

COHASSET PLANNING BOARD MINUTES

DATE: WEDNESDAY, NOVEMBER 14, 2007
TIME: 7:00 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
Mike Westcott
Robert Sturdy

Board Members Absent:

Recording Secretary Present: Jo-Ann M. Pilczak

MEETING CALLED TO ORDER AT: 7:00 P.M.

7:00 P.M. EILEEN CRAVEN, 6 NICHOLS ROAD – APPEAL OF BUILDING COMMISSIONER’S DECISION TO ALLOW MUNICIPAL PROJECT STAGING 198 JERUSALEM RD. In attendance: Attor. Richard Henderson, Appeal Applicant Eileen Craven; Dan Coughlin, John Beck representing Sewer Commission. Henderson: the provision under which the Building Inspector said the staging area could be located at 198 Jerusalem Road was based on Section 4.2 under the concept of community facilities which provides that administrative, cultural, recreational, waste water treatment, water supply, fire, police or other protective uses operated by the town or other governmental agencies. The abutters sought information under governmental contracts and were told that it was a private, not government contract. This brings to mind three statutory provisions:

- Ch. 39 §23B – Open Meeting Law – all public deliberations involving government business must be in public.
- Ch. 66 §10 – Public Records Law – provides that any public official having custody of a public record must make it available for inspection. When a member of the public asked to see the lease for this project, they were told it was not a public lease and therefore did not fall under this statute.
- Ch. 30B §16C – Public Bidding Process – requires that any solicitation to leased property has be done under Chapter 30B, the Public Bidding Process. In this case, there was no public bidding process.

Therefore, for this project to be a government operated facility, it would have to be subject to these laws. Since it is being argued that these laws are not applicable to this transaction and since the contract is a private contract between a private citizen and a contractor, they cannot come in within the exception of being a facility operated by the Town or government agency. For example, 30 years ago, when there was an issue of where the sewer plant was going to be located, there were dozens of public forms because it was going into a residential neighborhood. You cannot have it both ways – you can’t not comply with all the rules and have it be a government agency.

Building Inspector Egan: received phone call (from contractor) asking about using this property as a staging area. Egan saw this as being allowed under Section 4.2 as it was a governmental project involving the installation of the water and sewer lines and, as such is allowed under Section 4.2. If there was a violation of Open Meeting Laws etc., that is not a zoning issue.

Dan Coughlin: would disagree with Henderson – this is a municipal project and this site – the staging area, the area for trailers, the area to secure all materials – is required under the town’s contract. Coughlin Environmental is the project manager and agent for the town. The contractor is required to provide a trailer site for Coughlin to maintain operations on the town’s behalf – this facility is definitely under the operation of the town although the town did not execute the contract for the site, but the site is required by the town.

Eileen Craven: Even if this is the best site available, there were notification rules etc. that were not followed.

Member Ivimey: there is argument for Coughlin Envir. to maintain an office facility on this site, but not the contractor’s operations.

Member Sturdy: lives on Jerusalem Rd. trucks begin at 7:00 AM, road is down to one lane and this is a curvy road, it is destroying the quality of Jerusalem Road. This is in the “high rent” district with a high tax assessment.

Site does not allow big trucks to get in and out so long bed trailers are parked on Jerusalem Rd and equipment is being ferried in and out. This is an affront to the neighborhood, a generator of noise and is not the place for this kind of project and he wants it stopped.

Member Westcott: questioned why Sandy Beach Parking lot is not being used. Coughlin - it is in the flood plain and cannot be used.

Member Good: the beach is equally an affront for those living in that neighborhood which also pays dearly for taxes. Quite honestly, this is NIMBY. There is a balance that has to be struck at some point.

Member Moore: what if this property did not exist – what would the contractor have done? – truck their materials back and forth? They must have thought this out – they must have considered what they would do with their equipment before they bid the contract.

Dan Coughlin: this is not just their equipment, it is the trailer site and the storage place for all the town materials – materials supplied by the town for use by the contractor.

MOTION: by Member Ivimey to recommend that, for reasons of public safety and an affront to the peace and quiet enjoyment of the neighborhood, the ZBA reverse the Building Inspector's telephone conversation approval to the contractor that this was an allowed use in a residential zone.

SECOND: Member Sturdy

VOTE: 5 – 0 MOTION CARRIES

7:15 P.M. DAVID CALHOUN

• **DISCUSSION - REQUEST FOR DEPOSITS** – Will be brought up to minimum required balance – including Harrington invoices – once work begins in a few weeks.

• **MANOR WAY SUBDIVISION – ENDORSE MYLARS** – mylars signed

7:30 P.M. 132 CJC HWY. – TRANSIT OVERLAY DISTRICT SPECIAL PERMIT AND SITE PLAN REVIEW APPLICATIONS CONT'D PUBLIC HEARING, APPL: CONNELL COHASSET

GREENBUSH LLC, date stamped: 08/15/07 In attendance: Connell Cohasset LLC – Shane Connell, Geoffrey Wolf, Carlton Blake, Brian Healy, Tom Powers, R. Gidier; Cubellis – Chris Ladd, Zachary Basinski, James Kubat. G. Wolf summarized three issues remaining at end of Oct. 24 meeting:

1. Request to provide rear elevation – has been provided – will remain pretty comparable regardless of the exact number of housing units on the second level.
2. Second exit from property onto Rt. 3A – despite Connell's disagreement with closing this exit, it has been closed.
3. Drainage questions: Z. Basinski, Cubellis and John Modzelewski walked the site. They determined that the USGS Topo maps are not totally accurate. In reality, flow is to Great Swamp (S of Rt. 3A), then flows westward, then north ultimately back across Rt. 3A to the Hingham border in the vicinity of the Hingham Skating Pond, which when it overflows, flows north from there and eventually to the area of Golf Course. Basinski's final conclusion is that the volume of runoff will be reduced from what it currently is and, the rate of runoff will be further reduced. Connell has been unable to find an MBTA study of this issue and at this point, think the MBTA did not do a study. No water flows from MBTA site to Connell's site. No water will flow from Connell site to the meadow.

Karen Quigley, 27 Clay Spring Rd.: concerned that everyone was confident of their findings at the last meeting and now it seems that those findings were incorrect and now everyone is confident about the new findings – this is hard to accept at face value. Golf Club engineers should be given an opportunity to study the new data. Member Moore noted that Modzelewski reviews on behalf of the town and that another level of review is not required.

Modzelewski stated that he is completely comfortable with the new data. Quigley also asked if ConComm's signoff based on previous (incorrect) information is valid. Basinski noted that they are only concerned with volume and rate of runoff and are pleased with the decrease. When site is complete, volume of runoff and rate of runoff will be less than it is in the current state of the site. *Modzelewski would like the reference for the exfiltration rate.*

Peter Costello, Cohasset Golf Club: handed out pictures of flooding at Golf Club – last year, 3 holes could not be used for 6 months due to flooding. Turkey Hill Run is totally blocked with debris and is a major problem. He is concerned that all the drainage information is verified and is concerned about the effect of the MBTA and TOD projects on the drainage. Chris Ladd, Cubellis noted that when they engineer a site, they engineer just at that site. When they certify the data, the material and the engineering, that is specific to the site – they are not certifying and stamping all the areas throughout Cohasset. They stand behind the engineering and certification for that site.

MOTION: by Member Good to close the public hearing

SECOND: Member Sturdy

VOTE: 5 – 0 MOTION CARRIES

John Modzelewski presented letter to Planning Board dated 11/14/07 with items to be considered, but feels they are close to approval. Major items (Connell has concern that not too many things be left to “subject to” or “subject to subsequent approval” mode so they end up returning in 3/6 months to deal with a number of items.):

- D.a. Layout, size of units in the building – should decide if Planning Board wants condition dealing with these ambiguities. Connell would like approval up to 27 units so they have flexibility to build less. Board agrees to approve up to 27 units.
- D.b. Retail Office Pad – condition that proponent has to return to the Board for approval of any retail office/pad and circulation around retail/office pad
- 5. Lighting Plan: extend lighting plan to show light intensity cast off paved areas to satisfaction of John Modzelewski
- 6. John Modzelewski to look at new fire truck turning radius plan to examine rumble strip
- 7. Modzelewski wants to make sure that water in 100 year storm is actually getting to where they say it is going. Cubellis to provide either hydraulic grade line or what charge is required.
- 8. Rear elevations have been provided. Proponent has stated that materials will be comparable to materials on front of building.
- 9. Witnessed flow test to be performed and conditioned. Specific flow and psi required to be determined by Fire Dept. Document to be obtained from Fire Dept. indicating that flow and psi are satisfactory to them.
- 11. Irrigation to be required.
- 12. Landscaping Plan: tighten wording to reference that changes in landscaping will have to be of same quantity, quality and size of plantings.
- 13. Ok – satisfied at tonight’s meeting
- 14. Connell has a notification from the MBTA Board of Directors that they have granted approval to the granting of an easement for the traffic connections. Connell has expectation that this will come through but is concerned that conditioning the building approval on that access point when the only other means of access/egress (the second exit onto Rt. 3A) has been closed is a little bit of double dipping. In the event that something happens with this easement Connell will have to return to Board to revisit the question of reopening the second exit. To close the second access to the site and to condition the approval on the easement is a little economically harsh. Connell feels they have given up the second access and will provide the document that states the intent of the easement. Modzelewski feels the traffic circulation changes significantly without this easement and that if they do not get this easement, they should return to the Board. Wolf feels that if they do not get this easement, the site can survive (as it always has in the past) by opening the second access that they have closed. Member Westcott felt that the second access might be comparable to the access arrangement at the Stop & Shop and if the easement becomes an issue, there can be discussion with the Board. *For the record, Wolf stated that he wanted to make it clear that Connell’s concession on the other drive is, in effect, conditioned on the same condition that the Planning Board is imposing, that if they have to come back on the easement that they have to come back on the second drive. Board agrees to put in the record.*

Modzelewski submitted 10/24/07 memo from his traffic consultant for the records.

MOTION: by Member Westcott to approve this project based on the additional changes made at this meeting relative to Modzelewski’s 11/14/07 memo with the final version of the decision to be crafted by John Modzelewski, Attorney Walter Sullivan and Planning Board Administrator.

SECOND: Member Good

VOTE: 4 – 0 (MEMBER STURDY ABSTAINS) MOTION CARRIES

8:30 P.M. ADMINISTRATION

• VOTE TO ACCEPT NOVEMBER 7, 2007 MINUTES

MOTION: by Member Ivimey to accept November 7, 2007 minutes

SECOND: Member Good

VOTE: 5 – 0 MOTION CARRIES

• SUPPORT LETTER – COASTAL POLLUTANT REMEDIATION GRANT APPLICATION

MOTION: by Member Good for Al Moore to sign support letter

SECOND: Member Ivimey

VOTE: 5 – 0 MOTION CARRIES

- **WIND BYLAW – PLACEMENT ON NOV. 28TH MEETING AGENDA? - Yes**
- **VILLAGE BYLAW – ADMINISTRATION OF – Administrator will contact Town Counsel.**

MOTION: by Member Sturdy to adjourn at 9:00 PM

SECOND: Member Good

VOTE: 5 – 0 MOTION CARRIES

NEXT MEETING: WEDNESDAY, NOVEMBER 28, 2007 AT 7:00 PM REGULAR MEETING

MINUTES APPROVED: STUART IVIMEY, CLERK

DATE: NOVEMBER 28, 2007