

**Rowley Planning Board Minutes  
For Regular Meeting on January 11, 2017**

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Members present: Chris Thornton (Chairman), Cliff Pierce (Member), David Jaquith (Vice Chairman), Curtis Bryant (Member), and Jean Pietrillo (Associate Member) are present. Kirk Baker, Town Planner is also present. Mark Savory (Member), is absent.

Thornton calls the meeting order at approximately 7:30 pm noting they have four continued hearings and two new public hearings.

**7:30 pm - Continued Public Hearing for Special Permit/Site Plan Review Modification  
pertaining to 428 Newburyport Turnpike for new building**

Thornton starts the meeting with the statement that abutters had presented concerns regarding the lighting located on existing buildings and are concerned about the lighting fixtures on the proposed 40,000 square foot building. The question was raised whether the petitioners (Sandy and Brian Patrican) went to the abutters land and observed the lighting. The petitioners confirmed they did go to the abutters at night to observe the lighting and now believe they have addressed their concerns asserting they have fixed the problem lighting and are now in compliance with the rules outlined in the zoning bylaw. The Sandy Patrican further notes that there is a 450 linear-foot distance between properties. Jaquith motions to close the public hearing, Bryant seconds the motion. All vote (5-0) in favor to close the public hearing.

In regards to the draft Certificate of Vote the Board notes the issues regarding adequacy of measures to buffer or screen commercial activities are addressed. The petitioner questions whether this is a standard condition. Pierce notes this is the case and that the language of the condition comes from the zoning bylaw and that it is just being made explicit in the approval decision.

The petitioner then points to page 4 and notes that there is a statement alluding to approvals by the Zoning Board of Appeals. Mr. Baker stated that ZBA approval is not pertinent to the review and this time under that condition which is otherwise a standard condition common to all approvals will be removed from the final revision. Pierce motions to approve the site plan with the conditions as modified. Bryant seconds the motion. The Board votes (4 in favor - 0 opposed) to approved the site plan application with conditions.

Baker notes the final revised version will be printed out and signed on January 12, 2017 and then filed with the Town Clerk.

#### **7:40 pm - Continued Public Hearing for SPR Modification to 319 Newburyport Turnpike**

Thornton reminds the Board this pertains to modifying the existing commercial site plan layout to install a children's playground associated with operation of a children's daycare use which is a new prospective tenant. He notes the petitioners are not in attendance, but notes the petitioners have informed the Town Planner that, due to their being unable to ascertain a more appropriate location for the playground towards the rear of the commercial building, they have decided not to pursue the application any further.

The Board members acknowledge the withdrawal and ask Baker see if the petitioner would more favor submitting a written withdrawal request so that the Board can accept the withdrawal without prejudice thus allowing the applicant the option to submit a new petition in the near future if they so desire.

Bryant motions to close the public hearing. Pierce seconds the motion. The members vote (4 in favor / 0 opposed) to close the hearing and to permit the applicant an opportunity to formally request to withdraw the application without prejudice.

#### **7:50 pm - Continued Public Hearing – OSRD Special Permit for 42 Newbury Road**

John Sullivan, the petitioner and property owner, and, Peter Blaisdell, Engineer from Williams and Sparages are attending. Blaisdell notes that at the last meeting there were concerns regarding the proposed buildings architectural styles and their designations as single or two-family dwelling units. He notes that Mr. Sullivan has derived a new layout design along with new architectural which he intends to satisfy the Board's previous concerns. Blaisdell states the new design involves the removal of approximately 3,200sq.ft. of the larger existing ("the barn") building, which stands near the north property boundary, and to replace the previously proposed 2-family building with a two, separate single family buildings. The additional single family would serve to make up for the loss in the number of units they would be permitted to have, but which would have a farmhouse feel. Sullivan hands the Board members rendering of the new design.

Instead of doing individual lots, the property would be exclusive use areas where the condo owner would be responsible for his own home and area, while the condo association would take care of the road and utilities. All condos are to have their own septic and water supply. Baker states that ZBL Section 6.4 which regulates Open Space Residential Development (OSRD) projects requires that the properties be tied into the Town water supply. The owner states that if he has to tie into the Town water supply, he will do that.

