

Town of Sharon Planning Board
Draft Minutes of 9/25/13
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

Attorney Gelerman	Attorney Amara
Israel Yaar 53 Lantern Lane	Mr. Belov 47 Bella Road
Arthur Kesselman 24 Bella Road	Attorney Reef
Bill Fowler	Mr. Sakamuri 35 Bella Road
Mr. Singh 60 Bella Road	Jim Spoto 61 Lantern Lane
Mr. Pigpenko 31 Bella Road	Audrey Rude 153 North Main Street
William Welch 59 Bella Road	Attorney Seigenberg
Badri Jachari 52 Bella Road	S. Josyula 67 Bella Road
S. Gadepali 39 Bella Road	Gary Raberov 11 Bella Road
s. Sakhamuri 35 Bella Road	Mr. Kulkarni 48 Bella Road
R. Amarthuluru 71 Bella Road	G. Pottapalem 43 Bella Road

Opening

Chair Pannone welcomed all to the 9/25/13 Planning Board Meeting.

Minutes

Mr. Milowe moved to accept the minutes of 9/11/13. Mr. Pinkowitz seconded the motion. The Board voted 4-0-1 in favor of approval.

Mr. Milowe moved to approve the Executive Meeting Minutes of 9/11/13. Mr. Pinkowitz seconded the motion and the Board voted 4-0-1 in favor.

Public Hearing

Mr. Milowe moved to open the Public Hearing. Mr. Pinkowitz seconded the motion and the Board voted 5-0-0 to open the Public Hearing.

Mr. Pinkowitz read the legal ad.” *The Town of Sharon Planning Board will hold a Public Hearing on September 25, 2013 to discuss the status of the Special Permit for Bella Estates. Discussion will include possible amendment, modification or rescinding the Special Permit for Bella Estates which is located off of North Main Street. The hearing will be held at 7:35 PM on the 2nd floor of the Sharon Community Center, 210 Massapoag Avenue. If you have any questions, please contact Town Engineer Peter O’Cain. “*

Mr. Pannone provided a review of the issues at Bella Estates such as erosion control, lighting, sidewalks, roads and drainage. He said the topic tonight is to discuss if the special permit should be modified to keep the contractor moving or should we go after the existing bond. The Board reviewed the Revised Special Permit Conditions document dated September 2013 starting with lighting, item #2.

Bella Estates
Revised Special Permit Conditions
September 2013

MOTION: That the Planning Board moves to amend its previous Decision on Application for Modification of Special Permit dated August 4, 2009 ("Permit"), as follows:

1. 155-157 North Main Street Sharon Holdings LLC ("Owner"), having a mailing address of 12 Clock Tower Place, Suite 200, Maynard MA shall comply with all Specifications set forth on the Definitive Subdivision Plan, approved by the Planning Board on October 27, 2010, and the Stormwater Prevention Plan referenced therein. To the extent this Amendment imposes different time frames or requires additional work of the Owner, the provisions of this Amendment shall be in addition to or supersede the foregoing.
2. Lighting. The Owner shall install all concrete light bases, wiring, hand holes and streetlights on all lots not later than November 21, 2013. Failure to connect to NSTAR transformers by November 21, 2013 will not be considered a failure to complete this item. The Owner shall bring the wiring and conduit to the transformer box and daylight wiring for future connection, if needed. The Owner shall provide the Town Engineer with proof of an order and payment for the lighting within 30 days of approval of this document Failure to comply with these provisions, after written notice to Owner and the expiration of a 7 day cure period, shall entitle the Town to proceed against Bond # 5036322 to obtain the necessary funds to complete the work.
3. Erosion Control and Drainage. The Owner shall forthwith commence, and shall complete the following erosion and sedimentation measures: a: clean all catch basins prior to November 21, 2013; b: install two silt socks and maintain their function by removing accumulated deposits prior to November 21, 2013; c: remove sediment deposits from the detention basin; d: pump out turbid water within the detention basin through a series of floc logs and let treated water back into the basin; e: add floc logs around the inlet and outlet of the detention basin, and f: add floc logs and PAM along the level lip spreader.

Erosion and sedimentation control on the areas between the subdivision and Huntington Avenue and upon all lots owned by the Owner shall be completed by May 15, 2014. All such work shall be done to the reasonable satisfaction of the Conservation Agent, and shall be maintained by the Owner during the course of its work. The Owner shall provide to the Conservation Manager an emergency contact person and contact information for compliance with this provision. The Owner shall loam and seed lots 19, 21 and 22 not later than May 15, 2014.

4. Sidewalks and Roadways. All sidewalks shall be installed to binder course of asphalt no later than November 21, 2013 and shall include all items required on the Definitive Subdivision Plan, including without limitation all granite curbing required on the sidewalk side of the roadway. All guardrails shall be installed by November 21, 2013.

The sidewalk plan is hereby modified to eliminate the sidewalk on the Cheryl Drive emergency stub, and shall end at the end of Lot 21.

Roadway sweeping and finish course of asphalt shall be completed within thirty days of completion of the work on lots owned by entities other than the Owner, or by August 31, 2014, whichever occurs earlier, providing the asphalt plants are open and weather permits, as reasonably determined by the Town Engineer. The Owner shall install the final sidewalk course within thirty days after the final roadway course has been paved.

5. Landscaping. All landscaping required by the Landscaping Plan for the open space lot (parcel B1), including required plantings, shall be completed no later than July 1, 2014. Such work shall include, without limitation, the reforestation of the hillside and the removal of sedimentation from the adjacent bordering vegetative wetlands and Town conservation land. All such work shall require the reasonable prior approval of the Town Conservation Agent.

The special permit decision is hereby modified to eliminate the requirement that the Owner plant trees at each lot. The Owner shall establish a tree fund in an amount between \$6,000.00- \$8000.00 to be determined by the Owner and the Town Engineer, for the Homeowners Association to administer to those lot owners who want to plant trees on the impacted lots.

The Planning Board hereby modifies the approved Landscaping Plans to eliminate the requirement of tree installation within the sidewalk areas. The Owner shall provide each impacted homeowner either the value of the eliminated trees or the same genus of tree for planting on the homeowner's lot, at the election of the homeowner.

The Planning Board hereby modifies the approved plans to eliminate the grass strip, and relocate the sidewalk to the edge of roadway. The Owner shall install the lights slightly behind the curb line where the grass strip would have been located.

6. Miscellaneous. Bounds, As-built Plans and Final Survey shall be submitted to the Town Engineer not later than at the time of the final release of the security for the performance of the Owners work.
7. The Planning Board hereby deletes Condition 5 of the Special Permit.
8. Security. Upon request by the Owner, the Town shall release partial security in the amount associated with each task, within thirty (30) days after each task has been completed to the reasonable satisfaction of the Town Engineer.

The remainder of the security shall be released in accordance with the terms of the Special Permit upon completion of all remaining subdivision work required in the Special Permit Decision.

9. Non-Compliance or Default. Non-compliance or default with any of the timeframes or work of the Owner set forth herein for any reason other than force majeure or otherwise permitted by the Planning Board in writing shall be cause for the Town to use funds available to the Town pursuant to Bond # 5036322 or any other replacement bond or other security in effect. The Owner shall cooperate with the Town to require the issuer of said bond to comply with the terms of this Agreement.
10. Lot 20 Building Permit. Upon proof of a contract in the Owner's name with a reputable contractor to perform and complete all tasks listed herein to be completed by November 21, 2013, the Building Inspector shall reinstate the Building and Sewer hookup permit and deliver said permit to Town Counsel to be held in escrow. Upon completion of the obligations regarding sidewalk and lighting installation specified in paragraph 4 on or before November 21, 2013, Town Counsel shall issue said permit to the Owner. The Building Inspector, in his reasonable discretion, may instruct Town Counsel to release said permit at an earlier date.

Mr. O'Cain explained the process for the audience members. He said the special permit is expiring and it needs to be modified to provide extensions on certain items. The Public Hearing is required by state law to modify a permit.

Attorney Gelerman said they reached a signed agreement with the developer so that on or before 11/21/13 the developer will complete the street lights and sidewalks. To protect the promise the permit for lot 20 will not be given until this work is done. The sidewalks and lighting are the most important for safety.

Israel Yaar of 53 Lantern Lane asked about his promised landscaping. Mr. Pannone said let us go through the process and we will get to that.

Mr. O'Cain next reviewed the erosion control and drainage changes in item #3. He said one home on the property needs to be removed because the foundation failed.

Mr. O'Cain reviewed the sidewalks and roadways, #4, and requested a few modifications.

Landscaping, #5, was discussed next and Attorney Gelerman said he will put a provision in the agreement for an \$8,000 tree fund. A discussion ensued about the grass strip which the developer wants to eliminate.

Mr. O'Cain said that trees damage sidewalks. The residents asked Mr. O'Cain to send them both the positives and negatives for eliminating the grass strip.

Arthur Kesselman of 24 Bella Road said he thought the purpose of the grass strip was to create uniformity. He is concerned with the appearance of the trees.

Mr. Belov of 47 Bella Road asked if the grass strips were eliminated then where the mailboxes go. Mr. O'Cain said they will go in pvc pipes in the sidewalk.

With reference to the clubhouse, Mr. Fowler said he provided foreclosure proceedings for this. It is not 155-157 who owns it but rather Mr. Intoccia.

Attorney Reef of 155-157 said they do not own the clubhouse property. A discussion regarding the club house ensued. Attorney Gelerman confirmed the current owner does not own it.

With reference to #8 Mr. O'Cain said he has delineated amounts in the bond for each task. He said that \$240,000 of the \$428,000 bond is allocated to this.

Attorney Gelerman said the value of the bond is based on the list of work to be done. Mr. O'Cain can request a reduction once work is completed and it needs to be approved by the Planning Board.

#9 Attorney Gelerman said this is good for the Town. If they do not comply with the timeline he can pull the bond.

#10 discusses that a building permit for lot 20 will be released when the lights and sidewalks are completed.

Mr. Pannone opened the Public Hearing to the audience.

Mr. Sakamuri of 35 Bella Road said he has constant water flowing behind his house and asked for a resolution.

Mr. O'Cain said that grass needs to be planted and he thinks strip drains are needed.

Attorney Gelerman said the permit can be modified to address this because it is not working.

Mr. O'Cain said that the lots that are not graded correctly don't feed all of the water into the catch basins. Attorney Gelerman suggested that the developer be contacted but if it is a health hazard the Planning Board or the Board of Health can force them to fix it.

Attorney Reef said that once vegetation is planted on the hillside the water will slow down. He said extra drains were added.

Mr. O'Cain said that what was on the plan is what was done. No extra drains were added.

Attorney Gelerman said that the Planning Board should not get involved in this matter. Perhaps the Board of Health can work this out or Mr. O'Cain can find a resolution.

The owner of 60 Bella Road asked what the criteria for drainage are. Mr. O'Cain said he will go to the property to look at this issue. He said he can only enforce installation of infrastructure that is on the plan unless it is a health or safety issue.

Jim Spoto of 61 Lantern Lane questioned if there is anything that can be done to clean up the swale border in between Lantern Lane and the development? Mr. O'Cain said that plantings are required by 7/14.

Mr. Spoto also requested that the sidewalk between Cheryl Drive and Lot 21 and the gate not be eliminated. He also commented that a planted tree by the developer has died twice on his property.

The owner of 31 Bella questioned the status of the lights. The electrical power for the lights needs to go through the light controller that has a light sensor on it that controls the electrical circuit to the lights. NSTAR has to allow connections to the box and that could delay actual operational lighting. 11/21/13 is the date that the base wiring has to be done. He said the cost for each item is delineated in the bond. The agreement requires the developer to install the light bases and wiring to the box prior to issuance of a permit for lot 20. If these items are not addressed, Town Counsel will begin proceedings to revoke the performance bond.

Mr. O'Cain said he would like to retain the complete bond until the end of the project but Attorney Gelerman said the bond cannot be retained once the work is completed.

Attorney Gelerman said that if the work is not done by 11/21/13 then he can notify the bond issuer that there was a condition of the permit that was not met. The developer would have defaulted and the monies would be forwarded. He also said this modification to the Special permit enhances the ability to revoke the bond.

Audrey Rude of 153 North Main Street said in her opinion the strip of grass in the middle of the street does not make sense. She questioned who would be responsible for the mowing? She said all the water drains to her property so she has planted 10 white pines to absorb the water in this area.

Mr. Belov of 47 Bella Road asked how the grass strip issue will be resolved as a condition of the modification and Mr. Pannone said the Planning Board will discuss it.

Ms. Bingham moved to close the Public Hearing. Mr. Pinkowitz seconded the motion and the Board voted 5-0-0 in favor of closing the Public Hearing.

A discussion ensued amongst the Board members.

Ms. Bingham suggested that the sidewalk between Bella to Cheryl Drive not be eliminated. Both Mr. Pannone and Pinkowitz agreed. Mr. Pinkowitz said the grass strip does not look good.

Mr. Pannone said regarding the landscaping, the developer should plant the trees as a tree allowance gets convoluted.

The Board agreed to take out the strip but all trees should be planted by the developer. Mr. Maidman and Mr. Milowe are in agreement.

Mr. Pinkowitz moved to accept the revised special permit conditions, as amended by Town Counsel. This includes all trees to be planted by the owner and the tree fund concept was deleted.

The Board voted 5-0- in favor of this motion.

Adult Zoning District

Mr. O'Cain summarized the language to be discussed at the meeting on 10/9.

Rattle Snake Hill

Chair Pannone said that informally he was told that Rattle Snake Hill is back and they want zoning changes that were not specifically defined. He said he should

be receiving more information this week. He said the Planning Board will be asked to hold a public hearing but he is concerned there is insufficient time to review.

Ms. Bingham expressed that she thinks this process will be rushed.

Mr. Maidman said he is not concerned this is too fast but that we will not have answers.

Mr. O'Cain suggested the Board could hold a public hearing on 10/23 and if things are unclear, the hearing can be opened and closed.

He said the Planning Board needs to approve all zoning changes. The Selectmen cannot make it happen alone.

Mr. Pinkowitz moved that the Planning Board should put into motion to advertise to hold a public hearing regarding Rattle Snake Hill on 10/23 to discuss potential zoning changes. Mr. Maidman seconded the motion. The Board voted 3-2-0 to schedule the hearing.

Next Meeting Dates

10/9, 10/25

Adjournment

Mr. Milowe moved to adjourn the meeting at 10PM. Ms. Bingham seconded the motion. The Board voted 5-0-0 in favor of adjourning.

Attachments

1. Bella Estates Revised Special Permit Conditions
2. Bella Estates Subdivision Completion Agreement September 2013