

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
October 14, 2021
Remote meeting**

On October 14, 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; Peter Conroy, Vice-Chair, Barbara Mancovsky, Michele MacEachern, Jack Lynch

Others present:

Keiko Orrall, Atty. Michael O'Shaughnessy

Agenda item #1

Mr. Knox read this item into the record. It was an explanation of how the provisions of Chapter 20 of the Acts of 2021 allowed the Board to continue to meet remotely.

Public Hearing (7:00 p.m.) – Presented by Prime Engineering, Inc. – upon the application for Approval of a Definitive Subdivision Plan submitted by Southcoast Redevelopment LLC for a six (6) lot subdivision located at 162 Bedford Street, M026-B005-L002.

Mr. Knox opened the public hearing at 7:00 p.m. and read the legal notice into the record. Mr. Knox advised the Board had received correspondence from Prime Engineering which he then read into the record. It was a request for a withdrawal without prejudice.

Mr. Conroy then made a motion, seconded by Mr. Knox, to accept the request for withdrawal, without prejudice, submitted by Prime Engineering.

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

Mr. Knox made a motion, seconded by Ms. Mancovsky, to close the hearing.

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

The hearing closed at 7:05.

124, 126, 128, & 130 Crooked Lane – Vote to sign covenant

Mr. Knox advised that this is something they had already voted on to accept a covenant. He would like to make a motion to allow the Chairman to sign the covenant on behalf of the entire Planning Board with a majority vote to approve.

Ms. Orrall then requested that the covenant vote be tabled, due to the inaccuracies within the document. She noted that the fourth lot is missing from the covenant, and lot two is currently being sold. Mr. Knox said that to delay this process would defeat the protections that she had been looking for. Ms. Orrall replied that she did not know how they could vote on a document that has inaccurate dates and a signature missing for the fourth lot. Ms. Mancovsky asked for clarification that there are four parcels, and the covenant is with respect to the drainage easement which is between lots two and three. Mr. Knox replied the easement is for two and three. The covenant is for all the parcels. Ms. Mancovsky noted then it should include parcel four.

Ms. Orrall added that the covenant also indicates the occupancy permit for lot two would be withheld. She asked if the new owners are aware of this covenant. Ms. Mancovsky said she thought that would be a seller disclosure item. After further discussion, Ms. Mancovsky asked if it was correct that this vote is not related to the covenant but is related to the Board's authorization for the Chairman to sign on their behalf. This covenant was previously approved which is probably why the dates are not correct. Mr. Knox replied that was right. Ms. Orrall requested that all five members should sign the document. She thought it should be corrected as far as having accurate dates and the fourth signature should be there. She thought someone should investigate whether or not lot two is being accurately portrayed since the contingencies have been put on that lot. She did not feel that is being disclosed to that new owner.

Mr. Knox said that he has reached out to the engineer, Zenith Consulting Engineers, and the attorney. They will move on to the next agenda item and then return to this.

Housing Production Plan – update

Ms. Mancovsky said that although she felt more data is better, the reality is if they were to get these revised reports very few people in the community would be utilizing them. From that standpoint, she would stick with the tier one sample. Mr. Knox agreed that the \$15,000 option would be the way to go. He asked if there was any further discussion. There was none.

Mr. Knox then made a motion, seconded by Ms. Mancovsky, to send a memo to the Town Administrator to clarify the budget request of \$15,000 for a Housing Production Plan.

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

Sign By-law - update

Mr. Knox advised he noticed that some work was still needed with the language and definitions. Ms. MacEachern said they had the definition for the electronic sign included, as well as the definition for a billboard. The Building Commissioner had looked at this and asked about adding language to describe the refresh rates for the static images. It looks like the static rates are supposed to be fairly fast, or at least that is recommended by the sign companies, which was the only sort of information she could find. She thought maybe language that said static images which refresh seems to be all encompassing. Regarding the lumens, the hundred lumens seems to be a good amount.

Ms. MacEachern stated the Building Commissioner had also recommended that signs shall be limited to a maximum height of 20 feet as measured from the crown of the road directly perpendicular to the sign or 20 feet from surrounding grade whichever is less. She advised that there is a portion in 6.6.3.7 that states the colors red, green, or yellow should not be used in a manner that might confuse the meaning or stop signs, stop lights, or other traffic signs. That wording just does not sound right. She would suggest replacing *might confuse* with *might be mistaken for* unless someone else had another recommendation. The next part they had discussed was the unlighted signs that were less than two square feet designating entry and egress from parking areas, and other directional traffic control and safety-related signs shall have no logos or markings other than directional markings.

Ms. MacEachern continued that in regards to electronic sign message boards, they wanted to ask Town Counsel if it is a possibility that by allowing smaller signs, they could potentially have existing signs meet what is proposed. Mr. Knox said part of that would be to add in language to control the hours of operation and the hours of non-operation. If a sign did stay on, it should only display the time or temperature. He thought that adding something to the bylaw to control hours of operation would be enforceable to all signs and would gain a little control over the signs in Town.

124, 126, 128, & 130 Crooked Lane – Vote to sign covenant

Atty. O'Shaughnessy joined the meeting. He advised he understood there was an issue with the covenant, and he would like to see if he could address it. Ms. Orrall noted that the covenant as depicted has inaccurate dates with September 30th noted, and there is not a signature for the fourth lot. It is also her understanding that lot two is being sold. Her concern is that the contingencies are being put on that lot only, and do not apply to all four lots.

Atty. O'Shaughnessy replied that is in fact correct, and this is what they had presented to the Board. The goal was to stabilize the site as much as they could and create the basin. The September 30th date was the date by which it was supposed to be constructed. The project proponent is going to be posting the bond for the stated amount, and they wanted to get the covenant signed and on record in case it is sold. That way the future property owner knows what rules they have to play by. During their discussion, it was always that the CO for lot two could be withheld. Lot four was

never part of this discussion because the house is already constructed. The three unconstructed lot owners have signed the covenant, and they are agreeing to comply by it.

Ms. Orrall noted that lot four was part of this as the bylaw requires Site Plan Review for a lot where a certain amount is disturbed. She would submit that it does need to be included as part of the covenant. Atty. O'Shaughnessy replied he did not think the bylaw would cover all the lots. Each lot was in individual ownership at the time, and when this issue arose, lot four had been conveyed. The property owners for the three remaining lots were willing to work with the Town to resolve this because of the concerns of the Orralls.

Mr. Knox asked if he could speak to the September 30th date which had already passed. Would there be some type of penalty incurred? Atty. O'Shaughnessy replied there would not be. He intended to post the money to ensure the basin gets constructed. They are trying to get all this in place before the lot is sold because it protects the Town and the other property owners. Mr. Knox agreed. These were Form A lots and although they did need Site Plan Review, they did not need the covenant they are offering which is providing protections to abutting properties and the Town.

Ms. Orrall stated that she felt the document should be amended to reflect accurate dates. Mr. Knox noted that this was not a discussion to amend the document. It has previously been voted on. The vote is for the Chairman to sign it, instead of all the Board members. He then restated his motion to have the Chairman sign this document if there was no further discussion from Planning Board members. It was seconded by Mr. Conroy.

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

Ms. Mancovsky then made a motion, seconded by Ms. MacEachern, that the Board not release the Covenant until the funds referenced in paragraph one and, if applicable, paragraph two are received by the Town of Lakeville.

Mr. Knox clarified if the intent was that they did not want the Covenant filed at the Registry of Deeds until the funds are in hand. The purpose of the Covenant is to get it filed. Ms. Mancovsky said they could show them they have a signed copy and they would like to get it filed, but they need to bring the deposit in. They haven't done anything wrong other than they had a delay with getting the document. Mr. Knox said he would like to have those motions retracted and perhaps request the Building Commissioner hold back an additional occupancy permit if the bond isn't posted. The reason for filing the Covenant is for those protections and to make sure everything is completed.

Mr. Conroy asked if construction of any part of the drainage basin had been started. Mr. Knox said it has been staked out. Mr. Conroy said this is months old now, and they haven't done this. His concern was if they sign this, and it doesn't get done, \$5,000 is not a lot of money. Ms. MacEachern said she would prefer the holding back of another occupancy permit over the \$5,000. Mr. Conroy asked if legally they could do that as that is not in the covenant right now. Mr. Knox then read item #1 from the Covenant into the record. He noted the terms are either the occupancy permit or the \$5,000, and that is if it isn't installed by September 30th. When this is filed, one of

those two things are going to happen and the covenant will appear in any title search. Ms. MacEachern then retracted her second, and Ms. Mancovsky retracted her motion.

Sign By-law - update

Ms. Mancovsky said that currently these types of signs are within the ZBA's purview. Mr. Knox replied if they change the electronic message board portion of this or any part of the bylaw, it is his opinion that the Planning Board should be the Special Permit Granting Authority not ZBA. The signs are based on commercial businesses and the Planning Board does Site Plan Review and should handle any Special Permits.

Ms. MacEachern then read through the requirements that had been added for the granting of a Special Permit under 7.4.6. She asked if there were any additional suggestions. Ms. Mancovsky said it would be nice if there was more continuity on the design of the sign structure. Mr. Knox noted the sign at the Police Station had white lights, and it looked fairly neutral and tasteful. They might want to add something like that into the language which might allow more leeway.

Members also discussed how to define billboards. Ms. MacEachern asked if they should have ZBA make a recommendation to them. Mr. Knox said he could reach out to the Chair of the ZBA.

Mr. Knox then made a motion, seconded by Mr. Conroy, to continue this agenda item until their October 28th meeting.

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

Design standards – Discuss how to implement for business zoned development

Mr. Knox asked if there was any new information on this item. Ms. Mancovsky said there are many different formats and ways to lay out the rules for consumers about this. The design characteristics themselves are a matter of public conversation and/or hearings. She has signed up for a CPTC class that is coming up on design review. She would recommend continuing until their next meeting. Ms. MacEachern noted that Yarmouth had a very good example which she could reshare with the Board.

Ms. Mancovsky made a motion, seconded by Mr. Conroy, to continue this agenda item, design standards, until their October 28th meeting at 7:00 p.m.

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

Master Plan Implementation – Fee Review Project - update

Mr. Knox said that after reviewing the comments from Town Counsel, it appeared that she felt some of the fees may have not met the standard. Ms. MacEachern said that she thought that was because they did not yet have a Planner, if they had one that would have been met. Ms. Mancovsky noted that it appeared she also did not want them to waive fees. Members also discussed how it should be handled if a plan is withdrawn and if any amount from the fee should be refunded or not. Ms. MacEachern noted that they could edit the document to instead read that fees may be reduced rather than waived. Ms. Mancovsky said that could still be subjective which appeared to be the comment from Counsel.

Mr. Knox asked if they were putting in language to say the Planning Board has the right to reduce fees, or if it is put into the fee schedule that if a plan is submitted that preserves open space, the fee is less. The incentive is that you are advertising to a developer that if you preserve open space, they will reduce the fee of the subdivision. It could be a direct cost or a percentage. Would this apply to just subdivisions or could they also apply this to Site Plan Review. Ms. Mancovsky noted that she did not think the reduction they were considering would be an incentive a developer would consider in lieu of what they are giving up. Mr. Knox suggested for this discussion to at least change the word waived to reduced and make that progress. If they want to then come up with a percentage, they could then add it to that as well.

Ms. Mancovsky asked if they should go through and start approving some of them as they have been continuing this for a while. Ms. Mancovsky started with the Form A. After discussion, it was agreed that \$250 per lot was a fair amount including a lot line adjustment.

Mr. Knox made a motion, seconded by Mr. Conroy, to approve the proposed fee of \$250 per lot.

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

The next item discussed was the Form B-Preliminary Plan. Mr. Knox advised the fee went from \$100 per plan to \$400 per lot. It had been suggested that an * be added so the applicant is aware of the credit. Mr. Knox wanted language in there that would require the same plan be submitted for the Form C and recommended it read 'Form B fees may be applied to a Form C application if no major changes are made.'

Mr. Knox made a motion, seconded by Mr. Conroy to approve, pending review by the Building Commissioner and Counsel.

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

The proposed amount for the Form C was \$2,000 plus \$100 per lot. There was a note suggesting alignment with the Form A lot at \$250.

Ms. Mancovsky made a motion, seconded by Mr. Lynch to approve the proposed Form C fee.

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

Discussion returned to the Form A plan using a different copy of proposed fees which specified \$500 per lot. Members also discussed the fees for the Form B and Form C plans. Mr. Knox suggested a flat fee of \$750 for a Plan B. For a Form C followed by the submission of a Form B, the fee would be \$750 plus \$500 per lot.

The repeat petitions line will be deleted. Regarding changes, did they need to list a cost for advertising as it could be more than the amount listed. It should read \$1,500 for something major plus advertising costs. Ms. Mancovsky noted that it does indicate that all costs for advertising and mailings will be borne by the applicants. Inspection fees and surety will remain the same. Members were also okay with the proposed tiered fees for Site Plan Review.

The next item discussed was the Special Permit for the DO District. Ms. MacEachern had suggested the following prorated fees for lot coverage:

- 20% lot coverage \$8,750
- 50% lot coverage \$12,500
- 70% lot coverage \$15,000

Mr. Knox then read the comment from Town Counsel into the record. Ms. MacEachern said these fees were just starting points. After discussion on different options, Mr. Knox recommended they think about this over the next two weeks and try to come up with some creative ideas to manage this fee. The Water Development District should mirror the DO. Regarding the waivers, that might be something they address when they go through their Rules and Regulations and look at the standards for their roads. Members agreed to stay with the \$50 fee for a copy of the Regulations. They will continue this agenda item at their next meeting scheduled for October 28, 2021.

Review the following Zoning Board of Appeals petitions:

a. Bud's Goods & Provisions Corp. - 475 Kenneth W. Welch Drive

Mr. Knox stated he believed they were trying to use the most recent Site Plan that was approved for the last applicant that was going to occupy that space. One change from the previous applicant was that they were going to transport their goods. He would recommend they make a recommendation to the Zoning Board of Appeals that the applicant have suitable containment for loading of a vehicle, whether it be inside the building in a garage bay or outside the building in a fenced in area so that it can be done securely and safely. There were no additional recommendations.

Mr. Knox then made that a motion. It was seconded by Mr. Conroy.

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

b. DeCost – 129 Staples Shore Road

Mr. Knox made a motion, seconded by Ms. MacEachern, to make no comment on the petition for DeCost at 129 Staples Shore Road

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

Approve Meeting Minutes

Ms. MacEachern noted that on page three, paragraph one under Master Plan Implementation, a spelling correction needed to be made on Town Counsel's name. Mr. Knox made a motion, seconded by Mr. Conroy, to approve the Minutes from the September 23, 2021, meeting with the noted correction.

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

Old Business

There was no old business.

New Business – Correspondence – Costello & Greydanus

Mr. Knox then read part of the letter into the record. There was to be a transfer of ownership of a parcel in Chapter land but the new owners planned on keeping the parcel in Chapter. Were there any comments regarding this? Ms. MacEachern then read information regarding Chapter land. She wanted to know if there was an affidavit on file from the interested parties. She would like to have an opinion from Town Counsel to make sure that they do not miss anything with the transfer. Ms. Mancovsky said it is her understanding that the transfer of ownership may trigger additional documentation on behalf of the new owner. The trigger for if the Town can acquire the property isn't the transfer, it is the change of use.

Mr. Knox made a motion, seconded by Ms. MacEachern, to continue this agenda item until October 28, 2021, at 7:00 p.m.

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

Next meeting

Mr. Knox advised the next meeting is scheduled for October 28, 2021, at 7:00 p.m.

Adjourn

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

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

Meeting adjourned at 9:21.