

COHASSET PLANNING BOARD MINUTES

DATE: WEDNESDAY, APRIL 22, 2009
TIME: 7:00 P.M.
PLACE: COHASSET TOWN HALL – AUDITORIUM
41 HIGHLAND AVENUE, COHASSET, MA 02025

Board Members Present: Alfred S. Moore, Jr. - Chairman
Stuart W. Ivimey - Vice Chair
Charles A. Samuelson - Clerk
Clark H. Brewer
Jean Healey-Dippold

Board Members Absent:

Recording Secretary Present: Jo-Ann M. Pilczak

Meeting called to order at: 7:00 P.M.

7:00 P.M. ADMINISTRATION

• **VOTE TO APPROVE APRIL 8, 2009 MINUTES**

MOTION: by Member Brewer to approve the April 8, 2009 minutes

SECOND: Member Ivimey

VOTE: 5 – 0 MOTION CARRIES

• **PLANNING BOARD REORGANIZATION**

MOTION: by Member Ivimey to nominate Al Moore as Chairperson

SECOND: Member Brewer

VOTE: 5 – 0 MOTION CARRIES

MOTION: by Member Brewer to nominate Stuart Ivimey as Vice Chairperson

SECOND: Member Samuelson

VOTE: 5 – 0 MOTION CARRIES

MOTION: by Member Samuelson to nominate Jean Healey Dippold as Clerk

SECOND: Member Brewer

VOTE: 5 – 0 MOTION CARRIES

7:05 P.M. 379 ATLANTIC AVE., LARGE HOME REVIEW PUBLIC HEARING, APPL./OWNER:

ELLEN GIBBONS, filed on March 24, 2009 In attendance to represent application: Applicant Larry Gibbons; Engineering Consultant John Cavanaro, Cavanaro Consulting, Inc.; Paul Gallagher, The Gallagher Group; and Jay Gallagher, J.P. Gallagher Construction. Member Healey Dippold read public hearing notification. Member Ivimey submitted disclosure statement for the record.

Existing 4,862 SF dwelling to be demolished and replaced by a new ± 6,598 SF single family residence on this 55,989 ± SF lot. Footprint will increase from 2,928 SF to approx. 4,638 SF. Building coverage increases from ±6.7% to ±10.7%. Building height increases from the existing ±23' to ±27.0'. While the existing 55,989 SF lot is an existing non-conforming lot, proposed house conforms to all zoning requirements. Existing shed in the setback which will be renovated. No relief is sought. Building Inspector Egan considered this a somewhat typical filing. Some ledge removal will be required. Proposed house has been sited to try to avoid ledge and to maintain view corridor of single story residence across the street. Home is on septic but will be on sewer asap.

Steve May, Cohasset Water Dept. reiterated the points covered in his April 2, 2009 comment letter.

Capt. Trask, Cohasset Fire Dept., noted that he will speak with the applicant directly.

Abutter comments included: Robert Sturdy (for Susan Sturdy) 374 Atlantic Avenue noted that: existing fence is non-conforming to bylaws and is a style not typical in Cohasset; proposed pergola will be in view corridor; lot is 55,000 SF, not 60,000 SF; view corridor on left of house is essentially across from a vacant lot – the ranch and the Victorian house across the street have to use view corridor to the right of dwelling, so moving house to the left is handy, but it would be helpful to move it more; that ConComm calls for zero ledge removal - Cavanaro noted that this is not a correct statement. A member of the ConComm who was present noted that there was concern about the ledge to the left of 379 Atlantic and that moving the house more than 10' would require a substantial amount of

blasting. While this is not in the purview of ConComm to formally address, concern that this ledge is so near the coastal bank, prompts ConComm to comment that this area should be avoided if at all possible.

MOTION: by Member Ivimey to recommend the issuance of building permits subject to:

1. The applicant comply with the comments and requirements of other Boards including the Water Department and Board of Health comments cited above.
2. The applicant should adhere to the commonly recognized practices for construction work hours: 7 AM to dusk and, no construction work should take place on Sundays or legal holidays.
3. The applicant is encouraged to continued dialogue with neighbors throughout the course of this construction project.
4. The applicant is requested to consider redesigning the left of the house to better preserve neighbors' site lines.
5. The applicant is encouraged to consider a less stark looking fence that would be more consistent with the design of the house and, more attractive for the surrounding community.

SECOND: Member Brewer

VOTE: 5 – 0 MOTION CARRIES

7:30 P.M. 8 JAMES LANE, SITE PLAN REVIEW AND SPECIAL PERMIT CONTINUED PUBLIC HEARING, OWNER: STEPHEN CLEARY, APPLICANT: SOUTH COASTAL DEVELOPMENT

GROUP, LLC filed on: March 5, 2009 In attendance for applicant: Owner Stephen Cleary; Partners Paul Cleary, Paul Sullivan, James Marathas; Engineer: Robert Hannigan; Architect Andrew Zalewski; Attorney David Kellem. In attendance for town: John Modzelewski, Civil Designs Inc.; Town Counsel Richard Hucksam. Paul Cleary: Project is the result of years of planning – Town Boards have studied economic viability and vitality of Cohasset and the Village resulting in a new Village Business District bylaw that was passed by a 2/3 vote at Town Meeting and was followed in the development of this filing. Cleary explained that South Coast is a flexible development group that studies local zoning and develops the best match for the Town goals as outlined in the zoning bylaw. Cleary characterized 8 James Lane as property on the transition line between residential and commercial zones in the Village. Lot is abutted: westerly by residential: northerly by a commercial property (former Strawberry Parfait) on Pleasant St.; easterly by the commuter rail track; and, southerly by forested area. Currently, there is a single family ranch style home on the lot that is a non-conforming use as this lot is in the Business District. The proposed building is a 26,300 SF, 17 unit (6 units on the first and second floors and five units on the third floor), 2 bedroom, 2 bathroom residential condominium project with underground parking for 20 vehicles sited on a 22,500 SF lot. The proposed FAR (Floor Area Ratio) is 1.16. Architects studied the surrounding residential neighborhood and commercial buildings and, have carried the exterior features of the Red Lion Inn into the design of this proposed building with the goal of recreating the look of the Village but by current codes. South Coastal believes this is a type of housing that is not currently available in Cohasset and follows current Smart Growth theory to create housing opportunity that expands housing in a community. Project contributes to the Cohasset Village Revitalization goal of utilizing an infrastructure rich downtown Village, building around it and bring people to live in the Village who will walk to and shop in the Village etc. This is Phase I of a project that will expand to include the Rosano Property on 2 Pleasant Street to a total of 39,000 SF lot, creating the cornerstone piece of the transition to creating a vibrant Village District area. The proposed project complies with zoning – no requests for zoning relief. Has 18 EDU's and will be totally connected to sewer.

Open to Public comment:

P.J. McGinty, 56 Pleasant St.: This project is out of scale with the neighborhood – it should be a 2-3 bedroom cape. There are no sidewalks in the neighborhood and the area cannot handle the congestion of 20-25 cars. This is not a transition to the Village – it is cut from the Village by the commuter rail.

Jonathan Creighton, 23 Cushing Road: This is not a TOD development. James Lane is a country lane and is inappropriate for this proposal. RR tracks are a natural barrier making this a clearly residential area of single family homes. Member Moore clarified for Mr. Creighton that the zoning district for this property has not changed since the 1950's – this has always been a business district zone (the name of this zoning district was changed to Village Business District). As such, single family home is not a permitted use in this district – must be commercial.

Cynthia MacCleave, 9 James Lane: James Lane is a residential road that cannot be used for commercial traffic. James Lane is only 17' wide – half of the usual 35' road – two cars cannot pass by each other. James Lane is a gateway for people who live on the hillside and is the only safe way to walk to the Village. Elms Meadow – part of the town water supply also abuts this property. Section 18.2 a requires commercial and retail and this project is a

violation of that bylaw. Property is all ledge and will have to be chipped away.

Barbara Moore, 77 Cushing Road: 17 residential units are not business once they are sold.

Robert Egan, Building Commissioner: Section 18.2 a,b allows for all residential where it is behind a commercial.

Paul Cleary (South Coastal): noted that they are trying to develop small residential on this lot – if the Board wants this building to be mixed use, they can do that, however, it will create much more traffic (probably a medical bldg.)

Ben Kennedy, 44 James Lane: James Lane is not the right setting for this for all the reasons stated. James Lane is used as a public walking passage and more traffic will cause accidents.

Laura Kennedy, 44 James Lane: 17 extra units will cut off others who now walk down these areas to the Village and will create an unsafe situation. Again, Member Moore reiterated that these units are allowed by right – the property owner has rights by zoning – this project is a permitted right - they are allowed to do. If they wanted to do something different than allowed by zoning, they would have to go before ZBA for some sort of variance.

Steve May, Cohasset Water Dept.: currently has inadequate water service and would need a new 430' additional main to accommodate fire protection. Also will need to have an impact study done on the abutting well field.

Barbara Moore, 77 Cushing Road: asked what town board limits the types of businesses? A – Moore is not aware of any Board that does this – if it is an allowed use, it is allowed.

David Bigley, 25 James Lane: Board may be reviewing “permissible” but what about “advisable”? Scope of this project doesn't match the location. James Lane is the sidewalk that does not exist on Pleasant St. What about emergency vehicles travelling on James Lane?

Lindsay Guild, 43 James Lane: Does not want roads widened or sidewalks added. This proposal is outrageous.

Ben Kennedy, 44 James Lane: Advises the Board to look at all the cascading effects if this is approved.

Copies of all submitted materials will be on applicant's website: www.southcoastaldevelopment.com

MOTION: by Member Brewer to continue the public hearing to May 6, 2009 at 7:15 P.M.

SECOND: Member Samuelson

VOTE: 5 – 0 MOTION CARRIES

8:30 P.M. 825 CJC HWY., JOSEPH'S HARDWARE, REVIEW OF JANUARY 30, 2006 SITE PLAN

REVIEW APPROVAL Barry Joseph in attendance. Excavation has begun. Anticipate completion in the Fall.

8:45 P.M. CEDARMERE UPDATE, MAHMOOD MALIHI, LEGGET-McCALL

Malihi explained that essentially, nothing has changed on site since the last time Malihi was before Board 9 months ago and nothing has changed in the market to indicate they should go forward yet and, that was permitted is not necessarily the best use of the property although Leggat-McCall has not yet identified what is the best use. Member Moore inquired as to how the Board stands in terms of expiration of the special permit given they have started work. Town Counsel indicated that there is generally a 2 year limit on special permits although there are factors that will affect that – he will have to research. Construction schedule was submitted in July, 2005. Site Stabilization Plan was submitted in September, 2006. Moore noted that:

- a significant bond was to have been posted with ConComm - he does not think this was done
- that DEP permit is set to expire in July, 2009
- road construction has to be brought up to standard proposed and approved
- another permitted subdivision took frontage off one road and relies on the completion of this road to begin the new subdivision. Board would like a detailed time table for completion of this road
- The overall site appearance is a blight for the community and Board is not happy with the condition
- Waiting another year is not acceptable

Malihi clarified that if the expectation is to have the road constructed as currently permitted, building the road to some standard is speculation that the project will be built as it was permitted and might ultimately not be right for whatever Leggat-McCall decides the best use of the property might be. Moore indicated that the Board is under the opinion that road was to be constructed as proposed and permitted. If the project becomes totally different, permit becomes invalid and that is another issue. Steve May, Cohasset Water Dept. noted that water main should be laid prior to the road being prepared. Beechwood loop needs to be completed or there will be a large dead end water main in this project. Again, Malihi asked for clarification that to the extent that the Water Dept. has relied on this project to do certain work and in order for the permits to stay active, the Board wants work that was permitted to be completed regardless of whether Leggat-McCall decides to go forward with these permits. Moore confirmed.

9:00 P.M. 215 CJC HWY, WIND TURBINE SITE PLAN REVIEW AND SPECIAL PERMIT CONT'D PUBLIC HEARING, APPL: JAMES SWEENEY, CCI ENERGY; OWNER: PAUL BARRY Attending

for applicant: Appl. Jim Sweeney, CCI Energy; Richard Tabaczynski, Simon Thomas, Atlantic Design Group; Paul Barry, Land Owner; Gordon Deane, Palmer Capital Corp.; Alex Picks, AAER; Attorney Kenneth Ingber. Attending for Planning Board: John Modzelewski, Civil Designs Inc; Town Counsel Richard Hucksam.

Lori Langenhagen, 24 Sanctuary Pond Rd.: wanted to clarify that the March 30 minutes noted that Mr. Sweeney said he reduced the size of the turbines – that he had originally proposed 120m towers – Langenhagen wanted to clarify that the bylaw does not allow for 120m towers – it allows for 350' to the top of the nacelle or 106.68m. So, the towers have not been reduced and there has been nothing done to reduce the visual impact. Sweeney clarified that what he believes he said was that he proposed 120m towers in RI and 100m towers in Cohasset but that what he initially considered for Cohasset was four, 2.5 megawatt towers which was reduced to two towers. Langenhagen also noted that her husband was submitting two new letters for the record prior to the close of the public hearing. Sweeney did not have any new documents to submit.

John Modzelewski submitted his comments in writing.

MOTION: by Member Ivimey to close the public hearing

SECOND: Member Samuelson

VOTE: 4 – 0 MOTION CARRIES (new member Jean Healey Dippold not participating in votes)

Member Moore explained Board policy on deliberation – public invited to attend, but not participate.

Member Moore asked each member to give indication of where their thoughts and concerns are at present:

Member Brewer: Board has to understand that this application is precedent setting and Board must understand potential implications of any decision they make for future submissions of additional turbines. There must be a thorough performance and mitigation discussion (whether on-site or off-site mitigation). Obviously there must be compliance with bylaws.

Member Samuelson: Has some concerns. Has spent a lot of time formulating a list of potential conditions (if this application is approved) to be discussed and modified as appropriate and, wants to make sure that the burden of performance is on the applicant and not the Town. His main focus and concern is that there is benefit to the Town.

Member Ivimey: cautioned other members that this is a multi-step process:

- First to determine if this application meets all sections of the bylaw and to ask if the applicant has convinced the Board that this will meet all aspects of the bylaw in terms of flicker, sound, safety etc. and that the Board keep an open mind to the concept of whether this meets the bylaw criteria and that the Board is comfortable with the application of the subjective portions of the bylaw and what implications this will have on Cohasset.
- Second, to be mindful that Board is weighing quantity and quality of the evidence applicant has put before the Board. Ivimey noted that there are some concerns that bear some serious consideration and that he has questioned some methodology and data presented. This filing will have tremendous impact on this Town going forward and Board must be convinced that this will work as advertised – Board cannot approach it with the attitude that if it does not work as advertised that it will be shutdown – that should be the last line of defense.

Member Healey Dippold: agrees with Member Ivimey that first and foremost, the review should focus on whether the technical standards before getting into the subjective. Things that stood out for her were the setback issues particularly at for Hingham Lumber and the noise issue with respect to compliance with MADEP regs.

Member Moore: noted that, in his mind, a great deal of this decision is about visual impact. He felt that all other factors can be dealt with, negotiated and mitigated, but that the visual impact cannot be mitigated. Moore thinks the Board should weigh all the factors against the potential benefits to the Town.

Due to the late hour, Moore suggested the members take time to consider all the information presented with this application before beginning to deliberate at the next meeting.

MOTION: by Member Ivimey to continue deliberations to Wednesday, April 29, 2009 at 7:00 PM

SECOND: Member Samuelson

VOTE: 4 – 0 MOTION CARRIES

MOTION: by Member Ivimey to adjourn at 10:00 P.M.

SECOND: Member Brewer

VOTE: 5 – 0 MOTION CARRIES

NEXT MEETING: WEDNESDAY, April 29, 2009 AT 7:00 P.M.

MINUTES APPROVED: CHARLES SAMUELSON, CLERK

DATE: APRIL 29, 2009