

**COHASSET PLANNING BOARD MINUTES**

**DATE:** WEDNESDAY, JANUARY 25, 2006  
**TIME:** 7:00 PM  
**PLACE:** COHASSET TOWN HALL – LOWER LEVEL MEETING ROOM  
41 HIGHLAND AVENUE, COHASSET, MA 02025

**Board Members Present:** Alfred Moore, Chairman  
Stuart Ivimey, Clerk  
Peter J. Pratt, Vice Chairman  
Robert Sturdy  
Mike Westcott

**Board Members Absent:**

**Recording Secretary Present:** Jo-Ann M. Pilczak

**Town Planner Present:** Elizabeth B. Harrington

**MEETING CALLED TO ORDER AT: 7:00 PM**

**7:00 P.M. 61 HULL STREET, FORM A – APPLICATION, APP/OWNER: SAMUEL P. HASSAN, date stamped: 01/10/06 (21 day decision deadline: 01/30/06)** Neil Murphy represented application. Division under Chapter 81L allowing division of a lot containing two or more existing dwellings - 61 and 61A Hull St. Two homes existed prior to zoning (easy to verify in Town records). Will go to ZBA next. Plan is to divide into 2 lots of 4,936 and 23,417 SF. Town Planner requested Neil Murphy provide documentation that homes existed prezoning.

**MOTION:** by Member Pratt to approve this Form A application for 61,61A Hull Street for division under section 81L of State statute

**SECOND:** Member Sturdy

**VOTE:** 3 – 0 MOTION CARRIES (Members Westcott, Ivimey had not yet arrived at meeting)  
Plans signed but will be removed if documentation is not received or if problems with documentation.

**7:15 P.M. VINCE LONGO, MUSIC CIRCUS, INFORMAL DISCUSSION, RESTROOM EXPANSION SITE PLAN REVIEW PLANS** Neil Murphy, Vince Longo present. Member Pratt recuses self. Plan to expand restrooms by 400 SF. Requires site plan review. Site plan to be limited to restroom building, and surrounding area and grades. Board agrees that it is not necessary to collect Legal Fee for this application.

**7:20 2 SHELDON ROAD, SPECIAL PERMIT APPLICATION, APP: KELLI A. CALHOUN, TR., date stamped: 01/24/06.** Application is for construction of a 2-3 car garage and mud-room on a pre-existing non-conforming lot which requires special permit. Currently, garage is underneath master bedroom. Proposed construction and configuration extends but does not increase the existing non-conformity. Resulting coverage for the entire lot will be 21%. 30% coverage is allowed.

**MOTION:** by Member Pratt to recommend that the ZBA approve this special permit application.

**SECOND:** Member Ivimey

**VOTE:** 5 – 0 MOTION CARRIES

**7:40 P.M. CASTLE ROAD (215 SO. MAIN ST.) DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING, APP: DAVID CALHOUN, KING TAYLOR COHASSET, LLC, date stamped: 11/29/05 (135 day decision deadline = April 12, 2006)** Applicants Dave Calhoun and Tom Ragno, Attorney Walter Sullivan in attendance. Calhoun noted 01/24/06 memo from Board of Health stating they are satisfied with recent information regarding possible soil contamination and therefore removed the condition of approval regarding petroleum hydrocarbons. Further, all Modzelewski comments have been addressed/completed and plans have been forwarded to Modzelewski. Member Ivimey asked if applicant intends to build Castle Rd. up to subdivision standards (applicant indicated no). Member Ivimey stated that he does not see how the applicant will ever have frontage as Castle Road is a path, not a subdivision road. Member Sturdy presented arguments under Section 81L that allow discretion with respect to local conditions that are provisions for special circumstances – for example,

