

SEEKONK PLANNING BOARD
Regular Business and Work Session
Selectmen Meeting Room
May 9th, 2023

Present: Ch. D. Sullivan, B. Hoch, D. Roderick, P. Dunn, S. Escaler, S. Foulkes, P. Aguiar, and John Aubin (Town Planner)

Meeting Opened at: 7:02PM

REGULAR BUISNESS:

1. Partial covenant release request and change covenant form by *Trebor Properties, LLC* for Winterfell Definitive Subdivision located at Lannister Lane being AP 1 Lot 24, 316 Warren Ave in an R-3 Zoning District.

Mr. Aubin reported that this application is for a covenant release; change the form of surety. He reminded the Board that some open space encroachment had been identified. Also, that a split rail fence was not installed across the back of many of the properties. He continued that this is an existing development with Lot 13 being the open space lot. He suggested that the Board discuss amending the approval with the applicant to eliminate the fence and figure out some value to open space in lieu of as payment to be made to the Open Space Community Preservation Committee. He stated that the roadway has been accepted by the Town. Mr. Aubin wished to close this out with as little impact on the existing yards as possible.

Michael Levinson, Attorney with Brainsky Levinson, Seekonk, MA presented that this subdivision has 12 lots (11 lots were sole with one remaining as the covenant lot). All of the lots have been released except for Lot 1. He stated that the drainage from the infrastructure has been installed; the split rail fence is all that is remaining to be completed. He is requesting that the covenant be released as this lot is to be sold. Mr. Darling (owner) was present with a \$10,000 check to afford the Town the ability to finish the subdivision. He would like to discuss modifying the subdivision approval to a “payment in lieu” and have the fencing moved along the property lines.

Ch. Sullivan asked about the legalities of what Atty. Levinson is proposing. J. Aubin replied that this is one of the few subdivisions that the Town is using a partial covenant on. He explained what the previous practices of the Board had been with regard to subdivision covenants. He reiterated that the proposal is to eliminate the covenant and then change the form of surety to “Cash Surety” in accordance to the estimate for the fencing (which was 9,860). Ch. Sullivan said that if the Board chose, they could accept the alternate form of surety in the form of the \$10,000 check; then the applicant would be directed to come back for a modification hearing. Mr. Aubin replied that they could still install the fences after working that out with the existing homeowners.

S. Foulkes asked about a barrier for the wetlands? Mr. Aubin did not believe that this fencing was for wetland approval. Atty. Levinson believed the fencing was to delineate

the open space, not the wetlands. Mr. Aubin's concern is with regard to lot 12 to ensure that the lot is delineated so there are no encroachments.

D. Roderick asked if lot 1 was being sold and if the fence is a boundary for lot 12? Mr. Aubin replied that the applicant would have to come forward with an amendment to the subdivision. Ch. Sullivan asked if the Board could, as a condition of the covenant release, ask the applicant to come back with a modified to put the delineation back up? Mr. Aubin cautioned against this. He went on to say that the applicant would have to come forward to implement the plan as approved or modify it for the modification process. Ch. Sullivan confirmed that to release the \$10k as surety, the applicant would have to put the fence up.

Atty. Levinson clarified that it is lot 11, not lot 1

B. Hoch asked if the encroachment has been resolved? Mr. Aubin replied that this meeting will resolve that and other issues. Atty. Levinson reported that the applicant would like to file for a modification of the subdivision approval. Also, they will show the Board the existing conditions and what is being proposed. Ch. Sullivan wanted to ensure that the applicant understood that there would be a public hearing.

P. Dunn was concerned about the open space lot. J. Aubin stated that is the reason the zoning by-law requires a split rail fence along the western property line to provide a physical barrier between the open space and the residences.

Ch. Sullivan reported to the Board that the covenant is one issue, the surety is another. Mr. Aubin reminded the Board that the installation of the fence is a requirement per the original plan. Mr. Aubin stated the form of surety is at the applicant's discretion; the applicant is providing more than is required.

Mr. Aubin reported that the Certificate of Safe Passage was issued in 2015.

Ch. Sullivan asked if there were any further questions for the representative; there were none.

B. Hoch made a motion to release the covenant lot that the Board is holding is holding for Trebor Properties, LLC for Winterfell Definitive Subdivision located at Lannister Lane being Ap 1 Lot 24, 316 Warren Ave in an R-3 Zoning District and accept a cash surety in the amount of \$10,000 in place of that, seconded by D. Roderick
VOTE: 7-0-0

2. *Discussion Regarding further action pursuant to **Section 6.6 Failure to preform of the Rules and regulations Governing the Subdivision of Land in the Seekonk, Massachusetts with regard to the incomplete to otherwise deficient public improvements related to Country Brook Estates conservation subdivision as approved and modified.***

Mr. Aubin reported that the board was meeting to consider further action as to the Country Brook Estates subdivision. He stated that there were modifications last year to remove some of the sidewalks around the cul-de-sac, to complete some drainage improvements and to relocate some sidewalks to the front of the development; these

items have yet to be completed. He went on to state that in January, GPI performed an inspection on the site to identify some items that are still completed. A letter had been sent out to both the bond company as well as the bond company indicating that the Board will be taking action; there has no been a response from either as of today.

Mr. Aubin would like to enter the information into the record officially and make some decisions as to where we go from here. He made the Board aware that if they decide to go forward formally to take action on the surety and essentially take this work on, they would have to go through the acceptance process with the Select Board. The next step would be to go to Town Meeting. He recommended having a joint meeting with the Select Board to discuss this and other developments in this situation to get some direction from them.

Ch. Sullivan asked if the joint meeting should be in open session? Mr. Aubin wasn't sure and did not want to speak to this. He believed that an open session discussion for both boards is important. Ch. Sullivan then asked about a combined open session and then go into an Executive Session? Mr. Aubin wasn't sure if both boards could go into Executive session together? Ch. Sullivan asked that this be addressed to Town Council.

D. Roderick noted that the Conservation Commission's Order of Conditions has not been completed. Mr. Aubin suggested that the Conservative Commissions also be included in the discussion with the Select Board.

Ch. Sullivan made a motion to direct the Town Planner to reach out to Town Council, the TA, Select Board, and Conservation Commission for a joint meeting in open session initially and then go into Executive Session if recommended by legal counsel. The motion was seconded by P. Dunn.

VOTE: 7-0-0

Ch. Sullivan said the Board is stuck between what the subdivision control law says and what could go beyond that. A discussion on subdivision control law ensued. The Chair stated that the ownness is on the developer; the Town does not have a right to do anything right now because the developer owns the road.

A discussion on some of the other incomplete subdivisions in Town took place.

S. Foulkes indicated that the residents only recourse to fix the developers mess is to take the developer to land/superior court. Mr. Aubin responded to avoid this; the Board would need to look at surety more closely. Ch. Sullivan reminded the Board that the law doesn't give the Planning Board the ability to impose a fine.

Mr. Aubin stated that he had a discussion with the Chair in regards to this process; to seek a relief as an enforcement issue either under subdivision regulations or the zoning by-law (as this is a conservation subdivision). The Chair made this motion and was seconded by D. Roderick.

Discussion:

Mr. Aubin reminded the Board that there were promises made by the developer to fix some of the issues before the construction season started, but very little has been done. It was noted that the construction season began earlier because of the mild inter. It was also mentioned that neither the bond company nor the developer have responded.

Mr. Aubin stated that the enforcement action gives the Board another track to pursue with regard to the surety. His only concern would be whether or not the Town is seen as exhausting the administrative remedies before going to court. He stated that in the end, this all depends on developers completing the work that has been approved by the Board and was promised to the residents.

S. Escaler asked about the repercussions of safety issues? Mr. Aubin replied that the only action this Board could take is to revoke the Certificate of Safe Passage. This would result in the residents being impacted because they would not have access to the roadway. Ch. Sullivan responded that a lot of the remedies are not desirable because people live there. A discussion on unaccepted roadways followed. P. Aguiar noted that the board has been trying to finish this for over a year.

