

IPSWICH PLANNING BOARD

MEETING MINUTES

Remote Meeting using ZOOM

Thursday, August 6, 2020 at 7:00 PM

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a remote meeting of the Ipswich Planning Board was held on Thursday, August 6, 2020 using ZOOM. Board members Keith Anderson, Carolyn Britt, Paul Nordberg, Mitchell Lowe, Kevin Westerhoff and Associate Helen Weatherall were present.

Anderson convened the meeting at 7:05 PM with a quorum present.

Anderson requested a roll call for all present. He noted the Board members that were present as well as Planning Director, Ethan Parsons, and minute taker, Odile Breton.

**Citizen Queries:** None noted.

**Request by Frank Pasciuto/ANFM Realty, for extension of expiration for September 22, 2011 Special Permit for project at 11-15 Market Street**

Frank Pasciuto was present. Anderson explained he requests a one year extension the Special Permit that was issued in 2011. The Board received a letter from Pasciuto dated July 27, 2020 requesting the extension. Pasciuto explained the lease agreement with the Family Dollar store prevented construction while the store leased its space. Pasciuto stated the lease was renegotiated and construction could begin in the spring of 2021. The Special Permit expired in June, 2020.

Nordberg asked what will be different from the 2011 project. Anderson noted Pasciuto would have to do an amendment to the construction plans presented in 2011 if he now wishes to only construct an additional floor. Anderson stated that three residential units were added to the first floor of the building previously. Pasciuto will have to come before the Board for a modification when he has an amended plan.

Parsons recommended the Board grant the request. Nordberg asked how zoning changes from 2011 to 2020 will be resolved. Parsons said that is to be determined because the applicant does not know all the final details of the construction plan at this point. There will be amendments to the project, which will result in an amendment to the special permit. Parsons noted that Pasciuto is looking to keep the permit valid for an additional 13 residential units. Westerhoff said it seems like a reasonable request and noted that the Board will still need to review proposed plans.

*Lowe moved to grant an extension of the 2011 Special Permit for 11-15 Market Street for one year. Nordberg seconded. The motion passed unanimously.*

*Documents: Letter from Frank Pasciuto to E. Parsons and Planning Board, dated 7/27/20*

**Request by Pam Wilcox for modification of Special Permit for infill lot at 51 Topsfield Road (now 5 Farley Avenue)**

Pam Wilcox was present. She requested splitting the \$40,000 payment to the Affordable Housing Trust Fund into two payments. She requested paying \$20,000 within the next two weeks and the remaining \$20,000 within the next three months. Anderson explained that the Building Inspector would not be able to issue a Certificate of Occupancy until Trust Fund Board receives the full payment. Wilcox said that was explained to her.

Nordberg expressed concern about the Board and the Town acting as a financial institution. He reminded the Board that recently a similar request had previously been made. He is empathetic to the applicants' situation but does not agree with the Board or the Town acting as a financial institution.

Anderson stated he is in favor of granting an extension of the time for the payment. Hearing no further questions or comments he asked for a motion.

*Westerhoff moved to recommend the Building Inspector issue a temporary Certificate of Occupancy on the condition that Wilcox pay the additional \$20,000 before October 31, 2020. Lowe seconded. The motion passed with 4 votes. Nordberg abstained.*

*Documents: Email from Pam Wilcox to E. Parsons, dated 7/29/20*

**Continued Public Hearing: Request by Symes Development & Permitting LLC for Special Permit and Definitive Subdivision approval for a 35-unit Open Space Preservation Zoning (OSPZ) Development at 173 Linebrook Road (Assessor's Map 29D, Lot 21), located in the RRA District, pursuant to Sections V, XIA and XIJ of the Zoning Bylaw and the Rules and Regulations Governing the Subdivision of Land in Ipswich**

Jeff Rhuda and Richard Harrington were present for the applicant.

Anderson summarized the discussion from the July 9, 2020 public hearing. He said the Board and the applicant should have received a copy of the draft decisions prepared by Parsons. Anderson asked if there were any changes to the plans since the July 9, 2020 public hearing. Rhuda said no. Anderson asked the Board members if they thought any items were outstanding. There were no items raised. Britt requested that the review begin with the Special Permit draft as she has some comments to add.

Parsons reviewed the draft decision for the Special Permit. He emphasized findings and conditions. He noted that protection to water is reflected throughout the document. Britt asked if additional supporting documents could be mentioned. She referred to the peer review report, documents and emails from the Water Department and the Electric Light Department. She requested all documents be incorporated so the information is not lost. Parsons suggested noting that supporting documents and correspondence are on file at the Planning Department but that the documents are numerous and including all documents associated with a project is not customary.

Parsons reviewed the benefits of the project to the Town. Britt stated the use of propane for heating and cooking adversely impacts air quality. She requested a comment be included noting this. Rhuda objected and stated there is nothing in the Zoning Bylaw that prevents Symes from using propane. Britt noted that there is language in the Zoning Bylaw relating to air pollution.

Hannah Wilbur, Ipswich Open Space Manager, commented about the open space and the benefits the developer received. She questioned adding the Nitrogen Loading Easement Restriction as part of the open space calculation under the Open Space Zoning Bylaw. She said the area should not be included. Parsons noted there is nothing in the Bylaw that prohibits including it. Anderson agreed and said he is not aware of the Bylaw restricting the inclusion of the Nitrogen Loading Area in the open space.

Kristen Grubbs, Town Planner, said she is concerned with the legality of the Town acceptance of the Nitrogen Loading Easements. She said the Town could not have a restriction on the land and hold the underlying fee. Parsons said this topic will not be settled this evening because the applicant, the Board and the Town do not know when the land will be conveyed or who would own the land. Nordberg said the legal question can be resolved in the future. Wilbur explained that the easement is in jeopardy. She said if the Town owns the land and holds the restriction, it could cause the easement to be null and void. Anderson said that is dependent on who accepts the open space land. Parsons said it was not up to the Board tonight who gets the open space land. Anderson reminded everyone that the decision does not specify who receives the open space land. Grubbs stated not knowing who will own the land could be problematic in the future. Weatherall agreed with Grubbs. Wilbur stated she wants to be sure there is no issue for the Town.

Parsons stated that Symes will proffer the land to the Town through the Select Board and the Planning Board will make a recommendation to the Select Board for ownership of the open space as was done with Phase 1. Parsons consulted with Town Counsel and he is satisfied there is no issue.

Parsons reviewed traffic flow and safety related to the project. He noted the location of the public trail and discussed adequacy of utilities and resources for the site. Parsons suggested the project blends in with the existing neighborhood character and the impacts on the natural environment have been adequately addressed.

The moderately price restricted unit in Phase 3 was discussed. The Board suggested adding the word “perpetuity” to the restriction reference. Britt suggested adding language regarding materials and chemicals acceptable to use by owners and maintenance providers. Britt also suggested Symes market for electric appliances instead of propane use for buyers.

Rhuda explained there is a form they give buyers that will include information about available options. Westerhoff suggested moving the language about buyer options from the findings section to the conditions section.

Grubbs asked about the sequence for permanent boundary marker installation and the trail construction. Rhuda requested moving it to a later date so that the houses could be built without

impacting the markers and trail. Rhuda said temporary boundary markers will be placed prior to construction.

Parsons continued the review of the draft decision by discussing waivers for the subdivision, subdivision inspection and the requirement for a covenant as a performance guaranty. He stated a “conditional approval contract” is needed, which would mean the final lot could not be released until the work on the project is completed as determined by the Board. Parsons concluded the review and stated the Board needs the following votes: 1) a vote for the special permit; 2) a vote for the subdivision approval (Phase 2 only); 3) and a vote for the conditional approval contract. Britt asked if the contract could be reviewed and voted on at the next meeting. Westerhoff and Anderson agreed since the document was incomplete. Parsons suggested adding a condition that a building permit would not be issued until the Conditional Approval Contract was recorded at the Registry of Deeds. Board members agreed to add this as a condition.

*Westerhoff moved to close the public hearing. Nordberg seconded. The motion passed with 4 votes. Lowe abstained as he was ineligible to vote.*

*Nordberg moved to approve the Special Permit application as discussed and modified. Westerhoff seconded. The motion passed with 4 votes. Lowe abstained.*

*Westerhoff moved to approve the Definitive Subdivision Plan as discussed and modified. Nordberg seconded. The motion passed with 4 votes. Lowe abstained.*

*Britt moved to endorse the approved plans and for Anderson to sign the subdivision plans. Nordberg seconded. The motion passed with 4 votes. Lowe abstained.*

*Documents: Draft Special Permit and Subdivision decisions, dated 8/5/20*

### **Preliminary Discussion of Water Neutral Growth Report**

Kristen Grubbs presented the report. She discussed land use and development, climate change and a water use mitigation program. She emphasized that regulations and goals should match needs. One recommendation is for the Town to adopt a water neutral growth bylaw. The goal is to achieve “net zero” water use for new development through use minimization and offset efforts.

Grubbs explained the water use mitigation program (“WUMP”). She said it is a water bank program. Anderson asked what efforts have been made to coordinate between different Town departments and boards. Grubbs said she welcomed suggestions from the Board.

Grubbs summarized the report by saying it recommends both a water neutral growth bylaw and WUMP be in place. By having both in place, it removes negotiations for developers. Anderson asked about the next steps. Grubbs suggested volunteers for points of contact. Anderson suggested the topic be placed on an agenda for a future meeting.

**Consider initiating zoning articles for Fall Town Meeting relative to adult use and medical marijuana, and clarification amendment (previously initiated for 2020 Annual Town Meeting)**

Anderson suggested having one public hearing for the zoning amendments that were initiated prior to the COVID-19 pandemic.

Britt suggested changes for zoning bylaws related to energy efficiency and she briefly explained the proposed changes at the previous board meeting. Anderson said he reviewed the memo on additional changes to the bylaws and suggested placing them all in one article. Britt provided a summary of proposed changes. Anderson stated the proposed changes would have to be in a format to send to the Select Board.

Nordberg said there are a lot of ideas and it is difficult to single out ideas to go forward. Westerhoff said these are worth considering. If the changes can be presented in the correct format to the Select Board, then the Board should move them forward. Lowe said the concept is good but is not sure there is adequate time for this to be considered for Fall Town Meeting.

Parsons stated Britt's proposed changes are straightforward. He said the Select Board will close the warrant on August 24. Parsons reminded the Board that there is a scheduled meeting on August 20. He said the article would have to be provided to the Select Board before August 24. Parsons said the Board would have to initiate the article this evening, however there may not be adequate time for a public hearing on August 20 since the notice for a public hearing should have been submitted today. The Select Board will sign the warrant by September 8, 2020.

*Britt moved to submit the articles as discussed to the Select Board. Westerhoff seconded. The motion passed 3-2. Lowe and Nordberg voted no.*

*Documents: 8/4/20 Memo from Carolyn Britt to Planning Board and E. Parsons, Proposed Zoning Changes for Increased Energy Efficiency*

**Adopt minutes of July 9, 2020 and July 30, 2020 meetings, depending on availability**

Anderson stated the minutes were not available this evening.

**Adjournment**

*Lowe moved to adjourn. Britt seconded. The motion passed unanimously.*

Meeting adjourned at 11:14 PM.

Meeting notes taken by: Odile Breton

Accepted on: September 24, 2020