

**Leicester Planning Board**

**7/20/2021**

**Members Present:** Jason Grimshaw (Chair), Jim Reinke (Vice Chair), Joshua Campbell, Sharon Nist, Jaymi-Lyn Souza

**Members Absent:** Debra Friedman (Associate)

**Staff Present:** Michelle Buck (Town Planner), Brooke Hultgren (Department Assistant)

**ORDER OF BUSINESS\***

- 7:00PM      **Discussion, Request for Extension of Deadline to Complete Work,**  
SP2003-01, Briarcliff Estates, Applicant: Matthew Bassick/Briarcliff Estates SV LLC
- 7:05PM      **Public Hearing, Definitive Subdivision Plan**  
DSUB2021-01, Parker Street North, 3 lot subdivision, Applicant: Schold Development, LLC.
- 7:30PM      **Public Hearing, Special Permit Amendment**  
SP2019-02, Smuggler's Cove Open Space Residential Development (reduction in road length & # of lots), Applicant: Central Land Development Corp.
- 8:30PM      **General Discussion:**  
A. Oak Bluff Lane Subdivision  
B. Zoning Bylaw Amendments
- 8:45PM      **Approval of Minutes**  
• 5/18/2021  
• 6/1/2021
- 8:50PM      **Town Planner Report/General Discussion:**  
A. Miscellaneous Project Updates  
B. Board Member Committee Updates  
C. Upcoming Meeting Dates

**Adjourn**

The meeting opened at 7:07 pm.

**Discussion, Request for Extension of Deadline to Complete Work**

SP2003-01, Briarcliff Estates, Applicant: Matthew Bassick/Briarcliff Estates SV LLC

The Board will vote on the amendment to the performance agreement and the new construction deadline. The applicant is requesting the maximum extension of 2 years making the deadline to complete construction July 30, 2023.

**Motion:** Ms. Nist moves to approve the amended performance agreement to reflect the new letter of credit [\$263,111] and extend the construction deadline to July 30, 2023.

**Second:** Mr. Reinke

**Discussion:** None

**Roll Call Vote:** 4-0-0

[Note: Ms. Souza was not present for this discussion and vote.]

## **Public Hearing, Definitive Subdivision Plan**

DSUB2021-01, Parker Street North, 3 lot subdivision, Applicant: Schold Development, LLC.

[Note: Ms. Souza joined the meeting.]

[Ms. Buck makes a public disclosure regarding her personal relationship with the project engineer, Brian MacEwen. She notes that she filed a conflict-of-interest disclosure with the Town Clerk.]

Ms. Buck notes that there have been multiple iterations of plans on Parker Street as noted in the summary in the Board's packet. The original plan was before the Board in 2003. The most recent preliminary subdivision plan was approved in 2020; the definitive plan has few differences from the preliminary plan besides a more detailed road construction plan. The Board is reviewing the definitive plan for compliance with the subdivision regulations and road standards. The requested waivers remain the same; waivers for roadway width, cul-de-sac length, drainage, sidewalks, and overhead utilities on a portion of the roadway were all previously approved in the preliminary process. The applicant is also requesting waivers related to street lights and street trees. Street lighting will not be town funded, but the applicant has agreed to put lights at the end of each driveway.

Brian MacEwen of Graz Engineering explains the plan has been scaled down to a 3-lot subdivision, with potential for further subdivision to allow maximum of 5 lots. The current unpaved section of road will be improved and paved to meet road requirements. The road will not be extended down to Baldwin St as previously planned, instead it will be a dead-end cul-de-sac. The applicant requests a waiver from the 28' minimum road width to allow a 20' wide travel way with a grass swale and country drainage discharging into a nearby wetland. The hydrology report will be revised to address Quinn Engineering's comments, specifically regarding the velocity of stormwater leaving the site. During the preliminary process, both the Fire and Highway Departments determined that 20' is an acceptable roadway width.

Ms. Nist asks if school buses will be able to travel down the road and turn around. Mr. Schold says he will check with the School Department on this.

Jan Parke (207 Greenville St) asks the applicants to clarify the number of potential lots. Mr. MacEwen says the roadway has enough frontage for 5 lots; the existing proposal would create three new lots, 2 of which could be further subdivided in the future.

Ms. Buck notes that at this point the application will most likely be continued, but that on projects with multiple waivers, the Board has the ability to add more conditions of approval.

**Motion:** Ms. Nist moves to continue the hearing for Parker St Definitive Subdivision to August 17, 2021 at 7:15 pm.

**Second:** Ms. Souza

**Discussion:** None

**Vote:** 5-0-0

## **Approval of Minutes**

**Motion:** Ms. Nist moves to accept the minutes of May 18, 2021.

**Second:** Ms. Souza

**Discussion:** Ms. Nist asks that her recusal of participation from the Skyview Estates hearing be noted in the minutes.

**Vote:** (5-0-0)

**Motion:** Ms. Nist moves to approve the minutes of June 1, 2021.

**Second:** Mr. Reinke

**Discussion:** None

**Vote:** (4-0-1) Jaymi Souza abstained.

### **Public Hearing, Special Permit Amendment**

SP2019-02, Smuggler's Cove Open Space Residential Development (reduction in road length & # of lots), Applicant: Central Land Development Corp.

[Note: Mr. Reinke filed a conflict-of-interest disclosure with the Town Clerk's office.]

Ms. Buck explains that the application process for an Open Space Residential Development (OSRD) is comprised of two steps: 1) a special permit application, which is equivalent to a preliminary subdivision application and 2) a definitive subdivision plan. The special permit was approved January 7, 2020 by the Board with a number of waivers. The amended plan eliminates the emergency access way and reduces the roadway length and number of proposed lots; the applicant is not requesting to amend the waivers granted in the 2020 decision. The current plan will also require approval from the Conservation Commission and Zoning Board of Appeals.

**Motion:** Mr. Reinke moves to deny the special permit due to a violation of §5.13.03.B of the Leicester Zoning Bylaws, which states "after an Open Space Residential Development application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided by this bylaw." Specifically, Mr. Reinke feels the applicant violated the bylaw by removing trees on the property before the application review process had finished.

**Second:** Ms. Souza

**Discussion:** Peter Lavoie, project representative, states tree cutting began on March 15, 2021 prior to the submittal of the Special Permit Amendment application. And Mr. Lavoie states that because of this, no bylaws were violated. Matt Schold, project applicant, says the forest cutting plan received no comments from Leicester Conservation Commission.

**Amended Motion:** Mr. Reinke moves to deny the special permit application being heard and revoke the previously approved special permit application for Smuggler's Cove (File #SP2019-02).

**Second:** Ms. Souza

**Discussion:** Mr. Schold says the purpose of the amendment is eliminating the emergency access way on the plan; no amendment to the special permit is required for decreasing the road length and number of lots. Mr. Schold argues that if this amendment is not approved by the Board, he could revert to his original plan, which includes more lots and an emergency access way.

Ms. Buck explains that because no tree cutting restrictions are in place until the definitive subdivision phase; the applicant is technically in compliance with the Planning Board's previous decision because

the tree cutting took place before the definitive stage. Additionally, a special permit approval granted by the Board cannot be rescinded without reopening the hearing for said application.

**Amended Motion:** Mr. Reinke moves to deny the current special permit amendment without rescinding the prior special permit approval for Smuggler's Cove.

**Amended motion was not seconded.**

**Discussion:** Ms. Souza says the definitions of application and review process in §5.13.09 are unclear. Ms. Buck says this section of the Zoning Bylaws primarily describes the Special Permit application process, which is the first stage of the OSRD application. The definitive subdivision application regulations are detailed in the town's Subdivisions Rules and Regulations. The applicant has not yet submitted a definitive subdivision plan, making the applicable section of the bylaw at this point in the application process §5.13 - OSRD. Mr. Reinke argues that §5.13.09 ("application and review process") includes the special permit application and the definitive subdivision application process. Mr. Grimshaw says the definition(s) are ambiguous, meaning the application and review process could include both the first and second stage of the application, or the special permit approval and future definitive subdivision application could be interpreted as being two individual applications.

