

**PLANNING BOARD
MEETING MINUTES:
NOVEMBER 10, 2021**

Reviewed: 3-10-22

Approved: T.S.

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

ABSENT: Daniel Doucette, Chris Farrell

STAFF: Coreen Moore, Jennifer Copeland

ALSO PRESENT: Trish White, Jonathan White, Chris Gilbert, Kevin Flaherty, Mike Sorenti,
Colleen Kelliher, Jeanie Campus, Suzanne Bilodeau, and other members of
the public.

Co-Chair Liz Brown called the meeting to order at 7:00 PM as Co-Chair Doucette was not in attendance.

1. Approval of Meeting Minutes: August 12, 2021

No comments from the board.

Motion to approve by Mr. O'Connor, Seconded by Mr. Gallo

Roll call vote from Board: Yes by all members

Ms. Goldstein- Yes Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes Ms. Brown- Yes

Mr. Gallo- Yes

Mr. Carroll abstains from the vote as he was not present.

Minutes approved.

2. Approval not required Lot Release Plans:

a. 57 & 61 Scraggy Neck Rd.

Trish White and neighbor Jonathan Goodwin present to answer questions.

Ms. White- Putting the property line where the fence has been for over 25 years.

Mr. Goodwin moved in and she had told him the fence is not on the property line.

It's an equal swap of property.

Ms. Brown- Seems very straightforward. Any questions from the board or public?

Mr. Goodwin- No issues with this. Everything makes sense.

Ms. Brown moves to approve. Motion made by Mr. Gallo, seconded by Mr. O'Connor.

Roll Call Vote:

Ms. Goldstein- Yes Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes Ms. Brown- Yes

Mr. Gallo- Yes

Mr. Carroll- Yes

b. 819 Head of the Bay Rd.

Chris Gilbert of Farland Corp. Engineering Inc. here to speak for the property.

TOWN CLERK BOURNE

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Mr. Gilbert- Representing the owner of the property. Looking to divide the lot into two lots. Existing dwelling on lot one. There are wetlands on the property. We do have approval from conservation for the construction of a single family dwelling and a 4 bedroom septic.

Ms. Brown- Anyone on the board willing to speak on the project?

Mr. Clegg- What did the speaker say about the building on lot one?

Mr. Gilbert- The house will have to be rebuilt, most likely torn down.

Ms. Brown- Is there an existing septic on the property?

Mr. Gilbert- Yes and the new building will have a new septic.

Ms. Brown- Any motion from the board to approve?

Mr. Clegg- Motion to accept. Seconded by Mr. Gallo

Roll Call Vote:

Ms. Goldstein- Yes Ms. Azarovitz- Yes Mr. O'Connor- Yes

Mr. Clegg- Yes Ms. Brown- Yes Mr. Gallo- Yes

Mr. Carroll- Yes

c. 21 Foster Howard

Applicant Kevin Flaherty as surveyor, owner would like to subdivide the property on Foster Howard road.

Mr. Flaherty- Subdivision meets all requirements. Planning staff says that the access is not acceptable for a buildable lot. Working for a client looking to purchase the first lot. Road ends before it crosses the frontage of lot 2. Site plan review process would be used to make the second lot buildable.

Open to questions from the board.

Ms. Brown- What is the issue with the road?

Ms. Moore- Road is not adequate under the standards of a Chapter 41 section 81P Approval Not Required (ANR) plan. Looking at does the project have enough access? Process is to get an access determination from the board where they can figure out what they want the road to have. An access determination cannot be done under an ANR process.

Ms. Brown- Lot one has sufficient and lot 2 doesn't?

Ms. Moore- Difference between adequate and sufficient. The ANR process is limited to what we can do.

Ms. Brown- Our options are basically yes or no due to the limited nature of an ANR process.

Mike Sorenti owner of the property - Can we approve this where building the road and making it proper is my responsibility? Only access through Foster Howard.

Mr. Clegg- Road is adequate until you get to the last lot correct?

Ms. Moore- Yes, there are issues with that last lot.

Ms. Brown- How did this come to exist in this condition?

Ms. Moore- Mixture of private and public ownership with different responsibilities.

Ms. Brown- Who determines if the road is public or private?

Ms. Moore- Engineering Department. Unsure of exact reasoning but we can get exact public and private from engineering. Planning would have to determine what is adequate.

