



Planning Board
November 19th, 2024
7:30 PM
In Person &
Virtual (Zoom)

Planning Board members present: Jon Cappetta, Patricia Clifford, Sam Bajwa, James Fuccione, and Ron Beck

Also present: Kristen Guichard, Planning Director; Nina Pickering-Cook, Town Counsel; Mike Carter, GCG

Planning Board members absent: Michaela Moran

Jon Cappetta read the guidelines for the virtual meeting.

Jon Cappetta called the meeting to order at 7:36PM

James Fuccione called the roll: Jon Cappetta- Aye, Patricia Clifford-Aye, Sam Bajwa-Aye, James Fuccione-Aye

I. Regular Business

1. Residents' Comments:

Matt Hoffman, owner of 7 Bumblebee Way, made a statement about the letter he emailed to the Board regarding the release of the bond for Bumble Bee Way.

2. Approve previous meeting minutes: None

3. Board Members' Reports: None

4. Administrative Updates & Reports:

Kristen Guichard updated the Board that Alicia Burak, the previous administrative assistant, has been appointed as deputy town clerk. Kristen Guichard also updated the Board on the Housing Production Plan survey, as well as the Habitat For All initiative and the workshops that were happening that week.

II. New/Special Business

1. PB23-10-Continued Public Hearing - 40 High Street, Definitive Subdivision

Applicant requested a continuation. PB23-10 has been continued to 12.17.24.

2. PB24-02- Public Hearing- 738 Main Street (9 Wyndcliff Drive), Definitive Subdivision

The Applicant requested a continuation. PB24-02 has been continued to 12.17.24.

3. Discussion and Vote - Scope of the Final Inspection – Bumblebee Way

Nina Pickering-Cook (Town Counsel) started the discussion by noting the Board could ask for more information if needed in order to determine what the final scope of inspection would be regarding the stormwater system at Bumblebee Way before they voted to release the bond.

GCG provided a summary of their inspections on October 9th, 2024. Mike Carter, from GCG, was present to answer questions from Nina and the Board.

Nina brought up comments raised by McCarty Engineering on behalf of the Bumblebee Way Homeowners Association. GCG's response to those concerns is Attachment #7 to the October 9th submittal.

Nina said that one of the primary concerns raised an improper infiltration rate used by Stamski and McNary. Mike stated they suggested additional soil testing on the site to determine the actual infiltration rate in their comments in May 2020. It is now GCG's opinion that the rate Stamski and McNary used in their design is sufficient and adequate for the soils they found on the site.

Nina said that a neighboring condo association has concerns about the bottom being taken out of the outlet structure, and that it is causing basin 4 to flood. Mike responded that GCG does not have that same concern based on observations.

Nina asked if Mike had any concerns about the functioning of basin 2 to the design standards that are required for subdivision approval. She clarified the question by asking if it is correct to assume that it is inevitable that there are significant rain events that stormwater systems are not designed to manage, but that does not mean the stormwater design or construction is faulty. Mike responded that Acton designs for 25-year events, and the system that has been designed and constructed meets those standards, and appears to function as designed. He notes that there were some unusual rain events from September of 2023 to December of 2023 and the project was still under construction with a lot of unstabilized areas.

Nina brought up the concerns from the homeowners that GCG has data showing that basin 2 is not functioning, but that GCG has not provided those documents or photographs to the board. Mike said that he only provided pictures where there were issues, and in that case it was for basin 4 which was the only one that had water sitting in the basin which is something to be expected.

James Fuccione asked if the Board will gain anything from future analysis that they do not already know today. Mike said that one of the last requirements was to see if the basin 1 slopes were stabilized, and that GCG has not been able to do that yet.

Jon Cappetta clarified that the Board needs to decide how to direct GCG how to conduct their final inspection.

Ron expressed concerns that the system is built technically as designed but is not performing as designed. He asked who is at fault for the outcome not performing. Nina said that the Town has an initial role in closing out the project to confirm that it is functioning as designed, and that GCG is not certifying and stamping the design or function, they are just providing feedback as a part of a peer review and are not responsible for this project.

Nina told the Board that it is up to the Board to determine what the scope of the final inspection will be before they can talk about what the next steps are to release the bond.

Jon Cappetta opened the discussion on what the Board should require for the final inspection.

Nina said that since they have Mike at the meeting, they should ask him if GCG has any outstanding concerns. Mike responds that the only known issue that has not been addressed is checking basin 1's slope stabilization.

Patricia Clifford motioned to vote to direct GCG to make an observation of the current condition of basin 1 to determine if it has stabilized and if it appears to be functioning as designed. James Fuccione seconded. Roll Call Vote: Sam Bajwa-Aye, Patricia Clifford-Aye, Jon Cappetta-Aye, James Fuccione-Aye.

Nina noted that in order to do a final inspection of basin 1, the Town will need to obtain permission from the owners and homeowner of the land that basin 1 sits on.

Nina mentioned that the Board is set to review Mr. Silverstein's request to release the Bond on December 17th, and that there has been some concern from the public and the homeowners that the bond may expire or be constructively released before that date. She noted that a number of Bumblebee homeowners have filed suit in Superior Court, seeking a temporary restraining order against the town and the hearing is set to be on December 2nd. Regardless of what happens in the hearing, Nina said she is not concerned with the constructive release of the bond provided that the Board has made

a finding that it does not have sufficient information to determine right now whether the system is in compliance such that it can release the bond.

The Board agreed that they need the final inspection before they can release the bond. Nina said that if the Town is not able to conduct the final inspection, then the Board will make a final determination on December 17th using the information they have.

Patricia Clifford moved to adjourn the meeting at 8:53 pm. James Fuccione seconded. Roll Call Vote: Sam Bajwa-Aye, Patricia Clifford-Aye, Jon Cappetta-Aye, James Fuccione-Aye.

Materials used at this meeting:

Planning Board Agenda

46 High Street (Bumblebee Way) application materials as follows:

100924 – Bumble Bee Summary Letter – reduced size.pdf

Acton Planning Board Letter 11.19.2024.pdf

Bumble Bee 11.18.24 Letter Planning Board.pdf

Bumblebee Basin Ltr.pdf

Bumble Bee Letter.pdf

Preserve at Audubon Bond Release Request – Exhibit 1.pdf

Preserve at Audubon Bond Release Request – Exhibit 2A.pdf

Preserve at Audubon Bond Release Request – Exhibit 2B.pdf

Preserve at Audubon Bond Release Request – Exhibit 3.pdf

Preserve at Audubon Bond Release Request – Exhibit 4.pdf

Preserve at Audubon Bond Release Request.pdf

-PB23-10 Continued Public Hearing On 07.16.2024.pdf

BBW Operational Failures w Signed Declaration_07.15.2024.pdf

PB23-10 Continued Public Hearing On 10.16.2024.pdf

Updating Public Comments On BBW Operational Failures and PB23-10.pdf