

# PLANNING BOARD MEETING MINUTES

April 23, 2015

**PRESENT:** Christopher Farrell, Daniel Doucette, Louis Gallo, Elmer Clegg, Daniel Chauvin, Rui Campos, Joseph Agrillo Jr.  
**ABSENT:** John Howarth, Vincent Michienzi  
**STAFF:** Coreen Moore, Town Planner, Tim Lydon, Engineering Tech.  
**PUBLIC:** Michael Rausch, Jon Fitch, Jim Mulvey

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Ann Gratis, Recording Secretary

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

This meeting was televised and recorded.

Minutes of 4/9/15: Mr. Doucette made a MOTION to approve, seconded by Mr. Campos with all in favor.

**Public Hearing for a Change to the Zoning Bylaw:** To see if the Town will vote to amend the Bourne Zoning Bylaws as follows or take any other action in relation thereto:

*Sponsor – The Board of Selectmen*

*Amend the existing language of Section "1232. Authority" by adding the new paragraph shown below, underlined and in bold:*

*Existing:*

1232. Authority

The Planning Board shall be the Special Permit Granting Authority for Site Plan-Special Permit Approval in accordance with the Use Regulation Schedule as set forth in Section 2220 and as described in Section 1233 herein.

*Add*

**Within fourteen days after the Planning Board issues a Special Permit or Site Plan Review Permit Approval, the Inspector of Buildings shall determine whether or not the actions of the Planning Board conform to the by-laws and Massachusetts General Laws. Within thirty days of his determination, any interested party may appeal his decision to the Board of Appeals.**

*In addition; amend Section "1233. C 4. Project Requiring Site Plan-Special Permit Approval" by adding the language shown below underlined and in bold:*

*Existing:*

4. The change, in whole or in part, of any residential use to a non-residential use,

*Add:*

**however, the Planning Board may not approve any plan that allows any use in a residential zone other than those allowed under section 2220.**

Chairman Farrell read Bob Troy's memo.

Mr. Gallo: The whole thing is a slap in the face. Roger has enough to do without looking at our approvals.

Mr. Howarth: Roger as Building Inspector is charged with checking everything. He's so overloaded now he doesn't have time to do that. All this stems from us going against the Board of Selectmen, they didn't like one of our decisions so they took it to the Cape Cod Commission, that didn't work so now they put this in. It delays every applicant.

Mr. Chauvin: The Planning Board is 9 elected people to represent the tax payers to do a job for you. This circumvents the process.

Mr. Chauvin made a MOTION to NOT recommend this article at Town Meeting, seconded by Mr. Howarth with all in favor.

**Discussion:** Cont'd from 3/12/15. Brookside. Review of special permit and subdivision conditions.

Atty. Doug Troyer represents Brookside Residential LLC. We have reviewed the tape from 3/12/15. Jack Dawley has identified things he's willing to do. The open space, we were not aware of this issue. I provided a detailed letter on 4/22/15. This project started in 1987 and pursuant to the site plans, 57.3% was open space, subtract the golf club 40%, and then added lot 50. In 2005 we met the open space requirement. There is 159.17 acres. We are well above the 30%. The whole development needs to be taken into consideration.

Mr. Doucette: The letter was submitted yesterday which didn't give us time to go through it deeply.

Chairman Farrell: We haven't had time to review and it's tough for us to render a decision without looking at it. We prefer to have things in the Friday before a meeting.

Doug: I understand and apologize for the late submission, but the numbers speak for themselves. We are all willing to do an on-site visit, just need a date. MA DEP has issued a permit to issue the building permits. Currently this is under appeal. We are hopefully looking at a hearing later this year as it's being fast tracked. There is no cease and desist on us and we would like clarity so we can move forward with the permits to be issued.

Chairman Farrell: I don't think we'll be able to discuss it now as it's in litigation. WE haven't come up with a time to go out together. Mr. Doucette and I went out individually and I have three pages of notes. I do understand the residents' concerns, there was a lot of damage done this winter. Need to determine what is the developer's responsibility and the owner's responsibility.

Mr. Doucette: It's beneficial to do the walk-thru sooner than later, we can arrange through Ann. Everyone has their own opinion.

Chairman Farrell: Dec. 15<sup>th</sup> is the complete date that things need to be done by. We need clarity from the court, if we don't know what the open space is...

Doug: If we meet the open space requirements, even if we take out the two acres, we still meet it.

Coreen: I will work on the calculation for open space, it's the only thing tied to the DEP. The stump dump can be calculated, part of the wastewater system is part of the open space. Land that is not developed or has structures. Other issues will stand on their own.

Chairman Farrell: Need to know when the separation happened.

