

**Planning Board  
Lakeville, Massachusetts  
Minutes of Meeting  
June 25, 2020  
Remote meeting**

On June 25, 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

**Also present:**

Brian Hoeg, Nyles Zager, Zenith Consulting Engineers

**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.

**7:00 p.m. – Public Hearing – Pauline's Path – 73 Howland Road**

Mr. Knox opened the public hearing at 7:00 p.m. Mr. Nyles Zager from Zenith Consulting Engineers was present for the applicant. He advised the property is located at 73 Howland Road, and there is an existing house located near the road. The property is approximately 21.37 acres in a residential zoning district. There is an associated bordering vegetated wetland (BVW) towards the east and north of the property. A small portion of the property is located within the Flood Zone A, but the majority is outside of that 100-year flood which would be Zone X. The topography is undulating and ranges from a high point of elevation 95 and down at the wetlands an elevation of approximately 60.

Mr. Zager then began to describe the project. He advised it calls for a new road to be built called Pauline's Path. Three new form C lots will be created off of that new road. There will be one new Form A lot on Howland Road where the frontage will be, and then the existing lot of 73 Howland Road where the existing home will reside. The proposed roadway will be approximately 600 feet in length with fourteen feet of pavement and three feet of gravel on either side, so it has a total access width of 20 feet. The end of the road is provided with a hammer head turnaround for emergency access.

Mr. Zager then discussed the stormwater management. They will be creating an infiltration basin which would be toward the east of the project near the BVW. All the stormwater is being conveyed

to that infiltration basin either by grading and/or grass swales. Erosion control measures proposed are silt fence and silt sock along the limit of work on the downhill slope of the property which is indicated on the Erosion Control Plan. They have also provided a construction entrance pad at the entrance of the proposed roadway. That is a stone pad that allows for construction vehicle tires to have the dirt knocked off of them to limit the amount of dirt and debris onto Howland Road.

Mr. Zager stated that all of the work within the 100-foot buffer zone to the wetlands has been approved by the Conservation Commission including the roadway construction, and lots two through four. He noted that lot one was not, because it was completely outside of their jurisdiction. Perc tests have all been performed on site. Individual septic plans have been submitted and approved by the Board of Health. In regards to the road, Mr. Zager said that this will be a private road. They are not looking for it to be taken over by the Town but it will stay private in perpetuity. There will be a Homeowners Association that will be created at some point by the applicant.

Mr. Knox asked if the Operations and Maintenance Plan has been included on the Plan of record. Mr. Zager said it is on the Erosion Control Plan. It is something that is a part of all their subdivision plans. It has a pre and post construction maintenance and Erosion Control Plan and is pretty specific. He noted it was a simple drainage design. There's really no structures and all of the stormwater is conveyed through the grass swales and then into a sediment forebay in an infiltration basin. As far as maintenance, it is very contained and simple.

Mr. Knox said he wants to make sure because it is a private way that there is something written on the Plan. They want either an Association formed or some sort of a deed restriction put on the lots that states they are responsible for that operations and maintenance of the roadway. He does not want that to be overlooked so it comes back to the Town. The main point of the option was there were only three lots on the roadway, and it may not make sense to form an association because it might be a financial burden. He was fine with either option. Ms. Mancovsky said she thought an alternative might be something along the lines of a PUD. When you're putting properties up for sale, you have to represent whether there are other development requirements for the properties. She liked the idea of having something on the deed because it becomes confusing about what the rules are. Maybe there is a middle ground that the attorney can advise on.

Mr. Conroy asked Mr. Zager if they saw the need for any kind of barriers or guardrails? Not extensively, but in some cases, they were looking at a seven or eight foot drop once you got beyond the gravel sides. Mr. Zager said they could look at that. It looked like there was one section about 100 to 150 feet where they could provide that. Mr. Knox asked what the grade was on the Plan. Mr. Zager replied between 74 to 72 in the road and then it drops down 5 or 6 feet. It is a 3:1. Mr. Conroy said he did not think they should plan on doing that now but possibly once the road is in and is graded. Mr. Knox asked if the grading could be pushed out to 4:1 so this would be a non-issue. Mr. Zager said he felt they could make that a condition of the approval. Mr. Conroy thought that could work.

Ms. MacEachern asked about the plans near the wetlands. Mr. Knox replied they had approval from Conservation and that was part of the silt fence barrier that Mr. Zager initially talked about. The Conservation Commission drives the location of that fence. They are allowed to work within the 100-foot buffer zone but that is what triggers the Conservation Commission's involvement.

Ms. Mancovsky said she understood this parcel was under 61A previously, and there is the option for the Town to purchase this asset for additional open space. Was there any interest in this? Mr. Knox said at the Selectmen's meeting the other night there was the effort to try to move that process along. He thought the Open Space Committee was trying to do something, but he didn't know if it stalled or what the status was now. Mr. Zager was also unsure of the status of that, and it appeared right now it was in limbo. Mr. Knox said if they did approve this a condition would be subject to the Town's option to purchase under 61 Chapter rights.

Mr. Hoeg asked how large the lots were. Mr. Zager replied they were all a minimum of 70,000 square feet but some were larger: Lot 1 is approximately 71,000 square feet, Lot 2 is about 9 acres, Lot 3 is about 6 acres, and Lot 4 just over 72,000 square feet. Mr. Knox asked if they were approving 73 Howland Road as an ANR or has that already been done. Mr. Zager said that has not yet been done. He believed that did have to be done separately. Ms. Mancovsky asked if they would have to defer on approving the existing plans until that is resolved as the Plan shows that in place. Mr. Knox said they could condition pending the approval of that ANR lot. Mr. Zager said that he would confirm that with the attorney.

Ms. Mancovsky asked if there was anyone present who had any feedback in regards to this development. An abutter was present but she advised she was just listening and was fine with it. There were no other public comments. Mr. Knox then said he would propose a motion to close the hearing and recommend approval of Pauline's Path with the following conditions:

1. This approval is pending that 73 Howland Road be approved separately as an ANR lot.
2. An Operations and Maintenance Plan must be included on the Plan of record.
3. An association of all lot/landowners on Pauline's Path will be formed by the developer that clearly makes the operations and maintenance of the stormwater recovery system and road maintenance the responsibility of the residents of the subdivision.
4. A bond will be posted for \$9,000 and held until completion of the roadway and written certification of construction compliance.
5. The bond will be released when all road and stormwater drainage construction has been completed and inspected by a third-party engineer at the cost of the developer. Said certification will be stated in a letter stamped by the engineer.
6. This motion is subject to the Town's option to purchase under Chapter 61 right to first refusal.
7. The grade on the road edge will be no steeper than a 4:1 slope or a guardrail may be required.

Ms. Mancovsky seconded the motion.

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

**Meet with Jamie Bissonnette regarding the GIS system**

This item will be placed on the next Planning Board agenda.

**ANR plan, continued – Reservoir Avenue – Meet with Mr. David Maddigan from Maddigan Land Surveying**

Mr. Knox said Mr. Maddigan was unable to attend this evening, but they had looked at this Plan at their last meeting. They had requested a no determination zoning note be added to the Plan. It was determined that note was there so he would propose to approve and sign the Plan as the criteria for an ANR has been met. Mr. Conroy asked if there was a way they could make sure that if the lot is disturbed by over one acre that they have a Site Plan Review. Mr. Knox said that he had talked to Mr. Darling about this as there is something about 1,500 square feet of structure but it's actually structure, parking, loading, etc. That in itself would trigger Site Plan Review.

Ms. Mancovsky asked if soil removal was included. Mr. Knox said soil removal does not trigger Site Plan Review. Ultimately, if somebody wanted to develop the lots, they could get a driveway down that hill whether they had to build a retaining wall, but the lots are not desirable from a developer's standpoint. However, from the critical access standpoint, he did not think they could deny them the ANR rights. Mr. Hoeg agreed the ANR is approval not required and typically it is just for a deed transfer. The plan has sufficient frontage and land area. Mr. Knox said that the Town also has its requirements including having the abutters names on the plan, that the plan is stamped by an engineer, that the zoning note is included, etc.

