



TOWN OF RAYNHAM

PLANNING BOARD

RAYNHAM, MASSACHUSETTS 02767

Tel. 508-824-2745 Fax 508-828-4290

Planning Board Meeting

November 15, 2018

Meeting opened: 6:05 p.m. by Burke Fountain, Vice Chairman

Board members present: Daniel Andrade, Burke Fountain, Russell Driscoll, John Teixeira

Board members absent: Christopher Gallagher

Also present: Robert Iafrate, Planning Coordinator
Maureen McKenney, Administrative Assistant

6:05 p.m. – Innovation Park (1000 New State Highway) site plan: The public hearing was reconvened. Edmund J. Brennan, Esq., Taunton, MA, was present as applicant's representative. He requested that the hearing be continued to December 20th so there would be five Board members present. Mr. Fountain questioned if the Board would be meeting on December 20th, and, if so, he will not be present. It was noted he can review testimony if he misses one meeting. Attorney Brennan said he cannot attend the Board's December 6th meeting.

Attorney Brennan explained that additional elevations were taken on site; the results are pending; and, applicant's experts may be ready to give testimony on December 20th. Also, the applicant's engineers are doing the report and the Board can determine how to proceed when it is submitted.

It was agreed that applicant will provide an extension of time-to-act if needed. Mr. Fountain moved to continue the hearing to December 20, at 6 p.m.; second Mr. Driscoll. Motion passed unanimously (4-0-0). (Mr. Andrade left the meeting at 6:09 p.m.)

SRPEDD Update:

- Mr. Teixeira attended two classes dealing with ZBA and Planning Board duties and responsibilities. The meeting was informative and interesting. Some Mass. laws have been updated, including one that allows a Board member to Skype into a meeting if he can be seen. The meeting also covered conflicts of interest.
- The State has allotted funds for "Safe Routes to School," program, which improves sidewalks, bike routes, etc.
- There is no update on the status of the rail line.
- Mr. Fountain discussed the reconstructed rotary in Middleboro, noting it looks more dangerous now; Mr. Teixeira agreed. Mr. Driscoll explained he has used it, it seems okay, but it might take a while for people to get used to it.

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- Mr. Teixeira read the definition of a rural community, which is a community having less than 500 people per square mile; Raynham does not qualify as rural.

General Business:

- Mr. Fountain moved to waive the reading and accept the minutes of October 4, and October 18, 2018; second Mr. Teixeira. Motion passed unanimously (4-0-0).
- Invoices were signed.
- Mr. Teixeira informed that at the meeting he attended, he learned that in accordance with Mass. law, that when a meeting begins, it should be announced that it is being taped.

6:20 p.m. Riverwalk Adult Retirement Community (ARC) subdivision plan: The public hearing was opened. (Daniel Andrade was not present.) Mr. Driscoll read the hearing notice.

Attorney Ryan Prophett, Raynham, MA, appeared before the Board as applicant's representative. He noted the plan has not been reviewed for the Board yet and there aren't enough Board members present to vote on the special permit for the ARC; he suggested continuing the hearing.

Attorney Prophett discussed that it was brought to his attention that there is a potential conflict of interest in having the Board's usual consultant, Nitsch Engineering, review the plan. He has reviewed the conflict-of-interest laws and does not see any conflict or appearance of conflict in having Nitsch review, and filing of a disclosure statement with the Town Clerk would avert any appearance of conflict. Attorney Prophett noted a quote received from a second firm for the review is four times the cost of the Nitsch quote; he feels this is holding this applicant to a different standard than others.

Mr. Teixeira questioned why Nitsch is quoting one-quarter of the amount of the other firm, which he sees as a conflict. Attorney Prophett noted Nitsch is charging consistently with other projects. Mr. Fountain noted Nitsch is familiar with Town regulations and by-laws while it would take other firms time to get familiar.

Attorney Prophett stated the laws put the onus on a Board member if there is conflict or appearance of conflict not on the Board. Mr. Teixeira questioned if it is on the Board. Mr. Fountain noted the Board may need a waiver from Nitsch if they don't review because the Board has a contract with them.

Mr. Iafrate explained the Chairman had asked him to get two other quotes but one was too busy and Beta was the second firm to quote; their quote was \$11,850. He noted Beta has reviewed for the ZBA. The Board reviewed the Nitsch quote that was submitted at \$3,500.

Mr. Teixeira sees a conflict in having Nitsch review a project for a person who signs the Nitsch contract; it doesn't seem right and may be asking for trouble. Mr. Fountain said he understood. Attorney Prophett disagreed; he does not see a legal conflict; if the Nitsch quote is consistent with others, the applicant shouldn't be penalized. Mr. Teixeira said that is not the intent but he sees a difference in the dollar amounts.

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Mr. Iafrate suggested bringing the matter to Town Counsel for direction. Mr. Teixeira said he would be comfortable if Town Counsel gave his blessing. Mr. Iafrate noted time is of the essence, the project needs to be reviewed. Mr. Teixeira suggested looking at other projects, specifically other ARCs to see if the quotes are similar; if they are, he will be okay with it, but if it seems inappropriate, it should be avoided. During discussion, Attorney Prophett noted if Town Counsel sees no conflict in using Nitsch, the price shouldn't matter. Mr. Driscoll stated the prices shouldn't matter to Town Counsel, he doesn't need to see them.

Mr. Fountain moved to send the matter to Town Counsel and ask his opinion on the conflict-of-interest for Nitsch to review; second Mr. Teixeira. Motion passed unanimously (3-0-0).

Mr. Fountain moved to have Mr. Iafrate get additional three quotes for review; second Mr. Driscoll. Motion passed unanimously (3-0-0).

The public hearing was continued to December 6, at 6 p.m.

Mr. Fountain noted no testimony will be taken but asked if anyone had questions. Drew Knappik, Church Street, asked if this was the end of the Riverwalk discussion. Mr. Fountain stated yes. Mr. Knappik asked when the issue of access on Church Street will be dealt with. Mr. Fountain stated after project is reviewed by the firm that is chosen. He noted it is unlikely there will be much to talk about on December 6th. Mr. Knappik asked if Nitsch is the engineer of the plan. He was told no.

Mr. Fountain stated there will be no new notices or ads for December 6th.

Gerard Knappik, Church Street, addressed the Board and noted the car dealership already has access onto Church Street and it is a nightmare. He was informed that is testimony and will be taken into account after the Board sees the plan.

An audience member asked if Dan Andrade is in conflict of interest. He was informed no, Mr. Andrade is not present at the hearing.

Steven, Church Street resident, asked if Dan Andrade of the project is the same person as the Board member and asked if he would not be here when the Board is discussing the plan. He was told it is the same person, and he will not be here.

Gerard Knappik questioned how there is no conflict. He believed it was an unstated rule that if a person is in town, they do not conduct business in Town. He said he tried to say something when other houses in the area were built, and he was spoken to rudely at a past meeting. He noted food for thought is if someone is doing business, they should step down.

Mr. Fountain announced the hearing is continued to December 6th, 6 p.m.

6:57 p.m. – Doe Run subdivision (off Pine Street): Attorney Robert Shelmerdine appeared before the Board on behalf of Deer Hill Development LLC, John Noblin, Principal, seeking lot releases for his client who owns 13 of the 27 lots in the subdivision. A copy of Tri-partite Agreement was received but not yet reviewed by Town Counsel. An estimate of remaining work items was submitted from Frank Gallagher, P.E., Foxboro.

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(6:59 p.m. – Mr. Andrade returned to the Board meeting.)

Mr. Iafrate explained there is no asphalt down, no final grading done and no occupancy permits will be issued until all is done; Nitsch should review Mr. Gallagher's estimates. Mr. Teixeira asked Mr. Iafrate's opinion on the lot releases. Mr. Iafrate said it is up to the Board but they have issued lot releases with condition that no occupancies be issued. He said there is much more work to be done here. Attorney Shelmerdine said he was told asphalt and grading will be done early next week. It was noted the 13 specific lots for release are identified in the Tri-partite Agreement, and all Phase I will be released.

There is no dollar value in the Tri-Partite Agreement yet, that is to be determined by the Board after Town Counsel reviews and 30% contingency is added. The bank will not sign the agreement until the dollar value is added. Mr. Andrade said there must be no end date on the agreement for protection.

Mr. Iafrate cited Bassett Knoll Estates, noting there are strong requests to issue final occupancy permits even though all the work is not done; he wants Nitsch to be comfortable with Phase I before proceeding. Mr. Andrade noted there was a phasing issue in Bassett Knoll. Mr. Iafrate wants to stay consistent with past actions. Attorney Shelmerdine noted there are different purviews for lot releases and occupancy permits but safe access to the house is the Building Inspector's purview. It was noted the developer is working with the Sewer Department on line extension.

There was no vote on the matter. The Tri-Partite Agreement will be sent to Town Counsel.

Raynham Preserve/Bassett Knoll Estates: Request for bond reduction was received from Raynham Investment Realty Trust, Claire Harris, Trustee, along with estimate of value of work remaining. Cost Estimate Update, dated November 15, 2018, was received from Nitsch Engineering. It was noted there is a big difference in the two cost estimates provided. Mr. Iafrate suggested the Board do as Nitsch proposes as they are on site daily. The Board agreed.

Mr. Andrade moved to reduce the bond amount to \$332,681 per the Nitsch letter of November 15, 2018; second Mr. Fountain. Motion passed unanimously (4-0-0).

7:10 p.m. – Christina's Path/Evergreen Estates (White Street): Developer Steven Joyce appeared before the Board for a status update of the subdivision. E-mail correspondence, dated November 15, 2018, was received from Highway Superintendent Ed Buckley, providing a punch list of work to be done. Mr. Joyce informed he has put off completion of the road and sidewalk until April because of the time limit for working in November; he had chosen RJ Messina to complete the work but due to their working at the gas explosions in Lawrence, their starting time was delayed; he met with Ed Buckley to discuss the work; he will remove brush, do work in basin and other areas and all will be done for April; and, the resident owners would like the 2 ft. grass strip at the sidewalk eliminated.

Mr. Fountain reminded Mr. Joyce that \$2,600 was needed for the review account. Mr. Joyce had the check with him.

Mr. Andrade noted Mr. Joyce was before the Board a couple of months ago and asked if he started work after that. He noted Mr. Buckley's correspondence indicated there was a lot of clean-up work to do. Mr. Joyce explained he did some work. He noted Nitsch and Ed Buckley met about the work without his knowledge; the scope of work changed and he cannot get it done so he will do it in the spring. Mr.

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Andrade noted Mr. Joyce had been coming before the Board regularly to ask for extensions but has not done so in last five years. He noted all work must be done as brand new before the road will be accepted.

Mr. Joyce was given a copy of Mr. Buckley's November 15th e-mail. During discussion, it was noted Mr. Buckley is okay with the 2 ft. grass strip eliminated. Mr. Fountain felt the grass strips never look good, and a written request for modification must be submitted. Mr. Andrade said he had no problem voting for the elimination.

Mr. Iafrate noted there must be a 4 ft. sidewalk; a request for reduction from 5 ft.- to 4 ft.- width must be submitted. Mr. Joyce was agreeable.

Donna Shaw, 52 Christina's Path, addressed the Board about the fencing around the drainage basin behind her property. She maintains that property now and asked if the Board preferred the fencing be installed or not. Mr. Andrade said that was mentioned in Mr. Buckley's letter and it was approved on the original plan. Mr. Iafrate explained fence is needed around a retention basin that holds more than 1 to 2 inches of water for protection but he believes this basin does not hold water. He noted Mr. Buckley prefers no fence for maintenance reasons; this will be a town-owned property. Mr. Andrade suggested Nitsch review the issue. Mr. Fountain said he would not require it if Mr. Buckley is okay with it. Mr. Iafrate noted Nitsch has to do a final inspection anyway. Mr. Andrade said it should be on the record. He has no issue with the 2 ft. grass strip being eliminated if Mr. Buckley is okay with it, and also the fence. Mr. Teixeira asked if anything permanent is on the property now and was told no. Mr. Joyce said he will add that request to his letter.

Pat Higgins, 64 Christina Drive, explained all the neighbors agree on the shorter sidewalks for the health of the trees and roots. Mr. Joyce noted mailboxes are also a concern.

Linda Ryan, 63 Christina's Path, asked if mail boxes could be in front of each of the seven houses on the street rather than having a kiosk. Mr. Iafrate advised to consult with the Postmaster on that issue. Mr. Andrade said if there are 4 ft. sidewalks and no grass strips, there need not be a kiosk. Ms. Ryan agreed to check into it. She asked if they could use solar lampposts on the street. The Board agreed if the road is private and they are not in the road layout.

Mr. Joyce estimated the work to be done is in the high \$80,000 range; there is bond of about \$150,000 being held. No action was taken by the Board.

Town Planner Update:

- As-built plan for 1550 New State Highway (former Honey-of-A Ham building) has been received and Mr. Iafrate will review.
- The 10 members of the Rte. 138 Zoning Committee met last week; changes to the overlay district document were made; they will meet again on November 27; when final, the document will be sent to the Selectmen for referral back to the Planning Board for public hearing. Input from two meetings was taken into consideration; there were some substantial changes. The document is public and can be viewed. Mr. Iafrate will provide the Board with the document before the public hearing.

The Board agreed the December 6th and December 20th meetings will be held.

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Mr. Fountain discussed the issue of having an alternate Board member and questioned who would make that appointment. Mr. Iafrate agreed an alternate was a good idea if conflicts arise. He noted he started on the Bridgewater Planning Board as an alternate. Mr. Teixeira will research the matter. Mr. Andrade noted they don't have to have some at every meeting.

Mr. Teixeira noted a Board member can participate in a meeting by conference call not Skype. Mr. Fountain suggested looking into the matter.

Mr. Driscoll asked about the Rte. 138/Center Street traffic lights. Mr. Iafrate said he had no new information, his phone calls do not get returned.

There was no further business. Mr. Teixeira moved to adjourn; second Mr. Fountain. Motion passed unanimously (4-0-0).

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "R. Driscoll", written in a cursive style.

Russell Driscoll, Clerk