protecting wetlands. Member Ivimey did not agree with Sturdy's argument questioning why the Board would want to waive the subdivision rules/regs for subdivision roads stating that maybe the applicant is trying to put a subdivision where there just should not be one. Ivimey further questioned why the Board would want to exercise discretion to take advantage of waivers when the Board holds frontages sacred and, when there is no benefit to the Town. Member Pratt agreed feeling that the Board would be exposing itself to bad law in other parts of the Town. Town Counsel Hucksam clarified that the standard for granting of waivers is in Chapter 41, Section 81R not 81M. In terms of this application, Town Counsel believes the applicant is relying upon Castle Road to create frontage for lots. In Town Counsel's opinion, "the Subdivision Control Law is primarily about frontage for lots – either creating it through a subdivision roadway or recognizing it where it already exists through the ANR process." In this circumstance, what the applicant is doing, is using Castle Road in whole or in part as the way of creating frontage for at least two lots – 5 and 6. In Town Counsel opinion, if the Board approves this as is, without any improvement of Castle Road, this will involve granting waivers from all of the otherwise applicable subdivision regulation requirements for Castle Road and therefore, what the Planning Board needs to do is ask itself – does or would the granting of those waivers satisfy the standard just described – would it be in the public interest and not inconsistent with the intent and purpose of the subdivision control law and, in 81M, access for emergency vehicles etc. Relative to taking legal frontage off South Main Street via the Castle Road parcel as opposed to the primary access coming through Cedarmere, Town Counsel thinks that if the Board approves this, it would be approving Castle Road as a subdivision roadway, granting it waivers, and that it is important for the Planning Board to recognize all the implications that go with that. For example, it would then be a way shown on a plan approved in accordance with the Subdivision Control Law which means that other lots could be ANR'd off it – without question, absolutely certain. The Board noted that they do not typically look favorably on ANR's, preferring subdivisions as they have more control over them. Attorney Sullivan noted that if Castle Road were improved to subdivision control standards, it would change what it has historically been, it would infringe on the wetlands and, that it is in the public good to keep it as it is. Calhoun noted that Castle Road will also provide vital emergency access for the Town as well. Members Moore and Ivimey felt approving waivers will create precedent that will come back over and over by future developments. Town Counsel feels the real question for the Planning Board is to make a decision that the standards for granting waivers have been met. Member Westcott suggested that giving frontage off Manor Road is better than waiving subdivision control regulations. Member Pratt agreed that the Board is presented with two bad options and that the option presented by the applicant at this meeting – to provide frontage via Castle Road - is to the detriment of the Town and is worse than the second bad option – daisy chaining one subdivision off another. He feels the Board is prohibited from granting waivers to allow Castle Road to serve at least as access and, probably as frontage because of the precedent set and the high number of waivers that would have to be granted to other applicants, at the detriment of the community. Attorney Sullivan said the definition of "street" in the bylaws does not say it must be subdivision road but that it is a private or public way for vehicular use which is commonly used by the public – he feels Castle Road meets all this criteria. He feels it makes sense to have a subdivision standard road (Manor Way) for access/utilities and frontage on a pre-existing way (Castle Road) without having to go through the standard of having to build it as a subdivision road. Town Counsel noted that none of the zoning bylaws about frontage and whether access over the frontage is required, change the fact that in order to create frontage for lots, there are two ways to do it: the ANR Process and the definitive subdivision plan approval process – one or the other must be satisfied. Member Moore has viewed this all along as having frontage on South Main Street and, the 40' requirement for subdivision exists in ownership, and the current question is whether the Board is going to insist that Castle Road be built up to subdivision road standards or whether the Board might allow that road to be built to a lesser standard taking primary access through the Cedarmere access road – Manor Way. He summarized by noting that the dilemma would be that in doing that, the Board then declares all of Castle Road to be viable frontage for additional land that is there to be developed and, it would not be built to the standard to service that development. John Modzelewski stated that the original idea – allowing the Manor Way cul-de-sac as frontage – is a better idea. He acknowledged that there are special circumstances that can be taken into consideration, but that it is a better precedent to allow the small cul-de-sac to give frontage to four lots than to approve Castle Road and then have to defend all of the waivers – Members Westcott and Pratt agreed. Applicant stated that he would go back to the original plan if the Board prefers. Member Ivimey again stated that there is nothing special about this situation – this is simply a proposed subdivision that requires a subdivision standard road. He also does not agree with or see the greater public interest in creating a Manor Road extension to create frontage for these lots. Member Pratt noted that daisy chaining has been allowed (Brewster Road, Ledgewood Farm, Ledgewood) and while that is not the best precedent for the Town, in the case of the current application, allowing a

