



# TOWN OF RAYNHAM

## PLANNING BOARD

RAYNHAM, MASSACHUSETTS 02767

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

### Meeting Minutes

June 18, 2020

VIRTUAL MEETING via GoToMeeting.com

#### Call to Order:

Mr. Andrade opened the Raynham Planning Board meeting of June 18, 2020, at 6:00 p.m. and informed the meeting is being recorded.

#### Planning Board Members Present (4):

**On A Roll Call Vote:** Mr. Daniel Andrade, Mr. Burke Fountain, Mr. Russell Driscoll and Mr. John Teixeira

Also Present: Mr. Robert Iafrate, Building Commissioner/Planning Coordinator

**6:00 p.m.** - Public hearing: 675 Paramount Drive site plan

Mr. Driscoll read into record the Public Hearing notice.

There was no one present to represent the applicant. Mr. Andrade informed that the Planning Board received a phone call late today from the applicant requesting a continuance.

**On A Roll Call Vote to continue the Public Hearing for 675 Paramount Drive site plan until July 2, 2020, at 6:10 p.m.** Mr. Andrade-Yes, Mr. Fountain-Yes, Mr. Driscoll-Yes and Mr. Teixeira-Yes (Unanimous Vote)

#### General Business & Correspondence:

- Amend the Certificate of Action (Waiver No. 3) for 1729 Broadway site plan  
One item listed on the Certificate of Action was Waiver #3 for the basin to be a 2:1 slope. On the design plan, Mr. Gallagher met the requirements of a 3:1 slope; therefore, the waiver is not required. The Certificate will need to be amended to eliminate Waiver #3.  
**On A Roll Call Vote to Amend the Certificate of Action and eliminate Waiver #3.**  
Mr. Andrade-Yes, Mr. Fountain-Yes, Mr. Driscoll-Yes and Mr. Teixeira-Yes (Unanimous Vote)
- Signatures for Town Meeting Report: Mr. Andrade informed that each member should sign the Town Meeting Report at their convenience.

- Invoices/bills payable: Mr. Driscoll will be signing the bills for the Board.

• Minutes – June 4, 2020: Minutes were tabled until the July 2, 2020 meeting. Mr. Teixeira informed of an amendment to the June 4, 2020 meeting minutes under the SRPEDD Update as follows: Individuals attending the *Town Meeting* without masks must be afforded a separate area necessary for these individuals. “Town Meeting” will be added to the minutes as shown.

**Correspondence:**

- The Board received letter dated June 18, 2020, from Attorney John D. Bowen regarding Gallagher Place, which the Board will be discussing tonight.

**SRPEDD update:**

- The next SRPEDD meeting is planned for July.

**6:25 p.m. - Mr. Chris Gallagher joined the meeting**

**Plans to be signed:**

- No plans presented to the Board.

**6:30 p.m. Chris Gallagher – Continuance to review compliance with the Amended Certificate of Action dated May 2, 2018 for “Roadway Upgrade Plan of Gallagher Place.”**

**6:30 p.m.** - Mr. Chris Gallagher left the meeting and will not be returning. Attorney Bowen will be representing Mr. Gallagher, and Frank Gallagher, P.E., Gallagher Engineering, was present. Mr. Andrade reviewed the previous discussion regarding the Certificate of Action. Mr. Frank Gallagher informed that the plan of record follows the Certificate of Action.

When the original subdivision was approved on May 2, 1993, and the Planning Board signed the plan on January 13, 1994, the subdivision had two separate lots, Lot 4-2 and Lot 4-1. Mr. Chris Gallagher built a house on Lot 4-1 and continued to build a structure on Lot 4-2.

Mr. Andrade informed that they were not able to locate any permits for the structure on Lot 4-2. The structure on Lot 4-2 has water, tied into TMLP in 2004 and a sewer stub in 2005, and Mr. Chris Gallagher had informed the Board many times that he was living in the structure, which would make it a dwelling. In fact, it was noted by some that it was an office, which is a point of business.

The plan states that Lot 4-2 will be non-buildable for any residential dwelling without further review and approval by the Town of Raynham Planning Board and without appropriate upgrades of the roadway construction along with associated roadway utilities and drainage. The Raynham Planning Board accepted the roadway construction specification for this subdivision which was considered adequate for construction of one and only one dwelling. The Assessors’ office lists

Lot 4-2 as an outbuilding/a barn with no living quarters and no office space. The value of the barn is \$37,800.

Mr. Fountain asked if there was a permit for the barn. Mr. Andrade informed that the Sewer Department had questions as to where the sewer is going because they do not have plans showing where it is tied in. Mr. Chris Gallagher sold Lot 4-1 and obtained a house number (#20) from the Building Department. There are still the issues with the sewer and water as well as permits and inspections for Lot 4-2. Mr. Fountain recommended giving the file to the Zoning Enforcement Office, Water Department and Sewer Department to review. It is not the Planning Board's issue if somebody is illegally living in a barn that does not have an Occupancy Permit. Board members concurred with Mr. Fountain to forward to the appropriate Departments in the Town.

Mr. Andrade stated that he never signed a Certificate of Action without it being reviewed by the Board. The first Certificate of Action stated that the minimum roadway requirement would be 18 feet with shallow drainage and road paved for anything more than one house. An initial motion was made with Mr. Fountain stating that he would approve if pavement was 20 feet. Mr. Andrade differs with the statement from Attorney Bowen stating that he and Ms. McKenney conversed, and a draft amendment for the Certificate of Action was created. Mr. Andrade informed that Ms. McKenney contacted him of the requested change and at that time he informed that he would review. Discussion never occurred with the Board until he saw a Certificate of Action among papers that he had signed. The document was not approved by the Board. Therefore, in his opinion, it was signed illegally. Once Mr. Andrade found out there was two Certificate of Actions, he contacted Mr. Fountain to discuss. Following their discussion, the concerns were forwarded to Town Counsel. The State Ethics Commission was contacted, and a letter was received stating that there is no further review. Mr. Andrade feels that it is wrong for a member of the Planning Board to change his own Certificate of Action without the Board's knowledge. He feels it is illegal. The Certificate of Action that was drafted does not reflect what was said at the meeting. Mr. Teixeira stated that he listened to the tape and the motion from Mr. Fountain states that the roadway be 18 feet wide with either crush stone or gravel. The motion was then amended to state that the first 20 feet from the street be paved so that stones would not be carried out from the driveway onto King Street. Mr. Driscoll agreed with Mr. Teixeira and the Certificate of Action agrees with the vote taken. The only additional discussion during the meeting was that Mr. Fountain stated that because the plan was in Land Court, he wanted the Certificate of Action recorded. Mr. Fountain said that for this sub-division, especially for two lots, the Board would not have required a paved road nor would it be a requirement to be paved the entire way. It would have been 20 feet from the road so that dirt would not be dragged out on to the street. The original Certificate of Action does not mention cobblestone. Mr. Teixeira stated that the original motion was that Mr. Andrade did not care if the applicant added cobblestone once it was paved. The second Certificate of Action states that it may be in addition to the cobblestone apron with the reminding width of 18 feet of gravel as shown on the plan. Mr. Teixeira informed that the Board never discussed paving the roadway all the way up to the house. Mr. Fountain said that the discussion by the Board and the Certificate of Action was not as clear as it should have been.

Certificate of Action dated May 2, 2018 – There shall be 20 feet length of blacktop pavement having 18 feet wide extending into the roadway from the entrance. This may be in addition to the cobblestone apron. The remainder of the roadway shall be widened to 18 feet of gravel as shown on the plan. A note shall be added to the plan stating that no further development is allowed, and

the roadway is to be maintained as a private way and not accepted as a public way. This Certificate of Action shall be recorded with the Bristol County Registry of Deeds.

Board members concurred that this coincides with the discussion at the meeting and the vote taken. **On A Roll Call Vote to accept the Certificate of Action on file dated May 2, 2018.** Discussion: Mr. Fountain asked if either Certificate was recorded at the Registry of Deeds. Mr. Andrade stated that neither is recorded only accepted by the Town. Mr. Andrade-Yes, Mr. Fountain-Yes, Mr. Driscoll-Yes and Mr. Teixeira-Yes (Unanimous Vote)

Mr. Andrade recommended a rule be adopted whereas the Certificate of Action will require three (3) signatures from Board members. Furthermore, not one member of the Planning Board should be allowed to change his own Certificate of Action without it being signed by three (3) Board members following a meeting.

Mr. Fountain suggested any Certificate of Action be circulated and discussed before members are required to sign.

Tonight is the last Planning Board meeting for Mr. Teixeira. He has wholeheartedly enjoyed serving on the Board and wished everyone the best.

Mr. Frank Gallagher asked if there was any action to be taken by the Board on the review of Gallagher Way. Mr. Andrade suggested that the file be presented to Nitsch Engineering for review. Mr. Fountain agrees that an independent person should review the file. All Board members agreed to contact Nitsch Engineering to review.

**On A Roll Call Vote to forward the file to Nitsch Engineering and continue the review for the compliance with the Amended Certificate of Action dated May 2, 2018 for "Roadway Upgrade Plan of Gallagher Place" until July 2, 2020, at 6:10 p.m.** Mr. Andrade-Yes, Mr. Fountain-Yes, Mr. Driscoll-Yes and Mr. Teixeira-Yes (Unanimous Vote)

#### **Adjournment:**

**MOTION:** Moved by Mr. Teixeira and seconded by Mr. Driscoll to adjourn from the Raynham Planning Board Meeting of June 18, 2020 at 7:02 p.m. with no business to be conducted afterwards. Discussion: None.

**On A Roll Call Vote:** Mr. Andrade-Yes, Mr. Fountain-Yes, Mr. Driscoll-Yes and Mr. Teixeira-Yes (Unanimous Vote)

Respectfully submitted,

  
Russell Driscoll, Clerk

Next Scheduled Raynham Planning Board Meeting:

July 2, 2020 @ 6:00 p.m.