

TOWN OF WENHAM

Planning Board

Meeting of March 11, 2021

Wenham Town Hall, 138 Main Street

Pursuant to the Open Meeting Law, M.G.L. Chapter 30 A, §§18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Planning Board was held on Thursday March 11, 2021 at 7:30 pm. *Due to the COVID19 Virus pandemic & restrictions concerning in-person gatherings ordered by the Governor, this meeting took place virtually on Zoom. The chair identified the meeting was being recorded and those present.*

The Planning Board oversees the Rules & Regulations governing the subdivision of land, site plan review, and special permits according to the Wenham Zoning By-Law and Massachusetts General Laws, Chapter 41, §81. The Board consists of five elected members, with one member to be elected each year at the Annual Town Meeting: A. Weeks (2021); V. Rogers (2022); D. Pasquarello (2023); P. Clay (2024); D. Anderson (2025).

Mr. Clay is the Planning Board representative to the Community Preservation Committee.

- Call to order - *With a quorum present, Ms. Weeks called the meeting to order at 7 pm.*

Board members present: Ann Weeks, Chair; Virginia Rogers, Vice Chair; David Anderson; Peter Clay; Dan Pasquarello

Also present: Margaret Hoffman, Planning Coordinator; Catherine Tinsley, Recording Secretary

Town Counsel, Attorney Robin Stein, KP Law

Selectman Cheeseman, Chair

Administrative

- ANR – Roger Gauthier -6-8 South Street - Assessor's Map , Lots 7 and 8

- Plan of Land, 6 & 8 South Street, LeBlanc Survey Associates, Inc., January 28, 2021

Ms. Hoffman referenced the plan showing the two lots, 6 & 8 South Street, positioned between South Street and Pine Avenue. These are both non-conforming lots with an uneven lot line between them. Both owners are requesting the lot line be straightened between the two parcels. Ms. Hoffman noted this would have little impact and would not make the lots any more or less non-conforming. Straightening the lot line is not under the subdivision control and if endorsed by the Planning Board, Board members will need to sign the mylar. The applicants are responsible for filing the mylar and providing the town a copy of the deed,

Vote: The Board members voted unanimously by roll call to endorse the ANR to straighten the lot line between 6 & 8 South Street.

- Deliberation (continued from February 11, 2021) and vote on 60 Arbor Street Definitive Subdivision Application dated February 18, 2020

The public hearing 60 Arbor Street Definitive Subdivision on the petition of Jeffrey R. & Susan M. Hamilton, 60 Arbor Street, Wenham MA, to approve a Definitive Subdivision Plan for land located at 60 Arbor Street (Map 13, Lots 84 and 84A) was closed at the Planning Board's February 11, 2021 meeting and the committee continued the deliberation to this date of March 11, 2021.

- EBI Consulting Final Review, Version 2 , dated March 8, 2021
- Sub Division Rules & Regulations
- Planning Board members Ann Weeks and Dan Pasquarello, as direct abutters, recused themselves from this hearing.

Ms. Rogers chaired this agenda item and open deliberations for 60 Arbor Street at 7:05pm.

Present for the hearing: Town Counsel, Attorney Robin Stein, KP Law

The applicants Susan & Jeffery Hamilton, 60 Arbor Street, and the Project Civil Engineer, James Decoulos, PE Attorney Deborah Eliason, representing Wenham resident Marianne Cannon

Ms. Hoffman reviewed that the Planning Board closed the public hearing at their last meeting on February 11, 2021. She summarized that deliberations are based on the information presented and discussed during the public hearing. The applicant submitted a response to comments made at the February 11 meeting, on March 2, 2021. Because the public hearing was closed, these documents were not provided to the Board and could not be considered during deliberations but were placed in the file.

Ms. Hoffman reviewed that on February 11, the applicant denied the Planning Board's request for an extension to the timeline and the Board members must vote at this meeting to meet the deadline to file a decision with the town clerk by the end of March.

Mr. Clay began the deliberation with a review of the timeline for the 60 Arbor Street Definitive subdivision that began more than 6 years ago in 2014 with an application for a Preliminary Sub Division Plan which included a number of waivers from the rules and regulations; the Planning Board denied the application. In July 2016 the plan for 60 Arbor Street was resubmitted, PB 3.11.2021

again with a number of waivers requested, and was denied by the Planning Board.; the Hamiltons appealed the Planning Board’s decision; the Court confirmed the Planning Board’s decision to deny the application in May 2019.

In February 2020 a new subdivision plan was submitted with additional iterations of that plan submitted on June 16, June 30, August 6, September 3, September 18, October 22, October 29, November 23, and December 1 and continued into January and February 2021.

Mr. Clay referenced the letters over the years from the abutters, EBI Consulting peer reviewer, Counsel for abutters, a plan review from Merrimack Engineering and the numerous concerns, technical issues, & omissions. He opined that the current application process that started in January 2020, is history repeating itself and stressed there is a meaningful opportunity cost for the Planning Board, the Town, and Ms. Hoffman’s time.

Mr. Clay said he would vote to deny the application and that the Planning Board should never approve an application that is technically flawed and sloppy.

Mr. Anderson commended Mr. Clay’s thoughtful statement, and that he too was deeply concerned by a consistent feeling in the process of the applicant always in the response to the Planning Board’s comments without initiative to present an approvable plan. He referenced the massive down slope and geological features identified on the lot and the challenges with the plan as submitted. Mr. Anderson spoke about his concern if this project was permitted, with a plan that is still identified as having many technical issues, is troubling and echoed Mr. Clay that the level of technical issues identified within the plans submitted to the Board, it was best to vote no.

Ms. Rogers reviewed the option to the Planning Board was to approve the plan with conditions, or to identify how the plan as submitted does not meet the Subdivision Bylaws, Rules & Regulations, and deny the application

The Board referenced the March 8, 2021 Version 2, of the EBI Peer Review of 60 Arbor Street and identified those conditions in the Plan not in compliance with the Town of Wenham’s Subdivision Rules & Regulations and Ms. Rogers reiterated that it is the applicant’s responsibility to meet all requirements.

Ms. Rogers identified missing or incorrect information, or waivers not requested, on the Definitive Sub-Division Application for 60 Arbor Street as identified:

3.0 Procedure for the Submission and Approval of Plans

- 1. §3.3.16.1 Contour Plan
- 2. §3.3.17.1 Utility Plan
- 3. §3.3.20 Cross Section

- 4. §3.3.4.1 Staking
- 5. §3.3.5.1.1 General
- 6. §3.3.5.2.1 Test Information
- 7. §3.3.5.3.1 Road

4.0 Design Requirements

- 8. §4.1.2.2.2.1 Reserve Strip (Lot 7)
- 9. §4.1.3.5 Property Line Radius
- 10. §4.1.5.3 Vertical Curves
- 11. §4.1.5.4 Width
- 12. §4.1.5.6 Grading of level Area
- 13. §4.3.1 Curb Cuts
- 14. §4.7.7.2 Storm Drainage

5.0 Construction Requirements

- 15. §5.1.5 General
- 16. §5.2.4.1 Embankment and Cuts
- 17. §5.4.1.1.1 Drainage
- 18. §5.4.1.1.2.a Drainage
- 19. §5.10.2 Trees, Shrubs, and Ground Cover

Mr. Anderson referenced the requirement 4.7.10.1 that a hydrant shall in all case be installed at the terminal end of each water main and observed that according to the Sub-Division Rules & Regulations this would be a water main if not for a waiver to allow a 1-inch line service the back lot and if this changes the requirement for a hydrant. The Planning Board will vote on waivers prior voting on the Plan.

- 1. *Vote: The Planning Board voted unanimously by roll call 3-0-0 that based on comments from the Town’s Water Superintendent, the applicant’s request for a waiver from Section 4.7.5.4 of the Town Sub-Division Rules & Regulations so as to allow a (1”) one-inch water line instead of required (8”) eight-inch water main is in the public interest and not inconsistent with sub division control law and to grant the waiver.*
- 2. *Vote: The Planning Board voted unanimously by roll call 3-0-0 to deny approval of the application of Susan M, Hamilton & Jeffrey R. Hamilton for Definitive Sub-Division approval of the plan entitle Definitive Sub-Division at 60 Arbor Street, property of Susan M. Hamilton & Jeffrey R. Hamilton prepared by Decoulos & Co. LLC for the 19 specific reasons identified and discussed by the Planning Board which shall be listed in the decision as areas in which the plan does not comply with the Subdivision Rules & Regulations and to authorize Margaret Hoffman to prepare, draft, finalize, and sign a certificate of denial of the definitive Sub division approval reflecting the planning boards denial and the 19 specific reasons given for the denial.*

Ms. Weeks resumed chairing the meeting at 8:29 pm.

- Discussion re: Spring Hill Subdivision Progress –Updates
 - Letter from A. Weeks to M. McNiff, Spring Hill Ventures Re. sprinklers installed in the subdivision on the town's right of way, dated November 20, 2020
 - Planning Board Decision for the Spring Hill Development, October 8, 2015
 - Performance Secured By Lender's Agreement for Spring Hill Farms, October 16, 2018
 - Spring Hill Cost Estimate, October 2, 2018

Present for this discussion were Michael McNiff, McNiff, partner of Spring Hill Ventures and Dan Ouellette, superintendent of the project representing Spring Hill Ventures partner Albert Ellis.

Ms. Hoffman referenced the letter to Mr. McNiff from the Planning Board Chair explaining that the sprinklers were in the town's right of way and the serious concerns from the prospective Department of Public Works (DPW) Director Bill Tyack and the Water Superintendent Erik Mansfield. Mr. Tyack expressed his concern that if, or when, the street is accepted by the town and plowed, the plowing would potentially destroy the sprinkler heads and Mr. Mansfield was concerned with town water resources being used for irrigation and that town land is not permitted to be sprinkled.

Ms. Hoffman also asked for an update on the progress to control the erosion run off on site, roadwork, the affordable housing provision, and the request from Spring Hill to release the bond.

Mr. McNiff responded and first addressed the sprinklers installed on the town land. He noted a waiver could be signed that would not hold the town responsible for damage of the sprinklers, or the sprinkler heads could be removed. Mr. McNiff further explained that not all the properties in Spring Hill are sprinkled, but of the three that are, only one was installed by the developer, the other two systems were installed by the homeowners. Mr. McNiff said he had no problem removing the one system they installed off the plot and notifying the other two homeowners with sprinklers on their plot to remove them. Ms. Hoffman confirmed the DPW and Water Superintendent would prefer the sprinklers be removed. Ms. Weeks concurred that due to the water shortage, sprinklers in multi house subdivisions are discouraged and appreciated the developer's willingness to work with the town on this issue. Mr. McNiff agreed to remove the sprinklers.

Mr. McNiff addressed the condition in the decision to have a tree in every yard. He acknowledged the area looks like a moonscape because many trees were dangerous pines or scrub trees. He referenced the approval that trees are to be planted in the homeowner's property street side and will speak with the tree warden before planting.

Ms. Hoffman referenced the Planning Board's original decision from October 8, 2015, (#9) which states that a minimum of two street trees be in the front of each lot, to be located either on the lot, or on in the street layout consistently throughout the development. If the Tree Warden elected to require all street trees to be located on the lots, the trees would be maintained by the homeowners but if the trees are located in the street layout, the town would be responsible for the maintenance.

Ms. Hoffman added that the Tree Warden does not want any pear tree species and no trees are to be planted until he has confirmed the location and the species of tree.

Mr. McNiff stated he would speak with the Tree Warden next week and plant when the weather permits.

There was a discussion about the fire access road connecting Beverly and Wenham off Angus Circle, and the new 3-lot subdivision, Thaxton Heights Road, in Beverly that abuts Spring Hill. There is an open space easement for the fire road in Wenham; it was uncertain if the fire road is over the easement or if the easement is on both sides. The fire road is according to the original plan for Spring Hill. There is a crash gate from Beverly into Wenham to provide another access to the development if Spring Hill Road was blocked.

Mr. McNiff spoke on the affordable housing requirement. He noted that one person submitted an application for the lottery for the (existing, renovated house) affordable unit at 83 Dodges Row. The developer plans to convey Spring Hill lot 17 to Habitat for Humanity along with a sizeable financial contribution towards the construction of the unit(s). Mr. McNiff will provide Ms. Hoffman with that exact contribution amount.

Ms. Hoffman added that 83 Dodges Row is very small and was expensive for an affordable unit. The lottery was cancelled but if the one person who applied is approved, they will be allowed to purchase the unit.

Ms. Hoffman elaborated that Habitat for Humanity may build a friendly 40b multi-unit housing similar to the Hull Street project. Ms. Hoffman will keep the Planning Board updated.

Ms. Hoffman asked if the erosion control implemented last year has stabilized the site.

Mr. Ouellette responded that they will be vigilant this spring in monitoring the site, but anticipated the work done last year will be effective.

Ms. Hoffman reminded Mr. Ouellette that erosion reports are to be submitted each month but November 2020 was the last one received. Mr. Ouellette said he would be sure Erosion Reports are submitted.

Mr. McNiff opined that almost everything in the subdivision has been completed according to the Agreement and requested to discuss a partial release of the bond. Ms. Hoffman provided the Performance Secured By Lender's Agreement for Spring Hill Farms dated October 16, 2018 and the cost estimate dated October 2, 2018 for the Board members reference.

Ms. Hoffman reviewed that when the request is submitted by the developer, both the developer and the town's engineer will provide cost estimates for the remaining work, if any, for review at a future Planning Board meeting for consideration.

Mr. McNiff mentioned that three houses remain to be built.

The Town has not accepted the streets in Spring Hill, and it was anticipated this would be on the 2022 town meeting for approval.

Mr. McNiff noted that funding remains for the top coat on street & lifting drain covers ((\$40,000)).

On a side noted, the Affordable Housing Trust keeps track of the affordable units in town. Ms. Rogers suggested the Planning Board understand the cost of these units to the town. It was noted that both Community Preservation Funds and Affordable Housing Trust funds have been used for affordable housing. Ms. Hoffman will provide the Board with this information.

Ms. Hoffman mentioned that the two affordable units at Wenham Pines are going on the market. The 2-bedroom is on the market for \$130,000 and the 3-bedroom is selling for \$150,000.

- Discuss Regulation Update Project – Caroline Wells, Planner with Weston and Sampson

Ms. Wells has been working this past year on grants to revisit the development regulations in Wenham. Two grants were awarded for \$67,000 that will support the full review of the Zoning Bylaws and Subdivision Regulations, storm water, water use etc. The grants are intended to address climate and sustainability issues in the development regulations: MAPC Accelerating Climate Resistance one-year grant and the Planning Assistance 2-year grant from the Executive Office of Environmental Affairs.

A task called BIG is the guideline to identify:

Barriers –barriers to sustainable & resilient development in regulations

Incentives –opportunity for incentives developers to install more resilient sustainable infrastructure.

Gaps –where the regulations are silent.

A core team will be put together to identify the alternatives and what is appropriate for Wenham, along with sessions with local developers and stakeholders. The regulations will be modernized and include best practices and reflect pending legislation, working together and properly cross referenced, and add illustrations in the Regulations to clarify information.

Ms. Wells anticipated a draft for the public review would be ready by January 2022.

Ms. Weeks observed the Town may be simultaneously embarking on a Master Plan.

- Discuss Master Plan next steps

February 25 was the Information Session on the Master Plan.

Ms. Hoffman explained the Town will submit an Expression of Interest to the state for the *One Stop for Growth* program. Upon review, the state will respond where the best place is for the Town to apply for a grant for funding the Master Plan.

Ms. Hoffman believed the maximum grant amount would be about \$75,000. This would be for a reimbursable grant.

- Meeting Minutes – February 11, 2021 & February 25, 2021

The minutes of February 11, 2021 were held for review.

*Vote: The Committee voted unanimously by roll call to approve the Public Session Minutes of **February 25, 2021.***

- Calendar: Next meeting April 15 at 7 pm. (April 8 is the Special Election)

- Adjourn – *The Board members unanimously adjourned at 9:34 pm.*

Respectfully Submitted By

Catherine Tinsley

4.5.21