

Call to Order

The Planning Board Meeting was called to order at 7:30 PM on March 9, 2021 via Cisco Webex online video conferencing platform. Present were Chair Zach Bergeron, Vice Chair Rocky Leavitt; members: Ann Knowles, Vincent Chiozzi, Neil Magenheim, and associate Morgan von Prella Pecelli. Also present was Jacki Byerley, Planner; Paul Materazzo, Planning Director; Lisa Schwarz, Senior Planner; Tony Collins, Associate Planner; and Tom Urbelis, Town Counsel.

60 Canterbury Street – Special Permit for a Multi-family Attached Cluster (SP20-03) and a Special Permit for Disturbance of Slopes in Excess of 35% (SP20-04)

Doug Lees and Kathryn Morin were present for the discussion of this item. Mr. Lees provided slope calculations and sewer capacities for the site.

Kathryn Morin began the discussion on the protection of land pursuant the conservation restriction (CR). The information she was able to gather did not clearly answer the question that was left open from the previous meeting. She was able to locate the 1991 restriction application, but the Executive Office of Energy and Environmental Affairs (EOEEA) could only provide limited information. Ms. Morin mentioned that most of the information from 1991 has probably not been digitized. She was unable to locate any information regarding the agreement between the Town and the applicant.

Ms. Morin stated that the next steps would be to formulate a plan to move forward with the EOEEA to formulate a new restriction – following the current template and add additional information – and submit to EOEEA for approval. The 1991 restriction is mentioned in most of the current restrictions and accepted by the Town of Andover Conservation Commission and Select Board (2014). The Planning Board never accepted the restriction and the EOEEA has never accepted the restriction and it has never been recorded at the Registry of Deeds. Ms. Morin was unable to find out why and how the application process stopped at this point. Ms. Morin stated that the applicant should submit an updated version of the 1991 restriction and revise the impending Frenchman's Reserve restriction to include, in both, a grant to the Town to extend the effectiveness of those restrictions. By regranteeing those restrictions and existing restrictions we would be restarting the 30-year clock. Then, we would submit the restrictions for EOEEA approval. Ms. Morin also pointed out that there was no indication that the applicant purposefully or knowingly didn't abide by permitting requirement. She stated that the processes for moving forward both meet the spirit and intent of what was meant to happen.

Mr. Urbelis stated that there were 3 issues in front of the Board. First is the 1991 restriction on a large portion of the land. The information provided by Ms. Morin was very informative to him. He pointed out that the applicant applied to the EOEEA, and the application was approved conditionally. There were three conditions upon approval – a survey of the land, inclusion of a description of the property, and copies of the special permit for the property. There was no submission to comply with those three conditions. The failure to submit the conditions explains why the 1991 restriction was not approved. The property is not burdened by the restrictions because the restriction was never recorded with the Registry of Deeds. Mr. Urbelis continued by stating that this was a problem that needed to be remedied immediately. There is no reason to wait for anything. Mr. Urbelis went on to state that the 2014 restriction had not been submitted to the EOEEA even though the applicant made a commitment to the Town to do so. After 7 years there is no documentation that was found in regard to this restriction. It was not until March 3, 2021, that it was brought to the Planning Board's attention that there were no

applications in the past 7 years. Mr. Urbelis stated that history should serve as a warning and that the applicant should make sure that nothing that happened in the past will happen again.

Mr. Urbelis stated that the Board should consider, if they approve the Club View (60 Canterbury Street) application, a condition should be that prior to any building permit, the the conservation restriction should be filed and the EOEEA approval should be achieved. If the EOEEA does not approve the application, that will then put the obligation on the Town to file documents at the Registry to make sure that the restriction does not expire after 30 years.

Ms. Morin responded to Mr. Urbelis' comments by restating that her proposal to recreate the 1991 restriction and resubmit the application will happen immediately. Regarding the 2014 restriction, Ms. Morin stated that the lack of evidence does not mean that nothing has been done. Ms. Morin also pointed to the fact that EOEEA approval is not guaranteed. If approval is not gained, then construction does not go forward.

Ms. Byerley asked whether the conservation restriction will protect the other projects associated with the Andover Country Club. Also, she asked for more information on the trails and open space in regards to whether or not they will be included in the EOEEA application.

Mr. Chiozzi stated that we want to make sure that the Town is protected.

Mr. Leavitt stated that without the approval from the EOEEA, he doesn't think there is any way to guarantee these restrictions will last in perpetuity.

Mr. Urbelis stated that the Board had two projects that received EOEEA approval. The Lowell Street Project and the Elm Street Project were properly approved and currently have CRs.

Mr. Leavitt pointed out that the 1991 application was approved with conditions. Now, the approval cannot be found. He also stated that he is not sure why there is hesitancy (by the developer) to submit to the EOEEA.

Ms. Byerley stated that we need to obtain more information in regard to the conservation restrictions. She also asked if the Board has any questions in regard to other aspects of the project. She added that there are other things to review.

Mr. Chiozzi asked if Mr. Urbelis was satisfied with the answers from the applicant. Mr. Urbelis stated that he was not hearing that the applicant conceded that the application was not submitted. The Town was satisfied with the information received regarding the private easement on Legends Way.

Ms. Knowles asked if the Board was satisfied with the current public benefit of the project. Mr. Leavitt stated that the Board has asked about the possibility of including sidewalks within the development, but the applicant has chosen not to include that. Mr. Bergeron asked if the Board is satisfied with no sidewalks as proposed. Mr. Leavitt stated that he would like to see a sidewalk onsite. Ms. Knowles asked if the sidewalk should go up to the drive or into the housing development. Mr. Lees stated that he didn't believe there was a requirement for sidewalks and the road has been narrowed with the addition of parking.

Ms. Byerley asked if there would be enough room to provide a path to the mailboxes. Mr. Lees asked if there would be agreement with the possibility of providing a pathway behind the units. He would have to look at the width and the grading.

Mr. Leavitt asked what would be visible from the low point on Andover Country Club Lane. Mr. Lees stated that the applicant has planned to plant evergreens to create a buffer to screen the parking lot. Mr. Lees stated that the pine trees will come down and will be replaced with new evergreens. Ms. Knowles asked if the selected evergreens will have branching lower to the ground. Mr. Lees stated that they would and they would act as more of a screening tree.

Mr. Bergeron asked to continue the discussion. Mr. Magenheim made a motion to continue the public hearings to the April 13, 2021 at 7:30 PM and April 27, 2021 at 7:30 PM. Mr. Bergeron conducted a roll call vote with all members voting affirmatively. Vote: 6-0

Town Meeting

Mr. Materazzo stated that Town Meeting will take place on June 5, 2021 at a location outdoors. At upcoming Planning Board meetings, the planning staff will present articles relative to the Planning Board. The Planning Board will also vote to take a position on certain Town Meeting warrant articles.

Town Yard Disposition

Mr. Materazzo stated that the Town Yard Request for Proposals has formally been released and the Town expects to receive proposals in coming months. The Planning Staff has also put together a webpage with public information.

Ms. Knowles asked if there has been interest in regard to the Town Yard. Mr. Materazzo stated that there has been a lot of inquiries, but now that he is on the Town Yard Selection Committee he is restricted from discussing the RFP with potential developers.

Mr. Leavitt asked if the tiered approach was typical of the RFP process. Ms. Schwarz stated that the Town's consultant, McCall and Almy, helped refine the RFP process to make sure interested developers are invested in the process.

Shared Streets

Mr. Collins presented the potential for a shared streets pilot project. The Town will be holding a community event to present the concept to the public.

Route 133 Project Update

Mr. Materazzo stated that TEC, the engineering consultant, is working on the 25% design.

Old Town Hall Parking Lot Update

Ms. Schwarz stated that the Town will begin construction in a phased approach.

Adjourn

Mr. Leavitt made a motion to adjourn. Mr. Magenheim seconded the motion. The Board conducted a roll call vote and all members voted affirmatively. Vote: 6-0

Documents

60 Canterbury Street

Town Counsel Memo 3.5.21.pdf

Second Response Email KMorin 3.9.21.pdf

Response Email KMorin 3.8.21.pdf

Email from Kathryn Morin to Jacki Byerley – 2.12.2021

Email from Tom Urbelis to Kathryn Forina, Jacki Byerley, and Paul Materazzo regarding the easement over the Greenbelt – 2.11.2021

Memo from Paul Materazzo to Planning Board – 4.5.2004

Memo from Paul Materazzo to Carol McGravey – 5.12.2004

Memo from Kathryn Morin to Jacki Byerley – 3.3.2021

Email from Kathryn Morin to Tom Urbelis – 3.9.2021

Water Servicing Sketch – 2.15.2021

Site Development Plan – 2.2.2021

Memo from Doug Lees to Planning Board – 2.15.2021

Title certification – March 7, 2021

Town Meeting

2021 ATM Preliminary Warrant

Warrant Schedule.xlsx