



Planning Board

July 19, 2022
7:30 PM
Virtual (Zoom)

(Revised by the Planning Board on 12/20/2023)

Planning Board members present: Ray Yacouby (Chair), Nathan Cookson, Jon Cappetta, and Sam Bajwa.

Associate members present: Michela Moran

Also present: Kristen Guichard, Planning Director and Zoning Enforcement Officer

Ray Yacouby read the guidelines for virtual meeting.

Ray Yacouby called the meeting to order at 7:35PM.

Jon Cappetta called the roll: Ray Yacouby-Aye, Jon Cappetta- Aye, Michela Moran-Aye, Sam Bajwa - Aye

I. Regular Business

1. Citizen Comments – None

Terra Fredricks, Mass Ave. noted she had difficulty finding the phone number for participation at the meeting.

Terra advocated for land clearing bylaws to limit the amount of tree clearing.

2. Approve Previous Meeting Minutes

Jon Cappetta moved to approve the minutes from 5/31/2022 as amended. Sam Bajwa seconded the motion. Roll Call Vote: Sam Bajwa – Yes, Nathan Cookson-Abstain, Jon Cappetta- Yes, Michela Moran – Abstain, Ray Yacouby – Yes.

3. Board Reports

- a. EDC – Ray Yacoub noted the EDC had a meeting and discussed an upcoming Economic Development that was very promising. He noted the good work of the new Economic Development Director.
- b. DRB – Jon Cappetta stated they did not have a meeting.

4. Administrative Updates:

- a. Ray Yacoub will make a recommendation to the Select Board to elevate Michela Moran as a full member. He also noted that advance notice should be made when a Board member is not able to attend.
- b. Kristen Guichard did a screen share to assist Terra for the future. Showing that the phone number is mid-way on the notice showing the meeting location change that was posted on the wall.
- c. Kristen noted the Bruce Freeman Rail Trail Wayfinding is almost complete.
- d. She also noted Powder Mill Road Corridor and South Acton Area Planning projects

II. New/Special Business

- 1. PB 20-2 46 High Street (Bumblebee Way) – Request to extend Performance Bond

Mark Gallagher of Seal Harbor, Paul Kirchner of Stamski and McNary, and Erica Mastrangelo, Seal Harbor's Legal Counsel were present. Mark Gallagher requested an amendment to the terms of the bond to extend the construction deadline to January 1, 2023. Mark Gallagher cited delays with supply issues and on-going litigation that slowed up the ability to complete the work on site. Ms. Mastrangelo noted they received a legal opinion that allows him to proceed with completion of the project on the property and complete the outstanding items.

Terra Fredricks asked what the bond was for and who pays for the Town's civil engineer consultant. She also asked what the litigation was about.

Kristen Guichard explained that the performance guarantee is for the remainder of the roadway and associated drainage and explained MGL 53G. Kristen noted that the litigation does not involve the Town and that it was a private matter between the developer and an owner.

Erica Mastrangelo stated that Mr. and Mrs. Beach of Lot 3 had a dispute with Seal Harbor. She stated that Seal Harbor brought a lawsuit against Mr. and Mrs. Beach for defamation among other claims and that as of that date the lawsuit was not settled. She also noted that they received legal opinion that they have the ability to enter the property and complete the work.

Ray Yacoub reminded the public that that was a private matter not involving the Town.

Terra asked what happens if the Board does not vote to extend the construction deadline.

Kristen Guichard explained that the Town would then be obligated to pull the bond and complete the work itself following proper procurement law. She noted it is not typical and that in this case the developer is asking to complete the work but states they need more time. Kristen stated the work should be done in the shortest amount of time as possible.

Nathan Cookson asked about the reason for the delays. Mark Gallagher explained the reasons also included staffing.

Michela Moran asked if the bond amount was sufficient to finish the work.

Kristen Guichard stated, yes, the bond that the Town holds is \$149,140. The remaining estimate is about \$45,000.

Jon Cappetta asked if there was reason to anticipate the work might extend further. Mark stated he believed they should be done by August.

Sam Bajwa said he was unaware that the Seal Harbor lawsuit was against one of the owners. Mark Gallagher explained that the lawsuit concerned whether Seal Harbor's had legal access to the properties to finish the ponds even without definitive easements and without permission from all owners.

Sam Bajwa asked whether the peer review engineer had approved the revised drainage plans. Mark Gallagher noted that they just sent updates field changes for review and Paul Kirchner referred to his narrative.

Matt Hoffman and Emily, owners of Lot 4 at Bumble Bee Way. They spoke in favor of the requested extension to allow Seal Harbor to complete the work themselves, but did state concerns about snow removal issues and existing construction materials and equipment being stored on site. He also noted they would like to complete landscaping in the spring and hopes the extension was no more than 6 months.

Ray Yacoub asked the reasoning behind the date that was proposed.

Kristen noted that Mr. Gallagher verbally stated 90 days to her; she stated that based on the information Mr. Gallagher gave her previously, about not being able to get on the lot, she suggested January 2023. She noted she has been hearing from all the neighbors in the development and they are hopeful to get the development done as soon as possible.

Ray Yacoub elevated Michela Moran as a full member.

Jon Cappetta moved to extend the construction deadline to January 1, 2023. The motion was seconded by Sam Bajwa and carried by a unanimous roll call vote. Nathan Cookson, Yes, Michela, Yes, Sam Bajwa, Yes, Jon Cappetta, Yes, Ray Yacoub, Yes.

Nathan Cookson moved to adjourn at 8:45PM. The motion was seconded by Michela Moran and carried by a unanimous roll call vote. Nathan Cookson, Yes, Michela, Yes, Sam Bajwa, Yes, Jon Cappetta, Yes, Ray Yacoub, Yes.

Documents reviewed at the meeting:

46 High Street (Bumble Bee Way folder)

Bond Extension Request

6352A SWREPORT.MOD reduced

6352A.DEFSUB.MOD

6352A Cost Estimate.interim

7.19.22 Planning Board Meeting Agenda Revised

Public Comments

- Beach
- Letter to Planning Board reGallagher Email
- Order Dismissing Seal Harbor Lawsuit
- RE_Beach
- RE_Bumblebee Way
- RE_FW_46 High Street – Bumble Bee Way
- Seal Harbor V. Beach – Response to Compliant

Draft 05-31-22 Planning Board Minutes

PB – How to Participate Remotely

Meeting materials were posted and can be found at: <http://doc.acton-ma.gov/dsweb/View/Collection-14352>