daisy chain is the lesser of two bad options and that Manor Way has always existed as access to what was historically called the Hammond Estate.

**MOTION:** by Member Pratt to keep this public hearing open, continuing to February 8, 2006 and requesting Town Counsel to provide a written opinion memorializing the points he made at this meeting referencing all materials submitted around the issues of waiver, access and frontage issued by the applicant.

**SECOND:** Member Westcott

Applicant's attorney requests to amend motion as follows:

**MOTION:** by Member Pratt to keep this public hearing open, continuing to February 8, 2006 and requesting Town Counsel to provide a written opinion memorializing the points he made at this meeting referencing all materials submitted around the issues of waiver, access and frontage issued by the applicant and, that Town Counsel will forward his memo to the applicant's attorney in sufficient time to allow applicant's attorney approximately one week to review and respond to Town Counsel prior to the February 8, 2006 meeting. (Member Pratt amends motion for the record)

**SECOND:** Member Westcott

**VOTE:** 5 – 0 AMENDED MOTION CARRIES

**8:55 P.M. SCITUATE HILL DEFINITIVE SUBDIVISION PUBLIC HEARING, APP: CROCKER II REALTY TRUST, date stamped: 12/22/05 (90 day decision deadline = March 21, 2006)**

Member Moore recused. Applicant Rob Schwandt, John Cavanaro in attendance. Board received letter from Rizzo Associates dated 01/13/06 in response to John Modzelewski request to verify validity of traffic study. Regarding advantages/disadvantages of closing curb cut to Brass Kettle building – comments from Captains Trask and Lincoln should be forthcoming. John Cavanaro noted that discussion with water department indicated there needs to be clarification of infrastructure to finalize alignments of water lines. Cavanaro presented illustrations to compare the grade to Pleasant, Pond and Sohier Streets – the Scituate Hill grade is less steep. Cavanaro noted that they received Modzelewski comments and that all are still outstanding but will be addressed on plans. Utility lines to be buried along subdivision road and driveway. Modzelewski reviewed some of the comments regarding traffic and grading and suggested that the Planning Board consider conditioning the hours of truck operation so as not to create noise disruption for Sunrise Assisted Living. Member Sturdy noted that noise level goes hand in hand with increased grades as trucks labor to go up hill and cautioned that the Board could create noise problems by waiving grade requirements. He further suggested that an acoustics expert be brought in to provide information about noise levels created by trucks at various grades.

Route 3A corridor study: Total corridor study could take up to 36 months to get state funding. This current study is a Cohasset driven study only. Town Planner Harrington suggested that Rob Schwandt, Tom Powers and other Rt. 3A businesses hire the consultant to conduct the study, not the Town. Member Pratt cautioned that if that approach is taken the Board must be conscientious in making it a level playing field – he sees the need for a 3<sup>rd</sup> party to study the traffic to eliminate potential accusations of favoritism. Rick Bryant, Bryant Associates suggested that the Board further define what information they are looking for as he has data available to be used depending on what question the Board is trying to answer. John Modzelewski agreed stating that he would need more specifics about what type of study the Board would like if he were to participate. Applicant Schwandt commented that he thinks participation in sharing the cost by past applicants is unlikely. Member Sturdy cautioned that transit time through this town must be reasonable as other Towns depend on Rt. 3A also. Member Pratt requested that Cavanaro, Modzelewski, Schwandt and Town Planner Harrington attempt to frame details around questions posed, investigate models of traffic study from other towns and formulate more comprehensive idea of what the traffic study should accomplish.

**MOTION:** by Member Ivimey to continue this public hearing to February 8, 2006.

**SECOND:** Member Westcott

**VOTE:** 5 – 0 MOTION CARRIES

**Member Sturdy left meeting at 10:00 PM**

**10:00 P.M JOSEPH'S HARDWARE (825 CJC HWY) SITE PLAN REVIEW – REVIEW OF DRAFT DECISION (30 day extension to Feb. 14, 2006)**

Applicant Barry Joseph does not have any issues with decision. Board asked John Cavanaro to provide written approval from Fire Dept. regarding access to rear of proposed building prior to final endorsement. Change to “vehicular” access. “Warehouse” to be changed to “storage” on plans of record. Under findings, change to “will meet.” OK to file decision.

**10:10 P.M. ADMINISTRATION**

• **150 NO. MAIN ST. – VOTE TO ACCEPT DRIVEWAY DRAINAGE**

**MOTION:** by Member Ivimey to accept the drainage as presented in John Modzelewski's 01/12/06 letter stating that the work is complete and in conformance with the approved site plan

**SECOND:** Member Westcott

**VOTE:** 4 – 0 MOTION CARRIES (Member Pratt abstains)

• **MASTER PLAN**

- **FINAL EXECUTIVE SUMMARY FOR DISTRIBUTION TO BOARD OF SELECTMEN** – Town Planner Harrington reported that Exec. Summary has been circulated to the BOS. Deadline for comments-01/30/06. Harrington will make changes to main body based on comments from BOS.

- **MUNICIPAL HARBOR PLAN** – Town Counsel opinion is that if the Town wants to plan for the types of uses it would like to see in the harbor, it has the latitude to create a municipal harbor plan that provides flexibility to help those types of uses be realized by relaxing some of the standards in Ch. 91. This would also require follow through on the commitments. Would require a lot of thought about the harbor and what Town would like to see changed, developed, preserved etc. Member Pratt noted that not having a Municipal Harbor Plan might be jeopardize the Town's ability to get federal funding for harbor related projects. Board feels a Municipal Harbor plan is critical and should be endorsed.

• **RED LION INN SITE PLAN REVIEW CONDITION OF APPROVAL** - Finishing sidewalks is a condition of special permit. Building Inspector Egan will follow-up as it is now a timing issue.

• **2 SMITH PLACE – VOTE TO ACCEPT BOUNDRY AGREEMENT**

**MOTION:** by Member Sturdy to accept that the property line dispute between neighbors has been resolved.

**SECOND:** Member Westcott

**VOTE:** 4 – 0 MOTION CARRIES

• **PLANNING BOARD BUDGET/SPENDING** – Member Sturdy objects to the way the budget has been set-up as it: obscures cost of running town depts; does not show that Planning Board exists as an entity; and, makes the budget unintelligible. He feels Planning Board staff should show as Planning Board staff, not buried in Town Hall general pool. Further discussion about Town Planner as town employee or consultant charged directly to applicant needs to happen. Member Pratt will consult with Town Manager and report back to Planning Board at next meeting.

• **ROUTE 3A CORRIDOR STUDY – BRIEF DISCUSSION** - addressed during Scituate Hill portion of agenda.

• **100 WHITEHEAD ROAD – CH. 91 WATERWAYS LICENSE APPLICATION** – Member Moore signed as verification of receipt.

**MOTION:** by Member Pratt to adjourn.

**SECOND:** Member Ivimey

**VOTE:** 4 – 0 MOTION CARRIES

**MEETING ADJOURNED AT: 10:45 P.M.**

**NEXT MEETING: Wednesday, February 8, 2006, 7:00 P.M.**

**MINUTES APPROVED:** \_\_\_\_\_

**DATE:** \_\_\_\_\_