Mr. Knox continued that it was out of their hands, but if that does get developed and somebody tries to put a business in there that's when they would come into play. There are regulations for a business abutting residential properties, and buffers would be required, hours of operation, etc. It would have to be fair for the neighborhood and conditioned properly.

Mr. Knox then made a motion, seconded by Mr. Conroy, to recommend approval of the ANR plan for Lot 1 and Lot 2 on Reservoir Avenue.

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

**Review the following Zoning Board of Appeals petition:**

- a. Sena – 103 Staples Shore Road  
The Planning Board chose to make no comment on the Zoning Board of Appeals petition for Sena – 103 Staples Shore Road.

**Discuss Planning Board Appointments – SRPEDD Commission**

Mr. Knox said that Ms. Mancovsky has been their representative. She said that she has been for the past two years. If someone else was interested, she didn't want to take the spot but if not, she would love to stay on.

Mr. Knox made a motion, seconded by Mr. Conroy, to reappoint Ms. Mancovsky as the SRPEDD Commission member for the Lakeville Planning Board.

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

### **Administrative Review and Updates – Application requirements**

Mr. Knox said that he would like to see if they can get electronic files because of Covid. It is hard to get the paper copies now and it's not that they don't want the paper copies at all, but he does want that electronic copy now. Ms. Murray said that most applications have been coming in with that file. If they wanted to add it into their regulations, they would need to have a public hearing. Another strategy might be just to add it to their application requirements. Mr. Knox said making it a requirement should make the procedure go a lot smoother especially if there are changes. Ms. Mancovsky agreed that it is a balance between being accommodating and maintaining consistency. Mr. Knox said that he will make those changes that he has seen and members can review it. That way at their next meeting they can have the wording right and do a public hearing and also in the meantime just change the application.

### **Administrative Review and Updates – Agenda deadlines**

Mr. Knox asked for some input on this item. Ms. Murray said that right now the deadline is ten days before a meeting. She noted that sometimes an ANR would have to go on the agenda because it wouldn't meet the 21-day mandate that requires action. Mr. Knox said that he would like to get plans as soon as they come in. Members then discussed different deadlines for different items with Plans requiring at least the ten days but more flexibility with other items. Ms. Murray suggested trying to get the agenda posted by Monday and getting agendas out and posted on the website. If something unexpected or urgent came in, she could still revise it on Tuesday if needed. Mr. Knox said he would like to see the agenda posted on Monday, but would not have a problem if there was a revision on Tuesday.

### **Administrative Review and Updates – Advertising**

Ms. Murray advised that there was another subdivision coming in front of them that had to be advertised. However, because there was an outstanding bill because all Board members had not yet signed it, there had been a problem trying to place another ad. Mr. Bissonnette had offered to have the ad billed under his account. She advised right now they place the ad and the newspaper bills them. The Town then pays the invoice and then bills the engineer. It seems to make more sense, if when the engineer submits their plan, they sign an authorization allowing the newspaper to bill them. That way there is no delay or duplication. Mr. Bissonnette had said that is the procedure in quite a few Towns.

Mr. Knox said that he didn't have a problem with it. He would like to talk to Mr. Bouchard about the way that Conservation does it. He would not want it to affect their process in a negative way. Ms. Murray said that she would still do the ad, but the newspaper would have authorization to bill the engineer's account rather than the Town's. Ms. Mancovsky said that she thought it was a good idea, but would want to make sure that the engineer is paying that bill, and that it did not come back to the Town. Mr. Knox asked that this item be kept on their next agenda.

### **Administrative Review and Updates – Certified mailing**

Ms. Murray said that for a subdivision a certified mailing to abutters is required. She had found out what they do in Middleborough is take the mailing to the Post Office for Proof of Delivery and they do not do a certified mailing. She said that she would get more information and would also speak to someone at the Post Office. Mr. Knox said that he would also check with Mr. Bouchard to see how it's done in Conservation.

### **Discuss Planning Board Appointments – 43D Committee**

Mr. Knox said that a memo had been sent out regarding this. They need to appoint someone to the 43D Committee. That Committee will oversee the expedited permitting process. It's not just on the hospital property but any property that falls under that permitting criteria. He would like to put himself forward to do that. Mr. Conroy said that he also had interest in this. Could the Planning Board have two representatives? Mr. Knox said it was just one board member. It was explained to him as being a Committee that would have one voice from every other Town Committee or Board. Mr. Conroy asked if there would be a citizen at large position. Mr. Knox was unsure. He said that he would check to see if he could be the representative from Conservation. He didn't know if Mr. Bouchard or Mr. Chamberlain would want to be on this.

Ms. MacEachern asked what the role of this Board would be. Mr. Knox said his understanding of it is it should be a knowledgeable individual that knows that Board's regulations to go into that body to represent that Board. When the applicant and that Board meet then after several meetings, they have developed a plan that is basically done. All the Boards are supposed to work together which is the expedited permitting process. They are trying to eliminate the situation that when a change is made applicants have to return to a different Board and see if the changes require the process to start over again. They are trying to create almost a complete plan before it even goes in front of the Boards. When it comes to them, it should only be one or two meetings. Ms. Mancovsky said that it is 180 days from start to finish. Mr. Knox said yes, but the applicant hasn't applied yet, so they need to get ready and have somebody picked by their next meeting.

Ms. Mancovsky explained that this is important because when developers are looking to make an investment, one of the things they're going to be considering is time and money. The purpose of having this expedited permitting process is exactly as it was described, to actually get the development done that they want to get done, instead of discouraging investment that needs to be made. It's uncertainty that stalls money from moving and if there is certainty then people can make decisions. If they know they are going to invest in six months, then business decisions can be made based on that. She thought that was a real benefit of actually getting something done. Mr. Knox said that he had also heard if they need a little bit of extra time, they can get an extension. He just didn't want to create a position where they were not thorough.

Ms. Mancovsky said in a situation like this a planner resource would be critical. Mr. Knox replied if they would remember from their meeting with the Selectmen, they are going to lobby for some sort of a peer review on the entire project and it would be paid for by the developer. Although they would not get a Town Planner out of this, a process for review of large projects like this might

be established like a paid planner but paid for by the applicant. Mr. Knox asked that this item be placed again on their next agenda.

Mr. Conroy said that 180 days sounds like a lot but how about items outside of the Town such as a DOT issue and traffic impact studies. Mr. Knox said that was a great question because a State curb cut takes six months just for an answer. Ms. Mancovsky wondered if the State would give it a priority service. She would check with the SRPEDD liaison with DOT.

### **New Business**

Ms. Mancovsky said she did reach out to SRPEDD to determine if a planner resource, but not a full-time employee, would be available. They opened up the door to have that conversation, and it is beginning to take form. That might allow them to have an allocated resource in place before they get too much further down the path in some of these other things that are getting a little bit more complicated. Ms. Mancovsky said the other thing they had asked for was the potential to have a scope of work to align the Rules and Regulations for the Planning Board to be reviewed against their existing bylaw, which has been updated so they would be consistent. That is a need that has been communicated from other members in the community and the Building Department. She thought it was something that needed to be done.

Ms. Mancovsky said last night was SRPEDD's monthly meeting, and it was brought up that there are businesses out there that are really struggling financially. There is some money out there, so if there are local businesses out there, they should come and talk to them here at the Town. There was still a lot to learn about these opportunities but they are talking about what they need to do to support these businesses and keep them in place. There is potential to get some help for them both within their community and from the State. She thought that concerns should probably be directed to the Board of Selectmen who will delegate them out from there. She said that she would have this put on their next agenda and will get additional information.

### **Next meeting**

Mr. Knox advised the next meeting will be on July 9, 2020. It will first be the Plan Approval Authority (PAA) and then the regularly scheduled Planning Board meeting.

### **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. Knox-Aye

Meeting adjourned at 8:29.