

MINUTES OF EXECUTIVE SESSION MEETING OF WAREHAM PLANNING BOARD

Date of Meeting: February 23, 2016

I. CALL MEETING TO ORDER

The meeting was called to order 10:00 A.M.

II. ROLL CALL

Members Present: George Barrett, Chairman
 Michael Baptiste
 Michael Fitzgerald
 John Cronan
 Robert Reed
 Michelle Fernandes, Associate Member
 David Pichette, Interim Town Planner

III. PRELIMINARY BUSINESS

A. Executive Session to Mediate the Planning Board Decision Appeal by Bay Pointe Club, LLC

Present before the Board: Rick Bowen – Town Attorney
 Charlie Rowley – Town Review Engineer
 Mark Bobrowski – Mediator
 Tim Fay – Bay Pointe
 Patrick – Bay Pointe
 Tom – Bay Pointe
 John – Bay Pointe
 Richard Serkey – Esquire

Mark Bobrowski opens the meeting stating that he is present to guide the Planning Board and Bay Pointe through mediation, not to make a decision. He requests each counsel make an opening statement:

Rick Bowen states that the Planning Board spent a considerable amount of time reviewing the project and felt that the Board's decisions were reasonable and the discretion they exercised was appropriate.

Mark Bobrowski asks how many meetings were held for this project.

Richard Serkey responds around ten meetings were held.

Tim Fay states that they went through the public hearing process for over two years.

Richard Serkey states that the two main issues of the applicant are as follows: the Board's decision for a central pump system opposed to individual septic systems for each house, which went against the recommendation of the sewer commissioner; the second main issue was the fact that the Board changed the setbacks of the lots, reducing the number of units that could be built, and changing the design of the proposed plan, after the public hearing was closed.

Mark Bobrowski states that this particular zoning district gives the Board discretion to decide the lot setbacks.

Tim Fay reports that he applied for 90 units, the Board approved 80 units, but their setback conditions only allow for 70 or 71 units to be built.

John Cronan brings up the cost of the sewer systems. He says he didn't believe that one central pump station was vastly financially different from the proposed individual systems for the houses.

Tim Fay responds there was a \$75,000.00 increase for the homeowners for a single pump station. He adds that the loss of a lot to the single pump station would equal to \$350,000.00 (which was the predicted cost of the sale of a house on that lot) as well as a decrease of value in the houses surrounding the pump station. The installation of one pump system would require them to close the 12th hole on the golf course before the new replacement hole matured, and they would have only 24 months to complete the project.

Mark Bobrowski asks what the applicants proposed phasing was.

Tim Fay says there were 4 phases that were largely market based and not time based.

Rick Bowen offers that one comment he heard repeatedly from the Planning Board was that the actual golf course was being included as square footage of individual lots.

Tim Fay responds that a landscape plan that was submitted to the Board was designed in layers and sections, which caused some confusion when looking at the layout of the lots and the golf course. Existing sand traps, that are proposed to be removed, were shown on the plans and didn't appropriately convey what was proposed. No part of the golf course is proposed as being part of the individual or multi-family lots.

George Barrett stated that the applicant refused to accept one of the Board's conditions stating that the golf course shall not infringe on the lots.

Tim Fay says the language that was used in the conditions, such as "all" or "none", was very restricting, and the language was the reason for their unacceptance of certain conditions, but the lots will have provisions to prevent the golf course from infringing.

Mark Bobrowski believes the two main issues are sewer and setbacks/design. He says language is a concern, but is much more easily remedied. He asks what the bedroom mix of the single lots is proposed to be.

Tim Fay says they will be 2 bedrooms. He states it is proposed as a golf course community. They are designing this to be appealing to people in their 40's and older, people he referred to as "empty nesters".

Mark Bobrowski asked if it is an age restricted (50+ years) community.

Tim Fay says it is not age restricted as that would prohibit some people from being able to live in this community. He states no children live in the current adjacent community, which is also not age restricted. They are creating this project to be appealing to people who like the idea of the golf course community, and there are other successful communities similar to this one.

Mark Bobrowski asks if there will be a club house on site.

Tim Fay says there is a clubhouse on site.

Mark Bobrowski asks if the residents will be required to join the homeowners association and if the club house contains amenities such as a swimming pool, tennis court, etc.

Tim Fay says the residents will not be required to join the homeowners association, but they will introduce it as an incentive for the homeowners. The clubhouse does not contain any amenities. He feels it is a prime location with attainable Town amenities such as a beach, gym, restaurants, etc.

Each party disperses to separate conference rooms to deliberate amongst themselves. Mark Bobrowski begins mediation with the Planning Board.

Mark Bobrowski begins that the clients' issue with the language of the conditions is easily overcome. The condition to complete the project within 24 months is standard.

John Cronan responds that the time frame can be extended.

Mike Fitzgerald says the biggest issue at hand is the sewer.

Mark Bobrowski says to address the two systems.

George Barrett stated he had been to the sewer commissioner about the differences between the individual pumps (also referred to as the grinder pumps) and the single gravity system, and after explaining the differences between the systems the sewer commissioner agreed that one single system would be better than 50+ individual systems.

Mike Fitzgerald points out that the condominiums adjacent to this site have a single pump system.

Mark Bobrowski asked if the sewer connection needed to be update to receive this additional waste from the proposed development.

Mike Fitzgerald replied that the Board had asked the applicants of the status of the sewer connection multiple times and did not receive a direct answer. They had checked some of the pipe and had stated that it wasn't currently working at full capacity (not because of malfunction, but because of low flow levels), but had not performed an in depth study of its capabilities.

George Barrett stated that the applicant was replacing the force main either way.

Mark Bobrowski asked if the Board accepted this.

George Barrett said they did.

Mike Fitzgerald states the open item is about the individual pump systems, not about if the sewer line was capable of accepting the additional flow. The Board felt that it is not appropriate to have individual systems as it puts all of the problems on the homeowner. He stated that individual generators for each system would have made the Board more likely to approve the individual systems.

John Cronan points out that the applicants issue with the installation of the septic not being compatible to their phasing doesn't make sense to him since the entire sewer (2" force main) needs to be replaced either way.

Charlie Rowley agrees that it shouldn't matter if the applicant uses a gravity system or a force main, the construction phasing according to the septic is either wrong or misunderstood.

Mark Bobrowski asked if the applicant could do the septic in pieces if they only sell certain lots at a time and replace the force main as they go.

Charlie Rowley says the applicant could potentially do that.

Mark Bobrowski states that the applicants' biggest issue must then be with the cost accrued by the installation.

Charlie Rowley believed the cost is the clients' largest concern. There would be slightly less excavation with the individual systems. The applicants claim that the 12th hole on the golf course would be disrupted due to the installation of the septic doesn't seem to make sense since the holes need to be replaced either way because of road construction.

Mike Fitzgerald states that he believes that the applicant is mistaken, that families will be moving into these houses and condominiums, and is concerned that there is no open space. He also states that they have given the applicant a lot of leeway with their design, only requiring one sidewalk instead of two, and granting smaller road sizes than is required in the By-Law. The

applicant also stated that they were not willing to install a sidewalk from the development to Onset.

Mark Bobrowski asked what the distance from the development to Onset was.

George Barrett says the distance from the subdivision to Onset is about 200'.

Mark Bobrowski asks what the sizes of the lots are proposed to be.

Mike Fitzgerald says less than 10,000 square feet. He says the applicant bought the golf course and the land, and that there is nothing there for any of the potential residents besides the golf course.

Mark Bobrowski states that similar golf course communities are built in other towns, there just hasn't been one built in this Town.

George Barrett mentions that the comment the applicant made that they had already reduced the project from 115 units to 90 units, with lots less than 5,000 square feet. George stated that he had requested that the applicants show him how 90 units would reasonably work.

Mark Bobrowski asks what George means by making the units work.

George Barrett replied by showing the Board that the house designs could be compatible with one another. All of the homes have their doors facing the same way, and are essentially the same design.

Mark Bobrowski asked how many house designs they applicant presented.

George Barrett said the applicant showed three house designs, all with doors opening to the front of the house, and four multi-family designs.

Mike Fitzgerald said that this golf course community is not comparable to the other golf course communities that the applicant referred to. He also stated that there is tandem parking on the plan, which they asked the applicant to change.

Mark Bobrowski asked if there are different lot sizes.

George Barrett conveys that initially there were larger lots mixed in, but when the applicant was asked to space out the center lots the larger lots diminished.

Mark Bobrowski asked if there's an above (or aerial) view of the proposed layout.

Mike Baptiste shows Mark Bobrowski the aerial view of the plan. Mike Baptiste points out that if someone goes to visit a grandparent that there's nowhere to park, or if a grandchild is visiting with their grandparents that there's nowhere to walk with them.

Mark Bobrowski states there isn't a lot of open space proposed.

Mike Fitzgerald says there is no open space. He adds that the golf green goes directly to the back of the lots and that the houses will get hit by golf balls when people are golfing.

George Barrett mentions that the applicant also did not specifically state which type of septic pumps they would use.

John Cronan conveys that initially the applicant said each individual lot would have a generator and switch connected to the septic, but the applicant revoked that proposal and would not offer generators.

Bob Reed says a lot of the residents will likely be living in these communities as summer homes, and that they wouldn't be around to run a generator and a pump even if they were installed with the septic.

Mark Bobrowski states that the Board could be firm in their request for one septic system, but they must make exceptions somewhere in the housing design since the applicant proposed 90 units and have been forced down to 70.

George Barrett replied when the Board wrote those conditions they believed they had reduced the number of proposed units to 80.

Mark Bobrowski asked the Board if they told the applicant they could have 80 units if the Board thought the applicant would accept.

Mike Fitzgerald says he does not believe the applicant would accept 80 units, that he believes they want 90 units.

Bob Reed pointed out that they never promised the applicant 80 units, that the Board had simply created setbacks for the lots.

Mike Fitzgerald iterated that the lots are so close you wouldn't be able to help seeing your neighbor through the window.

Mark Bobrowski said if these units are primarily being used as summer homes it may be ok.

Mike Fitzgerald responded that for retired people this might be acceptable, but for families it is not.

Mark Bobrowski stated that the applicant cannot say children aren't allowed.

John Cronan says it would be that family's choice to live in the subdivision, not the applicants' responsibility to make it more appealing to families.

George Barrett agrees with John Cronan that it would be a family's choice to live there. George also states that he does not believe the applicant will lose an entire lot if they used a single septic system instead of the multiple systems.

Mark Bobrowski says he does not believe the clients will lose an entire lot either. He also states that the applicant is looking to sell these homes, and they won't sell if the lots are too close together, and that the applicant strongly believes this layout will sell.

Rick Bowen asked if the single septic system would be above ground or below ground.

Mike Fitzgerald said even if they chose an above ground system it's a small structure that doesn't create any noise.

Mark Bobrowski stated that if the Board altered their setback requirements then the applicant may accept.

Charlie Rowley states that a pump station could be landscaped around and hidden. The applicant also made illusions to a pump station giving off an odor, which it would not.

Rick Bowen said he spoke with the sewer commissioner, Guy Campinha, and Guy recommended multiple single pumps on the project, and that the Town prefers grinder pumps (which the multiple individual pumps are proposed to be).

Mark Bobrowski says that he will leave the sewer issue alone at the moment, but that he would like to allow the applicants more density in their design. He inquires if parking in the garage and in the driveway in front the garage is acceptable.

Bob Reed stated that the Board had said no tandem parking.

Mike Fitzgerald says they had not allowed tandem parking because the road is already more narrow than the requirements and they will not allow parking on the road.

Mark Bobrowski asked why the Town cares if the residents are parking in tandem.