The Board requests an opinion from Town Counsel on the interpretation of this section of the Bylaw before moving forward with the special permit amendment public hearing.

**Motion:** Mr. Reinke moves to table the motion and continue the hearing until Town Counsel's opinion is received.

**Second:** Ms. Souza

**Discussion:** Mr. Schold says the site has been actively logged for years, and the Forest Cutting Permit was granted by DCR.

Ann Billiot of 23 Lake St states that the tree removal that took place is in violation of §5.13.09.C which calls for reconsideration of the OSRD special permit approval if a change in the development pattern which adversely affects natural landscape features and open space takes place.

A number of abutters to the project agree that substantial tree removal took place, which has had adverse effects on the natural landscape.

Robert Richmond, an abutter to the project, asks if the revised plan includes a 100' buffer between each house and the edge of the water.

Mr. Lavoie says the definitive plan will show each house's distance from the water.

[Note: The Board waived the 100' buffer on the lake side of the project subject to the condition that "the Definitive plan shall show details of no-cut easements, conservation restrictions or similar land use restrictions in accordance with Section 5.13.07.C.(2) of the Zoning Bylaw where the buffer has been reduced, with the intent of minimizing tree removal within the 100-foot buffer, allowing only limited tree clearing for water access for residents." (SP2019-02, Smuggler's Cove Decision)]

**Vote:** 5-0-0

**Motion:** Ms. Nist moves to continue the hearing to August 3, 2021 at 7:45 pm or as soon thereafter as can be heard.

**Second:** Mr. Reinke

**Discussion:** None

**Vote:** (5-0-0)

General Discussion:

A. Oak Bluff Lane Subdivision

A complaint was received by an abutter to Oak Bluff about water runoff onto their property coming from the subdivision. Kevin Quinn determined the site to be stable during a site visit, but since then there has been a lot of rain. Mr. Schold placed a berm at the end of the cul-de-sac to temporarily re-channel the water while construction is being completed. Erosion control measures are already in place. Mr. Quinn will do a second site visit.

B. Zoning Bylaw Amendments

There has been no progress on the private re-zoning request on Sargent St since the last meeting. Ms. Buck received a call from someone interested in marijuana transportation/delivery services. This was previously considered in May 2021. The Board agrees to reconsider a marijuana delivery amendment for the next Town Meeting. Zoning Amendment hearings will be held in September.

Future State-Mandated Zoning Amendments:

Flood zoning needs to be amended to conform with the FEMA flood zone maps in order for residents to purchase flood insurance.

State legislation was passed relating to housing, requiring MBTA communities to establish at least one zoning district that allows high-density multifamily housing by right. The town has to amend the zoning to be in conformance with state regulations in order to be eligible for grants.

Miscellaneous Project Updates:

Mr. Reinke notes that Leicester's forest cutting bylaw, specifically §4, gives away the governance over forest cutting plans to the State. Mr. Reinke proposes potentially editing this bylaw to give governance to the Town when considering forest cutting plans. Ms. Buck notes that the forest cutting bylaw is a general bylaw, not a zoning bylaw, and was enacted at Town Meeting in 1982. There was a more recent effort to amend the forest cutting bylaw, but it failed at Town Meeting.

Ms. Nist says the parking lot at Black Sheep BahBahQ looks like it is deteriorating.

Ms. Nist notes that Sunshine Landscaping has been parking their work vehicles across the street at the American Legion.

Skyview Estates/651 Main St submitted Definitive Subdivision and Special Permit applications. The hearing will be held in September.

**Adjourn**

**Motion:** Ms. Nist

**Second:** Ms. Souza

**Discussion:** None

**Vote:** (5-0-0)

The meeting was adjourned at 9:54 pm.

Respectfully Submitted,

Brooke Hultgren, Department Assistant

Documents included in the meeting packet: