

RECEIVED

**PLANNING BOARD
MEETING MINUTES
February 25, 2021**

2024 JAN 12 AM 11:43

PRESENT: Elmer Clegg, Steven Strojny, Daniel Doucette, David O'Connor, Elizabeth Brown, John Carroll, Sandra Goldstein, Jeanne Azarovitz, Louis Gallo

ABSENT:

ALSO PRESENT: Coreen Moore, Jennifer Copeland, Robert Troy, Mike Morizzio, Brad Bertolo, Doug Troyer, William & Joanne Sullivan, Brad Bertolo, Sharon Hamilton, Vin DiSangro, Sue Bilodeau, Steve Mele, Zac Bazinski, Ken Cheitlin, Russ and Erin Salamone, Kathryn Andrews, Keith Ciampa and other members of the public

Chairman Strojny called the meeting to order at 7:00pm.

Request for Release of Bond: 1379 Rt. 28A. Cataumet. Paving and landscaping are complete.

Dan will be working with the current owner to get what needs to be done. No action on this now. Will need proof that it's substantially compliant. Asbuilt and release of bond.

Public Hearing for Court Remand of Supportive Finding #11-2019: Cont'd from 1.28.21. ERS Realty Trust. 183 Shore Rd, Bourne. For further consideration including the reasoning and basis of findings in support of the special permit.

Chm. Strojny: Consulted with Town Counsel. Read letter into the record. Continue to 4/8/21.

Mike Morizio: Point of order. My clients are a party of interest affecting their rights. Cannot do what you just presented as a motion. I said no evidence showing legal non-conforming use. Court remanded back to this Board to conduct a proper hearing with proof. If they could provide evidence, then issue the special permit properly. Shall conduct a hearing and board shall issue a new decision. They withdrew the application. It's still an illegal non-conforming use. The Board needs to issue a decision. Rescind, nullify the special permit.

Doug Troyer: Letter officially withdrawn. Procedural technicality. Further consideration and basis of findings. Not to proceed at this time. By doing that, this Board can make a decision nullifying it. Town Counsel has a different position. Otherwise have to go to Land Court.

Chm. Strojny: Town Counsel advised us to continue. Not going to go against his advice.

Ms. Brown made a MOTION to continue to 4/8/21, seconded by MR. Doucette. Roll call vote as follows:

| | | |
|---------------------|--------------------|---------------------|
| Ms. Azarovitz – yes | Ms. Brown – yes | Mr. O'Connor – yes |
| Mr. Carroll – yes | Mr. Doucette – yes | Mr. Clegg – yes |
| Mr. Strojny – yes | Mr. Gallo – yes | Ms. Goldstein – yes |

Mr. Clegg: Why not sharing information with the Board?

Chm. Strojny: You can ask Town Counsel.

Mr. Carroll: This background information is important to us. Can't ignore why wouldn't circulate.

Chm. Strojny: Special circumstances with litigations.

Public Hearing for Supportive Finding #10-2020: 1131 Sandwich Rd., Sagamore. Michael Bilodeau. To build an outside bar including bathrooms.

Sue Bilodeau: Covid has decimated restaurants. Trying to give our customers opportunity to dine outside.

Mr. Doucette: Bath and outdoor bar to support outdoor functions. Built in 1900/1903 rebuilt after fire. Pre-existing, lawfully existing structure prior to 1950. Meet setbacks to the rear, extension/alteration of existing use.

William Sullivan, abutter: Object. Bought 20 years ago, quiet neighborhood. Never objected to anything they have done. What is the business plan? Decks/tent. They have purchased 1105 Sandwich Rd that will be used for overflow or Airbnb. Think overstepped too much. Picture a situation – noise, traveling from the inn to the house, not quiet. Wish not move forward.

Joanne Sullivan: Noise factor has grown with the music and people.

Sue: Bill reached out to use. Built a side deck. Did the deck impact you? They said no. 1105 Sandwich Rd I plan on using as an Airbnb, not part of the Sagamore Inn. We are looking at possibly buying their property. Music ends before 10pm.

