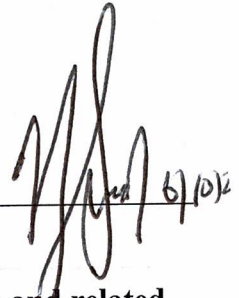


**Sutton Planning Board
Minutes
May 18, 2020**

Approved _____



*** This meeting was held via Zoom teleconference due to the COVID-19 Crisis and related Executive Order issued by the Governor on March 12, 2020.**

Present: R. Largess Jr., W. Baker, M. Gagan, S. Paul, K. Bergeson
Associate Members Present: W. Talcott
Staff: Jen Hager, Planning & Economic Development Director
Others: C. Hicks, Sutton Communications Dept.

The Chairman read a statement about the current COVID-19 crisis and conducting meetings via teleconference (attached).

Administrative Items:

Minutes: To approve the minutes of 4/6/20, S. Paul
2nd: K. Bergeson
Roll Call Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul - yes,
K. Bergeson – yes

Filings:

The Board acknowledged the following filings:
453 Boston Road – Retreat Lot Filing
196 Mendon Road – Scenic Road/Public Shade Tree Alteration

Correspondence:

The Chairman noted the Board has received two articles from residents of South Sutton regarding issues with an Amazon warehouse in Milford, MA.
Additionally J. Hager provided a copy of one of the site visit reports for the paving at Primetals to let the Board know

Public Hearing (Cont.) – 82 Eight Lots Road – Retreat Lot and Common Driveway

Attorney George Kiritsy introduced himself and the owner Mr. Bilal also on the meeting by phone as well as Engineer Kevin Quinn.

He thanked the Board and staff for their assistance and service during this time. He noted they have made revisions to the retreat lot and common driveway plans as well as the restrictive easement and covenant per review comments received. He noted they will be installing underground utilities.

W. Baker expressed a concern with the NHESP restrictions on the lot and the need for permission from Natural Heritage and Conservation to alter this area to install the private driveway for 82 Eight Lots. Attorney Kiritsy said they are aware they need these approvals. He noted some of the species on which the restrictions were based are no longer listed species and they are confident they are not effecting habitat of any remaining species. Additionally, Mr. Jaber has ample additional property to restrict in return if that is the desire of these permitting authorities.

S. Paul asked about if the Board should take action before these authorities. Attorney Kiritsy acknowledged even if the Planning Board says yes, if either the NHESP or Conservation say no, its no. He noted they had to start somewhere and they decided to start with the Special Permit approvals because if the Board said no they would need to consider other alternatives that would need Conservation and/or NHESP approval anyhow. S. Paul asked the minutes to specifically note the applicant has stated there are ample lands to replace any area that is taken out of restriction.

J. Hager confirmed in response to a question from M. Gagan that the Board can make their approval conditional or they can wait until the other approvals are granted. She stated a conditional approval would be appropriate if the Board is confident the applicant will not go to the other permitting authorities and use the Planning Board's approval as pressure or leverage to gain their approval, and that the applicant will make his argument before these bodies based on the facts of habitat in the proposed disturbance areas which his wetland scientist had said there wasn't evidence of in this area.

W. Talcott asked and Mr. Bilal confirmed that the existing common driveway has underground utilities and they will run the entire length of the new driveway.

Jeff Cole of 96 Right Lots Road asked if a special permit will be required from the ZBA as it appears there are two retreat lots being created? Attorney Kiritsy stated the other retreat lot that is already served by this common driveway already has a special permit and while retreat lots are not allowed to touch along the roadway, they are allowed to touch in the back as these lots do. Therefore, they only need one additional zoning related permit to designate 82 eight lots as a retreat lot.

There were no additional public comments.

Motion: To grant a Special Permit for a retreat lot at 82 Eight Lots Road with 25 +/- acres and 53' +/- frontage with the following conditions: S. Paul

1. A recorded copy of the decision, covenant and plan must be received by the Planning department within 3 months.
2. Approval of all other applicable Boards, Departments and Commissions.
3. The Driveway shall have a maximum grade of 12% and minimum paved width of 12' width and 15' cleared width.
4. The house number shall be clearly visible at the street.
5. No occupancy permit shall be granted until all conditions and requirements of this bylaw are 100% complete.

2nd: W. Baker

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes
W. Talcott – abstained

Motion: To grant the Special Permit to modify the common driveway with the following conditions: S. Paul

1. Prior to commencement of construction on the common driveway modification or the new house to be served by the common driveway, the applicant will secure any permits and/or written permission required from the Conservation Commission and the Natural Heritage for Endangered Species authorities allowing alteration to the currently restricted areas.
2. Prior to commencement of construction on the modification of the common driveway or the new home to be served by the common driveway, the permit holder shall record such instruments as are necessary to establish easements providing for use of the common driveway and a restriction burdening all lots served by the common driveway that said common driveway shall remain private in perpetuity, no parking will be allowed on the common drive and all roadway maintenance, snow-plowing and rubbish collection shall be the land owners' responsibility. All instruments shall be in form approved by the Planning Board, and shall be recorded, with proof of such recording provided to the Planning Board, prior to use of the common driveway to serve more than one lot.
3. Prior to commencement of construction of the new home to be served by the common driveway, the private driveway branching off the common drive shall be reviewed and approved in each case by highway, fire and police to ensure emergency vehicle access.
4. Underground utilities shall be provided on this common and retreat lot driveway.
5. An occupancy permit for the new home accessed via the common driveway shall not be granted until the street numbers of this lot is clearly posted on the common driveway sign at the street. Said signage shall be purchased from the Sutton Highway Department and installed by the applicant as agreed upon with the Sutton Highway Department.
6. An occupancy permit for the new home shall not be granted until the common driveway and related site work is 100% complete. In order to be considered complete, the design engineer must submit a stamped letter certifying the common driveway site work has been constructed as shown on the approved plans.

2nd: K. Bergeson

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes, W. Talcott – abstained

Motion: To close the hearing, K Bergeson

2nd: M. Gagan

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes

Public Hearing – Manny’s Appliance – 121 Worcester Providence Turnpike

M. Gagan read the hearing notice as it appeared in the Telegram & Gazette.

(The Chairman lost audio communication and W. Baker, Vice Chairman took over as Chairman)

Eric Kosciusko thanked the Baord and staff for their assistance in this process. He explained they would like to open an appliance store in the building they will share with existing Radon Systems at 121 Worcester Providence Turnpike. He noted there will be no changes to the building or site other than putting up their sign on the existing sign post. They will occupy 4,800 s.f. of the building and noted this use will be similar in intensity to the former Worm’s Way that was previously located here. He noted they have six other locations in New England.

S. Paul asked for hours of operation Monday through Saturday 9 AM to 6 PM 12-5 on Sunday. Four employees. Only retail at this location, the warehouse is in Athol so there will be few truck trips, most deliveries will be from Athol.

In response to a question from Wally Baker, MR. Kosciusko stated they will share the trash and recycling dumpsters currently located on the site.

John Spokis, owner of this location confirmed the dumpster will be shared.

J. Hager noted there are having difficulties sharing the plan for the property to the screen and apologized and noted the plans can be viewed on the Planning Board page on the Towns website. She began to review the site details. (and the plan was shared to the screen!) She reviewed the location of each of the two uses, summarized the parking is in compliance and in good shape.

There were no public comments.

S. Paul asked about water and sewer. J. Hager confirmed this is serves by private septic and a well.

M. Gagan read department comments from the Assessors and the Fire Department. J. Hager reviewed how each comments had been addressed. She noted all of her review comments have also been addressed.

(The Chairman regained audio communications, but W. Baker continued as the Acting Chairman)

S. Paul offered the following findings:

1. This site is appropriate for this use as it was previously a retail use and zoned for such
2. The sewer and water are private and apparently functioning properly
3. The effects of the use upon the neighborhood are unchanged as the use is consistent with what has been there over time.
4. There will be no nuisance or hazard to vehicles or pedestrian as this is on the highway where such use belongs with adequate/safe access and room for access to and from the highway.

5. There are adequate and appropriate facilities for the operation of this use which have been in place and well maintained for some time.

Motion: To grant the special permit for retail use and grant Site Plan Approval for 4,800 s.f. at 121 Worcester Providence Turnpike for a retail appliance store: M. Gagan

1. Approval of all other local, state and federal authorities and bodies.
2. Prior to endorsement of the Site Plan, reference to any waivers granted and all conditions of approval shall be listed on the plans.
3. Within 10 days of endorsement the Applicant/Engineer shall submit three (3) complete prints of the endorsed site plans and one (1) electronic copy to the Sutton Planning Office.
4. Prior to issuance of sign permits the applicant shall submit any sign details not shown on the Site Plan to the Planning Department. Said submittal shall be reviewed and acted on in compliance with the Sign Bylaw
5. The Applicant shall ensure proper maintenance of plantings on the site, including replacement of dead or diseased plantings in the following planting season.

2nd: W. Talcott

The Board asked for any additional public comment. There was none.

Vote: W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes, W. Talcott – yes, R. Largess - abstained

Motion: To close this public hearing, M. Gagan

2nd: W. Talcott

E. Kosciusko again thanked the Board and stated how much he looks forward to being part of and partners with another small community like Sutton.

Vote: W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes, W. Talcott – yes, R. Largess - abstained

W. Baker complemented the owner for maintaining the site as well as he has and wished Manny's well. The Owner Mr. Spokis thanked the Board and staff for their assistance.

Additional Action Items:

Snow Road Extension subdivision Plan and Covenant. (the plan was screen shared)

Motion: To endorse the Snow Road Extension Definitive Plan, R. Largess

2nd: M. Gagan

The Acting Chairman asked for any comments from the Board or public.

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes

Motion: To approve the covenant for the Snow Road, R. Largess

2nd: M. Gagan

The Acting Chairman asked for any comments from the Board or public.

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson – yes

Journeys Rest - Approve AsBuilt Plans & Release of Covenant (the plan was screen shared)

Motion: To approve the AsBuilt Plan for Journeys Rest, R. Largess

2nd: S. Paul

The Acting Chairman asked for any comments. W. Talcott asked if there were any Highway Department comments. J. Hager stated the roadway will be private, but the Highway Department approved the intersection with Lackey Road.

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson - yes

Motion: To release the Covenant for Journeys Rest, R. Largess

2nd: S. Paul

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson - yes

215 Putnam Hill Retreat Lot Question (the plan was shared to screen)

J. Hager summarized that potential purchasers for this retreat lot located at 215 Putnam Hill Road asked the question if their home could be built anywhere in the required contiguous upland or if it had to be built within the 200' x 200" area shown on the retreat lot plan. In this case this area is quite a distance off Putnam Hill Road and fairly close to the wetlands it would make far more sense to build the home farther from the wetland with easy access to Putnam Hill Road. J. Hager reviewed the two provisions of the bylaw at play. The first provision requires new retreat lot either meet the regularity factor, a measure of how "regular" in shape a lot is, or contain a 200' X 200" buildable area. The second provision of the bylaws states in order to be buildable the house well and septic must be located in contiguous upland equal to at least 60% the required lot area and this upland must be accessible from the lots legal frontage. J. Hager's opinion was that as the potential home, well and septic location can meet the second provision, and the retreat lot bylaw does not state the house, well or septic have to be located in the 200' X 200' buildable area, that the Board has the ability to allow a house on this lot to be built closer to the road. S. Paul stated as long as the house well and septic can be built in the contiguous uplands without going in the required setbacks he's fine. R. Largess stated usually the house ends up tucked back but as it is consistent with the bylaw and creating open space he's good. The Acting Chairman asked for any other comments. The Board unanimously agreed with the interpretation in the Planning Director's memo.

C.61A Release Recommendation 5R & 7 Foster Lane (the plan was shared to screen)

The Board reviewed correspondence stating 5R Foster & 7 Foster Lane which are located just east of the Star of the East tree farm off Dewitt Road, were being transferred from MR. Maki to his daughter for her to build her home. If the Town is to purchase this land via first right of refusal an appraisal would have to be done. Regardless the land is not adjacent to any public open space, the land is not on a priority list of parcels that would be valuable to open space or recreation, and the land contains quite a bit of wetlands.

Motion: To recommend to the Selectmen that the Town NOT purchase this land, S. Paul

2nd: R. Largess

The Acting Chairman asked for any comments.

Vote: R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson - yes

71 Fairway View Drive – Cultec system and manhole discussion (plans share to screen)

J. Hager explained the Board had received several emails from Mr. Mark Simon expressing his concerns with a portion of a drainage system and a manhole located in and under his driveway at 71 Fairway View Drive. The Planning Director reached out to the developer John Burns as well as the Towns consulting engineer Jeff Walsh. While initially Ms. Hager asked Mr. Burns if he could just relocate the manhole, he responded this would not be possible. As subsequently requested, Mr. Burns provided an AsBuilt plan of what is under this driveway as well as a stamped certification from his engineer, Mark Allen that the system has been installed in accordance with manufacturers recommendations and standard engineering practices as is expected to function properly and remain structurally sound. The Town's consulting engineer responded that they have no issues with this assessment.

Mr. Simon noted the location of the manhole and system were not disclosed to them when they bought the home. He wanted to confirm that the underground system is compliant to all related codes and manufacturers requirements and that an updated site plan will be created and placed on file for the future. However, his remaining concern is with the manhole in his driveway and he requested all possible engineering options to relocate the manhole.

S. Paul referred to the plans and asked if a portion of the system is also under Fairway View Drive. Jeff Walsh, the Towns Consulting Engineer from Graves Engineering stated the original plans show a Presby system plan. What looks like a pipe at/under Fairway View Drive is actually the curb line. He continued by stating the engineer asked for a field change from Presby to a Cultec System with more storage volume and fewer structures for attenuation of the flow and none of this system is under FairwaV view except for the outgoing drainage pipe.

Mr. Burns stated due to changes made by his predecessor, he couldn't fit a remaining unit in Phase 1. The Trustees threatened a lawsuit if the unit wasn't shifted over to Phase 3 so he complied and shifted it over in 2017. The underground system was installed per the approved plans and the field change approval to a Cultec system in 2015. He noted there are numerous underground infrastructure systems in this project. He stressed this is a system that you would find under many types of surfaces including roadways. He noted if it was as simple as picking it up and moving the manhole he would do it but it isn't possible

Mr. Burns' engineer Mark Allen stated they performed the AsBuilt inspection of this portion of the drainage system. He restated his certification that the system meets the manufacturer's recommendation and that the installation method is proper and adequate for roadways that carry far more traffic.

Ms. Monica Luchini stated a member of the Villas Board of Trustees who is not an engineer, she is only present to observe and learn more about the situation.

R. Largess noted the Board relies on the developer's engineer to properly design systems and their engineer to review these items. He noted he's not sure what more the Board can do.

Mr. Simon stated he thinks the Town has done everything he has asked them to do. He just doesn't want any open issues or liabilities going forward and wants/needs everything documented. He still wants to know what can be done about the safety concern of the manhole and potential overflow through the manhole to his driveway. M. Allen noted the drain manhole is exactly where it was approved to be and the shift of the driveway and unit over it does not affect its integrity in any way. To move the drain manhole would take 12' excavations, driveway removals, and re-engineering the entire system which would not benefit anyone as the current system is structural compliant as it is. Mr. Simon sees the manhole as a trip hazard and doesn't understand where any backup will go if there is a clog in the system which can interfere with their use of the driveway. Mr. Allen noted the system is over 10' deep below the driveway therefore nothing is likely to ever percolate to the surface and the manhole is not on a significant slope that would create a trip hazard. Mr. Simon noted these are not usually in residential driveways where there is more likelihood of injury. He acknowledged however that this issue is not likely to be settled tonight and the town has done what they can for which he thanked them.

J. Hager noted the last step of the entire project before bonding is released is an overall AsBuilt plan with all field changes and a certification that the site has been constructed substantially in accordance with the approved plans and permitted field changes. So in addition to the small section of the AsBuilt and certification that is on record relative to his limited area, there will be a permanent record of the entire project as constructed. The final site visit will also certify at least initially there will be no trip hazard, and perhaps Mr. Simon can speak with Mr. Burns about a potential tack surface for the cover for better traction.

Mr. Burns asked if he will now have access to Mr. Simon's driveway. Mr. Simon confirmed the driveway has been free of vehicles for the past few days and will remain so during the work day.

Motion:	To adjourn, S. Paul
2 nd :	R. Largess
Roll Call Vote:	R. Largess – yes, W. Baker, yes, M. Gagan – yes, S. Paul – yes, K. Bergeson - yes

Adjourned 8:47 P.M.

**STATEMENT REGARDING
REMOTELY CONDUCTED OPEN MEETING
Sutton Planning Board May 18, 2020**

Good evening. This Open Meeting of the Sutton Planning Board is being conducted remotely consistent with Governor Baker's various Executive Orders related to the outbreak of the "COVID-19 Virus." While still ensuring public access, the requirement of the Open Meeting Law to have all meetings in a publicly accessible *physical* location has been temporarily suspended. Further, all members of public bodies are allowed and encouraged to participate remotely.

Regardless of our inability to meet in person, it is our intent to ensure continued transparency and the ability of the public to at least view the actions of our Board. Ensuring public access does not ensure public participation unless such participation is required by law. Tonight's public meeting will feature public comment during the two scheduled public hearings.

For this meeting, the Sutton Planning Board is convening by Zoom teleconference as specified on the legally posted agenda.

Please note that this meeting is being recorded. Accordingly, please be aware that others may be able to see you, and that you take care not to "screen share" your computer. Anything that you broadcast may be captured by the recording.