Bob Reed responded that they are planning for guest parking as well so that there is literally no parking in the streets, if a driveway can only hold two cars then guests may need to park on the street, which they will not allow.

Mark Bobrowski asked why the Board imposed the rear lot lines.

George Barrett answered that if the design were all condominiums the lot size wouldn't be such an issue of concern, but such small lots don't seem appropriate for single family homes.

Mark Bobrowski stated that the applicant will likely put restrictions on the lots.

George Barrett said he knows the applicant is going to apply restrictions to the lots such as no fences, hedges, etc., and is unsure how they can sell those as single family lots.

Mark Bobrowski asked the Board if the applicant could erase the lot lines and increase the density.

Mike Fitzgerald stated that he could agree to 80 units if they fit within the parameters proposed by the Board.

John Cronan replied that 80 units cannot be configured with the setbacks still in place.

Mark Bobrowski said he would like to go to the applicant and tell them that they must use the single pump for the development and not the individual pumps for each house for sanitary reasons and because of the cost accrued for the construction of the septic that they could negotiate performance standards to provide for three parking spaces for each house, "x" amount of feet to the green and forget about the side and rear setbacks.

Mike Fitzgerald stated he was uncomfortable with doing that. He said he would like to leave the Town something better. There should be open space, which would make the Board more likely to grant closer quarters.

Mark Bobrowski asked what he could offer the client. He asked if the Board was open to seeing a plan with 80 units on it. He asked the Board what size the houses were.

Mike Baptiste stated that the Board had requested some of the houses to be converted to condominiums for more open space.

Mike Fitzgerald said the houses are 1,350s.f. – 1,700s.f. Mike Fitzgerald also stated that the applicant asked for 10' between the houses, the Board asked for 15' between the houses, and asks if they could each compromise at 12' between the houses.

Bob Reed said he doesn't see how changing the houses to condominiums could help. The houses in the middle of the proposed subdivision are too compact.

Mark Bobrowski stated that the houses could be moved for open space.

Mike Fitzgerald stated that the Board had asked the applicant to do that already and they did not want to arrange their configuration for open space.

Mark Bobrowski said the Board needs to give the applicant something in exchange for the septic demand. He suggested requesting 80 units and not requiring specific distances between houses and requesting open space. .

Mike Fitzgerald repeated that he felt that the Board has a responsibility to the people of the Town to make the living space more amenable.

Mark Bobrowski said that if people are buying these houses then the Board has done its job. He also states that people have the option of driving by if this development isn't appealing to them.

George Barrett said they do not want people to drive by. He asked if the applicant could create a plan to illustrate what 80 houses would look like.

Mark Bobrowski said the applicant could create more multi-units and create space.

Mike Fitzgerald stated that the applicant had previously been unwilling to do that.

Mark Bobrowski left to meet with the applicant and discuss concerns addressed with them.

Mark Bobrowski returned and suggested to discuss the sewer issue first. He stated that Guy Campinha, as well as the majority of the sewer commissioners, preferred the multiple grinder pumps. The applicant stated that if the homeowners have issues with their septic systems they will call the company contracted by the association to perform maintenance on the septic and the association will pay for the repairs. Mark stated that he would ask the applicant if they would provide the funds for such repairs until the homeowners association is properly established. He also asked if the applicant would pay for a peer review of the septic, which they agreed to do.

Mike Fitzgerald asked how the applicant intends on responding to the homeowners septic needs in case of power failure.

George Barret mentioned that the applicant had previously suggested a maintenance crew could go to each home with a generator on a truck and charge each individual septic, which was not agreeable to the Board.

Charlie Rowley brought up that the letter from Guy Campinha doesn't address the individual pumps.

Mark Bobrowski said that he did not find the answers he was looking for regarding the septic in Guy Campinha's letter either. Mark suggested hiring a specialist on septic systems to answer their questions. He stated each provision can be put into writing. After speaking with the applicant, the applicant had agreed to design a building to building setback or lot to golf course setbacks. The applicant said they would not re-design the entire project and roads. Mark Bobrowski stated that there is room for creativity on the plan but the Board would have to do without 30' between the houses.

Charlie Rowley asked if the applicant would be open to adding a condominium in lieu of some single family houses to allow for more open space.

Mark Bobrowski said he did mention that possibility to the applicant and showed them like developments with more open space.

Bob Reed asked if the applicant refused the idea of one septic system instead of individual systems.

Mark Bobrowski said no, the applicant did not turn that down altogether.

Charlie Rowley said he spoke with Guy Campinha and he said he is indifferent to which system the applicant chooses as long as the pump could handle it.

Mike Fitzgerald said there are still two main issues: who will maintain the septic system, which the applicant had answered, but what will happen in the event of an emergency? The applicant has still not addressed this potential issue.

Mark Bobrowski said they will have to ask the applicant their preparation plan in case of an emergency. He said the point they're at today is that the applicant could submit a different design to the Board, and the Board could reach out to a septic professional to obtain their opinions on the septic systems proposed. He stated the applicant will likely show 80 units on the revised plans. He also stated the Board could bring in a landscape architect of their own to see what design options are available.

Mike Fitzgerald asked if the applicant would be willing to provide new plans.

Mark Bobrowski said he believes the applicant would provide revised plans, but asked if the Board would go light on the peer review due to cost.

Charlie Rowley stated that it is unjust to suggest that the applicant had come before the Board so many times because of decisions the Board had made. He states that the Board had repeatedly asked the applicant for changes, and the applicant presented the plan numerous times without the requested changes, requiring them to come back again before the Board. Charlie also mentioned that one of the Board's requirements was for the applicant to perform a full reclamation of the streets, and not just overlay them. The applicant had agreed to that but took several hearings before it appeared on the plan, which was one reason for their repeated returns before the Board.

Mark Bobrowski asked if the Board would give the applicant one month to prepare new plans, in this time he suggested the Board meet with a landscape architect and a sewer professional.

Mike Fitzgerald asked again what would happen during power outages with the septic systems for the individual homes.

Mark Bobrowski stated he would ask the applicant.

Charlie Rowley believes that a homeowner would prefer the one system over the multiple single systems.

Mark Bobrowski stated if the applicant does not have a solution for power outages then they may not be left with a decision on the sewer, and may be forced to use the one single system.

Mark Bobrowski left to deliberate with the applicant. When he returned he stated that the applicant is willing to install hard wired generators at each of the individual homes and that they

are willing to add more duplex's in lieu of single family houses to create more open space. He stated that the applicant would like to have 84 units, and showed the Board briefly the general idea of the applicant on the plan.

Mike Fitzgerald stated that they may have made a mistake, and he and the Board would have preferred to require the applicant to use the single system. He stated he would like to see specifications on the septic system, that the Board would like to know the exact septic system they plan on using, he would like to see specifications on the generators as well as specifications on the installation of the generator (which will be gas powered) as well as the specifications on the septic and installation of the septic systems.

Mark Bobrowski brings the applicant back to the room with the Planning Board for his closing statement and to allow for open discussion. Mark states that summarizing the decisions the Board will contact a landscape architect and a septic professional regarding their questions and concerns. The applicant will present a revised plan which will include a new layout as well as specifications on the septic and generators as well as the installation of both, and to also keep in mind cost as they're preparing the design for the individual systems.

No further comments were made.

MOTION: A motion was made & seconded to reconvene to continue the remediation on Monday, March 28, 2016.

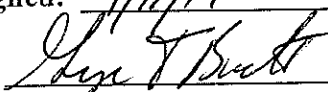
VOTE: Unanimous (5-0-0)

IV. ADJOURNMENT


MOTION: A motion was made & seconded to adjourn the meeting at 2:15 P.M.

VOTE: Unanimous (5-0-0)

Date signed: 9/10/17 3-0-2

Attest: 
George Barrett, Chairman
WAREHAM PLANNING BOARD

RECEIVED

Date copy sent to Town Clerk: SEP 18 2017 

TOWN OF WAREHAM
TOWN CLERK