been pending for ten years; I think that assessment was still pending when this originally came up in November of 2008. So I believe what this gentleman is saying is that CVS just wants to lessen its tax liability.

Mr. Coppola: Exactly, they want to lessen their tax liability and you can look at it anyway you want; it's not a developable piece of property. You're on the creek bed.

Mr. Clauss: That's it, no matter what they do for their own detention pond, it seems to me that when that floods, it's just going to back right up into detention pond; and that water's right up to the bridge when we get these rains like we've been getting. You can't drain into a creek that's overflowing.

Mr. Fishel: The detention pond that's there now seems to be operating fine, am I wrong in saying that?

Mr. Coppola: Put another parking back there and tell me it's going to work okay.

Mr. Brox: It's an engineering problem that the Town Engineer wanted to look at also. Because it's in the flood zone category.

Mr. Coppola: If you want to subdivide this, you need to have somebody that wants that parcel right now, and tell us what you're going to put on it. That's my opinion.

Mr. Clauss: That's my opinion.

Mr. Skinner: It's my opinion. If they can sell it with the contingency that someone is going to use for something and pay taxes on it, then we'll consider subdividing it.

Mr. Fishel: How can the Town do that? The ordinance said that they can subdivide it; SEQR brings in all the environmental and stormwater concerns that the Board has. So that would be looked at upon the development?

Mr. Coppola: Do you have the SEQR report on this subdivision?

Mr. Fishel: The overall site plan, I believe, did have SEQR?

Mr. Coppola: The overall, but do you have it on the subdivision.

Mr. Skinner: It was for the whole parcel.

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Mr. Coppola: Right, but once you change that parcel, it requires a new SEQR.

Mr. Fishel: I believe we did submit an EAF for this back when the original application was made. I have handled subdivisions like this before in the past, we state that once that parcel is intended to be developed, an application comes in, that applicant is no longer covered under the original SEQR for the overall site, that new developer has to submit their own EAF, go through the same SEQR proceedings and address and answer any/every question that the Board might have, including stormwater, and potential flooding, and anything else that the Board might have.

Mr. Stringfellow: I would suggest at this point that:

1. we want some firm proof that Mr. Miller, or whoever the property owner is, will accept the other property and that it will not result in a landlocked parcel
2. our Town Engineer has asked for more time to look at the paperwork

3. I would suggest that at this time we table it until our next meeting

4. Can you respond with the documentation form Mr. Miller by that time?

Mr. Fishel: We will do our best.

Mr. Stringfellow: When you are ready we will bring back to the Board.

Mr. Fishel: Once we do receive something I will submit it and ask to be put back on the agenda. If the Board has any other questions, I'm here to answer the best I can.

Mr. Coppola: I make a motion that this gets tabled referring to what David (Stringfellow) just said.

Mr. Claus: Second.

Mr. Fishel: Are there any other questions on the overall project? I know there is a list of comments that came out of the meeting back in 2008.

Mr. Stringfellow: Yes, there was a mistake made when they striped the parking lot.

Mr. Fishel: The developer has committed to restriping that in the next week or two. When the Board meets I can request that be provided; but that's what was communicated to me.

Mr. Stringfellow: We'd like that done by the next time we meet on this again.

Mr. Stringfellow: All in favor of tabling? All were in favor of the motion.

LIAISON ? COUNCILMAN GENZEL

Mr. Genzel: We met today and finished up the checklist for final site plan and preliminary and now are working on the variance checklist for the ZBA. We hope to have copies for everyone to look at and review; and then send it on to the Town Board for their review. Other than that I'm open to any questions that you may have. Last time we met, I brought some CD's with the Town Code on and gave them to David (Stringfellow).

Mr. Stringfellow: Yes, I'll give you one after the meeting. Just to add to what Mr. Genzel said, the checklist that we've been working on, essentially what they're intended to accomplish:

1. an introduction that explains to the people how the process works, for people that were at the last meeting, who thought they were done after meeting with us, no, they had to wait for Town Board approval

2. to use the Code Enforcement Officer essentially as a gatekeeper, he will go through the checklist and make sure that the package that is going to come to us, is complete, so that hopefully we don't have to keep sending people back for things that they didn't do.

TOWN ATTORNEY ? MR. KOBIOŁKA

Mr. Kobiolka: Just adding that I'm working with Mr. Genzel, David (Stringfellow), Mr. Brox on the updates to the Code Book. I think it's looking pretty good; and we'll give it a test run for three or four months and if there are any kinks we'll work them out. The whole idea is to make the process work for the community and also so that it'll work for the Board. Everything comes down here A,B,C, you go through it, you check it off, everyone gets the review, they come down here to complete the process, that's what the goal was.

DISTRIBUTION OF UPCOMING PROJECTS

Secretary Faulring distributed the application for rezoning & supporting documentation for the proposed mobile home community.

Mr. Stringfellow: The next agenda item is adjournment, but we do have visitors here. I assume that you are here for the project that was just handed out now?

Mr. Hopkins: Yes.

Mr. Stringfellow: None of us has had a chance to see, read it or anything else. We certainly will not take any action on it tonight. If there is something that you want to present?

Mr. Hopkins: All we are interested in is giving a five minute overview of what the project is.

Mr. Stringfellow: If you can do that in five minutes, go ahead.

Mr. Hopkins: The best thing to look at is the colored exhibit in the front.

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Mr. Hopkins: Basically I'll explain what we're after. This is a proposed mobile home community approximately 59.03 acres in size.

Mr. Hopkins referred to the exhibit pointing out Deanna Drive and the 18-Mile Creek.

Mr. Hopkins: Basically what we're proposing is 110 units, a mobile home community, the site is 59.03 acres so we're at 1.87 units per acre, very low density in terms of a mobile home community. The project site itself currently exists of two parcels, you can see where that orange and yellow line

separates, that's the east and west line. The property to the north is currently zoned R-2, which I believe would allow single family homes with lots of 15,000 square feet per lot so we're actually, there would be lower density than R-2 would allow; and the parcel to the south, which has frontage on Boston State Road, is directly contiguous to the existing mobile home community to the south, is zoned R-A. So we're asking for 34.83 acres to be rezoned from R-2 to R-4, which is the mobile home community district, and 24.2 acres to be rezoned from R-A to R-4. One of the important things of the application is obviously the most sensitive areas of this site is 18-Mile Creek, first of all because of the importance of the creek and second of all there are approximately eleven acres of wetlands on this site. So what we've done, you can see it on the green, we're proposing to preserve approximately 16.32 acres of the site, 28%, as permanent green space. What does that mean? That means that we will not be changing the zoning of that portion of project site and secondly we will record a deed restriction at the Erie County Clerk's Office, of course your Town Attorney will need to review that before is recorded, to make sure that no development ever takes place in that greenspace, either now or at any point in the future. I heard in previous projects some questions were "what could happen to that in the future?" We're saying, "nothing." We will record a deed restriction, to ensure that nothing can ever take place. Obviously you just got the application, we think we provided a very complete application with a lot of information. I did talk to Jim Hannon (Town Engineer), both on Friday and today and he asked us, despite the fact that the Town's checklist, only asked for the Short Environmental Assessment Form; this is a large enough project that really should have a Part 1, so I've prepared the Part 1, and I'm going to hand that out to everyone this evening, and I'll provide copies to the Town Board and Dave (Shenk). That's it basically in a nutshell, if there's any questions, I would certainly welcome the opportunity to address them. I would also like to point out that obviously the mobile home community of today is much different than what you picture of the '50's, '60's, '70's.

Mr. Hopkins (displaying a picture): This is what we're envisioning in terms of the aesthetic of the project. Maximum size of the units will probably be 1600 square feet. It's going to be an upscale mobile home community, that's what we're proposing. It's hard to get people off the negative connotations of picturing eight units per acre that you saw 40, 50, 30 years ago.

Mr. Brox: I was under the impression that reserve strips are illegal.

Mr. Hopkins: No.

Mr. Brox: Or that most towns don't want them.

Mr. Hopkins: What do you mean by that?

Mr. Brox: You're providing a 15-foot wide exception between your park and the Falkides park or Boston Trailer Park. What's the reason for that?

Mr. Hopkins: That parcel, it's not clear who owns it, that's why. It's not included in our survey. That's a very good question. It's unclear who has an ownership claim to that so we're not going to develop it, because you know what happens then; you get lenders involved and adjacent property owners. So we're saying whether we own it or not, very unclear, but we're leaving it alone. But to the extent that

we do still own it, it will remain with this, we're not trying to parcel it off (unclear)...we're not going to pay the taxes and someone else take care of it. It's also important to point out, the same question, Mr. Brox, with respect with the previous project, the greenspace, someone else could raise the same question, maybe you guys will try and create a separate lot, not pay the taxes, and guess what then it becomes the County and the Town's liability. We're not proposing this to be a separate lot, it'll just be property subject to a deed restriction. We would agree to a condition that we cannot actually create a separate lot to avoid the concern that was raised previously, basically we will continue to pay taxes on it. In terms of the wetland impact we have approximately eleven acres and they're primarily located in close proximity to 18-Mile Creek, we're only proposing less than one-tenth of an acre of impact, so 99.1% of the wetlands on the site will be preserved. We really spent a lot of time before bringing this project in to try and come up with a layout that takes into consideration the environmental concerns, the density, to make this project work. Again I said it's lower density than a subdivision.

Mr. Coppola: It's still a trailer park though.

Mr. Clauss: The subdivision specs are a little light anyway in the Town of Boston, you should have bigger than ½ acre lots.

Mr. Hopkins: R-2 actually allows 15,000 square feet?

Mr. Clauss: I'm just saying?

Mr. Hopkins: 3 lots per acre?

Mr. Clauss: Since you brought it up?

Mr. Hopkins: But that's what the Code says.

Mr. Clauss: If somebody wants to build new in this Town it's preposterous to have ½ acre lots in especially?

Mr. Coppola: I make a motion that we go into Executive Session.

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Mr. Skinner: I'll second that motion.

Mr. Clauss: I'll third it.

Mr. Hopkins: For what purpose?

Mr. Coppola: I think that the Board should be able to sit and discuss this without having an audience. Let us talk about?

Mr. Hopkins: That's not a reason to go into Executive Session. To the extent that you have concerns, voice them; that's what we're here for.

Mr. Kobiolka advised Mr. Coppola that this is not a reason to go into Executive Session.

Mr. Coppola: I'll go on the advice of the Town Attorney (to withdraw the motion).

Mr. Hopkins: And again we're not here asking for recommendation this evening.

Mr. Yormick: I've never been in this. Does Parcel A look like this?

Mr. Hopkins: No, what do you mean by Parcel A?

Mr. Yormick: You have two parcels in this area.

Mr. Hopkins: No, there's nothing on that property currently.

Mr. Yormick: Nothing currently?

Mr. Hopkins: Correct. This is Parcel A, R-2 Parcel B, or no Parcel A, R-2, Parcel B, R-2.

Mr. Yormick: There's no construction there already?

Mr. Hopkins: No, there's an existing mobile home community here, I forget the name of it, you're all familiar with it. I mean the density of that project compared to the density of our project, it's not even comparable.

Mr. Kobiolka: I also had a conversation with (Town Engineer) Jim Hannon he referred to Chapter 123, but the actual Mobile Home Court is covered by Article 70.

Mr. Hopkins: Right or requires a separate license.

Mr. Kobiolka: He is?the rezoning should take place at the same time as the approval of the mobile home park?.so the Town Board?on what was recommended? so that they know exactly what the whole project is going to be.

Mr. Hopkins: Well I think we've given a pretty detailed presentation of the project; but we can start with discussion.

Mr. Stringfellow: I don't see any good reason to rezone property to R-4 unless somebody wants to build something there that requires?(end of tape side 1, wasn't turned to record the remainder of Mr. Stringfellow's statement)

Mr. Hopkins distributed the long EAF and cover letter.

Mr. Hopkins: Just so everyone knows, the Environmental Assessment Form is not limited to the rezoning. The Environmental Assessment Form is the Environmental Assessment Form for the project; meaning we disclosed wetlands, traffic, parking spaces, size of units, drainage, etc., etc. I think that's important to point out, because everyone just got the application, so that long Environmental Assessment Form that I just submitted replaces Exhibit D which is simply the one page short Environmental Assessment Form. Again that's what I provided because that's what the checklist said.

Mr. Stringfellow: The item is not on the agenda.

Mr. Hopkins: No, I appreciate you giving us a minute to speak.

Mr. Stringfellow: That's perfectly alright. Is there anything else to come before the Board? Does someone want to make a motion to adjourn:

Mr. Skinner: I'll make a motion to adjourn (8:14 PM).

Mr. Cartechine: Second.

Mr. Stringfellow: Motion and second to adjourn, is there any question? All in favor? All were in favor of the motion to adjourn.

Respectfully submitted,

Michael Cartechine

Secretary