

**Sutton Planning Board
Minutes
June 8, 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, K. Bergeson, W. Talcott (Associate)

Members Absent: S. Paul

Staff: Jen Hager, Planning & Economic Development Director

The Chairman stated W. Talcott is acting as a full member in place of S. Paul.

Public Hearing - Retreat Lot - 453 Boston Road

M. Gagan read the hearing notice as it appeared in The Millbury Sutton Chronicle.

Applicant Travis Perry and his engineer Margaret Bacon were present to explain their application. Travis Perry explained this lot is approximately 16 acres with 50'+ road frontage on which he wishes to build his home.

M. Bacon reviewed the plan explaining no division is proposed they are asking for the existing lot as is to be designated as a buildable retreat lot. She reviewed the only access point available on the site noting the Conservation Commission has approved this access. Much of this access is over an existing cart road that will be updated to meet the bylaw regulations. She stated the only waiver they are requesting is to allow above ground utilities.

W. Talcott asked about the colored circles on the plans. Ms. Bacon explained those are plantings within a wetland replication area.

W. Baker asked for clarification on underground utilities. Ms. Bacon stated the utility poles will come up the right hand side where there is an existing tree line until after the pond at which point they will go underground.

The Chairman reviewed department comments.

J. Hager read a written public comment into the record from Ginny and Brad Lange with concerns about increased runoff from the improved access and construction particularly as it relates to the effect on an adjacent stone wall. Ms. Bacon explained a swale has been added to the plans to catch any storm water on the left of the driveway to catch and contain this runoff. T. Perry added that he showed Mr. Lange the plans and they were pleased that the swale has been included to preserve the shared stone wall.

G. Melia asked if this could be subdivided in the future. J. Hager responded that once the retreat lot permit, covenant, and plan are recorded and a building permit is pulled, they cannot do any further subdivision.

Until this time the permit hasn't been legally "exercised" so they could make another filing until this time. Once a permit has been pulled and work begins, the lot cannot be further divided.

M. Gagan read proposed minimum conditions of approval. The Board added an additional condition about drainage during and after construction.

The Board acted on the waiver request to install above ground utilities until the lines clear the pond at which they will go underground.

Motion: To waive the requirement

2nd: M. Gagan

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson - aye

Motion: To approve the Special Permit with the following conditions, M. Gagan

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 in both directions of travel.
5. No occupancy permit shall be granted until all conditions and requirements of this bylaw are 100% complete.
6. The applicant shall maintain and adjust the grass swale to the east of the driveway to ensure it continue to function to protect the stone wall and property to the east, particularly during construction.

2nd: K. Bergeson

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson - aye

Motion: To close the public Hearing. K. Bergeson

2nd: M. Gagan

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson - aye

Public Hearing – Scenic Roadway Alteration/ Public Shade Tree – 196 Mendon Road

M. Gagan read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The applicant Mr. Podstawka reviewed his request to remove 4 un-healthy and 1 healthy birch tree. He noted this is a retreat lots he only has 50' in which to get in his driveway. He noted he met with the Tree Warden and he was in favor of removing the unhealthy trees.

As the Tree Warden/Highway Superintendent was not present the Planning Director read an email that suggested a replacement cost of \$250 for the healthy tree being removed unless the Board feels removal of the unhealthy trees is sufficient compensation to the Town.

There was no public comment.

M. Gagan asked if it is five or six trees proposed for removal. There are four dead trees one side of the driveway and one dead tree the other side of the driveway in addition to the one live birch tree.

The majority of Board members felt the removal of unhealthy trees was sufficient compensation to the Town.

Motion: To allow the alteration to the scenic roadway to allow the removal of 5 dead/declining public shade trees as well as the removal on one live birch tree in the Towns right of way with no donation to the Town for the live tree removal as the applicant is doing a service to the Town is removing the dead and declining trees, M. Gagan

2nd: K. Bergeson

Vote: R. Largess – no, W. Baker – yes, M. Gagan – yes, W. Talcott – no, K. Bergeson-yes

Motion: To close the public Hearing. K. Bergeson

2nd: M. Gagan

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson – aye

Additional Action Items

Form A Plan – 6-12 Lackey Dam Road

Motion: To approve the plan showing the reconfiguration of two (3-5 parcels) pre-existing non-conforming lots into two more conforming, K. Bergeson

2nd: M. Gagan

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

Form A Plan – 207 Mendon Road

Motion: To approve the plan showing a division of one parcel into two lots, K. Bergeson

2nd: M. Gagan

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

IBA Site Plan Amendments

Brian Milisci of Whitman & Bingham the engineer for this project explained the applicant has requested several field changes to the approved IBA plans at 103 Gilmore Drive. He requested an above ground as opposed to underground propane tank farm with four 1,000 gallon tanks at 4' diameter. They will be screened with vinyl fence and will be placed on a concrete pad until the permanent natural gas becomes available. Additionally they have asked an increase in the size of parking spaces to 10' wide spaces instead of 9' wide spaces as many of their employees drive larger vehicles. In order to replace spaces they will lose, they will pave the 12 backup spaces they have on the plans right now. Finally, they would also like to eliminate three landscape islands to the east of the building for ease of plowing and relocate these trees to the south side of the building.

J. Hager reviewed that the Fire Department has approved the propane tank changes and the Selectmen will have to approve the storage of this amount of propane on the site.

There were no public comments.

W. Talcott asked and B. Milisci confirmed that the original drainage system was sized to handle the reserve parking spaces and that the three landscaping islands that will be added to impervious area are negligible.

R. Largess suggested that the trees be placed north of the building providing more buffer to residential abutters. The applicant said they will be happy to place the trees at the Board preference.

Motion: To approve the requested field changes with placement of island trees buffering the neighbors to the north if possible, W. Baker
2nd: K. Bergeson
Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson – aye

34 Providence Road Noise Complaints

J. Hager summarized information provided to the Board and the public record regarding noise complaints received from two neighbors regarding operations at this location. A map was shown orienting the Board to the business in relation to the neighbors with concerns and the surrounding area. She noted the majority of concerns have been expressed by the Conley and Walsh families. She reminded the Board that although a condition was not placed stipulating hours of operation, there is a condition stating that should noise concerns arise, the Board would look into them to determine if they constitute a nuisance that should be mitigated.

Patrick Conley expressed concerns with the starting up of large vehicles between 5:40 and 6 AM in the morning. He noted Mr. Amorello did reach out to him but he hasn't heard back from him since their first conversation. He noted if the noise occurred after 7 AM it wouldn't be such an issue. HE expressed he was hoping everyone could reach a middle ground.

Attorney Mark Lee said he felt his client was clear that no operations should be occurring before 6 AM and his client has made this clear to his workers. As far as delaying the start time right now crews are working in Boston, Randolph and Wareham and can't leave the site later than 6 AM. He doesn't doubt the distance to the Conley's house, but he noted they live several streets away and there is a lot of activity in the immediate area as well as a lot of traffic on Route 122 (A).

Sue Conley interjected and stressed the issue is not traffic in the area, it's the nuisance of the start-up of these construction vehicles right outside their bedroom window. She stated if they had any idea how loud they would be they would have expressed even more issues than the noise concerns they expressed during the approval process. She stressed this sound isn't like a car starting up, its very loud.

Attorney Lee noted Mr. Amorello visited the neighbors right across the street and they had no issue,. Mr. Conley stated what may not be an issue to one person is an issue to them. HE stated he felt they were being fair in that they were looking for a compromise which Mr. Amorello said he would work on, but they haven't heard back from him. He stressed they had no idea what the start-up would really entail in terms of noise.

The Chairman asked what Mr. Conley would consider a compromise. Mr. Conley asked for a suggestion from Mr. Amorello. Perhaps 6:30?

W. Talcott asked what district the business is in. J. Hager confirmed it is in the Village District.

Attorney Lee suggested that the Board should at least do a site visit to deem if they feel it is a nuisance. He stated he does not think the Board is in a position to make this determination tonight.

W. Talcott reviewed the Police Report that was received noting the staff were respectful when entering and exiting and that they didn't spend much time on the site. He also noted there isn't a large group of abutters coming down complaining which would make it clearer to him that this is an issue.

M. Gagan was previously concerned that workers were being excessive with their time on the site, which didn't appear to be the case when he ready the police report.

W. Baker wondered how you discern where the noise is actually coming from as the Police Officer actually noted one of the trucks starting up in the AM was actually at Atlas Box. W. Talcott asked if there is anything about Mr. Amorellos trucks that is non-compliant causing excess noise.

J. Hager noted the Board can absolutely delay and conduct a site visit at this specific time of day. W. Talcott asked what the solutions might be other than adjusting the start time. J. Hager noted that part of the issue is that the Conley's home is up gradient from this site and sound does tend to drift up. While Mr. Amorello did stage all trucks behind the building so they could just start and leave using the building as a sound block, but a complaint was received by the Conleys that very morning. J. Hager noted for the Board if they want to do a site visit they should just be aware of meeting law requirements.

Mr. Gagan said he'd be willing to do a site visit but like Mr. Largess he too was not aware of what could be done without impacting this business. W. Baker said he was good with doing a timely site visit. Mr. Bergeson said he would also like to do a site visit.

Villas Phase 3 - Bond Reduction

Developer John Burns was present as well Tim Vanderlinden and Larry Brodeur from the Condo Association. She added the Board is being asked to draw down the Villas Phase III bond. She added there were several requests from department for some corrections/additions on the site. Lastly she noted the section of the access road for phase III that goes off this property needs to be resolved. While this is not the closeout of this project, it is the last significant draw down.

Graves Engineering has estimate approximately \$16,000 in remaining work plus contingency.

She summarized the Board's option with respect to the emergency access road issue 1) hold bond contingency funds or 2) hold occupancy permits until this issue is resolved. The first option is preferred and it is likely that this will not be for long as she is informed these issue may be resolved in the near future.

Mr. Burns noted most items requested by the Towns Engineer and other department have been completed. He noted the issue with the emergency access is that there was supposed to a recorded easement which never got recorded. He stated he did about a quarter million worth of work that needs to be paid for. It's his understanding this is on its way to be resolved. He recommended the Baord reserve 10% of the existing bond, so approximately \$30,000.

J. Hager recommended the Board retain the full contingency from the bond estimate of approximately \$50,000+/- with or without the uncompleted work funds of \$16,000. She noted holding the occupancy permits is legal, but did not recommend use this for leverage.

June 8, 2020

Page 6

Tim Vanderlinden of Golf Ridge Drive, an Association Trustee, stated their only concern is that the emergency access location be resolved AS the Association was served with an encroachment notice by the abutting land owner. HE confirmed the Association is in active discussion and they expect to reach a resolution to relieve everyone of this issue. With that said, should things go sideways the Association wants to be sure there are funds held to reach a resolution.

Motion: To reduce the Ph 3 bond from \$307,000 to \$66,800 (\$51,000 contingency), W. Talcott
2nd: K. Bergeson

The amount of the reduction was calculated at \$241,000.

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson – aye

Administrative Items

Minutes:

Minutes: To approve the minutes of 5/18/20, K. Bergeson

2nd: M. Gagan

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson – aye

Filings: None.

Correspondence (select):

Wedgewood Farms Deed – Armsby Road – The property next to the Villas has changed hands from Unibank to Crompton Development. This is the first concrete sign that this development is moving forward.

Motion: To adjourn, K. Bergeson

2nd: M. Gagan

Vote: R. Largess – aye, W. Baker – aye, M. Gagan – aye, W. Talcott – aye, K. Bergeson – aye

Adjourned 9:04 PM