

## **MINUTES OF MEETING OF WAREHAM PLANNING BOARD**

**Date of Meeting: July 24, 2017**

### **I. CALL MEETING TO ORDER**

The meeting was called to order at 7:00 P.M.

### **II. ROLL CALL**

Members present: George Barrett  
Michael Baptiste, Acting Chairman  
Mike Fitzgerald  
Emmanuel Daskalakis  
Marc Bianco, Associate Member  
Alan Slavin, BOS Liaison

Members absent: John Cronan

Also present: Ken Buckland, Town Planner  
Charles Rowley, Town Review Engineer

### **III. PRELIMINARY BUSINESS**

A. **Meeting Minutes – July 10, 2017; Executive Session Minutes: February 23, 2016, March 28, 2016, April 27, 2016**

B. **Sign request for Kaplan Development Original Bond Release – All American Assisted Living**

This item was removed from the agenda due to the circumstances at the Board of Selectmen meeting, where the request for the release was denied.

C. **Application for Site Plan Review- Date for public hearing Site Plan Review and Definitive Subdivision - Pattersons Brook Road**

Present before the Board: Bob Rogers, G.A.F. Engineering, Inc.

The Site Plan review and Definitive Subdivision application were delivered to the Planning Department and reviewed by the Town Planner. Mr. Rogers is requesting the Board set a public hearing date. The next available hearing date is August 28, 2017.

**MOTION: Mr. Fitzgerald moves to set the public hearing date for the Site Plan Review and Definitive Subdivision for August 28, 2017. Mr. Baptiste seconds.**

**VOTE: (4-0-0)**

#### **IV. PUBLIC HEARINGS**

#### **V. CONTINUED PUBLIC HEARINGS**

##### **A. Bay Pointe – Bay Pointe Drive – Special Permit, Site Plan Review & Definitive Subdivision**

Present before the Board:     Tim Fay, Stonestreet Corporation  
   Tom Principe, Principe Engineering  
   John Drew, Attorney  
   Richard Serkey, Attorney  
   Don Laten, Beta Engineering  
   Richard Bowen, Town Attorney  
   Mark Bobrowski, Mediator

Mr. Fay states as a brief overview from where the project was to where it is now. The project went from mediation in November of 2016 where Bay Pointe signed a Mediation Agreement with the Planning Board agreeing to make some major structural changes to the project and leaving the overall tone and texture of the project the same. The number of proposed units remains the same, 84 units in all; the prior submission had 56 single family fee simple lots, the revised project has 3 designated condominium parcels, so the entire 84 units will be part of a an 84 unit condominium as opposed to the previous plan than had 56 single-family lots in the balance of the units being organized as a condominium which Mr. Fay feels has simplified the project overall; 4-plex units have been removed from the plan and now have 40 single-family residences and 44 duplex units; by way of linear feet the amount of road has been reduced throughout the development; Jetty Lane has been eliminated and Beacon Street has been shortened. The layout of the units as they travel throughout the road network remains the same. The single-family homes will be organized as condominiums instead of fee single homes. In comparing the two plans across from the condominiums the six units remain unchanged. Regarding the sewer, in which the Planning Board was initially looking for a single lift station for the lower half of the development, the Woodland Terrace and North area will continue to feed into the existing system as previously presented.

Mr. Barrett asks if the concept plans are available to view. Mr. Fay states that he did not bring the concepts plans as he felt that would be counterproductive.

Mr. Bowen states that going back about a year it is important to understand how the mediation began. Mr. Bowen states that the Board had issued an approval of the project that the applicant appealed. At the time the unit mix of the property was not the feel the community was looking to represent. The second largest issue was the sewer system, in which the Board requested a pump station and the applicant wanted individual grinder pumps at each unit. These were the points in which the court highly recommended mediation. After the mediation the technical team of the applicant and the Town met with Mr. Bobrowski and Mr. Bowen to try and present an approvable project to the Board.

Mr. Bobrowski states that everyone has put a large amount of work has gone into this project, and also gives credit to Chris Huntress who is a landscape architect that reviewed the project. There were 3 mediation sessions to get the project to this point. Each unit was combed through and specific notes being made for the entire project. Mr. Bobrowski has written a draft decision for when the time the Board is prepared to make their decision. Mr. Bobrowski states there are three parts to this project: Definitive Subdivision which is its own decision; Site Plan Review and Special Permit which are a joint decision. Mr. Bobrowski suggests going through the proposed decision.

Mr. Fitzgerald asks if there is a list of the requested waivers for the project. Mr. Bobrowski states that he had not seen any at this time. Mr. Fay states the waivers requested are listed on the cover of the plans themselves. Mr. Fitzgerald states a lot of the plan has changed. Mr. Fitzgerald thought they had requested that each home be labeled as to the style of the home so the Board could confirm setbacks. Mr. Fitzgerald states he didn't see a sidewalk at units 1 and 2. Mr. Fitzgerald states there are also some discrepancies in the plans where the pages are not correlating with one another. Sheet S-2 does not match sheet 8 and sheet 13; the designs are different. Mr. Fitzgerald also asks if Chris Huntress has or will be reviewing these plans on behalf of the Town. Mr. Buckland states he has reached out to Mr. Huntress who has so far been unresponsive. Mr. Fitzgerald is concerned about parking for units 1 and 2 and backing out onto the road. Mr. Fitzgerald also states he thought the requested waivers were supposed to be a separate document, but if the mediator will accept the waivers as requested on the plan than that is acceptable to him as well. Mr. Bobrowski asks if the applicant could note the Section of each waiver as well as the content so it could be listed in the decision.

Mr. Principe asks Mr. Fitzgerald if he could elaborate on the inconsistencies he sees in the pages of the plan. S-2 is the striping plan for the project. Mr. Fitzgerald states that sheet S-2 in comparison to sheet 8 and sheet 13 have different designs regarding the parking. Mr. Principe states that in the striping plan by Beta Engineering the parking design does need to be updated.

Mr. Fitzgerald addresses again the type of housing to be labeled on the plan. Mr. Fay states that is a point of discussion and that they would like the buyers to have the ability to choose which style house they would like. Mr. Fitzgerald states it would difficult for the Board to set side setbacks if the size of the house can change depending on the style of the home. Mr. Bobrowski states that the concept is not to set a performance standard but to insist upon consistency with the drawing. Mr. Bobrowski states that if something has to move it has to come back before the Board and the applicant has agreed to that condition. Mr. Fitzgerald states that some of these spaces are only 10' apart, which does not conform with Planning standards, and depending on the size of the house that side setback will change. Mr. Bobrowski states that there is nothing in the Zoning By-Law that demands a setback and suggests setting a minimum setback.

Mr. Rowley stated that the setbacks and dimensions on the plan were put in by the applicant, and Mr. Rowley feels it is up to the Boards discretion to say if the setbacks are acceptable or not. Mr. Rowley states that he and Mr. Buckland did not agree to those numbers for setbacks, only that the numbers were there as requested.

Mr. Fay states that the dimensions between each building are what the Board and Mr. Fay agreed upon in mediation. Mr. Rowley states that in mediation it was only agreed that the setbacks would be included on the plan, not that it was what the Board had agreed on.

Mr. Bobrowski states that the setbacks between the houses had been gone through in great detail in mediation and that neither the Board nor the Applicant were entirely happy with the setbacks, but they were agreed upon. Mr. Bobrowski states that he agrees that Mr. Fitzgerald is correct in stating that choosing the houses that are constructed will constantly change the setbacks on either side and again states he feels that the best way to handle the situation would be to set a number that no units will be closer than 10'. Mr. Barrett states that will then affect all 84 units. Mr. Bobrowski states that they can include language to make it so that it doesn't make it so all units can be 10' apart.

Mr. Bianco asks Mr. Fay what happens if homeowners make specific requests regarding layout of the homes. Mr. Fay states that they would like the homes to mirror one another, they wouldn't be changing access from the road or general layout of the plan to meet market demands. Mr. Bianco also asks if the homeowner asks if the home could be larger than the homes presented if that could be accommodated or allowed. Mr. Fay states that he would need to present those types of changes to the Board for approval. Mr. Bianco asked if they used the max number each home could potentially be if it would be easier to determine side setbacks, Mr. Principe stated that drainage is in place to suit needs of the potentially different types of homes in the area, but does not feel it would suit the project if each house were built out to max size, as well as not suiting the look they were hoping to achieve with the layout.

Mr. Fitzgerald asks Mr. Rowley if he has reviewed the site lighting plan and if he has confirmed if there will be a street light at each home. Mr. Rowley states he did review the plan but did not confirm if there would be a street light at each home.

Mr. Bobrowski states that Mr. Fitzgerald had a good point in that the side setbacks will change with each house design chosen. Mr. Bobrowski suggests that if there is going to be a choice of building design where the building separation on the plan as shown now is less than 20' the choice of another building design cannot be any closer than what is currently shown on the definitive plan. Where the building separation is shown as more than 20' then 20' will have to remain the distance between the houses.

Mr. Daskalaskis stated it would be helpful for the Board to see what type of homes are proposed to be placed at this moment in the layout. Mr. Fay states that he could do that for the Board.

Mr. Fitzgerald asks Mr. Principe to address the lack of sidewalk at units 1 and 2. Mr. Principe stated that will be driveway for four parking spaces and they did not want to put sidewalk over the driveway. Mr. Principe stated that they could include a small piece of sidewalk to connect the visitor parking.

Mr. Fitzgerald also asked about the visitor parking. Mr. Fitzgerald thought they had agreed to not have the visitor parking back out onto the street. Mr. Rowley feels the traffic is minimal in that particular area, and that there would have had to have been a large turnaround area to prevent

that from occurring. Mr. Fay states this visitor parking was approved this way in the original plan.

Mr. Rowley suggests moving 56 & 57 and 29 & 30 to allow for better turning out of the driveway.

Mr. Barrett asks if the applicant had scoped more of the sewer line than the 200' previously scoped. The applicant stated that the company that did the inspection only had a 200' scope at the time, since a clean out had not been done. Mr. Fay states that they would like to keep the existing pipes for the first two years of construction and then would replace the sewer line in Phase II.

Mr. Barrett reads from the mediation that as part of the approval process Bay Pointe would have a licensed wastewater engineer certify that the current sewer service has been tested and can service the additional units of Phase I. Mr. Fay states that had been done previously before the mediation, before the original approval. Mr. Barrett states that it is in the mediation agreement and is concerned that there were issues with the testing and this is why it ended up in the mediation. Mr. Fitzgerald states the pumps were going to be tested to ensure they were working at 100% capacity. Mr. Principe states they had done the analysis and the testing and had gotten a few recommendations. One of the recommendations was to install a new impeller for one of the pumps because it was old; cleaning and flushing the line was a recommendation as well, which has already been done. GDH, Inc. had reviewed and approved the analysis of the septic.

Mr. Fitzgerald suggests putting into the conditions that if Phase II does not move forward that the sewer line will be done regardless. Mr. Fay states if Phase II and III are not completed then there would be no reason to replace the line.

The entire sewer main cannot currently be entirely cleaned and flushed. The intention is to install a new system in Phase II and to abandon the existing line. The Board discusses the septic, where the current system is pumping to, and replacement or cleaning of the existing line. It is concurred that the current line will not be cleaned if it is to be replaced.

Present before the Board: Deb Magonell, 36 Bay Pointe Drive

Ms. Magonell states that her pumps are functioning but they are no longer being manufactured and they will need to be replaced because it is becoming more difficult to find parts to fix the pumps.

Mr. Bobrowski reviews the draft decision beginning with the Definitive Subdivision Approval.

Mr. Bobrowski states the general findings are the same in both draft decisions and they are that Phase I is 28 units, referencing the lot layout plan by the engineer dated April 24, 2017; Phase II is 31 units; Phase III is 25 units.

The waiver list will be received from Principe Engineering stating the section number each waiver is requested for and that will be included in the decision.

The general conditions are:

1. Prior to endorsement of the definitive plan there will be a performance guarantee to secure all installation of infrastructure and will be approved by attorney Richard Bowen. This does not include buildings.
2. Endorsement within six months for the performance guarantee.
3. The definitive subdivision plan will be recorded at the Plymouth County Registry of Deeds within 30 days of endorsement.
4. Proof of recordation will be provided to the Board.
5. 24 months to complete the Phase I construction.
6. Built in accordance with the recorded plans with no substantial changes. Unsubstantial changes may be reviewed and approved by the Planning Board. Substantial changes will require a new public hearing.

Mr. Bobrowski states that condition 7 references the Special Permit and Site Plan Review to link these together so anyone that buys this knows they must get those documents as well.

Mr. Bobrowski states that conditions 8-20 were all taken from the original decision and were not changed.

Under Special Conditions 1-13 were taken from the original decision. Conditions 5 and 12 were edited and Mr. Bobrowski added condition 14.

Mr. Bobrowski states that this Definitive Subdivision decision governs the installation of the road, the lotting plan and the infrastructure related to that.

Mr. Fitzgerald asked where the lighting is included in the decision. Mr. Bobrowski states he feels that is a Site Plan and Special Permit matter. Mr. Barrett and Mr. Fitzgerald feel it is a Definitive Subdivision matter.

The draft decision for the Special Permit is the same general findings as the Definitive Subdivision decision. At the end of the general findings there is a paragraph that states Phase I will be constructed first. Subsequent phases may be constructed thereby shortening the total construction period. Development shall proceed in good faith. Subsequent phases to Phase I cannot be constructed until such time as Starboard and Beacon (streets) are approved under the subdivision rules and regulations and site plan approval.

The findings required were taken from the Wareham Zoning By-Law.

1. Section 590.2 – These are the criteria for any Special Permit decision in the Conference Recreational District.
2. Section 1510 – These are the criteria for Site Plan Approval.

The first decision the determinations made were relatively generic and are the same as the determinations made in the original approval.

General conditions are the same language used as in the Definitive Subdivision plan.

#2 Mr. Bobrowski references the Definitive Subdivision plan and the Special Permit decision as in the decision for Definitive Subdivision.

Conditions 3-19 are the same as the original decision. The language was altered in condition 19. Conditions 6 and 7 were edited.

Special Conditions 1 and 2 state the same as the previous decisions.

Special Condition #3 essentially states there is a conceptual approval of Phases II and III for the Site Plan.

Special Conditions 4-22 were taken from the original decision.

The Board asks questions regarding the condominium association and who will pay for maintenance.

Mr. Bobrowski states he can add language stating that the language of the condo association is to be approved by Mr. Bowen.

The allowance of certain number of the same types of homes adjacent to each other is discussed. Landscaping is discussed. No more than three types of the same home should be next to each other.

Setbacks are discussed again. Mr. Bobrowski suggests using the language that "In Phase I where building separation is less than 20' on the definitive plan choice of another building design shall not result in less building separation to the closest unit and shall not result in less than 20' separation to any other building. If the building separation is more than 20' on the definitive plan then it may be adjusted but it shall never be less than 20' to any nearby building." Mr. Bobrowski asks if that can be re-visited at Phase II.

Mr. Bianco states that the plan looks good the way it is now, but is concerned that houses that are 40' apart may go down to 20' apart based on that condition. Mr. Bobrowski states he can add something to the effect that anything moving more than 5' or 10' would be considered a substantial change and require a public hearing. Mr. Bianco states he would be amenable to that. The verbiage states that if the distance between buildings is reduced by 25% or more it shall be deemed a substantial change.

Mr. Rowley states that the amenities will be affected by house type as well, such as driveways and grading.

A performance guarantee shall be posted for the cleanouts of the sewer line if Phase II does not commence within 2 years of the date of commencement of construction of Phase I.

Mr. Fay states that Phase II is not likely to commence in 2 years and feels that is an unfair time limit.

Mr. Baptiste states the applicant could come back before the Board to request an extension if Phase II has not commenced yet.

Mr. Bianco suggests having a re-evaluation 2 years after the commencement of construction to evaluate the line at the time.

Mr. Barrett suggests having the re-evaluation when 50% of the Occupancy Permits have been granted.

Mr. Bobrowski suggests that within 2 years of the issuance of the Certificate of Occupancy for the 14<sup>th</sup> dwelling unit (out of 28 units) of Phase I that if Phase II has not commenced that the Board could exercise the performance guarantee that has been posted for the clean-out on the existing sewer line. Further extensions may be granted and should not be reasonably withheld by the Board.

Mr. Rowley discusses the complete reclamation of Bay Pointe should be done as part of Phase I and included in the security.

Mr. Bobrowski states that as part of Phase I Bay Pointe shall repair and maintain in good passable condition Bay Pointe Drive from its intersection with Onset to Cahoon and Cahoon easterly to the end. Prior to commencement of any repairs to come before the Board. It shall be the responsibility of the owner to call for the scheduling of inspections. Prior to the completion of Phase I all of Bay Pointe Drive shall be full-depth reconstructed in accordance with the approved plans. Mr. Bobrowski states this is already bonded work in the subdivision.

Mr. Bobrowski states he will add the street re-construction reference to the Special Permit decision and will add the sewer cleaning to the Definitive Subdivision decision.

The hearing will be continued to August 14, 2017 and the decision deadline will be extended until August 21, 2017.

**MOTION:** Mr. Baptiste moves to continue the public hearing until August 14, 2017. Mr. Fitzgerald seconds.

**VOTE: (4-0-0)**

**VI. REFERRALS**

**VII. ANY OTHER BUSINESS/DISCUSSION**

**A. Upcoming Hearings**

**B. Upcoming Deadlines**



VIII. NEW BUSINESS (This time is reserved for topics that the Chairman did not reasonably anticipate would be discussed)

IX. CORRESPONDENCE

- A. See correspondence in packets.
- B. Master Plan
- C. New Zoning By-Laws

X. ADJOURNMENT

MOTION: Motion made and seconded to adjourn.

VOTE: (4-0-0)

Adjourned at 8:23 P.M

XI. DOCUMENTS

Date signed: 8/14/17 5-0-0

Attest:   
George Barrett, Chairman  
WAREHAM PLANNING BOARD

Date copy sent to Town Clerk: \_\_\_\_\_

RECEIVED

AUG 16 2017

TOWN OF WAREHAM  
TOWN CLERK