Ch. Sullivan called for a vote for the previous motion.

VOTE: 7-0-0

Lauren Mauceri, 37 Antonio Dr. asked for clarification on what the next steps would be? Ch. Sullivan replied that there would be an open meeting with the Select Board; followed by a meeting with Conservation, Select Board, and the Planning Board. Mr. Aubin stated the intent would be to have a coordination meeting with those bodies and go forward with some formal action.

The Chair said the process is: the Town would accept the roadway (even though it is incomplete) as a warrant article at Town Meeting; then another article at the same Town Meeting would be to expend the surety and supplement with town funds to complete the road. Mr. Aubin explained that this body does not have the authority to spend Town funds. The Chair continued that the road would become a public roadway.

Mr. Aubin was unsure why the Town does not tax the developer on these roadways. He went on to explain the ramifications of this.

Mrs. Mauceri asked when would the joint meeting take place? Mr. Aubin will coordinate a meeting; it will most likely happen in June or July. Mrs. Mauceri understands that this is a very long process. Mr. Aubin reminded everyone that the next Town meeting would be in November.

It was mentioned that the quickest action would be if residents took the developer to court. Mrs. Mauceri responded that she has reached out to the contractor numerous times; this does not make a difference. She and the other residents are advocating for themselves. Ch. Sullivan replied that the Board cannot advise the residents to take the developer to court.

Mrs. Mauceri told the Board that the HOA is beyond confusing. D. Roderick asked if the residents have contributed to the HOA. Mrs. Mauceri stated that it varies from house to

house. They have asked the developer how much is owed; he has never showed them. Ch. Sullivan stated that the HOA documents are in the closing paperwork; he noted that you can research the conditions and criteria there. Mrs. Mauceri appreciated the explanations. She explained some current issues with the development that have arisen.

WORK SESSION:

1. Town Planner Report:

SUBDIVISIONS

- **“Elm Estates”** Preliminary Subdivision Application of **Alfred Dos Anjos** for a 4-lot Conservation Subdivision of land located at **355 Elm Street** being AP 16, Lots 11 & 172 in an R-2 Zoning District.
 - Still waiting on the final plans and documents
 - Once we have these documents, the decision can be signed and surety can be set
- **“Berson Estates”** for proposed 13-lot residential subdivision of land located at **0 Pine Street** being AP 28, Lot 20 in an R-4 Zoning District.
 - Construction ongoing
- **Magnolia Court**, 10 Lot residential subdivision of land located off Walker Street. Initial paving completed.
 - Construction ongoing
- **Pine Brook Court** Definitive Subdivision application for development of a nine (9)-lot residential subdivision located off **Arcade Avenue** being AP 21, Lots 18, 277 and 305 in an R-2 Zoning District.
 - Construction ongoing
- **Farmland Estates** 12 lot residential subdivision located off Lincoln Street – sidewalk installation completed final paving and clean up.
 - Met with applicant to discuss acceptance
 - Conducted submission of roadway acceptance process pending
- **Kathleen Court** 16-lot residential subdivision off Lincoln Street
 - Construction ongoing
- **Jacob Hill Estates** 11 lot residential subdivision off Jacob Street
 - Similar issue with incomplete public improvements
 - Contacted residents; working with them
- **Brigham Farm III** Conservation Subdivision application of **Gary Sagar** for proposed 8-lot definitive subdivision of land located off Burnside Avenue being AP 36 lots 2 and 11 and AP 35 lot 20 conditional approval granted August 10, 2021.
 - Preconstruction meeting with GPI and DPW to be held

- **Winterfell** 11 lot definitive subdivision of AP 1, lot 24 off Warren Avenue. Acceptance approved by Fall Town Meeting.
 - Meeting held tonight for partial covenant release and change of surety
- **Stone Ridge** 11 lot definitive subdivision located off Walker Street final paving and sidewalk installation completed.
 - Contacted some of the residents and Atty. Levinson
 - Looking to close this out and be accepted at the next Town Meeting
- **Country Brook Estates** 18 lot residential development discussion with homeowners held June 14, 2022. Modification approved October 10, 2022.
 - Action was taken tonight

Mr. Aubin also spoke about Stallard Estates (Airdrie Drive); there is a “For Sale” sign on an open lot. Mr. Aubin will inform the owner to remind them that there is a covenant on this lot and it cannot be sold.

Ch. Sullivan asked for a motion to authorize the Planner to pursue enforcement action and notification on that process to make this official? P. Aguiar made the motion, seconded by S. Foulkes.

VOTE: 7-0-0

SITE PLANS

- Site plan application of **Nicolas Melo** for proposed automotive sales use at **1143 Fall River Avenue** being AP 7 lot 43. Planning Board approval issued April 11, 2023
 - This decision has been signed and passed on to the BOS for licensure
- Site Plan Application of **Arca Realty LLC** for construction of a proposed vertical hydroponic vegetable farm, for the property located at **991 Newman Ave** being AP 27, Lot 32 within an Industrial Zoning District. Planning Board approval granted March 14, 2023
 - Construction has commenced

AMENDMENTS

- 5-year Master Plan update drafting ongoing
 - Mr. Aubin would like to conduct a work session with the Board at the June meeting
 - DPW would be invited to this meeting as well as the Fire Department
 - Go over the outstanding elements regarding circulation and public facilities
 - Discussion on cisterns (this will also be discussed at this month’s TRC meeting)
 - Ch. Sullivan recommended that Conservation and Parks and Rec also be contacted in regards to open space and recreation

- Mr. Aubin stated there are some amendment recommendations from the state that a consultant has been working on; this will be included at the meeting as well
- The Water District Superintendent will be sent a letter inviting him to the June meeting

MISC

- Massachusetts Community One Stop for Growth Grant: Rt. 6 corridor study. Consultant: GPI
 - Project should be wrapping up in the next couple of months
 - Conduct a presentation at one of the upcoming meetings before the end of the fiscal year
- SRPEDD Brownfields
 - Area assessment ongoing
- Stormwater Utility financing meeting held with Town Administrator, SNEP, and UNC Environmental Finance Center.
 - Awaiting the 2nd BOS presentation
 - Planning Board presentation will be held prior to BOS joint meeting
- Attleboro Dye Works:
 - Site remediation is ongoing
 - Down to the last contaminated dye pond
- EPA Technical Assistance Program
 - Preliminary conceptual site layout designs completed draft submitted and posted
 - Potentially include this on the June Agenda
- Pond Street Bridge Design and Dam Removal
 - Preliminary surveying and engineering ongoing
 - Coordinating with MVP program with the state to ensure we are complying with the grant requirements
- Sowams National Heritage Area
 - Stakeholder outreach effort commenced
- Stormwater Advisory Committee
 - There is a new Conservation Agent in Town
 - Next meeting will discuss the Stormwater Utility issue and MS4 permitting requirements

2. Members report:

- SRPEDD was presented by P. Dunn:
 - Met via zoom on April 26
 - Met the new Under-secretary of Transportation
 - State DOT cancelled bus service from New Bedford to Boston (the Under-secretary got it reinstated)
 - Transportation via boats instead of highways was discussed

- GATRA needs night service and weekend drivers
- Ridership went down during the pandemic and has not changed since then
- Curb cuts were discussed
- RI wants to partner with SRPEDD on regional issues
- Seekonk a Climate Pollution Reduction Grant
- Goal is net zero carbon

3. *Correspondence*

- There was none.

4. *Approval of Minutes: April 11th, 2023*

- S. Foulkes and had minor corrections.

P. Dunn made a motion to approve the minutes as amended, seconded by S. Foulkes.

VOTE: 7-0-0

Adjournment:

D. Roderick made a motion to adjourn, seconded by B. Hoch.

The meeting was adjourned at 8:56 PM

Respectfully submitted by,
Lori Trenteseaux, Planning Board Secretary

*Formally accepted on: 6/13/2023
6 in favor, 0 against, 0 abstention*

[Full Video available to view on TV9 Seekonk Community Access Television](http://tv9seekonk.com/)

Link: <http://tv9seekonk.com/>