

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
October 8, 2020
Remote meeting**

On October 8, 2020, the Planning Board held a remote meeting. It was called to order by Chairman Knox at 7:00. LakeCam was recording, and it was streaming on Facebook Live.

Members present:

Mark Knox, Chair; Barbara Mancovsky, Vice-Chair; Peter Conroy, Michele MacEachern, Jack Lynch

Also present:

David Maddigan, Maddigan Land Surveying, Jamie Bissonnette, engineer from Zenith Consulting Engineers (ZCE), Atty.

Agenda item #1

Mr. Knox read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency which was why the Board was meeting remotely. Mr. Knox asked if anyone else was recording the meeting. There was no response.

ANR plan – 83 & 85 Howland Road

Mr. Maddigan was present. He advised they should have a Form A plan in front of them showing two lots. They are currently in existence and they are just reconfiguring the interior lot line. They determined during the survey from an old 1989 plan that there was an error in the area calculation. Lot 2 is now reconfigured to meet today's area and zoning requirements including the frontage, area, the shape circle, the minimum distance at the front setback, the building offsets, and the minimum required upland. Mr. Maddigan advised the Building Commissioner has looked at the plan and is okay with it.

Mr. Knox wanted to note for the record that the shape circle is known in Lakeville as the front yard circle and that it was on the plan. Mr. Knox said that he had also spoken with the Building Commissioner regarding this. One question had been regarding the easement for the driveway on Lot 2 for Lot 1. This is not an exclusive use easement so it doesn't deduct from the upland or the square footage required on Lot 2. Mr. Knox stated they could move the driveway to their own frontage. Is it because of the location and angle of the house and whatever garages will remain, that the driveway was best suited on the right-hand side of the house?

Mr. Maddigan replied that Mrs. Mach had always owned both the properties so she had the driveway where it was the most comfortable. Now that she is selling that lot, her driveway is going to be slightly over. She does have the area to slide it over but the applicant, Mr. Grinham, said he would create an easement on his property for her to continue to use her driveway as she always has. Mr. Maddigan stated the agreement between the parties has been recorded and that is indicated on the plan. Ms. Mancovsky asked if an easement was also required for the location of the cesspool which appeared to be very close to the property line. Ms. Maddigan said that it was 16 feet off the property line and he believed Title V was 10 feet.

Ms. MacEachern said Note #5 states this property is not within a FEMA flood zone but according to the GIS map and also the FEMA website it does appear there is a flood zone for Lot 1. Mr. Maddigan replied that Ms. MacEachern may be correct and that was a generic note copied over from another plan. He noted there is a brook there which he did not believe was in the flood plain. However, the larger body of water is further down the street. Ms. MacEachern indicated it was in the Zone A. Mr. Maddigan explained sometimes they include the note and sometimes they do not. It has no bearing on the Form A plan but was more for the building code. Mr. Knox said he believed it was in the Rules and Regulations that the Board liked it to be noted. After checking another plan, Mr. Maddigan said it appeared that part of Lot 2 was in a Zone X and part of it was in Zone A.

Ms. Mancovsky asked if there were wetlands that weren't depicted. Mr. Maddigan replied there are wetlands shown on Lot 1 up in the back. It was delineated for the buildability of Lot 2. The wetland flag numbers were also shown on the plan. Mr. Knox asked if there were any additional questions. There were none. Mr. Knox asked Mr. Maddigan if he would amend the plan to have the note reflect the Floodplain A and X for Lot 1. Mr. Maddigan was fine with that. He asked if the plan could be approved contingent upon that.

Mr. Knox then made a motion, seconded by Ms. Mancovsky, to endorse the ANR plan for 83 and 85 Howland Road with the amended Floodplain note to reflect the A and X Zones for Lot 1.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Pauline's Path – 73 Howland Road

Mr. Jamie Bissonnette was present. He advised that tonight he actually had two Form C Definitive Plans that he was looking for signatures on. They are both past the appeal period, and have been signed by the Town Clerk. The first one is for Pauline's Path. They are looking for endorsements so they can record and move forward with being able to construct the site. Mr. Knox said this has been approved but he would allow a discussion for any questions or concerns. This was, however, just a formality to make a motion to endorse and come up with a reasonable time frame in which they can get to the Town Hall to sign the plan. It was agreed that they would all try to make it there by the following Tuesday.

Mr. Knox then made the motion, seconded by Mr. Conroy, to sign and endorse the plan for 73 Howland Road, Pauline's Path.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Mr. Knox noted that the procedure for going forward would be for Mr. Bissonnette to leave one original copy and one mylar. He would then take the original and make the requested amount of copies for the Board. Ms. Murray would hold on to the mylar until she had received the copies back from him.

Mr. Knox made a motion, seconded by Mr. Conroy, that they would sign one original set and one mylar set. The applicant would then return five paper copies to the Board.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Bella Way – 39 Cross Street and part of 5 Harding Street

Mr. Knox advised the next item on the agenda was to endorse the plan for Bella Way. Mr. Jamie Bissonnette was present and stated this was the same situation as the previous agenda item. It was an approved subdivision that has been through the appeal period and signed by the Town Clerk. They are looking for endorsements on this plan.

Mr. Knox then made the motion, seconded by Mr. Conroy, to sign and endorse the plan for Bella Way, 39 Cross Street and part of 5 Harding Street with the same process to sign the mylar and one original set. The applicant would then return five paper copies to the Board.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Ms. Mancovsky asked if the covenants had been referenced on the plan. Ms. Murray advised she thought those documents had all been completed and were just waiting to be signed until after the appeal period. She would pull them out for their signature when they signed the plan. Mr. Bissonnette requested copies of the covenant after they were signed so they could also be recorded at the Registry. He advised the covenant is referenced on the plan with the book and page where it is recorded.

Mr. Bissonnette also noted that he saw the Zoning Board petition for Bella Way was on the agenda for their review and comments. As tonight the Board had just voted to endorse the plan, they would appreciate their favorable support of this petition for the construction of the three single family houses. Mr. Knox said that he did not want to speak for the Board, but that was the best intent for the neighborhood and why they supported the plan.

Ledgewood Estates

Mr. Turner was present. Mr. Knox advised they received a letter this week from Atty. O'Shaughnessy regarding the release of security for Ledgewood Estates. Mr. Knox then read the letter into the record. Mr. Turner advised the project is complete, and they are in the process of going in front of the Selectmen to start the procedure of having the road accepted by the Town. Outback Engineering has completed a drainage as-built and a mete and bounds survey. Mr. Knox asked that a copy of that be submitted to the Board. Mr. Turner said that he would have to check on that.

Mr. Knox said then recited from the Rules and Regulations that the Planning Board shall retain from the security held...an amount sufficient to cover any work necessary to assure that such construction and installation remain in a state of completion until the way is accepted as public by the Town Meeting. Mr. Knox advised he was unsure what the security amount is but typically what the Planning Board would do is release part of that security and hold \$15 per linear foot of the roadway until Town Meeting. Mr. Turner was fine with that. Mr. Knox said as part of that process whether it be a peer review engineer for the Town or some sort of a guarantee certification from an engineer it will be a requirement.

Mr. Conroy noted that it would be Town Meeting of 2022. It is two years from the date of the final coverage. The road has to be intact and completely covered for those two years and then it is eligible for acceptance by the Town. Mr. Turner said the final pavement was done three or four months ago. Mr. Conroy estimated it was in late May. Mr. Knox recommended Mr. Turner submit that information along with the final as-builts to the Planning Board. Mr. Knox reiterated that there will have to be a peer review to confirm that it agrees with the as-built. Mr. Turner noted that as they built the road the Highway Superintendent at that time, Mr. Peck, supervised its construction. Did they or the Highway Department have that documentation? Mr. Knox was unsure but said they would follow up on this.

Master Plan implementation – update on Site Plan Review costs

The latest Planning Board Fee Schedule had been included for discussion. Mr. Knox stated if the Board was going to utilize a peer review engineer or at some point a part time Planner, they might want to look at these fees so as to not create a financial burden to the Town if a large project should come in. They would need adequate funds to cover that assistance or oversight. A Planner would be a payroll cost.

Mr. Knox then started going over the various fees. He asked if the ANR plan they had just reviewed been a \$200 fee. Ms. Murray was unsure but mentioned that sometimes the procedure had been to charge only for the new lot created but sometimes there had been a charge to the original lot because the lines had changed. She suggested they come up with a standard procedure. Ms. Mancovsky felt that the fee should be on each lot. Mr. Knox then looked at the Inspection Fees at \$4.00 per lineal feet of road. Is that a good number or should they ask Environmental Partners if that was an adequate amount?

Mr. Conroy replied that he was on the Board when they restructured these prices. They had polled the area Towns as to what they were charging. They fell right in the middle on a lot of these items. He thought the inspection fees were based on the fact, at that time, they did have an in-house civil engineer in the Public Works Department. He had given them some input on what he thought the value of something like that was.

Mr. Knox then said that for Site Plan Review, they have both minor and major. He asked Mr. Conroy when that was developed what were they looking at. Mr. Conroy responded a minor review would not have any traffic, drainage, or signage issues that would need to be reviewed. This was to help prevent cases where there was a modification or a change to a building having to pay that \$1,000 fee. They might have to look at Site Plan Review for entry ways but they didn't need to look at the drainage, lighting, or signage again. Mr. Knox said that did seem fair, but the one that piques his interest is the major especially where they have the hospital property coming in.

Mr. Knox continued maybe what the needed was a minor, a standard, and a major. The major might be based on square footage of disturbance. Ms. MacEachern suggested a tiered structure based on the size. Mr. Knox asked how they could tier that. Would it be square footage of building or square footage of disturbance when it goes over a two- or three-acre parcel? Ms. Mancovsky was in support of that and thought it was a good idea. The question is what would be the better way to monitor that? Would it be the square footage or is it the number of other factors that come into play i.e., the curb cut, environmental, or other concerns. She asked what kind of fee was he thinking of. Mr. Knox replied they could ask some engineers, and they could also use the hospital project to see what the peer review costs are with that amount of disturbance and then extrapolate the square foot to dollars and see if that number works if you put it into a smaller project.

Mr. Conroy noted that when they set these prices, they are not incurring any costs. Those funds are just going into the Town Account, and they also are not paid. Mr. Knox said he knew that but what if they get a Town Planner. He did think they needed the help and whether that was utilizing a peer review engineer or getting a part time Planner. However, that would then be a cost. After further discussion, Mr. Conroy said that he could not recall all that they talked about when they came up with this list but \$1,000 was just a baseline. If there was anything additional they needed to spend for engineering, it was all extra.

Ms. Mancovsky added that in her experience, fees assessed to developers can be whatever a community wants them to be. It doesn't really matter where the money goes. It is a way for the taxpayers to recoup some of the burdens that come to them by changes to the community, etc. She was not opposed at all to having another layer, and it was healthier for their community to begin looking at ways to insulate themselves from some of the burdens. Even if it was not a direct cost, they are spending time and money on some of these things.

Mr. Knox thought being tiered and then basing all three minor, major, and major-over on disturbance. In the bylaw already, if you disturb more than 1,500 square feet of aggregate of a building, it might trigger a Site Plan Review. That could be considered a minor if it was existing. A major might be something like the funeral home which is under a three-acre lot. Mr. Knox said disturbance over that on anything over three acres would trigger a square foot cost over the \$1,000.

They have the Development Opportunities District which promotes commercial development on 25+ acres so that is what it could be triggered on. He noted that when a Site Plan Review is complete, there are still going to be ongoing costs associated with it. For example, 57 Long Point Road, the Review is over but they will still need to get people out there to inspect storm water drainage and make sure that everything is done to plan. That project will be part of their follow up for two years. These are things they need to think about. He asked them to take a look at that and at their next meeting, they can discuss if they have any suggestions or want to make any changes.

Ms. Mancovsky said they should look at some other Towns to see what they might be charging. She recommended some Towns that are similar, smaller, and larger. She mentioned Lexington, Carver, and Taunton. Mr. Knox also mentioned Plymouth as a community that addresses affordable housing by allowing a developer some smaller lots although this wasn't related to the current discussion. It was another item they could think about. Ms. Mancovsky said that she would do this research for the next meeting.

43D Committee - update

Ms. Mancovsky asked for an explanation of the peer review document they had. Ms. MacEachern said she had come up with this after watching the last 43D Committee meeting and also going through their own Site Plan Review items. Mr. Knox said he did recall discussing this at their last meeting. He had said he wanted the Planning Board to come up with a list of disciplines that they wanted to be part of the peer review study for the hospital project, and this was what this was.

Ms. Mancovsky said they should have seen the sound study that had been circulated prior to their meeting. She thought it was something that was very valuable and something that should be added in. There also may be other things they will want to add on to this list that can be passed on to their Planning Consultant. Mr. Conroy asked when they might expect to see something on this development. Mr. Knox replied their next meeting was next Wednesday. No plan has been submitted yet but the purpose of the next meeting is to meet with the peer review engineer and the applicant to make sure the application is submitted properly and also to replace the Permit Coordinator.

Ms. Mancovsky said the only other thing that she had heard a lot from people was traffic flow is going to be incredibly important. Perhaps, it is something they should be talking to somebody about prior to the submittal of the application. What options will they have in terms of traffic control and conditioning for the plan. Do they have a resource right now they can ask those questions to, and is it something that would be within their jurisdiction? Mr. Knox said that it was, and the Board of Selectmen had signed a contract with Environmental Partners who will oversee all of that. Mr. Knox noted that many of those items were on the peer review list so if there was anything that she wanted to add to it, this would be the time.

Mr. Conroy thought that Mass DOT would have a lot of say on the traffic flow as well as the exiting and entrance. Ms. Mancovsky said she would like to see a condition of no trailer truck traffic on Route 79. The only trailer truck traffic that they would allow is exiting the building and

coming up to Route 105 or Route 495. She did not know if the State could lay down a condition like that but maybe the Town could. Will a consultant tell them they have those rights or maybe they don't? Mr. Knox noted that Route 105 is a State highway so a curb cut would have to comply with Mass Highway standards. The things they can condition are inside and on the property such as "do not enter", "exit only", etc.

Ms. MacEachern asked if they could condition the side streets nearby where they would be marked "No thru truck traffic" or something along those lines. Mr. Knox felt that a sign could be put up on Captain's Way to eliminate a cut thru there but again that is not a condition for the Site Plan but rather something to be discussed with the Highway Department and the Police Department. They might want to hold a security and have vehicle counts as part of that two year follow up.

Ms. Mancovsky asked if they had the right to voluntarily agree to something like that? At this juncture do they have the ability to email questions to the consultant they have hired? Do they need to come up with a list? That is a conversation they should be starting before the submittal of the application. Mr. Knox suggested Ms. Mancovsky put those questions on the peer review.

Review the following Zoning Board of Appeals petitions:

1. Poillucci – 39 Cross Street

Mr. Knox said his recommendation was a letter from the Planning Board stating they supported the change to residential use only.

Mr. Knox then made the motion, seconded by Mr. Conroy, to recommend approval by the Zoning Board of Appeals for the residential use of that business property as the subdivision has been approved by the Planning Board with that condition.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Development Opportunities District

Ms. MacEachern said at their last meeting they had talked about a concern with cluster zoning. She tried to look into but did not find anything negative about it. She did see it was talked about in the Master Plan regarding residential cluster zoning to preserve open space. She did not see anything negative regarding designating certain areas with that Development Opportunities District. Mr. Knox replied it was not that it was negative or adverse but it did have to go to Town Meeting where it's questioned why the change for a small amount. It's not Town wide. It seems like this has been something that has been shot down and not viewed favorably.

Ms. Mancovsky stated that she cares very deeply about the environment and when she first came onto the Planning Board, she recalled that she had many conversations with the late Mr. Zienkiewicz regarding this. He had said one of the disadvantages of doing cluster development is although you start off with the best intentions in protecting open space the truth is under

Massachusetts State law there is no protection of land use in perpetuity. She researched this and it is in fact true. If there is a cluster development and you concentrate the development on one parcel and leave the other parcel for open space, eventually that land will be developed. It would be hard to protect that asset unless it has some other underlying factor which interferes with its ability to be developed.

Mr. Knox said he did think it would be good to get some outside guidance. Maybe through Environmental Partners or someone like that they could ask what kind of avenues they could look at with that District and other things within their Zoning by-law. Ms. Mancovsky suggested Ms. Murray keep a list of questions for Environmental Partners and when it gets large enough, they could be invited in to a meeting. Mr. Knox said he had no problem if the Board members wanted to pick a subject and then email questions. He could group them into an email and get it to the representative from Environmental Partners to get some guidance. However, because there would probably be some type of cost associated with that, he would want to check with the Board of Selectmen first.

Approve meeting minutes

Ms. Mancovsky noted that on the September 10, 2020, minutes on page 2, the word composed should be changed to reviewed.

Ms. Mancovsky then made the motion, seconded by Mr. Conroy, to approve the Minutes from the September 10, 2020, meeting as amended.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Ms. Mancovsky made a motion, seconded by Mr. Conroy, to approve the Minutes from the September 24, 2020, meeting.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

New Business – Review peer review procedure

Ms. Mancovsky said they have looked at this a few times. She was fine with it and felt they should accept the policy and move forward. Mr. Knox asked Ms. Murray if she would like to make any changes to the document. She replied she thought it was fine but suggested taking the flow chart off the website as it was more of an internal document. Mr. Knox said he could agree with that.

Mr. Knox then made a motion, seconded by Ms. Mancovsky, to accept the peer review flow chart as the standard practice for the Planning Board.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Next meeting

Mr. Knox advised the next meeting is scheduled for October 22, 2020, at 7:00 p.m.

Adjourn

Ms. Mancovsky made a motion, seconded by Mr. Conroy, to adjourn the meeting.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Meeting adjourned at 8:30.