

Planning Board Minutes, 06/14/2016

**Town of Lenox
Planning Board
June 14, 2016
Land Use Meeting Room**

Members present: Chair Kameron Spaulding, (KS); Tom Delasco, (TD); Pam Kueber, (PK)

Absent with notification: Kate McNulty-Vaughan, KMV

Form A (Approval Not Required): Macalin Realty Trust, Chestnut Lane, Map 18 Lots 46, 47, 51, 52, 57, and 58.

Present were Rob Akroyd of Greylock Design Associates and Attorney Mitch Greenwald.

Mr. Akroyd stated that the process to get to this point started in 2009 with series of meetings with the Planning Board and the Conservation Commission. At that time, the Planning Board, noting that there were wetlands on these parcels, asked that the owner start with the Conservation Commission to seek approval. Once that was done the Board would then review a Form A. The current owner inherited the six lots and is interested in selling them. Wetland issues and unrest among some abutters hindered the process. The latter resulted in having to be resolved in Land Court which eventually ruled in favor of the owner of the lots. Recognizing the drainage issues, the proponents felt that the six lots should become two. After a lengthy process with the Commission, an Order of Conditions was granted for development of one of the two lots. The approval is for the driveway, utilities, septic and a single family house with specific square footage. The other lot has not been deemed "not buildable", but it hasn't been approved. An individual buying the two lots would have about four acres, with the approved one being about 3 acres. The new owner, if they choose to do anything any differently than what is approved under the Order of Conditions, would have to go back before the Conservation Commission to amend the Order. The current owner of the property does not want to take the time to go through the process of filing with the Commission for the second lot.

Mr. Akroyd said that at one point in time the road which is between Sullivan and Martha Lanes had been paved and currently they have approval to restore Chestnut Lane. Sean VanDuesen, DPW Superintendent and Fire Chief Dan Clifford have approved the access.

KS said that Town Planner Gwen Miller has reviewed the covenant and agrees that it satisfies the requirements.

TD asked about the ownership of the six lots. Mr. Akroyd said that all of the lots are owned by the same individual.

Attorney Greenwald said that they will record the Form A and covenant, build the road and then get a certificate from the Board that the road is restored. It will be recognized as a private way. TD made a motion to endorse the Form A and PK seconded the motion. The Board voted to approve 3-0.

Zoning Bylaw Review Discussion-Planning Board Priorities Attorney Phil Heller

KS said that because only 3 members of the Board were present, he did not feel that a discussion could take place on priorities; therefore this should be brought forward when five members could be present. The Board agreed.

Attorney Heller presented a handout which noted sections of the Zoning Bylaw that he felt needed to be amended. One document was an email dated October 8, 2015 that he had sent to Town Planner Gwen Miller and Judi Barret, a consultant hired by the Town to help in amending the bylaw. The sections he commented on were as follows:

§ 7.2 Accessory Dwelling Units

§ 7.8 Residential Inclusionary Development

§ 4.1.1 Table of Dimensional Requirements

§ 5.2.6 Signs in Commercial and Industrial Districts

He also noted that the Zoning Map, in regards to the C-1A zone on the east side of Routes 7 & 20 narrowing from 1,000 feet to 300 feet, is not consistent with the west side at 1,000 feet.

In depth discussions took place on each of these items.

A second document, undated, were suggestions by Attorney Heller for specific amendments to § 7.2.3(6) and § 7.2.5, Accessory Dwelling Units.

He also suggested two new sections, one with regard to allow in existing structures in excess of the 800 square foot maximum floor area to comply with this requirement by allocating the excess square footage as storage. This, he said, would be consistent with non-written policy.

The second new section, § 7.2.6 would allow the ZBA to “waive strict compliance with one or more requirements of the bylaw if it finds that: (1) the waiver is in the public interest, or (2) strict compliance would unreasonably restrict the use of the property and would be inconsistent with the purposes of the bylaw.

Attorney Heller also provided a page from the case law for Hanlon v. Town of Sheffield, et al related to private landing areas. A Land Court judge had ruled that the town of Sheffield was authorized to regulate the plaintiff’s use of his property as a private noncommercial aircraft landing area, but it was overturned, citing the town zoning bylaw regulating landing areas had not been approved by the Massachusetts Department of transportation aeronautics division. A newspaper article on Mr. Hanlon winning the appeal was also included. Attorney Heller said that the Board should consider addressing this in the bylaw as well. The Board plans on devoting the next meeting, scheduled for June 28th, to discussing priorities and reorganizing the Board.

TIF/STA Policy Input to Board of Selectmen-The Board felt that it would be best to wait until KMV and Town Planner Miller were present to continue discussion.

Approve Minutes-May 24, 2016 -Tabled as there was not a quorum.

The meeting was adjourned at 7:00 PM.

Respectfully submitted,

Peggy Ammendola