

**Call to Order:**

The Planning Board Meeting was called to order at 7:06PM on May 24, 2022 via Cisco Webex online video conferencing platform. Present were Chair Zachary Bergeron, Vice Chair Rocky Leavitt; Members Ann Knowles, Vincent Chiozzi, Jr. (via phone call), and associate Morgan von Prella Pecelli. Also present were Jacki Byerley, Planner, and Tom Urbelis, Town Counsel.

**CONTINUED PUBLIC HEARING:****Fleming Avenue – Bond Taking:**

Mr. Bergeron opened discussion on the abovementioned project to review progress to date. Ms. Byerley provided a summary of the construction update that Doug Ahern, resident at 62 Argilla Road and developer for this project, had submitted in writing to the Planning Board earlier in the day. Since the prior hearing on May 10, 2022, Mr. Ahern had held discussions with the Tree Warden, Town Engineer, Town Inspector, and the Conservation Commission's Peer Reviewer. Additionally, a check had been submitted to the Conservation Commission and Lowell Five Bank renewed the bond with a 1-year extension through July 2023. Due to these recent developments, Ms. Byerley advised the Planning Board to continue the public hearing to monitor Mr. Ahern's progress instead of taking the bond. Mr. Ahern provided additional detail and noted that a 3-4-week delay in obtaining granite could slow his progress. Ms. Byerley requested that reports from the Department of Public Works (DPW) and the Conservation Commission are provided prior to the next hearing.

Mr. Bergeron proceeded to open the public hearing to comments and questions from the community. Christos Kalavantis, resident at 31 Fleming Avenue, inquired on when people would be on his property and requested that specific dates be provided. Mr. Ahern responded that small stakes would be placed in yards to show where trees would be planted and he would inform the residents on when this would occur, as well notify them when the granite is delivered.

Aishwarya Hegde, resident at 28 Fleming Avenue, asked about maintenance of the common areas and referred to an account that residents had contributed funds to at their closings. He added that many neighbors were unaware that a Homeowners Association (HOA) had been established. Mr. Ahern responded that a walk through with the Conservation Commission would be forthcoming, and the HOA turnover would occur following street acceptance. Ms. Byerley added that an HOA had been recorded at the Registry of Deeds which should have been communicated by the realtor at closing. Per Mr. Kalavantis, they were told that the funds paid were a one-time fee. Mr. Leavitt advised residents to review their deeds and stated that this matter does not involve the developer.

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board unanimously voted to continue the public hearing to July 28, 2022 at 7:45PM. **Vote: (5-0)**

**CONTINUED PUBLIC HEARING:****25 Phillips Street – Phillips Academy – Site Plan Review (SPR22-01):**

The applicant requested to continue the public hearing without discussion to the Planning Board meeting on June 14, 2022.

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to continue the public hearing without discussion to the June 14, 2022 meeting at 7:30PM. **Vote: (5-0)**

**DISCUSSION ITEMS:****Minutes:**

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board unanimously voted to approve the minutes for the March 8, 2022 meeting. **Vote: (5-0)**

**Planning Board to Review Estoppel Certificate for 139 Elm Street on behalf of CSH Andover LLC:**

Ms. Byerley stated that this discussion item would need to be delayed as Andover Community Trust was awaiting two signatures to provide final approval of the annual report on the affordable units. Mr. Urbelis expressed concern with the timing as the Planning Board is granted 30 days to respond or the certificate of compliance would be deemed to be met, per a condition of the Affordable Housing Restriction. He advised that a request for an extension through June 28, 2022 be submitted, and Ms. Byerley responded that she would make said request with the attorney. The Planning Board agreed to place this discussion item on the agenda for the June 14, 2022 meeting wherein representatives from CSH Andover LLC and Andover Community Trust would be present to attest to the accuracy and validity of the 7 points listed in the estoppel certificate.

**CONTINUED PUBLIC HEARINGS:****22 William Street – Definitive Subdivision Plan (PL22-3369) and Special Permit for Earth Movement (SP22-06):**

The applicant requested to continue the public hearings without discussion to the Planning Board meeting on June 28, 2022.

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to continue the public hearing without discussion to the June 28, 2022 meeting at 7:30PM. **Vote: (5-0)**

**DISCUSSION ITEMS:****Other Planning Related Topics:**

Ms. Byerley provided her assessment of why Town Meeting Warrant Article P21 – Zoning Bylaw Recodification did not pass at Annual Town Meeting on May, 18, 2022. She stated that some cross-reference mistakes were present; however, there were no policy changes, as claimed by Andy Rouse, resident at 5 Cattle Crossing. The Planning Board expressed disappointment with the outcome and proceeded to discuss how to prevent this from happening in the future. Members also reviewed next steps whereby the article could be presented at a possible Special Town Meeting in the Fall, and Ms. Byerley outlined the process for revising the final draft that was approved on March 21, 2022. She added that ideally the Zoning Bylaw Recodification would pass prior to a rewrite, which is the next phase of this project.

**CONTINUED PUBLIC HEARING:****140 Haverhill Street – Special Permit for Major Non-Residential Project (SP21-04):**

Based on information provided by Ms. Byerley earlier in the day regarding the number of voting members that would be present at the meeting, the applicant decided to request a continuance of the public hearing without discussion to the Planning Board meeting on June 14, 2022.

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to continue the public hearing to the June 14, 2022 meeting at 8:00PM. **Vote: (5-0)**

The Planning Board agreed to pause for a brief intermission at 7:51PM and reconvened the meeting at 8:01PM.

#### **CONTINUED PUBLIC HEARINGS:**

##### **Sellers Farm Estates – Definitive Subdivision Plan Modification (PL22-3370) and Special Permit for Earth Movement (SP22-08):**

The applicant requested to continue the public hearings without discussion to the Planning Board meeting on June 14, 2022.

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board unanimously voted to continue the public hearings without discussion to the June 14, 2022 meeting at 8:15PM. **Vote: (5-0)**

#### **EXECUTIVE SESSION:**

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board voted at 8:04PM to go into Executive Session pursuant to Purpose 3 for confidential communication with Counsel to discuss strategy with respect to litigation filed by Yvon Cormier and not to reconvene in Open Session, and that the Chair declare that an open session may have a detrimental effect on the litigation position of the Town. Mr. Bergeron stated, "I do declare." **Vote: (5-0)**

#### **Adjournment:**

On a motion by Ms. Knowles, seconded by Mr. Leavitt, the Planning Board unanimously voted to adjourn the meeting at 8:51PM. **Vote: (5-0)**

**Documents:**

**Fleming Avenue – Bond Taking**

- Memorandum from Jacki Byerley to the Planning Board RE: Performance Guarantee – 5.3.22
- Memorandum from Doug Ahern to the Planning Board RE: Project Update – 5.24.22
- Memorandum from Lowell Five Bank to the Planning Board RE: Extension of Credit – 5.24.22

**25 Phillips Street - Phillips Academy**

- Continuance Request – 5.16.22

**Minutes**

- March 8, 2022 Planning Board Minutes

**139 Elm Street Estoppel Certificate**

- Continuance Request – 5.26.22

**22 William Street**

- Continuance Request – 5.16.22

**140 Haverhill Street**

- Continuance Request – 5.24.22

**Sellers Farm Estates**

- Continuance Request – 5.16.22

**Miscellaneous**

- Planning Board Agenda