

**Planning Board  
Lakeville, Massachusetts  
Minutes of Meeting  
May 13, 2021  
Remote meeting**

On May 13, 2021, the Planning Board held a remote meeting. It was called to order by Chairman Knox at 7:00 p.m. LakeCam was recording, and it was streaming on Facebook Live.

**Members present:**

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

**Others present:**

Jamie Bissonnette, Zenith Consulting Engineers; Craig Crossley, owner; Keiko Orrall, Norm Orrall, Andrew Murray, abutters

**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.

**Site Plan Review – 124, 126, 128, & 130 Crooked Lane– presented by Zenith Consulting Engineers**

Mr. Jamie Bissonnette was present. He advised he was representing Mr. Crossley and the other owners of the properties. He then shared his screen. They have four proposed residential houses each with their own individual well, septic system, grading, and utilities. He believed that this is the first time a residential Site Plan Review has been triggered, but believed it was because the overall total work on each lot went over 40,000 square feet of disturbance. He stated the site has been disturbed to a degree and the survey they have on this plan was prior to that disturbance, with proposed grades showing how the contours should finish when they are done. They are also showing the dwellings as they are being proposed. Some of the lots are in various stages of excavation, with some having foundation permits. He thought Lot 4 might have a building permit.

Mr. Bissonnette continued they will be submitting septic system plans pending approval of these plans for each individual lot showing these updated configurations. This plan has a drainage system that accounts for, not only the houses and the yard areas, but also for Crooked Lane on the southwesterly side where it normally flows into their site. The street is not bermed so it travels from the pavement and onto the site. Right now, it collects on Lot 2 in a natural low spot. They are going to create a new artificial low spot and are splitting Lot 2 and Lot 3.

Mr. Bissonnette stated as part of their proposal, they are putting a drainage easement on Lot 3 so the maintenance and upkeep of this basin can be done by the owner of Lot 2 in perpetuity, without having to get permission to go on the lot to take care of the basin. Drainage will be two forebays and an infiltration basin. The basin is sized to handle the 100-year storm, and they feel they have conservatively done the infiltration rates based on the NRCS loading which is allowed in the Mass DEP Stormwater manual. For the most part, they are trying to achieve overland flow, with the exception of one pipe that they have up in the front to get it underneath the driveway.

Mr. Bissonnette said the goal and some of the biggest issues at the site are the following:

- dust control
- stabilization of the site
- runoff
- good housekeeping and tidiness of the site
- any type of broken asphalt on Crooked Lane.

Mr. Bissonnette explained what they have done is prepared a draft covenant or outline for a covenant. He would like to propose, if the Planning Board is inclined, to grant approval to the Site Plan packet they have. It would include a covenant which is just an agreement between Mr. Crossley, the owner of Lot 2, and the Town so that they can proceed with trying to get this site stabilized and get the issues mitigated. He then reviewed the rest of the plan set, first showing the layout for each lot. Regarding the grading, in a general manner, they are flowing overland and using swales or just overland sheet flow to get the water into this infiltration basin in both manners. The water in the back would come down the front of the property through the pipe and into the forebay. Along the road, they are picking up the side they would need to and swaling it off to the side of the road and getting it into another forebay for treatment prior to infiltration in the basin itself.

Mr. Bissonnette said to ensure the minimization of dirt and material getting into the roadway, they are proposing construction entrances, one for all four sites. They are also proposing silt fence and erosion control on the backside of the property and all the way down. He advised that right now the site is thoroughly disturbed and there might even be some portions that they've gone a little bit beyond this limit of work. One of the first items that they are going to propose to do is to stake out the true limit of work, and have the applicants correct any work that is outside of that limit. They will stabilize any debris or items that are outside of it, and work within what was their proposed limit of work. They also will establish that erosion control, being the silt fence, keep that in a good working order, and have those construction entrances established right away to minimize any types of material brought out into the street. Mr. Bissonnette said as far as the washout areas and the vehicle storage areas, these are pretty flexible as long as they don't go on top of the septic systems or in close proximity to any wells.

Mr. Bissonnette then displayed the detail sheet showing the elevations of the drainage basin. It shows in a 100-year storm, they will still be one foot below the top of the basin. They also show in their mathematical calculations that this basin will drain in less than 72 hours. Mr. Knox asked if Mr. Bissonnette could show the lot coverage. Mr. Bissonnette replied as far as lot coverage, he hadn't calculated it for this site plan but for a 70,000 square foot piece of property. They would need to fall underneath approximately half an acre or 17,500 square feet. This footprint is

approximately 3,000 square feet and the driveway equal or less than that. He estimated the coverage would be less than 10% and that would be similar for each of the lots. That would be modified slightly on the lots with the drainage structure.

Mr. Knox said they had spoken about possibly having a bond posted by the applicant. Mr. Bissonnette said that was correct. Mr. Knox said it had also been brought to their attention that part of the roadway was damaged. Mr. Bissonnette said that was also correct. Mr. Knox asked if that could be explained and if there was a proposal to rectify that.

Mr. Bissonnette then shared his screen. He displayed what he called the proposed covenant item list. It included the items he thought he, his client, and the Town need to work out to make sure that the parties involved are satisfied. If they did receive approval on the Site Plan package, they would be looking to have the ability for building permits on Lots 1, 3, and 4. The theme would be to hold back on Lot 2 for a couple of reasons. One is that the applicant, Mr. Crossley, owns Lot 2. Lot 2 is also where the water default goes because it's the lowest lot, so they need to get the drainage rectified on this lot and constructed. Mr. Bissonnette continued that being able to take care of the dust and the aesthetics really entails getting the houses constructed so they can get the septic in and the loam and seed established. Lots 1, 3, and 4 are getting those started. That would help in a large way to getting those measures taken care of.

Mr. Bissonnette stated prior to the issuance of a building permit for Lot 2, he would recommend that the Town enter into a covenant with Mr. Crossley. Some of the items in the covenant would be assurances about the construction of the drainage, and the assurances of some of the items that he had listed. For example, item number three is prior to the release of an occupancy permit for Lot 2. The following items must be completed:

- Crooked Lane pavement to be inspected for damage and repaired as needed. Mr. Bissonnette said that he was open to discussion with the Planning Board as to who wants to be responsible for the inspection and satisfactory repair of the asphalt.
- All drainage measures shall be installed.
- The owner of Lot 2 will provide documentation that it is responsible for the maintenance of the drainage system since the majority of it falls on that property.
- The owner of Lot 2 will provide the Lakeville Planning Board a copy of the recorded drainage easement on Lot 3. They can then be assured the basin will be maintained in perpetuity.
- The drainage structures shall be inspected by Zenith Consulting Engineers, LLC and a letter issued to the Lakeville Planning Board certifying that the work was completed in general conformance with the design plan. This will be done after loam and seed is planted, the grass is growing, and the infiltration basin is established and functioning.

Mr. Bissonnette said they had also discussed posting a bond with the Town in the sum of \$25,000 to ensure that the basin is constructed properly, and his client has agreed to do this. This bond is in case something happens to Mr. Crossley and there is a need for funds to finish either the drainage or the repairs to the roadway. Mr. Conroy questioned if the water from the far right would be able to travel overland to the infiltration basins on the far side of Lot 2. Mr. Bissonnette replied each one of the contour lines denote a foot. They have a minimum of a 1% slope that is running the entire way to there. For example, water will flow down and hit a contour, flow around, go into the

pond, and then into the basin. The water will take the path of least resistance and travel perpendicular typically to the contours. Mr. Conroy asked if it would pool up behind the house on Lot 1. Mr. Bissonnette said it would not. Each contour is a 1% micro swale. This is what they do with new construction houses when you have a grade coming into the back and it is a standard way of grading around structures.

Ms. Mancovsky asked what was the total depth of the retention basin. Mr. Bissonnette said with the berm included around four and a half feet. Ms. MacEachern asked if Conservation had looked at this due to the priority habitat. Mr. Bissonnette said there was a filing with Natural Heritage in which they did issue a permit with conditions. That does not involve the Conservation Commission but the Department of Fisheries and Wildlife Division as there are no resource areas within the Commission's jurisdiction. Mr. Bissonnette believed the habitat was for the eastern box turtle. Ms. MacEachern asked if there are any protections being taken for those. Mr. Crossley replied they have to put up a silt fencing area around the perimeter of the disturbance. Mr. Bissonnette said that he would then have to have that turtle fence placed to comply with his permit with Natural Heritage. He could follow up on that as it was permitted before he joined the project.

Ms. Keiko Orrall from 120 Crooked Lane was present. She advised, for the record, she was not opposed to houses being built but what she has seen with this project has been irregular and unusual. She did not see regular construction rules being followed nor the Town bylaws. She appreciated the Site Plan and the Planning Board looking into this. All she would ask is that the rules be followed. There has been massive dust as well as the erosion controls not being put into place. The street has been damaged, there has been trash, and even defecation on the property. She was in favor of a covenant so they could be assured the rules will be in place. She then asked who would enforce the covenant and what controls there would be.

Mr. Bissonnette responded that he also had the same concerns looking at the site. There are piles that have been placed for a long time and dust that needs to be mitigated. The idea of a covenant with a Site Plan is a new one, but it is what will give the Planning Board a tool that can be effective. The holding back of a bond and the occupancy permit will also ensure this work gets done properly. Mr. Crossley's being willing to do this is a good show of faith. The cash funds of \$25,000 will also ensure that the project gets done.

Mr. Knox asked if he believed the Building Commissioner would be the enforcement mechanism for the conditions. Mr. Bissonnette said he would think so. His client is not opposed to going over this and having reasonable wording to make sure this is done appropriately. They are open to the idea of putting the language in that the Building Commissioner has the ability for complaints and to be able to address those in the covenant. He thought there was a desire among all the parties that this gets done right.

Ms. Mancovsky asked who the builder was that had started this work. Mr. Bissonnette said on Lot 4 it was Nick Iafrate and on the other lots it was Jeff Crafford. Ms. Mancovsky said speaking for herself only, she did not like to see residents complaining about builders not following procedure. The covenant is a good starting place but why was topsoil removed before these plans were submitted. Mr. Crossley replied they were following the plan for elevations. He also had foundation permits from the Town for the lots. Mr. Bissonnette added that each lot had its own

septic design completed on Form A lots. Some of them have been transferred out to other parties. It appears that during construction Lots 1, 2, and 3 were worked on as if they were one lot with transportation of fill and material from one site to the other. This is not uncommon, but the length of time the piles have been in place and the dust impact is. The reason this hasn't been in front of the Board is because no one has ever done a Site Plan for disturbance of more than 40,000 square feet on a residential lot. He does not think there was an understanding of the thought of the lots still being connected even though they have been sold to different entities. They went forward by talking to Mr. Darling, Mr. Knox, Mr. Orrall, and Mr. Crossley to see what the issues were and to try to address them.

Ms. Mancovsky asked if there was a better way to address this drainage other than the swales strategy. She was concerned about water on the road. Mr. Bissonnette replied that right now the road has no drainage outlet or catch basin. When they first had the Form A's, he came up with a design very similar to this. The problem was, at the time, there was no mechanism to enforce the construction of it. It was on the plans but there was no way to ensure it would be constructed. ANR lots are by right and each individual homeowner has the right to work on their land as they see fit. In this case with the Site Plan Review, they can make sure that the basin is constructed. He does not have a concern with it. It is a nice infiltration basin that will take and dissipate the water without sending it toward Mr. Orrall's property.

Mr. Andrew Murray of 132 Crooked Lane then spoke. He was hesitant that just because it was on a drawing, this is what the land is going to look like. His second point would be regarding the covenant and how it would not be enforced until the occupancy of Lot 2. It is his understanding that is the last thing that would happen. Mr. Knox clarified that it's not that it wouldn't be enforced until then, they would not be allowed occupancy if they didn't complete it prior to that. Mr. Bissonnette added that they want the covenant in place in the beginning. As soon as the plan is approved, the attorneys will need to draft the covenant and get it signed by both parties. He noted that the owner wanted to get building permits for at least Lots 1 and 2. They would be looking to post the cash bond right away. As far as the occupancy permit for Lot 2, the more work that they do on site and the closer they get to completion, the more he will want to get that Lot 2 Certificate of Occupancy. Mr. Murray thought that a check should be submitted for a bond prior to the covenant being signed.

When asked, Mr. Crossley said he did not have a problem providing a check for a cash bond prior to signing the covenant. Once they get the foundations in, they are going to start the grading to the correct elevations and the basin right away. They don't want to be held up on the back end with any issue with the Occupancy Permit. Mr. Bissonnette said the point of getting the lots at least started on construction is that it doesn't make sense to put the loam and seed down when you are going to be doing construction on top of it, which would make a mess. He was looking to loam areas on Lot 1 and 2 that will not be needed for construction right away. They want to get those foundations in and construction going so they can loam the rest of it to minimize the dust issues over the summer.

Mr. Murray also wanted to know why the silt fence and some of the other things don't extend fully on Lot 4. Mr. Bissonnette replied in speaking with the owner of Lot 4 and looking at the topography on it, it is not necessarily needed. Their concern is to make sure stuff is not getting

into the road and then onto Mr. Orrall's property. He noted that any piles that are up should be adhering to Mass regulations and they can talk to Mr. Iafrate about that. They were not worried about erosion going up the hill towards his property but dust would need to be addressed. Mr. Murray said there were also notes on the plan that when the drainage equipment is built it has to be monitored and maintained. Who will be checking and enforcing that? Mr. Bissonnette replied that during construction that would be them, and they have to sign off at the end saying that has been constructed properly and is in conformance. They will be doing periodic inspections, elevations, and topography shots to make sure the basin is the right size. Long term, in the covenant part of 3c it is written that the owner of Lot 2 will provide documentation that they are responsible for the maintenance of the drainage system. He would envision that to be something that is written into the deed or a reference regarding that so it is known about going forward. There will also be a reference for the easement on the deed for Lot 3. It should be clear that it will be Lot 2's responsibility in perpetuity.

Mr. Norman Orrall advised he wanted to follow up on what Mr. Murray had said. Mr. Murray lives on Lot 5, and the plans with grading shown were not adhered to. This resulted in flooding of that lot. That is his concern as an abutter. The existing drainage where this field had been is a bunch of hills and valleys with a lot of low spots that held and infiltrated the water. His concern was that all these low spots would be filled in for the house lots and then the water would come onto his property. He did think that Zenith has done a very good job with the grading. They have talked about it and also met and gone over it. He did think the plan would work well, but would it be built?

Mr. Orrall stated that there was a note on the plan that refers to a book and page number for the conservation and management permit that Natural Heritage issued. It is an extensive document at 23 pages and indicates the silt fence does apply to all lots including Lot 4. He noted that the work timing is conditioned that work can only be performed between November 1<sup>st</sup> and April 14<sup>th</sup>. How is that being handled? Mr. Bissonnette replied that he and Mr. Crossley would have to reach out to Natural Heritage. Usually with construction sites if you're going to operate outside of those timelines, you're supposed to have a turtle sweep done by a registered biologist. He did not do the Natural Heritage filing so he will have to look into it. Mr. Orrall asked when the covenant refers to drainage, is that also the grading? Mr. Bissonnette said that he thought that was the intention, but an attorney is going to have to make sure the language is correct.

Mr. Orrall also asked how are dumpsters, port-o-potties and things of that nature going to be handled. Mr. Bissonnette said he did not include notes on those items, but one would think that would be common sense. They could add that to the plan. Mr. Orrall said that it also needs to be clarified who the builder of record is. Ms. Mancovsky was concerned about this issue and wanted to see it resolved. Ms. Mancovsky asked how a building permit had been issued for Lot 4 without a plan. Mr. Bissonnette said Lot 4 is owned by Mr. Iafrate. He believed that a permit had been issued with the condition that he had to go through Site Plan Review prior to occupancy.

Mr. Orrall questioned the covenant and how in theory Lots 1, 3, and 4 can be permitted and built and the covenant doesn't yet exist. Mr. Bissonnette replied that was his lack of the knowing the correct language. The intent was to discuss the terms and get them put into play right away, and not to delay the covenant. Mr. Knox asked if the intent was, as with a subdivision, to hold back

the release of the final lot which would be the surety for the Town. Mr. Bissonnette replied that was correct. Mr. Knox said it sounds like a verbiage issue rather than an intent issue. Mr. Bissonnette agreed.

Mr. Knox asked Mr. Orrall what he would consider to be fair. He replied the first change he would think would be that the covenant be agreed to before any building permits are issued. He felt the agreement of the covenant should be before all lots rather than just Lot 2. Mr. Knox agreed with that and noted that this was a unique situation. Mr. Knox asked Mr. Bissonnette if he could provide something like that in a condition to do what they were trying to get done here for both parties. He replied if Mr. Crossley was so inclined, he could work with an attorney to come up with language that he thought had been portrayed by both the Board and the abutters tonight. He can then send it over to Board members for discussion and critique at their next meeting.

Ms. Mancovsky advised she would like some language included regarding the maintenance of the drainage, and it should be part of the recorded deed or covenant. It should also be on the plan. Mr. Bissonnette said that he could make sure the actual maintenance and when that needs to happen is included so it will be clear. She also wanted the conditions for Natural Heritage sent over. Mr. Knox said they should be included in the conditions of the covenant so they are enforceable. Ms. Mancovsky asked if a peer review should be required. Mr. Knox replied they should have a condition included to make sure that is part of the release and to make sure the drainage is functioning properly.

Mr. Knox said if there were no further comments he would like to continue this to the next Planning Board meeting. He then made the motion to continue this Site Plan Review until May 27, 2021, at 7:00 p.m. Ms. Mancovsky seconded the motion.

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

### **SRPEDD – update from Barbara Mancovsky**

Ms. Mancovsky advised regarding the Housing Choice Initiative, it is her understanding that they are going to have to have areas that are zoned by right to allow multi-family development, which is a three unit or higher. They are an MBTA community so there will be consequences if they can't get that done. They will have to identify those locations at some point. She also noted there will be certain types of zoning changes that will only require a simple majority. One of their recommendations had been before they take a vote on something that may be affected, they need to make a determination if the voting threshold is required or not required. They should be receiving additional information. They can access the redlined copy of this Housing Choice change at Mass.gov and also email any questions.

Ms. Mancovsky noted that SREDD is also looking for someone to join the Joint Transportation Committee. It can be anybody from the community that might have an interest in that role. Ms. Mancovsky did get some information regarding updating the Housing Production Plan. There is some money that can be applied towards the cost of updating that plan, but they can't start on it until late in the fourth quarter or the beginning of next year. The cost would be roughly \$25,000

but if they could get some of the dtla money, they could mitigate some of that cost. The deadline for that request will be June 4<sup>th</sup>. Finally, the New Bedford Port Authority received the largest grant ever awarded in Massachusetts. Fall River also has a lot of infrastructure work being done around that region. Three office parks will be going in with the expectation of bringing in 12,000 new jobs to the area.

### **Approve meeting minutes**

Ms. Mancovsky made a motion, seconded by Mr. Conroy, to approve Minutes from the March 25, 2021, meeting.

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

### **Old Business**

There was no old business.

### **New Business**

There was a handout for the Forthcoming Senior Rental Crisis which was informational for the Board.

### **Next meeting**

Mr. Knox advised the next meeting is scheduled for May 27, 2021, at 7:00 p.m.

### **Adjourn**

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

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

Meeting adjourned at 8:30.