

SEEKONK PLANNING BOARD
Public Hearing - Regular Meeting
October 8, 2013

Present: Ch. Abelson, M. Bourque, R. Horsman, S. Foulkes, D. Viera, L. Dunn, R. Bennett
J. Hansen, Town Planner

Absent:

7:03 pm Ch. Abelson called the meeting to order.

Public Hearing – Continued from 9-10-13

Definitive Subdivision: Jacob Hill Estates – Applicant Palmer River Development

Christian Farland of Thompson Farland Professional Engineer Land Surveyors representing Palmer River Development introduced himself as well as Attorney Kyle Zambarano and Palmer River Development representative Matthew Antonio. He summarize he was before the PB to seek approval of an 11 lot conservation subdivision. He noted they have worked on the project for a year and have gone through many different designs in order to minimize the impact to the neighboring properties. He said they have worked closely with the Town's engineering consultant and have addressed all of their concerns. He stated the subdivision is a conservation subdivision and it will preserve 40% of the land.

C. Farland went over the existing conditions:

Vacant wooded 16.9 acre lot zoned R-2/Mixed Use.

Create 11 new house lots, all >15K sq. ft., on a ±859' public road ending in a cul-de-sac (Palmer River Rd). The yield plan indicates 9 developable lots are possible. The new incentive zoning provision is to be utilized here, which will designate one lot as affordable and one additional market rate lot will be granted as a density bonus for providing said affordable lot.

Individual septic systems and public water will service the lots.

Open space areas will equal 40%, (40% minimum required). Wetland percentage of open space does not exceed wetland percentage of site.

Road to be 20' wide with no sidewalks to increase distance of disturbance from large trees on property boundary to the north near Jacob St.

The Board's reviewing engineer, CEI, has reviewed the subdivision and all concerns were addressed.

C. Farland then went over the waivers they are seeking:

Section 5.6.1 – No EIS – Negligible impacts due to only 11 lots

Section 8.12 – Trees on one side; both sides required – Grass swale on one side

Section 7.2.1.8 – 25' Roadway radii – ample room with 66' wide layout of Jacob St.

Section 7.2.2.2 – Roadway width – 24' required, 20' proposed – reduce impervious surface and increase distance from Linden trees on property line

Roadway location – roadway shifted from centerline to increase distance from Linden trees on property line

Section 7.4.1 – Drainage systems located on house lots not owned by Homeowners Association

Section 7.5.2 – Water main not to be looped; Water Department indicates that flow tests do not substantiate looping

Zoning Bylaw 25.10.5 – Disturbed areas to exceed 25% requirement to accommodate addition market rate unit and affordable unit

C. Farland went on to say they met with the Water Department and they are fine with the proposed plan with the fire hydrant at the end of the street.

S. Foulkes asked about the sidewalk waiver and said because of safety issues they should have them on one side of the street.

C. Farland noted they have spent a lot of time and money on an arborist to save the Linden trees and on the other side is a grass swale, so to them it made sense to ask for a waiver to not have sidewalks.

D. Viera said it was a safety issue for him to request a sidewalk on one side.

C. Abelson said they will have a grass side walk area.

C. Farland said they could put sidewalks in front of the house lots.

John Wright 91 Jacob St. stated his land abutted the proposed subdivision land and he took the developer to court over the Linden trees. He said the court's decision was that the developer had to leave a 13 foot grass strip between the trees and the roadway. He noted a grass sidewalk would be acceptable but a paved sidewalk would go against the court order.

L. Dunn asked if the road for the subdivision could go out onto RT. 44.

C. Farland said it was a matter of public safety not to go out onto the traffic of RT. 44.

Atty. Kyle Zambarano commented about the Linden trees and the court case, he said that his client had spent a great deal of money and had made an extensive effort to build a road that would accommodate and preserve the trees. He said the court ruled in Palmer River Development's favor and the court said that what was proposed would save the trees so there was no sense in going over that case again tonight.

M. Bourque asked Atty. Zambarano for a copy of the court decision.

Ch. Abelson asked for proponents to speak. None. He asked for any opponents to speak.

Genevieve Berrebbi 195 Jacob Street asked about the electrical situation and wondered where the sub-station would be going because Jacob Street has problems with frequent loss of power.

C. Farland said the electricity is something the developer will address with National Grid once the project commences.

C. Abelson noted that power is not part of the PB's review process.

G. Berrebbi asked who would be responsible when there was a pond in her yard.

Ch. Abelson said if it is an issue with the drainage it would be the subdivision's Homeowners Association's responsibility to maintain the catch basins. If it is an engineering problem the subdivision's engineer would be responsible.

