

**COHASSET PLANNING BOARD MINUTES**

**DATE:** WEDNESDAY, OCTOBER 17, 2007  
**TIME:** 6:30 PM  
**PLACE:** COHASSET TOWN HALL – BASEMENT MEETING ROOM  
41 HIGHLAND AVENUE, COHASSET, MA 02025

**Board Members Present:** Alfred Moore, Chairman  
William Good, Vice Chair  
Stuart Ivimey, Clerk  
Robert Sturdy  
Mike Westcott

**Board Members Absent:**

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

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**MEETING CALLED TO ORDER AT: 6:50 P.M.**

**6:50 P.M. CONTINUED PUBLIC HEARING - SPECIAL TOWN MEETING WARRANT  
ARTICLE – ZONING BYLAW – VILLAGE BUSINESS DISTRICT (TO BE RE- OPENED AT 6:30 PM  
AND CONTINUED TO APPROXIMATELY 7:00 PM)**

**MOTION:** by Member Sturdy to continue the Village bylaw to later in the meeting to deliberate on the Cook Estate RCDD filing

**SECOND:** Member Good

**VOTE:** 5 – 0 MOTION CARRIES

**6:51 P.M. 230 SOHIER STREET (FORMER COOK ESTATE) RESIDENTIAL CLUSTER  
DEVELOPMENT DISTRICT APPLICATION, DRAFT DECISION DISCUSSION,**

**APPL: ABBOTT DEVELOPMENT, date stamped: March 7, 2007.** John Modzelewski, Town Counsel Richard Hucksam in attendance. Attor. Henderson distributed draft version of conditions for review.

Unresolved matters at end of last meeting:

- Signed and certified soil logs delivered to Planning Board office – reviewed and **OK'd by Modzelewski**
- 115' road radius: worked with John Modzelewski. Have been able to widen the road to 135' radius and keep the intersection as it was. Will be posted at 19 mph. Slope is 6.2%. **Modzelewski is OK with the width, speed limit and slope.** Has also resulted in less pavement.
- No question in Modzelewski's mind that the site hydrology will work. Swale will have to be flattened, piped or made bigger. *Modzelewski wanted his suggested condition #3 to be reworded to include – "...shall be revised and updated in a manner acceptable to the Board to reflect ..."*
- Tree counts data: 87 trees (27 in the open area) of >12" caliper to be removed from various sections of site. 156, 3-6" to be planted, a + net gain. *Modzelewski noted that tree replacement count could be conditioned.*

**MOTION:** by Member Ivimey to accept the plan as presented in the revised June 25, 2007 set of plans, anticipating all the conditions cited by John Modzelewski, subject to the generation of the language of the final decision which will include conditions of approval and, the Board specifically finds the applicant's application process to be appropriate and in accordance with the Board's interpretation of the bylaws.

**SECOND:** Member Good

**VOTE:** 5 – 0 MOTION CARRIES

Henderson will draft a decision based on data input and conditions of approval from the Planning Board Office, John Modzelewski. To be circulated and signed at the October 24, 2007 meeting.

**7:00 P.M. CONTINUED PUBLIC HEARING - SPECIAL TOWN MEETING WARRANT**

**ARTICLE – ZONING BYLAW – VILLAGE BUSINESS DISTRICT** Concord Square Consultant Angus Jennings and Town Counsel Richard Hucksam in attendance. Jennings distributed memo dated October 17, 2007 which broke the issues into three categories:

1. Those issues that were specifically voted by the board at the Oct. 2, 2007 hearing and which have been built into this October 17 draft.
2. Revisions outlined in the October 1 memo to the board that seemed straight forward and not controversial
3. Outstanding issues to be resolved at this meeting:
  - Reduction in baseline allowable FAR
  - Resolution as to whether Planning Board or ZBA will be SPGA. Advisory committee felt it will not pass Town Meeting if not resolved before Town Meeting, and, thought whatever the resolution was, both boards should agree. Jennings wrote a motion which would transfer the SPGA to the ZBA ,if it was decided to go that route, so there would be an amendment that could be debated tonight and changes made before the warrant goes to print.

Member Sturdy wanted to address Page 4 of 10: 5.3.1 Table of Area Regulations: Sturdy made motion at last meeting to delete yards. Jennings mentioned that the board clearly voted to say that they wanted full flexibility to vary all yards. There are two ways to do that: delete all the yards and put them all at “0” or, to do what they have done on the bottom of page 4 – added proposed language which takes the existing language relative to side yards which allows for flexibility from 0 - 10 and extends that same flexibility to rear and front yards. Jennings had discussed with Westcott and Hucksam and agreed that dealing with this in a footnote would give the town more standing and flexibility in the event that someone wanted to apply that yard requirement. Tom Callahan noted that under “add a new Sub-section 15 of Section 5.4 ... line 3 should read front yard and/or ~~rear~~ “side” yard. Jennings agreed and to be changed. Member Sturdy agreed to this change but wants notation next to the 10 and 15 under yards to direct people to see Subsection 15. Jennings agreed.

FAR Issue page 1 of 10: maintained “gross” floor area but does not include basements, parking garages etc. that were cited in last meeting. FAR was reduced to 1.3 reflect removing those spaces from consideration. Carr Lynch and Sandell confirmed that 1.3 was reasonable number as did the concept renderings. Lowering the FAR allows for more buildout flexibility and allows threshold for density bonus opportunity to kick in sooner. Original FAR provided 1 space/unit on-site. On-site parking spaces could be provided in a garage and, now that garage space has been excluded from consideration in the FAR, there is more room for a creative site plan that would allow for maximizing buildout. Woody Chittick, ZBA concerned that the definition of gross floor area is being changed for all districts and, could be worded “for purposes of FAR calculations, the gross floor area shall exclude ...” to only apply to VB District. Jennings, Board agreed. Jennings explained the concept renderings for four parcels.

**MOTION: by Member Ivimey to change FAR from 1.5 to 1.3 and to implement W. Chittick’s suggestion to amend Floor Area Ratio definition wording on page 1 of 8 to “for purposes of FAR calculations, the gross floor area shall exclude ...”**

**SECOND: Member Good**

**VOTE: 5 – 0 MOTION CARRIES**

Special Permit Granting Authority in VB District Issue: Jennings explained that he took the liberty of drafting a stand-alone motion to revise the warrant article to designate the ZBA as the SPGA if the Planning Board wishes to go in that direction. If PB votes to approve the article as it is, pp. 1-10 would go to Town Meeting. If not, his motion draft on pp. 2-3 of October 17, 2007 memo would be appropriate. Member Westcott would like to see better communication between ZBA and Planning Board (PB) and explained that design guidelines have been put together to stimulate conversation with and between the two boards. He noted that the SPGA is shared between both boards in many towns and that it is reasonable to request that the SPGA be moved to the PB for the VB district. Members Moore, Sturdy do not want to create a difficult situation where the applicant is bounced back and forth between two boards noting that in Cohasset, SPR is not a special permit but perhaps it should be and noting that the PB has a good system in place for reviewing site plans. Member Good believes the PB should be the SPGA with harmony between the two boards. Member Ivimey concurred. All agreed that the PB should review in light of zoning and that the applicant should go before the ZBA if zoning relief is necessary. Chittick, ZBA, disagreed stating that matters of SPR design guidelines are within the PB jurisdiction but that use, area, dimension & zoning are under the ZBA’s jurisdiction. Sturdy noted that the ZBA process takes several months which is too long for developers and does not promote development.

**(Member Ivimey had to leave meeting at 7:40 PM)**

Tom Callahan, Housing Partnership: Noted that original plan was to have one stop shopping for applicants which is consistent with the state's goal to make permitting more efficient. He felt that historically, the PB and ZBA have had disagreements and conflicts which may continue in the future and put developers in a very difficult position. He noted that many towns are giving authority to the PB's for "districts" with the ZBA available to look at relief that is needed for "individual" properties, not for districts. Since this bylaw is for a district wide plan it should go to the Planning Board. The suggested compromise plan is not going to do anything. Further, he noted that the ZBA meeting once a month is not adequate for developers. In addition, Callahan noted that this bylaw requires authority to issue binding conditions with some teeth behind them which the PB is in a position to deal with.

Angus Jennings: In Marshfield and in most larger towns, the PB would be the SPGA. In Cohasset, neither board has the staff to work applications through the process, so neither board has the advantage. Jennings feels that if there is conflict on the floor of town meeting, the bylaw will fail and that his proposed motion is a viable compromise to bring the bylaw forward. Member Moore asked Town Counsel if town meeting could vote on which board they felt should be the SPGA – Town Counsel opined that it is legally permissible.

