

PLANNING BOARD

DATE: May 27, 2021

TIME: 6:00 P.M.

PLACE: Zoom Virtual Meeting

FOR: Regular Meeting/Public Hearing

PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa;

Pedro Pachano

Chris Rembold, Assistant Town Manager/Director of Planning and Development

Ms. Nelson called the meeting to order at 6:00 P.M. She read the opening statement from the agenda. She called for roll call attendance:

Mr. Pachano, present; Mr. Hankin, present; Mr. Higa, present; Mr. Fick, present; Ms. Nelson, present

FORM A'S:

There were no Form A's presented.

MINUTES: MAY 13, 2021

Mr. Hankin made a motion to approve the minutes as amended, Mr. Fick seconded.

Roll call vote: Mr. Pachano, aye; Mr. Hankin, aye; Mr. Higa, aye; Mr. Fick, aye; Ms. Nelson, aye

BARRINGTON BROOK:

Developer, David Margulies, was present to provide an update on work at Barrington Brook and report information requested at a previous meeting.

Mr. Rembold said it is time for the Planning Board to get an update from Dr. Margulies and his team. Mr. Rembold said Dr. Margulies said he needs confidence that the Planning Board will release the Certificates of Occupancy when requested. He said it is time to make sure that everyone is on the same page.

Dr. Margulies said Jim Scalise, from SK Design is working with the contractor to provide professional direction. He said Mr. Scalise will determine what has been completed and what will be completed based on what he can see. He said there might be some work required that could be determined when there is infrastructure work started.

Dr. Margulies said Mr. Scalise has sited all of the foundations on Thrushwood Lane. He said the first of two foundations will be dug on Tuesday and Thursday of next week. He said we will keep marching along.

Dr. Margulies said he has a high quality construction company to build spec houses, foundation to sheetrock.

Mr. Hankin said he thought we were getting an engineered review of the entire project. He said Mr. Scalise only addressed Thrushwood Lane.

Ms. Nelson said she agreed that a comprehensive review of what has been done needs to be provided.

Mr. Rembold said the Board will want to see the comprehensive review at the end. Review of the project was submitted in February showing the status of what was completed and what was in progress. He said it is up to Dr. Margulies' team to put together the entire status report in one place. In the end the entire status needs to be shown in one place.

Ms. Nelson said she would like to have a status of the conditions sooner than later so we don't hold up anything in the end. She said specifically the waivers need to be provided as soon as possible.

Dr. Margulies said it won't be problem providing the matrix. He said his letter did not show the inspection of all aspects of the project.

Mr. Hankin said in the original drawing from 2003 there is a drainage basin on the west side of Thrushwood Lane just before the cul-de-sac. He said maybe there is a house on the lot but there is no evidence of that lot having been completed.

Ms. Nelson said that is a specific item. She said she thinks there are a number of those items.

Ms. Nelson said she noticed lots at the end of the cul-de-sac cleared but there is no erosion or sediment control. She said at least a silt fence needs to be installed to manage run off.

Dr. Margulies said he would bring this to the contractor's attention immediately.

Mr. Rembold said he would share the record from the 2013 subdivision. He said doesn't see drainage basins at the end of Thrushwood Lane. He said SK Design proposed a design with permeable driveways. He said there are some basins and swales between the houses. He said discussion should be based on the engineered drawings from 2013.

Mr. Rembold said there is a detention basin on lot 1 that has dirt and debris piled on it. He asked if that lot will be built on.

Dr. Margulies the lot will be built on and it is a priority item to get the lot cleaned up.

Mr. Hankin said the drawing from Guntlow needs to be looked at side by side.

Mr. Rembold said the Board needs to work from the SK Design plans from 2013, which supercede the Guntlow drawings from 2003.

Mr. Hankin said the Board needs to be provided with what was approved and what is being requested to be waived.

Mr. Rembold said it was agreed by the residents to waive the sidewalks on lower Burning Tree and the walking trail.

Ms. Nelson said it is a low traffic road. People can walk on the side of the road or the shoulder.

Mr. Rembold said some street lights have also been requested. He said there will be street lights at the pool area and at the intersections of Burning Tree and Christian Hill Road.

Ms. Nelson said the south entrance street light is operable but she is not sure about the light at the north entrance. She said she has no concerns about interior lights on the site. She said adding more lights could add to light pollution as many people have added exterior lighting on their lots.

Mr. Rembold said one resident contacted him regarding low level lighting at the entrances that was required by the Planning Board.

Mr. Rembold said he expected that trees will be planted as shown on the plan. He said the Board should indicate if a different plan will be required.

Mr. Rembold said the Board should give feedback on the storm water basins.

Ms. Nelson said she has concerns that the storm water be managed. She said the property is going from woods to built out lots. She said storm water management is critical. She said if the storm water will be managed on individual lots we have to know how it will be managed. She said she would rather have a holistic plan than lot by lot. She said she wants to see a plan to ensure that the water management will be maintained.

Dr. Margulies said he believes he sent information on the storm water management to Mr. Rembold.

Mr. Rembold said the plans were sent back in March. He said he emailed that information to the Board in March.

Mr. Fick said he thinks the project is going in the right direction. He said he is encouraged to see what has happened and what Dr. Margulies has agreed to do.. He said he is encouraged by what is proposed.

Dr. Margulies said he plans to build out all remaining lots. He said he wants to get a release from all of the built lots then the vacant lots. He said there has been a significant increase in building costs. He said he is committed to do all the spec building. He said he will be looking for consent on all remaining lots. He said he is not asking right now but it would be in everyone's interest to build now.

Ms. Nelson said she conceptually agrees. She said she wants to see the project developed.

Mr. Hankin said some buildings will be built on speculation.

Dr. Margulies said he is paying all the costs from foundation to sheetrock. He said his theory is it will be easier to purchase something built. People want to buy a house not a promise. He will lay out 6 million dollars to build out the homes.

Mr. Hankin said the lots would be separate from the lots already approved.

Dr. Margulies said yes. There are five lots that there is no right to proceed on. He said he will ask for the right to proceed. He said he decided the lowest risk is to finish everything as quickly as possible. He said he has arranged to finish all of the houses he will just need the Board's permission.

Ms. Nelson asked Dr. Margulies why he is not asking for the release.

Dr. Margulies said he didn't want to rock the boat. He said he didn't want to introduce new consent but he said he would be happy if the Board gives the release to me. He said he has a large construction company to build all of the houses.

Mr. Hankin asked why there hasn't been more construction at Barrington Brook.

Dr. Margulies said he has been working at another project, Lenox Landing, in Lenox. He said the Lenox project has gone rapidly. He said Barrington Brook will be blown out this summer.

Mr. Fick said he thinks the Board should release the remaining lots and let the project go forward.

Ms. Nelson said she agrees.

Mr. Higa said he agrees too.

Mr. Pachano said paving of the cul-de-sac and the drainage should be done.

Dr. Margulies said the work will be done by September 30 but he expects it will be done sooner. He said he is committed to September 30.

Mr. Hankin said he wants to see it done but he is not willing to give up all of the Town's rights. He said if everything is done by September he is more amenable to granting.

Mr. Pachano said the C of Os won't be released until everything is done. That is the Town's right. He said release of the C of Os is probably more important than holding the lots.

Mr. Hankin said he just wants to be clear about what we are giving away.

Mr. Higa said Dr. Margulies wants to build all of the houses at one time.

Mr. Pachano said it is more economical and efficient to do it that way.

Mr. Fick said he thinks the Town's rights are protected by holding the C of Os. He said Mr. Hankin has raised the question of the value of the properties.

Mr. Higa said the Town will have more leverage with a house on the property.

Mr. Fick said there will be more leverage if the lots are released to let the contractors build and finish the infrastructure.

Ms. Nelson said it is very important to have the drainage infrastructure provided. A comprehensive plan needs to be submitted.

Mr. Fick made a motion to release the remaining lots in the project, Mr. Pachano seconded.

Ms. Nelson clarified that the lots would be released in order to get building permits.

Mr. Fick added the lots would remain under the same restriction as the other lots that were released. The C of Os won't be granted until all the work has been completed.

Mr. Hankin said the Town maintains control by not releasing the C of Os until the work has been completed.

Mr. Pachano said he would second the amended language to not release the C of Os until all of the work has been completed.

Dr. Margulies asked if "all" refers to the remaining five lots.

Mr. Rembold said that is correct.

Mr. Hankin asked why does Dr. Margulies have to come to us for that assurance? He has the right to build.

Mr. Rembold said the Form D covenant prohibits Dr. Margulies from getting building permits. He said this discussion is for the release of the five lots remaining in covenant.

Mr. Fick asked if the language in the motion is the same as that of the previous motion to release lots.

Mr. Rembold read from the minutes from the meeting releasing the previous lots.

Mr. Fick made a motion to amend his motion to release for building permits the remaining five lots with the condition that any outstanding work will be completed prior to issuance of the Certificates of Occupancy, Mr. Pachano seconded.

Roll call vote: Mr. Pachano, aye; Mr. Hankin, aye; Mr. Higa, aye; Mr. Fick, aye; Ms. Nelson, aye

Dr. Margulies thanked the Board. He said he would continue to keep Mr. Rembold updated.

TOWN MEETING PREPARATION:

Ms. Nelson said Mr. Rembold sent out the Planning Board report to the Annual Town Meeting. She said there are duplicate numbers.

Mr. Rembold said there are duplicate numbers. He said articles are written exactly as they were written in the September 2020 warrant. He said there might be a motion to take the items from last year's ATM first since they were not completed last year. He said the numbering is correct.

Mr. Rembold thanked Mr. Hankin and Mr. Fick for their help putting the report together.

Ms. Nelson said the ATM is June 6 at 7:00 PM. She said it will be in the parking lot at MMRHS like last year.

Mr. Rembold said yes. He said social distancing is not as important as last year. He asked that the Board members not park in the last parking lot near the tennis courts.

Ms. Nelson asked who wanted to present the report for the Planning Board's article.

Mr. Pachano said Mr. Hankin has worked on that article.

Mr. Hankin said he would present the article.

Mr. Rembold said there will be a motion and a second then the Board will be asked to present its report. He said there is a report for every article even though it might not be an article presented by the Board.

Ms. Nelson said there is one report for each member.

Mr. Rembold said he will assign the reports. He said the reports will be on the Town's website and there might be an article in the Berkshire Edge to remind people to go to the ATM.

BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:

Mr. Pachano said his term is expiring on the Design Advisory Committee. He said he has been thinking about the value of DAC. He said he has concerns about the mandate. He said DAC is advisory only. He said applicants are forced to go to DAC prior to putting up signs so they have to wait to install signs. He said the meetings are redundant, tedious and unnecessary.

Mr. Pachano said he wanted to run this by the Planning Board as zoning is under the Board's purview so the Board would have to consider any changes.

Mr. Pachano said DAC is mandated to review activity in the VCOD, which includes the B district. He said the language is broad and non-specific. He said there are some design standards in the bylaw but they are general. Recommendations need to be made according to the standards but applicants are not required to abide by them.

Mr. Pachano said he looked at DACs in other towns where they review town projects, historical projects, review at the request of the ZBA, Selectboard or Planning Board, or they review only special permit or site plan review applications.

Mr. Pachano said this is a tedious committee. The meetings are tedious. The Building Inspector makes sure the signs meet the bylaw requirements. He said he would like to see a mandate to assist other boards and to eliminate at large positions. He suggested having membership include someone from the ZBA, Selectboard, Historic District Committee and the Planning Board. He said he is not advocating for a complete dissolution of the Committee because it was created by citizens of the Town. He said requiring applicants to go to DAC is cumbersome and inconsequential. He asked for the Board's consideration in providing a new mandate for DAC.

Ms. Nelson asked if Mr. Hankin or Mr. Fick, who have participated on DAC, have any thoughts.

Mr. Hankin said less is more. He said DAC was originally restructured because we couldn't get members. DAC couldn't get people who were designers. He said he didn't understand the suggestion of having someone from the Selectboard, it would be better to have members with design experience.

Mr. Pachano said he has concerns about filling the at large positions.

Mr. Fick said he agrees with Mr. Hankin about having design professionals. People who go before DAC need design advice. He suggested rethinking the makeup, someone from HDC is important.

Mr. Rembold said he has weekly conversations with the Building Inspector about section 7.19 that governs DAC. He said big changes have been made but they are a bit unclear. He said there needs to be some tweaking and it would be a zoning amendment.

Mr. Pachano said if there weren't any activity DAC could go for a long period without meeting. He said applications for town projects or special permits could fall under DAC's purview to be of service to other boards. He said in addition to clarifying there should be a better mandate. He said members get frustrated because they put the time in but they are unable to make motions that mean something because DAC is strictly advisory.

Ms. Nelson said you are suggesting a bigger mandate for municipal based projects outside of the VCOD. She said she will put it on the list for amendments for next year's ATM. She said there needs to be more research.

Mr. Pachano said he will call for a special meeting to discuss with the members of DAC. He said it is better to have the Planning Board take care of the zoning.

Mr. Hankin said he raised two Town Code issues at the last meeting. He said the Town Code still defines a common driveway as serving up to three dwellings, but the zoning bylaw now allows

three dwellings on a single lot by-right. He said we need to amend the language if we want to encourage common driveways.

Mr. Fick asked what the difference is with creating a subdivision.

Mr. Hankin said common driveway lots have frontage. A subdivision road creates frontage for the lots.

Mr. Rembold said there might need to be some design standards for common driveways. He suggested working with Mr. Hankin to do some research and return to the Board.

Mr. Hankin said the WQPD was created to protect the aquifer and eliminated the 500 foot setback from the Green River upstream of the Fire District galleries and all its tributaries. He said the Town Code Section 217-14.5 was not changed to reflect the change made in zoning. He said the Conservation Commission's regulations, were revised at that time, to limit jurisdiction to the 200 foot resource area under the Rivers Protection Act.

Mr. Rembold said he thinks the issue is with the Con Com's regulations. He said he spoke with the Con Com's agent and will get an update.

Mr. Hankin said Con Com updated its regulations but not the Town Code.

Mr. Rembold said he will bring an update to the next meeting.

Ms. Nelson said the signs for the self-guided walking tour around Lake Mansfield are in place. She asked that people take the survey that is on line.

TOWN PLANNER'S REPORT:

Mr. Rembold said the Planning Board is the SPGA for the rear lot applications. He said the Board will hold a special meeting next Thursday, June 3 at 7:00 to hear a special permit application for a rear lot. He said the property is on Long Pond Road. The property consists of 300-400 acres. He suggested a site visit prior to the meeting on June 3.

Mr. Fick said he is not available for a site visit on June 3.

Ms. Nelson suggested meeting at 5:30 PM on Long Pond Road.

Mr. Rembold said he will make the arrangement.

Mr. Rembold said the Board will be making a recommendation to the Selectboard for a special permit application for 250 Long Pond Road for the property to be used for events weddings and other types of parties. He said Board would have to meet on June 10 to hear prior to the Selectboard's public hearing.

Ms. Nelson asked if the Board could review the special permit at its meeting on June 3.

Mr. Rembold said yes. The June 3 meeting is a special meeting for the rear lot application and has a later start time.

Ms. Nelson said it makes sense to do the recommendation on June 3 then the Board has the flexibility of not meeting on June 10.

Mr. Hankin said the special permit is for a home occupation.

Mr. Rembold said it is for events. He said the Board previously reviewed one of these applications and it was allowed by the Selectboard.

Mr. Hankin asked if the owner must be a resident.

Mr. Rembold said yes. He said he believed the owner must live on site.

Mr. Higa asked if we can add a second site visit since both are on Long Pond Road. He said last time we did the review it took a long time.

Ms. Nelson said she is inclined to do both applications on June 3.

Mr. Hankin suggested a 5:45 site visit for 250 Long Pond Road.

Mr. Rembold said he would work on it.

Ms. Nelson said the Board will meet on June 3 at 7:00. She said there will not be a meeting on June 10 so the next meeting will be the regular meeting on June 24 at 6:00 PM.

CITIZEN'S SPEAK:

No one spoke.

Having concluded its business, Ms. Nelson adjourned without objection at 7:26 PM.

Respectfully submitted,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary