

PLANNING BOARD
Minutes of the Meeting
Tuesday, May 4, 2010
Town Hall, 120 Main Street
Top floor conference room
7:00 PM

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Members present: John Simons, Chairman
Richard Rowen, regular member
Timothy Seibert, regular member
Michael Walsh, regular member
Courtney LaVolpicelo, regular member
Michael Colantoni, alternate member

Staff present: Judy Tymon, Town Planner
Mary Ippolito, Recording Secretary

Chair called the meeting to order at approximately 7:10 pm.

Chair called for DISCUSSION:
Redgate Subdivision: Salem Street, Dean Chongris - drainage issue.

Judy: We just got the plan today, and a contract was signed w/Mr. Osgood and Mr. Chongris, PB will read the plan now.

Mr. Osgood: works for Pennoni Associates, signed the contract today, did a site inspection today. Detention pond is in the same state as last year, it's working, full of cat tales, water is going down and it's reasonably empty now, needs to be cleaned. Sediment at 4 bay has been maintained and clean and it's dry. Lot #1 is where water is leaving swale and water running on Cyr property at 835 Salem Street - built berm behind trees, extended swale into woods so all water is intercepted and will not run into Mr. Cyr's property but will run into detention pond.

RR: did the planting of trees mess up the design? Mr. Osgood; recent change is acceptable and will still work. New trees were planted beyond swale. Reseeded area and fertilized, put jute matting in swale.

Judy: observed the site and water was flowing thru stone wall and upward it was coming out in two different spots.

Mr. Osgood; will monitor the project every week.

40 RR: the contract you signed is it for you to be environmental monitor? Mr. Osgood, yes, and to
41 provide a report to PB within 48 hours. Mr. Osgood; will put on slope mix this week and
42 w/clover will hold that hill.

43
44 Judy; on lot #4 looks like erosion of swale? Mr. Osgood; the swale needs stabilization and
45 maintenance - some siltation in there, just needs to be cleaned out. Roadway has eroded along
46 edge of pavement. Mr. Osgood; done swale on lot #1, lot #3 needs to come up w/plan to fix
47 swale. Roadway is in good shape, will put granite curb in for the whole road.

48
49 Simons is here at 7:40 pm.

50
51 Chair: submit a schedule to Judy. Mr. Osgood will do a detailed schedule between now and next
52 PB meeting. Set up a site visit w/Judy and abutters before the next PB meeting.

53
54 MW: is water draining into abutting property? Mr. Osgood: yes, a portion. MW: if abutters
55 don't like what Mr. Osgood is proposing it could be a long process. MW: work it out and make
56 repairs to correct problems -which are causing abutters problems -and make the subdivision
57 work as acceptable to people living there and make subdivision work as designed.

58
59 PB is holding bond to make sure this gets done right; it's the developer's responsibility to fix it.

60
61 Mike Ruhland, 855 Salem Street, direct abutter – extend the French drain.

62
63 RR: pond was designed to pick up drainage of all 4 lots. Mr. Osgood; pond was designed with
64 stone infiltrator in bottom, calculated what water would come out of ground, submitted a plan
65 (for the record).

66
67 Goran Bringert, abutter, 817 Salem Street – heard more words tonight, has difficulty getting a
68 picture in his head to be in sink w/engineers head. Wants to get drawings that show in detail
69 what has to be done. RR: that's reasonable. RR: get property and drainage system back to what
70 it should have been originally create as-built that works.

71
72 Mr. Bringert, was there at 3:30pm today and French drain above lot #3 seeps water along French
73 drain – he sank into 2 to 3 inches of mud.

74
75 Matt Levis, 835 Salem Street; the French drain installed was not on original plans? Mr. Osgood;
76 there was a combination of sub-drains and swales in those areas. Mr. Osgood; will give the plan
77 to Judy so she can get it to Gene Willis, contact abutters and meet w/everyone. Mr. Osgood;
78 there was no maintenance requirements/agreements in 1992 when subdivision first came.

79
80 RR: when Town accepts the road it would maintain the road.

81
82
83 **Chair called for DISCUSSION:**
84 **Berry Street Investments, LLC.; Margaret Fiore, Trustee. 16 Berry Street** –Construction of
85 a definitive subdivision consisting of 14 new dwellings on a cul-de-sac/dead-end road. Judy:

86 had TRC meeting for applicant to get input. Lot #14 driveway would require waiver from
87 Con/Com it's within 50foot buffer. It's in floodplain, applicant talked to FEMA about maps to
88 show as a hazard area. Lot #13 cuts thru middle of open space.

89
90 Calvin Goldsmith, Vice President, GPR Civil & Structural Engineering, 39 Main Street, Suite
91 301, Ayer, MA; Mrs. Fiore (applicant) needs to sell this property, no flooding beyond the limit
92 of flood hazard area. It's within national heritage endangered species habitat, talked to
93 Conservation agent and her reaction is positive and asked that whole area be untouched
94 (Blanding turtles). Cemetery located near (7500 s.f. parcel) and it has historical value, in their
95 deed it talks about preservation of cemetery. Egg masses found it's a vernal pool and flagged it -
96 there is 75 foot buffer from vernal pool. New sewer line will run on property. Will have to
97 repave street.

98
99 Chair: are you filing preliminary subdivision application? Yes. Owners want to file ANR
100 application also; the lots there are 25k+ s.f. lots.

101
102 Chair; open space area has been filled over the years, family is happy to see the riding academy
103 preserved in the open space area. Chair; two back lots look awkward, you get frontage from one
104 road but access it from another? Applicant looked at PRD application but frontage is a problem.

105
106 CL: lot #7 and# 8, houses look close to where end of cul-de-sac is being proposed, would be
107 helpful if you located them on your plan for visual aid so that what you are proposing isn't going
108 to be too close to their back yard.

109
110 Leave the paper street the way it is.

111
112
113 **Please note; Michael Walsh recused himself from 300 Chestnut Street and 203 Turnpike**
114 **Street.**

115
116 **Chair called for CONTINEUD PUBLIC HEARING:** Clear Wireless LLC, is requesting
117 a Special Permit for the following premises.

118
119 Judy: noise report reduced to below 50 to 47 decibel to meet requirements of Bylaw, got letter
120 from Building Inspector regarding setback requirements and pre-existing structure (read into
121 record).

122
123 Heather Carlisle, Representative for Goodman Networks on behalf of Clear Wireless, noise level
124 will be under 50 decibel reading, noise level is below allowed level they will erect a 3 sided
125 fence to decrease noise - Judy; see table 5 page #3. MC: correction, fence will be 10 feet high.

126
127 Steve Tryder; 386 Chestnut St., put up a map of North Andover...Mr. Tryder; why has MW
128 recused himself? Chair; his wife works for a cable company doesn't want a hint of
129 inappropriateness. ..CL; relative to Clear-channel- his wife has a business relationship with them.

130

131 Mr. Tryder; is Building Inspector the one who makes decision regarding how you administer the
132 Bylaw? Chair; he's the Zoning Enforcement Officer. He's not part of decision making authority
133 on the PB.

134
135 Mr. Tryder: why isn't Building Inspector here? Chair; because he sent a letter.
136

137 RR: there is one specific ruling he made as Zoning Enforcement Officer, it's whether or not this
138 installation should go to the ZBA for a variance. He made a ruling as Bldg. Inspector that it did
139 not have to go to ZBA because it's on existing structure - then it's a normal application for a
140 Special Permit. Mr. Tryder; why did previous Building Inspector have a different interpretation
141 of the same bylaw that required a variance from Sprint and Cingular? Chair; that may be true but
142 it's moot, because this is the application that we have in front of us now.

143
144 Mr. Tryder; interpretation of law depends on who is Building Inspector? Chair; this current
145 Building Inspector interpreted the law.

146
147 Mr. Tryder; the Building Inspector said minimum setback of 600 feet whether attached to new or
148 existing structure etc. - when there are two interpretations the more specific in court is what
149 you're supposed to follow etc.

150
151 Chair; we went to court on exactly this issue, court was emphatic on this issue in supporting PB
152 and PB was compelled to issue the permit etc. Mr. Tryder; that case had to do with an antenna
153 on the steeple, it's not up to PB to make that distinction and it's based on Building Inspector
154 telling you it's the way it has to be interpreted.

155
156 Mr. Leate; RF engineer for Clear Wireless, T. Mobile is located on the map, several installations
157 are on that site.

158
159 time is 8:45 pm

160
161 Mr. Tryder: you can't show him where the antennas are on the list of recorded antennas? Judy:
162 there are recorded antennas on 203 Turnpike Street. Mr. Tryder: pointed to a spot on the map.

163
164 Chair: demonstrated place on Turnpike Street that will cover certain areas, place on Chestnut
165 Street will cover such and such an area they have room for future capabilities such as Boston Hill
166 etc. Mr. Tryder: how far out does signal extend from antennas? Mr. Leate, RF engineer, 140
167 feet on existing structure.

168
169 RR: what is the point you are driving at? Mr. Tryder; how far out does the signal extend form
170 the antenna? RR; it goes forever you need certain power level in order to get a signal.

171
172 Engineer: the map shows the coverage. Engineer: coverage map is up to a mile or quarter of
173 mile....Mr. Tryder; how far from Chestnut Street to Marbleridge Road? RR: roads show on that
174 map you can get a feel from that. RR: that has nothing to do with this and it doesn't matter. Mr.
175 Tryder; they chose to go right in the middle of a densely populated residential neighborhood. Mr.
176 Tryder; look at another site other than the Chestnut Street tower. How many antennas can

177 Chestnut Street hold on that tower? Why couldn't it go on Boston Hill? Map produced by PD is
178 dated 2/16/2010 things are missing on map. Pointed to color coding sites on maps, consider
179 having them look at another site that isn't in the middle of a residential neighborhood, Chestnut
180 St. tower is loaded with stuff.

181
182 Mr. Tryder; could tower have potential to fall by putting more stuff on it? Site hasn't been
183 examined physically. Mr. Tryder; read engineering structural integrity analysis reportin
184 conclusion this is not a condition assessment of Tower and its foundations....etc. the report was
185 submitted by SBA Network Services....

186
187 Judy: read report on page 3 ... Judy; with current loading and proposed conditions of Clear
188 Wireless the Tower at 144 feet and 140 feet - the tower meets requirements and currently meets
189 the standards of Anti Standard TIA/222/G standards and foundations should have the necessary
190 capacity to support loading of towers, as per Sterling Engineering Modifications drawings.

191
192 Chair; we have a professional engineer who's reputation and livelihood depends on honest
193 testimony - do you have credible evidence confirming that what that person said was not
194 accurate? Mr. Tryder: read excerpt from reportetc. wants information checked. Mr. Tryder:
195 doesn't trust anyone who doesn't do a live examination.

196
197 Judy: had conversation w/several tower companies, and told her they do comply w/this Anti
198 Standard for a tower of this type and they do structural inspections when new equipment is
199 added.

200
201 Mr. Tryder; don't know maximum amount of antennas on this tower? RR: these will not put it
202 past its structural limit. Mr. Tryder; signal will go out a mile? - Coverage maps don't show how
203 far the signal goes out? Pointed out 24 possible locations on map and doesn't include Weir Hill.
204 RR: There is no obligation on the part of applicant to do that.

205
206 Mr. Tryder; does this have effect on property values?

207
208 RR; you're not bringing up any points that are germane to this application. RR: you bought your
209 house after the tower was already there.

210
211 Chair: will entertain a motion to close each SP separately and to close the public hearing on
212 them.

213
214 **300 Chestnut Street**, Special Permit for installation of a wireless service facility consisting of
215 six antennas and one equipment cabinet

216 **Motion by TS, 2nd by RR to close public hearing, vote was unanimous. MW recused**
217 **himself.**

218
219
220 **203 Turnpike Street**, Special Permit for installation of wireless service facility consisting of
221 four antennas and one equipment cabinet.

222 **Motion by TS, 2nd by RR to close public hearing, vote was unanimous. MW recused**
223 **himself.**

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226 Judy: Mr. Tryder can come to the Planning Department office tomorrow.

227

228 Mr. Tryder; made a remark! Chair; Mr. Tryder is out of order and it's unprofessional. You
229 disgrace yourself - and you're wasting our time - you're acting like a fool.

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233 **Chair called for Article 4. Authorization to Accept Grants of Easements.** To see if
234 the Town will vote to authorize the Board of Selectmen and the School Committee to accept
235 grants of easements for access, water, drainage, sewer, roadway and utility purposes on terms
236 and conditions the Board and Committee deem in the best interest of the Town;

237 Or to take any other action relative thereto. Board of Selectman

238 **Motion for favorable recommendation by MW, 2nd by TS, vote was unanimous.**

239

Favorable Unfavorable

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241

242 **Chair called for DISCUSSION:**

243 TS; talk about the upcoming meeting this Thursday. MW: go over it so he knows expectations
244 by PB. Judy: Moderator (Charlie Salisbury) wants to know who will be giving presentations,
245 who will make motions. Several articles particularly zoning articles put forth by the Building
246 Inspector - Gerry Brown. Curt will speak to those motions. This meeting will take place this
247 Thursday. Chair; wireless article will take the time and Atty. Urbelis will do that one. Then
248 maybe some discussion on drive-thru thing but that's a side thing other than that there is nothing
249 that PB will do presentations for.

250

251

252 **MINUTES:**

253 April 20, 2010

254 **Motion by TS to approve "Minutes" for April 20th as written, 2nd by RR, vote was**
255 **unanimous.**

256

257 **Mr. Tryder requested ANOTHER DISCUSSION:**

258 Mr. Tryder: see T Mobile on Johnson Street - SP decision was originally granted on Oct. 25th
259 2006. There is no document of such nature that exists.

260

261 Judy: there was a typo on that decision regarding that date - it was corrected and taken to the
262 Town Clerk's office and time stamped. MW: if you call Judy for the exact date she will provide
263 it to you. Mr. Tryder; it's a big mistake; this permit is for nine antennas? How many antennas
264 were approved? Chair; that was a completed hearing, if you object to a decision then you know
265 what your legal recourse is. Chair; if you think those things merit review then you know your
266 recourse.

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268 Motion to adjourn by RR, 2nd by TS, vote was unanimous, meeting adjourned at approximately
269 9:30 pm

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By order of the Planning Board

Approved

Please note: the Planning Board reserves the right to take items out of order and to discuss and/or vote on items that are not listed on the agenda.