



TOWN OF RAYNHAM

PLANNING BOARD

RAYNHAM, MASSACHUSETTS 02767

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

Raynham Planning Board Minutes

June 4, 2020

VIRTUAL MEETING via GoToMeeting.com

Call to Order:

Mr. Andrade opened the meeting of June 4, 2020, at 6:00 p.m. and informed the meeting is being recorded.

Planning Board Members Present (5):

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

Also present: Mr. Robert Iafrate, Building Commissioner/Planning

6:00 p. m. Form J – Oak Street (Paul and Brenda Westcott)

Mr. Andrade informed that he verified that the 2004 plan, Book 429, Page 35, is registered at the Registry of Deeds. Applicant never received/requested a Form J. Mr. Andrade asked the Board for their approval and signatures on the Form J. Due to COVID-19 the Board has not met in person or been able to go into the office. Mr. Teixeira suggested the Board give authorization to a designee for signatures. Mr. Andrade recommended the Clerk for the Board be the designated person for signatures.

MOTION: Moved by Mr. Fountain and seconded by Mr. Driscoll to sign Form J releasing lots on Oak Street for Paul and Brenda Westcott. Discussion: None

On A Roll Call Vote: Mr. Fountain – Aye; Mr. Driscoll – Aye; Mr. Gallagher – Aye; Mr. Teixeira – Aye and Mr. Andrade – Aye. Vote: 5-0 (Unanimous vote)

MOTION: Moved by Mr. Andrade and seconded by Mr. Fountain to authorize Mr. Driscoll, Clerk of the Board, to sign all necessary paperwork upon approval by the Planning Board. Discussion: None.

On a Roll Call Vote: Mr. Fountain – Aye; Mr. Driscoll – Aye; Mr. Gallagher – Aye; Mr. Teixeira – Aye and Mr. Andrade – Aye. Vote: 5-0 (Unanimous vote)

6:10 p.m. – Board member Mr. Christopher Gallagher left the meeting.

6:05 p.m. - Continued Public Hearing – 1729 Broadway Site Plan

Frank Gallagher, P.E., Gallagher Engineering, Foxboro, MA was present. Mr. Andrade informed that they have received paperwork from Nitsch Engineering with a list of items for review by Gallagher Engineering. A copy of the revised plans was received from Mr. Gallagher on April 3, 2020. All members received a copy of the new plans for review.

Waiver request list, dated June 2, 2020, from Frank Gallagher, P.E., included six (6) waiver requests. Nitsch Engineering letter dated May 4, 2020, listed an additional waiver for landscaping plan due to the landscaping plan not being signed by a registered architect and also refers to the originally requested waiver of photometric plan.

List of Waivers:

- 1 - Section 4.21 – Waiver from the requirements to produce a photometric plan.
Frank Gallagher informed that they have submitted a photometric plan. It was agreed this waiver is no longer needed.
- 2 – Section 4.22 Waiver from the requirement to provide a traffic impact study prepared by a professional engineer.
The plan is proposing fourteen (14) parking spaces, which will have very little increase of new site traffic.
- 3 – Section 5.15 Waiver from the requirement for parking lot containing 10 or more parking spaces and should have 1 tree per 8 parking spaces. Such trees located in the parking area and to have at least 4 inches diameter within a minimum 60 feet perimeter of landscape area.
The plan shows four (4) new trees, which is twice the amount to be placed on the site.
- 4 – Section 5.4 Waiver from the requirement that prohibits parking between proposed building.
The plan shows 11 parking spaces with bollards and concrete bumpers.
- 5 – Section 5.6.2 Waiver from the requirement that states that curbing shall not be bituminous concrete.
The plan is proposing vertical granite curbing at the project entrance and Cape Cod berm throughout.
- 6 – Section 5.7.2 Waiver from the requirement that the width of the access to the connecting roadway not to exceed 25 feet from the property line.
The plan is proposing a wider entrance to accommodate emergency vehicles and trucks.
Mr. Gallagher informed that he has not filed yet with MassDOT for the curb cut because they require a signed plan from the Planning Board.
- 7 – Section 5.7.3 Waiver from the requirement that the access connection shall provide a minimum distance of 45 feet from the property line to the beginning of any parking.
The plan is proposing 21 feet from property line to parking.
- 8 - Landscape plan stamped by professional landscape architect will be needed.

MOTION: Moved by Mr. Driscoll and seconded by Mr. Burke to accept the waivers as listed above for 1729 Broadway Site Plan. Discussion: None.

On a Roll Call Vote: Mr. Driscoll – Aye; Mr. Fountain – Aye; Mr. Teixeira – Aye and Mr. Andrade – Aye (Vote: 4-0)

Mr. Andrade asked for an approval on the site plan submitted by S. Cairns, SKC Properties, LLC, Raynham, MA, for proposed construction of a 7,000 sq. ft. warehouse building with associated parking, utilities, clearing, grading and landscape all at the address of 1729 Broadway, Raynham, Assessors' Map 3, Lot 71. Nitsch Engineering has completed the review process.

MOTION: Moved by Mr. Fountain and seconded by Mr. Driscoll to approve the site plan subjected to the waivers that have already been approved for the property located at 1729 Broadway, Raynham, MA. Discussion: None

On a Roll Call Vote: Mr. Teixeira – Aye; Mr. Mr. Driscoll – Aye; Mr. Fountain – Aye and Mr. Andrade – Aye (Vote: 4-0)

Mr. Andrade requested an adjustment/addition on the current Certificate of Action. On the last page, under Condition #4 – All revisions are subjected to review and approval by Nitsch Engineering, Inc. *and the Raynham Planning Board* prior to endorsement of the Site Plan.

Mr. Andrade requested a vote to give authority to Mr. Driscoll to sign the Certificate of Action once the revised copy is reviewed by the Board.

MOTION: Moved by Mr. Andrade and seconded Mr. Teixeira to authorize Mr. Driscoll to sign the Certificate of Action pending revision and review form the Board.

On a Roll Call Vote: Mr. Teixeira – Aye; Mr. Mr. Driscoll – Aye; Mr. Fountain – Aye and Mr. Andrade – Aye (Vote: 4-0)

6:22 p.m. – Mr. Gallagher rejoined the meeting.

Mr. Iafrate discussed the public hearing via 'Zoom'. Mr. Mike Heylin informed that the information for the meeting was given to the public and posted correctly.

6:15 p.m. – Form A – Church Street (Noblin-King Philip Realty)

Disclosure-Mr. Andrade informed that he will be abstaining from the vote because Mr. Noblin is a partner with him on a different project.

A virtual copy of the plan along with the Form A application was received from Luke Klim, P.E. According to Mr. Klim, the division of tract of land shown on the accompanied plan is not a subdivision because every lot shown on the plan has frontage of at least such distance with Raynham's Zoning By-Law, Section 5.1, which has a minimum requirement of 200 feet. The proposed project is for an eight (8) unit apartment building. Each lot on the plan has frontage on a public way (Church Street).

All Board members along with Mr. Iafrate reviewed the plan submitted.

MOTION: Moved by Mr. Fountain and seconded by Mr. Driscoll to approve the plan entitled Plan of Land, Church Street, Raynham, MA prepared for King Philip Realty Trust by Klim

Engineering, dated May 10, 2020, as a Plan Not Requiring Subdivision Approval. Discussion: None

On A Roll Call Vote: Mr. Fountain - Aye; Mr. Driscoll - Aye; Mr. Gallagher - Aye; Mr. Teixeira - Aye and Mr. Andrade - Abstained Vote: 4-0-1

6:20 p.m. Public Hearing – Zoning Amendment – Church Street/Rt. 44

Disclosure - Mr. Andrade informed that he will be abstaining from the vote as this parcel of land is owned by him as well as other partners. He informed that the Board of Selectmen is presenting the zoning amendment at Town Meeting.

Mr. Driscoll read the public notice. The amendment proposes to rezone two areas on the property shown on Raynham Assessors' Map 16, Lot 55 (at Rte. 44 and Church St.) from Residential A to Business District.

Mr. Iafrate informed that the Board of Selectmen is sponsoring this article as part of a settlement negotiation with a developer who was involved in litigation with the Town. The public hearing is part of the process required before the Town Meeting scheduled for June 15, 2020, at the Raynham Middle School.

Board members did not have any questions.

MOTION: Moved by Mr. Fountain and seconded by Mr. Driscoll to recommend the Zoning Amendment be presented for Town Meeting for approval. Discussion: None

On A Roll Call Vote: Mr. Teixeira – Aye; Mr. Gallagher – Aye; Mr. Driscoll - Aye; Mr. Fountain – Aye and Mr. Andrade – Abstained Vote: 4-0-1

General Business & Correspondence:

- Discussion on Board signatures for documents, forms, invoices, bills payable, etc. The Board approved that Mr. Driscoll be authorized to sign all documents, forms and invoices.
- Minutes – January 16, 2020; February 20, 2020, and March 5, 2020

MOTION: Moved by Mr. Fountain and seconded by Mr. Teixeira to waive the reading of the minutes and approve as printed. Discussion: None

On A Roll Call Vote: Mr. Teixeira – Aye; Mr. Driscoll – Aye; Mr. Gallagher – Aye; Mr. Fountain – Aye and Mr. Andrade – Aye Vote: 5-0

- Summer Schedule: Mr. Andrade informed that the next Planning Board meeting will be June 18, 2020, possibly at Town Hall. It was agreed that scheduled meetings during the summer will remain as planned.
- Correspondence: No correspondence since the last Planning Board meeting.

Planning Coordinator Update:

- Mr. Iafrate informed that he had a conference meeting with the State, District 5 to review the construction documents and plans for the reconstruction of Rt. 138, which is at 100%. The project has changed somewhat as Rt. 138 will be reconstructed from King Philip Street through Robinson Street. Project will commence in approximately 11 months and take about 1 - 1 ½ years to complete. The project involves removing all concrete in the roadway and there will be widening of the road to include bike lanes. Detour plans were reviewed at the District 5 meeting, and Mr. Iafrate will share with Raynham Police Department and Raynham Fire Department.

SRPEDD update:

- Mr. Iafrate informed that a list consisting of eleven (11) individuals have been compiled for the Master Plan Committee. The names will be presented to the Board of Selectman for a vote, and once they have been approved, SRPEDD will be conducting a meeting to plan the outreach and workshop schedule.
- Mr. Teixeira informed that he attended a GoToMeeting and basically most of the discussion was about the State's phased reopening. During that meeting, they discussed individuals attending the Town Meeting without masks and the separate area necessary for those individuals.

Plans to be signed: 1051 Locust Street (Appleby). Mr. Andrade informed that the plan for 1051 Locust Street will need at least three (3) signatures.

6:47 p.m. – Board member Christopher Gallagher left the meeting and will not be returning.

6:30 p.m. Agenda item: Review compliance with the Amended Certificate of Action dated May 2, 2018, for "Roadway Upgrade Plan of Gallagher Place."

During the April 5, 2018 meeting, Atty. Edmund Brennan represented Mr. Gallagher. A plan was drawn up and approved by the Board. The Board approved roadway improvements to Gallagher Place subdivision as outlined in a letter dated April 5, 2018. The approval was for a 20-foot length of blacktop pavement with 18-foot width extending into the roadway from the entrance. This may be in addition to 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 be allowed, and the roadway is to be maintained as a private way and not accepted as a public way. Mr. Gallagher contacted the Planning Board and informed that the Certificate of Action was incorrect.

Ms. McKenney emailed Mr. Andrade with Mr. Gallagher's concerns. Mr. Andrade responded in an email stating that he would review the minutes to the meeting. As time passed, he had forgotten to review the minutes. It was a surprise to him that he found out he signed a second Certificate of Action that the Planning Board had no idea of. Generally, if there was something of this nature, Mr. Andrade would have been informed. He takes full responsibility for signing the Certificate

of Action for which the Planning Board did not approve. Mr. Andrade had forwarded the situation to Town Counsel. Mr. Gallagher did not present anything to the Planning Board about an error that he felt was in the Certificate of Action. Mr. Andrade has read the minutes and the first Certificate of Action is correct.

On June 3, 2020, Town Counsel notification via e-mail that an Executive Session should be scheduled to discuss the complaint or charges brought against a public officer and/or options to convene in open session.

The e-mail is recommending an Executive Session to reprimand Mr. Gallagher for his inappropriate actions of falsifying a Certificate of Action. Mr. Andrade informed that he forwarded to Town Counsel because he felt it was their duty to proceed not the Boards. He was informed that the issue was forwarded to the States Ethics Commission in the Attorney General's Office and to date, there has not been a response. Under the State Ethics, Mr. Gallagher's action was totally irresponsible and wrong. He feels that it is not up to the Board or himself to schedule a hearing to reprimand Mr. Gallagher. He said he could do that himself in a regular public hearing where discussions will be had.

The item on the agenda this evening is for an approval on a Site Plan done by an approved Certificate of Action.

Mr. Bowen, Attorney representing Mr. Gallagher, was present. Mr. Bowen stated that there was a response from the Massachusetts Ethics Commission dated May 1, 2020, wherein the Ethics Commission exonerated Mr. Gallagher and found nothing to be investigated further. He spoke today with Inspector McWilliams to confirm that there was no other outstanding or pending investigations or inquiries into Mr. Gallagher for any conduct. Inspector McWilliams confirmed that there were no outstanding issues related to him and that the matter regarding Mr. Gallagher was closed. The issue is the Certificate of Action dated April 19, 2018, and that issued on May 2, 2018, and the difference between what was said at the hearing and the minutes is the question. If one listens to the meeting on YouTube or other methods, what was ultimately voted on was the description of the Certificate of Action from May 2, 2018.

Mr. Andrade informed that what is in front of the Board is the Certificate of Action voted on and matches the minutes to the meeting for April 5, 2018. Mr. Andrade would like to receive copies of the Ethics Commission response and respond to communication received from Town Counsel. Therefore, the plan in front of the Board does not match the Certificate of Action presented. Mr. Andrade advised members to review printed minutes and recordings for the meeting in question prior to the next Planning Board meeting on June 18, 2020.

Mr. Teixeira explained that because his son owns a home on Gallagher Place, he filed with the Town Clerk a disclosure of possible conflict of interest. In 2018, his son did not own the home on Gallagher Place, but he felt that he still should file the disclosure.

Mr. Andrade recommended tabling discussions until June 18, 2020 for members to review all documents.

MOTION: Moved by Mr. Andrade and seconded by Mr. Fountain to table discussions until

June 18, 2020, at 6:30 p.m. Discussion: None

On A Roll Call Vote: Mr. Driscoll – Aye; Mr. Teixeira – Aye; Mr. Fountain – Aye and Mr. Andrade - Aye Vote: 4-0

Adjournment

MOTION: Moved by Mr. Teixeira and seconded by Mr. Driscoll to adjourn from the Raynham Planning Board Meeting of June 4, 2020 at 7:15 p.m. with no business to be conducted afterwards. Discussion: None.

On A Roll Call Vote: Mr. Driscoll – Aye; Mr. Fountain – Aye, Mr. Teixeira – Aye and Mr. Andrade - Aye Vote: 4-0

Respectfully submitted,


Russell Driscoll, Clerk

Next Scheduled Raynham Planning Board Meeting:

June 18, 2020 @ 6:00pm