

COHASSET PLANNING BOARD MINUTES

DATE: WEDNESDAY, FEBRUARY 8, 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
Mike Westcott

Board Members Absent: Robert Sturdy

Recording Secretary Present: Jo-Ann M. Pilczak

Town Planner Present:

MEETING CALLED TO ORDER AT: 7:00 PM

7:00 P.M. ADMINISTRATION

- **VOTE TO ACCEPT 01/11/06 AND 01/25/06 MINUTES**

MOTION: by Member Ivimey to accept 01/11/06 and 01/25/06 minutes.

SECOND: Member Pratt

VOTE: 3 – 0 MOTION CARRIES

- **CANCEL FEBRUARY 15, 2006 PLANNING BOARD MEETING?** No agenda items – cancel meeting.
- **SET MEETING DATES FOR MARCH** - March 1, March 15 and March 29, 2006
- **PLANNING BOARD BUDGET – PETER PRATT FOLLOW-UP** Member Pratt met with M. Buckley. Town Counsel opinion is that state regs do not allow town employee to be paid by consultant fees. Buckley and Pratt suggested public hearing to change regulations for Town Planner fees as retained consultant and set reasonable rate structure. Member Ivimey asked if such a change would require RFP. Member Pratt to investigate further.

7:15 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 D. Calhoun, T. Ragno; Attorney Walter Sullivan present. D. Calhoun noted that everything the Planning Board requested at last meeting has been implemented and that Atty. Sullivan filed findings, waivers and Conditions of Approval with Planning Board. Town Counsel explained that frontage is for the lots and that in prior configuration, the frontage was on Castle Road and that approving the prior configuration plan would in effect involve granting waivers since upgrading Castle Road to comply with subdivision regulations was not being considered (citing Chpt. 41, Sect. 81R of the Subdivision Control Law stating the standard for granting waivers which refers to Chpt. 41, Section 81M). Member Ivimey asked Town Counsel what the import was of a way appearing on a plan – Town Counsel explained that it is part of the standard as to whether the Board should endorse an ANR plan and is in Section 81L – definition of a subdivision. On the plans dated 01/31/06 before the Board at this meeting, Castle Road is not used as frontage for the lots so in effect, it is not the subdivision roadway. On these new plans, access and frontage is taken off Manor Way and the applicant is asking the Planning Board to recognize Manor Way as a subdivision roadway that the applicant has legal documents showing they have the right to pass over Manor Way to access Manor Way Circle. Attorney Sullivan noted that applicants have right to build Manor Way if there is delay on the part of Cedarmere and also have right to install, maintain, repair and replace utilities. John Modzelewski questioned whether this should be viewed as a subdivision limited to Manor Way Circle. Member Westcott agreed with Modzelewski in that having a right of way providing access to what is then a shorter subdivision quality road is sufficient within the bylaws. Modzelewski further thought that Attorney Sullivan comments are based on the premise that Manor Way is a private way whereas Modzelewski believes it is not a private way but rather a driveway. Neil Murphy disagrees stating that its width and construction make it a roadway, not a driveway. Member Pratt takes it to be a subdivision roadway as the Planning Board required that it be built as such (with waivers in a few spots) and because the applicable section of the bylaw clearly states that even though it is an

overlay district does not preclude the fact that it is a subdivision and the roads must meet subdivision standards. Applicant Calhoun reviewed waivers that are requested (have been cross checked with Cedarmere permit): narrowing of paved road to 20' to encourage slower traffic; narrowing of paved road to 16' at last house (based on request by abutter) which was carried into the cul-de-sac; lebaron structure double grate rather than gutter mouth grates; radius of circle from 50' to 46'; use of city hall pavers. Neil Murphy will get letter from PFD approving the 46' radius as being adequate for fire dept. truck turning.

Open to Public: Susan Kent, 3 Mendel Rd., questioned when it was determined that Castle Road would not be used as access and asked where frontage was coming from. Member Westcott noted that it was determined that Castle Road was going to give frontage but that since it was not going to be brought up to subdivision standards, it was not acceptable means of frontage and that new plans have frontage off Manor Way Circle. Member Pratt also pointed out that it is his belief that if the Board denies declaring Manor Way as a subdivision road, the applicant will come back with plans to upgrade Castle Road to subdivision standards which he believes to be more detrimental to the Town and the environment and, that the new plans to "daisy chain", while not the best option, is probably the best available option. Ms. Kent also questioned the merit of setting a precedent that other developers will jump all over by allowing a subdivision to get frontage off another subdivision. Kent also addressed 100 Pond St, asking the applicant if they have an easement to access the lot on 100 Pond St. or whether the applicant is purchasing and, she noted that the utilization for 100 Pond St. for leaching fields puts this subdivision in the Sewer District which might then allow them to ask for sewer hook-up. Applicants noted that: it is not their intent to ask for sewer hook-ups but rather to use the 100 Pond lot for gray water leaching and that the BOH fully supports this approach; that lot 4 is the only point of access; that they do not intent to purchase the plant; and, that there are no "legal" sewer districts. Town Counsel will address this. Attorney Bruce Isadore, representing Mr. Deligiannidis, 211 Main St., referring to Section 5A8 which creates rights to go into a private way, states confusion about why at all, the question of whether or not there was a driveway that provided access to a couple of houses has any relevance to the question of whether they can do this under 5A8. Member Westcott explained the concern with the precedent to extending an existing subdivision into another subdivision as subdivision approvals in the past have required subdivision roads and that the only reason the Board is willing to allow daisy chaining in this case is because the road did pre-exist zoning and is therefore, technically, not a new subdivision road that they are extending off of but rather, an old way that is being upgraded through Sect. 5A8 that makes it a better precedent than using the substandard Castle Road. Att. Isadore did not agree that rights are dependent on whether a driveway did or did not exist and asked for clarification if he is wrong. Member Pratt explained that the record is clear that the Planning Board is making sure that the applicant has sufficient rights - that the historical usage of what is now called Manor Way to access those parcels shows sufficient rights and the applicant has sufficient documents and easement documents to prove that applicant has sufficient rights. Mark Brennan, 2 Mendel Road, stated that he does not agree with the property lines to which N. Murphy noted that Brennan's documents are not stamped by a registered engineer so they are not recognized as official. Member Pratt further noted that property disputes are outside the Planning Board purview must be pursued as a private matter. Mr. Brennan also wanted to know the Planning Board's position on the petroleum release issue. It was explained that this had been discussed at several past meetings and that this issue is under the purview of the BOH (which has been satisfied by documents presented by the applicant), and that the Planning Board always requires and makes approval contingent upon the conditions of other Boards being met, but right now, the BOH does not have any conditions relative to the petroleum release issue. The applicant also noted that if any evidence of petroleum is found once digging begins, that it is law that all work stop and that the DEP, PFD, PD and BOH be notified immediately regardless of parameters of special permits. Member Ivimey thought it would be a good idea to draft language to remind contractor of actions they should follow if they find petroleum. Tomica Bukowski, 4 Mendel Rd., noted that a permit was issued for a 275 gallon tank without record of it being removed and questions where the tank is. Applicant responded that there was a permit pulled but no evidence that a tank was ever installed and that no fill can be found or any other evidence that there ever actually was a tank there.

MOTION: by Member Ivimey to close the public hearing.

SECOND: Member Westcott

VOTE: 4 - 0 MOTION CARRIES

Town Counsel will address several issues one week prior to March 1 meeting:

- status of Castle Road and the significance of it being on the newest plan and whether that would create the ability to have ANR lots off of Castle Road

- status of Manor Rd. and whether it has been approved as a subdivision road and what kind of waivers were granted regarding it
- whether or not Manor Way is a private way in the context of sub-section 8
- If 100 Pond St. is part of this project, whether it would entitle this project to get sewer hook-up as being part of the Central Sewer District and, if this subdivision were sold to Cedarmere, could Cedarmere then have the right to obtain sewer connections
- What is the significance of alleged presence of petroleum on this property to the Planning Board's subdivision review and how, if at all, can the Planning Board permit be conditioned regarding the petroleum issue
- see if reference to Castle Rd. can be taken off plans or, at least off locus, as it is not germane to access/frontage. Member Pratt concerned with manner in which Castle Road connects into Lot 6 (Lot 6 takes over that portion of Castle Rd.) and whether lines can be changed to deal with this and make sure that lot 6 owners can not take it over and extinguish use by anyone else. John Modzelewski mentioned that at least the easement should be on the plans. Modzelewski also mentioned that: Lot 6 will have to cross wetlands to access the only spot where a house can be placed and that the Planning Board should have a condition that culvert, as designed, be checked by the Planning Board; that an intermittent stream that goes over a low area on Castle Rd. should have stones added to the low point so that the road won't become difficult to access during rainy/muddy weather and to provided sufficient access; that details about the pavers be received before waivers are granted (N. Murphy, D. Calhoun and John Modzelewski to meet); and, that the stone pillars near roadway are too narrowly spaced and should be moved apart. Member Moore asked if there are any assurances that Manor Rd will not be held up if Cedarmere falls behind schedule. Modzelewski stated it should be conditioned that no lot releases will happen until Manor Way is completed. Att. Sullivan stated that King Taylor can build Manor Way if necessary and back bill Leggat McCall. Continued to March 1, 2006 Planning Board meeting.

MOTION: by Member Ivimey to adjourn.

SECOND: Member Westcott

VOTE: 4 – 0 MOTION CARRIES

MEETING ADJOURNED AT: 9:00 P.M.

NEXT MEETING: WEDNESDAY, FEBRUARY 22, 2006, 7:00 P.M.

MINUTES APPROVED:

DATE: