

Leicester Planning Board Meeting Minutes
September 01, 2015

MEMBERS PRESENT: Jason Grimshaw, David Wright, Debra Friedman, Sharon Nist, Adam Menard

ASSOCIATE MEMBERS: Alaa Abusalah

MEMBERS ABSENT:

IN ATTENDANCE: Michelle Buck, Town Planner; Barbara Knox, Board Secretary

MEETING DATE: September 01, 2015

MEETING TIME: 7:00 pm

AGENDA:

- 7:00PM Discussion:
Boutilier Estates Project Status
- 7:10PM Discussion:
Rezoning request, 357-385 Main Street (Jeffrey Canane)
- 7:20PM Discussion:
Pondview Estates Project Status
- 7:30PM Public Hearing:
Special Permit/Definitive Subdivision Approval Modification, Oakridge Estates
- 8:00PM Approval of Minutes:
8/4/2015
- 8:05PM Town Planner Report/General Discussion:
A. Economic Development Self-Assessment Program
B. CMRPC Population Projections
C. Miscellaneous Project Updates

Mr. Grimshaw called the meeting to order at 7:00PM

Discussion:

Boutilier Estates Project Status

Attorney Michael Meloche, representing Fred LaFlash, made the presentation. They felt it was no longer a viable option trying to move forward with developing Boutilier Estates and decided their only viable option at this point would be developing a Solar Farm. They have been approached by a company interested in developing a solar farm on that site.

The main issue would be where Boutilier Road starts and stops. They felt the road does not need to be a public. Mr. Meloche pointed out that the Town owns to the end of the backside of Mr. Casello's house lot and they would only need the minimum frontage of 50 feet to gain the access needed for six lots the solar would be placed. After that point, it would not be a public way, owned by the Town; it would be a private way capable of being subdivided for solar purposes only. With that notation on the plan, it would assure nothing else could go on that property. They are contemplating offering the land to the Town at the end of the lease time. In order to do the solar fields as one, they would need 300 feet of frontage. It doesn't have to be Town road frontage, it can be private way frontage; they just need it sub-dividable for the purpose of developing a solar farm.

Mr. Brendan Gove from Zero Point Development, Inc. reviewed the proposal. Mr. LaFlash's parcel starts a little ways beyond a previously approved solar project at 24 Boutilier Road and that is where the existing paved road ends. They are proposing to install a ground mounted solar array on Mr. LaFlash's property and purchasing the property from him. There would be an opportunity at the end of the life expectancy of the project to transfer the title of the land to the Town. Mr. Meloche also noted the demonstration house would be taken down.

Mr. Gove asked for the Board's feedback and guidance on how this would work out. Mr. Meloche felt their main issue, at hand, was how to create the 300 feet of frontage.

Ms. Friedman asked to be shown where the 300 feet of frontage would be. Mr. Gove outlined the site location and access points. He noted that in 2004, Mr. LaFlash received approval for 18 house lots. They would combine that existing subdivision plan into 6 lots located one side of Boutilier Road.

Ms. Friedman asked if they were combining the existing subdivision or negating the existing subdivision. Mr. Meloche said they would combine the existing subdivision, showing the 50 feet of frontage to each solar array lot.

Ms. Buck asked if they would be requesting waivers from the subdivision standards. Mr. Meloche said yes, to limit for just the installation of solar.

Ms. Friedman asked if the road would be opened to drive down or would the road be gated. Mr. Meloche said presently, Mr. LaFlash owns to the middle of one side of the road and Mr. Casello owns to the middle of the other side of the road, subject to the rights of each other and anyone else. No one can stop them from going over it, which really makes it a private way. Based on the Board's previous solar decision, the roadway ends at the end of Mr. Casello's property. Ms. Buck disagreed and explained the road went 200 feet beyond the corner of Mr. Casello's lot, which barely allowed them [Boutilier solar developer] enough room to put in a driveway.

Ms. Buck said she met with Mr. Meloche & Mr. Gove and found there were several different ways to go about this. They could apply for a variance on the frontage, or submit an amended subdivision plan with significant waivers. It gets a little tricky because there's been a lengthy legal dispute over improvements in the right-of-way and this would have to be carefully structured, so the frontage for the solar farm doesn't allow multiple ANR lots. Ms. Friedman agreed.

Ms. Buck said one option discussed was to try curving the road away and out of the right of way, but the other issue was the status of Boutilier Road.

Mr. Meloche explained based on research done, Boutilier Road has been on the Town map since the early 1800s. There was a Hurricane back in the 50s that washed out the middle and since no one lived in the middle, the Town never fixed the road and the road was never formally discontinued.

Mr. Gove said one of the options discussed was the access requirements for solar roads are much different from access requirements for a subdivision. The road can be approximately 12 feet wide, crushed stone and a pick-up truck traveling it twice a year, once it's built.

The Board advised for the applicant to submit a formal preliminary plan and that will allow for open discussion and a recommendation on how to proceed.

Discussion

Rezoning Request 357-385 Main Street (Jeffrey Canane)

Mr. Jeffrey Canane submitted the request and made the presentation. He is requesting a zoning change on the 3 parcels he owns along the south side of Main Street, Route 9, Cherry Valley, numbers 357-385; Map 23D, lots B2, B2.1 & B1; from Residential 2 (R2) back to Business (B). The properties are located directly across from a Business Zone.

He discovered the zoning on his properties were changed from B to R2, at some point, and he felt a rezoning would allow him to potentially enlarge his parking area and thus expand his business. The maps he found show his properties having been zoned business in 1986 and he would like his property zoned back to Business.

Ms. Buck explained that prior to 2003, a narrow strip of these parcels were zoned Business and after a comprehensive study of Cherry Valley in 2003, it was recommended that narrow strip be changed to residential zoning, because most of the properties in this area were residential and also because of the proximity of Kettle Brook.

The entire back portion of parcel 2.1 and sits in the riverfront and the rear border of these properties is Kettle Brook. Parcel 1 sits back away from the river, but the distance is not shown. The Rivers Protection Act severely limits what can be done within 200 feet of the river [100 feet on either side]. It would be very difficult for any of those parcels between Auburn and Church Streets to be developed commercially because of the Kettle Brook.

Ms. Friedman asked if he was looking to rezone the entire area, or just his parcels. Ms. Buck said the request was just for the 3 parcels. Ms. Friedman noted that could be considered spot zoning. Mr. Grimshaw explained the problem the Board faces with rezoning requests like this is the spot-zoning concern and how the Attorney General's Office could throw it out. He asked if this request would be presented as a comprehensive rezoning of the entire area or would it be for the benefit of one property owner.

Ms. Friedman said then the question becomes, how far down to extend the rezoning. Should it be extended down to lot 4, in order to make that a conforming business lot, because that business was built after 2003, which creates another question on how it got in there.

Discussion was tabled to open the public hearing on Oakridge Estates.

Public Hearing

Special Permit/Definitive Subdivision Approval Modification, Oakridge Estates

Mr. Grimshaw read the Notice into the record.

MOTION: Ms. Friedman moved to continue the public hearing on Oakridge Estates to 7:55PM.

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Discussion Continued:

Rezoning request; 357-385 Main Street (Jeffrey Canane)

Ms. Friedman felt parcels 3 & 4 should be included because parcel 4 already has a business on it that was established after 2003. She asked if Mr. Canane can't go all the way back towards Kettle Brook, and because of the wetland, should the zone go back 200 feet, but not all the way

back to the Brook? Ms. Buck said the parcel is only 186 feet away from the river at its widest point. Ms. Friedman noted there wasn't much that could be done with that lot.

Mr. Canane said he wants to add some parking and have future protection for his property; he wants to have it rezoned back to Business. Ms. Buck noted that it will be difficult, with the Riverfront rules, to put much in there at all. Mr. Canane understood that.

Ms. Friedman said in theory, she does not have a problem with this, but if the Board was going to consider rezoning those lots, why not look at including lots 3 and 4 and go the 100 feet back like the zoning was before. Mr. Grimshaw explained the possibility considering including lots 3, 4 & 5 with this request, because it would be difficult for one property owner to get this approved.

Ms. Friedman suggested holding an informational meeting on the potential rezoning of 357-385 Main Street and inviting the property owners of Lots 3, 4, 7, 8, 9, 10, 11 & 12 to get their input. All Agreed. This will be put on the October 6, 2015 meeting agenda.

Public Hearing Cont:

Special Permit/Definitive Subdivision Approval Modification, Oakridge Estates

MOTION: Mr. Wright moved to reopen public hearing on Oakridge Estates

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Mr. Kevin Maher, Justin Stelmok & Mr John Greniere were present.

Mr. Maher gave an update on the project. He presented a plan showing what was previously built before their involvement with the project and has been built since 2010 when they took over the project. Since they've been involved, the roadway's been rebuilt, the drainage fixed, the project has been brought up to standards, the basins and catch basins in the road have been all cleaned up. Since 2011, 21 new units have been constructed and currently there are 6 units under construction, which leaves 23 remaining to be built. They've averaged around 9 units built a year, and they expect to be out of this project within 3 years. After discussion with the Town Planner, they are also requesting a two-year extension.

