

Town of Sharon Planning Board
Minutes of 8/14/13
Amended and Approved on 8/28/13
Sharon Community Center
Filmed by SCTV

Planning Board Attendees

Ben Pinkowitz, Clerk	Anne Bingham
Rob Maidman	Pat Pannone, Chair
David Milowe	Peter O'Cain, Town Engineer

Other Attendees

Cindy Amara	Daniel Seigenberg, Attorney for Camlin Development, LLC
Joe Garber Contractor for Pizzagando	

Opening

Chair Pat Pannone called the meeting to order at 7:30 PM and read the Chair's report.

Minutes

Mr. Milowe moved to accept the minutes of 7/31/13 as amended. Ms. Bingham seconded the motion. The Board voted 3-0-1 in favor of acceptance.

Scenic Road Public Hearing – Tree Removal 54 South Walpole

Clerk Pinkowitz read the legal notice for the hearing as appeared in the Sharon Advocate regarding the tree removal at 54 South Walpole Street.

Ms. Bingham moved to open the public hearing at 7:45PM and Mr. Milowe seconded the motion. The Board voted 5-0-0 to open the hearing.

Mr. O'Cain said he will be filling in for the Tree Warden. He said the tree at 54 South Walpole Street is rotted at the base. It is a public safety issue as it is near to a utility pole. As it is on town property, he said the Town is going to remove the tree and pave the road. It will take some time to have the utility company remove the pole.

Ms. Bingham moved to close the hearing at 7:50 PM and Mr. Milowe seconded the motion. The Board voted 5-0-0 in favor of closing the hearing.

Mr. Milowe moved to approve the removal of the tree at 54 South Walpole Street. Ms. Bingham seconded the motion. The Board voted 5-0-0 in favor of removal of the tree.

Bella Estates Discussion

Cindy Amara, Town Counsel, provided an updated status regarding the issues at Bella Estates. She said that she is currently working with two entities; Camlin Development and 155-157. Camlin development purchased 6 lots that had been in bankruptcy. They entered into a letter agreement with Building Inspector Joe Kent to do stabilization, erosion control and safety measures on their site.

Mr. O'Cain confirmed that Camlin put windows in a few buildings and worked on the water issue. It is all to benefit the town he said. No permits however have been issued. Ms. Amara said that the main issues causing the runoff to the neighbors have been addressed to the satisfaction of Joe Kent and Peter O'Cain.

Mr. O'Cain said that lot 4 is close to completion.

Ms. Amara said the major problems were a result of non- completion by the previous owners. She said that a structural engineer is working with Joe Kent to identify all issues. Lot 13 had a failed foundation but a solution is being worked on.

Ms. Amara stated that 155-157, owner of the subdivision and the permits has one lot that is not developed. Work is needed on the roadway, lighting and sidewalks. This agreement has not yet been finalized.

Ms. Bingham asked what the sticking points are and Ms. Amara said that the cost of paving the roadway and potential issues between 155-157 and the previous owners, is the issue. She said that 155- 157 does not want to pay twice for paving as they feel they paid the previous owners. She is unaware of any technical reason why they cannot meet their schedule. She said they are trying to get the lighting and sidewalks done.

Mr. Milowe asked how the roadway paving process gets moved along.

Ms. Amara said the Town is trying to get the work schedule done. She discussed the agreement and construction schedule.

Ms. Bingham said the bottom line is that the Board has the control to take the bond for 155-157 and use the funds to complete the work.

Mr. Milowe said after they agree to the lights and sidewalks, what about the road?

Ms. Amara said the Town is trying to move it along and is working to make things fall into place. She said that is all she can answer.

Mr. O'Cain said he does not want to wait for October to get the schedule that goes into next year.

Ms. Amara said there are no issues on the Camlin lots as they have moved things along. The Attorney representing Camlin addressed the Board asking that permits be granted to them as his client has been compliant.

Mr. Maidman said he views both 155-157 and Camlin as a unit. He said if one group lags and does not do the work, then another winter goes by. He stated what leverage does the town or board have to make the work get done.

Ms. Amara said you cannot treat both entities as one. She is optimistic that agreements will be reached.

The issue of the bond being called was briefly discussed by the Board. Ms. Amara said at this time she did not feel confident to discuss what the details of recalling the bond would be but would look

into the issue.

Mr. Maidman said he is concerned there is no definitive date for the conclusion of this process.

Mr. Milowe said that the Board has sat through multiple meetings for years with 155-157 and they do not live up to their agreements. He is concerned this will continue to linger on.

Ms. Amara said she is trying to put a time frame and enforcement on this and If not then the Board can call the security bond.