G. Berrebbi asked the PB if they realized how much water flow is on the land.

Ch. Abelson noted that is why they engineered detention systems, to capture the water within the subdivision.

C. Farland said as a Design Engineer he looked at all the storm water calculations and post conditions and in his professional opinion the project will actually be an improvement as to what is going on there and it will actually be a help with the drainage of water in that area. He also noted that the peer engineers looked at the design and approved it and it has met Mass DEP and storm water regulations.

Bill Harley 301 Jacob Street asked if there had been a traffic impact study done. He said he was disturbed to hear that Jacob St. was considered a minor street. He said there is a steady stream of traffic on Jacob St. from 6AM – 9:30AM and again at 3:30PM-6:00PM. He said it is a main thoroughfare for Prospect St, North East St., Salisbury St., County St., Homestead St. and others from Rehoboth and people travel 40 to 50 miles per hour. He said there is a sharp corner near the entrance to the subdivision and he thought entering and exiting out of the subdivision would be very dangerous. He said he would be interested in getting an opinion from the Police Department and the DPW. He also said that he thought the water was a huge problem on the street.

Ch. Abelson said DPW had looked at the plan and had signed off on it.

C. Farland said site distance calculations were performed and there is an area of about 5 to 20 feet that would need to be cut back which is within the right of way and once cut back would give 300 feet of site distance per the town's regulations. He said Jacob St. is 66 ft. wide and a lot of the property owners have their land going all the way up to the street believing it is their property but in reality it is the right of way.

Dora Truong 361 Jacob Street said she had been hit on that curve and she said her neighbor's father had also been hit on that same curve and that it is very dangerous when you have two cars coming from opposite directions. She also commented on the high water table in the area.

Bill and Elenora Rezek 120 Jacob Street talked about the petition that was put together and signed by many of the residents of Jacob St. The petition was asking to have the street entrance moved to go out onto Taunton Ave.

B. Rezek commented that he could not believe the PB would approve a 20 foot wide road. He wondered how emergency vehicles would get down it.

E. Rezek commented she could not understand how the perc tests passed. She said a lot of things with the development did not make sense. She had heard there was a vernal pool on the site.

B. Rezek asked about the fire hydrant.

D. Viera said there is one hydrant on the road.

C. Farland commented that they were seeking the 20 foot pavement width waiver due to the storm water problems in the area. He said there are many streets in Seekonk that are 20 feet wide and are a lot longer than this one. He went on to say the percs have been witnessed by the BOH and certified. As far as ledge they have dug over 30 holes that are 20 feet deep and they have found no ledge. He said the vernal pool is not a certified vernal pool.

D. Viera commented that the reason they are not going for a 24 ft. width is because of the trees and the storm water runoff. He went on to say he tended to agree with the previous speakers as far as the width of the road. He realized that the drainage and swales and the trees are important but if there is a nasty winter and the plows don't get the chance to push the snow back far enough he didn't know if 20 feet would be wide enough to get fire apparatus down the street. He said on a normal sunny day it might not be an issue but with a lot of snow it could be a problem.

S. Foulkes commented that there was no good scenario for this no matter how one looks at it.

D. Viera said Jacob St. is 66 feet wide for a reason, it is a dangerous road.

E. Rezek commented she thought the PB needed to take a look before making a decision.

Mark Blais 67 Lincoln Street said he has a swimming pool downhill from where the catch basin is going to be and is concerned about the water and where it will go. He said when you take a walk in the surrounding grounds it is squishy because it can't hold the ground water and that is why it runs in the street and why there is an ice problem on the street in the winter.

He also commented on the sidewalks and said if the PB gave them an exemption everyone else would be demanding the same exemption.

Ch. Abelson said that they can still ask for it but the board does not have to give it to them. He noted the PB is not a precedent setting board.

Atty. Zambarano stated for the recorded that according to the Town of Seekonk's Subdivision Rules and Regulations Section 8.7.1 - *Said sidewalks shall be required when they will connect to existing sidewalks.* He said it was on the basis of that statement Palmer River Development did not believe it needed a waiver for the sidewalks.

J. Wright commented again about the court case that the Judge ruled that nothing could be done within 13 feet of the trees. He said that ruled out putting in a side walk because they can't dig near the trees.

Dennis Demaral 35 Jacob St. asked the engineer to explain the bio retention area.

C. Farland explained it is an area that is very shallow with a lot of plantings in it and in this case it will be 3 feet deep with a mixture of loam and weeds. It allows the water to filter through the ground. It helps discharge the water out and helps with the water quality. He said it will be an improvement as to what is there now.

