

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
Thursday, September 28, 2023**

On September 28, 2023, the Planning Board held a meeting at the Lakeville Police Station. The meeting was called to order by Chairman Knox at 7:00 p.m. LakeCam was recording, and it was streaming on Facebook Live. It was noted that no one else present was recording.

Members present:

Mark Knox, Chair; Michele MacEachern, Vice-Chair, Nora Cline, Jack Lynch

Others present:

Marc Resnick, Town Planner

Public Hearing (7:00) Site Plan Review - 13 Main St., continued

Mr. Robert Forbes from Zenith Consulting Engineers was present. He advised, at the last meeting, they had discussed getting more detail on the architectural plans. There were now some different options for the siding. The lighting plan had also been revised to include the lights on the buildings. Mr. Knox said that he and Mr. Resnick had previously talked about electric vehicle chargers, and he had also corresponded with Mr. Nathan Darling, Building Commissioner. Mr. Darling said that on January 23rd the stretch code had been updated to a new version, and there would be some requirement for the chargers. Had he thought about putting these chargers in?

Mr. Forbes said, as with everything else, if it is required, they will comply with it. Mr. Knox said he thought they would be looking for a hypothetical location, to house the required amount. Mr. Forbes replied that he cannot put electrical wiring on his plans. However, based on the information he had received, it would be 20% of the spaces or 16 spaces, 8 for each building. Mr. McMahon added that they were fully aware of the stretch code and the implementation of it. They have not got to that state of the design, but they would fully comply. Mr. Knox asked if this is something that should be on the plan of record. Mr. Resnick said he thought it should at least be indicated or highlighted as the proposed EV charging area. After discussion, Mr. Knox said what they should do is add a condition on the approval saying that they will meet stretch code requirements for EV charging stations as needed. Mr. Knox suggested they speak to Mr. Darling as there is some interpretation as to whether it is per the mixed-use zoning requirements or the Town's general bylaw for the two spaces required per dwelling unit.

The siding options were then discussed. Mr. Knox said that he would like to make sure that a copy of what is decided is filed with the Site Plan. Members agreed that the options they preferred were the following: front siding-option 2; left siding-option 1; right siding option 2; rear siding-option 1. Mr. McMahon was fine with that.

Mr. Knox said there is correspondence from the Fire Chief indicating the applicant has captured all that he required. He asked if there were any additional comments. Ms. MacEachern asked what the materials would be as Site Plan does have a preference for natural materials. Mr. McMahon said he was okay with not including any vinyl, but most of the wood siding is now composite. It is proposed to be either clap or brick veneer. If the goal is to stay away from stucco and vinyl, he was fine with that.

The Board then began review of the draft approval. Atty. O'Shaughnessy said that he felt some of the conditions exceeded the Board's authority. According to the bylaw, conditions are supposed to mitigate impacts to the neighborhood from the proposed development. The following were the conditions that were then discussed:

- The applicant shall provide a performance guarantee in the sum of \$20,000 to secure the completion of all required fixtures, appurtenances, amenities, and improvements, including landscaping, drainage system, pavement installation and striping, and as-built plan.
 - Atty. O'Shaughnessy understood the motivation, but was not sure this could be done under Site Plan Review.
- The applicant shall pay the required inspection fee prior to any site work occurring on the property or the issuance of a building permit.
 - What inspection fee is being referred to? Mr. Resnick replied they have a consulting engineer who will be doing the inspections for drainage, sub grade, paving, etc., and there is a cost involved in that. Atty. O'Shaughnessy would like that clarified in the decision.
- Upon commencement of each new tenancy of any residential unit, at least one tenant of the unit shall be 55 years of age or older. The leasing office for the apartments shall keep records of the tenants and make these available for inspection by the Board or its representative upon request.
 - Atty. O'Shaughnessy did not think this traced the language of the bylaw. It should be changed to reflect what the bylaw actually says. It should say "At commencement of occupancy of any new residential unit at least one tenant of the unit shall be 55 years of age or older. Mr. Resnick said Town Counsel's opinion is that upon every new leasing of the unit, that is considered a new tenancy. Atty. O'Shaughnessy asked if the Zoning Enforcement Officer had been asked what his interpretation was. In past projects, Counsel has deferred to his opinion. Mr. Knox said that he has conversed with him in regards to this, and he could get a written opinion.

- The stormwater management system shall be functional prior to an occupancy permit being issued for either building. The applicant shall install oil and grease traps in the catch basins.
 - Mr. Forbes clarified that an oil and grease trap would be for a restaurant. The hoods catch floatables in the catch basin. Mr. Resnick said that was the intent of the language. Mr. Forbes said that the wording is off then, and it is a different structure.
- Should the Planning Board have concerns with the level of lighting...the Board reserves the right to require the applicant to adjust the level of lighting, type of lighting fixtures, or the location of individual lights.
 - Atty. O'Shaughnessy did not have an issue with adjusting the level of lighting, but changing the type of lighting fixtures or the location. He would like that part stricken. Mr. Resnick replied on occasion different fixtures get put up. Mr. McMahon said they were fine with adjusting the level of lighting and the type of lighting fixtures to match the photometric plan. It was noted this approval will run with the property so any future changes to the light fixtures would need to come before the Planning Board. Mr. Resnick said that he will modify this condition.
- All site work must be completed within twelve (12) months of the issuance of a Building Permit or the applicant shall return to the Board with a schedule for completion.
 - Atty. O'Shaughnessy would like to change this to 18 or 24 months. Mr. Resnick said the reason behind it is to have the applicant come in and then review the schedule and see where they are. He will change it to 18 months.
- The applicant shall obtain a street opening permit from the Lakeville Department of Public Works (DPW.) All work...approved by the Department of Public Works.
 - Atty. O'Shaughnessy said this is on a State Highway so he did not think this condition was necessary. Mr. Resnick said he would modify it to refer to Mass Highway.
- If elevators are required for the buildings and the footprint of the buildings need to be modified to accommodate the elevators, then the applicant shall file a new site plan review application with the Planning Board
 - Atty. O'Shaughnessy asked that this be changed so that they come in just for the modified footprint rather than doing the whole site plan again. Mr. Resnick said that there is no mechanism in the current bylaw that would address a modification, which is why he had left it like that. Atty. O'Shaughnessy asked if review could be limited to the changes only.
- Any proposed change from the approved site plans or additional site work deemed substantive by any Town official shall be presented for review by the Planning Board.
 - Atty. O'Shaughnessy asked what was encompassed by Town official. He would like it limited to the Town Planner, Zoning enforcement Officer, or people related to land use or zoning.
- All construction shown on the site plan, unless otherwise noted, must be completed prior to the issuance of an occupancy permit.
 - Atty. O'Shaughnessy said that he expected this to be a phased project, with the two buildings being constructed and rented out one at a time. Mr. Knox said that there

should then be a parameter in the parking lot. If construction is completed of building one and they wanted to gain occupancy, then 50% of the parking area has to be completed and any construction that was ongoing must not impede access. Mr. Resnick said that he could modify this to indicate this is a phased project and the first building may be occupied provided there is sufficient parking, lighting, drainage, and access.

- Appeals to this decision shall be made pursuant to Section 8.0 of the Zoning Bylaws within twenty (20) days of the filing of this decision with the Town Clerk.
 - Atty. O'Shaughnessy did not think that was the correct section. Mr. Resnick will reference the correct section.

Mr. Knox noted that they may require a gravel removal permit, which they would receive from the Select Board. He asked if there were any additional questions. Ms. MacEachern mentioned that in the decision it states that no fee had been charged when the plan was changed. She thought there was a fee in the revised fee schedule. Mr. Knox said they had not gone through the hearing process. Atty. O'Shaughnessy said with the original plan, there had been an issue with the setbacks. They had discussed filing new plans and re-advertising that fact.

Ms. MacEachern said that the draft also included the statement that there were no abutters present at the public hearing, but there have been quite a few residents from the area who have expressed concerns regarding traffic, elevators, and this being a rental facility. She felt this line was misleading. Mr. Resnick said that he could add additional commentary regarding the other residents and their concerns. Ms. MacEachern said it also stated that all the items identified by Environmental Partners (EP) had been addressed. Last time she checked, it didn't look like that was the case. Atty. O'Shaughnessy said he thought that a letter had been sent to the Board from EP. The last time they met, they had talked about modifying the photometric plan and the elevations. Ms. MacEachern said also was the parking, stabilization, adding a maintenance plan for the drainage, and sediment tracking.

Ms. MacEachern said that EP has also recommended a final utilities plan be submitted for review and approval prior to the commencement of construction. She thought that should be added as a condition. Mr. Forbes replied that they had responded to that comment, and they do not do that on a site plan. He noted that he was not supposed to put electrical on a plan, and he legally could not do so. Middleborough Gas & Electric (MGED) will come in and tell them exactly what is going to happen after everything is done. They will not look at it until they have Town approval. They don't have an intention of doing that as it is directed by MGED. Mr. McMahon added when it is fully approved by the Town, they will be sent to them in CAD and the MGED will fully design the entire electrical plan because those are their lines. Mr. Forbes said that he was surprised that EP suggested that, as every civil engineer knows that is the way it should be done. Ms. MacEachern asked what is the enforcement for the lease agreement. Mr. Resnick said a violation of the approval would be a zoning violation enforceable under the rules of zoning.

Mr. Knox asked if anyone present had any comments. Ms. Noelle Rilleau of 22 Reservoir Avenue asked that they consider it a cost of doing business in a community that cares about residents who might be in a wheelchair, and that this needs to have an elevator for people that cannot climb stairs. Ms. Susan Spieler of 10 Valley Road noted that there should be an EV charging station next to the handicap parking. She also stated in regards to the elevators, that if they were not required for 55+, they were clearly discriminating against the elderly. If this is truly a 55+ development, there should be elevators and they should be required. Mr. John Gregory of 8 Bartelli Road discussed getting fire access to the second building via a piece of property owned by the Town. Mr. Knox said that he has deferred to the Fire Chief who has said that he is satisfied with access around that second building, and all his concerns have been addressed.

After discussion, members said they would like to see one more set of clean plans with the changes they had agreed upon. Mr. Knox then made a motion, seconded by Ms. MacEachern, to continue the 13 Main Street hearing until October 12, 2023, at 7:00 p.m. in order to review the final site plan approval document based on tonight's discussion of their conditions and amendments. The **vote was unanimous for.**

Approve corrective amendment to the Certificate of Approval for Golfer's Way

Mr. Knox asked for clarification that this correction was in regards to a date change. Ms. Murray replied that in the Decision the date of the final plan had not been referenced, but rather the plan before. When recording the plan that the Board has signed and approved, the certificate must reference that plan and not the plan before it was revised.

Mr. Knox made a motion, seconded by Ms. MacEachern, to approve this corrective measure and sign it as the Chairman. The **vote was unanimous for.**

Discuss Planning Board Goals

Mr. Knox asked that this be placed on their next agenda.

Discuss Chapter Land Maps

Ms. MacEachern advised that Mr. Resnick was supposed to be working on getting an updated list. Mr. Resnick said that he had spoken to the Assessor's office, and this has to be requested from the Vision Company.

Ms. MacEachern made a motion, seconded by Mr. Lynch, to have the Town Planner get an updated list of the current chapter properties. The **vote was unanimous for.**

Mr. Knox asked what they were hoping to accomplish with this information. Ms. MacEachern replied she would like to find out if they could get that information on an overlay, to make it more accessible. Mr. Resnick said this would probably be done through the GIS Company. There have been some discussions on trying to enhance what they currently have. He will find out more about it.

Discuss Zoning change process

Ms. MacEachern advised she started looking at other towns to see what they have in place, as far as a zoning change process. This originated months ago from a discussion she had with a Select Board member. She thought it might be good to have a process for this to come before the Select Board and the Planning Board as soon as a developer is looking to make a zoning change, rather than it be an offline conversation. It would be great to have an outlined process. If this Board agrees that this is something they want to move forward with, she would like to see it circulated to the Zoning Enforcement Officer, the Select Board, the Town Clerk, etc. It would be helpful to have a process laid out.

Mr. Knox asked if the endgame would be to have the process and application on the Town website. Ms. MacEachern responded affirmatively. Mr. Knox said that it sounds like they should have a conversation with the Select Board to make sure they are interested in doing this. Mr. Resnick added that the process does go through the Select Board's office. The actual petitions get submitted to them, and they are the ones who forward it to the Planning Board for the public hearing. Petitions can be submitted by the Planning Board, Zoning Board, Select Board, as well as citizen petitions. Since it does go through the Select Board, he thought of meeting with them and getting their thoughts if they wanted to work on something. Regarding the samples, one is an FAQ outlining the process, and the application could be expanded because it is very focused on just zoning changes for property.

Mr. Knox asked that an email be generated between him, Mr. Resnick, Mr. Day, and Ms. MacEachern. The drafts could be included to just start a conversation to see if the Select Board is interested in pursuing establishing a process. Mr. Knox asked that these last two items be placed on their next agenda.

Approve Meeting Minutes

Ms. Cline made a motion, seconded by Mr. Lynch, to approve the minutes from the August 17, 2023, meeting. The **vote** was **unanimous for**.

Correspondence

Mr. Resnick discussed a notice received from the Town of Raynham consisting of a proposed 7 building, 240-unit 40B development that will be located on Broadway.

Next meeting

The next meeting is scheduled for October 12, 2023, at 7:00 p.m. at the Lakeville Police Station.

Adjourn

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

Meeting adjourned at 8:05.