Mr. Pinkowitz said that from the sidewalk and lighting issue it may make sense to wait to do the top coat if Camlin is still building their lots. He asked Ms. Amara if she can suggest a separate agreement so that paving is separate from the sidewalk, landscaping and lighting items.

Ms. Amara agreed to work on a separate agreement for paving of the road.

Mr. O'Cain said that Joe Kent asked if the Board would vote to not allow permits until the lighting and sidewalks are done.

Ms. Bingham said she would support Joe Kent in not issuing permits. She said she does not see the incentive for 155-157 and is not in favor of giving them another chance.

Dan Seigenberg, Attorney for Camlin stressed that 155-157 is a separate entity. He said Camlin should have the right to continue to build as they have a two million dollar mortgage and they need to sell their lots.

Mr. Pannone said Camlin is proceeding according to their agreement and Joe Kent is happy – but Mr. Kent does not want permits issued.

Mr. O'Cain responded that Mr. Kent does not want any building allowed until the infrastructure is completed.

Attorney Seigenberg said 155-157 had sued Camlin for a restrictive covenant and they want a percentage of each lot sold to be paid to them. He discussed the Camlin development structure and suggested that maybe Mr. Intoccia is familiar with the Camlin owners. He again disagreed with lumping 155-157 with Camlin.

Mr. Pannone said he understands but Camlin is wrapped up in the sidewalks, lighting, etc. because 155-157 had not completed their obligation.

Mr. Seigenberg suggested taking the bond.

Mr. Pannone said if the Board votes to pull or modify the special permit then more damage can be done.

Ms. Amara said she understands the Board's frustration. She said timing, history, the economy have all compounded what is going on. If the Board wishes to vote to hold a Public Hearing to amend, modify or suspend the special permit they can do so. She suggested the Board is probably looking to modify the terms of the agreement but the discussion is premature without the public

hearing being noticed.

Mr. O'Cain said the goal is to get the bond money. He asked if there is any purpose to revoke or modify the special permit if we can just pull the bond.

Ms. Amara said she could not answer that question at this time.

Mr. Milowe said the key is Mr. O'Cain's question. If we hold a hearing to change or modify the special permit, does it bring us closer to pull the bond? He said he wants to understand the end game if the work is not going to be done by 155-157.

Ms. Amara commented that it depends on the outcome of the hearing.

Mr. Pannone asked how does modifying the special permit get us any closer.

Ms. Amara commented that if the town agrees there is a nuisance on the property there are enforcement actions that can be done. She said the Board of Health has the general authority to take care of nuisances.

Mr. Milowe said he feels we should hold the public hearing. He wants a better understanding of what the actions might be. He does not think 155-157 has any interest in completing the project.

Mr. Maidman suggested that if it is conveyed to the parties that a public hearing is set, that would provide leverage but he does not want to remove the legs of resolution.

Mr. Pinkowitz commented that voting to hold a public hearing will put a deadline on meetings between Town Counsel and the developer. It will be more leverage for Town Counsel.

Mr. Pannone said that the public hearing could shut down negotiations all together.

Mr. O'Cain asked if there is a pathway to pull the bond prior to waiting an additional two years. He said modifying or changing the special permit is just moving chairs. There is nothing that can be put in the special permit to spell things out more clearly than what is already there.

Mr. O'Cain said he will pursue the Board of Health regarding the public nuisance issue.

Mr. Pannone suggested that the Board tread lightly and be cautious as the overall goal is the health and safety of the people living at Bella Estates.

Mr. Milowe moved to see if the Board will hold a public hearing pursuant to M.G.L. ch. 41, Section 81W, to consider amending, modifying or suspending its Decision for Modification of Special Permit Pursuant to Section 4371 of the Zoning By—Laws, dated August 4, 2009, Owner, 155-157 North Main Street Sharon Holdings LLC. Mr. Pinkowitz seconded the motion and the Board voted 5-0-0 in favor of holding a public hearing.

Pizzagando Application

Joe Garber contractor for Pizzagando came before the Board to discuss painting of Pizzagando due to roof issues that caused the back side of the façade to deteriorate. A brief discussion ensued. Mr. Maidman moved to accept the Pizzagando proposal to paint Kennebunkport Green

HC 123 and Wyndham Cream HC6. Mr. Pinkowitz seconded the motion. The Board voted 5-0-0 in favor.

Next Meeting Dates

8/28, 9/11, 9/25, 10/9, 10/25

Adjournment

Mr. Milowe moved to adjourn the meeting at 9:10PM. Mr. Pinkowitz seconded the motion. The Board voted 5-0-0 in favor of adjournment.

Attachments

1. Pictures for public hearing for tree at 54 South Walpole Street.