

TOWN OF WENHAM

Planning Board

Meeting of September 10, 2020

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 September 10, 2020 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 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).

P. Clay is the Planning Board representative to the Community Preservation Committee (2023).

As recently elected to the Planning Board, Mr. Anderson confirmed he was sworn in by the Town Clerk.

Call to order - *With a quorum present, Ms. Weeks called the meeting to order at 7:30 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

Continued Public Hearings

- 51 Cherry Street – Special Permit Hammerhead Lot and Common Driveway -Public Hearing in accordance with MGL Chapter 40A, Section 11 and the Town of Wenham Zoning Bylaw Section 5.2.2.1 (Hammerhead Lot), 5.2.6.5 (Common Driveway) and Section 13.4 (Special Permits) on Thursday August 13, 2020 at 7:30 p.m. at the TOWN HALL, 138 MAIN STREET, Wenham, Massachusetts. on the petition of Five One Cherry St Realty Trust, for a Special Permit to allow a hammerhead lot and a common driveway at 51 Cherry Street (Map 18, Lot 003). Continued from August 13, 2020)

- Griffin Engineering site Plan 6-12-2020

- Memo- from M. Hoffman to Planning Board re. Comments on 51 Cherry Street Hammerhead Lot/ Common Driveway Special Permit August 6, 2020

- Email from Attorney Kroesser to M. Hoffman August 17, 2020

- Planning Board member Dan Pasquarello disclosed that he has worked with and against Griffin Engineering but not at the level that this would impact his ability to view this application fairly and without bias. The applicant had no objection to his participating.

- It was confirmed that the two members not present at the August 13, 2020 meeting, Mr. Clay and Mr. Pasquarello watched the recording and confirmed that they signed the Mullins Affidavits.

Present for the hearing: Applicant Pam Carney, 51 Cherry Street

Attorney James Kroesser, Counsel & representative for the applicant.

Ms. Weeks opened the public hearing for 51 Cherry Street.

Attorney Kroesser submitted draft language for a possible motion as requested: "This Special Permit is subject to the condition that the existing shed, located on the property within the current 50' setback area, and constructed in 1990 pursuant to Building Permit #407, must be either moved from the setback area or removed from the property, within one (1) year from the date of recording hereof, unless within such time the owner is granted relief from the Wenham Zoning Board of Appeals which permits the shed to remain in its present location."

Ms. Hoffman summarized town counsel's advice on the special permit and possible conditions:

1. There shall be no further division of the Hammerhead lot. (added)for the purpose of creating additional building lots.

This amendment was accepted.

2. The driveway shall not exceed 500 feet in length.

3. Amended: Grant special permit conditioned upon either the removal of shed, relocation of shed outside of the set back area or zoning relief deemed necessary by the ZBA

Attorney Kroesser noted that a buyer may or may not be interested in the shed and referenced his suggestion that the shed be moved or removed within a year from the date of the recording unless the owner is granted relief from the Zoning Board.

Approved 10.8.2020

Attorney Kroesser confirmed the applicant has filed with the ZBA for a variance, or special permit, or ruling citing the hammer head bylaw was adopted years after the shed was built and therefore should not be applied to an existing structure.

Mr. Pasquarello observed that the special permit may be approved, even it does not meet conditions as set in the bylaw, if approved contingent on the removal of the shed or necessary zoning relief; the special permit is not effective until the condition is satisfied.

The amended condition # 3 was accepted.

4. A final recorded version of the Common Driveway Maintenance Agreement shall be submitted to the Planning Board prior to the issuance of Building Permits for the residential buildings. This Agreement shall be recorded on all properties subject to this decision. (The Maintenance Agreement has been submitted.)
5. The common driveway shown on the Approved Plan shall remain a private way and shall not be used in the future as frontage for any additional dwellings or use. The driveway is not intended to be accepted as a public way by the Town of Wenham because it does not meet the Town's construction standards for a public way. It is intended that the maintenance and any snow plowing of the driveway shall remain the permanent responsibility of the Applicant and their successors in interest.
6. The Applicant shall submit an Approval Not Required (ANR) Plan showing the division of the entire property to the Planning Board for endorsement. The endorsed ANR plan shall be recorded at the Registry of Deeds prior to any building permits being issued.
7. The Applicant and any future owners of the property shall adhere to all requirements of the Town of Wenham water use restriction By-Law.
8. The Applicant and any future owners shall adhere to all requirements as set forth by the Fire Department and will ensure that the driveway and common drive is constructed of an engineered surface to support the weight of the Fire apparatus.

Ms. Weeks closed the public hearing.

Vote: The Planning Board members voted unanimously by roll call to approve the proposed Special Permit for a hammerhead lot and common driveway at 51 Cherry Street with conditions as presented, discussed, and amended by the Planning Board on September 10, 2020. 5-0-0

Attorney Kroesser requested a copy of the draft decision, including the special conditions.

- 60 Arbor Street – Definitive Subdivision Public Hearing in accordance with the Town of Wenham Rules and Regulations Governing the Subdivision of Land, 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). Continued from August 13, 2020)
- Definitive Subdivision Existing Conditions Plan, 60 Arbor Street, Sheet C 1, 2, 3 September 3, 2020
- Revised Subdivision Plan, 60 Arbor Street,
- Planning Board members Ms. Weeks and Mr. Pasquarello recused themselves as abutters to the proposed project and did not participate in the discussion. Ms. Rogers Chaired this agenda item.

Present for the hearing: John Decoulos, Engineer; Jim Decoulos; Susan Hamilton, petitioner;

Residents: Kristen Moloney, Marianne Cannon, Amy Richardson, Chalmers Congdon, Ann Weeks, Dan Pasquarello

Ms. Rogers opened the public hearing for 60 Arbor Street.

Ms. Rogers observed that the revised subdivision plan for 60 Arbor Street were not received in the land use office until September 4, 2020. The town's peer reviewer needs more time to review the plan and issue a report.

Ms. Rogers said she would allow the petitioner to present the changes to the plan and open the meeting for discussion but the hearing for 60 Arbor Street would be continued to the next meeting to incorporate the peer review report into the discussion.

Ms. Rogers requested Mr. Decoulos present how the current application differs from the previously denied application originally submitted in February 2020, as a large cul-de-sac and then presented in July 2020 as a hammerhead lot.

Mr. Decoulos identified the two waiver requests for the current revised design:

1. No sidewalks
2. Reduce the size of the water line to 1" service.

Approved 10.8.2020

Mr. John Decoulos referenced the proposed plan and reviewed the dimensions of the cul-de-sac on the newly formed lot 6 which he alleged provided 307.33 feet of frontage for Lot 5. Mr. Decoulos also showed the alteration to the stormwater plan.

Ms. Rogers initiated a discussion, and a lengthy discussion ensued, if the frontage as presented was in accordance with the town's bylaw 5.2.1 that frontage must be measured on a built street, and not a so-called paper street (to be built), therefore the frontage would need to be measured on Arbor Street.

Mr. Anderson also referenced the town's zoning bylaw 5.2.2 that lot 5 does not have the 40,000 square feet as calculated due to the wetlands. The square footage must be contiguous and exclusive of wetlands.

The hearing was for public comments and questions.

Ann Weeks, abutter Foster Street, said she would reserve comments until the peer review report was completed but opined she did not see much difference between the two plans.

Marianne Cannon abutter Foster Street, referred to the town's survey that indicated residents want open space, not subdivisions.

Kristen Moloney, Foster Street, questioned if the Planning Board members did a site visit; the report on the site visit will be on the next agenda.

Mr. Decoulos agreed to the deadline for revisions be submitted electronically by 12pm on September 24, 2020 and two hard copies submitted to the land use office by the end of the day, September 25, 2020.

Mr. Decoulos was asked to submit in writing, the agreement for the hearing to be continued.

It was noted that Town Counsel is aware of the application and available for comments/ questions.

Vote: The Board members voted unanimously by roll call to continue the hearing to a date certain of October 8, 2020 at 7:30 pm, via zoom.

Ms. Weeks and Mr. Pasquarello returned to the meeting.

Public Hearing

A public hearing pursuant to M.G.L. c.40A, Sec. 5, on the following warrant articles to amend the Zoning Bylaw of the Town of Wenham at the Special Town Meeting October 17, 2020.

- General Bylaws
- Zoning Bylaws
- Ms. Hoffman Read public hearing notice as published Chronicle Transcript August 27, 2020 and September 3, 2020

Ms. Weeks opened the public hearing.

Ms. Hoffman summarized the amendments proposed were limited to be made consistent in format, numbering, and reviewed for discrepancies, grammatical errors, and updated reference points. This is the final document proposed for approval by town meeting.

These two articles were originally on the Annual Town Meeting warrant and postponed to the Special Town Meeting. The Board members reviewed the amended bylaws in detail at their meeting of February 19, 2020.

ARTICLE ##: Bylaw Amendment: Recodify General Bylaws

o Article XX: To see if the Town will vote to renumber and recaption the Zoning Bylaw of the Town by (a) designating the Zoning Bylaw as Chapter 255 of the Code of the Town of Wenham; (b) renumbering each section and subsection of the bylaw accordingly; (c) inserting article and section titles; and (d) updating internal references to reflect the new numbering system, all as set forth in the Final Draft of the Code of the Town of Wenham, dated January 2020, on file with the Town Clerk and available online at www.wenhamma.gov.

ARTICLE ##: Zoning Bylaw Amendment: Recodify Zoning Bylaws

o Article XX: To see if the Town will vote to adopt changes to the Zoning Bylaw as set forth in the Final Draft of the Code of the Town of Wenham, dated January 2020, on file with the Town Clerk and available online at www.wenhamma.gov.

The Planning Board previously held a public hearing and amended and

*Vote: The Board members voted unanimously by roll call to recommended to the Board of Selectmen that the **Bylaw Amendment: Recodify General Bylaws** article and the **Zoning Bylaw Amendments to Recodify Zoning Bylaws** article be placed on the Special Town Meeting Warrant. 5-0-0*

The public hearing was closed.

Approved 10.8.2020

Administrative

- Vote on Reorganization
 - *Ms. Rogers nominated Ann Weeks as Chair. There were no other nominations. Ms. Weeks accepted.*
 - *Mr. Pasquarello nominated Virginia Rogers as Vice Chair. There were no other nominations. Ms. Rogers accepted.*
- Endorse Southern Essex Registry of Deeds Signature form (Missing signatures)

- Meeting Minutes – July 29, 2020 & August 13, 2020

The July 29 minutes were held for review.

Vote: The Planning Board members unanimously voted by roll call to approve the August 13, 2020 minutes as edited.

- Other matters, as may not have been reasonably anticipated by the Chair (Discussion Only)

At their meeting on September 8, 2020 the Board of Selectmen raised their concern regarding the water level of the Wenham Lake, owned by the Salem Beverly Supply Water Board. The Board members supported a discussion regarding the future development in Wenham in relation to the water supply, and restrictions (Water Bans) in the Ipswich Water Shed.

A Wenham Water Commissioner will be invited to attend a future PB meeting to discuss water restrictions, as well as a representative from the Ipswich Water Shed, if possible.

The Board members asked Ms. Hoffman what the PB jurisdiction was related to water issues i.e. condition permits and participate in updating regulations to reflect current conditions.

Ms. Hoffman informed the Board that she applied for a grant to update the Regulations and Best Practices.

- Next meeting October 8, 2020
- Adjourn-*The Board members adjourned at 9:35 pm by roll call vote.*

Respectfully Submitted By

Catherine Tinsley

9.21.2020