Mr. Maher reviewed the 6 waiver requests. Waivers 1 & 2 are eliminating 1 single-family unit on lot 15R and adding a duplex unit on the former clubhouse lot 1. They met with the unit owners and a lot of the owners did not want the clubhouse. They voted unanimously to eliminate it, because they did not want to have the responsibility on maintaining the building for the life of the project.

Waiver 3 request is to reset the rear property boundary line on lot 12. The modification is to address a prior surveying error.

Waiver 4 request is to allow a change to HDPE pipe for the crossing into phase 3 roadway.

Waiver 5 is to allow the elimination of a sidewalk on one side of the street in phases 2 & 3.

Waiver 6 is to allow modification of the open space boundary. The open space will adjust from 8.12 down to 7.62 or 23,522 square feet. 16,500 of that is the engineering error and they are asking for another 7,000 adjustment on that.

Ms. Nist asked under waivers 1 & 2; if one of the units is being eliminated, will that provide the open space. Mr. Maher said that does have an impact of about 7,000 square feet.

Ms. Nist asked if that would meet the requirement. Mr. Maher said they will be going from 8.12 down to 7.62, which totals approximately 20,000 square feet.

Discussion opened to the public.

Mr. Rene Daoust, 74 Virginia Drive, said he has safety concerns with eliminating one of the sidewalks. There are traffic concerns, the speed of the cars and someone trying to cross the street to get to the sidewalk. He met with the Police Chief regarding the traffic and speed concerns and the Chief agreed to put up a speed advisory sign that posted the speed limit.

Mr. Wright asked if there was a Condo Association. Mr. Daoust said yes. Mr. Wright asked if the Condo Association considered addressing the developer with these concerns and possibly putting in a speed table, which would rise up when someone was crossing the street.

Mr. Maher noted the road was going to become a public way once completed and accepted. Mr. Wright said some communities allow them on public roads within developments and felt it would be worth checking out.

Ms. Friedman asked for the width of the road. Ms. Buck said 28 feet.

Mr. Maher noted the Police Chief had a chance to review the amendment proposal and the only comment made was about providing access and location for public safety repeater/booster side, should one be needed in the future.

Mr. Grimshaw said Virginia Drive is a wide road and the nature of the neighborhood is adult oriented. The level of traffic that would exist doesn't warrant the construction of the extra sidewalk, given the width of the road.

Mr. Daoust reiterated his safety concerns, the speed of the cars and people trying to cross the street for a sidewalk.

Ms. Friedman asked about the sidewalk that is staying, will it be around the middle? Mr. Maher agreed.

Ms. Friedman asked where else in the development were there sidewalks. Mr. Maher said on both sides in Phase 1.

Ms. Nist asked about putting in crosswalks. Several alternatives were then discussed regarding street-crossing safety methods.

Ms. Friedman noted that with any new subdivisions coming in, the Highway Department has recommended sidewalks on just one side. If this were a new subdivision, there would not be a 28 foot road and there would be sidewalks on one side. Her question was, on what side should the sidewalk be placed? She understood that putting it on the inside would be less square footage, but if the sidewalk was placed on the outside, it would be more of a benefit to the homeowners. Mr. Maher agreed to the compromise. Mr. Daoust also agreed that was a good compromise.

Mr. Stephen Paquette, 72 Virginia Drive asked what kind of berm would be put on the inside. With the elimination of the sidewalk, would it be an asphalt berm on the inside. Mr. Maher said yes, it would be asphalt.

Mr. Paquette asked who would maintain the berm once the Town takes over the road. Ms. Friedman said the Highway Department. She explained when the Town takes over any road; it has to be in good shape. If there's any damage, it would have to be repaired before the Town would take it over.

Mr. Paquette asked where the new unit is being proposed, there is a creek that runs through that property. He was concerned putting a unit there, because the water from that lot currently runs off the hill and onto the road where it was just repaired. He asked if there will be additional drainage put in on that side to protect the roadway.

Mr. Maher said the driveway system was rebuilt by the association because of the inconsistencies of the previous developer. The previous developer failed on making sure the project had spot drainage. Mr. Maher noted that they did not do the repair work on the driveway; that was the association's project. He assured the residents that they will be able to see what is being done there and that it won't create any further problems. He felt based on the grade lines, everything will drain away from the road.

Ms. Friedman clarified by putting a duplex on that lot instead of the community building, it eliminated the 18 car parking lot and any additional runoff the parking would have created. She also clarified that the fix wasn't an issue with the road; it was an issue with someone's driveway. Mr. Maher agreed.

Mr. Richard Culross, 71 Virginia Drive, confirmed the association had repaired the driveway because that area did not have any drainage. All the water that was coming down off the hill ruined the street and created driveway issues on Virginia Drive and that was all taken care of. He spoke with most of the residents and didn't hear there were any issues having only one sidewalk. His concern was to make sure the trees will continue to be placed on both sides of the street in phase 2 and 3 of Virginia Drive, as specified in the original plan.

He felt it made sense, as far as maintaining individuality of their condominium units. With the Town evidentially taking this over, he wanted to make sure the trees stayed according to the specifications and will not be changed.

Ms. Friedman said there have been no requests made for waivers on the trees and the Board would require them because they are part of the original plan. Also, the Board would not accept the subdivision until such time that, either the trees were planted or the residents said they did not want them.

Ms. Buck explained that this subdivision was the only senior project that did not have a prohibition on the road becoming public. That was because it was originally approved as a standard subdivision and then later converted to a senior project. She asked if the Board was okay leaving it this way with no interest in changing it. All agreed to leaving it with no change.

Ms. Buck wanted to clarify with the Board the problem regarding street trees. The developers seem to wait until right before road acceptance to put the trees in and half the residents end up complaining about the trees being put in and the other half complain about not having the trees put in. One of the things she noted that will be changed within the updated regulations, was to make it so street trees are put in earlier during the process rather than later.

Mr. Maher felt it was a reasonable request and did not have a problem when they build-out phase 2, to put all the trees in phase 2 and 3.

Mr. Milton Moran, 15 Virginia Drive, asked if the reason for moving the unit was to gain area. Mr. Maher said no, they actually lost area.

Mr. Paquette asked when they finish the road in phase 2, will it be finished in phase 3 as well. Mr. Maher said the Town Engineer recommends the roads to be top coated when turning them over to the Town. Ms. Buck noted that after the road is top coated, it has to sit for at least one winter season before an acceptance request can be made.

Mr. Paquette confirmed that the roads will not be top coated until phase 3 is completed. Mr. Maher agreed.

Mr. Paquette asked if they will base coat phase 3 and then have it sit for a year. Mr. Maher said no, they will put the base coat down on the road; make the judgment, in concert, with the Town Engineer, to finish the roadwork or topcoat it and that has to sit for a winter.

Ms. Friedman confirmed that if there were any issues with the road come spring, the Board can have them addressed before the Town accepts the road.

Ms. Delores Farrell, 7 Virginia Drive, said when they voted away to not have the community center; she understood they would still be able to gather on the open space. In that entire community, there is not one open area to gather. She felt there should be an area made available.

Mr. Maher said there's an area directly across the street from where they will be eliminating a unit. That will now be open space; approximately 6,000 square feet or 100' x 60'.

Ms. Friedman asked how the decision was made on eliminating the community center. Mr. Maher explained that when they acquired the site from Hometown Bank, the bank did not want the clubhouse. There is an existing condominium association, so they had a meeting with the owners and told them they did not plan to build the clubhouse. Majority of the residents didn't want the clubhouse because after the developer leaves, the owners would be responsible for the upkeep. Every single owner voted to eliminate the clubhouse.

Ms. Friedman asked with that unanimous vote, was there discussion about providing open space or was it just to eliminate the clubhouse. Mr. Maher confirmed it was to eliminate the clubhouse.

Ms. Friedman asked was there going to be open space around the clubhouse or was the clubhouse just going to be a facility they could use. Mr. Maher said it would have been a facility they could use and it would have been approximately 3,000-5,000-square feet.

Ms. Buck asked the Board about reaching a consensus on the sidewalk and asked how they felt about the request on an additional unit. All agreed having no concerns.

Ms. Friedman was concerned about the open space staying in conformity with the Bylaw. Ms. Buck said it conforms to the Bylaw and is a reduction from what was originally approved.

Ms. Buck continued. The developer submitted a revised surety estimate, which is still under review and is somewhat complicated by the fact that this project is actively under construction. She asked Mr. Maher if he already had discussions with his lender and if they were prepared to quickly submit a significant increase. Mr. Maher said yes.

Ms. Buck said that Kevin Quinn had noted that there will be changes made to the plan related to the locations of the catch basins and fire cistern. She noted that there has been a lot of confusion regarding the unit numbers and the street addresses. She asked for a plan that will show both the

unit number and the actual street address. Mr. Maher agreed to submit a unit plan and an address plan to the Planning Office within the week.

Ms. Friedman asked how the Board should proceed. Ms. Buck recommended continuing, but keeping the hearing open in case discussion was needed on drafting the Order of Conditions. Mr. Grimshaw asked for any further comments or questions; hearing none, asked for a motion to continue.

MOTION: Ms. Friedman moved to continue the public hearing on Oakridge Estates to Tuesday, October 6, 2015 at 7:30PM.

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Discussion

Pondview Estates Project Status

This is the second meeting the developer has not shown up. Ms. Buck did a site inspection last week and found there has been no further work done. Ms. Buck received an email at the end of August from the developer requesting for another 2 month extension, because National Grid has not responded and they were concerned not being able to adhere to the previous extension request. After reviewing the current conditions on this project, she asked the developer for documentation on a Homeowners Association requirement and no response has been received as of yet. She asked the Board about the retaining wall. She felt, at a bare minimum, a fence should be required on the retaining wall. Ms. Buck asked if the Board cared about aesthetics or just for documentation that the retaining wall was structurally sound. All agreed for documentation on the wall's structure.

After further discussion and due to the fact the developer isn't responding to the Board's request to complete the required work; Ms. Friedman recommended sending a letter to the developer that they are required to come to the next meeting on October 6, 2015 and if they don't show up, the Board will pull their surety. All agreed.

Approval of minutes

8/4/2015

MOTION: Mr. Wright moved to approve the minutes of August 4, 2015

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Town Planner Report/General Discussion:

A. 1603-1605 Main Street update

Ms. Nist asked if the applicant contacted the office regarding the project's expiration date that was coming up soon. Ms. Buck said no and the expiration on the extension just approved last year was October 5th.

B. Economic Development Self-Assessment Program

The EDC agreed to pay for the study and sent the contract out to get started by next month.

C. CMRPC Population Projections

Submitted draft population projections and they are projecting a 10% population growth in Leicester by 2040.

D. Miscellaneous Project updates

Hammond Street Subdivision

A site visit was done and it looked like unauthorized work was being done. A letter was sent to the applicants asking for a status update.

Briarcliff Estates

A site visit was done and no obvious change was noted. A letter will be sent to the developer asking for a project update.

Central Mass Crane

This Project is well underway.

Old Stafford Turnpike

The Town received a request to make Old Stafford Turnpike public. Ms. Buck did a site inspection and found the road needed a lot of work. She found the road to be severely rutted, narrow, and steep.

New Site Plan Review Application

A new application for a Solar Farm was received for 9 McNeil Highway, the paintball facility property. Ms. Buck noted that because of this application a second meeting will need to be scheduled in October. After some discussion, it was agreed to set the second meeting for October 21st.

Mr. Harry Brooks, Selectmen asked about fill was being dumped on property across from Deer Pond Auto on Route 56. Ms. Buck said she would check into it.

Mr. Grimshaw asked for any further questions or concerns; hearing none, asked for a motion to adjourn.

MOTION: Mr. Menard moved to adjourn meeting

SECONDED: Mr. Wright – Discussion: None

Meeting adjourned at 9:30PM

Respectfully submitted:

Barbara Knox

Barbara Knox

Meeting approved by the Planning Board on October 6, 2015

Documents included in mailing packet:

- Agenda
- Memo dated August 27th from Ms. Buck to the Planning Board regarding September 1st meeting
- Letter dated August 8th from Jeffrey Canane, Sr requesting to change the zoning on his property located at 357-385 Main Street, Cherry Valley, from Residential 2 back to Business.
- Letter dated August 14th from Iabal Ali, Pondview Estates regarding Default Notice
- Summary of Oakridge Estates Decisions & Actions since 1/13/2001
- Copy of Amendment application request for Oakridge Estates dated 5/13/2015
- Copy of waiver requested for Oakridge Estates amendment application
- Copy of letter dated 5/20/2015 from Kevin Maher, Project Manager for Oakridge Estates
- Copy of comments received from Kevin Quinn dated June 23, 2015, regarding Amended Oakridge Estates
- Copy of comments received from Historical Commission, Oxford/Rochdale Sewer District, Fire Department, Police Department and Building Inspector.
- Planning Board Minutes of August 4, 2015

Documents submitted at meeting:

- Copy of Site Plan showing Oakridge Estates building progression
- Copy of Assessors Map showing the location of 357-385 Main Street, Cherry Valley
- Copy of CMRPC's Massachusetts population projections