But notes that it has been on well water until this time. Baker notes that if the water connection under the Planning Board Rules and Regulations are discretionary to the Planning Board, but under the Zoning Bylaw the requirement is obligatory and the Board has no option to waive the requirement.

The Board has a discussion regarding project elements such as road length, demolishing the barn, and fire department requirements. Thornton asked if Mr. Blaisdell could show 5 conforming lots on the yield plan and Mr. Blaisdell stated he would do so. The Board discusses open space. Mr. Baker was asked to look into the matter of the issue of open space. The Board then discusses the whether the townhome style or the farmhouse style building design would be most appropriate in this situation.

Sullivan asserts that the townhouse style does not fit with the overall character of the residential dwellings along the stretch of Newbury Road which is the reason for his picking the farmhouse style “houses”.

Joan Peterson, an abutter, proposes the question about this being a private way, but later petitioning the town to become an approved street. Thornton’s reply was that the board could make sure that this would be a private way in perpetuity.

The Planning Board discusses the potential that the proposed plan would “clean up” what is there now. They also discuss the differences between the designations of the units as condos or configuring them as single family dwelling lots. Sullivan indicates that the dwellings will be condos even if they are all single family structures. Baker affirms this is permitted within the parameters of the OSRD zoning bylaw.

Abutters spoke about the flooding of Newbury Road as they did in the last meeting. Thornton stated that drainage issues would be talked about later when the property plan is more solid. The Board asks Baker to coordinate with the Conservation Commission in regards to the drainage review.

Thornton suggested that what the Board would like to see is a yield plan, the Board has to find that the plan is better for the Town than a sub-division. There was a suggestion to speak with Larry and to continue the hearing to the next meeting. Jaquith motions to continue the hearing to the February meeting date. Pierce seconds the motion. All vote in favor to continue hearing (5-0).

**8:05 pm- Continued Public Hearing – Special Permit for Freestanding Sign Lighting at 414 Haverhill Street, new Medical Office/Daycare buildings (Map 14, Lot 34-1).**

Ed Juralewicz from The United Sign Company is representing the owners. Baker presents the approval memo and notes that the Board closed the hearing and voted to approve the sign proposal at the prior

meeting and he has since written up the approval document for the Chairman to sign. He also notes that the conditions on the approval memo are the conditions standard to illuminated sign approvals. have been no changes; the sign was approved by unanimous vote. Thornton signs the decision letters.

**8:15 pm- New Public Hearing – Site Plan Review for Proposed Building for Hydrant Regency Dog Kennel Operation at 104 Newburyport Turnpike (Map 14, Lot 14-2).**

Mr. Thornton reads the public notice. The applicant, Charles Peabody, presents the application on behalf of Mark Bernhardt, the business owner of the Hydrant Regency Dog Kennel and on behalf of the property owners Clark and Heather L'Abbe. Peabody states the site plan is very preliminary and was done in haste so as to get on the docket for this meeting. He notes the owner is ready to begin operations and is seeking approval to put up a temporary accessory structure (a temporary trailer) so that Bernhardt can at least initiate the doggie daycare use on the site.

Baker asserts to Mr. Peabody that the Planning Board does not have the authority to approve a temporary trailer and that this would have to be done through the Board of Selectmen. Baker also notes that the installation of a temporary trailer would probably be a misuse of the general by-law which was intended for use during the construction phase of a project and not for the initiation of the use that was the reason for obtaining land use approval.

Cliff brings up the point that the Planning Board might authorize temporary trailer once construction begins as a condition of approval of the site plan. Thornton asks whether doing so would be seen, in effect, as a way of circumnavigating the intent of the general bylaw. A discussion regard how other similar uses in the area operate.

Baker projects the site layout plan onto the overhead screen so everyone could see exactly where the site is located. The Board members note there are a number of issues with the site. Peabody states that he was under the impression that Bernhardt had already gone to the Planning Board and had obtained a permit to operate.

Pierce notes that a critical issue with the location of the access to the site. Peabody responds that the proposed kennel operation will be a small operation with approximately 5 to 10 dogs per day. He states the kennel site is to a large outdoor fenced area for the dogs to run around, and then, a separate building for the dog to spend the night in.

Mr. Baker states that Mr. Bernhardt came to him in November and that Mr. Baker went over all of the steps needed to be taken to get his site and business approved. He notes that Mr. Bernhardt had complained about the Board's approval of the Dog Training operation at 317-321 Haverhill Street, but that he explained to Mr. Bernhardt that the Zoning Official determined a daytime dog training operation was not the same thing as an overnight dog kennel and that the former was permitted in the Retail Zoning District whereas the latter was not.

The members decide that time should be given to complete the technical review and agree that the aforementioned issues should all be considered, especially the location of the entrance off of Route 1. The Board agreed that they will meet at the site on Friday, January 13, 2017.

Thornton made a motion to continue until the next meeting, it was seconded and all were in favor.

**8:30 pm- New Public Hearing – Special Permit/Site Plan Review for Common Driveway for lots located at 40 Dodge Road and 2 Mill Road (Map 5- Lot 104)**

The applicant, Thad Berry of ASB Design Group LLC, is present on behalf of William Herrick Jr. who had previously create five new lots using the Approval-Not-Required (ANR) procedure and is now seeking approval of joint access shared amongst three of the new ANR lots via a 245' long, 12' wide common driveway from Dodge Road.

Pierce motions to open the public hearing and Jaquith seconds. All vote in favor to open the hearing.

Berry states that the driveway will be 18' wide going to lots 1 and 2, then to 12' to provide access to lot #5. Four of the lots are on Dodge Road, lot 5 is on Mill Rd. They are looking for approval for this access to these lots.

The Board discusses how part of the land subject to the request was under a forestry chapter 61. Berry asserts that the contract for these had run out. Thornton requests that the Board should address the issue of connection to the town water supply noting that individual wells for each unit would be less preferable. Thornton further asks if the owner had looked into where the connection would be made. Baker notes the town's mapping depicts the near water line is along Haverhill Street (Rt 133) and that a line would need to

be extended up Dodge Road in order to connect these lots. The Board discusses the benefits of extending the water up Dodge Road would set a precedent for future residential projects further north on Dodge Road.

Thornton asks if there are any public comments. Stanley Slepoy of 27 Dodge Road is the abutter directly across from the proposed driveway has some questions asking about the difference in approval of individual driveways versus a common driveway. He is told that the lots were create by ANR Plan which is technically not a subdivision and therefore the design standards associated with subdivision approvals do not apply. In fact, if not for the common driveway Special Permit request, the applicant could get building permits for all five lots each having its own well for water service and the Planning Board would have no say in the matter.

Berry notes that the common driveway would have less impact both to the abutting properties, to traffic access and flow on Dodge Road, and from an environmental perspective. Mr. Berry notes he still needs confirmation regarding the Fire Department position on the common driveway but notes that they will ensure there is adequate space for emergency vehicle access and turnaround capacity. Berry also notes that all soil percolation tests have been done for all five lots.

Motion was made to continue this hearing to February 8, 2017, it was seconded, and unanimously accepted for a continuance.

#### Other Business

Mr. Baker stated that the Ethics Training that is on line will be coordinated by Sue Hazen, Town Clerk. She would like to have everyone take the course this year. This is to facilitate the scheduling of all pertinent employees will be due to take the training at the same time every two years per State Ethics. Mr. Baker also talked about the ZRC (Zoning Review Committee). There was a meeting the previous week with discussion regarding the right to form, by law, some adjustments to the Zoning By-Laws to bring it into line with the state code. There was also there was the issue concerning the allowing of drive-through availability for pharmacy and convenience stores. Mr. Baker is drafting this issue to possibly be discussed next week. The ZRC is also going to be discussing the up-lighting issue.

#### Adjournment

Pierce makes motion to adjourn the meeting. Savory seconds the motion. All vote in favor. Meeting adjourns at 9:00 pm.