

## PLANNING BOARD MEETING MINUTES

June 25, 2015

**PRESENT:** Christopher Farrell, Daniel Doucette, Elmer Clegg, Vincent Michienzi, Robert Gendron, Steven Strojny  
**ABSENT:** John Howarth, Louis Gallo, Joseph Agrillo Jr.,  
**STAFF:** Coreen Moore, Town Planner, Tim Lydon Engineering Tech  
**PUBLIC:** Michael Rausch, Andrea McKnight, Doug Troyer, Gary Siedleman, Alan Lemieux, Ron/Barbara Chesebro, John Scanlan, Ayres Souza, Jean White, Terry Ruggles, Ronald Erickson, Ann/Bill Flynn, Jim Mulvey, J. Nickolson, P. Ivanoeki, B. Vendt, Dennis/Judy Sullivan, H. Brackett, Pat Sousa, Joe/Marie Noonan, John/Jane Rogovich, Paula Keefe and other members of the public

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Ann Gratis, Recording Secretary

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

Mr. Clegg made a MOTION, seconded by Mr. Michienzi to approve the minutes of 6/11/15. Five in favor, 1 abstention.

**Discussion:** Brookside. Review of special permit and subdivision conditions.

Doug Troyer: The open space was an issue and a report was issued by the town. We met on 5/11/15 to discuss the roadways. Two units on Springbrook Court have been applied for and are subgrade status.

- Utilities for the first building have been installed, six additional are on hold.
- The MA DEP meeting is next Friday.
- Standby power for the pump stations: we have initiated the completion with contractors. The power equipment supply hasn't arrived yet, we have an outside date of 7/10 but hope before.
- Road paving: we met on 5/11 onsite with the trustees, Chris Farrell, Jack Dawley. The trustees have their own consultant which will coordinate with ours. Paving in the next month or so, some in September.
- Court signs/lights: agreed to install 8 signs, 13 lights. Installation by the end of July.
- Emergency access: Should be by Dec. 1<sup>st</sup>. Will coordinate with the fire dept and DPW. We have been in touch with Mike Leitzel for the 911. Trying to coordinate schedules.

Coreen: There are different types of open space in the development. All parties have to be part of the application. Encumbrance goes with the land. If a planning board in the future lets them develop the open space, Brookside will be out of compliance. Residential open space: pool, etc.; Permanent restriction: owned by the Town, this is why they could do the density. 43% residential, 57% open space. They only need 30% open space. The golf course is active, passive is restricted/protected. All allowable. They meet the regulations. All recorded at the Registry. Open space has been added and moved and with each modification the open space is confirmed. They have met the open space requirement.

Doug: We reviewed the numbers and they seem to be correct and we agree.

Andrea McKnight: Auxiliary power, signs not installed. Hypothetical dates of July, still nothing. Roads paved on Monday. The roads in question weren't addressed.

Stump dump, methane gas: since the last planning board meeting, 6 different pipes around the dump. TSG 4, 6, 8 close to the new building sites. The developer agreed to put a stop work for 90 days. I disagree with their findings. Sec. 4645 Community. What constitutes a community? They sold the golf course to a private party. 4645 – 3 ways: nonprofit, town residents, golf course. Wasn't done for any

of these. Doesn't say the golf course is exempt. Deed restriction paragraph 8: without the advanced written consent of Brookside residential, this can be developed if signed off by Brookside residential. Was it misrepresentation in 2005 when Jack Dawley didn't own the golf course? That amendment should be null and void. You can reopen the special permit. Go ask Town Counsel's opinion. Paving: 1998, 2005 or 2015 standards? You have the general gist of where the trustees stand at this point. Promises not fulfilled. Put some deadlines in place. What can we do about it if not down by the date specific?

Doug: Development rights and land are separate. They have nothing to back it up and I find it offensive. We have a trust. Over 230 units and good work. There are three lawsuits by the trust. DEP defending the permit. Soil monitors going off (mentioned at last meeting). One well was put on stumps, bad placement. Regular monitoring and to date only one well SG4 is the furthest away from the development. Going through testing, not denying it. May have to candy cane to vent the gasses. Winter is over, mitigating efforts will happen if it still keeps registering. We are fully complying with the DEP. Two years of mitigation/remediation. He could have walked away instead. Maintenance isn't doing what they need to keep with their building and now blaming us.

We are well above the 30% open space. The time spent by Coreen what she had to endure for these allegations is mind boggling. Andrea, you need town counsel to read sec. 4645 and tell you what it means? We have a deed restriction, they own the land. Declaration that runs with the land. The condo trust is the successor. They are party to that restriction. The golf course sold the land to us, my client has been sitting on building permits since January. The roads don't need to be replaced. Hope we can move on.

Chairman Farrell: not buying it, we listened.

Doug: apologize. There are some open issues, noting we can do when waiting for parts. We found the person that can do the job.

Chairman Farrell: When we met, times were given by your client and those dates have come and gone. Goes to who you hire a lot of times. Causes me concern when it's not done by a certain date, what are we to think? Construction is not perfection, we understand that.

Doug: We said December. Trying to move up as much as possible.

Chairman: This will not settle tonight. You guys have to live up to your commitments.

Mr. Clegg: We agree we had a contract on the generator, not a simple thing.

Doug: I thought it could be done in 30 days, my mistake.

Mr. Clegg: Who made the 7/10 contract? Jack Dawley.

Chairman: If any extensions, contact Ann with why. Backed by proof/documentation. Keep us in the loop. Many of us have been involved in construction.

Mr. Clegg: I was unable to attend the 5/11 walk but went after. Can you recap on the roads?

Chairman: The resident's consultant did a very extensive report on the road and courts. We walked some roads, most dealt with the courts. The developer agreed to certain conditions. Brookside Road top coat, some other areas. 1986 and changes over the years. Some roads are 20+ years old and have normal wear and tear. MacArthur Blvd. everyone uses it, what's expected and what happened in a certain time period. Owners had some other issues. The Board is trying to do a balancing act. We never modified the road construction guidelines. Shame on us.

Mr. Clegg: Portions have no topcoat.

Chairman: From Waterhouse Rd. in was pretty much resurfaceable. A few spots will be repaired to the base coat.

Mr. Clegg: What was paved?

Andrea: Springbrook Ct was the only section.

Doug: We all agreed on the sections.

Chairman: Done before the close of the plants or 12/1.

Mr. Michienzi: If we don't get a top coat on the binder and get it done. Haven't paved or the generators. We can't keep waiting.

Doug: We can wait. Were originally going to do at the end of the project. We're moving paving up to September if possible. Have to address the issues.

Chairman: Paving the east end of Brookside - Sept/Oct. Doug will confer with his client. The Board prefers Sept.

Andrea: Lawrence Lynch is under contract. If the standard is 1988 can the owner know 1" or 1.25", the trustees may pay for the price difference. End of Turnberry Rd and the east end of Brookside Rd.

Doug asked Andrea to please send an email with the request.

Pumps: July 10<sup>th</sup>. Ready for inspection. Doug: the wiring was installed and is working, will confirm with my client.

Signs/Lighting: July 30<sup>th</sup> installed and confirmed.

Chairman: Work with the HOA.

911: out of their hands. Waiting on engineering and Police Chief.

Access gate: By Dec. 1<sup>st</sup>.

Andrea: The permit for road across the stump dump. Ask that it's held by the end of the month.

Doug: Thought the access road was part of the post closure use permit.

Andrea: My understanding you have to apply to DEP for a road "special permit". If we could limit the personal attacks.

Chairman: Have to keep level Allow to speak and be heard.

Doug: What is the end game here? At some point the Board will release the permits.

Chairman: We have a couple small items aside from the DEP appeal. Like to see real good faith effort on the developer's part. We realize once done there's nothing left for us to hold against you. We can start to address the permits when we see good faith effort. I'm confident in Coreen and rely on her. She covered the open space issue.

Doug: Get frustrated sometimes. There are two very good attorneys and I apologize.

Chairman: I have lots of respect for both of you.

Mr. Doucette: The dump/methane is not for us, it's Board of Health and DEP inspector.

Chairman: We will rely on them to advise us. Thank you to both counsels for their documentation. The open space, is it done now? The Board members were not concerned.

Andrea: What constitutes a community?

Coreen: That special permit has been deemed valid. The golf course is part of it. Now you want an interpretation on something that you don't have an open point on. The CCC issued a letter at the time stating they are in compliance.

Mr. Clegg: There are conflicting stories from counsels. If we could agree what happened.

Coreen: The course is residential, I have the deeds, and the golf course was first.

Andrea: There has been lots of land swapping over the years.

Coreen: It was one then, broke off. At the time the Town considered buying it.

The Board supports Coreen on the Open Space.

Joe Lento: A lot of times research should be done. There are no ice/snow shields on the building. Many things not to code on the buildings.

John Scanlon: We pay a lot of taxes, plow our own roads, take care of our own trash and sewer at our expense. We are looking for town counsel to clarify.

Dick Shock, chairman of the trustees: Thank the Planning Board for their time, appreciate your help. We pay \$4,000 each per year for property tax, we don't have many children in schools, Police, Fire and EMT services are used and we want you to help us solve a problem.

Chairman: That's what we've been trying to do. Make sure everything is in compliance. I will request Town Counsel to look at it, but it will be very limited: to confirm Coreen's finding on the open space. I'm not going to ask about other issues. Complicated issue, land swapped between entities. Definition: if in separate ownership does it still comply now. Read the letter from Mike Downey into the record.  
Mr. Michienzi: wasn't the stump dump purchased after? Yes.

Mr. Clegg made a MOTION, seconded by Mr. Doucette to adjourn with all in favor.

With no further business before the Board, the meeting was adjourned at 8:25pm.

Respectfully submitted,  
Ann Gratis