Charlie Higginson, ZBA: the issue is whether Cohasset wants a PB Czar, with no appeal of decisions, with wheeling and dealing going on between the PB and developers to determine what downtown village will look like. This is not a good issue to present with an otherwise good bylaw for developing the district only to have it be the issue that is raised and discussed at town meeting. Could risk the whole bylaw for very, very little. Higginson disagreed with two points mentioned: he has not seen the tremendous disagreements between the PB and ZBA mentioned by Callahan and, ZBA does have additional meetings if needed. If the PB votes for the PB to be the SPGA, the ZBA will not support the bylaw. Member Sturdy took great exception, pointing out the appearance of all the sites around Cohasset that have been reviewed and approved by the Planning Board – successfully so. Member Westcott questioned if the alternative motion proposed by Jennings is a viable way to go if the PB will not otherwise get ZBA support of the bylaw? Callahan's comments remind Member Good of the number of areas of expertise the PB exercises and draws from in reviewing applications and that the PB has a track record of doing a good job in that regard and, thinks it absurd for the PB not continue in the same manner. Good feels the PB should uphold their conviction that the PB is more qualified to be the SPGA and vote that way and speak with enthusiasm and passion about that conviction at town meeting. Chittick asked what will happen if the PB cannot get the majority of the BOS or Advisory Committee backing this bylaw. Westcott responded that the ZBA will bear the responsibility of this failing once again. Jennings noted that the bylaw cross references Section 12.4 and Town Counsel noted that there is an appeal to court so there is an appeal process.

**MOTION: by Member Good to proceed with the bylaw as originally proposed with the Planning Board as the Special Permit Granting Authority**

**SECOND: Member Sturdy**

Member Moore noted that this is a complex bylaw and that in general, it is always difficult to get a 2/3 vote for zoning at town meeting and that the PB should go forward as they see fit. Westcott stated that while he believes the PB should be the SPGA (and stating his disappointment with the ZBA for placing such an obstacle in the way of progress) there is too great a chance to take and the Board should consider Jennings' alternate motion and decrease the chances of failure at town meeting. Member Sturdy will not support unless the PB is the SPGA.

Tom Callahan: totally disagrees with Westcott suggesting that considering the alternative motion is letting 5 people (ZBA) maintain the status quo, that this is just a turf war and, that voting for this compromise is voting for the status quo. Callahan suggests the PB stick to their convictions and let the ZBA explain why they are obstructing all zoning changes in town and let the ZBA have the burden of argument.

Chris Ford, 575 Jerusalem Rd. : as a potential developer in the Village he would not want to see his investment wasted if the turf war defeats this bylaw at town meeting. He would not stop going forward with his plans if he had to go before two Boards.

Paul Cleary, MSC Development: as a developer, whether it is called one stop shopping or not, the question is who controls the question of bonus density. Bonus density is not a Zoning Board issue, it is a Planning Board issue and that considering having the ZBA as the SPGA adds a problem to the process for developers who would have to go to multiple meetings before multiple boards. The jurisdiction should be with the PB.

**VOTE: 4 – 0 MOTION CARRIES (Member Ivimey not present for this vote)**

Jennings confirmed that all other edits from the October 2 meeting can be implemented. Board confirmed.

**8:40 P.M. ADMINISTRATION**

• **VOTE TO APPROVE OCTOBER 3, 2007 MINUTES**

**MOTION:** by Member Good to approve the October 3, 2007 minutes

**SECOND:** Member Westcott

**VOTE:** 4 – 0 MOTION CARRIES (Member Ivimey had left prior to this motion)

• **NOVEMBER 7, 2007 PLANNING BOARD MEETING** Member Moore wanted to take poll of who will be available to next few meetings. November 7 meeting: Good, Sturdy, Westcott – yes; Ivimey, Moore –no  
November 13 Town Meeting: Moore will be out of town., Ivimey may not be able to make it. Other members to decide who will speak at Town Meeting – Westcott and Jennings will definitely represent Village Bylaw.

**MOTION:** by Member Sturdy to adjourn at 8:45 PM

**SECOND:** Member Good

**VOTE:** 4 – 0 MOTION CARRIES (Member Ivimey had left prior to this motion)

**NEXT MEETINGS:** WEDNESDAY, OCTOBER 24, 2007 AT 7:00 PM

**MINUTES APPROVED:** STUART IVIMEY, CLERK

**DATE:** OCTOBER 24, 2007