Coreen: As far as zoning goes, ownership doesn't have a play on the density. The restriction is still the same.

Doug: Outlined on the original plan. I look forward to your review.

Mr. Gallo: if the fire road is built, is that considered open space?

Chairman Farrell: We can still review roads and other conditions. The stump dump units at this point are off. Need to make sure the whole development is still in compliance.

Andrea: We would like the FD, PD, DPW to join on the walk-thru. We are very concerned with the auxiliary power for the pump stations. Want it connected now. The access road was addressed before and the DEP issued the permit for the road. Your rules say roads are not open space. My clients have hired someone to core the roads they own, results are not in yet. A copy will be given to Counsel. We contest the open space calculation. Exhibit A: 148 acres, not included are slopes greater than 25%, wetlands, cart paths. What doesn't qualify: dwelling acreage and the golf course. This comes to 25.6% overall. Methane gas is triggered and need to report back to the DEP. We are looking to protect the tax payers. Some of the roads were done in 2005 that should be looked at for those standards, not 1987.

Chairman Farrell: Please submit your math to Coreen. We will wait to see what the court has to say first. This has been the smoothest we've gone through in a long time with opposing counsel. This is a workable situation and it makes our lives easier. We try to do the best we can, and it's been amicable so far.

### **Brookside discussion cont'd:**

Doug: To continue, we will email each other. We are waiting until the DEP and hope to work out the open space issue.

Chairman Farrell read a letter from a Brookside resident.

Mr. Howarth: If we square the open space are we all set?

Chairman Farrell: No. There are certain items to be released, there are other issues that can be addressed in the meantime.

Mr. Doucette: We will work together with the smaller issues and try to get resolved at the earliest convenience.

Doug: There are 241 units, 54 are serviced by the pump stations. It's been 8 plus years and no situation. We try to do things when we have the work crews there to get many things done at once. If it's in violation of the Board of Health, we'll do it soon. We want to do in conjunction with other things.

Mr. Michienzi: I think the generators should go in for these people now.

Mr. Chauvin suggested getting them installed by our next meeting.

Chairman Farrell thanked the residents for listening. We will meet on June 11<sup>th</sup> do discuss the open space and we want the generators installed by then too.

Doug: I'll let you know our position next week. I want to get the requirement for the pumps in front of me first.

### **Settlement:** 218 Main St. Keystone Place. Looking to give \$250,000 for affordable housing.

We negotiated with Keystone on the affordable units, gave the option of on-site, off-site or cash in lieu of. They chose the money. It is based on a square footage basis. The developer's attorney didn't have the right to make the agreement so now we are working directly with Keystone. The money will be used by Bourne Housing Trust to help subsidize other projects hopefully downtown as they feel they can't build three units. They have people ready to move in and we are holding the occupancy permit. Used \$140 per square foot to get the cost. If they knew they had to provide affordable units, their funding would be different.

Mr. Howarth made a MOTION to accept their recommendation, seconded by Mr. Doucette.

Mr. Michienzi: they are asking \$4,000 a month rent per unit.

Chairman Farrell: I do think the \$250,000 is light as we can't build three units with that.

Mr. Doucette: Counsel on both sides agreed to this.

Coreen: Bourne Affordable Housing Trust is in negotiations to build a 3-bedroom house for \$220,000.

Mr. Gallo: This is a jump start to get residents in the building. I think we should let this happen, it will open the door for others.

Coreen: There were missteps from day 1 with this project. They went through the process of getting permits and this came up at the very end. It was overlooked and challenged much later so we created a bylaw to give options.

Chairman Farrell: It was never challenged in the 20 day appeal, not brought up until over a year later.

Mr. Chauvin: Affordable housing is in the bylaw, it's in print, why are we obligated to hold their hand?

Coreen: It is mentioned in the minutes.

Mr. Chauvin made a MOTION to ask for \$350,000, seconded by Mr. Howarth.

Mr. Howarth: If we bump up the price will the price be negotiated?

Mr. Howarth withdrew his second.

Mr. Doucette: The price was agreed upon by both sides prior to this in good faith.

Mr. Chauvin amended his MOTION to accept the \$250,000, seconded by Mr. Doucette.

VOTE: 3 in favor, 3 against.

We will meet prior to town meeting at 6:15 at the high school to revisit this.

Mr. Doucette asked: if it's a favorable motion and the vote is tied, does the motion carry?

This will be checked at the office.

Mr. Chauvin made a MOTION to adjourn. The MOTION was seconded by Mr. Doucette with all in favor.

With no further business before the Board, the meeting was adjourned at 8:15pm.

Respectfully submitted,

Ann Gratis