

**PLANNING BOARD
MEETING MINUTES
May 13, 2021**

1st Rev 7/8/21

Approved 7/8/21

PRESENT: Steven Strojny, Elizabeth Brown, David O'Connor, Daniel Doucette, John Carroll, Elmer Clegg, Jeanne Azarovitz, Louis Gallo, William Meier (alternate)

ABSENT: Sandra Goldstein

STAFF: Coreen Moore, Jennifer Copeland

ALSO PRESENT: Brian Wallace, Matthew Anderson, Mr. Kane, Kyle Dunnar, Mr. O'Connor, Chris Sanderson, Mike Sweeney,

Chairman Strojny called the meeting to order at 7:0pm.

Public Hearing for Site Plan Review/Special Permit #04-2021: 4 & 6 Forest Park Dr, Pocasset, JPF

Development LLC. To construct a 5-bay 9,375S.F. warehouse/storage building in a Water Resource District.

Mr. Doucette: Involves both lots. We encompass both lots over 80,000sf. Looking at both lots as one project as that's how it was presented and if ever expanded onto the other property, look back onto this decision. Looking at no approval without DPW and Town Engineer sign off on the road.

Mr. Clegg: To Mr. Doucette – the only construction on #4 is a turn around? If we approve tonight, can you explain again what restrictions would be put on that lot?

Mr. Doucette: Turnaround and part of the driveway. Construction is on the major lot. Any future development of 6 Forest Park Drive shall take into consideration all impervious surfaces, usable open space and natural tree cover for FP Dr. Also includes 4 & 6 FP Dr. If you do anything to #6 you have to come before us.

Chm. Strojny: If they do any material changes to 4 or 6 they'd have to come before us. I like the language being incorporated into the decision.

Mr. Doucette: Yes.

Mr. Doucette made a MOTION to approve subject to the following conditions:

1. This permit is subject to all rules, regulation and Bylaws of the Town of Bourne.
2. All work authorized under this approval shall be in accordance with the application, supportive materials and testimony of the owner and its representative.
3. The DPW and Engineering Dept. final determination of road construction compliance from the Dept. of Public Works and Engineering Dept. prior to the issuance of a building permit.
4. The prohibitions of the Water Resource District under section 4700 must be included in all leases and posted in all areas visible to the public.
5. Emergency access and vehicle turnaround as per the Fire Dept. All Tier 1 documents as outlined in the building code shall be provided to the Bourne Fire Dept. (BFD).
6. Parking areas shall not be used for sales, dead storage, repair, dismantling or servicing of any type or kind.
7. Signage requires a separate building permit application.
8. 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.
9. Any future development of 6 Forest Park Dr. shall take into consideration all impervious surfaces, usable open space, and natural tree cover from 4 Forest Park Dr. because this approval includes both 4 & 6 Forest Park Dr.

Chm. Strojny: Does it make more sense to condition on an occupancy permit instead of building permit?

Mr. Doucette: So moved to change to an occupancy permit.

Coreen: Does the lot need to be released?

Jen: Yes. That's part of the third condition.

Coreen: Condition #3 may have to be split into 2 conditions.

Dan: Release lots 4 & 6 Forest Park Dr. make condition #10.

Ms. Brown: Second that amendment.

The MOTION was seconded by Ms. Brown. Roll call vote as follows:

Mr. Doucette – yes

Ms. Brown – yes

Ms. Goldstein – absent

Mr. Clegg – yes

Mr. Strojny – yes

Mr. Carroll – yes

Mr. O'Connor – yes

Ms. Azarovitz – yes

Mr. Gallo – yes

William Meier, alternate – yes

Public Hearing for Special Permit #03-2021: 451 Scenic Hwy. Bournedale. Thomas Pappas. To allow a shared driveway for three residential lots.

Kyle Dunnar, Outback Engineering: Once access point onto Scenic Hwy. Currently undeveloped lot with a gravel path dissecting the property. Was a previously approved subdivision named Bridgeway Circle. Form A changed it to three lots. 25' paved apron that would lead to a 20' gravel driveway for lots 2 and 3. Lot 1 would access off the paved portion. Have applied to MA DoT. Through our discussions with them, they have made it clear they plan to divide Scenic Hwy with a central median. The want single lane access and egress with a central divider in the apron. 40' radius and a right turn only lane going on to Scenic Hwy. They need a minimum of 12' to buildings from State Hwy. Added that to the plan as well as other items requested by the Planning Dept. Revised plan to account for grading and site lines. All lots serviced by municipal water and onsite sewage disposal.

Mr. Clegg: All three lots will be Title V septic?

Kyle: Yes

Mr. Clegg: Behind these lots is there a cranberry bog?

Kyle: Yes.

Mr. Clegg to Coreen: Is the setback 300' from a bog?

Coreen: I believe its 100' for conservation and 150' for Board of Health.

Mr. O'Connor: Asking for alternative surface treatment for the road. We have a three family driveway so I assume its bituminous surface. You can make the case for equal safety under post construction, concerned about 5 years down the line with potholes, etc.

Kyle: the gravel access would be maintained by the homeowners. In their best interest to maintain to access their homes.

Mr. O'Connor: The gravel is on lot 2. Lot 1 has roadway, lot 3 has no shared driveway on his property. I can see in the future where these 2 will share the costs of the driveway. What is lot 2 says I'm only concerned about the portion in front of my house. I'd prefer bituminous up to lot 3. The FD has already approved the emergency turnaround. Like to see the 150' beyond the paved apron as bituminous. The old historic 12' path intersects the driveway in two places. I'd like to see bollards placed there so someone doesn't go on that trail or it becoming an informal passage way. Also bollards at the end of the common driveway where it intersects with the path. Someone could mistake that for the egress drive.

Mr. Clegg: This was an approved subdivision? It has more lots that what is showing?

Kyle: Yes, it had 8 lots.

Mr. Clegg: Did that approval cover anything about the roadway access?

Kyle: There was a Dot access permit.

Mr. Clegg: Unless spelled out about maintenance of roadway, I think it should be asphalt.

Mr. Gallo to Kyle: Lot 2, is that the lot that has the old dump on it? Isn't that a DEP or EPA site? I just want to protect the bog.

Kyle: Yes, was operated by the town in that area. There are multiple test pits done and found isolated pockets of waste found. The owner had Williamson do an environmental assessment they noted no indications of hazardous waste, some solid waste in spoil piles but no staining of the ground and not wide spread solid waste. No historical or controlled environmental release.

Mr. Gallo: Need monitoring wells? Were there any?

Kyle: To my knowledge, no.

Mr. Gallo: The grade at lot 2 low point, is that below the bog surface?

Kyle: I'm not sure, would have to check. I believe that low point is above the bogs still.

Mr. Gallo: Could that be capped? Is it bankable to build a house on a lot like that?

Kyle: Isolated pockets, might have to be removed, but no indication of wide spread solid waste.

Mr. Gallo to Planning: Did you see such a document of a study for this site?

Jen: Talked to Kyle, said doing a study but haven't seen anything.

Coreen: The town is aware of the former dump site there. Engineering has quite a few documents, the Building Inspector was made aware of issues, DEP knows, Health Dept. knows. Recommended go before Board as it's a shared driveway. The development of the lots will have a lot of oversight from various departments in the Town.

Mr. Meier: Is there any way if lots released can the bog be protected? He's a member of Ocean Spray cranberry trust. If anything gets in that bog, they condemn the entire bog.

Mr. Clegg: The area of lot 2 that could be buildable is very small portion of the lot. I have concern of the grade of the slope that would be behind any house on there. Should we or someone be comfortable with that before approving?

Kyle: Before a building permit, all other associated departments would need to approve.

Mr. Clegg: Should we include that in no way rules that no lots buildable or is that a given?

Chm. Strojny: I think that's a given, but they are asking to approve the shared drive. Ms. Moore said the town is well aware of the issues that are there. Issues are raised with good intentions, but we need to focus on the shared drive. Whether or not we want to permit it. I ask the engineer if these conditions are objectionable maybe want to continue to the next meeting and talk to Mr. O'Connor and the town planner to address these conditions. The bollards and paving to lot 3 are the big conditions.