Ms. Goldstein- How could it be adequate?

Ms. Moore- You would have to look at subdivision regulations and what you are willing to wave.

Ms. Goldstein- Adequacy is what will be important here. Only refers to the condition of pavement?

Ms. Moore- Determining if sufficient is how wide pavement is, does it have drainage. What we see now is it doesn't have those safety measures. Drainage right now makes it not adequate.

Mr. O'Connor- Photograph with jersey barriers show the pavement is not adequate. Are those photos accurate?

Mr. Flaherty- Barriers have been removed and those photos are out of date. Right now the problem is that drainage.

Mr. O'Connor- You didn't do paving on the public way?

Ms. Brown- they did no paving on the public way.

Ms. Moore- Private person cannot put barriers on a public way without the approval for the town. This could be private way, need to determine the public and private ways. Suggest not voting on this project. Continue with a waiver signature, continue access determination, and then continue with this plan.

Mr. Gallo- New building behind have constructed drainage onsite so it is retained before it reaches Foster Howard Rd. Wants to give ANR approval, doesn't know if there is anything that would prevent that.

Ms. Brown- Requirements pretty straight forward. We need to do more clearly.

Mr. Sorenti- We are withdrawing request for ANR. Issue with building permit already being approved to another property, while he's getting questions over dividing the property. Piece of property below this property that didn't need as many requirements. Are we going to build a road for these other properties that have already gotten approval?

Ms. Brown- Access determination is for this. 1st property had adequate access.

Mr. Clegg- Question for Coreen: does your recommendation still stand? Denial?

Ms. Moore- Newly built building clearly has access to 28A. Created secondary at the rear. Mr. Sorenti only has access to Foster Howard. Concern with getting in and out of property. Other lots if they come before and we approve over site plan review and primary access is to Foster Howard, we would require them to improve the access. Who pays for it determines ownership. That's between property owners. We determine who owns it not who pays for it.

Recommendation: if publicly owned, the deficiencies in the road would not determine denial of the plan because it's the town's fault for the deficiencies. We need to see who owns what before we make a determination. Recommends denial because we do not know all of the information.

Mr. Clegg- Suggests to Mr. Sorenti that he withdraws the application. Choices are encourage withdrawing or voting against the application. Neither are beneficial to Mr. Sorenti.

Mr. Sorenti- Withdrawing application. Still has issue with building permits being issued to lots on the same road without same requirements.

Mr. Clegg- Approved the building permits because the board thought it was a Town road.

Mr. Sorenti- Wasn't that long ago. Still at a loss.

Mr. Clegg- To resolve this inequity is to do the access determination.

Ms. Moore- Process: draw a plan showing adequate access of the lot. Can look under subdivision regulations what is required. Can request waiver if needed for the plan. Planning board may say they will grant a waiver if they feel comfortable. Need to figure out who owns the road. Site plan review will do this.

Ms. Brown- Access determination is separate process initiated by who?

Ms. Moore- The applicant.

Mr. Flaherty- If engineering dep. accepts it as a public way do we need to file an access determination still?

Ms. Brown- Access determination would determine if it's a public way.

Mr. Flaherty- If it was actually a public way then it wouldn't be on the applicant to provide the information in the access determination.

Ms. Brown- Does the access determination, determine if public or private?

Ms. Moore- Yes that is part of process. If public way, insufficient access cannot be considered. Can get A and R plan, but when he comes back for site plan, board can then consider the condition of the road. If it is a public way owned by the town, applicant would be granted the A and R for frontage, but it still remains the condition of the road during site plan review.

Mr. Sorenti- Never a dead end road officially, it was made a dead end road when the State built the highways.

Ms. Brown- Vote on the withdrawal.

Motion made by Ms. Goldstein, seconded by Mr. Clegg.

Roll Call Vote:

Ms. Goldstein- Yes

Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes

Ms. Brown- Yes

Mr. Gallo- Yes

Mr. Carroll- Yes

3. Site Plan Review and Special Permit #11-2021: 3 Forest Park Drive

Ms. Brown- Item 3 has been withdrawn. Needs vote to accept withdrawal. Motion made by Mr. Clegg, seconded by Ms. Goldstein.

Roll Call Vote:

Ms. Goldstein- Yes

Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes

Ms. Brown- Yes

Mr. Gallo- Yes

Mr. Carroll- Yes

4. Site Plan Review and Special Permit #13-2021: 303 Barlows Landing Road

303 Barlow's Landing Rd. Children Outreach Community, take out ice cream restaurant. Continued from 10/14/21. Applicant Colleen Kelliher.

Mr. Carroll- Located in Pocasset where the grocery market and post office are. Well utilized and established area with some under-utilized areas as well. Applicant wants to open up an area for a take-out ice cream restaurant. Have discussed issues with applicant including the width of the sidewalk and adding wheel stops.

Ms. Kelliher- Agreed last time that pedestrians on sidewalk need to be safe. We have flower boxes mounted to building decreasing sidewalk space. Team decided to widen sidewalk by removing the flower boxes, decided to put barriers in front parking spaces directly in front of building. Want to beautify the concrete barriers as well.

Ms. Brown- This is all addressing outside take out window?

Ms. Kelliher- Correct.

Ms. Brown- Owner of property agrees with the barriers being put up?

Ms. Kelliher- Correct.

Mr. Clegg- How many parking spaces given up in frontage?

Ms. Kelliher- None.

Mr. Clegg- Customers would be blocking the sidewalk.

Ms. Kelliher- Removing of flower boxes add extra room that wasn't there before.

Mr. Clegg- Cannot support plan with the inclusion of a take-out window due to the location.

Ms. Goldstein- Take out window is inappropriate for the location.

Mr. Carroll- Flower boxes have added some continuity to the location. Building owner has been deficient in installing the wheel-stops as well. Safety problem falls more to the building owner than the applicant. Should look for a solution with the property owner involved as well.

Ms. Kelliher- Would board be more apt to approve if agreed to put wheel stops from the building down to the store.

Mr. Carroll- If pinned down that would work.

Ms. Brown- Would pinning down the wheel stops makes the sidewalk adequate?

Ms. Kelliher- Board had two problems: width of the sidewalk with the increased traffic, and needing wheel stops added due to increased vehicle traffic.

Ms. Brown- Main issue is with the take out window.

Mr. O'Connor- Is window service a crucial aspect to your business plan?

Ms. Kelliher- It's not, is it important though. We just thought it would help with traffic.

Ms. Brown- Us approving on condition of not having a window isn't a forever no. We could still move the project forward without that. Adding wheel stops does not make it automatically ok, you just want them added.

Mr. Carroll- Correct. We would want wheel stops all the way down the sidewalk and no takeout window at this moment. Motion made to approve this special permit with the following conditions:

1. Existing property parking is sufficient, must follow bylaws of Bourne.
2. All work shall be in accordance with the application.
3. Decision will be recorded with Registry of Deeds and Planning board.
4. Emergency access and vehicle turn around shall be provided to the fire department.
5. Adequacy of surge system.
6. Install wheel-stops along full width of building.
7. No take-out window.

Ms. Brown- Pedestrian and vehicular flow safety has been met. No changes proposed to existing utility connections. No impacted areas to natural environment. Located in existing strip mall with no anticipated negative impacts to existing businesses. Existing visual impacts remain the same.

Ms. Copeland- Board needs to make a finding that the existing parking is sufficient.

Ms. Brown- Is that separate to approving the special permit? John mentioned finding that the existing parking is sufficient.

Seconded by Mr. O'Connor

Discussion on the motion:

Mr. Clegg- We need wheel-stop condition to be better specified. In discussion, wheel-stops wanted all the way down to the market. This includes other units. Want to specify the unit.

Ms. Copeland- Couldn't get occupancy permit until it is done.

Ms. Brown- Doesn't this seem overly burdensome?

Mr. Clegg- In motion only mentions the building. Needs to be more specific.

Ms. Kelliher- If we just took responsibility of wheel-stops from their unit to the end of the building and then work with the property owner to put in wheel-stops.

Mr. Clegg- Believes the entire strip of spaces from post office to market should be wheel-stopped with adequate securing.

Mr. Carroll- Amends motion condition number 6: install fastened wheel stops the full length of the building from the post office to the market to prevent vehicles overriding the sidewalk.

Motion made to amend the motion by Mr. Clegg, seconded by Mr. Carroll.

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion passes.

Motion to vote on full motion with the Amendment by Mr. Carroll, seconded by Ms. Azarovitz.

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion passes.

5. Site Plan Review and Supportive Finding #18-2021: 1131 Sandwich Road

1131 Sandwich Rd., alteration of pre-existing nonconforming structure- tear down and replace with a 26ft. by 26 ft. building. The Bilodeau's present to represent property.

The Bilodeau's originally wanted to keep historical foundation. Engineers couldn't do so. Building in disrepair trying to make property better. Looking to make a bigger size.

Ms. Moore- Supportive finding due to pre-existing nonconforming use and structures.

The property is located in an R-40 which is straight residential. Historic data showing the inn existed before zoning in the town. Board has to determine that the extension of the nonconformity is non-detrimental to abutters or neighbors. Replacing existing garage that's one story with two story garage with garage below, offices up top. The Historical Commission has approved the project. Just improving property, supportive finding is recommended because it is not detrimental. Conditions proposed is that they have all the approval by the board of health.

Mr. Clegg- Were abutters notified?

Ms. Moore- Yes.

Mr. Clegg- Abutters in the rear have had issues before, as long as they have been notified no issues.

Motion made by Mr. Clegg to approve due to their being no detrimental effect.

Ms. Bilodeau- No plumbing facilities or food prepared there.

Ms. Moore- Possible conditions follow State and Federal laws, approval from health dep., adequacy of emergency access, all previous approvals of business unrelated to operation of the restaurant shall be rescinded. Before the Bilodeau's purchased the property there were several businesses, don't want any conflicts from past business with the restaurant. Must be submitted to Planning Board and Registry of Deeds.

Mr. Clegg- Motion to Amend motion to include the five conditions made by Ms. Moore. Seconded by Ms. Azarovitz.

Ms. Goldstein- Are planned offices just for employees and yourself to use?

Ms. Bilodeau- Yes.

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion Passes.

Full motion with the Amendment made by Ms. Goldstein

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion Passes

6. Preliminary Review for Wastewater #20-2021-WW: 140 Main Street

140 Main St. - Allocation for mixed use. Zachary Basinski, PE from Bracken Engineering Inc. here to represent property owner and applicant.

Mr. Basinski- Looking to raise the building or demo it and construct a mixed use building on the property. Will keep flower shop, provide new retail space on bottom floor, residential units on 2nd and 3rd floor. Parking on the lot in compliance with downtown zoning district. Request for appropriation of sewer. If approved here, they go before the Board of Selectmen to increase sewer flow. Existing is 208 gallons with retail use. Would be increasing to 1160 gallons. With further approval we would be coming back for site-plan review and a special permit.

Mr. O'Connor- Checks many boxes from town planning point of view.

Motion made by Ms. Azarovitz to approve for further review, Seconded by Mr. O'Connor

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion Passes

7. Amendment Site Plan Review and Special Permit #06-2019B: 170 Clay Pond Road

170 Clay Pond Rd. - Clay Pond Acquisition LLC adding additional storage units within an existing building. Ms. Campus, Attorney for Nutter, McClennen, and Fish LLP representing applicant with Chris Louis on behalf of the applicant.

Ms. Campus- Seeking to amend the Special Permit and Site Plan Review in connection with the proposal to convert 3000 sq. ft. of existing retail space into 16 climate controlled self-storage units. Project only involves indoor renovations and a change in tenancy to a low impact use. Does not trigger Cape Cod Commission Review process. Without many changes to the site, a lot of criteria is already met.

Ms. Brown- Is the property currently vacant?

Ms. Azarovitz- Approval has been made by the Cape Cod Commission. Doesn't seem to be of any issue. Special permit meets all of the criteria needed. Motion made to approve with the following conditions:

1. All findings, terms, and conditions of previous approval shall remain in effect
2. This decision will be recorded to the Registry of deeds and sent to the Planning Department.

Seconded by Mr. O'Connor

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion Passes

Adjourn

Motion to Adjourn by Ms. Azarovitz, Seconded by Mr. Clegg at 9:06 p.m.

Roll Call Vote:

| | | |
|--------------------|--------------------|-------------------|
| Ms. Goldstein- Yes | Ms. Azarovitz- Yes | Mr. O'Connor- Yes |
| Mr. Clegg- Yes | Ms. Brown- Yes | Mr. Gallo- absent |
| Mr. Carroll- Yes | | |

Motion Passes.