M. Bourque asked if there is an easement for the Town to get to the storm water drainage systems.

C. Farland said yes and it will be maintained by the Homeowners Association.

Jason Murray 862 Taunton Ave. said his biggest question is where will the water drain out to? Because when it rains he has a pond in his back yard with ducks. He said he was also concerned with the 20 foot wide road.

C. Farland commented that the majority of the storm water now goes towards the road and discharges in the wetland resource area. He said he can't promise the ducks will be gone he said he is not here to solve the existing drainage problem, but he can say that after this development is built it won't get worse. He said he has designed many subdivisions with storm water issues and they all have been an improvement.

Antonio Tavares 15 Jacob Street said he had two concerns, one is for safety on Jacob St. and two, he asked where his lot was in relation to the subdivision. He also asked what type of assurance he will have if there is water damage on his property.

C. Abelson said the Design Engineer is ultimately responsible.

C. Farland showed Mr. Tavares where the spilt rail fence will go and he also told the PB that there is a lot of pavement from the previous (restaurant) structure and once that is gone it will improve the water infiltration.

Alison & Frank Oliver 72 Jacob St. spoke about their concern for the safety on Jacob St. and wondered why it could not go out onto Taunton Ave. They said they had no assurances that the engineering for the drainage will work.

D. Viera said there are many issues with the property, water, trees he said it goes on and on.

S. Foulkes said there are two main issues safety and water. She said creating more impervious surface will not make it better.

Ch. Abelson said that is why the PB has a peer review engineer looking at the project, so they can have a seconded opinion on the developer's calculations.

G. Berrebbi commented water can destroy homes in minutes and that the residents are trying to save the neighborhood and Mr. Viera seems to be the only one who has the compassion to help.

D. Viera said the PB can't stop them from developing the land as long as they met the criteria but what he wants to do is to protect the people of Jacob St. and the Town as much as he can.

J. Wright told the PB and audience he didn't sell the land it was Mr. Rose who sold it. He said he wondered if the PB had any real power because if the developer meets all the criteria then they have to approve it. He said the PB doesn't seem to have any feeling for the residents and it would be nice if they did.

D. Viera said they do have feeling but there are judges, courts and regulations and the PB must use common sense.

Ch. Abelson commented that the PB is bound by the regulations.

R. Bennett said that the PB does have rules and laws they have to abide by.

Judy Sullivan 204 Jacob St. said she has concerns about the water, safety, electricity and adding a new street off of Jacob with 11 new homes. She commented she would like to preserve the historical value of the street. She asked the PB to look closely at the plan and the number of waivers.

M. Bourque made a motion to close the Public Hearing.

No second.

J. Hansen told the PB a continuance must be agreed upon by the applicant.

R. Horsman made a motion to rescind motion by M. Bourque to keep the Public Hearing open and continue to next meeting.

S. Foulkes said going forward she would like something in place that would make the Department Heads comment in writing by a certain time.

D. Viera commented that in the event a Department Head does not signoff then the PB doesn't want to hear about it later, it is not fair to the Planner or the PB.

M. Bourque said he thought that this was a discussion for a different night.

D. Viera said he wanted some clarification from the Fire Department.

S. Foulkes thought the PB should walk the site.

M. Bourque said in his opinion, concerning the road width, the PB could ask the developer to widen the road and lose the trees but because it had already gone to court their hands were tied.

Ch. Abelson said the court order is the road has to be 13 feet away from the trees.

R. Bennett said if the PB doesn't agree with the width of the road then it can't pass.

L. Dunn said she felt for the residents of the neighborhood and that the road will have more accidents. She noted that while she drove on Jacob St. there were joggers and she had to go into the opposite lane so as not to hit them. She said it was a dangerous road.

M. Bourque said if she used that analogy of the joggers then the road is unsafe and they should not be on the road in the first place. He said he did not think that was an argument not to let a development go in. They have the line of the sight; there is no evidence that this road will cause more accidents.

L. Dunn said she did not think the developer answered the question as to why the road can't go out onto RT 44?

Ch. Abelson said he would like to have comments from the Fire Chief.

M. Bourque noted that the consulting engineer reviewed this and has given their approval and he trusts their review. He further noted that he could not see how the PB could deny it.

D. Viera said he wanted to make sure there was something in place for the folks on Jacob St. if it does flood.

J. Hansen said it would fall on the Design Engineer.

S. Foulkes asked if the PB should go on a site visit.

M. Bourque said going on a site visit would not change his mind.

S. Foulkes commented that M. Bourque was putting a lot of faith in the peer review.

M. Bourque said he didn't see any reason not to. He said if the PB wasn't going to take their opinion seriously then why hire them and waste the Town's money.

R. Bennett said their review and opinions are based on calculations and facts.

D. Viera said in theory it works.

J. Hansen said in his opinion he thought anyone who wants to do a site visit should do it on their own time. He added that the applicant needed a reason why the PB wanted a continuation of the public hearing.

Ch. Abelson asked C. Farland their response to the continuation.

C. Farland said they have been working on the project since last November and the applicant had gone above and beyond to meet all of the concerns of the abutter's and consulting engineer. He said he thought the PB had everything to make a decision and did not see any reason why the board could not vote on it tonight.

D. Viera asked for the drainage easement waiver to be explained.

C. Farland said the drainage easement would be on multiple lots if the Town needs to get them they will be able to.

D. Viera asked if the Homeowners Association would be responsible for them.

C. Farland said yes.

A motion was made by R. Horsman and seconded by D. Viera. and it was unanimously

VOTED: to close the Public Hearing

A motion was made by M. Bourque and seconded by R. Horsman to approve the Definitive Subdivision Plan – ‘Jacob Hill Estates’, latest revision date of October 1, 2013 based on the following conditions:

1. Appropriate documentation shall be submitted for the establishment of a homeowner's association, drainage easements, and an open space restriction on the open space land, which shall be delineated by a split rail fence. These documents shall be submitted prior to endorsement and recorded along with the subdivision.
2. The provisions of sections 25.10.1 (affordable unit amounts, size & distribution) and 25.10.1.4 (construction schedule) shall be adhered to, which would require that the 6th lot built upon shall contain the affordable unit.
3. Prior to issuance of a building permit for each lot, the lot owner/developer shall submit a lot site plan and supporting information documenting the following:

- a. The grading of the lot is consistent with the impervious surface coverage and the drainage patterns depicted on the approved Subdivision Plans.
 - b. The development of the individual lots will implement and maintain erosion and sediment control measures during construction as stipulated on the approved Subdivision Plans. The lot plan should illustrate the placement and details of these measures.
4. The applicant will cut back 5' of brush in a northerly direction 10'-15' from the proposed road to increase the sight distance.
 5. Runoff from the impervious surfaces of each individual lot will be required to be handled on the lots through stormwater management measures, such as roof infiltration systems and rain gardens. Said measures shall be submitted to and approved by the Planning Department prior to the issuance of building permits for each lot.
 6. Anchored tarps shall be required to secure temporary soil stockpiles.
 7. The proposed road/driveway at 71 Jacob St conflict needs to be resolved prior to construction
 8. A copy of the USEPA NPDES General Permit No. 1 and SWPPP shall be submitted to the Planning Department prior to construction.
 9. Sidewalks shall be constructed in front of lots 1-5.
 10. The Fire Chief's opinion shall be sought relative to the width of the proposed roadway and if any objections are raised then this decision shall be null and void.

And so voted:

Aye: R. Horsman, M. Bourque and Ch. Abelson

Nay: S. Foulkes, L. Dunn, D. Viera

Abstain: R. Bennett

Motion Fails: 3-3-1

The Board members not supporting the motion determined that the 20' pavement width of the roadway posed a public safety hazard, especially in the winter due to snow, for emergency vehicle movements.

FORM A: Plat 25, Lots 316-318 (Tall Pines Estates)

J. Hansen summarized the proposed lot amendments: Amend rear lot lines of builder's lots 5R-7R (316-318) but not affecting frontage of any lots.

A motion was made by R. Horsman and seconded by D. Viera and it was unanimously

VOTED: to endorse the Form A: Plat 25 Lots 316-318 as submitted.

Approval of Minutes: 9/10/13

A motion was made by D. Viera and seconded by M. Bourque and it was

VOTED: to approve 9/10/13 Planning Board minutes

Abstain: R. Bennett

Discussion: District Local Technical Assistance from SRPEDD

L. Dunn commented that after some recent controversial PB decisions she decided to do some research and came across a document called, *Seekonk Water Wellhead Protection Plan*. She noted that the Subdivision Control Bylaws did not mesh with this plan. She said she asked for John Hansen's opinion and he recommended some rewording in the subdivision rules and regulations and to ask SRPEDD for help.

A motion was a made by R. Horsman seconded by D. Viera and it was unanimously

VOTED: that L. Dunn contact SRPEDD and ask for technical assistance in the rewording of some parts of the Seekonk Subdivision Control Bylaws.

Adjournment

A motion was made by R. Horsman and seconded by D. Viera and it was unanimously

VOTED: to adjourn at 10:00 PM.

Respectfully Submitted by,

Florice Craig