Coreen: We could put a note on the plan as a statement of notice that there is a potential contamination on the lot and all town departments shall release before lot can be built. Just a note for buyers to be aware.

Chm. Strojny: Concerned because putting the word contamination on a plan. Relevant departments will be heavily involved.

Tom Pappas: Agree with the paving and not opposed to the bollards, environmental report was 417 pages. He said it was fine not to do any more testing and to loan money as no outstanding issues. Could only find one reference to that property as a dump but no location identified. We will send that report to the Town tomorrow and address any concerns they may have.

Mr. Carroll: Town aware this was a landfill area, the Town once built a school on a landfill and caused problems down the road. Future buyers should know this was a landfill at one time. Suggest comment in this record that this was at one time a town fill.

Chm. Strojny: No evidence to the effect that it was a landfill. There was some solid waste identified on this site. I think the danger is if put on the record, and don't know the facts, when you say landfill or contamination, people think that it's dangerous. We are asking about a shared drive and need to focus on that.

Mr. Clegg: Protect future buyers of the property/wording. I'd like to recommend to continue to the next meeting so Ms. Moore can draft up a statement that can go in our approval. Should be some, just want the right wording.

Mr. O'Connor: I'd be worried about the applicant not being able to move these lots.

Chm. Strojny: Statement to allow shared driveway and does not indicate approvals from others.

Mr. O'Connor made a MOTION to approve subject to the following conditions:

- This permit is subject to all Town of Bourne, State, and Federal rules, regulations, and bylaws.
- All work authorized under this approval shall be in accordance with the application, supportive materials and testimony of the owner and its representative.
- The project engineer shall submit a site plan and fire truck turning movement plan with a seal/stamp affixed, prior to issuance of a building permit.
- A curb cut permit from MassDOT is required before the issuance of a building permit.
- Access easement to be recorded prior to issuance of building permit.
- Stake the corner bounds of Lot 2 prior to construction.
- Shared driveway to be paved w/ bituminous concrete to the northern edge of Lot 2. Emergency vehicle turn-around spur as approved by BFD will remain compacted gravel.
- Submit a construction and cross section detail of the driveway.
- Add the follow notes to the plan:
 - No further lots shall be served from this residential driveway.
 - Private residential driveway. Maintenance is the responsibility of the property owners.
- Tree line is shown within emergency turn-around. Revise to show the actual cleared tree line.
- Submission of an as-built road plan and final determination of road construction compliance prior to the issuance of a building permit.
- Bollards to be placed at the southern end of the emergency vehicle turn-around spur. Bollards to be placed at two locations where existing 12' path meets edge of the proposed driveway. Submit catalog cut or specification for bollards to Planning Dept. for prior approval.
- The applicant shall coordinate with the Engineering Department for address assignments.
- Utilities must be underground in accordance with section 1238(A) subparagraph(3) section (e).
- Dust control shall be maintained on site at all times during construction.
- 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.
- This approval is for a shared driveway only. Approval does not guarantee or warrant compliance with other Town of Bourne by-laws, Board of Health regulations or any other agency requirements not specifically addressed by this approval.

The MOTION was seconded by Ms. Brown. Roll call vote as follows:

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|--------------------------------|---------------------|------------------------|
| Mr. Doucette – absent | Ms. Brown – yes | Ms. Goldstein – absent |
| Mr. Clegg – yes | Mr. Strojny – yes | Mr. Carroll – yes |
| Mr. O'Connor – yes | Ms. Azarovitz – yes | Mr. Gallo – yes |
| William Meier, alternate - yes | | |

Public Hearing for Modification of a Definitive Subdivision: Cont'd from 4/22/21.

Grinnell Lane. Pocasset. Modify cul-de-sac to a driveway with hammerhead turn-around.

Chris Sanderson: Proposing to modify a subdivision with two residential lots. 955 Shore Rd which will maintain access from Shore Rd, then the second lot with cul-de-sac with driveway for the second lot. Changing the cul-de-sac to a hammerhead turnaround. Since the last hearing we revised the plan to address the Planning staff comments and compose a list of waiver requests. Ownership, the newest record deed has been provided.

Chm. Strojny: We had asked for information relative to each waiver. Thank you for getting it to us quickly.

Mr. Carroll: This is in a real existing neighborhood and deserves careful attention. They seem to be adapting a new vision for something that was done in 1994. This no longer appears to be a subdivision plan. The applicants have the right to do what was approved. Might have to regrade the land, add hard paved surface, moving utilities, all at considerable expense. If it's to have access to a single residence, look at more as a driveway than a road. I looked at ownership and am not yet clear on the records of the town Assessor's office for Grinnell Lane. The show two cards for 1.5 acres. On the drawings it shows 1.5 acres up for consideration. Who owns Grinnell Lane and who will maintain it? We have a list of waivers and I believe all are appropriate. I'd like to avoid a long list of waiver, I wonder if a single waiver to look at it as a lot seeking a single driveway if you extend to Shore Rd does not have the frontage. Would it be desirable to think of it in that context?

Mr. Clegg: Is this a two lot or three lot subdivision?

Chm. Strojny: I did some quick research and the roadway is its own parcel, but appears that it didn't get conveyed with Lot 2.

Coreen: Its three lots plus the road layout. There is a small lot, unbuildable, that will act as drainage as you enter from Shore Rd. It's an extension of the right-of-way.

Mr. Clegg: Could you find a designated address for that third lot?

Chm. Strojny: 5 Grinnell Ln is 1.1 acres. The small piece that Coreen just mentioned is .02 acres and assessed at \$300. From what I can tell the roadway is not being assessed by the Town.

Mr. Carroll: Who in effect owns the roadway?

Chm. Strojny: If it's a private road, the abutters own to the middle of the road.

Mr. Clegg: On the diagram, lot 2 seems to be well defined as 5 Grinnell Ln. the boundary on the west seems to be an arc which seems to be a cul-de-sac. I'm trying to figure out who owns that portion of land on the southwest corner of lot 2.

SS: We've seen a number of these, but when do a two lot subdivision, it looks like this was going to be the road and the town doesn't typically access the roads. It's probably treated like most other private roads, maybe a condition is the town bears no responsibility for the maintenance, plowing, things of that nature.

EC: I agree that the abutters are responsible to the center of Grinnell Ln. But not specified who owns what was going to be the cul-de-sac area.

Mike Sweeney, Owner of the property: In terms of the ownership of Grinnell Ln. We (four of us), are on the deeds for the roadway, lot 3, our lot 1 and 955 Shore Rd. We all own all four of those parcels.

Chris: Notes on the plan showing private and responsibility is the homeowners for maintenance.

Chm. Strojny: Did a title search on this. One deed for lot 1 and one for lot 2. The deed says it's the land known as lot 2 on Grinnell Lane so it is certainly lot 1 and 2. I think the issue here, the roadway lot would be owned by the other lots 1 and 2. Because it's technically a subdivision road. No others that have interest in that roadway. If we put in language that they are responsible for maintenance and care, that would cover the situation.

Mr. Carroll: I asked the Town Assessor to clarify ownership and haven't received an answer. I think we will need to see in our records who the owners are of the lots.

Mr. Clegg: The part and parcel of what we have discussed here is that the owners of lots 1 and 2 will get free use of a plot of land that is not being taxed by the Town of Bourne and will be a driveway for private use. My position is that it should be incorporated into one or other of those lots and be taxed.

Mr. Carroll: Lot 1 has its own driveway.

Coreen: There are hundreds of these developments around town. Roads are not part of the tax parcel. When a developer sells the lots, used or not used, for us to say they have to own and pay taxes is not something we have done in the rest of the town. The concern of mine is that lot 3, we have quite a few

isolated lots that the taxes aren't paid and go into tax title then the town ends up owning them. I suggest that lot be conveyed to lots 1 or 2 so that it can be taxed.

Chm. Strojny: This sliver is still in the estate and not conveyed. Maybe they can go back to the owner at some point to get the land.

Mr. Carroll: I'm prepared to listen to the public discussion and perhaps take all that back for later consideration. We don't have a prepared list of conditions/requirements in front of us. Going to take time to clarify. Not prepared to make a motion to vote.

Mr. Clegg: Coreen talked about the driveway. But if you look at the semi-circular area of almost a ½ acre that will not be on the tax rolls, it's not driveway, just vacant land. That's why I think this should be resurveyed, retitled properly.

Coreen: If you look at Grinnell Ln. when it was originally subdivided, the road layout doesn't always encompass the total right of way. It's still roadway because it creates frontage for Lot 2. If you didn't have that rounding, you wouldn't have frontage and then it would not be a legal lot. If you took that away, you'd create an unbuildable lot. These types of roads are being created all over town for frontage.

Mr. Clegg: If this large parcel was created by a back lot subdivision we wouldn't be having this problem. If they built it out as original, we wouldn't be here either. It's leaving us with a mess and I think it should be corrected.

Mr. Kane at 952 Shore Rd: Is Grinnell Ln a road or driveway? Certain requirements for a road. Seems to be a lot of confusion. Safety issues for the location in proximity to Park St. and Shore Rd. kind of a blind spot. Worry about the drainage from the road into Shore Rd. then would add more of a water hazard. Since the owners are all the same, would there be some consideration for different access?

Chm. Strojny: Showed original approved plan that can be built today. They are asking to install a turnaround and essentially make it a driveway. This is essentially an unassessed roadway. Many others in town have this same setup on paper, but when see from the street, it looks like a driveway.

Mr. Kane: When was that subdivision approved? 1994 I believe. If plans were approved 200 years ago can they never be overruled due to factors because they make the previous plan unusable?

Chm. Strojny: The current plan is more neighbor friendly. If they don't get what they are asking for, they can build a road, probably not in the best interest of the neighborhood.

Matthew Anderson, 947 Shore Rd: Eventually I knew this was going to happen and they need access to their lot. In 1994 many of the residents weren't year round. I have the only kids abutting. This is the 7th driveway in 200' of road. I set up a play area in the SE corner of my lot. I'm curious how close is the driveway from my lot? It's a safety concern and the fire engine turnaround IS 6' from where my kids play. My kids run everywhere, I feel there could be an alternative to where the roadway/turn-around is. Change things to accommodate everyone in the neighborhood.

Mrs. McManus: Many driveways entering onto Shore Rd. People do not drive 25, they go 40-50. The fire lane is aggressive. The neighbors are not in favor of this wide swath of asphalt of roadway that is going to be put on this beautiful piece of property. When you change this plan, what are you actually building on the property?

Chm. Strojny: All they can build is a single home.

Mrs. McManus: Why do they need a fire truck turnaround?

Chm. Strojny: A fire truck needs to get in and out. We typically make sure that they have adequate means to access the property. Some old roads are so narrow, they can get down and can't get back. We defer to the fire dept. on if the access is adequate.

Mrs. McManus: I'm concerned about how long this will take to construct.

Chm. Strojny: This is going to be essentially a glorified driveway. I think at this point, we've gone as far as we can on this issue and will be continued. Maybe some people can get together and answer any outstanding questions and bring a motion back to the board one way or another.

Coreen: That turnaround isn't pavement, its grass pavers, but has a foundation so trucks can use it. It will appear to be green.

Matthew Anderson: There will be signs required in that area, correct, for the turnaround?

Chm. Strojny: Not typically.

Matthew: No parking signs posted.

Chm. Strojny: There will be an indication that visitors can't park there.

Chris S.: The current owner can build that 18' wide cul-de-sac that was approved. He's trying to preserve the rural character of the area by this new plan and I think the abutters will be happier with the end result. He is planning on living here. The grass pavers reduces the overall look of impervious coverage. Ownership of the lots shouldn't be considered. Looking to reduce impact to the area.

Drainage will be contained onto Grinnell Lane so no runoff to Shore Rd.

Ms. Brown made a MOTION to continue to 5.27.21 seconded by Mr. Clegg. Roll call vote as follows:

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

Mr. O'Connor made a MOTION to adjourn. The MOTION was seconded by Ms. Brown. Roll call vote as follows:

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

With no further business before the Board, the meeting was adjourned at 8:53pm.

Respectfully submitted,

Ann Gutterson