Mr. O'Connor: Operating of bar, give functions under tent and on deck when open if noise or that no amplification.

Sue: Yes. Entertainment in tent. Already allowed to have a bar/music. Move ____ to have a permanent structure and the bathrooms.

Mr. Clegg: Zoning for the neighborhood?

Mr. Sullivan: R-40 with 2.3 acres.

Mr. Clegg: What actions have they taken to shield the neighborhood from noise?

Sue: Shrubs along whole perimeter, front and sides of tent as well. Privet hedges, 4-5' high now.

Mr. Clegg: Arborvitaes are more suitable.

Sue: They will grow. Arborvitaes are by the tent.

Ms. Brown: When is it noisiest?

Joanne: Sundays. Noise is from the tent not the deck.

Mr. Gallo: Iconic place, have done an outstanding job.

Coreen: Wedding/entertainment, needs a license with the Selectmen. Any restrictions? Noise complaints?

Sue: Yes. Done by 10pm in the guidelines of the town. No complaints.

Ms. Brown: What will make the bar different than now?

Chm. Strojny: Has made matters worse for you?

Sullivans: Bathroom a concern. We have to pass by the inn – outdoor bathrooms deterrent to our property value.

Chm. Strojny: Very in keeping with the property. New people go by our dumpster and upstairs, they don't use the port-a-pottys we provide.

Ms. Goldstein: Anything to filter the noise?

Chm. Strojny: Focus is on bar area and bathrooms. Will that be more detrimental to the neighborhood? Not just one neighbor. Urge you to focus on that.

Mr. Doucette: Bar in the back is a sound buffer 70' away from the property line. Trying to distance as much as we can.

Mr. Doucette made a MOTION to support stating this is not more detrimental. Originally built in 1900, PB is the SPGA, Sec. 2320 of the Zoning Bylaw

The MOTION was seconded by Mr. Gallo.

Mr. Clegg: Doing this with motivation because of Covid situation. Living in a temporary world here, concern for abutters.

Mr. Doucette: My motivation isn't just Covid, they have spent a lot of money and want to help keep the business afloat. More apt to do this. Understanding why they are here.

Mr. Clegg: Why don't enlarge the building and add bathrooms?

Roll call vote as follows:

Ms. Azarovitz – yes

Mr. Carroll – yes

Mr. Strojny – yes

Ms. Brown – yes

Mr. Doucette – yes

Mr. Gallo – yes

Mr. O'Connor – yes

Mr. Clegg – yes

Ms. Goldstein - yes

Public Hearing for Site Plan Review/Special Permit #11-2020: 1 Otis Park Dr. Bourne. Rhino Linings of Cape Cod.

Redevelop site with a new 4,800sf building in a Water Resource District Zone II.

Zac: Demo and build a new warehouse/office. They do bed linings and spray undercoatings, have four employees, looking to expand. The parcel was created in 1980, granted an order of conditions by ConCom. Improving the stormwater, bringing into compliance, slight regrading. Building will sit in the same general area, upgrade septic. Abuts two streets, will be planting 6 trees and 64 shrubs on MacArthur Blvd. Would like final planting plan approved by staff after meeting. Vast improvement to area and the lot. Tight tank so any leaks will be monitored and contained. Reducing impervious coverage, increasing natural coverage. Reduction in nitrogen loading from a restaurant, have water district approval. Chemicals are not petroleum based. He's been in business a couple buildings down since 2004 with no complaints.

Mr. O'Connor: Appear to be saving the sign?

Zac: Will come back with a sign.

Mr. O'Connor: New privet edge same as existing?

Zac: Yes.

Mr. O'Connor: Planting: Waive street trees on MacArthur Blvd, agree, save the 55 shrubs for MacArthur Blvd. Is it possible to put a line of shrubs to hide the vehicles? Cut down existing, install fence. They'll grow back.

Zac: Will look at that and talk to ConCom.

Mr. O'Connor: Some kind of screening, corner of lot by embayment.

Mr. Clegg: Planting plan, maybe have David work with the Planning Dept? Existing catch basin, is that from runoff Otis and property?

Zac: Otis Park Dr, just a small section of this property.

Mr. Clegg: Doing anything that would prevent that?

Zac: Ours is above Otis Park Dr.

Mr. Gallo: May have to recuse as gave a quote to a contractor for this address.

Mr. Clegg: Parking issues?

Zac: Thirteen, bylaw calls for 12.

Ms. Brown: Water District, any concerns?

Zac: Chemicals go into internal storage. Sealed drums, very little waste. Generates about 5 gallons of waste in 3 years.

Ms. Azarovitz: Good reputation. Larger footprint, fits in with the surroundings, traffic won't become a hazard, accessible, safe entry/exit on Otis Park Dr.

Ms. Azarovitz made a MOTION to approve subject to the following conditions:

- Waiver of planting 6 trees on MacArthur Blvd.
- Submit a detailed landscape plan prior to issuance of occupancy that shows the planting installed according to standards set forth in 3500 Landscape and Screening, under Section 3 General Regulations in the Zoning Bylaw. This should be done in a timely fashion so a proper review can be conducted before any scheduled meeting with the Planning Board for approval.
- Repurpose a minimum of 30 shrubs from the east property line and locate them along the guardrail and to shield the parking area.
- Prior to the issuance of a building permit, building plans and elevations, stamped by a professional must be submitted.
- This permit is subject to all Town of Bourne, State, and Federal rules, regulations, and bylaws.
- The prohibitions of the Water Resource District under Section 4700 must be included in all leases and posted in an area visible to the public.
- Prior to the issuance of an occupancy permit, an As-Built plan must be submitted to the Planning Board showing all appurtenances above and below ground.

- Adequacy of the sewerage system is deferred to the Health Department.
- Adequacy of emergency access is deferred to the Fire Department. All Tier 1 documents as outlined in the building code shall be provided to the Bourne Fire Department (BFD).
- This decision shall be recorded at the Barnstable County Registry of Deeds/Land Court Registry and a copy returned to the Planning Department prior to the issuance of a building permit.

The MOTION was seconded by Mr. Clegg.

Mr. O'Connor: Repurpose/relocate the 55 shrubs.

Zac: Won't get a full 55 but will do what we can.

Roll call vote as follows:

Ms. Azarovitz – yes

Ms. Brown – yes

Mr. O'Connor – yes

Mr. Carroll – yes

Mr. Doucette – yes

Mr. Clegg – yes

Mr. Strojny – yes

Mr. Gallo – abstain

Ms. Goldstein - yes

81P: 72 Lewis Point Rd. One lot.

Brad Bertolo: Adjusting the property line, they own the abutting lot and have lived there since 1988. Survey from 2014, some improvements, encroached onto that property. He currently owns that lot. 9 Nye Lane and 72 Lewis Point Rd. Was R20 at the time, two lots created. Creating an unbuildable lot 1800sf. 14' road frontage. The intent is to create this lot 68 conveyed with the abutting lot. Both lots currently non-conforming. Lot 67 has adequate frontage. Making one lot more non-conforming and making the other more conforming. The house meets the zoning setbacks. Allowed 20% lot coverage, just over 4,000sf. Adjusting the lot line, maintaining the frontage.

Chm. Strojny: Public way? Frontage on plan? Vital access? Interesting going to make a non-conforming lot. Do you meet the law and requirements?

Mr. Clegg: Coaching the board to a decision, like to hear from the town planner.

Ms. Goldstein: Not clear of status on newly created lot and what the status is.

Chm. Strojny: If go forward they lose protections they have. Don't know motives. Clean up with setbacks to fix encroachments. Lot of moving parts here.

Coreen: The test is frontage, access, not about zoning. If we consider legal non-conforming lot, then need ZBA. If vacant, lost right to get a building permit. This has a house. Jeopardizing improvements (deck, addition) would arise if didn't review.

Mr. Clegg: is invalidity involved?

Coreen: Yes, a few. Knowingly buy a property that invalidated its non-conformity.

Ms. Brown made a MOTION to endorse under ANR.

The MOTION was seconded by Mr. Clegg.

Roll call vote as follows:

Ms. Azarovitz – yes

Ms. Brown – yes

Mr. O'Connor – yes

Mr. Carroll – yes

Mr. Doucette – yes

Mr. Clegg – yes

Mr. Strojny – yes

Mr. Gallo – yes

Ms. Goldstein – yes

Mr. Clegg: ANR case. We haven't had one in six months.

Mr. Clegg: Ch. 41 81P requires a Board vote to sign approval instead of the Chair sign. You don't have the authority to approve.

Chm. Strojny: Will take it under advisement.

Chm. Strojny: ANR's will be coming back to the Board.

Mr. Clegg: It's illegal and unlawful, would like this addressed.

Discussion of the procedures involved in zoning by-law changes by the Planning Board.

Chm. Strojny: There has been a request to sponsor some proposed zoning bylaws in the DTD/GIZ. The process of bringing bylaws not understood by everyone, especially the public. Any town member can bring a bylaw change to town meeting with 10 signatures, 100 for special town meeting. Can always bring to the Planning Board and ask them to sponsor. Then we have a public hearing prior to town meeting. Need to get that public hearing in mid-March, then the Board can vote if they want to sponsor or not. Need a 2/3 vote at town meeting to pass, then it gets reviewed by the Attorney General's office. Any downtown amendments also require approval from the Cape Cod Commission.

Coreen: Got some questions by Board members. If the Board sponsors, didn't want to spend a lot of tie if not sponsored.

Mr. Clegg: Other than wetlands change to put into compliance, are any other of those changes by staff or all private?

Chm. Strojny: All private parties. A search comes up the proponent will tell us why they want us to sponsor.

Zoning Articles Review

Table DTD-1

Workforce housing

Zac: Based on various developers/contractors, ____ can't build projects. Come off Main St., dwelling units not so restrictive. 10 unit housing/overnight stops them.

Mr. Clegg: Object to the process. Zac is not the applicant.

Chm. Strojny: Why is it important to know who the applicant is?

Mr. Clegg: Goes back to meeting you sponsored with Michienzi on 1/30/21. You said your action item that Zac was going to sell the property to a national developer. Zac is doing this at the direction to apply to Vinny's properties.

Chm. Strojny: This affects all downtown. Would benefit more than Vinny.

Mr. Clegg: Any number of developers in DTS.

Chm. Strojny: We're being asked to look at this particular article.

Mr. O'Connor: Allow apartments does GFL mean something here as for mixed-use? Should apply to all of downtown? Short-term future, require retail on ground floor or _____?

Coreen: My first pass at these. Don't want all residential on Main St. The back lots/layers may be fine. Want to be cautious of eliminating commercial. Maybe need to look at downtown again, was adopted in 2008. May want to look at more apprehensively.

Mr. Clegg: Found that information gives understanding of what the intent was. Please send that document out. GFL next to special permit, must have retail on ground floor?

Coreen:

Townhouse

Mixed-use developments

Table DTD-2

Market rate housing, building height

Definitions of upland

Zoning Map amendment

Minutes: 3.12.20, 12.1.20, 1.28.21

Open Meeting Law Complaint: Elmer Clegg

Mr. Doucette made a MOTION to adjourn. The MOTION was seconded by Mr. Grant. Roll call vote as follows:

| | | |
|--------------------|------------------------|---------------------|
| Mr. Doucette – yes | Ms. Brown – yes | Ms. Goldstein – yes |
| Mr. Clegg – yes | Mr. Strojny – yes | Mr. Carroll – yes |
| Mr. Grant – yes | Ms. Azarovitz – absent | Mr. Gallo – absent |

With no further business before the Board, the meeting was adjourned at 11:25pm.

Respectfully submitted,
Ann Gutterson